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/

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

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SPECIAL NOTICES

GOVERNOR'S PROCLAMATION: CALLING THE FIFTY-FOURTH LEGISLATURE INTO AN ELEVENTH EXTRAORDINARY SESSION (SENATE ONLY)

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

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

NOW, THEREFORE, I, MICHAEL O. LEAVITT, Governor of the State of Utah, by virtue of the authority vested in me by the Constitution and the Laws of the State of Utah, do by this Proclamation call the Senate only of the 54th Legislature of the State of Utah into a Eleventh Extraordinary Session at the State Capitol in Salt Lake City, Utah, on the 23rd day of October, 2002, at 12:00 noon, for the following purpose:

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

IN TESTIMONY WHEREOF, I have here unto set my hand and cause to be affixed the Great Seal of the State of Utah. Done at the State Capitol in Salt Lake City, Utah, this 8th day of October, 2002.

(STATE SEAL)

MICHAEL O. LEAVITT
Governor

OLENE S. WALKER
Lieutenant Governor

End of the Special Notices Section

NOTICES OF
PROPOSED RULES

A state agency may file a PROPOSED RULE when it determines the need for a new rule, a substantive change to an existing rule, or a repeal of an existing rule. Filings received between October 2, 2002, 12:00 a.m., and October 15, 2002, 11:59 p.m. are included in this, the November 1, 2002, issue of the *Utah State Bulletin*.

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

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

The law requires that an agency accept public comment on PROPOSED RULES published in this issue of the *Utah State Bulletin* until at least December 2, 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 March 1, 2003, 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.

Commerce, Occupational and Professional Licensing

R156-11a

Cosmetologist/Barber, Esthetician, Electrologist, and Nail Technician Licensing Act Rules

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 25441
FILED: 10/03/2002, 16:19

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division and the Cosmetology/Barbering, Esthetics, Electrology and Nail Technology Licensing Board determined that some additional changes needed to be made to the rule.

SUMMARY OF THE RULE OR CHANGE: In Section R156-11a-302a, deletes the Utah Master Esthetician Practical Examination or an equivalent exam as an examination requirement for licensure as a master esthetician. In Section R156-11a-302b, The Division is extending the date that a person must apply for licensure as a master esthetician, esthetician or nail technician from December 31, 2001, to June 30, 2003. The Division has determined by that extending the grandfather clause date it is more reasonable for those persons located outside of the Wasatch Front to obtain licensure. In Section R156-11a-703, additions are being made to the curriculum for esthetics schools-master esthetician programs to further define the required training in lymphatic massage.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-11a-101, and Subsections 58-1-106(1) and 58-1-202(1)(a)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The Division will incur a cost of approximately $100 to reprint this rule once these proposed amendments are made effective. Any costs incurred will be absorbed in the Division's current budget.

❖ LOCAL GOVERNMENTS: Proposed amendments do not apply to local governments.

❖ OTHER PERSONS: Applicants applying for licensure as a master esthetician will no longer have to pay for a Master Esthetician Practical Examination since it is being eliminated by these amendments. No savings amount is available since the practical examination has not been developed and therefore no examination cost was ever determined. By extending the date for the "grandfather clause", qualified applicants will save training and examination expenses. The Division is unable to determine an exact amount of savings since the training costs would vary for each profession classification (master esthetician, esthetician, and nail technician) and school attended. Qualified applicants in the above-identified classifications would save the examination costs identified below depending on the license classification applying for: Esthetics: theory/law and rule $65 and, practical $75; Master Esthetician: theory/law and rule $65; and Nail Technician: theory/law and rule $65 and practical $75. Cosmetology/barber schools will have to adjust training curriculums for master esthetician program requirements. However, any costs involved should be minimal as most schools already have established programs that meet the updated hour requirements for lymphatic massage.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Mostly savings are anticipated as a result of these proposed rule amendments as identified above. However, cosmetology/barber schools will have to adjust training curriculums for master esthetician program requirements. However, any costs involved should be minimal as most schools already have established programs that meet the updated hour requirements for lymphatic massage.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule amendment is largely procedural in nature, providing definitions and extending the grandfathering deadline, and does not appear to create any negative fiscal impact to businesses. Ted Boyer, Executive Director

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

COMMERCE
OCCUPATIONAL AND PROFESSIONAL LICENSING
HEBER M WELLS BLDG
160 E 300 S
SALT LAKE CITY UT 84111-2316, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Daniel T. Jones at the above address, by phone at 801-530-6767, by FAX at 801-530-6511, or by Internet E-mail at dantjones@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 12/02/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 12/03/2002

AUTHORIZED BY: J. Craig Jackson, Director

R156. Commerce, Occupational and Professional Licensing.
R156-11a. Cosmetologist/Barber, Esthetician, Electrologist, and Nail Technician Licensing Act Rules.
R156-11a-302a. Qualifications for Licensure - Examination Requirements.

In accordance with Section 58-11a-302, the various examination requirements for licensure are established as follows:

(1) Applicants for licensure as a cosmetologist/barber shall:

. . . . . .

(6) Applicants for licensure as a master esthetician shall pass the following:

(a) if applying for licensure under Subsections 58-11a-302(8)(d)(i) or (ii):

(i) the Utah Law and Rules Examination with a passing score of at least 75%;

(ii) the Utah Master Esthetician Theory Examination with a passing score of at least 75%;[~~and~~

~~(iii) the Utah Master Esthetician Practical Examination or an equivalent exam as established by the Division in collaboration with the Board;~~]

. . . . . .

R156-11a-302b. Deadline for Making Application under Grandfather Clause.

Applicants for licensure under the grandfather provisions in Subsections 58-11a-302(7)(d)(iii), (iv), and (v); (8)(d)(iii), (iv), and (v); and (11)(d)(iii), (iv), and (v) must apply for licensure on or before [~~December 31, 2001~~]June 30, 2003. Thereafter, all applicants must meet all requirements for initial licensure including those established in Subsections 58-11a-302(7)(d)(i) and (ii), 58-11a-302(8)(d)(i) and (ii) or 58-11a-302(11)(d)(i) and (ii), respectively.

R156-11a-703. Curriculum for Esthetics School - Master Esthetician Programs.

In accordance with Subsection 58-11a-302(10)(c)(iv), the curriculum for an esthetics school master esthetician program shall consist of 1,200 hours of instruction, 600 of which consisting of the curriculum for an esthetician program, the remaining 600 of which is in the following subject areas:

(1) introduction consisting of:

. . . . . .

(6) 200 hours of lymphatic massage by manual and other means; including:

(a) anatomy and physiology of the lymphatic system, including client consultation, to consist of 40 hours of training;

(b) manual lymphatic massage of the full body, including the face and neck, by manual massage shall consist of 100 applications, of one hour each; and

(c) lymphatic massage by other means, including but not limited to, suction assisted massage or pressure therapy equipment shall consist of 60 applications of one hour each.

(7) advanced anatomy, physiology, and histology of the skin;

. . . . . .

KEY: cosmetologists/barbers, estheticians, electrologists, nail technicians
[~~September 17, 2001~~]2002
Notice of Continuation July 11, 2002
58-11a-101
58-1-106(1)
58-1-202(1)(a)

▼ ▼

Commerce, Occupational and Professional Licensing

R156-46b-402

Default Procedures

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 25501
FILED: 10/15/2002, 15:31

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division determined it needed to delete Section R156-46b-402 regarding default procedures in Division administrative proceedings since the process is already covered in the Department's Administrative Procedures Act Rule at Subsection R151-46b-10(10) and the governing statute at Section 63-46b-11.

SUMMARY OF THE RULE OR CHANGE: Section R156-46b-402 regarding default procedures in Division administrative proceedings in being deleted in its entirety.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsections 63-46b-1(6) and 58-1-106(1)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The Division will incur minimal costs, approximately $40, to reprint the rule once the proposed amendment is made effective. Any costs incurred will be absorbed in the Division's current budget.

❖ LOCAL GOVERNMENTS: Proposed amendment does not affect local governments.

❖ OTHER PERSONS: The Division anticipates no costs or savings to other persons as the section being deleted is already covered in the Department's Administrative Procedures Act Rule (R151-46b) and the governing statute (Title 63, Chapter 46b).

COMPLIANCE COSTS FOR AFFECTED PERSONS: The Division anticipates no costs or savings to other persons as the section being deleted is already covered in the Department's Administrative Procedures Act Rule (R151-46b) and the governing statute (Title 63, Chapter 46b).

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This proposed rule change deletes a section regarding default procedures, because it is already covered by the Utah Administrative Procedures Act and the Department of Commerce rules. Therefore, there is no fiscal impact to businesses as a result of the proposed amendments. Ted Boyer, Executive Director

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

COMMERCE
OCCUPATIONAL AND PROFESSIONAL LICENSING
HEBER M WELLS BLDG
160 E 300 S

SALT LAKE CITY UT 84111-2316, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
W. Ray Walker at the above address, by phone at 801-530-6256, by FAX at 801-530-6511, or by Internet E-mail at raywalker@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 12/02/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 12/03/2002

AUTHORIZED BY: J. Craig Jackson, Director

{**DAR Note:** Because of publication constraints, the text of this deleted section is not printed in this *Bulletin*, but is published by reference to a copy on file at the Division of Administrative Rules. The text may also be inspected at the agency (address above) or in the *Utah Administrative Code* which is available at any state depository library.}

Commerce, Occupational and Professional Licensing

R156-69

Dentist and Dental Hygienist Practice Act Rules

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 25474
FILED: 10/10/2002, 14:06

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division needs to make changes to allow recognition of two national dental radiology training programs for unlicensed dental assistants.

SUMMARY OF THE RULE OR CHANGE: In Section R156-69-102, adds a definition for "DANB" (Dental Assisting National Board, Inc.). In Subsection R156-69-603(11), adds that in order for unlicensed dental assistants to expose radiographs, they must complete a dental assisting course accredited by the American Dental Association Commission on Dental Accreditation and pass one of the following examinations: the DANB Radiation Health and Safety Examination or a radiology examination approved by the Board that meets the criteria established in Section R156-69-604. Subsection R156-69-604(11) that is being amended previously provided that unlicensed dental assistants could not expose radiographs without having taken and passed by examination a radiology course approved by the Board.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-69-101, and Subsections 58-1-106(1) and 58-1-202(1)(a)

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: The Division will incur costs of approximately $100 to reprint this rule once the proposed amendments are made effective. Any costs incurred will be absorbed in the Division's current budget.
❖ LOCAL GOVERNMENTS: No costs as the proposed amendments do not apply to local governments.
❖ OTHER PERSONS: These proposed amendments should have no cost or savings impact on those unlicensed dental assistants who expose radiographs since the amendments are recognizing two additional national radiology training programs. The unlicensed dental assistants will continue to pay about the same cost for one of the national radiology training programs or a local radiology training program that meets the criteria outlined in Section R156-69-604.

COMPLIANCE COSTS FOR AFFECTED PERSONS: These proposed amendments should have no cost or savings impact on those unlicensed dental assistants who expose radiographs since the amendments are recognizing two additional national radiology training programs. The unlicensed dental assistants will continue to pay about the same cost for one of the national radiology training programs or a local radiology training program that meets the criteria outlined in Section R156-69-604.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule change does not create any negative fiscal impact to businesses. It might, however, create a cost savings to the regulated industry, because it now accepts an additional track for the training and testing of unlicensed dental assistants who expose radiographs. Ted Boyer, Executive Director.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
COMMERCE
OCCUPATIONAL AND PROFESSIONAL LICENSING
HEBER M WELLS BLDG
160 E 300 S
SALT LAKE CITY UT 84111-2316, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Daniel T. Jones at the above address, by phone at 801-530-6767, by FAX at 801-530-6511, or by Internet E-mail at dantjones@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 12/02/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 12/03/2002

AUTHORIZED BY: J. Craig Jackson, Director

R156. Commerce, Occupational and Professional Licensing.
R156-69. Dentist and Dental Hygienist Practice Act Rules.
R156-69-102. Definitions.

In addition to the definitions in Title 58, Chapters 1 and 69, as used in Title 58, Chapters 1 and 69 or these rules:

(1) "ACLS" means Advanced Cardiac Life Support.

. . . . . .

(10) "DANB" means the Dental Assisting National Board, Inc.

(1[~~0~~]1) "Deep sedation" means a controlled state of depressed consciousness, accompanied by partial loss of protective reflexes, including inability to respond purposefully to verbal command, produced by a pharmacologic or non-pharmacologic method, or combination thereof.

(1[~~1~~]2) "General anesthesia" means a controlled state of unconsciousness accompanied by partial or complete loss of protective reflexes, including inability to independently maintain an airway and respond purposefully to physical stimulation or verbal command, produced by a pharmacologic or non-pharmacologic method or a combination thereof.

(1[~~2~~]3) "NERB" means Northeast Regional Board of Dental Examiners, Inc.

(1[~~3~~]4) "SRTA" means Southern Regional Testing Agency, Inc.

(1[~~4~~]5) "Unprofessional conduct," as defined in Title 58 Chapters 1 and 69, is further defined, in accordance with Subsection 58-1-203(5), in Section R156-69-502.

(1[~~5~~]6) "UDA" means Utah Dental Association.

(1[~~6~~]7) "UDHA" means Utah Dental Hygienists' Association.

(1[~~7~~]8) "WREB" means the Western Regional Examining Board.

R156-69-603. Use of Unlicensed Individuals as Dental Assistants.

. . . . . .

(11) expose radiographs without [~~having taken and passed by examination a radiology course approved by the board.~~]meeting the following criteria:

(a) completing a dental assisting course accredited by the ADA Commission on Dental Accreditation; and

(b) passing one of the following examinations:

(i) the DANB Radiation Health and Safety Examination (RHS); or

(ii) a radiology exam approved by the board that meets the criteria established in Section R156-69-604.

KEY: licensing, dentists, dental hygienists[~~*~~]
[~~July 5, 2001~~]2002
Notice of Continuation July 5, 2001
58-69-101
58-1-106(1)
58-1-202(1)(a)

▼ ▼

Environmental Quality, Air Quality
R307-121
General Requirements: Eligibility of Vehicles That Use Cleaner Burning Fuels or Conversion of Vehicles and Special Fuel Mobile Equipment To Use Cleaner Burning Fuels for Corporate and Individual Income Tax Credits.

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 25495
FILED: 10/15/2002, 11:18

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To conform with H.B. 145, adopted in the 2002 Legislative session. (DAR NOTE: H.B. 145 is found at UT L 2002 Ch 231, and was effective May 6, 2002.)

SUMMARY OF THE RULE OR CHANGE: Summary of changes: 1) in Section R307-121-1, adds and deletes definitions to match the statutory changes; 2) deletes Section R307-121-2 as the credit is specified in the statute and is not needed here; 3) revises the certification procedures in Sections R307-121-4 and R307-121-5 to provide a certification avenue for owners who do not have the original manufacturer's paperwork. The new procedures allow certification by vehicle inspection and maintenance stations or by ASE-certified technicians; ASE technicians are available statewide; and 4) adds a new Section R307-121-6 to clarify the procedures for obtaining certification for Special Mobile Equipment, such as forklifts.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 59-7-605 and 59-10-127

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: Reduce costs to the Division of Air Quality for assisting consumers who did not have the proper paperwork identified in the original rule. No change in costs for the State Tax Commission, as there is no change in the process for the consumer to get the tax credit after obtaining certification of eligibility from DAQ.

❖ LOCAL GOVERNMENTS: No impact--Local governments do not pay taxes and thus do not receive a state tax credit when they purchase clean fuel vehicles.

❖ OTHER PERSONS: For most people there is no change in cost or benefit. For those individuals or companies purchasing used clean fuel vehicles for which no credit has been claimed previously, there will be a cost of $15 - $45 to have the car certified to ensure that the clean fuel components are working, but those individuals then qualify for a tax credit up to $3,000 and thus have a substantial net benefit.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Generally, there will be no change in costs. A consumer purchasing a new vehicle equipped with a clean fuel will have the manufacturer's

paperwork specified in Subsection R307-121-4(1)(a). A consumer converting a vehicle to use a clean fuel will receive a certification from the person installing the conversion. A consumer in Davis, Salt Lake, Utah, or Weber Counties purchasing a used clean fuel vehicle for which no credit has been claimed previously, such as a consumer purchasing a vehicle being sold by a government agency, will need an I/M inspection to register the vehicle anyway. The only increase in costs will fall to a consumer outside those four counties who purchases a used clean fuel vehicle for which no tax credit was claimed previously and that is a small number of people. On the other hand, there is a tax credit up to $3,000 for those buyers of a used vehicle who did not have the paperwork necessary to qualify under the current version of the rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: These changes cause no change in costs or benefits for most businesses, but may have a benefit for those companies purchasing used clean fuel vehicles for which no credit has been claimed previously.

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 janmiller@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 12/02/2002

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 11/19/2002 at 1:30 PM, DEQ Building, 168 N 1950 W, Room 201, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 01/03/2003

AUTHORIZED BY: M. Cheryl Heying, Planning Branch Manager

R307. Environmental Quality, Air Quality.
R307-121. General Requirements: Eligibility of Expenditures for Purchase of Vehicles that Use Cleaner Burning Fuels [~~or Conversion of Vehicles and Special Fuel Mobile Equipment to Use Cleaner Burning Fuels~~]for Corporate and Individual Income Tax Credits.
R307-121-1. Purpose.

This rule provides taxpayers with the criteria and procedures to obtain certification from the board that a vehicle is eligible for a credit under 59-7-605 and 59-10-127.

R307-121-[~~1~~]2. Definitions.

Definitions. The following additional definitions apply to R307-121.[

~~"Certified by the Board" is defined in Utah Code 59-7-605(1)(b) and 59-10-127(1)(b).~~

~~"Clean Fuel" means:~~

~~(1) propane, natural gas, or electricity;~~

~~(2) other fuel the Air Quality Board determines annually on or before July 1, to be at least as effective as fuels under(1) in reducing air pollution; or~~

~~(3) fuel that meets the clean fuel vehicle standards specified in Part C of Title II of the federal Clean Air Act.~~]

"Conversion System" means a package which may include fuel, ignition, emissions control, and engine components that are modified, removed, or added [~~during the process of modifying~~]to a motor vehicle or a special [~~fuel~~]mobile equipment [~~to operate on a clean fuel~~]to make that vehicle or equipment an eligible vehicle.

"Eligible" means that the vehicle or special mobile equipment:

(i) is fueled by propane, natural gas, or electricity;

(ii) is fueled by other fuel the Air Quality Board determines annually on or before July 1, to be at least as effective as fuels under (i) above in reducing air pollution; or

(iii) meets the clean fuel vehicle standards specified in Part C of Title II of the federal Clean Air Act.

"OEM vehicle" is defined in 63-34-202 to mean a vehicle manufactured by the original vehicle manufacturer or its contractor to use a clean fuel.

"Special [~~Fuel~~]Mobile Equipment" is defined in [~~Utah Code~~]59-7-605(1)(d) and 59-10-127(1)(d).[

~~**R307-121-2. Amount of Credit.**~~

~~As specified in Sections 59-7-605 and 59-10-127, there is a credit against tax otherwise due in an amount equal to:~~

~~(1) 20%, up to a maximum of $500 per vehicle, of the cost of new motor vehicles being registered in Utah and for the first time that are fueled by a clean fuel;~~

~~(2) 20%, up to a maximum of $400, of the cost of equipment for conversion, if certified by the Board, of a motor vehicle registered in Utah to be fueled by a clean fuel; and~~

~~(3) 20%, up to a maximum of $500, of the cost of equipment for conversion, if certified by the Board, of a special fuel mobile equipment engine to be fueled by a clean fuel or a fuel substantially more effective in reducing air pollution than the fuel for which the engine was originally designed.~~]

R307-121-3. Anti-Tampering Policy.

No person may convert a motor vehicle to use a clean fuel in a manner that violates Section 203(a) of the Act or the "Interim Tampering Enforcement Policy" of the Environmental Protection Agency, June 15, 1974.

R307-121-4. Proof of Purchase for [~~New~~]OEM Vehicle.[

~~Proof of purchase of an item for which a credit specified in R307-121-2(1) is allowed shall be made by submitting to the executive secretary:~~

~~(1) a copy of the Manufacturer's Statement of Origin;~~

~~(2) an original or copy of the purchase order, customer invoice, or receipt including the vehicle identification number (VIN); and~~

~~(3)(a) a copy of the Manufacturer's Suggested Retail Price document that includes a clean fuel option on the equipment list for that vehicle or~~

~~(b) in the case of vehicles certified as meeting the Clean Fleet Vehicle standards specified in Part C of the federal Clean Air Act, the owner must make the vehicle available for verification by a representative of the executive secretary of an under-hood decal on the vehicle for which the credit is requested stating "This vehicle (or engine, as applicable) conforms to California regulations applicable to (model year) new (TLEV, LEV, ULEV, or ZEV) (specify motorcycles, passenger cars, light-duty trucks, medium-duty diesel engines, as applicable)."~~]

To obtain certification from the board that a vehicle is eligible, proof of purchase shall be made by submitting the following documents to the executive secretary:

(1)(a) a copy of the Manufacturer's Statement of Origin or equivalent manufacturer's documentation showing that the vehicle is an OEM vehicle, or

(b) if within a county with an inspection and maintenance (I/M) program, a copy of the vehicle inspection report from an approved I/M station showing that the vehicle meets emission standards for all installed fuel systems, or

(c) a signed statement by an American Service Excellence (ASE) certified technician that includes the vehicle identification number and states that the vehicle is an eligible OEM vehicle, or

(d) if the vehicle is a government agency fleet vehicle, documentation from the appropriate motorpool or government agency representative that sold the vehicle that the vehicle is an OEM vehicle, and

(2) an original or copy of the purchase order, customer invoice, or receipt including the vehicle identification number (VIN).

R307-121-5. Proof of Purchase for [~~Converted~~]Vehicle Converted to Alternate Fuels.

[~~(1) Proof of purchase of an item for which a credit specified in R307-121-2(2) or (3) is allowed shall be made by submitting to the executive secretary a copy of the purchase order, customer invoice, or receipt.~~

~~(2) The proof of purchase specified in R307-121-5(1) must be completed and signed by the person that converted the vehicle or the special fuel mobile equipment, and must include the following information:~~

~~(a) owner's name;~~

~~(b) owner's social security number or taxpayer identification number;~~]To obtain certification from the board that a conversion of a motor vehicle to be fueled by clean fuel is eligible, proof of purchase shall be made by submitting the following documentation to the executive secretary:

([~~c~~]1) [~~vehicle~~]VIN[~~ or identification number of the special fuel mobile equipment~~];

([~~d~~]2) fuel type before conversion;

([~~e~~]3) fuel type after conversion;

(4) either:

(a) if within a county with an I/M program, a copy of the vehicle inspection report from an approved station showing that the converted alternate fuel vehicle meets all county emissions requirements for all installed fuel systems, or

(b) a signed statement by an ASE certified technician that includes the VIN and states that the conversion is functional, or

(c) if the vehicle is a government agency fleet vehicle, documentation from the appropriate motor pool or government agency representative that sold the vehicle that the converted vehicle is eligible.

(5) If the vehicle is newly converted within one year of the tax year in which the credit is to be claimed:

([~~f~~]a) conversion system manufacturer;

([~~g~~]b) conversion system model number;

([~~h~~]c) date of the conversion;

([~~i~~]d) name, address, and phone number of the person that converted the vehicle.[~~ or the special fuel mobile equipment;~~

~~(j) documentation of compliance with all existing applicable technician certification requirements, as specified in 53-7-301 through 316, R710-6, and R714-400-7.P, for the person that performed the installation of the conversion system, by providing the technician's current valid certification number;~~

~~(k) documentation that the conversion system installed has been certified by the Board, by providing the current valid certification number issued by the executive secretary in accordance with R307-121-6; and~~

~~(l) for vehicle conversions, copies of the vehicle inspection reports (VIR) before and after the conversion, indicating that the vehicle passed the current applicable inspection and maintenance (I/M) emission test in the county where the vehicle is registered. The owner is exempt from the VIR submission requirements, only if a vehicle is registered and is converted in a county that does not implement any inspection and maintenance program. If the vehicle is registered in a non-I/M county and is converted in an I/M county, VIR submission is required.~~]

R307-121-6. Procedures for Obtaining Certification by the Board for Special Mobile Equipment.

To obtain certification from the board that a conversion of special mobile equipment to be fueled by clean fuel is eligible, proof of purchase shall be made by submitting the following documentation to the executive secretary:

(1) description of special mobile equipment for which credit is to be claimed;

(2) fuel type before conversion;

(3) fuel type after conversion;

(4) the conversion system manufacturer and model number;

(5) the date of the conversion;

(6) the name, address and phone number of the person that converted the special mobile equipment; and

(7) if special mobile equipment is converted from one clean fuel to another, documentation that either carbon monoxide or hydrocarbon emissions were reduced as a result of the conversion to the new fuel.

R307-121-[~~6~~]7. Procedures for Obtaining Certification by the Board for Fuel Conversion Systems.

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R307-121-[~~7~~]8. Revocation of Certification.

. . . . . .

R307-121-[~~8~~]9. Duty to Acknowledge Proof of Purchase.

. . . . . .

KEY: air pollution, tax exemptions, motor vehicles
[~~September 15, 1998~~]2002
Notice of Continuation March 26, 2002
19-2-104
59-7-605
59-10-127

Environmental Quality, Drinking Water
R309-100
Administration: Drinking Water Program

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 25485
FILED: 10/11/2002, 15:12

RULE ANALYSIS
PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule filing is to update and incorporate the changes with the federal variance and exemption criteria in order to allow the Drinking Water Board the flexibility to offer variances and exemptions to Utah water systems as appropriate.

SUMMARY OF THE RULE OR CHANGE: The references to the federal variance and exemption criteria are being updated.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-4-104

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: No impact--This rule change does not add any additional requirements.
❖ LOCAL GOVERNMENTS: No impact--This rule change does not add any additional requirements.
❖ OTHER PERSONS: No impact--This rule change does not add any additional requirements.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule change does not add any additional requirements. There should be no additional compliance costs due to this rule change.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The Department of Environmental Quality agrees with the comments listed under the Cost or Savings statements and the Compliance costs for affected persons above.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
Ken Bousfield or Patti Fauver at the above address, by phone at 801-536-4207 or 801-536-4196, by FAX at 801-536-4211 or 801-536-4211, or by Internet E-mail at kbousfield@utah.gov or pfauver@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 12/02/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 12/03/2002

AUTHORIZED BY: Kevin Brown, Director

R309. Environmental Quality, Drinking Water.
R309-100. Administration: Drinking Water Program.

. . . . . .

R309-100-2. Authority.
This rule is promulgated by the Drinking Water Board as authorized by Title 19, Environmental Quality Code, Chapter 4, Safe Drinking Water Act, Subsection 104 of the Utah Code and in accordance with 63-46a of[~~fo~~] the same, known as the Administrative Rulemaking Act.

. . . . . .

R309-100-10. Variances.

. . . . . .

(6) Within one year of the date any variance is granted, the Board shall prescribe a schedule by which the water system will come into compliance with the maximum contaminant level in question. The requirements of Section 1415 of the Federal Safe Drinking Water Act, PL 104-182[~~99-339~~], are hereby incorporated by reference. The Board shall provide notice and opportunity for public hearing prior to granting any variance or determining the compliance schedule. Procedures for giving notice and opportunity for hearing will be as outlined in 40 CFR Section 142.44.

R309-100-11. Exemptions.

. . . . . .

(4) Within one year of the granting of an exemption, the Board shall prescribe a schedule by which the water system will come into compliance with contaminant level or treatment technique requirement. The requirements of Section 1416 of the Federal Safe Drinking Water Act, PL 104-182[~~99-339~~], are hereby incorporated by reference.
(5) The Board shall provide notice and opportunity for an exemption hearing as provided in 40 CFR Section 142.54.

KEY: drinking water, environmental protection, administrative procedures
December 16[~~August 12~~], 2002
Notice of Continuation April 16, 2001

19-4-104
63-46b-4

Environmental Quality, Drinking Water
R309-105
Administration: General Responsibilities of Public Water Systems

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 25486
FILED: 10/11/2002, 15:22

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule filing is to adopt the requirements contained in the federal Interim Enhanced Surface Water Treatment Rule, the Disinfection/Disinfection By-Products Rule, and the Radionuclide Rule. These changes are required in order to maintain primacy.

SUMMARY OF THE RULE OR CHANGE: These changes outline the way in which water systems subject to Disinfection By-Products monitoring requirements in Section R309-210-8 report the analytical results to the Division of Drinking Water.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-4-104; and Safe Drinking Water Act (amended Aug. 6, 1996), Title XIV, Section 1419

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: Five full-time equivalents as an aggregate for the changes in Rules R309-105, R309-200, R309-205, R309-210, R309-215, R309-525, and R309-530. This staffing increase has already been authorized by the 2002 Legislature with funding coming from the federal SRF (state revolving loan funds). (DAR NOTE: The proposed amendments to R309-105 (DAR No. 25486), R309-200 (DAR No. 25488), R309-205 (DAR No. 25489), R309-210 (DAR No. 25490), R309-215 (DAR No. 25491), R309-525 (DAR No. 25493), and R309-530 (DAR No. 25494) are all found in this Bulletin.)

❖ LOCAL GOVERNMENTS: Costs will vary by water system size, sources utilized, and treatment applied. EPA estimates the total national annual cost at $1,072,000. Utah has approximately 0.5% of the total number of water systems nationally making Utah's annual cost estimated at $5,360,000 for the aggregate rule changes.

❖ OTHER PERSONS: Costs will vary depending upon water system size. EPA estimates the cost to vary from $1 to $400 per household per year with 95% of the water systems affected having households in the $1 to $12 per year cost category for the aggregate rule changes.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Compliance costs for this aggregate rule change will vary depending upon the water system size, type of source, and type of treatment. EPA estimates the cost to vary from $1 to $400 per household per year with 95% of the water systems affected having households in the $1 to $12 per year cost category.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The Department of Environmental Quality agrees with the comments listed under the Cost or Savings statements and the Compliance costs for affected persons above. It is important to note that the cost of this aggregate rule change to public water systems and their consumers will occur independent of this rule action. These requirements will be applied by the federal government if these rules are not adopted by Utah. Dianne R. Nielson, Ph.D., Executive Director

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

ENVIRONMENTAL QUALITY
DRINKING WATER
150 N 1950 W
SALT LAKE CITY UT 84116-3085, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Patti Fauver or Ken Bousfield at the above address, by phone at 801-536-4196 or 801-536-4207, by FAX at 801-536-4211 or 801-536-4211, or by Internet E-mail at pfauver@utah.gov or kbousfield@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 12/02/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 12/03/2002

AUTHORIZED BY: Kevin Brown, Director

R309. Environmental Quality, Drinking Water.
R309-105. Administration: General Responsibilities of Public Water Systems.

. . . . . .

R309-105-6. Construction of Public Drinking Water Facilities.

The following requirements pertain to the construction of public water systems.

(1) Approval of Engineering Plans and Specifications

(a) Complete plans and specifications for all public drinking water projects, as described in R309-500-5, shall[~~must~~] be approved in writing by the Executive Secretary prior to the commencement of construction. A 30-day review time should be assumed.

(b) Appropriate engineering reports, supporting information and master plans may also be required by the Executive Secretary as needed to evaluate the proposed project. A certificate of convenience and necessity or an exemption therefrom, issued by the Public Service Commission, shall[~~must~~] be filed with the Executive Secretary prior to approval of any plans or specifications for projects described in R309-105-6(3)(a).

(2) Acceptable Design and Construction Methods

(a) The design and construction methods of all public drinking water facilities shall[~~must~~] conform to the applicable standards contained in R309-204 and R309-500 through R309-550 of these rules. The Executive Secretary may require modifications to plans and specifications before approval is granted.

. . . . . .

R309-105-8. Existing Water System Facilities.

(1) All public water systems shall deliver water meeting the applicable requirements of R309-200 of these rules .

(2) Existing facilities shall be brought into compliance with R309-204 and R309-500 through R309-550 or shall[~~must~~] be reliably capable of delivering water meeting the requirements of R309-200.

(3) In situations where a water system is providing water of unsatisfactory quality, or when the quality of the water or the public health is threatened by poor physical facilities, the water system management shall solve the problem(s).

. . . . . .

R309-105-10. Operation and Maintenance Procedures.

All routine operation and maintenance of public water supplies shall[~~must~~] be carried out with due regard for public health and safety. The following sections describe procedures which shall be used in carrying out some common operation and maintenance procedures.

(1) Chemical Addition

(a) Water system operators shall determine that all chemicals added to water intended for human consumption are suitable for potable water use and comply with ANSI/NSF Standard 60.

(b) No chemicals or other substances shall be added to public water supplies unless the chemical addition facilities and chemical type have been reviewed and approved by the Division of Drinking Water.

(c) Chlorine, when used in the distribution system, shall be added in sufficient quantity to achieve either "breakpoint" and yield a detectable free chlorine residual or a detectable combined chlorine residual in the distribution system at points to be determined by the Executive Secretary. Residual checks shall be taken daily by the operator of any system using disinfectants. The Executive Secretary may, however, reduce the frequency of residual checks if he determines that this would be an unwarranted hardship on the water system operator and, furthermore, the disinfection equipment has a verified record of reliable operation. Suppliers, when checking for residuals, shall use test kits and methods which meet the requirements of the U.S. EPA. The "DPD" test method is recommended for free chlorine residuals. Information on the suppliers of this equipment is available from the Division of Drinking Water.

(2) New and Repaired Mains

(a) All new water mains shall meet the requirements of R309-550-6 with regard to materials of construction. All products in contact with culinary water shall comply with ANSI/NSF Standard 61.

(b) All new and repaired water mains or appurtenances shall be disinfected in accordance with AWWA Standard C651-92. The chlorine solution shall be flushed from the water main with potable water prior to the main being placed in use.

(c) All products used to recoat the interiors of storage structures and which may come in contact with culinary water shall comply with ANSI/NSF Standard 61.

(3) Reservoir Maintenance and Disinfection

After a reservoir has been entered for maintenance or re-coating, it shall be disinfected prior to being placed into service. Procedures given in AWWA Standard C651-92 shall be followed in this regard.

(4) Spring Collection Area Maintenance

(a) Spring collection areas shall be periodically cleared of deep rooted vegetation to prevent root growth from clogging collection lines. Frequent hand or mechanical clearing of spring collection areas is strongly recommended. It is advantageous to encourage the growth of grasses and other shallow rooted vegetation for erosion control and to inhibit the growth of more detrimental flora.

(b) No pesticide (e.g., herbicide) may be applied on a spring collection area without the prior written approval of the Executive Secretary. Such approval shall be given 1) only when acceptable pesticides are proposed; 2) when the pesticide product manufacturer certifies that no harmful substance will be imparted to the water; and 3) only when spring development meets the requirements of these rules (see R309-204-7).

(5) Security

All water system facilities such as spring junction boxes, well houses, reservoirs, and treatment facilities shall be secure.

(6) Seasonal Operation

Water systems operated seasonally shall be disinfected and flushed according to the techniques given in AWWA Standard C651-92 and C652-92 prior to each season's use. A satisfactory bacteriologic sample shall be achieved prior to use. During the non-use period, care shall be taken to close all openings into the system.

(7) Pump Lubricants

All oil lubricated pumps for culinary wells shall utilize mineral oils suitable for human consumption as determined by the Executive Secretary. To assure proper performance, and to prevent the voiding of any warranties which may be in force, the water supplier should confirm with individual pump manufacturers that the oil which is selected will have the necessary properties to perform satisfactorily.

. . . . . .

R309-105-16. Reporting Test Results.

(1) If analyses are made by certified laboratories other than the state laboratory, these results shall be forwarded to the Division as follows:

(a) The supplier shall report to the Division the analysis of water samples which fail to comply with the Primary Drinking Water Standards of R309-200. Except where a different reporting period is specified in R309-205, R309-210 or R309-215, this report shall be submitted within 48 hours after the supplier receives the report from his lab. The Division may be reached at (801)536-4200.

(b) Monthly summaries of bacteriologic results shall be submitted within ten days following the end of each month.

(c) All results of TTHM samples shall be reported to the Division within 10 days of receipt of analysis for systems monitoring pursuant to R309-210-9.

(d) For all samples other than samples showing unacceptable results, bacteriologic samples or TTHM samples, the time between the receipt of the analysis and the reporting of the results to the Division shall not exceed 40 days.

(2) Disinfection byproducts, maximum residual disinfectant levels and disinfection byproduct precursors and enhanced coagulation or enhanced softening.

(a) Systems required to sample quarterly or more frequently shall report to the State within 10 days after the end of each quarter in which samples were collected, except for systems monitoring TTHMs in accordance with R309-210-9. Systems required to sample less frequently than quarterly shall report to the State within 10 days after the end of each monitoring period in which samples were collected. The Executive Secretary may chose to perform calculations and determine whether the MCL was exceeded, in lieu of having the system report that information.

(b) Disinfection byproducts. Systems shall report the information specified.

(i) Systems monitoring for TTHMs and HAA5 under the requirements of R309-210-8(2) on a quarterly or more frequent basis shall report:

(A) The number of samples taken during the last quarter.

(B) The location, date, and result of each sample taken during the last quarter.

(C) The arithmetic average of all samples taken in the last quarter.

(D) The annual arithmetic average of the quarterly arithmetic averages of this section for the last four quarters.

(E) Whether, based on R309-210-8(6)(b)(i), the MCL was violated.

(ii) Systems monitoring for TTHMs and HAA5 under the requirements of R309-210-8(2) less frequently than quarterly (but at least annually) shall report:

(A) The number of samples taken during the last year.

(B) The location, date, and result of each sample taken during the last monitoring period.

(C) The arithmetic average of all samples taken over the last year.

(D) Whether, based on R309-210-8(6)(b)(i), the MCL was violated.

(iii) Systems monitoring for TTHMs and HAA5 under the requirements of R309-210-8(2) less frequently than annually shall report:

(A) The location, date, and result of the last sample taken.

(B) Whether, based on R309-210-8(6)(b)(i), the MCL was violated.

(iv) Systems monitoring for chlorite under the requirements of R309-210-8(2) shall report:

(A) The number of entry point samples taken each month for the last 3 months.

(B) The location, date, and result of each sample (both entry point and distribution system) taken during the last quarter.

(C) For each month in the reporting period, the arithmetic average of all samples taken in each three sample set taken in the distribution system.

(D) Whether, based on R309-210-8(6)(b)(ii), the MCL was violated.

(v) System monitoring for bromate under the requirements of R309-210-8(2) shall report:

(A) The number of samples taken during the last quarter.

(B) The location, date, and result of each sample taken during the last quarter.

(C) The arithmetic average of the monthly arithmetic averages of all samples taken in the last year.

(D) Whether, based on R309-210-8(6)(b)(iii), the MCL was violated.

(c) Disinfectants. Systems shall report the information specified to the Executive Secretary within ten days after the end of each month the system serves water to the public, except as otherwise noted:

(i) Systems monitoring for chlorine or chloramines under the requirements of R309-210-8(3)(a) shall report and certify, by signing the report form provided by the Executive Secretary, that all the information provided is accurate and correct and that any chemical introduced into the drinking water complies with ANSI/NSF Standard 60:

(A) The number of samples taken during each month of the last quarter.

(B) The monthly arithmetic average of all samples taken in each month for the last 12 months.

(C) The arithmetic average of all monthly averages for the last 12 months.

(D) The additional data required in R309-210-8(3)(a)(ii).

(E) Whether, based on R309-210-8(6)(c)(i), the MRDL was violated.

(ii) Systems monitoring for chlorine dioxide under the requirements of R309-210-8(3) shall report:

(A) The dates, results, and locations of samples taken during the last quarter.

(B) Whether, based on R309-210-8(6)(c)(ii), the MRDL was violated.

(C) Whether the MRDL was exceeded in any two consecutive daily samples and whether the resulting violation was acute or nonacute.

(d) Disinfection byproduct precursors and enhanced coagulation or enhanced softening. Systems shall report the information specified.

(i) Systems monitoring monthly or quarterly for TOC under the requirements of R309-215-12 and required to meet the enhanced coagulation or enhanced softening requirements in R309-215-13(2)(b) or (c) shall report:

(A) The number of paired (source water and treated water) samples taken during the last quarter.

(B) The location, date, and results of each paired sample and associated alkalinity taken during the last quarter.

(C) For each month in the reporting period that paired samples were taken, the arithmetic average of the percent reduction of TOC for each paired sample and the required TOC percent removal.

(D) Calculations for determining compliance with the TOC percent removal requirements, as provided in R309-215-13(3)(a).

(E) Whether the system is in compliance with the enhanced coagulation or enhanced softening percent removal requirements in R309-215-13(2) for the last four quarters.

(ii) Systems monitoring monthly or quarterly for TOC under the requirements of R309-215-12 and meeting one or more of the alternative compliance criteria in R309-215-13(1)(b) or (c) shall report:

(A) The alternative compliance criterion that the system is using.

(B) The number of paired samples taken during the last quarter.

(C) The location, date, and result of each paired sample and associated alkalinity taken during the last quarter.

(D) The running annual arithmetic average based on monthly averages (or quarterly samples) of source water TOC for systems

meeting a criterion in R309-215-13(1)(b)(i) or (iii) or of treated water TOC for systems meeting the criterion in R309-215-13(1)(b)(ii).

(E) The running annual arithmetic average based on monthly averages (or quarterly samples) of source water SUVA for systems meeting the criterion in R309-215-13(1)(b)(v) or of treated water SUVA for systems meeting the criterion in R309-215-13(1)(b)(vi).

(F) The running annual average of source water alkalinity for systems meeting the criterion in R309-215-13(1)(b)(iii) and of treated water alkalinity for systems meeting the criterion in R309-215-13(1)(c)(i).

(G) The running annual average for both TTHM and HAA5 for systems meeting the criterion in R309-215-13(1)(b)(iii) or (iv).

(H) The running annual average of the amount of magnesium hardness removal (as $CaCO_3$, in mg/L) for systems meeting the criterion in R309-215-13(1)(c)(ii).

(I) Whether the system is in compliance with the particular alternative compliance criterion in R309-215-13(1)(b) or (c).

(3) The public water system, within 10 days of completing the public notification requirements under R309-220 for the initial public notice and any repeat notices, shall submit to the Division a certification that it has fully complied with the public notification regulations. The public water system shall include with this certification a representative copy of each type of notice distributed, published, posted, and made available to the persons served by the system and to the media.

R309-105-17. Record Maintenance.

All public water systems shall retain on their premises or at convenient location near their premises the following records:

(1) Records of bacteriologic analyses made pursuant to this Section shall be kept for not less than five years. Records of chemical analyses made pursuant to this Section shall be kept for not less than ten years. Actual laboratory reports may be kept, or data may be transferred to tabular summaries, provided that the following information is included:

(a) The date, place and time of sampling, and the name of the person who collected the sample;

(b) Identification of the sample as to whether it was a routine distribution system sample, check sample, raw or process water sample or other special purpose sample.

(c) Date of analysis;

(d) Laboratory and person responsible for performing analysis;

(e) The analytical technique/method used; and

(f) The results of the analysis.

(2) Lead and copper recordkeeping requirements.

(a) Any water system subject to the requirements of R309-210-6 shall retain on its premises original records of all sampling data and analyses, reports, surveys, letters, evaluations, schedules, Executive Secretary[~~State~~] determinations, and any other information required by R309-210-6.

(b) Each water system shall retain the records required by this section for no fewer than 12 years.

(3) Records of action taken by the system to correct violations of primary drinking water regulations shall be kept for a period not less than three years after the last action taken with respect to the particular violation involved.

(4) Copies of any written reports, summaries or communications relating to sanitary surveys of the system conducted by the system itself, by a private consultant, or by any local, State or Federal agency, shall be kept for a period not less than ten years after completion of the sanitary survey involved.

(5) Records concerning a variance or exemption granted to the system shall be kept for a period ending not less than five years following the expiration of such variance or exemption.

(6) Records that concern the tests of a backflow prevention assembly and location shall be kept by the system for a minimum of not less than five years from the date of the test.

(7) Copies of public notices issued pursuant to R309-220 and certifications made to the Executive Secretary agency pursuant to R309-105-16 shall[~~must~~] be kept for three years after issuance.

R309-105-18. Emergencies.

(1) The Executive Secretary or the local health department shall be informed by telephone by a water supplier of any "emergency situation". The term "emergency situation" includes the following:

(a) The malfunction of any disinfection facility such that a detectable residual cannot be maintained at all points in the distribution system.

(b) The malfunction of any "complete" treatment plant such that a clearwell effluent turbidity greater than 5 NTU is maintained longer than fifteen minutes.

(c) Muddy or discolored water (which cannot be explained by air entrainment or re-suspension of sediments normally deposited within the distribution system) is experienced by a significant number of individuals on a system.

(d) An accident has occurred which has, or could have, permitted the entry of untreated surface water and/or other contamination into the system (e.g. break in an unpressurized transmission line, flooded spring area, chemical spill, etc.)

(e) A threat of sabotage has been received by the water supplier or there is evidence of vandalism or sabotage to any public drinking water supply facility which may affect the quality of the delivered water.

(f) Any instance where a consumer reports becoming sick by drinking from a public water supply and the illness is substantiated by a doctor's diagnosis (unsubstantiated claims should also be reported to the Division of Drinking Water, but this is not required).

(2) If an emergency situation exists, the water supplier shall then contact the Division in Salt Lake City within eight hours. Division personnel may be reached at all times through 801-536-4123.

(3) All suppliers are advised to develop contingency plans to cope with possible emergency situations. In many areas of the state the possibility of earthquake damage shall[~~must~~] be realistically considered.

KEY: drinking water, watershed management
December 16,[~~August 12~~], 2002
Notice of Continuation April 16, 2001
19-4-104
63-46b-4

Environmental Quality, Drinking Water
R309-110
Administration: Definitions

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 25487
FILED: 10/11/2002, 15:31

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule filing is to adopt the requirements contained in the federal Interim Enhanced Surface Water Treatment Rule, the Disinfections/Disinfection By-Products Rule, and the Radionuclide Rule. These changes are required in order to maintain primacy.

SUMMARY OF THE RULE OR CHANGE: The changes include modifying the definition of Surface water systems to clarify the regulatory requirements of different size water systems, as well as adding a new section of commonly used acronyms.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-4-104, and Safe Drinking Water Act (amended Aug. 6, 1996), Title XIV, Section 1419

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: No impact--This rule change does not add any additional requirements.
❖ LOCAL GOVERNMENTS: No impact--This rule change does not add any additional requirements.
❖ OTHER PERSONS: No impact--This rule change does not add any additional requirements.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule change does not add any additional requirements. There should be no additional compliance costs due to this rule change.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The Department of Environmental Quality agrees with the comments listed under the Cost or Savings statements and the Compliance costs for affected persons above. Dianne R. Nielson, Ph.D., Executive Director

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
Patti Fauver or Ken Bousfield at the above address, by phone at 801-536-4196 or 801-536-4207, by FAX at 801-536-4211 or 801-536-4211, or by Internet E-mail at pfauver@utah.gov or kbousfield@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 12/02/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 12/03/2002

AUTHORIZED BY: Kevin Brown, Director

R309. Environmental Quality, Drinking Water.
R309-110. Administration: Definitions.

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R309-110-3. Acronyms.

As used in R309:
"AF" means Acre Foot.
"AWOP" means Area Wide Optimization Program.
"AWWA" means American Water Works Association.
"BAT" means Best Available Technology.
"C" means Residual Disinfectant Concentration.
"CCP" means Composite Correction Program.
"CCR" means Consumer Confidence Report.
"CEU" means Continuing Education Unit.
"CFE" means Combined Filter Effluent.
"cfs" means Cubic Feet Per Second.
"CPE" means Comprehensive Performance Evaluation.
"CT" means Residual Concentration multiplied by Contact Time.
"CTA" means Comprehensive Technical Assistance.
"CWS" means Community Water System.
"DBPs" means Disinfection Byproducts.
"DE" means Diatomaceous Earth.
"DWSP" means Drinking Water Source Protection.
"EP" means Entry Point.
"ERC" means Equivalent Residential Connection.
"FBRR" means Filter Backwash Recycling Rule.
"fps" means Feet Per Second
"gpd" means Gallons Per Day.
"gpm" means Gallons Per Minute.
"gpm/sf" means Gallons Per Minute Per Square Foot.
"GWR" means Ground Water Rule.
"GWUDI" means Ground Water Under Direct Influence of Surface Water.
"HAA5s" means Haloacetic Acids (Five).
"HPC" means Heterotrophic Plate Count.
"ICR" means Information Collection Rule of 40 CRF 141 subpart M.
"IESWTR" means Interim Enhanced Surface Water Treatment Rule.
"IFE" means Individual Filter Effluent.
"LT1ESWTR" means Long Term 1 Enhanced Surface Water Treatment Rule.
"LT2ESWTR" means Long Term 2 Enhanced Surface Water Treatment Rule.
"MCL" means Maximum Contaminant Level.
"MCLG" means Maximum Contaminant Level Goal.
"MDBP" means Microbial-Disinfection Byproducts.
"MG" means Million Gallons.
"MGD" means Million Gallons Per Day.
"mg/L" means Milligrams Per Liter
"MRDL" means Maximum Residual Disinfectant Level.
"MRDLG" means Maximum Residual Disinfectant Level Goal.
"NCWS" means Non-Community Water System.
"NTNC" means Non-Transient Non-Community.
"NTU" means Nephelometric Turbidity Unit.

"PN" means Public Notification.
"PWS" means Public Water System.
"SDWA" means Safe Drinking Water Act.
"Stage 1 DBPR" means Stage 1 Disinfectants and Disinfection Byproducts Rule.
"Stage 2 DBPR" means Stage 2 Disinfectants and Disinfection Byproducts Rule.
"Subpart H" means A PWS using SW or GWUDI.
"Subpart P" means A PWS using SW or GWUDI and serving at least 10,000 people.
"Subpart S" means Provisions of 40 CRF 141 subpart S commonly referred to as the Information Collection Rule.
"Subpart T" means A PWS using SW or GWUDI and serving less than 10,000 people.
"SUVA" means Specific Ultraviolet Absorption.
"SW" means Surface Water.
"SWAP" means Source Water Assessment Program.
"SWTR" means Surface Water Treatment Rule.
"T" means Contact Time.
"TA" means Technical Assistance.
"TCR" means Total Coliform Rule.
"TNCWS" means Transient Non-Community Water System.
"TNTC" means Too Numerous To Count.
"TOC" means Total Organic Carbon.
"TT" means Treatment Technique.
"TTHM" means Total Trihalomethanes.
"WCP" means Watershed Control Program.
"WHP" means Wellhead Protection.

R309-110-4[3]. Definitions.

As used in R309:

"Action Level" means the concentration of lead or copper in drinking water tap samples (0.015 mg/l for lead and 1.3 mg/l for copper) which determines, in some cases, the corrosion treatment, public education and lead line replacement requirements that a water system is required to complete.

"AF" means acre foot and is the volume of water required to cover an acre to a depth of one foot (one AF is equivalent to 325,851 gallons).

"Air gap" The unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet supplying water to a tank, catch basin, plumbing fixture or other device and the flood level rim of the receptacle. This distance shall be two times the diameter of the effective opening for openings greater than one inch in diameter where walls or obstructions are spaced from the nearest inside edge of the pipe opening a distance greater than three times the diameter of the effective openings for a single wall, or a distance greater than four times the diameter of the effective opening for two intersecting walls. This distance shall be three times the diameter of the effective opening where walls or obstructions are closer than the distances indicated above.

"ANSI/NSF" refers to the American National Standards Institute and NSF International. NSF International has prepared at least two health effect standards dealing with treatment chemicals added to drinking water and system components that will come into contact with drinking water, these being Standard 60 and Standard 61. The American National Standards Institute acts as a certifying agency, and determines which laboratories may certify to these standards.

"Approval" unless indicated otherwise, shall be taken to mean a written statement of acceptance from the Executive Secretary.

"Approved" refers to a rating placed on a system by the Division and means that the public water system is operating in substantial compliance with all the Rules of R309.

"Average Yearly Demand" means the amount of water delivered to consumers by a public water system during a typical year, generally expressed in MG or AF.

"AWWA" refers to the American Water Works Association located at 6666 West Quincy Avenue, Denver, Colorado 80235. Reference within these rules is generally to a particular Standard prepared by AWWA and which has completed the ANSI approval process such as ANSI/AWWA Standard C651-92 (AWWA Standard for Disinfecting Water Mains).

"Backflow" means the undesirable reversal of flow of water or mixtures of water and other liquids, gases, or other substances into the distribution pipes of the potable water supply from any source. Also see backsiphonage, backpressure and cross-connection.

"Backpressure" means the phenomena that occurs when the customer's pressure is higher than the supply pressure. This could be caused by an unprotected cross-connection between a drinking water supply and a pressurized irrigation system, a boiler, a pressurized industrial process, elevation differences, air or steam pressure, use of booster pumps or any other source of pressure. Also see backflow, backsiphonage and cross-connection.

"Backsiphonage" means a form of backflow due to a reduction in system pressure which causes a subatmospheric or negative pressure to exist at a site or point in the water system. Also see backflow and cross-connection.

"Best Available Technology" (BAT) means the best technology, treatment techniques, or other means which the Executive Secretary finds, after examination under field conditions and not solely under laboratory conditions, are available (taking cost into consideration). For the purposes of setting MCLs for synthetic organic chemicals, any BAT must be at least as effective as granular activated carbon for all these chemicals except vinyl chloride. Central treatment using packed tower aeration is also identified as BAT for synthetic organic chemicals.

"Board" means the Drinking Water Board.

"Breakpoint Chlorination" means addition of chlorine to water until the chlorine demand has been satisfied. At this point, further addition of chlorine will result in a free residual chlorine that is directly proportional to the amount of chlorine added beyond the breakpoint.

"C" is short for "Residual Disinfectant Concentration."

"Capacity Development" means technical, managerial, and financial capabilities of the water system to plan for, achieve, and maintain compliance with applicable drinking water standards.

"cfs" means cubic feet per second and is one way of expressing flowrate (one cfs is equivalent to 448.8 gpm).

"Class" means the level of certification of Backflow Prevention Technician (Class I, II or III).

"Coagulation" is the process of destabilization of the charge (predominantly negative) on particulates and colloids suspended in water. Destabilization lessens the repelling character of particulates and colloids and allows them to become attached to other particles so that they may be removed in subsequent processes. The particulates in raw waters (which contribute to color and turbidity) are mainly clays, silt, viruses, bacteria, fulvic and humic acids, minerals (including asbestos, silicates, silica, and radioactive particles), and organic particulate.

"Collection area" means the area surrounding a ground-water source which is underlain by collection pipes, tile, tunnels, infiltration boxes, or other ground-water collection devices.

"Commission" means the Operator Certification Commission.

"Community Water System" (CWS) means a public water system which serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents.

"Compliance cycle" means the nine-year calendar year cycle during which public water systems must monitor. Each compliance cycle consists of three three-year compliance periods. The first calendar year cycle began January 1, 1993 and ends December 31, 2001; the second begins January 1, 2002 and ends December 31, 2010; the third begins January 1, 2011 and ends December 31, 2019.

"Compliance period" means a three-year calendar year period within a compliance cycle. Each compliance cycle has three three-year compliance periods. Within the first compliance cycle, the first compliance period ran from January 1, 1993 to December 31, 1995; the second from January 1, 1996 to December 31, 1998; and the third is from January 1, 1999 to December 31, 2001.

"Comprehensive Performance Evaluation" (CPE) is a thorough review and analysis of a treatment plant's performance-based capabilities and associated administrative, operation and maintenance practices. It is conducted to identify factors that may be adversely impacting a plant's capability to achieve compliance and emphasizes approaches that can be implemented without significant capital improvements. For purposes of compliance with these rules, the comprehensive performance evaluation must consist of at least the following components: Assessment of plant performance; evaluation of major unit processes; identification and prioritization of performance limiting factors; assessment of the applicability of comprehensive technical assistance; and preparation of a CPE report.

"Confirmed SOC contamination area" means an area surrounding and including a plume of SOC contamination of the soil or water which previous monitoring results have confirmed. The area boundaries may be determined by measuring 3,000 feet horizontally from the outermost edges of the confirmed plume. The area includes deeper aquifers even though only the shallow aquifer is the one contaminated.

"Confluent growth" means a continuous bacterial growth covering the entire filtration area of a membrane filter, or a portion of the filtration area in which discrete bacterial colonies can not be distinguished.

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

"Continuing Education Unit" (CEU) means ten contact hours of participation in, and successful completion of, an organized and approved continuing education experience under responsible sponsorship, capable direction, and qualified instruction. College credit in approved courses may be substituted for CEUs on an equivalency basis.

"Conventional Surface Water Treatment" means a series of processes including coagulation, flocculation, sedimentation, filtration and disinfection resulting in substantial particulate removal and inactivation of pathogens.

"Controls" means any codes, ordinances, rules, and regulations that a public water system can cite as currently in effect to regulate potential contamination sources; any physical conditions which may prevent contaminants from migrating off of a site and into surface or ground water; and any site with negligible quantities of contaminants.

"Corrective Action" refers to a rating placed on a system by the Division and means a provisional rating for a public water system not in compliance with the Rules of R309, but making all the necessary changes outlined by the Executive Secretary to bring them into compliance.

"Corrosion inhibitor" means a substance capable of reducing the corrosiveness of water toward metal plumbing materials, especially lead and copper, by forming a protective film on the interior surface of those materials.

"Credit Enhancement Agreement" means any agreement entered into between the Board, on behalf of the State, and an eligible water system for the purpose of providing methods and assistance to eligible water systems to improve the security for and marketability of drinking water project obligations.

"Criteria" means the conceptual standards that form the basis for DWSP area delineation to include distance, ground-water time of travel, aquifer boundaries, and ground-water divides.

"Criteria threshold" means a value or set of values selected to represent the limits above or below which a given criterion will cease to provide the desired degree of protection.

"Cross-Connection" means any actual or potential connection between a drinking (potable) water system and any other source or system through which it is possible to introduce into the public drinking water system any used water, industrial fluid, gas or substance other than the intended potable water. For example, if you have a pump moving non-potable water and hook into the drinking water system to supply water for the pump seal, a cross-connection or mixing may lead to contamination of the drinking water. Also see backsiphonage, backpressure and backflow.

"Cross Connection Control Program" means the program administered by the public water system in which cross connections are either eliminated or controlled.

"Cross Connection Control Commission" means the duly constituted advisory subcommittee appointed by the Board to advise the Board on Backflow Technician Certification and the Cross Connection Control Program of Utah.

"CT" or "CT_{calc}" is the product of "residual disinfectant concentration" (C) in mg/l determined before or at the first customer, and the corresponding "disinfectant contact time" (T) in minutes, i.e., "C" x "T." If a public water system applies disinfectant at more than one point prior to the first customer, the summation of each CT value for each disinfectant sequence before or at the first customer determines the total percent inactivation or "Total Inactivation Ratio." In determining the Total Inactivation Ratio, the public water system must determine the residual disinfectant concentration of each disinfection sequence and corresponding contact time before any subsequent disinfection application point(s).

"$CT_{req'd}$" is the CT value required when the log reduction credit given the filter is subtracted from the (3-log) inactivation requirement for Giardia lamblia or the (4-log) inactivation requirement for viruses.

"$CT_{99.9}$" is the CT value required for 99.9 percent (3-log) inactivation of Giardia lamblia cysts. $CT_{99.9}$ for a variety of disinfectants and conditions appear in Tables 1.1-1.6, 2.1, and 3.1 of Section 141.74(b)(3) in the code of Federal Regulations (also available from the Division).

"Designated person" means the person appointed by a public water system to ensure that the requirements of their Drinking Water Source Protection Plan(s) for ground water sources and/or surface water sources are met.

"Direct Employment" means that the operator is directly compensated by the drinking water system to operate that drinking water system.

"Direct Filtration" means a series of processes including coagulation and filtration, but excluding sedimentation, resulting in substantial particulate removal.

"Direct Responsible Charge" means active on-site control and management of routine maintenance and operation duties. A person in direct responsible charge is generally an operator of a water treatment plant or distribution system who independently makes decisions during normal operation which can affect the sanitary quality, safety, and adequacy of water delivered to customers. In cases where only one operator is employed by the system, this operator shall be considered to be in direct responsible charge.

"Disadvantaged Communities" are defined as those communities located in an area which has a median adjusted gross income which is less than or equal to 80% of the State's median adjusted gross income, as determined by the Utah State Tax commission from federal individual income tax returns excluding zero exemptions returns.

"Discipline" means type of certification (Distribution or Treatment).

"Disinfectant Contact Time" ("T" in CT calculations) means the time in minutes that it takes water to move from the point of disinfectant application or the previous point of disinfectant residual measurement to a point before or at the point where residual disinfectant concentration ("C") is measured. Where only one "C" is measured, "T" is the time in minutes that it takes water to move from the point of disinfectant application to a point before or at where residual disinfectant concentration ("C") is measured. Where more than one "C" is measured, "T" is (a) for the first measurement of "C," the time in minutes that it takes water to move from the first or only point of disinfectant application to a point before or at the point where the first "C" is measured and (b) for subsequent measurements of "C," the time in minutes that it takes for water to move from the previous "C" measurement point to the "C" measurement point for which the particular "T" is being calculated. Disinfectant contact time in pipelines must be calculated by dividing the internal volume of the pipe by the maximum hourly flow rate through that pipe. Disinfectant contact time within mixing basins and storage reservoirs must be determined by tracer studies or an equivalent demonstration.

"Disinfection" means a process which inactivates pathogenic organisms in water by chemical oxidants or equivalent agents (see also Primary Disinfection and Secondary Disinfection).

"Disinfection profile" is a summary of daily Giardia lamblia inactivation through the treatment plant.

"Distribution System" means the use of any spring or well source, distribution pipelines, appurtenances, and facilities which carry water for potable use to consumers through a public water supply. Systems which chlorinate groundwater are in this discipline.

"Distribution System Manager" means the individual responsible for all operations of a distribution system.

"Division" means the Utah Division of Drinking Water, who acts as staff to the Board and is also part of the Utah Department of Environmental Quality.

"Dose Equivalent" means the product of the absorbed dose from ionizing radiation and such factors as account for differences in biological effectiveness due to the type of radiation and its distribution in the body as specified by the International Commission of Radiological Units and Measurements (ICRU).

"Drinking Water" means water that is fit for human consumption and meets the quality standards of R309-200. Common usage of terms such as culinary water, potable water or finished water are synonymous with drinking water.

"Drinking Water Project" means any work or facility necessary or desirable to provide water for human consumption and other domestic uses which has at least fifteen service connections or serves an average of twenty-five individuals daily for at least sixty days of the year and includes collection, treatment, storage, and distribution facilities under the control of the operator and used primarily with the system and collection, pretreatment or storage facilities used primarily in connection with the system but not under such control.

"Drinking Water Project Obligation" means any bond, note or other obligation issued to finance all or part of the cost of acquiring, constructing, expanding, upgrading or improving a drinking water project.

"Drinking Water Regional Planning" means a county wide water plan, administered locally by a coordinator, who facilitates the input of representatives of each public water system in the county with a selected consultant, to determine how each public water system will either collectively or individually comply with source protection, operator certification, monitoring (including consumer confidence reports), capacity development (including technical, financial and managerial aspects), environmental issues, available funding and related studies.

"DWSP Program" means the program to protect drinking water source protection zones and management areas from contaminants that may have an adverse effect on the health of persons.

"DWSP Zone" means the surface and subsurface area surrounding a ground-water or surface water source of drinking water supplying a PWS, over which or through which contaminants are reasonably likely to move toward and reach such water source.

"Emergency Storage" means that storage tank volume which provides water during emergency situations, such as pipeline failures, major trunk main failures, equipment failures, electrical power outages, water treatment facility failures, source water supply contamination, or natural disasters.

"Engineer" means a person licensed under the Professional Engineers and Land Surveyors Licensing Act, 58-22 of the Utah Code, as a "professional engineer" as defined therein.

"Enhanced coagulation" means the addition of sufficient coagulant for improved removal of disinfection byproduct precursors by conventional filtration treatment.

"Enhanced softening" means the improved removal of disinfection byproduct precursors by precipitative softening.

"Equalization Storage" means that storage tank volume which stores water during periods of low demand and releases the water under periods of high demand. Equalization storage provides a buffer between the sources and distribution for the varying daily water demands. Typically, water demands are high in the early morning or evening and relatively low in the middle of the night. A rule-of-thumb for equalization storage volume is that it should be equal to one average day's use.

"Equivalent Residential Connection" (ERC) is a term used to evaluate service connections to consumers other than the typical residential domicile. Public water system management is expected to review annual metered drinking water volumes delivered to non-residential connections and estimate the equivalent number of residential connections that these represent based upon the average of annual metered drinking water volumes delivered to true single

family residential connections. This information is utilized in evaluation of the system's source and storage capacities (refer to R309-510).

"Executive Secretary" means the Executive Secretary of the Board as appointed and with authority outlined in 19-4-106 of the Utah Code.

"Existing ground-water source of drinking water" means a public supply ground-water source for which plans and specifications were submitted to the Division on or before July 26, 1993.

"Existing surface water source of drinking water" means a public supply surface water source for which plans and specifications were submitted to the Division on or before June 12, 2000.

"Filtration" means a process for removing particulate matter from water by passage through porous media.

"Filter profile" is a graphical representation of individual filter performance, based on continuous turbidity measurements or total particle counts verus time for an entire filter run, from startup to backwash inclusively, that includes an assessment of filter performance while another filter is being backwashed.

"Financial Assistance" means a drinking water project loan, credit enhancement agreement, interest buy-down agreement or hardship grant.

"Fire Suppression Storage" means that storage tank volume allocated to fire suppression activities. It is generally determined by the requirements of the local fire marshal, expressed in gallons, and determined by the product of a minimum flowrate in gpm and required time expressed in minutes.

"First draw sample" means a one-liter sample of tap water, collected in accordance with an approved lead and copper sampling site plan, that has been standing in plumbing pipes at least 6 hours and is collected without flushing the tap.

"Flash Mix" is the physical process of blending or dispersing a chemical additive into an unblended stream. Flash Mixing is used where an additive needs to be dispersed rapidly (within a period of one to ten seconds). Common usage of terms such as "rapid mix" or "initial mix" are synonymous with flash mix.

"Floc" means flocculated particles or agglomerated particles formed during the flocculation process. Flocculation enhances the agglomeration of destabilized particles and colloids toward settleable (or filterable) particles (flocs). Flocculated particles may be small (less than 0.1 mm diameter) micro flocs or large, visible flocs (0.1 to 3.0 mm diameter).

"Flocculation" means a process to enhance agglomeration of destabilized particles and colloids toward settleable (or filterable) particles (flocs). Flocculation begins immediately after destabilization in the zone of decaying mixing energy (downstream from the mixer) or as a result of the turbulence of transporting flow. Such incidental flocculation may be an adequate flocculation process in some instances. Normally flocculation involves an intentional and defined process of gentle stirring to enhance contact of destabilized particles and to build floc particles of optimum size, density, and strength to be subsequently removed by settling or filtration.

"fps" means feet per second and is one way of expressing the velocity of water.

"G" is used to express the energy required for mixing and for flocculation. It is a term which is used to compare velocity gradients or the relative number of contacts per unit volume per second made by suspended particles during the flocculation process. Velocity gradients G may be calculated from the following equation: G = square root of the value(550 times P divided by u times V). Where: P = applied horsepower, u = viscosity, and V = effective volume.

"GAC10" means granular activated carbon filter beds with an empty-bed contact time of 10 minutes based on average daily flow and a carbon reactivation frequency of every 180 days.

"Geometric Mean" the geometric mean of a set of N numbers $X_1, X_2, X_3,\ldots, X_N$ is the Nth root of the product of the numbers.

"gpd" means gallons per day and is one way of expressing average daily water demands experienced by public water systems.

"gpm" means gallons per minute and is one way of expressing flowrate.

"gpm/sf" means gallons per minute per square foot and is one way of expressing flowrate through a surface area.

"Grade" means any one of four possible steps within a certification discipline of either water distribution or water treatment. Grade I indicates knowledge and experience requirements for the smallest type of public water supply. Grade IV indicates knowledge and experience levels appropriate for the largest, most complex type of public water supply.

"Gross Alpha Particle Activity" means the total radioactivity due to alpha particle emission as inferred from measurements on a dry sample.

"Gross Beta Particle Activity" means the total radioactivity due to beta particle emission as inferred from measurements on a dry sample.

"ground water of high quality" means a well or spring producing water deemed by the Executive Secretary to be of sufficiently high quality that no treatment is required. Such sources shall have been designed and constructed in conformance with these rules, have been tested to establish that all applicable drinking water quality standards (as given in rule R309-200) are reliably and consistently met, have been deemed not vulnerable to natural or man-caused contamination, and the public water system management have established adequate protection zones and management policies in accordance with rule R309-600.

"ground water of low quality" means a well or spring which, as determined by the Executive Secretary, cannot reliably and consistently meet the drinking water quality standards described in R309-200. Such sources shall be deemed to be a low quality ground water source if any of the conditions outlined in subsection R309-505-8(1) exist. Ground water that is classified "UDI" is a subset of this definition and requires "conventional surface water treatment" or an acceptable alternative.

"Ground Water Source" means any well, spring, tunnel, adit, or other underground opening from or through which ground water flows or is pumped from subsurface water-bearing formations.

"Ground Water Under the Direct Influence of Surface Water" or "UDI" means any water beneath the surface of the ground with significant occurrence of insects or other macro organisms, algae, or large-diameter pathogens such as Giardia lamblia, or (for surface water treatment systems serving at least 10,000 people only) Cryptosporidium, or significant and relatively rapid shifts in water characteristics such as turbidity, temperature, conductivity, or pH which closely correlate to climatological or surface water conditions. Direct influence will be determined for individual sources in accordance with criteria established by the Executive Secretary. The determination of direct influence may be based on site-specific measurements of water quality and/or documentation of well or spring construction and geology with field evaluation.

"Haloacetic acids"(five) (HAA5) mean the sum of the concentrations in mg/L[~~mg/l~~] of the haloacetic acid compounds (monochloroacetic acid, dichloroacetic acid, trichloroacetic acid, monobromoacetic acid, and dibromoacetic acid), rounded to two significant figures after addition.

"Hardship Grant" means a grant of monies to a political subdivision that meets the drinking water project loan considerations whose project is determined by the Board to not be economically feasible unless grant assistance is provided. A hardship grant may be authorized in the following forms:

(1) a Planning Advance which will be required to be repaid at a later date, to help meet project costs incident to planning to determine the economic, engineering and financial feasibility of a proposed project;

(2) a Design Advance which will be required to be repaid at a later date, to help meet project costs incident to design including, but not limited to, surveys, preparation of plans, working drawings, specifications, investigations and studies; or

(3) a Project Grant which will not be required to be repaid.

"Hardship Grant Assessment" means an assessment applied to loan recipients. The assessment shall be calculated as a percentage of principal. Hardship grant assessment funds shall be subject to the requirements of UAC R309-700 for hardship grants.

"Hotel, Motel or Resort" shall include tourist courts, motor hotels, resort camps, hostels, lodges, dormitories and similar facilities, and shall mean every building, or structure with all buildings and facilities in connection, kept, used, maintained as, advertised as, or held out to the public to be, a place where living accommodations are furnished to transient guests or to groups normally occupying such facilities on a seasonal or short term basis.

"Hydrogeologic methods" means the techniques used to translate selected criteria and criteria thresholds into mappable delineation boundaries. These methods include, but are not limited to, arbitrary fixed radii, analytical calculations and models, hydrogeologic mapping, and numerical flow models.

"Initial compliance period" means the first full three-year compliance period which begins at least 18 months after promulgation, except for contaminants listed in R309-200-5(3)(a), Table 200-2 numbers 19 to 33; R309-200-5(3)(b), Table 200-3 numbers 19 to 21; and R309-200-5(1)(c), Table 200-1 numbers 1, 5, 8, 11 and 18, initial compliance period means the first full three-year compliance after promulgation for systems with 150 or more service connections (January 1993-December 1995), and first full three-year compliance period after the effective date of the regulation (January 1996-December 1998) for systems having fewer than 150 service connections.

"Intake", for the purposes of surface water drinking water source protection, means the device used to divert surface water and also the conveyance to the point immediately preceding treatment, or, if no treatment is provided, at the entry point to the distribution system.

"Interest Buy-Down Agreement" means any agreement entered into between the Board, on behalf of the State, and a political subdivision, for the purpose of reducing the cost of financing incurred by a political subdivision on bonds issued by the subdivision for drinking water project costs.

"Labor Camp" shall mean one or more buildings, structures, or grounds set aside for use as living quarters for groups of migrant laborers or temporary housing facilities intended to accommodate construction, industrial, mining or demolition workers.

"Land management strategies" means zoning and non-zoning controls which include, but are not limited to, the following: zoning and subdivision ordinances, site plan reviews, design and operating standards, source prohibitions, purchase of property and development rights, public education programs, ground water monitoring, household hazardous waste collection programs, water conservation programs, memoranda of understanding, written contracts and agreements, and so forth.

"Land use agreement" means a written agreement, memoranda or contract wherein the owner(s) agrees not to locate or allow the location of uncontrolled potential contamination sources or pollution sources within zone one of new wells in protected aquifers or zone one of surface water sources. The owner(s) must also agree not to locate or allow the location of pollution sources within zone two of new wells in unprotected aquifers and new springs unless the pollution source agrees to install design standards which prevent contaminated discharges to ground water. This restriction must be binding on all heirs, successors, and assigns. Land use agreements must be recorded with the property description in the local county recorder's office. Refer to R309-600-13(2)(d).

Land use agreements for protection areas on publicly owned lands need not be recorded in the local county recorder office. However, a letter must be obtained from the Administrator of the land in question and meet the requirements described above.

"Large water system" for the purposes of R309-210-6 only, means a water system that serves more than 50,000 persons.

"Lead free" means, for the purposes of R309-210-6, when used with respect to solders and flux refers to solders and flux containing not more than 0.2 percent lead; when used with respect to pipes and pipe fittings refers to pipes and pipe fittings containing not more than 8.0 percent lead; and when used with respect to plumbing fittings and fixtures intended by the manufacturer to dispense water for human ingestion refers to fittings and fixtures that are in compliance with standards established in accordance with 42 U.S.C. 300 g-6(e).

"Lead service line" means a service line made of lead which connects the water main to the building inlet and any lead pigtail, gooseneck or other fitting which is connected to such lead line.

"Legionella" means a genus of bacteria, some species of which have caused a type of pneumonia called Legionnaires Disease.

"Major Bacteriological Routine Monitoring Violation" means that no routine bacteriological sample was taken as required by R309-210-5(1).

"Major Bacteriological Repeat Monitoring Violation" - means that no repeat bacteriological sample was taken as required by R309-210-5(2).

"Major Chemical Monitoring Violation" - means that no initial background chemical sample was taken as required in R309-204-4(5).

"Management area" means the area outside of zone one and within a two-mile radius where the Optional Two-mile Radius Delineation Procedure has been used to identify a protection area.

For wells, land may be excluded from the DWSP management area at locations where it is more than 100 feet lower in elevation than the total drilled depth of the well.

For springs and tunnels, the DWSP management area is all land at elevation equal to or higher than, and within a two-mile radius, of the spring or tunnel collection area. The DWSP management area also includes all land lower in elevation than, and within 100 horizontal feet, of the spring or tunnel collection area. The elevation datum to be used is the point of water collection. Land may also be

excluded from the DWSP management area at locations where it is separated from the ground water source by a surface drainage which is lower in elevation than the spring or tunnel collection area.

"Man-Made Beta Particle and Photon Emitters" means all radionuclides emitting beta particles and/or photons listed in Maximum Permissible Body Burdens and maximum Permissible Concentration of Radionuclides in Air or Water for Occupational Exposure, "NBS Handbook 69," except the daughter products of thorium-232, uranium-235 and uranium-238.

"Maximum Contaminant Level" (MCL) means the maximum permissible level of a contaminant in water which is delivered to any user of a public water system.

"Maximum residual disinfectant level" (MRDL) means a level of a disinfectant added for water treatment that may not be exceeded at the consumer's tap without an unacceptable possibility of adverse health effects. For chlorine and chloramines, a PWS is in compliance with the MRDL when the running annual average of monthly averages of samples taken in the distribution system, computed quarterly, is less than or equal to the MRDL. For chlorine dioxide, a PWS is in compliance with the MRDL when daily samples are taken at the entrance to the distribution system and no two consecutive daily samples exceed the MRDL. MRDLs are enforceable in the same manner as MCLs pursuant to UT Code S 19-4-104 . There is convincing evidence that addition of a disinfectant is necessary for control of waterborne microbial contaminants. Notwithstanding the MRDLs listed in R309-200-5(3)[~~rule~~], operators may increase residual disinfectant levels of chlorine or chloramines (but not chlorine dioxide) in the distribution system to a level and for a time necessary to protect public health to address specific microbiological contamination problems caused by circumstances such as distribution line breaks, storm runoff events, source water contamination, or cross-connections.

"Maximum residual disinfectant level goal" (MRDLG) means the maximum level of a disinfectant added for water treatment at which no known or anticipated adverse effect on the health of persons would occur, and which allows an adequate margin of safety. MRDLGs are non-enforceable health goals and do not reflect the benefit of the addition of the chemical for control of waterborne microbial contaminants.

"Medium-size water system" for the purposes of R309-210-6 only, means a water system that serves greater than 3,300 and less than or equal to 50,000 persons.

"Metropolitan area sources" means all sources within a metropolitan area. A metropolitan area is further defined to contain at least 3,300 year round residents. A small water system which has sources within a metropolitan system's service area, may have those sources classified as a metropolitan area source.

"MG" means million gallons and is one way of expressing a volume of water.

"MGD" means million gallons per day and is one way of expressing average daily water demands experienced by public water systems or the capacity of a water treatment plant.

"mg/L[~~mg/l~~]" means milligrams per liter and is one way of expressing the concentration of a chemical in water. At small concentrations, mg/L[~~mg/l~~] is synonymous with "ppm" (parts per million).

"Minor Bacteriological Routine Monitoring Violation" means that not all of the routine bacteriological samples were taken as required by R309-210-5(1).

"Minor Bacteriological Repeat Monitoring Violation" means that not all of the repeat bacteriological samples were taken as required by R309-210-5(2).

"Minor Chemical Monitoring Violation" means that the required chemical sample(s) was not taken in accordance with R309-205 and R309-210.

"Modern Recreation Camp" means a campground accessible by any type of vehicular traffic. The camp is used wholly or in part for recreation, training or instruction, social, religious, or physical education activities or whose primary purpose is to provide an outdoor group living experience. The site is equipped with permanent buildings for the purpose of sleeping, a drinking water supply under pressure, food service facilities, and may be operated on a seasonal or short term basis. These types of camps shall include but are not limited to privately owned campgrounds such as youth camps, church camps, boy or girl scout camps, mixed age groups, family group camps, etc.

"Near the first service connection" means one of the service connections within the first 20 percent of all service connections that are nearest to the treatment facilities.

"Negative Interest" means a loan having loan terms with an interest rate at less than zero percent. The repayment schedule for loans having a negative interest rate will be prepared by the Board.

"New ground water source of drinking water" means a public supply ground water source of drinking water for which plans and specifications are submitted to the Division after July 26, 1993.

"New surface water source of drinking water" means a public supply surface water source of drinking water for which plans and specifications are submitted to the Division after June 12, 2000.

"New Water System" means a system that will become a community water system or non-transient, non-community water system on or after October 1, 1999.

"Non-Community Water System" (NCWS) means a public water system that is not a community water system. There are two types of NCWS's: transient and non-transient.

"Non-distribution system plumbing problem" means a coliform contamination problem in a public water system with more than one service connection that is limited to the specific service connection from which a coliform-positive sample was taken.

"Nonpoint source" means any diffuse source of contaminants or pollutants not otherwise defined as a point source.

"Non-Transient Non-Community Water System" (NTNCWS) means a public water system that regularly serves at least 25 of the same nonresident persons per day for more than six months per year. Examples of such systems are those serving the same individuals (industrial workers, school children, church members) by means of a separate system.

"Not Approved" refers to a rating placed on a system by the Division and means the water system does not fully comply with all the Rules of R309 as measured by R309-400.

"NTU" means Nephelometric Turbidity Units and is an acceptable method for measuring the clarity of water utilizing an electronic nephelometer (see "Standard Methods for Examination of Water and Wastewater").

"Operator" means a person who operates, repairs, maintains, and is directly employed by a public drinking water system.

"Operator Certification Commission" means the Commission appointed by the Board as an advisory Commission on public water system operator certification.

"Operating Permit" means written authorization from the Executive Secretary to actually start utilizing a facility constructed as part of a public water system.

"Optimal corrosion control treatment" for the purposes of R309-210-6 only, means the corrosion control treatment that minimizes the lead and copper concentrations at users' taps while insuring that the treatment does not cause the water system to violate any national primary drinking water regulations.

"Package Plants" refers to water treatment plants manufactured and supplied generally by one company which are reportedly complete and ready to hook to a raw water supply line. Caution, some plants do not completely comply with all requirements of these rules and will generally require additional equipment.

"PCBs" means a group of chemicals that contain polychlorinated biphenyl.

"Peak Day Demand" means the amount of water delivered to consumers by a public water system on the day of highest consumption, generally expressed in gpd or MGD. This peak day will likely occur during a particularly hot spell in the summer. In contrast, some systems associated with the skiing industry may experience their "Peak Day Demand" in the winter.

"Peak Instantaneous Demand" means calculated or estimated highest flowrate that can be expected through any water mains of the distribution network of a public water system at any instant in time, generally expressed in gpm or cfs (refer to section R309-510-9).

"Person" means an individual, corporation, company, association, partnership; municipality; or State, Federal, or tribal agency.

"Picocurie" (pCi) means that quantity of radioactive material producing 2.22 nuclear transformations per minute.

"Plan Approval" means written approval, by the Executive Secretary, of contract plans and specifications for any public drinking water project which have been submitted for review prior to the start of construction (see also R309-500-7).

"Plug Flow" is a term to describe when water flowing through a tank, basin or reactors moves as a plug of water without ever dispersing or mixing with the rest of the water flowing through the tank.

"Point of Disinfectant Application" is the point where the disinfectant is applied and water downstream of that point is not subject to re-contamination by surface water runoff.

"Point of Diversion"(POD) is the point at which water from a surface source enters a piped conveyance, storage tank, or is otherwise removed from open exposure prior to treatment.

"Point-of-Entry Treatment Device" means a treatment device applied to the drinking water entering a house or building for the purpose of reducing contaminants in the drinking water distributed throughout the house or building.

"Point-of-Use Treatment Device" means a treatment device applied to a single tap used for the purpose of reducing contaminants in drinking water at that one tap.

"Point source" means any discernible, confined, and discrete source of pollutants or contaminants, including but not limited to any site, pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, animal feeding operation with more than ten animal units, landfill, or vessel or other floating craft, from which pollutants are or may be discharged.

"Political Subdivision" means any county, city, town, improvement district, metropolitan water district, water conservancy district, special service district, drainage district, irrigation district, separate legal or administrative entity created under Title 11, Chapter 13, Interlocal Cooperation Act, or any other entity constituting a political subdivision under the laws of Utah.

"Pollution source" means point source discharges of contaminants to ground or surface water or potential discharges of the liquid forms of "extremely hazardous substances" which are stored in containers in excess of "applicable threshold planning quantities" as specified in SARA Title III. Examples of possible pollution sources include, but are not limited to, the following: storage facilities that store the liquid forms of extremely hazardous substances, septic tanks, drain fields, class V underground injection wells, landfills, open dumps, landfilling of sludge and septage, manure piles, salt piles, pit privies, drain lines, and animal feeding operations with more than ten animal units.

The following definitions are part of R309-600 and clarify the meaning of "pollution source:"

(1) "Animal feeding operation" means a lot or facility where the following conditions are met: animals have been or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12 month period, and crops, vegetation forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility. Two or more animal feeding operations under common ownership are considered to be a single feeding operation if they adjoin each other, if they use a common area, or if they use a common system for the disposal of wastes.

(2) "Animal unit" means a unit of measurement for any animal feeding operation calculated by adding the following numbers; the number of slaughter and feeder cattle multiplied by 1.0, plus the number of mature dairy cattle multiplied by 1.4, plus the number of swine weighing over 55 pounds multiplied by 0.4, plus the number of sheep multiplied by 0.1, plus the number of horses multiplied by 2.0.

(3) "Extremely hazardous substances" means those substances which are identified in the Sec. 302(EHS) column of the "TITLE III LIST OF LISTS - Consolidated List of Chemicals Subject to Reporting Under SARA Title III," (EPA 550-B-96-015). A copy of this document may be obtained from: NCEPI, PO Box 42419, Cincinnati, OH 45202. Online ordering is also available at http://www.epa.gov/ncepihom/orderpub.html.

"Potential contamination source" means any facility or site which employs an activity or procedure which may potentially contaminate ground or surface water. A pollution source is also a potential contamination source.

"ppm" means parts per million and is one way of expressing the concentration of a chemical in water. At small concentrations generally used, ppm is synonymous with "mg/l" (milligrams per liter).

"Practical Quantitation Level" (PQL) means the required analysis standard for laboratory certification to perform lead and copper analyses. The PQL for lead is .005 milligrams per liter and the PQL for copper is 0.050 milligrams per liter.

"Primary Disinfection" means the adding of an acceptable primary disinfectant during the treatment process to provide adequate levels of inactivation of bacteria and pathogens. The effectiveness is measured through "CT" values and the "Total Inactivation Ratio." Acceptable primary disinfectants are, chlorine, ozone, and chlorine dioxide (see also "CT" and "$CT_{99.9}$").

"Principal Forgiveness" means a loan wherein a portion of the loan amount is "forgiven" upon closing the loan. The terms for principal forgiveness will be as directed by R309-705-8, and by the Board.

"Drinking Water Project Costs" include the cost of acquiring and constructing any drinking water project including, without limitation: the cost of acquisition and construction of any facility or any modification, improvement, or extension of such facility; any cost incident to the acquisition of any necessary property, easement or right of way; engineering or architectural fees, legal fees, fiscal agent's and financial advisors' fees; any cost incurred for any preliminary planning to determine the economic and engineering feasibility of a proposed project; costs of economic investigations and studies, surveys, preparation of designs, plans, working drawings, specifications and the inspection and supervision of the construction of any facility; interest accruing on loans made under this program during acquisition and construction of the project; and any other cost incurred by the political subdivision, the Board or the Department of Environmental Quality, in connection with the issuance of obligation of the political subdivision to evidence any loan made to it under the law.

"Protected aquifer" means a producing aquifer in which the following conditions are met:

(1) A naturally protective layer of clay, at least 30 feet in thickness, is present above the aquifer;

(2) the PWS provides data to indicate the lateral continuity of the clay layer to the extent of zone two; and

(3) the public supply well is grouted with a grout seal that extends from the ground surface down to at least 100 feet below the surface, and for a thickness of at least 30 feet through the protective clay layer.

"Public Drinking Water Project" means construction, addition to, or modification of any facility of a public water system which may affect the quality or quantity of the drinking water (see also section R309-500-6).

"Public Water System" (PWS) means a system, either publicly or privately owned, providing water through constructed conveyances for human consumption and other domestic uses, which has at least 15 service connections or serves an average of at least 25 individuals daily at least 60 days out of the year and includes collection, treatment, storage, or distribution facilities under the control of the operator and used primarily in connection with the system, or collection, pretreatment or storage facilities used primarily in connection with the system but not under his control (see 19-4-102 of the Utah Code Annotated). All public water systems are further categorized into three different types, community (CWS), non-transient non-community (NTNCWS), and transient non-community (TNCWS). These categories are important with respect to required monitoring and water quality testing found in R309-205 and R309-210 (see also definition of "water system").

"Raw Water" means water that is destined for some treatment process that will make it acceptable as drinking water. Common usage of terms such as lake or stream water, surface water or irrigation water are synonymous with raw water.

"Recreational Home Developments" are subdivision type developments wherein the dwellings are not intended as permanent domiciles.

"Recreational Vehicle Park" means any site, tract or parcel of land on which facilities have been developed to provide temporary living quarters for individuals utilizing recreational vehicles. Such a park may be developed or owned by a private, public or non-profit organization catering to the general public or restricted to the organizational or institutional member and their guests only.

"Regional Operator" means a certified operator who is in direct responsible charge of more than one public drinking water system.

"Regionalized Water System" means any combination of water systems which are physically connected or operated or managed as a single unit.

"Rem" means the unit of dose equivalent from ionizing radiation to the total body or any internal organ or organ system. A "millirem" (mrem) is 1/1000 of a rem.

"Renewal Course" means a course of instruction, approved by the Subcommittee, which is a prerequisite to the renewal of a Backflow Technician's Certificate.

"Repeat compliance period" means any subsequent compliance period after the initial compliance period.

"Replacement well" means a public supply well drilled for the sole purpose of replacing an existing public supply well which is impaired or made useless by structural difficulties and in which the following conditions are met:

(1) the proposed well location shall be within a radius of 150 feet from an existing ground water supply well; and

(2) the PWS provides a copy of the replacement application approved by the State Engineer (refer to Section 73-3-28 of the Utah Code).

"Required reserve" means funds set aside to meet requirements set forth in a loan covenant/bond indenture.

"Residual Disinfectant Concentration" ("C" in CT calculations) means the concentration of disinfectant, measured in mg/L[~~mg/l~~], in a representative sample of water.

"Restricted Certificate" means that the operator has qualified by passing an examination but is in a restricted certification status due to lack of experience as an operator.

"Roadway Rest Stop" shall mean any building, or buildings, or grounds, parking areas, including the necessary toilet, hand washing, water supply and wastewater facilities intended for the accommodation of people using such facilities while traveling on public roadways. It does not include scenic view or roadside picnic areas or other parking areas if these are properly identified

"Routine Chemical Monitoring Violation" means no routine chemical sample(s) was taken as required in R309-205, R309-210 and R309-215.

"Safe Yield" means the annual quantity of water that can be taken from a source of supply over a period of years without depleting the source beyond its ability to be replenished naturally in "wet years".

"Sanitary Seal" means a cap that prevents contaminants from entering a well through the top of the casing.

"scfm/sf" means standard cubic foot per minute per square foot and is one way of expressing flowrate of air at standard density through a filter or duct area.

"Secondary Disinfection" means the adding of an acceptable secondary disinfectant to assure that the quality of the water is maintained throughout the distribution system. The effectiveness is measured by maintaining detectable disinfectant residuals throughout the distribution system. Acceptable secondary disinfectants are chlorine, chloramine, and chlorine dioxide.

"Secondary Maximum Contaminant Level" means the advisable maximum level of contaminant in water which is delivered to any user of a public water system.

"Secretary to the Subcommittee" means that individual appointed by the Executive Secretary to conduct the business of the Subcommittee.

"Sedimentation" means a process for removal of solids before filtration by gravity or separation.

"Semi-Developed Camp" means a campground accessible by any type of vehicular traffic. Facilities are provided for both protection of site and comfort of users. Roads, trails and campsites are defined and basic facilities (water, flush toilets and/or vault toilets, tables, fireplaces or tent pads) are provided. These camps include but are not limited to National Forest campgrounds, Bureau of Reclamation campgrounds, and youth camps.

"Service Connection" means the constructed conveyance by which a dwelling, commercial or industrial establishment, or other water user obtains water from the supplier's distribution system. Multiple dwelling units such as condominiums or apartments, shall be considered to have a single service connection, if fed by a single line, for the purpose of microbiological repeat sampling; but shall be evaluated by the supplier as multiple "equivalent residential connections" for the purpose of source and storage capacities.

"Service Factor" means a rating on a motor to indicate an increased horsepower capacity beyond nominal nameplate capacity for occasional overload conditions.

"Service line sample" means a one-liter sample of water collected in accordance with R309-210-6(3)(b)(iii), that has been standing for at least 6 hours in a service line.

"Single family structure" for the purposes of R309-210-6 only, means a building constructed as a single-family residence that is currently used as either a residence or a place of business.

"Small water system" means a public water system that serves 3,300 persons or fewer.

"Specialist" means a person who has successfully passed the written certification exam and meets the required experience, but who is not in direct employment with a Utah public drinking water system.

"Stabilized drawdown" means that there is less than 0.5 foot of change in water level measurements in a pumped well for a minimum period of six hours.

"Standard sample" means the aliquot of finished drinking water that is examined for the presence of coliform bacteria.

"SOCs" means synthetic organic chemicals.

"Stabilized Drawdown" means the drawdown measurements taken during a constant-rate yield and drawdown test as outlined in subsection R309-515-14(10)(b) are constant (no change).

"Subcommittee" means the Cross Connection Control Subcommittee.

"Supplier of water" means any person who owns or operates a public water system.

"Surface Water" means all water which is open to the atmosphere and subject to surface runoff (see also section R309-204-5(1)). This includes conveyances such as ditches, canals and aqueducts, as well as natural features.

"Surface Water Systems" means public water systems using surface water or ground water under the direct influence of surface water as a source that are subject to filtration and disinfection (Federal SWTR subpart H) and the requirements of R309-215 "Monitoring and Water Quality: Treatment Plant Monitoring Requirements."

"Surface Water Systems (Large)" means public water systems using surface water or ground water under the direct influence of surface water as a source that are subject to filtration and disinfection and serve a population of 10,000 or greater (Federal SWTR subpart P and L) and the requirements of R309-215 "Monitoring and Water Quality: Treatment Plant Monitoring Requirements."

"Surface Water Systems (Small)" means public water systems using surface water or ground water under the direct influence of surface water as a source that are subject to filtration and disinfection and serve a population less than 10,000 (Federal SWTR subpart L, T and P (sanitary survey requirements)) and the requirements of R309-215 "Monitoring and Water Quality: Treatment Plant Monitoring Requirements."

"Susceptibility" means the potential for a PWS (as determined at the point immediately preceding treatment, or if no treatment is provided, at the entry point to the distribution system) to draw water contaminated above a demonstrated background water quality concentration through any overland or subsurface pathway. Such pathways may include cracks or fissures in or open areas of the surface water intake, and/or the wellhead, and/or the pipe/conveyance between the intake and the water distribution system or treatment.

"SUVA" means Specific Ultraviolet Absorption at 254 nanometers (nm), an indicator of the humic content of water. It is a calculated parameter obtained by dividing a sample's ultraviolet absorption at a wavelength of 254 nm (UV_{254}) (in m^{-1})[~~(in m^{-1})~~] by its concentration of dissolved organic carbon (DOC) (in mg/L)[~~(in mg/l)~~].

"System with a single service connection" means a system which supplies drinking water to consumers via a single service line.

"T" is short for "Contact Time" and is generally used in conjunction with either the residual disinfectant concentration (C) in determining CT or the velocity gradient (G) in determining mixing energy GT.

"Ten State Standards" refers to the Recommended Standards For Water Works, 1997 by the Great Lakes Upper Mississippi River Board of State Public Health and Environmental Managers available from Health Education Services, A Division of Health Research Inc., P.O. Box 7126, Albany, New York 12224, (518)439-7286.

"Time of travel" means the time required for a particle of water to move in the producing aquifer from a specific point to a ground water source of drinking water. It also means the time required for a particle of water to travel from a specific point along a surface water body to an intake.

"Total Inactivation Ratio" is the sum of all the inactivation ratios calculated for a series of disinfection sequences, and is indicated or shown as: "Summation sign (CT_{calc})/($CT_{req'd}$)." A total inactivation ratio equal to or greater than 1.0 is assumed to provide the required inactivation of Giardia lamblia cysts. $CT_{calc}/CT_{99.9}$ equal to 1.0 provides 99.9 percent (3-log) inactivation, whereas CT_{calc}/CT_{90} equal to 1.0 only provides 90 percent (1-log) inactivation.

"Too numerous to count" (TNTC) means that the total number of bacterial colonies exceeds 200 on a 47 mm diameter membrane filter used for coliform detection.

"Total Organic Carbon" (TOC) means total organic carbon in mg/L[~~mg/l~~] measured using heat, oxygen, ultraviolet irradiation, chemical oxidants, or combinations of these oxidants that convert organic carbon to carbon dioxide, rounded to two significant figures.

"Total Trihalomethanes" (TTHM) means the MCL for trihalomethanes. This is the sum of four of ten possible isomers of chlorine/bromine/methane compounds, all known as trihalomethanes (THM). TTHM is defined as the arithmetic sum of the concentrations in micro grams per liter of only four of these (chloroform, bromodichloromethane, dibromochloromethane, and bromoform) rounded to two significant figures. This measurement is made by samples which are "quenched," meaning that a chlorine

neutralizing agent has been added, preventing further THM formation in the samples.

"Training Coordinating Committee" means the voluntary association of individuals responsible for environmental training in the state of Utah.

"Transient Non-Community Water System" (TNCWS) means a non-community public water system that does not serve 25 of the same nonresident persons per day for more than six months per year. Examples of such systems are those, RV park, diner or convenience store where the permanent nonresident staff number less than 25, but the number of people served exceeds 25.

"Treatment Plant" means those facilities capable of providing any[~~delivering complete~~] treatment to any water[~~ (the equivalent of coagulation and/or filtration) ~~]serving a public drinking water system[~~supply~~]. (Examples would include but not be limited to disinfection, conventional surface water treatment, alternative surface water treatment methods, corrosion control methods, aeration, softening, etc.).

"Treatment Plant Manager" means the individual responsible for all operations of a treatment plant.

"Trihalomethanes" (THM) means any one or all members of this class of organic compounds.

"Trihalomethane Formation Potential" (THMFP) - these samples are collected just following disinfection and measure the highest possible TTHM value to be expected in the water distribution system. The formation potential is measured by not neutralizing the disinfecting agent at the time of collection, but storing the sample seven days at 25 degrees C prior to analysis. A chlorine residual must be present in these samples at the end of the seven day period prior to analysis for the samples to be considered valid for this test. Samples without a residual at the end of this period must be resampled if this test is desired.

"Turbidity Unit" refers to NTU or Nephelometric Turbidity Unit.

"UDI" means under direct influence (see also "Ground Water Under the Direct Influence of Surface Water").

"Uncovered finished water storage facility" is a tank, reservoir, or other facility used to store water that will undergo no further treatment except residual disinfection and is open to the atmosphere.

"Unprotected aquifer" means any aquifer that does not meet the definition of a protected aquifer.

"Unregulated Contaminant" means a known or suspected disease causing contaminant for which no maximum contaminant level has been established.

"Unrestricted Certificate" means that a certificate of competency issued by the Executive Secretary when the operator has passed the appropriate level written examination and has met all certification requirements at the discipline and grade stated on the certificate.

"Virus" means a virus of fecal origin which is infectious to humans.

"Waterborne Disease Outbreak" means the significant occurrence of acute infectious illness, epidemiologically associated with the ingestion of water from a public water system, as determined by the appropriate local or State agency.

"Watershed" means the topographic boundary that is the perimeter of the catchment basin that contributes water through a surface source to the intake structure. For the purposes of surface water DWSP, if the topographic boundary intersects the state boundary, the state boundary becomes the boundary of the watershed.

"Water Supplier" means a person who owns or operates a public drinking water system.

"Water System" means all lands, property, rights, rights-of-way, easements and related facilities owned by a single entity, which are deemed necessary or convenient to deliver drinking water from source to the service connection of a consumer(s). This includes all water rights acquired in connection with the system, all means of conserving, controlling and distributing drinking water, including, but not limited to, diversion or collection works, springs, wells, treatment plants, pumps, lift stations, service meters, mains, hydrants, reservoirs, tanks and associated appurtenances within the property or easement boundaries under the control of or controlled by the entity owning the system.

In accordance with R309, certain water systems may be exempted from monitoring requirements, but such exemption does not extend to submittal of plans and specifications for any modifications considered a public drinking water project.

"Wellhead" means the physical structure, facility, or device at the land surface from or through which ground water flows or is pumped from subsurface, water-bearing formations.

"Zone of Influence" corresponds to area of the upper portion of the cone of depression as described in "Groundwater and Wells," second edition, by Fletcher G. Driscoll, Ph.D., and published by Johnson Division, St. Paul, Minnesota.

KEY: drinking water, definitions
December 16, 2002[~~August 12, 2002~~]
19-4-104

Environmental Quality, Drinking Water
R309-200
Monitoring and Water Quality: Drinking Water Standards.

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 25488
FILED: 10/11/2002, 15:37

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This purpose of this filing is to adopt the requirements contained in the federal Interim Enhanced Surface Water Treatment Rule, the Disinfection/Disinfection By-Products Rule, and Radionuclide Rule. These changes are required in order to maintain primacy.

SUMMARY OF THE RULE OR CHANGE: These rule changes include: lowering the quality standards for turbidity and total trihalomethanes; adding new standards for haloacetic acids and uranium; and adding a treatment technique for cryptosporidium.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-4-104, and Safe Drinking Water Act (amended Aug. 6, 1996), Title XIV, Section 1419

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: Five full-time equivalents as an aggregate for the changes in Rules R309-105, R309-200, R309-205, R309-210, R309-215, R309-525, and R309-530. This staffing increase has already been authorized by the 2002 Legislature with funding coming from the federal SRF (state revolving loan funds). (DAR NOTE: The proposed amendments to R309-105 (DAR No. 25486), R309-200 (DAR No. 25488), R309-205 (DAR No. 25489), R309-210 (DAR No. 25490), R309-215 (DAR No. 25491), R309-525 (DAR No. 25493), and R309-530 (DAR No. 25494) are all found in this Bulletin.)
❖ LOCAL GOVERNMENTS: Costs will vary by water system size, sources utilized, and treatment applied. EPA estimates the total national annual cost at $1,072,000. Utah has approximately 0.5% of the total number of water systems nationally making Utah's annual cost estimated at $5,360,000 for the aggregate rule changes.
❖ OTHER PERSONS: Costs will vary depending upon water system size, EPA estimates the cost to vary from $1 to $400 per household per year with 95% of the water systems affected having households in the $1 to $12 per year cost category for the aggregate rule changes.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Compliance costs for this aggregate rule change will vary depending upon the water system size, type of source, and type of treatment. EPA estimates the cost to vary from $1 to $400 per household per year with 95% of the systems affected having households in the $1 to $12 per year cost category.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The Department of Environmental Quality agrees with the comments listed under the Cost or Savings statements and the Compliance costs for affected persons above. It is important to note that the cost of this aggregate rule change to public water systems and their consumers will occur independent of this rule action. These requirements will be applied by the federal government if these rules are not adopted by Utah. Dianne R. Nielson, Ph.D., Executive Director

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
Ken Bousfield or Patti Fauver at the above address, by phone at 801-536-4207 or 801-536-4196, by FAX at 801-536-4211 or 801-536-4211, or by Internet E-mail at kbousfield@utah.gov or pfauver@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 12/02/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 12/03/2002

AUTHORIZED BY: Kevin Brown, Director

R309. Environmental Quality, Drinking Water.
R309-200. Monitoring and Water Quality: Drinking Water Standards.

. . . . . .

R309-200-4. General.

(1) Maximum contaminant levels (MCLs) and treatment techniques are herein established for those routinely measurable substances which may be found in water supplies. "Primary" standards and treatment techniques are established for the protection of human health. "Secondary" regulations are established to provide guidance in evaluating the aesthetic qualities of drinking water.

(2) The applicable "Primary" standards and treatment techniques shall[~~must~~] be met by all public drinking water systems. The "Secondary" standards are recommended levels which should be met in order to avoid consumer complaint.

(3) The methods used to determine compliance with these maximum contaminant levels and treatment techniques are given in R309-205 through R309-215. Analytical techniques which shall[~~must~~] be followed in making the required determinations shall be as given in 40 CFR 141 as published on July 1, 2001 by the Office of the Federal Register.

(4) Unless otherwise required by the Board, the effective dates on which new analytical methods shall be initiated are identical to the dates published in 40 CFR 141 on July 1, 2001 by the Office of the Federal Register.

(5) If the water fails to meet these minimum standards, then certain public notification procedures shall[~~must~~] be carried out, as outlined in R309-220. Water suppliers shall[~~must~~] also keep analytical records in their possession, for a required length of time, as outlined in R309-105-17.

R309-200-5. Primary Drinking Water Standards.

(1) Inorganic Contaminants.

(a) The maximum contaminant levels (MCLs) for antimony, arsenic, asbestos, barium, beryllium, cadmium, chromium, cyanide, fluoride, mercury, nickel, selenium, sodium, thallium and total dissolved solids are applicable to community and non-transient non-community water systems.

(b) The MCLs for nitrate, nitrite, and total nitrate, nitrite and sulfate are applicable to community, non-transient non-community, and transient non-community water systems.

(c) The maximum contaminant levels for inorganic chemicals are listed in Table 200-1.

TABLE 200-1
PRIMARY INORGANIC CONTAMINANTS

Contaminant	Maximum Contaminant Level
1. Antimony	0.006 mg/L[~~mg/l~~]
2. Arsenic	0.05 mg/L[~~mg/l~~]
3. Asbestos	7 Million Fibers/liter (longer than 10 um)

4.	Barium	2 mg/L[~~mg/l~~]
5.	Beryllium	0.004 mg/L[~~mg/l~~]
6.	Cadmium	0.005 mg/L[~~mg/l~~]
7.	Chromium	0.1 mg/L[~~mg/l~~]
8.	Cyanide (as free Cyanide)	0.2 mg/L[~~mg/l~~]
9.	Fluoride	4.0 mg/L[~~mg/l~~]
10.	Mercury	0.002 mg/L[~~mg/l~~]
11.	Nickel	--- (see Note 1 below)
12.	Nitrate	10 mg/l (as Nitrogen) (see Note 4 below)
13.	Nitrite	1 mg/L[~~mg/l~~] (as Nitrogen)
14.	Total Nitrate and Nitrite	10 mg/L[~~mg/l~~] (as Nitrogen)
15.	Selenium	0.05 mg/L[~~mg/l~~]
16.	Sodium	--- (see Note 1 below)
17.	Sulfate	1000 mg/L[~~mg/l~~] (see Note 2 below)
18.	Thallium	0.002 mg/L[~~mg/l~~]
19.	Total Dissolved Solids	2000 mg/L[~~mg/l~~] (see Note 3 below)

NOTE:

(1) No maximum contaminant level has been established for nickel and sodium. However, these contaminant shall[~~must~~] be monitored and reported in accordance with the requirements of R309-205-5(3).

(2) If the sulfate level of a public (community, NTNC and non-community) water system is greater than 500 mg/L[~~mg/l~~], the supplier shall[~~must~~] satisfactorily demonstrate that:

(a) No better quality water is available, and

(b) The water shall not be available for human consumption from commercial establishments.

In no case shall the Board allow the use of water having a sulfate level greater than 1000 mg/L[~~mg/liter~~].

(3) If TDS is greater than 1000 mg/L[~~mg/l~~], the supplier shall satisfactorily demonstrate to the Board that no better water is available. The Board shall not allow the use of an inferior source of water if a better source of water (i.e. lower in TDS) is available.

(4) In the case of a non-community water systems which exceed the MCL for nitrate, the Executive Secretary may allow, on a case-by-case basis, a nitrate level not to exceed 20 mg/L[~~mg/l~~] if the supplier can adequately demonstrate that:

(a) such water will not be available to children under 6 months of age as may be the case in hospitals, schools and day care centers; and

(b) there will be continuous posting of the fact that nitrate levels exceed 10 mg/L [~~mg/l~~] and the potential health effect of exposure in accordance with R309-220-12; and

(c) the water is analyzed in conformance to R309-205-5(4); and

(d) that no adverse health effects will result.

(2) Lead and copper.

(a) The lead action level is exceeded if the concentration of lead in more than 10 percent of tap water samples collected during any monitoring period conducted in accordance with R309-210-6(3) is greater than 0.015 mg/L (i.e., if the "90th percentile" lead level is greater than 0.015 mg/L).

(b) The copper action level is exceeded if the concentration of copper in more than 10 percent of tap water samples collected during any monitoring period conducted in accordance with R309-210-6(3) is greater than 1.3 mg/L (i.e., if the "90th percentile" copper level is greater than 1.3 mg/L).

(c) The 90th percentile lead and copper levels shall be computed as follows:

(i) The results of all lead or copper samples taken during a monitoring period shall be placed in ascending order from the sample with the lowest concentration to the sample with the highest concentration. Each sampling result shall be assigned a number, ascending by single integers beginning with the number 1 for the sample with the lowest contaminant level. The number assigned to the sample with the highest contaminant level shall be equal to the total number of samples taken.

(ii) The number of samples taken during the monitoring period shall be multiplied by 0.9.

(iii) The contaminant concentration in the numbered sample yielded by the calculation in paragraph (c)(ii) above is the 90th percentile contaminant level.

(iv) For water systems serving fewer than 100 people that collect 5 samples per monitoring period, the 90th percentile is computed by taking the average of the highest and second highest concentrations.

(3) Organic Contaminants.

The following are the maximum contaminant levels for organic chemicals. For the purposes of R309-100 through R309-R309-605, organic chemicals are divided into three categories: Pesticides/PCBs/SOCs, volatile organic contaminants (VOCs) and total trihalomethanes.

(a) Pesticides/PCBs/SOCs - The MCLs for organic contaminants listed[~~list~~] in Table 200-2 are applicable to community water systems and non-transient, non-community water systems.

TABLE 200-2
PESTICIDE/PCB/SOC CONTAMINANTS

Contaminant	Maximum Contaminant Level
1. Alachlor	0.002 mg/L[~~mg/l~~]
2. Aldicarb	(see Note 1 below)
3. Aldicarb sulfoxide	(see Note 1 below)
4. Aldicarb sulfone	(see Note 1 below)
5. Atrazine	0.003 mg/L[~~mg/l~~]
6. Carbofuran	0.04 mg/L[~~mg/l~~]
7. Chlordane	0.002 mg/L[~~mg/l~~]
8. Dibromochloropropane	0.0002 mg/L[~~mg/l~~]
9. 2,4-D	0.07 mg/L[~~mg/l~~]
10. Ethylene dibromide	0.00005 mg/L[~~mg/l~~]
11. Heptachlor	0.0004 mg/L[~~mg/l~~]
12. Heptachlor epoxide	0.0002 mg/L[~~mg/l~~]
13. Lindane	0.0002 mg/L[~~mg/l~~]
14. Methoxychlor	0.04 mg/L[~~mg/l~~]
15. Polychlorinated biphenyls	0.0005 mg/L[~~mg/l~~]
16. Pentachlorophenol	0.001 mg/L[~~mg/l~~]
17. Toxaphene	0.003 mg/L[~~mg/l~~]
18. 2,4,5-TP	0.05 mg/L[~~mg/l~~]
19. Benzo(a)pyrene	0.0002 mg/L[~~mg/l~~]
20. Dalapon	0.2 mg/L[~~mg/l~~]
21. Di(2-ethylhexyl)adipate	0.4 mg/L[~~mg/l~~]
22. Di(2-ethylhexyl)phthalate	0.006 mg/L[~~mg/l~~]
23. Dinoseb	0.007 mg/L[~~mg/l~~]
24. Diquat	0.02 mg/L[~~mg/l~~]
25. Endothall	0.1 mg/L[~~mg/l~~]
26. Endrin	0.002 mg/L[~~mg/l~~]
27. Glyphosate	0.7 mg/L[~~mg/l~~]
28. Hexachlorobenzene	0.001 mg/L[~~mg/l~~]
29. Hexachlorocyclopentadiene	0.05 mg/L[~~mg/l~~]
30. Oxamyl (Vydate)	0.2 mg/L[~~mg/l~~]
31. Picloram	0.5 mg/L[~~mg/l~~]
32. Simazine	0.004 mg/L[~~mg/l~~]
33. 2,3,7,8-TCDD (Dioxin)	0.00000003 mg/L[~~mg/l~~]

Note 1: The MCL for this contaminant is under further review, however, this contaminant shall be monitored in accordance with R309-205-6(1).

(b) Volatile organic contaminants - The maximum contaminant levels for organic contaminants listed in Table 200-3 apply to community and non-transient non-community water systems.

TABLE 200-3
VOLATILE ORGANIC CONTAMINANTS

	Contaminant	Maximum Contaminant Level
1.	Vinyl chloride	0.002 mg/L[~~mg/l~~]
2.	Benzene	0.005 mg/L[~~mg/l~~]
3.	Carbon tetrachloride	0.005 mg/L[~~mg/l~~]
4.	1,2-Dichloroethane	0.005 mg/L[~~mg/l~~]
5.	Trichloroethylene	0.005 mg/L[~~mg/l~~]
6.	para-Dichlorobenzene	0.075 mg/L[~~mg/l~~]
7.	1,1-Dichloroethylene	0.007 mg/L[~~mg/l~~]
8.	1,1,1-Trichloroethane	0.2 mg/L[~~mg/l~~]
9.	cis-1,2-Dichloroethylene	0.07 mg/L[~~mg/l~~]
10.	1,2-Dichloropropane	0.005 mg/L[~~mg/l~~]
11.	Ethylbenzene	0.7 mg/L[~~mg/l~~]
12.	Monochlorobenzene	0.1 mg/L[~~mg/l~~]
13.	o-Dichlorobenzene	0.6 mg/L[~~mg/l~~]
14.	Styrene	0.1 mg/L[~~mg/l~~]
15.	Tetrachloroethylene	0.005 mg/L[~~mg/l~~]
16.	Toluene	1 mg/L[~~mg/l~~]
17.	trans-1,2-Dichloroethylene	0.1 mg/L[~~mg/l~~]
18.	Xylenes (total)	10 mg/L[~~mg/l~~]
19.	Dichloromethane	0.005 mg/L[~~mg/l~~]
20.	1,2,4-Trichlorobenzene	0.07 mg/L[~~mg/l~~]
21.	1,1,2-Trichloroethane	0.005 mg/L[~~mg/l~~]

(c) Disinfection Byproducts and Disinfectant Residuals:

(i) Community and Non-transient non-community water systems. Surface Water systems serving 10,000 or more persons shall comply with this section beginning January 1, 2002. Surface water systems serving fewer than 10,000 persons and systems using only ground water not under the direct influence of surface water shall comply with this section beginning January 1, 2004. Community water systems utilizing only groundwater sources serving 10,000 persons or more shall monitor in accordance with R309-210-9 and meet the MCL listed in paragraph (vii) of this section until December 31, 2003.

(ii) Transient non-community water systems. Surface water systems serving 10,000 or more persons and using chlorine dioxide as a disinfectant or oxidant shall comply with the chlorine dioxide MRDL beginning January 1, 2002. Surface water systems serving fewer than 10,000 persons and using chlorine dioxide as a disinfectant or oxidant and systems using only ground water not under the direct influence of surface water and using chlorine dioxide as a disinfectant or oxidant shall comply with the chlorine dioxide MRDL beginning January 1, 2004.

(iii) The maximum contaminant levels (MCLs) for disinfection byproducts are listed in Table 200-4.

TABLE 200-4
DISINFECTION BYPRODUCTS

DISINFECTION BYPRODUCT	MCL (mg/L)
Total trihalomethanes (TTHM)	0.080
Haloacetic acids (five) (HAA5)	0.060
Bromate	0.010
Chlorite	1.0

(iv) The maximum residual disinfectant levels (MRDLs) are listed in Table 200-5.

TABLE 200-5
MAXIMUM RESIDUAL DISINFECTANT LEVELS

DISINFECTANT RESIDUAL	MRDL (mg/L)
Chlorine	4.0 (as Cl_2)
Chloramines	4.0 (as Cl_2)
Chlorine dioxide	0.8 (as ClO_2)

(v) Control of Disinfectant Residuals. Notwithstanding the MRDLs listed in Table 200-5, systems may increase residual disinfectant levels in the distribution system of chlorine or chloramines (but not chlorine dioxide) to a level and for a time necessary to protect public health, to address specific microbiological contamination problems caused by circumstances such as, but not limited to, distribution line breaks, storm run-off events, source water contamination events, or cross-connection events.

(vi) A system that is installing GAC or membrane technology to comply with this section may apply to the Executive Secretary for an extension of up to 24 months past the dates in paragraph (c)(i) of this section, but not beyond December 31, 2003. In granting the extension, the Executive Secretary shall set a schedule for compliance and may specify any interim measures that the system shall take. Failure to meet the schedule or interim treatment requirements constitutes a violation of Utah Public Drinking Water Rules.

(vii) Community water systems utilizing only groundwater sources serving 10,000 persons or more shall monitor in accordance with R309-210-9 and meet the following MCL until December 31, 2003.[~~Disinfection Byproducts -- The following maximum contaminant level applies to community water systems serving a population of 10,000 or more.~~

~~The MCL for total trihalomethane (TTHM) compounds for community water systems serving a population of 10,000 or more shall be either of the following:~~]

(A)[~~(i)~~] The running average of analyses of quenched TTHM samples for four consecutive calendar quarters shall not exceed 100 micrograms per liter.

(B)[~~(ii)~~] The single sample Total Trihalomethane Formation Potential (THMFP) shall not exceed 100 micrograms per liter. Approval is needed from the Executive Secretary to substitute this test for TTHM samples and may only be used for groundwater sources. Compliance for each source is based on measurement of this sample.

(4) Radiologic Chemicals[~~-- applies to community water systems~~].

(a) Compliance dates. Compliance dates for combined radium-226 and -228, gross alpha particle activity, gross beta particle and photon radioactivity, and uranium: Community water systems shall comply with the MCLs listed in paragraphs (b), (c), (d), and (e) of this section beginning December 8, 2003 and compliance shall be determined in accordance with the requirements of this sub-section (4) and R309-205-7. Compliance with reporting requirements for the radionuclides under R309-220 and R309-225 is required on December 8, 2003.

(b) Combined radium-226 and -228. The maximum contaminant level for combined radium-226 and radium-228 is 5 pCi/L. The combined radium-226 and radium-228 value is determined by the addition of the results of the analysis for radium-226 and the analysis for radium-228.

(c) Gross alpha particle activity (excluding radon and uranium). The maximum contaminant level for gross alpha particle activity (including radium-226 but excluding radon and uranium) is 15 pCi/L.

(d) The MCL for beta particle and photon radioactivity.

(i) The average annual concentration of beta particle and photon radioactivity from man-made radionuclides in drinking water shall not produce an annual dose equivalent to the total body or any internal organ greater than 4 millirem/year (mrem/year).

(ii) Except for the radionuclides listed in Table 200-6, the concentration of man-made radionuclides causing 4 mrem total body or organ dose equivalents shall be calculated on the basis of 2 liters per day drinking water intake using the 168 hour data list in "Maximum Permissible Body Burdens and Maximum Permissible Concentrations of Radionuclides in Air and in Water for Occupational Exposure," NBS (National Bureau of Standards) Handbook 69 as amended August 1963, U.S. Department of Commerce. Copies of this document are available from the National Technical Information Service, NTIS ADA 280 282, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161. The toll-free number is 800-553-6847. Copies may be inspected at the Division of Drinking Water offices. If two or more radionuclides are present, the sum of their annual dose equivalent to the total body or to any organ shall not exceed 4 mrem/year.

TABLE 200-6
MAN-MADE RADIONUCLIDE CONTAMINANTS

Average Annual Concentrations Assumed to Produce: A Total Body or Organ Dose of 4 mrem/yr		
Radionuclide	Critical organ	pCi per liter
Tritium	Total body	20,000
Strontium-90	Bone Marrow	8

(e) The MCL for uranium. The maximum contaminant level for uranium is 30 µg/L.

[~~(a) Radium-226, Radium-228 and gross alpha particle radioactivity in community water systems:~~

~~The following are the maximum contaminant levels for Radium-226, Radium-228, and gross alpha particle radioactivity:~~

~~(i) Combined Radium-226 and Radium-228: 5 pCi/l.~~

~~(ii) Gross alpha particle activity (including Radium-226 but excluding Radon and Uranium): 15 pCi/l.~~

~~(b) Beta particle and photon radioactivity from man-made radionuclides in community water systems:~~

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

~~(ii) Except for the radionuclides listed in Table 200-4, the concentration of man-made radionuclides causing four mrem total body or organ dose equivalents shall be calculated on the basis of a two liter per day drinking water intake using the 168 hour data listed in "Maximum Permissible Body Burden and Maximum Permissible Concentration of Radionuclides in Air or Water or Occupational Exposure", NBS Handbook 69 as amended August 1963, U.S. Department of Commerce. If two or more radionuclides are present, the sum of their annual dose equivalent to the total body or to any organ shall not exceed four millirem/year.~~

~~TABLE 200-4~~
~~MAN-MADE RADIONUCLIDE CONTAMINANTS~~

~~Average annual concentrations assumed to produce a total body or organ dose of four mrem/year.~~

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

]

(5) TURBIDITY

(a) Large surface water systems serving 10,000 or more population shall provide treatment consisting of both disinfection, as specified in R309-200-5(7)(a), and filtration treatment which complies with the requirements of paragraph (i), (ii) or (iii) of this section by January 1, 2002.

(i) Conventional filtration treatment or direct filtration.

(A) For systems using conventional filtration or direct filtration, the turbidity level of representative samples of a system's filtered water shall be less than or equal to 0.3 NTU in at least 95 percent of the measurements taken each month, measured as specified in R309-200-4(3) and R309-215-9.

(B) The turbidity level of representative samples of a system's filtered water shall at no time exceed 1 NTU, measured as specified in R309-200-4(3) and R309-215-9.

(C) A system that uses lime softening may acidify representative samples prior to analysis using a protocol approved by the Executive Secretary.

(ii) Filtration technologies other than conventional filtration treatment, direct filtration, slow sand filtration, or diatomaceous earth filtration. A public water system may use a filtration technology not listed in paragraph (i) or (iii) of this section if it demonstrates to the Executive Secretary, using pilot plant studies or other means, that the alternative filtration technology, in combination with disinfection treatment that meets the requirements of R309-200-7, consistently achieves 99.9 percent removal and/or inactivation of Giardia lamblia cysts and 99.99 percent removal and/or inactivation of viruses, and 99 percent removal of Cryptosporidium oocysts, and the Executive Secretary approves the use of the filtration technology. For each approval, the Executive Secretary will set turbidity performance requirements that the system shall meet at least 95 percent of the time and that the system may not exceed at any time at a level that consistently achieves 99.9 percent removal and/or inactivation of Giardia lamblia cysts, 99.99 percent removal and/or inactivation of viruses, and 99 percent removal of Cryptosporidium oocysts.

(iii) The turbidity limit for slow sand filtration and diatomaceous earth filtration shall be less than or equal to 1.0 NTU in at least 95 percent of the measurements taken each month, measured as specified in R309-215-9(1)(c) and (d). For slow sand filtration only, if the Executive Secretary determines that the system is capable of achieving 99.9 percent removal and inactivation of Giardia lamblia cysts at some turbidity level higher than 1.0 NTU in at least 95 percent of the measurements, the Executive Secretary may substitute this higher turbidity limit for that system.

(b) Small surface water systems serving a population less than 10,000:[~~(a) Surface water sources or ground water sources under the direct influence of surface water:~~]

(i) The following turbidity limit applies to finished water from small surface water treatment facilities providing water to all public water systems whether community, non-transient non-community or non-community.

(ii) The limit for turbidity in drinking water from treatment facilities which utilize surface water sources or ground water sources under the direct influence of surface water is 0.5 NTU in at least 95 percent of the samples as required by R309-215-9(1)(c)[~~R309-205-8(1)(c)~~] for conventional complete treatment and direct filtration. If the Executive Secretary determines that the system is capable of achieving at least 99.9 percent removal and inactivation of Giardia

lamblia cysts at some turbidity level higher than 0.5 NTU in at least 95 percent of the measurements, the Executive Secretary may substitute this higher turbidity limit for that system. However, in no case may the Executive Secretary approve a turbidity limit that allows more than 1.0 NTU in more than 5 percent of the samples taken each month, measured as specified in R309-215-9(1)(c)[~~R309-205-8(1)(c)~~] and (d).

(A) The turbidity limit for slow sand filtration and diatomaceous earth filtration shall[~~must~~] be less than or equal to 1.0 NTU in at least 95 percent of the measurements taken each month, measured as specified in R309-215-9(1)(c)[~~R309-205-8(1)(c)~~] and (d). For slow sand filtration only, if the Executive Secretary determines that the system is capable of achieving 99.9 percent removal and inactivation of Giardia lamblia cysts at some turbidity level higher than 1.0 NTU in at least 95 percent of the measurements, the Executive Secretary may substitute this higher turbidity limit for that system.

(B) The turbidity level of representative samples shall[~~must~~] at no time exceed 5.0 NTU for any treatment technique, measured as specified in R309-215-9(1)(c)[~~R309-205-8(1)(c)~~] and (d).

(C) The Executive Secretary may allow the higher turbidity limits for the above treatment techniques only if the supplier of water can demonstrate to the Executive Secretary's satisfaction that the higher turbidity does not do any of the following:

(I) Interfere with disinfection;

(II) Prevent maintenance of an effective disinfectant agent throughout the distribution system;

(III) Interfere with microbiological determinations; or

(IV) Interfere with a treatment technique's ability to achieve the required log removal/inactivation of pathogens or virus as required by R309-505-6(2)(a) and (b).

(c)[~~(b)~~] Ground water sources not under the direct influence of surface water:

(i) The following turbidity limit applies to community water systems only.

(ii) The limit for turbidity in drinking water from ground water sources not under the direct influence of[~~contaminated by~~] surface sources is 5.0 NTU based on an average for two consecutive days pursuant to R309-205-8(3).

(6) MICROBIOLOGICAL QUALITY

(a) The maximum contaminant level (MCL) for microbiological contaminants for all public water systems is:

(i) For a system which collects less than 40 total coliform samples per month, no more than one sample per month may be total coliform-positive.

(ii) For a system which collects 40 or more total coliform samples per month, no more than 5.0 percent of the samples collected during a month may be total coliform-positive.

(b) Any fecal coliform-positive or Escherichia coliform (E. coli)-positive repeat sample or any total coliform-positive repeat sample following a fecal coliform positive or E. coli-positive routine sample constitutes a violation of the MCL for total coliforms. For the purposes of public notification requirements in R309-220-5 this is a violation that may pose an acute risk to health.

(c) For NTNC and transient non-community systems that are required to sample at a rate of less than one per month, compliance with paragraphs (a) or (b) of this subsection shall be determined for the month in which the sample was taken.

(7) DISINFECTION

Continuous disinfection is recommended for all water sources. It shall be required of all ground water sources which do not consistently meet standards of bacteriologic quality. Surface water sources or ground water sources under direct influence of surface water shall[~~must~~] be disinfected and continuously monitored for disinfection residual during the course of required conventional complete treatment for systems serving greater than 3,300 people. Disinfection shall not be considered a substitute for inadequate collection or filtration facilities.

Successful disinfection assures 99.9 percent inactivation of Giardia lamblia cysts and 99.99 percent inactivation of enteric viruses. Both filtration and disinfection are considered treatment techniques to protect against the potential adverse health effects of exposure to Giardia lamblia, viruses, Legionella, and heterotrophic bacteria in water. Minimum disinfection levels are set by "CT" values as defined in R309-110.

(a) Each public water system that provides filtration treatment shall[~~must~~] provide disinfection treatment as follows:

(i) The disinfection treatment shall[~~must~~] be sufficient to ensure that the total treatment processes of the system achieve at least 99.9 percent (3-log) inactivation and/or removal of Giardia lamblia cysts and at least 99.99 percent (4-log) inactivation and/or removal of viruses, as determined by the Executive Secretary.

(ii) The residual disinfectant concentration in the water entering the distribution system cannot be less than 0.2 mg/L[~~mg/l~~] for more than 4 hours.

(iii) The residual disinfectant concentration in the distribution system, measured as combined chlorine or chlorine dioxide, cannot be undetectable in more than 5 percent of the samples each month, for any two consecutive months that the system serves water to the public. Water in the distribution system with a heterotrophic bacteria concentration less than or equal to 500/ml, measured as heterotrophic plate count (HPC) is deemed to have a detectable disinfectant residual for purposes of determining compliance with this requirement. Thus, the value "V" in the following formula cannot exceed 5 percent in one month, for any two consecutive months.

V = ((c + d + e) / (a + b)) x 100 where:

a = number of instances where the residual disinfectant concentration is measured;

b = number of instances where the residual disinfectant concentration is not measured but heterotrophic bacteria plate count (HPC) is measured;

c = number of instances where the residual disinfectant concentration is measured but not detected and no HPC is measured;

d = number of instances where no residual disinfectant concentration is detected and where HPC is greater than 500/ml;

e = number of instances where the residual disinfectant concentration is not measured and HPC is greater than 500/ml.

(b) If the Executive Secretary determines, based on site-specific considerations, that a system has no means for having a sample transported and analyzed for HPC by a certified laboratory under the requisite time and temperature conditions specified in Heterotrophic Plate Count (Pour Plate Method) as set forth in the latest edition of Standard Methods for the Examination of Water and Wastewater, 1985, American Public Health Association et al. (Method 907A in the 16th edition) and that the system is providing adequate disinfection in the distribution system, the requirements of R309-200-5(7)(a)(iii) do not apply.

(c) If a system utilizes a combination of sources, some surface water influenced (requiring filtration and disinfection treatment) and others deemed ground water (not requiring any treatment, even disinfection), the Executive Secretary may, based on site-specific

considerations, allow sampling for residual disinfectant or HPC at locations other than those specified by total coliform monitoring required by R309-210-5.

R309-200-6. Secondary Drinking Water Standards for Community, Non-Transient Non-Community and Transient Non-Community Water.

The Secondary Maximum Contaminant Levels for public water systems deals with substances which affect the aesthetic quality of drinking water. They are presented here as recommended limits or ranges and are not grounds for rejection. The taste of water may be unpleasant and the usefulness of the water may be impaired if these standards are significantly exceeded.

TABLE 200-5
SECONDARY INORGANIC CONTAMINANTS

Contaminant	Level
Aluminum	0.05 to 0.2 mg/L[~~mg/l~~]
Chloride	250 mg/L[~~mg/l~~]
Color	15 Color Units
Copper	1 mg/L[~~mg/l~~]
Corrosivity	Non-corrosive
Fluoride	2.0 mg/L[~~mg/l~~] (see Note below)
Foaming Agents	0.5 mg/L[~~mg/l~~]
Iron	0.3 mg/L[~~mg/l~~]
Manganese	0.05 mg/L[~~mg/l~~]
Odor	3 Threshold Odor Number
pH	6.5-8.5
Silver	0.1 mg/L[~~mg/l~~]
Sulfate	250 mg/L[~~mg/l~~] (see Note below)
TDS	500 mg/L[~~mg/l~~] (see Note below)
Zinc	5 mg/L[~~mg/l~~]

Note: Maximum allowable Fluoride, TDS and Sulfate levels are given in the Primary Drinking Water Standards, R309-200-5(1). They are listed as secondary standards because levels in excess of these recommended levels will likely cause consumer complaint.

R309-200-7. Treatment Techniques and Unregulated Contaminants.

(1) The Board has determined that the minimum level of treatment as described in R309-525 and R309-530 herein or its equivalent is required for surface water sources and ground water contaminated by surface sources.

(2) For surface water systems, R309-200, 215, 505, 510, 520, 525 and 530 establish or extend treatment technique requirements in lieu of maximum contaminant levels for the following contaminants: Giardia lamblia, viruses, heterotrophic plate count bacteria, Legionella, Cryptosporidium, and turbidity. The treatment technique requirements consist of installing and properly operating water treatment processes which reliably achieve:

(a) at least 99.9 percent (3-log) removal and/or inactivation of Giardia lamblia cysts between a point where the raw water is not subject to re-contamination by surface water runoff and a point downstream before or at the first customer;

(b) at least 99.99 percent (4-log) removal and/or inactivation of viruses between a point where the raw water is not subject to re-contamination by surface water runoff and a point downstream before or at the first customer.

(c) At least 99 percent (2-log) removal of Cryptosporidium between a point where the raw water is not subject to recontamination by surface water runoff and a point downstream before or at the first customer. for filtered systems, or Cryptosporidium control under the watershed control plan for unfiltered systems.

(d) Compliance with the profiling and benchmark requirements under the provisions of R309-215-14.

(3) No MCLs are established herein for unregulated contaminants; viruses, protozoans and other chemical and biological substances. Some unregulated contaminants shall[~~must~~] be monitored for in accordance with 40 CFR 141.40.[~~The Board has determined that the minimum level of treatment as described in R309-525 and R309-530 herein or its equivalent is required for surface water sources and ground water contaminated by surface sources.~~]

R309-200-8. Approved Laboratories.

(1) For the purpose of determining compliance, samples may be considered only if they have been analyzed by the State of Utah primacy laboratory or a laboratory certified by the Utah State Health Laboratory. However, measurements for pH, temperature, turbidity and disinfectant residual, daily chlorite, TOC, UV254, DOC and SUVA may, under the direction of the direct responsible charge operator, be performed by any water supplier or their representative.

(2) All samples shall[~~must~~] be marked either: routine, repeat, check or investigative before submission of such samples to a certified lab. Routine, repeat, and check samples shall be considered compliance purposes samples.

(3) All public water systems shall[~~must~~] either: contract with a certified laboratory to have the laboratory send all compliance purposes sample results, with the exception of Lead/Copper data, to the Division of Drinking Water, or shall[~~must~~] inform the Division of Drinking Water that they intend to forward all compliance purposes samples to the Division. Each public water system shall[~~must~~] furnish the Division of Drinking Water a copy of the contract with their certified laboratory or inform the Division in writing of the public water system's intent to forward the data to the Division.

(4) All sample results can be sent either electronically or in hard copy form.

KEY: drinking water, quality standards, regulated contaminants
December 16[~~August 12~~], 2002
Notice of Continuation April 16, 2001
19-4-104
63-46b-4

Environmental Quality, Drinking Water
R309-205
Monitoring and Water Quality: Source Monitoring Requirements

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 25489
FILED: 10/11/2002, 15:52

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule filing is to adopt the requirements contained in the federal Interim Enhanced Surface Water Treatment Rule, the

Disinfection/Disinfection By-Products Rule, and the Radionuclide Rule. These changes are required in order to maintain primacy.

SUMMARY OF THE RULE OR CHANGE: This rule change includes modifying the base monitoring time frame of radionuclides from four years to three years. It also allows for monitoring waivers that extend the frequency of monitoring in some cases to every six or nine years. Monitoring requirements are also added for Uranium.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-4-104, and Safe Drinking Water Act (amended Aug. 6, 1996), Title XIV, Section 1419

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: Five full-time equivalents as an aggregate for the changes in Rules R309-105, R309-200, R309-205, R309-210, R309-215, R309-525, and R309-530. This staffing increase has already been authorized by the 2002 Legislature with funding coming from the federal SRF (state revolving loan funds). (DAR NOTE: The proposed amendments to R309-105 (DAR No. 25486), R309-200 (DAR No. 25488), R309-205 (DAR No. 25489), R309-210 (DAR No. 25490), R309-215 (DAR No. 25491), R309-525 (DAR No. 25493), and R309-530 (DAR No. 25494) are all found in this Bulletin.)
❖ LOCAL GOVERNMENTS: Costs will vary by water system size, sources utilized and treatment applied. EPA estimates the total national annual cost at $1,072,000. Utah has approximately 0.5% of the total number of water systems nationally making Utah's annual cost estimated at $5,360,000 for the aggregate rule changes.
❖ OTHER PERSONS: Costs will vary depending upon water system size, EPA estimates the cost to vary from $1 to $400 per household per year with 95% of the water systems affected having households in the $1 to $12 per year cost category for the aggregate rule changes.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Compliance costs for this aggregate rule change will vary depending upon the water system size, type of source, and type of treatment. EPA estimates the cost to vary from $1 to $400 per household per year with 95% of the systems affected having households in the $1 to $12 per year cost category.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The Department of Environmental Quality agrees with the comments listed under the Cost or Savings statements and the Compliance costs for affected persons above. It is important to note that the cost of this aggregate rule change to public water systems and their consumers will occur independent of this rule action. These requirements will be applied by the federal government if these rules are not adopted by Utah. Dianne R. Nielson, Ph.D., Executive Director

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
Ken Bousfield or Patti Fauver at the above address, by phone at 801-536-4207 or 801-536-4196, by FAX at 801-536-4211 or 801-536-4211, or by Internet E-mail at kbousfield@utah.gov or pfauver@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 12/02/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 12/03/2002

AUTHORIZED BY: Kevin Brown, Director

R309. Environmental Quality, Drinking Water.
R309-205. Monitoring and Water Quality: Source Monitoring Requirements.

. . . . . .

R309-205-4. General.

(1) All public water systems are required to monitor their water to determine if they comply with the requirements for water quality stated in R309-200. In exceptional circumstances the Executive Secretary may modify the monitoring requirements given herein as is deemed appropriate.

(2) The Executive Secretary may determine compliance or initiate compliance actions based upon analytical results and other information compiled by authorized representatives.

(3) If the water fails to meet minimum standards, then certain public notification procedures shall[~~must~~] be carried out, as outlined in R309-220. Water suppliers shall[~~must~~] also keep analytical records in their possession, for a required length of time, as outlined in R309-105-17.

(4) All samples shall be taken at each source or point of entry to the distribution system as specified herein for each contaminant or group of contaminants.

(5) For the purpose of determining compliance, samples may only be considered if they have been analyzed by the State of Utah primacy laboratory or a laboratory certified by the Utah State Health Laboratory.

(6) Measurements for pH, temperature, turbidity and disinfectant residual may, under the direction of the direct responsible operator, be performed by any water supplier or their representative.

(7) All samples shall[~~must~~] be marked either: routine, repeat, check or investigative before submission of such samples to a certified laboratory. Routine, repeat, and check samples shall be considered compliance purpose samples.

(8) All sample results can be sent to the Division of Drinking Water either electronically or in hard copy form.

(9) Unless otherwise required by the Board, the effective dates on which required monitoring shall be initiated are identical to the dates published in 40 CFR 141 on July 1, 2001 by the Office of the Federal Register.

(10) Exemptions from monitoring requirements shall only be granted in accordance with R309-105-5.

R309-205-5. Inorganic Contaminants.

Community, non-transient non-community, and transient non-community water systems shall conduct monitoring as specified to determine compliance with the maximum contaminant levels specified in R309-200-5 in accordance with this section.

(1) Monitoring shall be conducted as follows:

(a) Groundwater systems shall take a minimum of one sample at every entry point to the distribution system which is representative of each well after treatment (hereafter called a sampling point) beginning in the compliance period starting January 1, 1993. The system shall take each sample at the same sampling point unless conditions make another sampling point more representative of each source or treatment plant.

(b) Surface water systems shall take a minimum of one sample at every entry point to the distribution system after any application of treatment or in the distribution system at a point which is representative of each source after treatment (hereafter called a sampling point) beginning in the compliance period beginning January 1, 1993. The system shall take each sample at the same sampling point unless conditions make another sampling point more representative of each source or treatment plant. (Note: For purposes of this paragraph, surface water systems include systems with a combination of surface and ground sources.)

(c) If a system draws water from more than one source and the sources are combined before distribution, the system shall[~~must~~] sample at an entry point to the distribution system during periods of normal operating conditions (i.e., when water is representative of all sources being used).

(d) The frequency of monitoring for asbestos shall be in accordance with R309-205-5(2); the frequency of monitoring for antimony, arsenic, barium, beryllium, cadmium, chromium, cyanide, fluoride, mercury, nickel, selenium, sodium, sulfate, thallium, and total dissolved solids shall be in accordance with R309-205-5(3); the frequency of monitoring for nitrate shall be in accordance with R309-205-5(4); the frequency of monitoring for nitrite shall be in accordance with R309-205-5(5).

(e) Confirmation samples:

(i) Where the results of sampling for antimony, arsenic, asbestos, barium, beryllium, cadmium, chromium, cyanide, fluoride, mercury, nickel, selenium, sulfate, thallium or total dissolved solids indicate an exceedance of the maximum contaminant level, the Executive Secretary may require that one additional sample be collected as soon as possible after the initial sample was taken (but not to exceed two weeks) at the same sampling point.

(ii) Where nitrate or nitrite sampling results indicate an exceedance of the maximum contaminant level, the system shall take a confirmation sample within 24 hours of the system's receipt of notification of the analytical results of the first sample. Systems unable to comply with the 24-hour sampling requirement shall[~~must~~] immediately notify the consumers in the area served by the public water system source in accordance with R309-220-5. Systems exercising this option shall[~~must~~] take and analyze a confirmation sample within two weeks of notification of the analytical results of the first sample.

(iii) Procedures if the Secondary Standard for Fluoride is Exceeded Notification of State and/or Public.

If the result of an analysis indicates that the level of fluoride exceeds the Secondary Drinking Water Standard, the supplier of water shall give notice as required in R309-220-11.

(iv) The results of the initial and confirmation sample(s) taken for any contaminant, shall be averaged. The resulting average shall be used to determine the system's compliance in accordance with paragraph (1)(g) of this section. The Executive Secretary has the discretion to delete results of obvious sampling errors.

(f) The Executive Secretary may require more frequent monitoring than specified in paragraphs (2), (3), (4) and (5) of this section or may require confirmation samples for positive and negative results. The Executive Secretary may also require an appropriate treatment process.

(g) Compliance with R309-200-5(1) shall be determined based on the analytical result(s) obtained at each sampling point.

(i) For systems which are conducting monitoring at a frequency greater than annual, compliance with the maximum contaminant levels for antimony, arsenic, asbestos, barium, beryllium, cadmium, chromium, cyanide, fluoride, mercury, nickel, selenium, sulfate, thallium and total dissolved solids is determined by a running annual average at each sampling point. If the average at any sampling point is greater than the MCL, then the system is out of compliance. If any one sample would cause the annual average to be exceeded, then the system is out of compliance immediately. Any sample below the detection limit shall be calculated at zero for the purpose of determining the annual average.

(ii) For systems which are monitoring annually, or less frequently, the system is out of compliance with the maximum contaminant levels for antimony, arsenic, asbestos, barium, beryllium, cadmium, chromium, cyanide, fluoride, mercury, nickel, selenium, sulfate, thallium and total dissolved solids if the level of a contaminant at any sampling point is greater than the MCL. If a confirmation sample is required by the Executive Secretary, the determination of compliance will be based on the average of the two samples. If the average of the samples exceed the maximum contaminant levels then the water system shall provide public notice as required under R309-220.

(iii) Compliance with the maximum contaminant levels for nitrate and nitrite is determined based on one sample. If the levels of nitrate and/or nitrite exceed the MCLs in the initial sample, a confirmation sample is required in accordance with paragraph (1)(g)(ii) of this section, and compliance shall be determined based on the average of the initial and confirmation samples.

(iv) If a public water system has a distribution system separable from other parts of the distribution system with no interconnections, the Executive Secretary may allow the system to give public notice to only the area served by that portion of the system which is out of compliance.

(h) Each public water system shall monitor at the time designated by the Executive Secretary during each compliance period.

(2) The frequency of monitoring conducted to determine compliance with the maximum contaminant level for asbestos specified in R309-200-5(1) shall be conducted as follows:

(a) Each community and non-transient non-community water system is required to monitor for asbestos during the first three-year compliance period of each nine-year compliance cycle beginning in the compliance period starting January 1, 1993.

(b) If the system believes it is not vulnerable to asbestos contamination in its source water, it may apply to the Executive Secretary for a waiver of the monitoring requirement in paragraph

(a) of this section. If the Executive Secretary grants the waiver, the system is not required to monitor for asbestos.

(c) The Executive Secretary may grant a waiver based on a consideration of the potential asbestos contamination of the water source.

(d) A waiver remains in effect until the completion of the three-year compliance period. Systems not receiving a waiver shall[~~must~~] monitor in accordance with the provisions of paragraph (a) of this section.

(e) A system vulnerable to asbestos contamination due solely to source water shall monitor in accordance with the provision of R309-205-5(1).

(f) A system vulnerable to asbestos contamination due both to its source water supply and corrosion of asbestos-cement pipe as specified in R309-210-7 shall take one sample at a tap served by asbestos-cement pipe and under conditions where asbestos contamination is most likely to occur.

(g) A system which exceeds the maximum contaminant levels as determined in R309-205-5(1)(g) shall monitor quarterly beginning in the next quarter after the violation occurred.

(h) The Executive Secretary may decrease the quarterly monitoring requirement to the frequency specified in paragraph (a) of this section provided the Executive Secretary has determined that the system is reliably and consistently below the maximum contaminant level. In no case can the Executive Secretary make this determination unless a groundwater system takes a minimum of two quarterly samples and a surface (or combined surface/ground) water system takes a minimum of four quarterly samples.

(i) If monitoring data collected after January 1, 1990 are generally consistent with the requirements of R309-205-5(2), then the Executive Secretary may allow systems to use that data to satisfy the monitoring requirement for the initial compliance period beginning January 1, 1993.

(3) The frequency of monitoring conducted to determine compliance with the maximum contaminant levels in R309-200-5(1). for antimony, arsenic, barium, beryllium, cadmium, chromium, cyanide, fluoride, mercury, nickel, selenium, sodium, sulfate, thallium and total dissolved solids shall be as follows:

(a) Each community and non-transient non-community groundwater system shall take one sample at each sampling point once every three years. Each community and non-transient non-community surface water system (or combined surface/ground) shall take one sample annually at each sampling point. Each transient non-community system shall take one sample for sulfate only at each sampling point once every three years for both groundwater and surface water systems.

(b) The system may apply to the Executive Secretary for a waiver from the monitoring frequencies specified in paragraph (3)(a) of this section. A waiver from the monitoring requirements for arsenic shall not be available.

(c) A condition of the waiver shall require that a system shall take a minimum of one sample while the waiver is effective. The term during which the waiver is effective shall not exceed one compliance cycle (i.e., nine years).

(d) The Executive Secretary may grant a waiver provided surface water systems have monitored annually for at least three years and groundwater systems have conducted a minimum of three rounds of monitoring. (At least one sample shall have been taken since January 1, 1990.) Both surface and groundwater systems shall demonstrate that all previous analytical results were less than the maximum contaminant level. Systems that use a new water source are not eligible for a waiver until three rounds of monitoring from the new source have been completed.

(e) In determining the appropriate reduced monitoring frequency, the Executive Secretary shall consider:

(i) Reported concentrations from all previous monitoring;

(ii) The degree of variation in reported concentrations; and

(iii) Other factors which may affect contaminant concentrations such as changes in groundwater pumping rates, changes in the system's configuration, changes in the system's operating procedures, or changes in stream flows or characteristics.

(f) A decision by the Executive Secretary to grant a waiver shall be made in writing and shall set forth the basis for the determination. The determination may be initiated by the Executive Secretary or upon an application by the public water system. The public water system shall specify the basis for its request. The Executive Secretary shall review and, where appropriate, revise its determination of the appropriate monitoring frequency when the system submits new monitoring data or when other data relevant to the system's appropriate monitoring frequency become available.

(g) Systems which exceed the maximum contaminant levels as calculated in R309-205-5(1)(g) of this section shall monitor quarterly beginning in the next quarter after the violation occurred.

(h) The Executive Secretary may decrease the quarterly monitoring requirement to the frequencies specified in paragraphs (3)(a) and (b) of this section provided it has determined that the system is reliably and consistently below the maximum contaminant level. In no case can the Executive Secretary make this determination unless a groundwater system takes a minimum of two quarterly samples and a surface water system takes a minimum of four quarterly samples.

(4) All public water systems (community; non-transient non-community; and transient non-community systems) shall monitor to determine compliance with the maximum contaminant level for nitrate in R309-200-5(1).

(a) Community and non-transient non-community water systems served by groundwater systems shall monitor annually beginning January 1, 1993; systems served by surface water shall monitor quarterly beginning January 1, 1993.

(b) For community and non-transient non-community water systems, the repeat monitoring frequency for ground water systems shall be quarterly for at least one year following any one sample in which the concentration is greater than or equal to 50 percent of the MCL. The Executive Secretary may allow a groundwater system to reduce the sampling frequency to annually after four consecutive quarterly samples are reliably and consistently less than the MCL.

(c) For community and non-transient non-community water systems, the Executive Secretary may allow a surface water system to reduce the sampling frequency to annually if all analytical results from four consecutive quarters are less than 50 percent of the MCL. A surface water system shall return to quarterly monitoring if any one sample is greater than or equal to 50 percent of the MCL.

(d) Each transient non-community water system shall monitor annually beginning January 1, 1993.

(e) After the initial round of quarterly sampling is completed, each community and non-transient non-community system which is monitoring annually shall take subsequent samples during the quarter(s) which previously resulted in the highest analytical result.

(5) All public water systems (community; non-transient non-community; and transient non-community systems) shall monitor to determine compliance with the maximum contaminant level for nitrite in R309-200-5(1).

(a) All public water systems shall take one sample at each sampling point in the compliance period beginning January 1, 1993 and ending December 31, 1995.

(b) After the initial sample, systems where an analytical result for nitrite is less than 50 percent of the MCL shall monitor at the frequency specified by the Executive Secretary.

(c) For community, non-transient non-community, and transient non-community water systems, the repeat monitoring frequency for any water system shall be quarterly for at least one year following any one sample in which the concentration is greater than or equal to 50 percent of the MCL. The Executive Secretary may allow a system to reduce the sampling frequency to annually after determining the system is reliably and consistently less than the MCL.

(d) Systems which are monitoring annually shall take each subsequent sample during the quarter(s) which previously resulted in the highest analytical result.

R309-205-6. Organic Contaminants.

For the purposes of R309-100 through R309-605, organic chemicals are divided into three categories: Pesticides/PCBs/SOCs, volatile organic contaminants (VOCs) and total trihalomethanes.

(1) Pesticides/PCBs/SOCs monitoring requirements.

Analysis of the contaminants listed in R309-200-5(2)(a) for the purposes of determining compliance with the maximum contaminant level shall be conducted as follows:

(a) Groundwater systems shall take a minimum of one sample at every entry point to the distribution system which is representative of each well after treatment (hereafter called a sampling point). Each sample shall[~~must~~] be taken at the same sampling point unless conditions make another sampling point more representative of each source or treatment plant.

(b) Surface water systems shall take a minimum of one sample at points in the distribution system that are representative of each source or at each entry point to the distribution system after treatment (hereafter called a sampling point). Each sample shall[~~must~~] be taken at the same sampling point unless conditions make another sampling point more representative of each source or treatment plant. (Note: For purposes of this paragraph, surface water systems include systems with a combination of surface and ground sources.)

(c) If the system draws water from more than one source and the sources are combined before distribution, the system shall[~~must~~] sample at an entry point to the distribution system during periods of normal operating conditions (i.e., when water representative of all sources is being used).

(d) Monitoring frequency:

(i) Each community and non-transient non-community water system shall take four consecutive quarterly samples for each contaminant listed in R309-200-5(2)(a) during each compliance period beginning with the compliance period starting January 1, 1993. For systems serving less than 3,300, this requirement may be reduced to one sample if the sample is taken prior to October 1, 1993.

(ii) Systems serving more than 3,300 persons which do not detect a contaminant in the initial compliance period, may reduce the sampling frequency to a minimum of two quarterly samples in one year during each repeat compliance period.

(iii) Systems serving less than or equal to 3,300 persons which do not detect a contaminant in the initial compliance period may reduce the sampling frequency to a minimum of one sample during each repeat compliance period.

(e) Each community and non-transient non-community water system may apply to the Executive Secretary for a waiver from the requirement of paragraph (d) of this section. A system shall[~~must~~] reapply for a waiver for each compliance period.

(f) The Executive Secretary may grant: a use waiver, a susceptibility waiver or a reliably and consistently waiver. The use and susceptibility waivers shall be granted in accordance with R309-600-16. The reliably and consistently waiver shall be based on a minimum of three rounds of monitoring where the results of analysis for all constituents show that no contaminant is detected, or that the detected amount of a contaminant is less than half the MCL.

(i) If a use waiver is granted no monitoring for pesticides/PCBs/SOCs will be required, provided documentation consistent with R309-600-16 and justifying the continuence of a use waiver is submitted to the Executive Secretary at least every six years.

(ii) If a susceptibility waiver or a reliably and consistently waiver is granted, monitoring for pesticides/PCBs/SOCs shall be preformed as listed below, provided documentation consistent with R309-600-16 and justifying the continuance of a susceptibility waiver is submitted to the Executive Secretary at least every six years or in the case of a reliably and consistently waiver that the analytical results justify the continuance of the reliably and consistently waiver.

(A) For community and non-transient non community systems serving populations greater than 3,300 people, samples for pesticides/PCBs/SOCs shall be taken in two consecutive quarters every three years.

(B) For community and non-transient non community systems serving populations less than 3,301 people, samples for pesticides/PCBs/SOCs shall be taken every three years.

(g) If an organic contaminant listed in R309-200-5(2)(a) is detected in any sample, then:

(i) Each system shall[~~must~~] monitor quarterly at each sampling point which resulted in a detection.

(ii) The Executive Secretary may decrease the quarterly monitoring requirement specified in paragraph (g)(i) of this section provided it has determined that the system is reliably and consistently below the maximum contaminant level. In no case shall the Executive Secretary make this determination unless a groundwater system takes a minimum of two quarterly samples and a surface water system takes a minimum of four quarterly samples.

(iii) After the Executive Secretary determines the system is reliably and consistently below the maximum contaminant level the Executive Secretary may allow the system to monitor annually. Systems which monitor annually shall[~~must~~] monitor during the quarter that previously yielded the highest analytical result.

(iv) Systems which have 3 consecutive annual samples with no detection of a contaminant may apply to the Executive Secretary for a waiver as specified in paragraph (f) of this section.

(v) If monitoring results in detection of one or more of certain related contaminants (aldicarb, aldicarb sulfone, aldicarb sulfoxide and heptachlor, heptachlor epoxide), then subsequent monitoring shall analyze for all related contaminants.

(h) Systems which violate the maximum contaminant levels of R309-200-5(2)(a) as determined by paragraph (j) of this section shall[~~must~~] monitor quarterly. After a minimum of four quarterly samples show the system is in compliance and the Executive Secretary determines the system is reliably and consistently below

the MCL, as specified in paragraph (j) of this section, the system shall monitor at the frequency specified in paragraph (g)(iii) of this section.

(i) The Executive Secretary may require a confirmation sample for positive or negative results. If a confirmation sample is required by the Executive Secretary, the result shall[~~must~~] be averaged with the first sampling result and the average used for the compliance determination as specified by paragraph (j) of this section. The Executive Secretary has the discretion to delete results of obvious sampling errors from this calculation.

(j) Compliance with the maximum contaminant levels in R309-200-5(2)(a) shall be determined based on the analytical results obtained at each sampling point.

(i) For systems which are conducting monitoring at a frequency greater than annual, compliance is determined by a running annual average of all samples taken at each sampling point. If the annual average of any sampling point is greater than the MCL, then the system is out of compliance. If the initial sample or a subsequent sample would cause the annual average to be exceeded, then the system is out of compliance immediately. Any samples below the detection limit shall be calculated as zero for purposes of determining the annual average.

(ii) If monitoring is conducted annually, or less frequently, the system is out of compliance if the level of a contaminant at any sampling point is greater than the MCL. If a confirmation sample is required by the Executive Secretary, the determination of compliance will be based on the average of two samples.

(iii) If a public water system has a distribution system separable from other parts of the distribution system with no interconnections, the Executive Secretary may allow the system to give public notice to only that portion of the system which is out of compliance.

(k) If monitoring data collected after January 1, 1990, are generally consistent with the other requirements of this section, then the Executive Secretary may allow systems to use that data to satisfy the monitoring requirement for the initial compliance period beginning January 1, 1993.

(l) The Executive Secretary may increase the required monitoring frequency, where necessary, to detect variations within the system (e.g., fluctuations in concentration due to seasonal use, changes in water source).

(m) The Executive Secretary has the authority to determine compliance or initiate enforcement action based upon analytical results and other information compiled by their sanctioned representatives and agencies.

(n) Each public water system shall monitor at the time designated by the Executive Secretary within each compliance period.

(2) Volatile organic contaminants monitoring requirements.

Analysis of the contaminants listed in R309-200-5(2)(b) for the purpose of determining compliance with the maximum contaminant level shall be conducted as follows:

(a) Groundwater systems shall take a minimum of one sample at every entry point to the distribution system which is representative of each well after treatment (hereafter called a sampling point). Each sample shall[~~must~~] be taken at the same sampling point unless conditions make another sampling point more representative of each source, treatment plant or within the distribution system.

(b) Surface water systems (or combined surface/ground) shall take a minimum of one sample at points in the distribution system that are representative of each source or at each entry point to the distribution system after treatment (hereafter called a sampling point). Each sample shall[~~must~~] be taken at the same sampling point unless conditions make another sampling point more representative of each source, treatment plant, or within the distribution system.

(c) If the system draws water from more than one source and the sources are combined before distribution, the system shall[~~must~~] sample at an entry point to the distribution system during periods of normal operating conditions (i.e., when water representative of all sources is being used).

(d) Each community and non-transient non-community water system shall initially take four consecutive quarterly samples for each contaminant listed in R309-200-5(2)(b), Table 200-3, numbers 2 through 21 during each compliance period beginning in the initial compliance period. For systems serving a population of less than 3,300, this requirement may be reduced to one sample if the sample is taken prior to October 1, 1993.

(e) If the initial monitoring for contaminants listed in R309-200-5(2)(b), Table 200-3, numbers 2 through 21 as allowed in paragraph (n) has been completed by December 31, 1992, and the system did not detect any contaminant listed in R309-200-5(2)(b), then each ground and surface water system shall take one sample annually beginning with the initial compliance period.

(f) After a minimum of three years of annual sampling, the Executive Secretary may allow groundwater systems with no previous detection of any contaminant listed in R309-200-5(2)(b) to take one sample during each compliance period.

(g) Each community and non-transient non-community water system which does not detect a contaminant listed in R309-200-5(2)(b) may apply to the Executive Secretary for a waiver from the requirements of paragraph (d) and (e) of this section after completing the initial monitoring. (For the purposes of this section, detection is defined as greater than or equal to 0.0005 mg/L[~~mg/l~~].) A waiver shall be effective for no more than six years (two compliance periods). The Executive Secretary may also issue waivers for the initial round of monitoring for 1,2,4-trichlorobenzene.

(h) The Executive Secretary may grant: a use waiver, a susceptibility waiver or a reliably and consistently waiver. The use and susceptibility waivers shall be granted in accordance with R309-600-16. The reliably and consistently waiver shall be based on a minimum of three rounds of monitoring where the results of analysis for all constituents show that no contaminant is detected, or that the detected amount of a contaminant is less than half the MCL. To maintain a use waiver or a susceptibility waiver a system shall submit documentation consistent with R309-600-16 which justifies the continuance of a use or a susceptibility waiver at least every six years. For a reliably and consistently waiver, the analytical results for all constituents of all samples shall[~~must~~] justify its continuance. If a waiver is granted, monitoring for VOCs will be required at least every six years.

(i) As a condition of the waiver a groundwater system shall[~~must~~] take one sample at each sampling point during the time the waiver is effective (i.e., one sample during two compliance periods or six years) and update its source protection plan in accordance with R309-600.

(j) If a contaminant listed in R309-200-5(2)(b), Table 200-3, numbers 2 through 21 is detected at a level exceeding 0.0005 mg/L[~~mg/l~~] in any sample, then:

(i) The system shall[~~must~~] monitor quarterly at each sampling point which resulted in a detection.

(ii) The Executive Secretary may decrease the quarterly monitoring requirement specified in paragraph (j)(i) of this section provided it has determined that the system is reliably and consistently below the maximum contaminant level. In no case shall the Executive Secretary make this determination unless a groundwater system takes a minimum of two quarterly samples and a surface water system takes a minimum of four quarterly samples.

(iii) If the Executive Secretary determines that the system is reliably and consistently below the MCL, the Executive Secretary may allow the system to monitor annually. Systems which monitor annually shall[~~must~~] monitor during the quarter(s) which previously yielded the highest analytical result.

(iv) Systems which have three consecutive annual samples with no detection of a contaminant may apply to the Executive Secretary for a waiver as specified in paragraph (f) of this section.

(v) Groundwater systems which have detected one or more of the following two-carbon organic compounds: trichloroethylene, tetrachloroethylene, 1,2-dichloroethane, 1,1,1-trichloroethane, cis-1,2-dichloroethylene, trans-1,2-dichloroethylene, or 1,1-dichloroethylene shall monitor quarterly for vinyl chloride. A vinyl chloride sample shall be taken at each sampling point at which one or more of the two-carbon organic compounds were detected. If the results of the first analysis do not detect vinyl chloride, the Executive Secretary may reduce the quarterly monitoring frequency of vinyl chloride monitoring to one sample during each compliance period. Surface water systems are required to monitor for vinyl chloride as specified by the Executive Secretary.

(k) Systems which violate the maximum contaminant levels as required in R309-200-5(2)(b) as determined by paragraph (m) of this section shall[~~must~~] monitor quarterly. After a minimum of four consecutive quarterly samples shows the system is in compliance as specified in paragraph (m) of this section, and the Executive Secretary determines that the system is reliably and consistently below the maximum contaminant level, the system may monitor at the frequency and time specified in paragraph (j)(iii) of this section.

(l) The Executive Secretary may require a confirmation sample for positive or negative results. If a confirmation sample is required by the Executive Secretary, the result shall[~~must~~] be averaged with the first sampling result and the average is used for the compliance determination as specified by paragraph (m) of this section. The Executive Secretary has the discretion to delete results of obvious sampling errors from this calculation.

(m) Compliance with R309-200-5(2)(b) shall be determined based on the analytical results obtained at each sampling point.

(i) For systems which are conducting monitoring at a frequency greater than annual, compliance is determined by a running annual average of all samples taken at each sampling point. If the annual average of any sampling point is greater than the MCL, then the system is out of compliance. If the initial sample or a subsequent sample would cause the annual average to be exceeded, then the system is out of compliance immediately. Any samples below the detection limit shall be calculated as zero for purposes of determining the annual average.

(ii) If monitoring is conducted annually, or less frequently, the system is out of compliance if the level of a contaminant at any sampling point is greater than the MCL. If a confirmation sample is required by the Executive Secretary, the determination of compliance will be based on the average of two samples.

(iii) If a public water system has a distribution system separable from other parts of the distribution system with no interconnections, the Executive Secretary may allow the system to give public notice to only that area served by that portion of the system which is out of compliance.

(n) The Executive Secretary may allow the use of monitoring data collected after January 1, 1988 for purposes of monitoring compliance providing that the data is generally consistent with the other requirements in this section, the Executive Secretary may use that data (i.e., a single sample rather than four quarterly samples) to satisfy the initial monitoring requirement of paragraph (d) of this section. Systems which use grandfathered samples and did not detect any contaminant listed in R309-200-5(2)(b) shall begin monitoring annually in accordance with (e) of this section.

(o) The Executive Secretary may increase required monitoring where necessary to detect variations within the system.

(p) Each public water system shall monitor at the time designated by the Executive Secretary within each compliance period.

R309-205-7. Radiological Contaminants.

(1) Monitoring and compliance requirements for gross alpha particle activity, radium-226, radium-228, and uranium.

(a) Community water systems (CWSs) shall conduct initial monitoring to determine compliance with R309-200-5(4)(b), (c), and (e) by December 31, 2007. For the purposes of monitoring for gross alpha particle activity, radium-226, radium-228, uranium, and beta particle and photon radioactivity in drinking water, the following detection limits are established: Gross alpha particle activity - 3 pCi/L, Radium 226 - 1 pCi/L, Radium 228 - 1 pCi/L, and Uranium - reserved.

(i) Applicability and sampling location for existing community water systems or sources. All existing CWSs using ground water, surface water or systems using both ground and surface water (for the purpose of this section hereafter referred to as systems) shall sample at every entry point to the distribution system that is representative of all sources being used (hereafter called a sampling point) under normal operating conditions. The system shall take each sample at the same sampling point unless conditions make another sampling point more representative of each source or the Executive Secretary has designated a distribution system location, in accordance with paragraph (1)(b)(ii)(C) of this section.

(ii) Applicability and sampling location for new community water systems or sources. All new CWSs or CWSs that use a new source of water shall begin to conduct initial monitoring for the new source within the first quarter after initiating use of the source. CWSs shall conduct more frequent monitoring when ordered by the Executive Secretary in the event of possible contamination or when changes in the distribution system or treatment processes occur which may increase the concentration of radioactivity in finished water.

(b) Initial monitoring: Systems shall conduct initial monitoring for gross alpha particle activity, radium-226, radium-228, and uranium as follows:

(i) Systems without acceptable historical data, as defined below, shall collect four consecutive quarterly samples at all sampling points before December 31, 2007.

(ii) Grandfathering of data: The Executive Secretary may allow historical monitoring data collected at a sampling point to satisfy the initial monitoring requirements for that sampling point, for the following situations.

(A) To satisfy initial monitoring requirements, a community water system having only one entry point to the distribution system

may use the monitoring data from the last compliance monitoring period that began between June 2000 and December 8, 2003.

(B) To satisfy initial monitoring requirements, a community water system with multiple entry points and having appropriate historical monitoring data for each entry point to the distribution system may use the monitoring data from the last compliance monitoring period that began between June 2000 and December 8, 2003.

(C) To satisfy initial monitoring requirements, a community water system with appropriate historical data for a representative point in the distribution system may use the monitoring data from the last compliance monitoring period that began between June 2000 and December 8, 2003, provided that the Executive Secretary finds that the historical data satisfactorily demonstrate that each entry point to the distribution system is expected to be in compliance based upon the historical data and reasonable assumptions about the variability of contaminant levels between entry points. The Executive Secretary shall make a written finding indicating how the data conforms to these requirements.

(iii) For gross alpha particle activity, uranium, radium-226, and radium-228 monitoring, the Executive Secretary may waive the final two quarters of initial monitoring for a sampling point if the results of the samples from the previous two quarters are below the detection limit.

(iv) If the average of the initial monitoring results for a sampling point is above the MCL, the system shall collect and analyze quarterly samples at that sampling point until the system has results from four consecutive quarters that are at or below the MCL, unless the system enters into another schedule as part of a formal compliance agreement with the Executive Secretary.

(c) Reduced monitoring: The Executive Secretary may allow community water systems to reduce the future frequency of monitoring from once every three years to once every six or nine years at each sampling point, based on the following criteria.

(i) If the average of the initial monitoring results for each contaminant (*i.e.,* gross alpha particle activity, uranium, radium-226, or radium-228) is below the detection limit specified in paragraph (1)(a) of this section, the system shall collect and analyze for that contaminant using at least one sample at that sampling point every nine years.

(ii) For gross alpha particle activity and uranium, if the average of the initial monitoring results for each contaminant is at or above the detection limit but at or below 1/2 the MCL, the system shall collect and analyze for that contaminant using at least one sample at that sampling point every six years. For combined radium-226 and radium-228, the analytical results shall be combined. If the average of the combined initial monitoring results for radium-226 and radium-228 is at or above the detection limit but at or below 1/2 the MCL, the system shall collect and analyze for that contaminant using at least one sample at that sampling point every six years.

(iii) For gross alpha particle activity and uranium, if the average of the initial monitoring results for each contaminant is above 1/2 the MCL but at or below the MCL, the system shall collect and analyze at least one sample at that sampling point every three years. For combined radium-226 and radium-228, the analytical results shall be combined. If the average of the combined initial monitoring results for radium-226 and radium-228 is above 1/2 the MCL but at or below the MCL, the system shall collect and analyze at least one sample at that sampling point every three years.

(iv) Systems shall use the samples collected during the reduced monitoring period to determine the monitoring frequency for subsequent monitoring periods (*e.g.,* if a system's sampling point is on a nine year monitoring period, and the sample result is above 1/2 MCL, then the next monitoring period for that sampling point is three years).

(v) If a system has a monitoring result that exceeds the MCL while on reduced monitoring, the system shall collect and analyze quarterly samples at that sampling point until the system has results from four consecutive quarters that are below the MCL, unless the system enters into another schedule as part of a formal compliance agreement with the Executive Secretary.

(d) Compositing: To fulfill quarterly monitoring requirements for gross alpha particle activity, radium-226, radium-228, or uranium, a system may composite up to four consecutive quarterly samples from a single entry point if analysis is done within a year of the first sample. The Executive Secretary will treat analytical results from the composited as the average analytical result to determine compliance with the MCLs and the future monitoring frequency. If the analytical result from the composited sample is greater than 1/2 MCL, the Executive Secretary may direct the system to take additional quarterly samples before allowing the system to sample under a reduced monitoring schedule.

(e) A gross alpha particle activity measurement may be substituted for the required radium-226 measurement provided that the measured gross alpha particle activity does not exceed 5 pCi/l. A gross alpha particle activity measurement may be substituted for the required uranium measurement provided that the measured gross alpha particle activity does not exceed 15 pCi/l.

(f) The gross alpha measurement shall have a confidence interval of 95% (1.65s, where s is the standard deviation of the net counting rate of the sample) for radium-226 and uranium. When a system uses a gross alpha particle activity measurement in lieu of a radium-226 and/or uranium measurement, the gross alpha particle activity analytical result will be used to determine the future monitoring frequency for radium-226 and/or uranium. If the gross alpha particle activity result is less than detection, 1/2 the detection limit will be used to determine compliance and the future monitoring frequency.

(2) Monitoring and compliance requirements for beta particle and photon radioactivity. To determine compliance with the maximum contaminant levels in R309-200-5(4)(d) for beta particle and photon radioactivity, a system shall monitor at a frequency as follows:

(a) Community water systems (both surface and ground water) designated by the Executive Secretary as vulnerable shall sample for beta particle and photon radioactivity. Systems shall collect quarterly samples for beta emitters and annual samples for tritium and strontium-90 at each entry point to the distribution system (hereafter called a sampling point), beginning within one quarter after being notified by the Executive Secretary. Systems already designated by the Executive Secretary shall continue to sample until the Executive Secretary reviews and either reaffirms or removes the designation. The following detection limits are established: Tritium - 1,000 pCi/l; Strontium-89 - 10 pCi/l; Strontium-90 - 2 pCi/l; Iodine-131 - 1 pCi/l; Cesium-134 - 10 pCi/l; Gross beta - 4 pCi/l; and other radionuclides (1/10) of the applicable limit.

(i) If the gross beta particle activity minus the naturally occurring potassium-40 beta particle activity at a sampling point has a running annual average (computed quarterly) less than or equal to 50 pCi/L (screening level), the Executive Secretary may reduce the frequency of monitoring at that sampling point to once every 3

years. Systems shall collect all samples required in paragraph (2)(a) of this section during the reduced monitoring period.

(ii) For systems in the vicinity of a nuclear facility, the Executive Secretary may allow the CWS to utilize environmental surveillance data collected by the nuclear facility in lieu of monitoring at the system's entry point(s), where the Executive Secretary determines if such data is applicable to a particular water system. In the event that there is a release from a nuclear facility, systems which are using surveillance data shall begin monitoring at the community water system's entry point(s) in accordance with paragraph (2)(a) of this section.

(b) Community water systems (both surface and ground water) designated by the Executive Secretary as utilizing waters contaminated by effluents from nuclear facilities shall sample for beta particle and photon radioactivity. Systems shall collect quarterly samples for beta emitters and iodine-131 and annual samples for tritium and strontium-90 at each entry point to the distribution system (hereafter called a sampling point), beginning within one quarter after being notified by the Executive Secretary. Systems already designated by the Executive Secretary as systems using waters contaminated by effluents from nuclear facilities shall continue to sample until the Executive Secretary reviews and either reaffirms or removes the designation.

(i) Quarterly monitoring for gross beta particle activity shall be based on the analysis of monthly samples or the analysis of a composite of three monthly samples. The former is recommended.

(ii) For iodine-131, a composite of five consecutive daily samples shall be analyzed once each quarter. As ordered by the Executive Secretary, more frequent monitoring shall be conducted when iodine-131 is identified in the finished water.

(iii) Annual monitoring for strontium-90 and tritium shall be conducted by means of the analysis of a composite of four consecutive quarterly samples or analysis of four quarterly samples. The latter procedure is recommended.

(iv) If the gross beta particle activity beta minus the naturally occurring potassium-40 beta particle activity at a sampling point has a running annual average (computed quarterly)less than or equal to 15 pCi/L, the Executive Secretary may reduce the frequency of monitoring at that sampling point to every 3 years. Systems shall collect all samples required in paragraph (2)(b) of this section during the reduced monitoring period.

(v) For systems in the vicinity of a nuclear facility, the Executive Secretary may allow the CWS to utilize environmental surveillance data collected by the nuclear facility in lieu of monitoring at the system's entry point(s), where the Executive Secretary determines if such data is applicable to a particular water system. In the event that there is a release from a nuclear facility, systems which are using surveillance data shall begin monitoring at the community water system's entry point(s) in accordance with paragraph (2)(b) of this section.

(c) Community water systems designated by the Executive Secretary to monitor for beta particle and photon radioactivity can not apply to the Executive Secretary for a waiver from the monitoring frequencies specified in paragraph (2)(a) or (2)(b) of this section.

(d) Community water systems may analyze for naturally occurring potassium-40 beta particle activity from the same or equivalent sample used for the gross beta particle activity analysis. Systems are allowed to subtract the potassium-40 beta particle activity value from the total gross beta particle activity value to determine if the screening level is exceeded. The potassium-40 beta particle activity shall be calculated by multiplying elemental potassium concentrations (in mg/L) by a factor of 0.82.

(e) If the gross beta particle activity minus the naturally occurring potassium-40 beta particle activity exceeds the screening level, an analysis of the sample shall be performed to identify the major radioactive constituents present in the sample and the appropriate doses shall be calculated and summed to determine compliance with R309-200-5(4)(d)(i), using the formula in R309-200-5(4)(d)(ii). Doses shall also be calculated and combined for measured levels of tritium and strontium to determine compliance.

(f) Systems shall monitor monthly at the sampling point(s) which exceed the maximum contaminant level in R309-200-5(4)(d) beginning the month after the exceedance occurs. Systems shall continue monthly monitoring until the system has established, by a rolling average of 3 monthly samples, that the MCL is being met. Systems who establish that the MCL is being met shall return to quarterly monitoring until they meet the requirements set forth in paragraph (2)(a)(ii) or (2)(b)(i) of this section.

(3) General monitoring and compliance requirements for radionuclides.

(a) The Executive Secretary may require more frequent monitoring than specified in paragraphs (1) and (2) of this section, or may require confirmation samples at its discretion. The results of the initial and confirmation samples will be averaged for use in compliance determinations.

(b) Each public water system shall monitor at the time designated by the Executive Secretary during each compliance period.

(c) Compliance: Compliance with R309-200-5(4) (b) through (e) will be determined based on the analytical result(s) obtained at each sampling point. If one sampling point is in violation of an MCL, the system is in violation of the MCL.

(i) For systems monitoring more than once per year, compliance with the MCL is determined by a running annual average at each sampling point. If the average of any sampling point is greater than the MCL, then the system is out of compliance with the MCL.

(ii) For systems monitoring more than once per year, if any sample result will cause the running average to exceed the MCL at any sample point, the system is out of compliance with the MCL immediately.

(iii) Systems shall include all samples taken and analyzed under the provisions of this section in determining compliance, even if that number is greater than the minimum required.

(iv) If a system does not collect all required samples when compliance is based on a running annual average of quarterly samples, compliance will be based on the running average of the samples collected.

(v) If a sample result is less than the detection limit, zero will be used to calculate the annual average, unless a gross alpha particle activity is being used in lieu of radium-226 and/or uranium. If the gross alpha particle activity result is less than detection, 1/2 the detection limit will be used to calculate the annual average.

(d) The Executive Secretary has the discretion to delete results of obvious sampling or analytic errors.

(e) If the MCL for radioactivity set forth in R309-200-5(4)(b) through (e) is exceeded, the operator of a community water system shall give notice to the Executive Secretary pursuant to R309-105-16 and to the public as required by R309-220.

(f) To judge compliance with the maximum contaminant levels listed in R309-200-5(4), averages of data shall be used and shall be

rounded to the same number of significant figures as the maximum contaminant level for the substance in question.

[~~(1) Monitoring requirements for gross alpha particle activity, radium-226 and radium-228.~~

~~(a) Monitoring frequency for community and non-community systems -~~

~~(i) Suppliers of water for community systems shall monitor at least once every four years. Compliance shall be based on the analysis of an annual composite of four consecutive quarterly intervals, or the average of the analysis of four samples obtained at quarterly intervals.~~

~~(ii) A supplier of water shall monitor for radiological chemicals within one year of the introduction of a new water source for a community water system.~~

~~(iii) A community water system using two or more sources having different concentrations of radioactivity shall monitor source water, in addition to water from a free-flowing tap, when ordered by the Executive Secretary.~~

~~(iv) Suppliers of water for non-community systems need not monitor unless specifically directed by the Executive Secretary.~~

~~(b) Reduction of monitoring requirement -~~

~~(i) At the discretion of the Executive Secretary when the average annual concentration is less than half the maximum contaminant levels as established by four consecutive quarterly samples, analysis of a single sample may be substituted for the quarterly sampling procedure.~~

~~(ii) Monitoring for compliance need not include radium-228 except when required by the Executive Secretary provided that the average annual concentration of radium-228 has been assayed at least once using the quarterly sampling procedure.~~

~~(c) Increase in monitoring requirements -~~

~~(i) More frequent monitoring shall be conducted when ordered by the Executive Secretary in the vicinity of mining or other operations which may contribute alpha particle radioactivity to either surface or ground water sources of drinking water.~~

~~(ii) More frequent monitoring shall be conducted when ordered by the Executive Secretary in the event of possible contamination or when changes in a distribution system or treatment processing occur which may increase the concentration of radioactivity in finished water.~~

~~(iii) Suppliers of water shall conduct annual monitoring of any community water system in which the radium-226 concentration exceeds 3 pCi/1, when ordered by the Executive Secretary.~~

~~(d) Substitution of gross alpha particle activity measurement for radium-226 and radium-228 -~~

~~(i) Gross alpha particle activity measurement may be substituted for the required radium-226 and radium-228 analysis provided that the measured gross alpha particle activity does not exceed 5 pCi/1 at a confidence level of 95 percent (1.65 S where S is the standard deviation of the net counting rate of the sample). In localities where radium-228 may be present in drinking water, radium-226 and/or radium-228 analyses must be conducted when the gross alpha particle activity exceeds 2 pCi/1.~~

~~(ii) When the gross alpha particle activity exceeds 5 pCi/1, the same or an equivalent sample shall be analyzed for radium-226. If the concentration of radium-226 exceeds 3 pCi/1 the same or an equivalent sample shall be analyzed for radium-228.~~

~~(2) Monitoring requirements for man-made radioactivity in community water systems.~~

~~(a) Monitoring frequency for community and non-community water systems -~~

~~(i) Community water systems using surface water sources and serving more than 100,000 persons and such other community water systems as are designated by the Executive Secretary shall be monitored for compliance by analysis of a composite of four consecutive quarterly samples or analysis of four quarterly samples.~~

~~(ii) After the initial analysis required by Paragraph (i) (above) community water systems shall monitor at least every four years following the procedure given in Paragraph (i).~~

~~(iii) Suppliers of water for non-community systems need not monitor unless specifically directed by the Executive Secretary.~~

~~(iv) At the discretion of the Executive Secretary, based on a known hazard taking into account the degree of hazard and the time of travel of the contaminant, suppliers of water utilizing only ground water may be required to monitor for man-made radioactivity.~~

~~(v) At any time, based on a known hazard taking into account the degree of hazard and the time of travel of the contaminant, suppliers of water may be required to conduct special additional monitoring, to determine the concentration of manmade radioactivity in principle watersheds designated by the Executive Secretary.~~

~~(b) Determination of compliance -~~

~~(i) Compliance may be assumed without further analysis if the average annual concentration of gross beta particle activity is less than 50 pCi/1 and if the average annual concentrations of tritium and strontium-90 are less than those listed in R309-200-5(4), Table 200-4 provided that if both radionuclides are present the sum of their annual dose equivalents to bone marrow shall not exceed 4 millirem/year.~~

~~(ii) If the gross beta particle activity exceeds 50 pCi/1, an analysis of the sample must be performed to identify the major radioactivity constituents present and the appropriate organ and total body doses shall be calculated to determine compliance.~~

~~(c) Systems contaminated by effluents from nuclear facilities -~~

~~(i) The supplier of any community water system designated by the Executive Secretary as utilizing waters contaminated by effluents from nuclear facilities shall initiate quarterly monitoring for gross beta particle and iodine-131 radioactivity and annual monitoring for strontium-90 and tritium.~~

~~(ii) Quarterly monitoring for gross beta particle activity shall be based on the analysis of monthly samples or a composite of three monthly samples. The former is recommended. If the gross beta particle activity in a sample exceeds 15 pCi/1, the same or an equivalent sample shall be analyzed for strontium-89 and cesium-134. If the gross beta particle activity exceeds 50 pCi/1, an analysis of the sample must be performed to identify the major radioactive constituents present and the appropriate organ and total body doses shall be calculated to determine compliance.~~

~~(iii) For iodine-131, a composite of five consecutive daily samples shall be analyzed once each quarter. As ordered by the Executive Secretary, more frequent monitoring shall be conducted when iodine-131 is identified in the finished water.~~

~~(iv) Annual monitoring for strontium-90 and tritium shall be conducted by means of the analysis of a composite of four consecutive quarterly samples or analysis of four quarterly samples. The latter procedure is recommended.~~

~~(v) The Executive Secretary may allow the substitution of environmental surveillance data taken in conjunction with a nuclear facility for direct monitoring of man-made radioactivity by the supplier of water where the Executive Secretary determines such data is applicable to a particular water system.~~

~~(3) Procedures if a Radionuclide MCL is Exceeded~~
~~(a) Gross alpha and total radium~~
~~If the average annual maximum contaminant level for gross alpha particle activity or total radium is exceeded, the supplier of a community water system shall give notice as required by R309-220. Monitoring at quarterly intervals shall be continued until the annual average concentration no longer exceeds the maximum contaminant level or until a monitoring schedule as a condition to a variance, exemption or enforcement action shall become effective.~~
~~(b) Man-made radioactivity~~
~~If the average annual maximum contaminant level for man-made radioactivity set forth in R309-200-5(4) is exceeded, the operator of a community water system shall give notice as required by R309-309-220. Monitoring at monthly intervals shall be continued until the concentration no longer exceeds the maximum contaminant level or until a monitoring schedule as a condition to a variance, exemption or enforcement action shall become effective.~~
~~(c) An appropriate treatment process as approved by the Executive Secretary may be required.~~]

R309-205-8. Turbidity.

(1) Routine Monitoring Requirements for Public Water Systems utilizing Ground Water Sources

The frequency of required turbidity monitoring or the lack of any required monitoring listed below may be increased or changed by the Executive Secretary. Monitoring and reporting of water characteristics such as turbidity, conductivity, pH, and temperature of ground water sources and nearby surface water sources may be required so as to provide sufficient information on water characteristics so that the Executive Secretary may classify existing ground water sources as required by R309-505-7(1)(a)(i)(A).

(a) All community water systems shall monitor ground water sources for turbidity once every three years.

(b) Non-transient non-community water systems are not required to monitor ground water sources for turbidity unless so ordered by the Executive Secretary.

(c) Transient non-community water systems are not required to monitor ground water sources for turbidity unless so ordered by the Executive Secretary.

(d) Samples may be taken from a representative location in the distribution system. However, the Executive Secretary may require that samples be collected from each individual source.

(2) Procedures if Ground Water Source Turbidity Limit is Exceeded

If the result of an analysis of water from a ground water source or combination of ground water sources indicates that the turbidity limit of 5 NTUs is exceeded, the system shall collect three additional analyses at the same sampling point within one month. When the average of these four analyses (rounded to the same number of significant figures as the limit) exceeds the maximum turbidity limit, the system shall give public notice as required in R309-220. Where the raw water turbidity of developed spring or well water is in excess of 5 NTU, as measured by the average of the four samples, the spring or well is subject to re-classification by the Executive Secretary and it may be necessary that the raw water receive complete treatment as described in R309-525 or R309-530 of these rules or its equivalent as approved by the Executive Secretary. Monitoring after public notification shall be at a frequency and duration designated by the Executive Secretary.

(3) Turbidity monitoring requirements for surface water and ground water sources under the direct influence of surface water are specified in R309-215-9[~~R309-215-8(3)~~].

KEY: drinking water, source monitoring, compliance determinations
December 16[~~August 12~~], 2002
Notice of Continuation April 16, 2001
19-4-104
63-46b-4

Environmental Quality, Drinking Water
R309-210
Monitoring and Water Quality: Distribution System Monitoring Requirements

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 25490
FILED: 10/11/2002, 16:00

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This filing is to adopt the requirements contained in the federal Interim Enhanced Surface Water Treatment Rule, the Disinfection/Disinfection By-Products Rule, and Radionuclide Rule. These changes are required in order to maintain primacy.

SUMMARY OF THE RULE OR CHANGE: This rule change includes modifying the disinfection by-products monitoring time frame and sampling plans; adds monitoring requirements for haloacetic acids, bromate and chlorite; and adds monitoring requirements for disinfectant residuals.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-4-104, and Safe Drinking Water Act (amended Aug. 6, 1996), Title XIV, Section 1419

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: Five full-time equivalents as an aggregate for the changes in Rules R309-105, R309-200, R309-205, R309-210, R309-215, R309-525, and R309-530. This staffing increase has already been authorized by the 2002 Legislature with funding coming from the federal SRF (state revolving loan funds). (DAR NOTE: The proposed amendments to R309-105 (DAR No. 25486), R309-200 (DAR No. 25488), R309-205 (DAR No. 25489), R309-210 (DAR No. 25490), R309-215 (DAR No. 25491), R309-525 (DAR No. 25493), and R309-530 (DAR No. 25494) are all found in this Bulletin.)
❖ LOCAL GOVERNMENTS: Costs will vary by water system size, sources utilized, and treatment applied. EPA estimates the total national annual cost at $1,072,000. Utah has approximately 0.5% of the total number of water systems

nationally making Utah's annual cost estimated at $5,360,000 for the aggregate rule changes.

❖ OTHER PERSONS: Costs will vary depending upon water system size. EPA estimates the cost to vary from $1 to $400 per household per year with 95% of the water systems affected having households in the $1 to $12 per year cost category for the aggregate rule changes.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Compliance costs for this aggregate rule change will vary depending upon the water system size, type of source, and type of treatment. EPA estimates the cost to vary from $1 to $400 per household per year with 95% of the systems affected having households in the $1 to $12 per year cost category.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The Department of Environmental Quality agrees with the comments listed under the Cost or Savings statements and the Compliance costs for affected persons above. It is important to note that the cost of this aggregate rule change to public water systems and their consumers will occur independent of this rule action. These requirements will be applied by the federal government if these rules are not adopted by Utah. Dianne R. Nielson, Ph.D., Executive Director

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

ENVIRONMENTAL QUALITY
DRINKING WATER
150 N 1950 W
SALT LAKE CITY UT 84116-3085, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Ken Bousfield or Patti Fauver at the above address, by phone at 801-536-4207 or 801-536-4196, by FAX at 801-536-4211 or 801-536-4211, or by Internet E-mail at kbousfield@utah.gov or pfauver@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 12/02/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 12/03/2002

AUTHORIZED BY: Kevin Brown, Director

R309. Environmental Quality, Drinking Water.
R309-210. Monitoring and Water Quality: Distribution System Monitoring Requirements.
R309-210-1. Purpose.

The purpose of this rule is to outline the monitoring requirements for public water systems with regard to their distribution systems.

R309-210-2. Authority.
R309-210-3. Definitions.
R309-210-4. General distribution system monitoring requirements.
R309-210-5. Microbiological Monitoring.
R309-210-6. Lead and Copper Monitoring.
R309-210-7. Asbestos Distribution System Monitoring.
R309-210-8. Disinfection Byproducts Monitoring for public water systems.
R309-210-9. Disinfection Byproducts Monitoring for community water systems with only ground water sources that serve a population of 10,000 or greater.

. . . . . .

R309-210-5. Microbiological Monitoring.

(1) Routine Microbiological Monitoring Requirements Applicable to all public water systems (community, non-transient non-community and transient non-community).

(a) Community water systems shall monitor for total coliforms at a frequency based on the population served, as follows:

TABLE 210-1
TOTAL COLIFORM MONITORING FREQUENCY
FOR PUBLIC WATER SYSTEMS

Population served			Minimum number of samples per month
25	to	1,000	1
1,001	to	2,500	2
2,501	to	3,300	3
3,301	to	4,100	4
4,101	to	4,900	5
4,901	to	5,800	6
5,801	to	6,700	7
6,701	to	7,600	8
7,601	to	8,500	9
8,501	to	12,900	10
12,901	to	17,200	15
17,201	to	21,500	20
21,501	to	25,000	25
25,001	to	33,000	30
33,001	to	41,000	40
41,001	to	50,000	50
50,001	to	59,000	60
59,001	to	70,000	70
70,001	to	83,000	80
83,001	to	96,000	90
96,001	to	130,000	100
130,001	to	220,000	120
220,001	to	320,000	150
320,001	to	450,000	180
450,001	to	600,000	210
600,001	to	780,000	240
780,001	to	970,000	270
970,001	to	1,230,000	300
1,230,001	to	1,520,000	330
1,520,001	to	1,850,000	360
1,850,001	to	2,270,000	390
2,270,001	to	3,020,000	420
3,020,001	to	3,960,000	450
3,960,001	or	more	480

The 25 - 1,000 population figure includes public water systems which have at least 15 service connections, but serve fewer than 25 persons.

(b) Non-transient non-community water systems shall monitor for total coliforms as follows:

(i) A system using only ground water (except ground water under the direct influence of surface water) and serving 1,000 or fewer shall monitor each calendar quarter that the system provides water to the public.

(ii) A system using only ground water (except ground water under the direct influence of surface water) and serving more than 1,000 persons during any month shall monitor at the same frequency as a like-sized community water system, as specified in Table 210-1. The Executive Secretary may reduce the monitoring frequency for any month the system serves 1,000 persons or fewer. In no case may the required monitoring be reduced to less than once per calendar quarter.

(iii) A system using surface water, in total or in part, shall monitor at the same frequency as a like-sized community water system, as specified in Table 210-1.

(iv) A system using ground water under the direct influence of surface water shall monitor at the same frequency as a like-sized community water system, as specified in Table 210-1. The system shall begin monitoring at this frequency beginning six months after the Executive Secretary determines that the ground water is under the direct influence of surface water.

(c) Non-community water systems shall monitor for total coliforms as specified in R309-210-5(1)(b).

(d) The samples shall be collected at points which are representative of water throughout the distribution system according to a written sampling plan. This plan is subject to the approval of the Executive Secretary.

(e) A public water system shall collect samples at regular time intervals throughout the month, except that a system which uses only ground water (except ground water under the direct influence of surface water) and serves 4,900 persons or fewer, may collect all required samples on a single day if they are taken from different sites.

(f) A public water system that uses inadequately treated surface water or inadequately treated ground water under the direct influence of surface water shall collect and analyze for total coliforms at least one sample each day the turbidity level of the source water exceeds 1 NTU. This sample shall be collected near the first service connection from the source. The system shall collect the sample within 24 hours of the time when the turbidity level was first exceeded. The sample shall be analyzed within 30 hours of collection. Sample results from this coliform monitoring shall be included in determining total coliform compliance for that month. The Executive Secretary may extend the 24 hour limitation if the system has a logistical problem that is beyond the system's control. In the case of an extension the Executive Secretary shall specify how much time the system has to collect the sample.

(2) Procedures if a Routine Sample is Total Coliform-Positive

(a) Repeat sampling -

The water system shall collect a set of repeat samples within 24 hours of being notified of the total coliform-positive sample result. The number of repeat samples required to be taken is specified in Table 210-2. The Executive Secretary may extend the 24 hour limitation if the system has a logistical problem that is beyond its control. In the case of an extension the Executive Secretary shall specify how much time the system has to collect the repeat samples.

TABLE 210-2
REPEAT AND ADDITIONAL SAMPLE MONITORING FREQUENCY

Population Served by the system	# Routine Samples per month	# Repeats for each Total-Coliform Positive sample Within 24 hours	# Samples in ADDITION to the Routine samples the following month
25-1000/See Note 1 below	1	4	4
1000-2500	2	3	3
2501-3300	3	3	2
3301-4100	4	3	1
greater than 4100	5 or more	3	No additional samples required. Refer to Table 210-1 for # of Routine samples

NOTE 1: The population category 25 - 1000 includes all non-transient non-community and non-community water systems. Non-transient non-community and non-community systems are only are required to sample once per calendar quarter on a routine basis for those quarters the system is in operation.

Repeat and Additional Routine samples are only required if a Routine Sample is Total Coliform-Positive.

(b) Repeat sampling locations -

The system shall collect the repeat samples from the following locations:

(i) One from the original sample site;

(ii) One within 5 service connections upstream;

(iii) One within 5 service connections downstream;

(iv) If required, one from any site mentioned above.

If a total coliform-positive sample is at the end of the distribution system, or next to the end of the distribution system, the Executive Secretary may waive the requirement to collect at least one repeat sample upstream or downstream of the original sampling site.

(c) The system shall collect all repeat samples on the same day, except that the Executive Secretary may allow a system with a single service connection to collect the required set of repeat samples on consecutive days.

(d) Additional repeat samples - If one or more repeat samples in a set is total coliform-positive, the system shall collect an additional set of repeat samples as specified in (a), (b) and (c) of this subsection. The additional repeat samples shall be collected within 24 hours of being notified of the positive result, unless the Executive Secretary extends the time limit because of a logistical problem. The system shall repeat this process until either total coliforms are not detected in one complete set of repeat samples or the system determines that the total coliform MCL has been exceeded and notifies the Executive Secretary and begins the required public notification.

(e) If a system collecting fewer than five routine samples per month has one or more total coliform-positive samples and the Executive Secretary does not invalidate the sample under R309-210-5(4), it shall collect at least five routine samples during the next month the system provides water to the public. Refer to Table 210-2 for the number of additional samples required.

(i) The Executive Secretary may waive the requirement to collect five routine samples the next month the system provides

water to the public if the Executive Secretary has determined why the sample was total coliform-positive and establishes that the system has corrected the problem or will correct the problem before the end of the next month the system serves water to the public. In this case:

(A) The Executive Secretary shall document this decision in writing; and

(B) The Executive Secretary or his representative shall sign the document; and

(C) The Executive Secretary will make the document available to the EPA and the public.

(ii) The Executive Secretary cannot waive the additional samples in the following month solely because all repeat samples are total coliform-negative.

(iii) If the additional samples in the following month are waived, a system shall still take the minimum number of routine samples required in Table 210-1 of R309-210-5(1) before the end of the next month and use it to determine compliance with the total coliform MCL.

(f) Samples to be included in calculations - Results of all routine and repeat samples not invalidated in writing by the Executive Secretary shall be included in determining compliance with the total coliform MCL.

(g) Samples not to be included in calculations - Special purpose and investigative samples, such as those taken to determine the efficiency of disinfection practices following such operations as pipe replacement or repair, may not be used to determine compliance with the MCL for total coliforms. These samples shall be identified as special purpose or investigative at the time of collection.

(3) Response to violation

(a) A public water system which has exceeded the MCL for total coliforms as specified in R309-200-5(6) shall report the violation to the Executive Secretary no later than the end of the next business day after it learns of the violation, and notify the public in accordance with R309-220.

(b) A public water system which has failed to comply with a coliform monitoring requirement shall report the monitoring violation to the Executive Secretary within ten days after the system discovers the violation and notify the public in accordance with R309-220.

(4) Invalidation of Total Coliform-Positive Samples

An invalidated total coliform-positive sample does not count towards meeting the minimum monitoring requirements of R309-210-5(1) and R309-210-5(2). A total coliform-positive sample may not be invalidated solely on the basis of all repeat samples being total coliform-negative.

(a) The Executive Secretary may invalidate a total coliform-positive sample only if one of the following conditions are met:

(i) The laboratory establishes that improper sample analysis caused the total coliform-positive result; or

(ii) On the basis of the results of repeat samples collected as required in R309-210-5(2), the total coliform-positive sample resulted from a non-distribution system plumbing problem on the basis that all repeat samples taken at the same tap as the original total coliform-positive are total coliform-positive, but all repeat samples within five service connections are total coliform-negative; or

(iii) Substantial grounds exist to establish that the total coliform-positive result is due to a circumstance or condition which does not reflect water quality in the distribution system. In this case:

(A) The Executive Secretary shall document this decision in writing; and

(B) The Executive Secretary or his representative shall sign the document; and

(C) The Executive Secretary will make the document available to the EPA and the public. The system shall still collect the required repeat samples as outlined in R309-210-5(2) in order to determine compliance with the MCL.

(b) A laboratory shall invalidate a total coliform sample (unless total coliforms are detected) if the results are indeterminate because of possible interference. A system shall collect and have analyzed, another total coliform sample from the same location as the original sample within 24 hours of being notified of the indeterminate result. The system shall continue to resample within 24 hours of notification of indeterminate results and have the samples analyzed until a valid sample result is obtained. The 24-hour time limit may be waived by the Executive Secretary on a case-by-case basis if the system has logistical problems beyond its control. Interference for each type of analysis is listed below.

(i) The sample produces a turbid culture in the absence of gas production when using an analytical method where gas formation is examined.

(ii) The sample produces a turbid culture in the absence of an acid reaction when using the Presence-Absence Coliform Test.

(iii) The sample exhibits confluent growth or produces colonies too numerous to count when using an analytical method using a membrane filter.

(5) Fecal coliforms/Escherichia coli (E. coli) testing

(a) If any routine sample, repeat sample or additional sample is total coliform-positive, the system shall have the total coliform-positive culture medium analyzed to determine if fecal coliforms are present. The system may test for E. coli in lieu of fecal coliforms.

(b) Notification of Executive Secretary[~~State~~] and public - If fecal coliforms or E. coli are confirmed present (as per R309-200-5(6)(b)), the system shall notify the Executive Secretary by the end of the day when the system is notified of the test results. If the system is notified after the Division of Drinking Water has closed, the system shall notify the Executive Secretary before the close of the next business day and begin public notification using the mandatory health effects language R309-220) within 72 hours.

(c) The Executive Secretary may allow a system to forego the analysis for fecal coliforms or E. coli, if the system assumes that the total coliform positive sample is fecal coliform-positive or E. coli-positive. The system must notify the Executive Secretary of this decision and begin the required public notification.

(6) Best Available Technology

The Executive Secretary may require an appropriate treatment process using the best available technology (BAT) in order to bring the water into compliance with the maximum contaminant level for microbiological quality. The BAT will be determined by the Executive Secretary.

R309-210-6. Lead and Copper Monitoring.

(1) General requirements.

(a) Applicability and effective dates

(i) The requirements of R309-210-6. unless otherwise indicated, apply to community water systems and non-transient non-community water systems (hereinafter referred to as water systems or systems).

(ii) The requirements in R309-210-6(2), R309-210-6(4), and R309-210-6(7) shall take effect December 7, 1992.

(b) R309-210-6 establishes a treatment technique that includes requirements for corrosion control treatment, source water treatment, lead service line replacement, and public education. These requirements are triggered, in some cases, by lead and copper action levels measured in samples collected at consumers' taps.

(c) Corrosion control treatment requirements

(i) All water systems shall install and operate optimal corrosion control treatment. However, any water system that complies with the applicable corrosion control treatment requirements specified by the Executive Secretary under R309-210-6(2) and R309-210-6(4)(a) shall be deemed in compliance with this treatment requirement.

(d) Source water treatment requirements

Any system exceeding the lead or copper action level shall implement all applicable source water treatment requirements specified by the Executive Secretary under R309-210-6(4)(b).

(e) Lead service line replacement requirements

Any system exceeding the lead action level after implementation of applicable corrosion control and source water treatment requirements shall complete the lead service line replacement requirements contained in R309-210-6(4)(c).

(f) Public education requirements

Any system exceeding the lead action level shall implement the public education requirements contained in R309-210-6(7).

(g) Monitoring and analytical requirements

Tap water monitoring for lead and copper, monitoring for water quality parameters, source water monitoring for lead and copper, and analyses of the monitoring results shall be completed in compliance with R309-210-6(3), R309-210-6(5), R309-210-6(6) and R309-200-8.

(h) Reporting requirements

Systems shall report to the Executive Secretary any information required by the treatment provisions of this subpart and R309-210-6(8).

(i) Recordkeeping requirements

Systems shall maintain records in accordance with R309-105-17(2).

(j) Violation of primary drinking water rules

Failure to comply with the applicable requirements of R309-210-6., including requirements established by the Executive Secretary pursuant to these provisions, shall constitute a violation of the primary drinking water regulations for lead and/or copper.

(2) Applicability of corrosion control treatment steps to small, medium-size and large water systems.

(a) Systems shall complete the applicable corrosion control treatment requirements described in R309-210-6(4)(a) by the deadlines established in this section.

(i) A large system (serving greater than 50,000 persons) shall complete the corrosion control treatment steps specified in R309-210-6(2)(d), unless it is deemed to have optimized corrosion control under R309-210-6(2)(b)(ii) or (b)(iii).

(ii) A small system (serving less than 3300 persons) and a medium-size system (serving greater than 3,300 and less than 50,000 persons) shall complete the corrosion control treatment steps specified in R309-210-6(2)(e), unless it is deemed to have optimized corrosion control under R309-210-6(2)(b)(i), (b)(ii), or (b)(iii).

(b) A system is deemed to have optimized corrosion control and is not required to complete the applicable corrosion control treatment steps identified in this section if the system satisfies one of the criteria in paragraphs (b)(i) through (b)(iii) of this section. Any such system deemed to have optimized corrosion control under this paragraph, and which has treatment in place, shall continue to operate and maintain optimal corrosion control treatment and meet any requirements that the Executive Secretary determines appropriate to ensure optimal corrosion control treatment is maintained.

(i) A small or medium-size water system is deemed to have optimized corrosion control if the system meets the lead and copper action levels during each of two consecutive six-month monitoring periods conducted in accordance with R309-210-6(3).

(ii) Any water system may be deemed by the Executive Secretary to have optimized corrosion control treatment if the system demonstrates to the satisfaction of the Executive Secretary that it has conducted activities equivalent to the corrosion control steps applicable to such system under this section. If the Executive Secretary makes this determination, it shall provide the system with written notice explaining the basis for its decision and shall specify the water quality control parameters representing optimal corrosion control in accordance with R309-210-6(4)(a)(vi). Water systems deemed to have optimized corrosion control under this paragraph shall operate in compliance with the Executive Secretary designated[~~State-designated~~] optimal water quality control parameters in accordance with R309-210-6(4)(a)(vii) and continue to conduct lead and copper tap and water quality parameter sampling in accordance with R309-210-6(3)(d)(iii) and R309-210-6(5)(d), respectively. A system shall provide the Executive Secretary with the following information in order to support a determination under this paragraph:

(A) the results of all test samples collected for each of the water quality parameters in R309-210-6(4)(a)(iii)(C).

(B) a report explaining the test methods used by the water system to evaluate the corrosion control treatments listed in R309-210-6(4)(a)(iii)(A), the results of all tests conducted, and the basis for the system's selection of optimal corrosion control treatment;

(C) a report explaining how corrosion control has been installed and how it is being maintained to insure minimal lead and copper concentrations at consumers' taps; and

(D) the results of tap water samples collected in accordance with R309-210-6(3) at least once every six months for one year after corrosion control has been installed.

(iii) Any water system is deemed to have optimized corrosion control if it submits results of tap water monitoring conducted in accordance with R309-210-6(3) and source water monitoring conducted in accordance with R309-210-6(6) that demonstrates for two consecutive six-month monitoring periods that the difference between the 90th percentile tap water lead level computed under R309-200-5(2)(c), and the highest source water lead concentration, is less than the Practical Quantitation Level (PQL) for lead as specified in R309-104-8.

(A) Those systems whose highest source water lead level is below the Method Detection Limit may also be deemed to have optimized corrosion control under this paragraph if the 90th percentile tap water lead level is less than or equal to the Practical Quantitation Level for lead for two consecutive 6-month monitoring periods.

(B) Any water system deemed to have optimized corrosion control in accordance with this paragraph shall continue monitoring for lead and copper at the tap no less frequently than once every three calendar years using the reduced number of sites specified in R309-210-6(3)(c) and collecting the samples at times and locations specified in R309-210-6(3)(d)(iv)(D). Any such system that has not conducted a round of monitoring pursuant to R309-210-6(3)(d) since

September 30, 1997, shall complete a round of monitoring pursuant to this paragraph no later than September 30, 2000.

(C) Any water system deemed to have optimized corrosion control pursuant to this paragraph shall notify the Executive Secretary in writing pursuant to R309-210-6(8)(a)(iii) of any change in treatment or the addition of a new source. The Executive Secretary may require any such system to conduct additional monitoring or to take other action the Executive Secretary deems appropriate to ensure that such systems maintain minimal levels of corrosion in the distribution system.

(D) As of July 12, 2001, a system is not deemed to have optimized corrosion control under this paragraph, and shall implement corrosion control treatment pursuant to paragraph (b)(iii)(E) of this section unless it meets the copper action level.

(E) Any system triggered into corrosion control because it is no longer deemed to have optimized corrosion control under this paragraph shall implement corrosion control treatment in accordance with the deadlines in paragraph (e) of this section. Any such large system shall adhere to the schedule specified in that paragraph for medium-size systems, with the time periods for completing each step being triggered by the date the system is no longer deemed to have optimized corrosion control under this paragraph.

(c) Any small or medium-size water system that is required to complete the corrosion control steps due to its exceedance of the lead or copper action level may cease completing the treatment steps whenever the system meets both action levels during each of two consecutive monitoring periods conducted pursuant to R309-210-6(3) and submits the results to the Executive Secretary. If any such water system thereafter exceeds the lead or copper action level during any monitoring period, the system (or the Executive Secretary, as the case may be) shall recommence completion of the applicable treatment steps, beginning with the first treatment step which was not previously completed in its entirety. The Executive Secretary may require a system to repeat treatment steps previously completed by the system where the Executive Secretary determines that this is necessary to implement properly the treatment requirements of this section. The Executive Secretary shall notify the system in writing of such a determination and explain the basis for its decision. The requirement for any small or medium size system to implement corrosion control treatment steps in accordance with paragraph (e) of this section (including systems deemed to have optimized corrosion control under paragraph (b)(i) of this section) is triggered whenever any small or medium size system exceeds the lead or copper action level.

(d) Treatment steps and deadlines for large systems

Except as provided in R309-210-6(2)(b)(ii) and (b)(iii), large systems shall complete the following corrosion control treatment steps by the indicated dates.

(i) Step 1: The system shall conduct initial monitoring (R309-210-6(3)(d)(i) and R309-210-6(5)(b)) during two consecutive six-month monitoring periods by January 1, 1993.

(ii) Step 2: The system shall complete corrosion control studies (R309-210-6(4)(a)(iii)) by July 1, 1994.

(iii) Step 3: The Executive Secretary shall designate optimal corrosion control treatment (R309-210-6(4)(a)(iv)) by January 1, 1995.

(iv) Step 4: The system shall install optimal corrosion control treatment (R309-210-6(4)(a)(v)) by January 1, 1997.

(v) Step 5: The system shall complete follow-up sampling (R309-210-6(3)(d)(ii) and R309-210-6(5)(c)) by January 1, 1998.

(vi) Step 6: The Executive Secretary shall review installation of treatment and designate optimal water quality control parameters (R309-210-6(4)(a)(vi)) by July 1, 1998.

(vii) Step 7: The system shall operate in compliance with the Executive Secretary specified[~~State-specified~~] optimal water quality control parameters (R309-210-6(4)(a)(vii)) and continue to conduct tap sampling (R309-210-6(3)(d)(iii) and R309-210-6(5)(d)).

(e) Treatment steps and deadlines for small and medium-size systems

Except as provided in R309-210-6(2)(b), small and medium-size systems shall complete the following corrosion control treatment steps by the indicated time periods.

(i) Step 1: The system shall conduct initial tap sampling (R309-210-6(3)(d)(i) and R309-210-6(5)(b) until the system either exceeds the lead or copper action level or becomes eligible for reduced monitoring under R309-210-6(3)(d)(iv). A system exceeding the lead or copper action level shall recommend optimal corrosion control treatment (R309-210-6(4)(a)(i)) within six months after it exceeds one of the action levels.

(ii) Step 2: Within 12 months after a system exceeds the lead or copper action level, the Executive Secretary may require the system to perform corrosion control studies (R309-210-6(4)(a)(ii)). If the Executive Secretary does not require the system to perform such studies, the Executive Secretary shall specify optimal corrosion control treatment (R309-210-6(4)(a)(iv)) within the following time-frames:

(A) for medium-size systems, within 18 months after such system exceeds the lead or copper action level,

(B) for small systems, within 24 months after such system exceeds the lead or copper action level.

(iii) Step 3: If the Executive Secretary requires a system to perform corrosion control studies under step 2, the system shall complete the studies (R309-210-6(4)(a)(iii)) within 18 months after the Executive Secretary requires that such studies be conducted.

(iv) Step 4: If the system has performed corrosion control studies under step 2, the Executive Secretary shall designate optimal corrosion control treatment (R309-210-6(4)(a)(iv)) within 6 months after completion of step 3.

(v) Step 5: The system shall install optimal corrosion control treatment (R309-210-6(4)(a)(v)) within 24 months after the Executive Secretary designates such treatment.

(vi) Step 6: The system shall complete follow-up sampling (R309-210-6(3)(d)(ii) and R309-210-6(5)(c)) within 36 months after the Executive Secretary designates optimal corrosion control treatment.

(vii) Step 7: The Executive Secretary shall review the system's installation of treatment and designate optimal water quality control parameters (R309-210-6(4)(a)(vi)) within 6 months after completion of step 6.

(viii) Step 8: The system shall operate in compliance with the Executive Secretary-designated optimal water quality control parameters (R309-210-6(4)(a)(vii)) and continue to conduct tap sampling (R309-210-6(3)(d)(iii) and R309-210-6(5)(d)).

(3) Monitoring requirements for lead and copper in tap water.

(a) Sample site location

(i) By the applicable date for commencement of monitoring under R309-210-6(3)(d)(i), each water system shall complete a materials evaluation of its distribution system in order to identify a pool of targeted sampling sites that meets the requirements of this section, and which is sufficiently large to ensure that the water system can collect the number of lead and copper tap samples

required in R309-210-6(3)(c). All sites from which first draw samples are collected shall be selected from this pool of targeted sampling sites. Sampling sites may not include faucets that have point-of-use or point-of-entry treatment devices designed to remove inorganic contaminants.

(ii) A water system shall use the information on lead, copper, and galvanized steel when conducting a materials evaluation. When an evaluation of this information is insufficient to locate the requisite number of lead and copper sampling sites that meet the targeting criteria in R309-210-6(3)(a), the water system shall review the sources of information listed below in order to identify a sufficient number of sampling sites. In addition, the system shall seek to collect such information where possible in the course of its normal operations (e.g., checking service line materials when reading water meters or performing maintenance activities):

(A) all plumbing codes, permits, and records in the files of the building department(s) which indicate the plumbing materials that are installed within publicly and privately owned structures connected to the distribution system;

(B) all inspections and records of the distribution system that indicate the material composition of the service connections that connect a structure to the distribution system; and

(C) all existing water quality information, which includes the results of all prior analyses of the system or individual structures connected to the system, indicating locations that may be particularly susceptible to high lead or copper concentrations.

(iii) The sampling sites selected for a community water system's sampling pool ("tier 1 sampling sites") shall consist of single family structures that:

(A) contain copper pipes with lead solder installed after 1982 or contain lead pipes; and/or

(B) are served by a lead service line.

When multiple-family residences comprise at least 20 percent of the structures served by a water system, the system may include these types of structures in its sampling pool.

(iv) Any community water system with insufficient tier 1 sampling sites shall complete its sampling pool with "tier 2 sampling sites", consisting of buildings, including multiple-family residences that:

(A) contain copper pipes with lead solder installed after 1982 or contain lead pipes; and/or

(B) are served by a lead service line.

(v) Any community water system with insufficient tier 1 and tier 2 sampling sites shall complete its sampling pool with "tier 3 sampling sites", consisting of single family structures that contain copper pipes with lead solder installed before 1983. A community water system with insufficient tier 1, tier 2 and tier 3 sampling sites shall complete its sampling pool with representative sites throughout the distribution system. For the purpose of this paragraph, a representative site is a site in which the plumbing materials used at that site would be commonly found at other sites served by the water system.

(vi) The sampling sites selected for a non-transient non-community water system ("tier 1 sampling sites") shall consist of buildings that:

(A) contain copper pipes with lead solder installed after 1982 or contain lead pipes; and/or

(B) are served by a lead service line.

(vii) A non-transient non-community water system with insufficient tier 1 sites that meet the targeting criteria in R309-210-6(3)(a)(vi) shall complete its sampling pool with sampling sites that contain copper pipes with lead solder installed before 1983. If additional sites are needed to complete its sampling pool, the non-transient non-community water system shall use representative sites throughout the distribution system. For the purpose of this paragraph, a representative site is a site in which the plumbing materials used at that site would be commonly found at other sites served by the water system.

(viii) Any water system whose distribution system contains lead service lines shall draw 50 percent of the samples it collects during each monitoring period from sites that contain lead pipes, or copper pipes with lead solder, and 50 percent of the samples from sites served by a lead service line. A water system that cannot identify a sufficient number of sampling sites served by a lead service line shall collect first draw samples from all of the sites identified as being served by such lines.

(b) Sample collection methods

(i) All tap samples for lead and copper collected in accordance with this section, with the exception of lead service line samples collected under R309-210-6(4)(c)(iii) and samples collected under (b)(v) of this section, shall be first draw samples.

(ii) Each first-draw tap sample for lead and copper shall be one liter in volume and have stood motionless in the plumbing system of each sampling site for at least six hours. First draw samples from residential housing shall be collected from the cold water kitchen tap or bathroom sink tap. First-draw samples from a nonresidential building shall be one liter in volume and shall be collected at an interior tap from which water is typically drawn for consumption. Non-first-draw samples collected in lieu of first-draw samples pursuant to paragraph (b)(v) of this section shall be one liter in volume and shall be collected at an interior tap from which water is typically drawn for consumption. First draw samples may be collected by the system or the system may allow residents to collect first draw samples after instructing the residents of the sampling procedures specified in this paragraph. To avoid problems with residents handling nitric acid, acidification of first draw samples may be done up to fourteen days after the sample is collected. After acidification to resolubilize the metals, the sample must stand in the original container for the time specified in R309-200-4(3). If a system allows residents to perform sampling, the system may not challenge, based on alleged errors in sample collection, the accuracy of sampling results.

(iii) Each service line sample shall be one liter in volume and have stood motionless in the lead service line for at least six hours. Lead service line samples shall be collected in one of the following three ways:

(A) at the tap after flushing the volume of water between the tap and the lead service line. The volume of water shall be calculated based on the interior diameter and length of the pipe between the tap and the lead service line;

(B) tapping directly into the lead service line; or

(C) if the sampling site is a building constructed as a single-family residence, allowing the water to run until there is a significant change in temperature which would be indicative of water that has been standing in the lead service line.

(iv) A water system shall collect each first draw tap sample from the same sampling site from which it collected a previous sample. If, for any reason, the water system cannot gain entry to a sampling site in order to collect a follow-up tap sample, the system may collect the follow-up tap sample from another sampling site in its sampling pool as long as the new site meets the same targeting criteria, and is within reasonable proximity of the original site.

(v) A non-transient non-community water system, or a community water system that meets the criteria for R309-210-6(7)(c)(vii)(A) and (B), that does not have enough taps that can supply first draw samples, as defined in R309-110, may apply to the Executive Secretary in writing to substitute non-first-draw samples. Such systems must collect as many first draw samples from appropriate taps as possible and identify sampling times and locations that would likely result in the longest standing time for the remaining sites. The Executive Secretary herein waives the requirement for prior Executive Secretary[~~State~~] approval of non-first draw samples sites selected by the system.

(c) Number of samples

Water systems shall collect at least one sample during each monitoring period specified in R309-210-6(3)(d) from the number of sites listed in the first column (standard monitoring) in Table 210-3. A system conducting reduced monitoring under R309-210-6(3)(d)(iv) may collect one sample from the number of sites specified in the second column (reduced monitoring) in Table 210-3 during each monitoring period specified in R309-210-6(3)(d)(iv). Such reduced monitoring sites shall be representative of the sites required for standard monitoring. The Executive Secretary[~~States~~] may specify sampling locations when a system is conducting reduced monitoring to ensure that fewer number of sampling sites are representative of the risk to public health as outlined in R309-210-6(3)(a).

TABLE 210-3
NUMBER OF LEAD AND COPPER SAMPLING SITES

System Size (# People Served)	# of sites (Standard Monitoring)	# of sites (Reduced Monitoring)
Greater than 100,000	100	50
10,001-100,000	60	30
3,301 to 10,000	40	20
501 to 3,300	20	10
101 to 500	10	5
100 or less	5	5

(d) Timing of monitoring

(i) Initial tap sampling

The first six-month monitoring period for small, medium-size and large systems shall begin on the following dates in Table 210-4:

TABLE 210-4
INITIAL LEAD AND COPPER MONITORING PERIODS

System Size (# People Served)	First six-month Monitoring Period Begins On
Greater than 50,000	January 1, 1992
3,301 to 50,000	July 1, 1992
3,300 or less	July 1, 1993

(A) All large systems shall monitor during two consecutive six-month periods.

(B) All small and medium-size systems shall monitor during each six-month monitoring period until:

(I) the system exceeds the lead or copper action level and is therefore required to implement the corrosion control treatment requirements under R309-210-6(2), in which case the system shall continue monitoring in accordance with R309-210-6(3)(d)(ii), or

(II) the system meets the lead and copper action levels during two consecutive six-month monitoring periods, in which case the system may reduce monitoring in accordance with R309-210-6(3)(d)(iv).

(ii) Monitoring after installation of corrosion control and source water treatment

(A) Any large system which installs optimal corrosion control treatment pursuant to R309-210-6(2)(d)(iv) shall monitor during two consecutive six-month monitoring periods by the date specified in R309-210-6(2)(d)(v).

(B) Any small or medium-size system which installs optimal corrosion control treatment pursuant to R309-210-6(2)(e)(v) shall monitor during two consecutive six-month monitoring periods by the date specified in R309-210-6(2)(e)(vi).

(C) Any system which installs source water treatment pursuant to R309-210-6(4)(b)(i)(C) shall monitor during two consecutive six-month monitoring periods by the date specified in R309-210-6(4)(b)(i)(D).

(iii) Monitoring after Executive Secretary[~~State~~] specifies water quality parameter values for optimal corrosion control

After the Executive Secretary specifies the values for water quality control parameters under R309-210-6(4)(a)(vi), the system shall monitor during each subsequent six-month monitoring period, with the first monitoring period to begin on the date the Executive Secretary specifies the optimal values under R309-210-6(4)(a)(vi).

(iv) Reduced monitoring

(A) A small or medium-size water system that meets the lead and copper action levels during each of two consecutive six-month monitoring periods may reduce the number of samples in accordance with R309-210-6(3)(c), Table 210-3, and reduce the frequency of sampling to once per year.

(B) Any water system that maintains the range of values for the water quality control parameters reflecting optimal corrosion control treatment specified by the Executive Secretary under R309-210-6(4)(a)(vi) during each of two consecutive six-month monitoring periods may reduce the frequency of monitoring to once per year and reduce the number of lead and copper samples in accordance with R309-210-6(3)(c), Table 210-3 if it receives written approval from the Executive Secretary. The Executive Secretary shall review monitoring, treatment, and other relevant information submitted by the water system in accordance with R309-210-6(8), and shall notify the system in writing when it determines the system is eligible to commence reduced monitoring pursuant to this paragraph. The Executive Secretary shall review, and where appropriate, revise its determination when the system submits new monitoring or treatment data, or when other data relevant to the number and frequency of tap sampling becomes available.

(C) A small or medium-size water system that meets the lead and copper action levels during three consecutive years of monitoring may reduce the frequency of monitoring for lead and copper from annually to once every three years. Any water system that maintains the range of values for the water quality control parameters reflecting optimal corrosion control treatment specified by the Executive Secretary under R309-210-6(4)(a)(vi) during three consecutive years of monitoring may reduce the frequency of monitoring from annually to once every three years if it receives written approval from the Executive Secretary The Executive Secretary shall review monitoring, treatment, and other relevant information submitted by the water system in accordance with R309-210-6(8), and shall notify the system in writing when it determines the system is eligible to commence reduced monitoring to once every three years. The Executive Secretary shall review, and where appropriate, revise its determination when the system submits new monitoring or treatment data, or when other data relevant to the number and frequency of tap sampling becomes available.

(D) A water system that reduces the number and frequency of sampling shall collect these samples from representative sites included in the pool of targeted sampling sites identified in R309-210-6(3)(a). Systems sampling annually or less frequently shall conduct the lead and copper tap sampling during the months of June, July, August or September unless the Executive Secretary has approved a different sampling period in accordance with paragraph (d)(iv)(D)(I) of this section.

(I) The Executive Secretary, at its discretion, may approve a different period for conducting the lead and copper sampling for systems collecting a reduced number of samples. Such a period shall be no longer than four consecutive months and must represent a time of normal operation where the highest levels of lead are most likely to occur. For a non-transient non-community water system that does not operate during the months of June through September, and for which the period of normal operation where the highest levels of lead are most likely to occur is not known, the Executive Secretary shall designate a period that represents a time of normal operation for the system.

(II) Systems monitoring annually, that have been collecting samples during the months of June through September and that receive Executive Secretary approval to alter their sample collection period under paragraph (d)(iv)(D)(I) of this section, must collect their next round of samples during a time period that ends no later than 21 months after the previous round of sampling. Systems monitoring triennially that have been collecting samples during the months of June through September, and receive Executive Secretary approval to alter the sampling collection period as per (d)(iv)(D)(I) of this section, must collect their next round of samples during a time period that ends no later than 45 months after the previous round of sampling. Subsequent rounds of sampling must be collected annually or triennially, as required by this section. Small systems with waivers, granted pursuant to paragraph (g) of this section, that have been collecting samples during the months of June through September and receive Executive Secretary approval to alter their sample collection period under paragraph (d)(iv)(D)(I) of this section must collect their next round of samples before the end of the 9 year period.

(E) Any water system that demonstrates for two consecutive 6 month monitoring periods that the tap water lead level computed under R309-200-5(2)(c) is less than or equal to 0.005 mg/L[~~mg/l~~] and the tap water copper level computed under R309-200-5(2)(c) is less than or equal to 0.65 mg/L[~~mg/l~~] may reduce the number of samples in accordance paragraph (c) of this section and reduce the frequency of sampling to once every three calendar years.

(F)(I) A small or medium-size water system subject to reduced monitoring that exceeds the lead or copper action level shall resume sampling in accordance R309-210-6(3)(d)(iii) and collect the number of samples specified for standard monitoring under R309-210-6(3)(c), Table 210-3. Such system shall also conduct water quality parameter monitoring in accordance with R309-210-6(5)(b), (c) or (d) (as appropriate) during the monitoring period in which it exceeded the action level. Any such system may resume annual monitoring for lead and copper at the tap at the reduced number of sites specified in paragraph (c) of this section after it has completed two subsequent consecutive six month rounds of monitoring that meet the criteria of paragraph (d)(iv)(A) of this section or may resume triennial monitoring for lead and copper at the reduced number of sites after it demonstrates through subsequent rounds of monitoring that it meets the criteria of either paragraph (d)(vi)(C) or (d)(iv)(D) of this section.

(II) Any water system subject to the reduced monitoring frequency that fails to operate at or above the minimum value or within the range of values for the water quality parameters specified by the Executive Secretary under R309-210-6(4)(a)(vi) for more than 9 days in any six month period specified in R309-210-6(5)(d) shall conduct tap water sampling for lead and copper at the frequency specified in paragraph (d)(iii) of this section, collect the number of samples specified for standard monitoring under paragraph (c) of this section, and shall resume monitoring for water quality parameters within the distribution system in accordance with sec R309-210-6(5)(d). Such a system may resume reduced monitoring for lead and copper at the tap and for water quality parameters within the distribution system under the following conditions:

(aa) The system may resume annual monitoring for lead and copper at the tap at the reduced number of sites specified in paragraph (c) of this section after it has completed two subsequent six month rounds of monitoring that meet the criteria of paragraph (d)(iv)(B) of this section and the system has received written approval from the Executive Secretary that it is appropriate to resume reduced monitoring on an annual frequency.

(bb) The system may resume triennial monitoring for lead and copper at the tap at the reduced number of sites after it demonstrates through subsequent rounds of monitoring that it meets the criteria of either paragraph (d)(iv)(C) or (d)(iv)(E) of this section and the system has received written approval from the Executive Secretary that it is appropriate to resume triennial monitoring.

(cc) The system may reduce the number of water quality parameter tap water samples required in accordance with R309-210-6(5)(e)(i) and the frequency with which it collects such samples in accordance with R309-210-6(5)(e)(ii). Such a system may not resume triennial monitoring for water quality parameters at the tap until it demonstrates, in accordance with the requirements of R309-210-6(5)(e)(ii), that it has requalified for triennial monitoring.

(G) Any water system subject to a reduced monitoring frequency under paragraph (d)(iv) of this section that either adds a new source of water or changes any water treatment shall inform the Executive Secretary in writing in accordance with R309-210-6(8)(a)(iii). The Executive Secretary may require the system to resume sampling in accordance with paragraph (d)(iii) of this section and collect the number of samples specified for standard monitoring under paragraph (c) of this section or take other appropriate steps such as increased water quality parameter monitoring or re-evaluation of its corrosion control treatment given the potentially different water quality considerations.

(e) Additional monitoring by systems

The results of any monitoring conducted in addition to the minimum requirements of this section shall be considered by the system and the Executive Secretary in making any determinations (i.e., calculating the 90th percentile lead or copper level).

(f) Invalidation of lead or copper tap water samples. A sample invalidated under this paragraph does not count toward determining lead or copper 90th percentile levels under Sec. 141.80 (c) (3) or toward meeting the minimum monitoring requirements of paragraph (c) of this section.

(i) The Executive Secretary may invalidate a lead or copper tap water sample at least if one of the
following conditions is met.

(A) The laboratory establishes that improper sample analysis caused erroneous results.

(B) The Executive Secretary determines that the sample was taken from a site that did not meet the
site selection criteria of this section.

(C) The sample container was damaged in transit.

(D) There is substantial reason to believe that the sample was subject to tampering.

(ii) The system must report the results of all samples to the Executive Secretary and all supporting
documentation for samples the system believes should be invalidated.

(iii) To invalidate a sample under paragraph (f)(i) of this section, the decision and the
rationale for the decision must be documented in writing. The Executive Secretary may not invalidate a sample solely on the grounds that a follow-up sample result is higher or lower than that of the original sample.

(iv) The water system must collect replacement samples for any samples invalidated under this section if, after the invalidation of one or more samples, the system has too few samples to meet the minimum requirements of paragraph (c) of this section. Any such replacement samples must be taken as soon as possible, but no later than 20 days after the date the Executive Secretary invalidates the sample or by the end of the applicable monitoring period, whichever occurs later. Replacement samples taken after the end of the applicable monitoring period shall not also be used to meet the monitoring requirements of a subsequent monitoring period. The replacement samples shall be taken at the same locations as the invalidated samples or, if that is not possible, at locations other than those already used for sampling during the monitoring period.

(g) Monitoring waivers for small systems. Any small system that meets the criteria of
this paragraph may apply to the Executive Secretary to reduce the frequency of monitoring for lead and copper under this section to once every nine years (i.e., a full waiver) if it meets all of the materials criteria specified in paragraph (g)(i) of this section and all of the monitoring criteria specified in paragraph (g) (ii) of this section. [~~If State regulations permit, any~~]Any small system that meets the criteria in paragraphs (g) (i) and (ii) of this section only for lead, or only for copper, may apply to the Executive Secretary for a waiver to reduce the frequency of tap water monitoring to once ever nine years for that contaminant only (i.e., a partial waiver).

(i) Materials criteria. The system must demonstrate that its distribution system and
service lines and all drinking water supply plumbing, including plumbing conveying drinking water within all residences and buildings connected to the system, are free of lead-containing materials and/or copper-containing materials, as those terms are defined in this paragraph, as follows:

(A) Lead. To qualify for a full waiver, or a waiver of the tap water monitoring requirements for lead (i.e., a lead waiver), the water system must provide certification and supporting documentation to the Executive Secretary that the system is free of all lead-containing materials, as follows:

(I) It contains no plastic pipes which contain lead plasticizers, or plastic service lines
which contain lead plasticizers; and

(II) It is free of lead service lines, lead pipes, lead soldered pipe joints, and leaded
brass or bronze alloy fittings and fixtures, unless such fittings and fixtures meet the specifications of any standard established pursuant to 42 U.S.C. 300g-6(e) (SDWA section 1417 (e)).

(B) Copper. To qualify for a full waiver, or waiver of the tap water monitoring
requirements for copper (i.e., a copper waiver), the water system must provide certification and supporting documentation to the Executive Secretary that the system contains no copper pipes or copper service lines.

(ii) Monitoring criteria for waiver issuance. The system must have completed at least
one 6-month round of standard tap water monitoring for lead and copper at sites approved by the Executive Secretary and from the number of sites required by paragraph (c) of this section and demonstrate that the 90th percentile levels for any and all rounds of monitoring conducted since the system became free of all lead-containing and/or copper-containing materials, as appropriate, meet the following criteria.

(A) Lead levels. To qualify for a full waiver, or a lead waiver, the system must demonstrate that the 90th percentile lead level does not exceed 0.005 mg/L.

(B) Copper levels. To qualify for a full waiver, or a copper waiver, the system must demonstrate that the 90th percentile lead level does not exceed 0.65 mg/L.

(iii) Executive Secretary[~~State~~] approval of waiver application. The Executive Secretary shall notify the system of its waiver determination, in writing, setting forth the basis of its decision and any condition of the waiver. As a condition of the waiver, the Executive Secretary may require the system to perform specific activities (e.g., limited monitoring, periodic outreach to customers to remind them to avoid installation of materials that might void the waiver) to avoid the risk of lead or copper concentration of concern in tap water. The small system must continue monitoring for lead and copper at the tap as required by paragraphs (d) (i) through (d) (iv) of this section, as appropriate, until it receives written notification from the Executive Secretary the waiver has been approved.

(iv) Monitoring frequency for systems with waivers.

(A) A system with a full waiver must conduct tap water monitoring for lead and copper in accordance with paragraph (d)(iv)(D) of this section at the reduced number of sampling sites identified in paragraph (c) of this section at least once every nine years and provide the materials certification specified in paragraph (g)(i) of this section for both lead and copper to the Executive Secretary along with the monitoring results.

(B) A system with a partial waiver must conduct tap water monitoring for the waived contaminant in accordance with paragraph (d)(iv)(D) of this section at the reduced number of sampling sites specified in paragraph (c) of this section at least once every nine years and provide the materials certification specified in paragraph (g)(i) of this section pertaining to the waived contaminant along with the monitoring results. Such a system also must continue to monitor for the non-waived contaminant in accordance with requirements of paragraph (d)(i) through (d)(iv) of this section, as appropriate.

(C) If a system with a full or partial waiver adds a new source of water or changes any water treatment, the system must notify the Executive Secretary in writing in accordance with R309-210-6(8)(a)(iii). The Executive Secretary has the authority to require the system to add or modify waiver conditions (e.g., require recertification that the system is free of lead-containing and/or copper-containing materials, require additional round(s) of monitoring), if it deems such modifications are necessary to address treatment or source water changes at the system.

(D) If a system with a full or partial waiver because aware that it is no longer free of lead-containing or copper-containing materials, as appropriate, (e.g., as a result of new construction or repairs), the system shall notify the Executive Secretary in writing no later than 60 days after becoming aware of such a change.

(v) Continued eligibility. If the system continues to satisfy the requirements of paragraph (g) (iv) of this section, the waiver will be renewed automatically, unless any of the conditions listed in paragraph (g)(v)(A) through (g)(v)(C) of this section occurs. A system whose waiver has been revoked may re-apply for a waiver at such time as it again meets the appropriate materials and monitoring criteria of paragraphs (g)(i) and (g)(ii) of this section.

(A) A system with a full waiver or lead waiver no longer satisfies the materials criteria of paragraph (g)(i)(A) of this section or has a 90th percentile lead level greater than 0.005 mg/L.

(B) A system with a full waiver or a copper waiver no longer satisfies the materials criteria of paragraph (g)(i)(B) of this section or has a 90th percentile copper level greater than 0.65 mg/L.

(C) The Executive Secretary notifies the system, in writing, that the waiver has been revoked, setting forth the basis of its decision.

(vi) Requirements following waiver revocation. A system whose full or partial waiver has been revoked by the Executive Secretary is subject to the corrosion control treatment and lead and copper tap water monitoring requirements, as follows:

(A) If the system exceeds the lead and/or copper action level, the system must implement corrosion control treatment in accordance with the deadlines specified in R309-210-6(2)(e), and any other applicable requirements of this subpart.

(B) If the system meets both the lead and the copper action level, the system must monitor for lead and copper at the tap no less frequently than once every three years using the reduced number of sample sites specified in paragraph (c) of this section.

(vii) Pre-existing waivers. Small system waivers approved by the Executive Secretary in writing prior to April 11, 2000 shall remain in effect under the following conditions:

(A) If the system has demonstrated that it is both free of lead-containing and copper- containing materials, as required by paragraph (g)(i) of this section and that its 90th percentile lead levels and 90th percentile copper levels meet the criteria of paragraph (g)(ii) of this section, the waiver remains in effect so long as the system continues to meet the waiver eligibility criteria of paragraph (g)(v) of this section. The first round of tap water monitoring conducted pursuant to paragraph (g)(iv) of this section shall be completed no later than nine years after the last time the system has monitored for lead and copper at the tap.

(B) If the system has met the materials criteria of paragraph (g)(i) of this section but has not met the monitoring criteria of paragraph (g)(ii) of this section, the system shall conduct a round of monitoring for lead and copper at the tap demonstrating that it meets the criteria of paragraph (g)(ii) of this section no later than September 30, 2000. Thereafter, the waiver shall remain in effect as long as the system meets the continued eligibility criteria of paragraph (g)(v) of this section. The first round of tap water monitoring conducted pursuant to paragraph (g)(iv) of this section shall be completed no later than nine years after the round of monitoring conducted pursuant to paragraph (g)(ii) of this section.

(4) Corrosion Control for Control of Lead and Copper

(a) Description of corrosion control treatment requirements.

Each system shall complete the corrosion control treatment requirements described below which are applicable to such system under R309-210-6(2).

(i) System recommendation regarding corrosion control treatment

Based upon the results of lead and copper tap monitoring and water quality parameter monitoring, small and medium-size water systems exceeding the lead or copper action level shall recommend installation of one or more of the corrosion control treatments listed in R309-210-6(4)(a)(iii)(A) which the system believes constitutes optimal corrosion control for that system. The Executive Secretary may require the system to conduct additional water quality parameter monitoring in accordance with R309-210-6(5)(b) to assist the Executive Secretary in reviewing the system's recommendation.

(ii) Studies of corrosion control treatment required for small and medium-size systems.

The Executive Secretary may require any small or medium-size system that exceeds the lead or copper action level to perform corrosion control studies under R309-210-6(4)(a)(iii) to identify optimal corrosion control treatment for the system.

(iii) Performance of corrosion control studies

(A) Any public water system performing corrosion control studies shall evaluate the effectiveness of each of the following treatments, and, if appropriate, combinations of the following treatments to identify the optimal corrosion control treatment for that system:

(I) alkalinity and pH adjustment;

(II) calcium hardness adjustment; and

(III) the addition of a phosphate or silicate based corrosion inhibitor at a concentration sufficient to maintain an effective residual concentration in all test tap samples.

(B) The water system shall evaluate each of the corrosion control treatments using either pipe rig/loop tests, metal coupon tests, partial-system tests, or analyses based on documented analogous treatments with other systems of similar size, water chemistry and distribution system configuration.

(C) The water system shall measure the following water quality parameters in any tests conducted under this paragraph before and after evaluating the corrosion control treatments listed above:

(I) lead;

(II) copper;

(III) pH;

(IV) alkalinity;

(V) calcium;

(VI) conductivity;

(VII) orthophosphate (when an inhibitor containing a phosphate compound is used);

(VIII) silicate (when an inhibitor containing a silicate compound is used);

(IX) water temperature.

(D) The water system shall identify all chemical or physical constraints that limit or prohibit the use of a particular corrosion control treatment and document such constraints with at least one of the following:

(I) data and documentation showing that a particular corrosion control treatment has adversely affected other water treatment processes when used by another water system with comparable water quality characteristics; and/or

(II) data and documentation demonstrating that the water system has previously attempted to evaluate a particular corrosion control treatment and has found that the treatment is ineffective or adversely affects other water quality treatment processes.

(E) The water system shall evaluate the effect of the chemicals used for corrosion control treatment on other water quality treatment processes.

(F) On the basis of an analysis of the data generated during each evaluation, the water system shall recommend to the Executive Secretary in writing the treatment option that the corrosion control studies indicate constitutes optimal corrosion control treatment for that system. The water system shall provide a rationale for its recommendation along with all supporting documentation specified in R309-210-6(4)(a)(iii)(A) through R309-210-6(4)(a)(iii)(E).

(iv) Designation of optimal corrosion control treatment

(A) Based upon consideration of available information including, where applicable, studies performed under R309-210-6(4)(a)(iii) and a system's recommended treatment alternative, the Executive Secretary shall either approve the corrosion control treatment option recommended by the system, or designate alternative corrosion control treatment(s) from among those listed in R309-210-6(4)(a)(iii)(A). When designating optimal treatment the Executive Secretary shall consider the effects that additional corrosion control treatment will have on water quality parameters and on other water quality treatment processes.

(B) The Executive Secretary shall notify the system of its decision on optimal corrosion control treatment in writing and explain the basis for this determination. If the Executive Secretary requests additional information to aid its review, the water system shall provide the information.

(v) Installation of optimal corrosion control

Each system shall properly install and operate throughout its distribution system the optimal corrosion control treatment designated by the Executive Secretary under R309-210-6(4)(a)(iv).

(vi) Review of treatment and specification of optimal water quality control parameters

The Executive Secretary shall evaluate the results of all lead and copper tap samples and water quality parameter samples submitted by the water system and determine whether the system has properly installed and operated the optimal corrosion control treatment designated by the Executive Secretary in R309-210-6(4)(a)(iv). Upon reviewing the results of tap water and water quality parameter monitoring by the system, both before and after the system installs optimal corrosion control treatment, the Executive Secretary shall designate:

(A) A minimum value or a range of values for pH measured at each entry point to the distribution system;

(B) A minimum pH value, measured in all tap samples. Such value shall be equal to or greater than 7.0, unless the Executive Secretary determines that meeting a pH level of 7.0 is not technologically feasible or is not necessary for the system to optimize corrosion control;

(C) If a corrosion inhibitor is used, a minimum concentration or a range of concentrations for the inhibitor, measured at each entry point to the distribution system and in all tap samples, that the Executive Secretary determines is necessary to form a passivating film on the interior walls of the pipes of the distribution system;

(D) If alkalinity is adjusted as part of optimal corrosion control treatment, a minimum concentration or a range of concentrations for alkalinity, measured at each entry point to the distribution system and in all tap samples;

(E) If calcium carbonate stabilization is used as part of corrosion control, a minimum concentration or a range of concentrations for calcium, measured in all tap samples.

The values for the applicable water quality control parameters listed above shall be those that the Executive Secretary determines to reflect optimal corrosion control treatment for the system. The Executive Secretary may designate values for additional water quality control parameters determined by the Executive Secretary to reflect optimal corrosion control for the system. The Executive Secretary shall notify the system in writing of these determinations and explain the basis for the decisions.

(vii) Continued operation and monitoring. All systems optimizing corrosion control

shall continue to operate and maintain optimal corrosion control treatment, including maintaining water quality parameters at or above minimum values or within ranges designated by the Executive Secretary under paragraph (vi) of this section, in accordance with this paragraph for all samples collected under R309-210-6(5)(d) through (f). Compliance with the requirements of this paragraph shall be determined every six months, as specified under R309-210-6(5)(d). A water system is out of compliance with the requirements of this paragraph for a six-month period of it has excursions for any Executive Secretary specified[~~State-specified~~] parameter on more than nine days during the period. An excursion occurs whenever the daily value for one or more of the water quality parameters measured at a sampling location is below the minimum value or outside the range designated by the Executive Secretary. Daily values are calculated as follows. The Executive Secretary has discretion to delete results of obvious sampling errors from this calculation.

(A) On days when more than one measurement for the water quality parameter is collected at the sampling location, the daily value shall be the average of all results collected during the day regardless of whether they are collected through continuous monitoring, grab sampling, or combination of both.

(B) On days when only one measurement for the water quality parameter is collected at the sampling location, the daily value shall be the result of that measurement.

(C) On days when no measurement is collected for the water quality parameter at the sampling location, the daily value shall be the daily value calculated on the most recent day on which the water quality parameter was measured at the sample site.

(viii) Modification of treatment decisions

Upon its own initiative or in response to a request by a water system or other interested party, the Executive Secretary may modify its determination of the optimal corrosion control treatment under R309-210-6(4)(a)(iv) or optimal water quality control parameters under R309-210-6(4)(a)(vi). A request for modification by a system or other interested party shall: be in writing, explain why the modification is appropriate, and provide supporting documentation. The Executive Secretary may modify its determination where it concludes that such change is necessary to ensure that the system continues to optimize corrosion control treatment. A revised determination shall: be made in writing, set forth the new treatment requirements, explain the basis for the Executive Secretary's decision, and provide an implementation schedule for completing the treatment modifications.

(b) Source water treatment requirements.

Systems shall complete the applicable source water monitoring and treatment requirements (described in the referenced portions of

R309-210-6(4)(b)(ii), and in R309-210-6(3), and R309-210-6(6)) by the following deadlines.

(i) Deadlines for Completing Source Water Treatment Steps

(A) Step 1: A system exceeding the lead or copper action level shall complete lead and copper source water monitoring (R309-210-6(6)(b)) and make a treatment recommendation to the Executive Secretary (R309-210-6(4)(b)(ii)(A)) within 6 months after exceeding the lead or copper action level.

(B) Step 2: The Executive Secretary shall make a determination regarding source water treatment (R309-210-6(4)(b)(ii)(B)) within 6 months after submission of monitoring results under step 1.

(C) Step 3: If the Executive Secretary requires installation of source water treatment, the system shall install the treatment (R309-210-6(4)(b)(ii)(C)) within 24 months after completion of step 2.

(D) Step 4: The system shall complete follow-up tap water monitoring (R309-210-6(3)(d)(ii)) and source water monitoring (R309-210-6(6)(c)) within 36 months after completion of step 2.

(E) Step 5: The Executive Secretary shall review the system's installation and operation of source water treatment and specify maximum permissible source water levels (R309-210-6(4)(b)(ii)(D)) within 6 months after completion of step 4.

(F) Step 6: The system shall operate in compliance with the Executive Secretary specified[~~State specified~~] maximum permissible lead and copper source water levels (R309-210-6(4)(b)(ii)(D)) and continue source water monitoring (R309-210-6(6)(d)).

(ii) Description of Source Water Treatment Requirements

(A) System treatment recommendation

Any system which exceeds the lead or copper action level shall recommend in writing to the Executive Secretary the installation and operation of one of the source water treatments listed in R309-210-6(4)(b)(ii)(B). A system may recommend that no treatment be installed based upon a demonstration that source water treatment is not necessary to minimize lead and copper levels at users' taps.

(B) Determination regarding source water treatment

The Executive Secretary shall complete an evaluation of the results of all source water samples submitted by the water system to determine whether source water treatment is necessary to minimize lead or copper levels in water delivered to users' taps. If the Executive Secretary determines that treatment is needed, the Executive Secretary shall either require installation and operation of the source water treatment recommended by the system (if any) or require the installation and operation of another source water treatment from among the following: ion exchange, reverse osmosis, lime softening or coagulation/filtration. If the Executive Secretary requests additional information to aid in its review, the water system shall provide the information by the date specified by the Executive Secretary in its request. The Executive Secretary shall notify the system in writing of its determination and set forth the basis for its decision.

(C) Installation of source water treatment

Each system shall properly install and operate the source water treatment designated by the Executive Secretary under R309-210-6(4)(b)(ii)(B).

(D) Review of source water treatment and specification of maximum permissible source water levels

The Executive Secretary shall review the source water samples taken by the water system both before and after the system installs source water treatment, and determine whether the system has properly installed and operated the source water treatment designated by the Executive Secretary. Based upon its review, the Executive Secretary shall designate the maximum permissible lead and copper concentrations for finished water entering the distribution system. Such levels shall reflect the contaminant removal capability of the treatment properly operated and maintained. The Executive Secretary shall notify the system in writing and explain the basis for its decision.

(E) Continued operation and maintenance

Each water system shall maintain lead and copper levels below the maximum permissible concentrations designated by the Executive Secretary at each sampling point monitored in accordance with R309-210-6(6). The system is out of compliance with this paragraph if the level of lead or copper at any sampling point is greater than the maximum permissible concentration designated by the Executive Secretary.

(F) Modification of treatment decisions

Upon its own initiative or in response to a request by a water system or other interested party, the Executive Secretary may modify its determination of the source water treatment under R309-210-6(4)(b)(ii)(B), or maximum permissible lead and copper concentrations for finished water entering the distribution system under R309-210-6(4)(b)(ii)(D). A request for modification by a system or other interested party shall: be in writing, explain why the modification is appropriate, and provide supporting documentation. The Executive Secretary may modify the determination where it concludes that such change is necessary to ensure that the system continues to minimize lead and copper concentrations in source water. A revised determination shall: be made in writing, set forth the new treatment requirements, explain the basis for the Executive Secretary's decision, and provide an implementation schedule for completing the treatment modifications.

(c) Lead service line replacement requirements.

(i) Systems that fail to meet the lead action level in tap samples taken pursuant to R309-210-6(3)(d)(ii), after installing corrosion control and/or source water treatment (whichever sampling occurs later), shall replace lead service lines in accordance with the requirements of this section. If a system is in violation of R309-210-6(2) or R309-210-6(4)(b) for failure to install source water or corrosion control treatment, the Executive Secretary may require the system to commence lead service line replacement under this section after the date by which the system was required to conduct monitoring under R309-104-4.2.3.d.2. has passed.

(ii) A system shall replace annually at least 7 percent of the initial number of lead service lines in its distribution system. The initial number of lead service lines is the number of lead lines in place at the time the replacement program begins. The system shall identify the initial number of lead service lines in its distribution system, including an identification of the portion(s) owned by the system, based upon a materials evaluation, including the evaluation required under R309-210-6(3)(a) and relevant legal authorities (e.g., contracts, local ordinances) regarding the portion owned by the system. The first year of lead service line replacement shall begin on the date the action level was exceeded in tap sampling referenced in R309-210-6(4)(c)(i).

(iii) A system is not required to replace an individual lead service line if the lead concentration in all service line samples from that line, taken pursuant to R309-210-6(3)(b)(iii), is less than or equal to 0.015 mg/L[~~mg/l~~].

(iv) A water system shall replace that portion of the lead service line that it owns. In cases where the system does not own the entire lead service line, the system shall notify the owner of the

line, or the owner's authorized agent, that the system will replace the portion of the service line that it owns and shall offer to replace the owner's portion of the line. A system is not required to bear the cost of replacing the privately-owned portion of the line, nor is it required to replace the privately-owned portion where the owner chooses not to pay the cost of replacing the privately owned portion of the line, or where replacing the privately-owned portion would be precluded by State, local or common law. A water system that does not replace the entire length of the service line also shall complete the following tasks.

(A) At least 45 days prior to commencing with the partial replacement of a lead service line, the water system shall provide notice to the resident(s) of all buildings served by the line explaining that they may experience a temporary increase of lead levels in their drinking water, along with guidance on measures consumers can take to minimize their exposure to lead. The Executive Secretary may allow the water system to provide notice under the previous sentence less than 45 days prior to commencing partial lead service line replacement where such replacement is in conjunction with emergency repairs. In addition, the water system shall inform the resident(s) served by the line that the system will, at the system's expense, collect a sample from each partially-replaced lead service line that is representative of the water in the service line for analysis of lead content, as prescribed under R309-210-6(3)(b)(iii), within 72 hours after the completion of the partial replacement of the service line. The system shall collect the sample and report the results of the analysis to the owner and the resident(s) served by the line within three business days of receiving the results. Mailed notices post-marked within three business days of receiving the results shall be considered on time.

(B) The water system shall provide the information required by paragraph (c)(iv)(A) of this section to the residents of individual dwellings by mail or by other methods approved by the Executive Secretary. In instances where multi-family dwellings are served by the line, the water system shall have the option to post the information at a conspicuous location.

(v) The Executive Secretary shall require a system to replace lead service lines on a shorter schedule than that required by this section, taking into account the number of lead service lines in the system, where such a shorter replacement schedule is feasible. The Executive Secretary shall make this determination in writing and notify the system of its finding within 6 months after the system is triggered into lead service line replacement based on monitoring referenced in R309-210-6(4)(c)(i).

(vi) Any system may cease replacing lead service lines whenever first draw samples collected pursuant to R309-210-6(3)(b)(ii) meet the lead action level during each of two consecutive monitoring periods and the system submits the results to the Executive Secretary. If first draw tap samples collected in any such water system thereafter exceeds the lead action level, the system shall recommence replacing lead service lines, pursuant to R309-210-6(4)(c)(ii).

(vii) To demonstrate compliance with R309-210-6(4)(c)(i) through R309-210-6(4)(c)(iv), a system shall report to the Executive Secretary the information specified in R309-210-6(8)(e).

(5) Monitoring requirements for water quality parameters.

All large water systems and all small and medium-size systems that exceed the lead or copper action level shall monitor water quality parameters in addition to lead and copper in accordance with this section.

(a) General Requirements

(i) Sample collection methods

(A) Tap samples shall be representative of water quality throughout the distribution system taking into account the number of persons served, the different sources of water, the different treatment methods employed by the system, and seasonal variability. Tap sampling under this section is not required to be conducted at taps targeted for lead and copper sampling under R309-210-6(3)(a).

(B) Samples collected at the entry point(s) to the distribution system shall be from locations representative of each source after treatment. If a system draws water from more than one source and the sources are combined before distribution, the system must sample at an entry point to the distribution system during periods of normal operating conditions (i.e., when water is representative of all sources being used).

(ii) Number of samples

(A) Systems shall collect two tap samples for applicable water quality parameters during each monitoring period specified under R309-210-6(5)(b) through R309-210-6(5)(e) from the following number of sites in Table 210-5.

TABLE 210-5
NUMBER OF WATER QUALITY PARAMETER SAMPLE SITES

System Size (# People Served)	# of Sites For Water Quality Parameters
Greater than 100,000	25
10,001-100,000	10
3,301 to 10,000	3
501 to 3,300	2
101 to 500	1
100 or less	1

(B) Except as provided in paragraph (c)(iii) of this section, Systems shall collect two samples for each applicable water quality parameter at each entry point to the distribution system during each monitoring period specified in R309-210-6(5)(b). Systems shall collect one sample for each applicable water quality parameter at each entry point to the distribution system during each monitoring period specified in R309-210-6(5)(c) through R309-210-6(5)(e).

(b) Initial Sampling

All large water systems shall measure the applicable water quality parameters as specified below at taps and at each entry point to the distribution system during each six-month monitoring period specified in R309-210-6(3)(d)(i). All small and medium-size systems shall measure the applicable water quality parameters at the locations specified below during each six-month monitoring period specified in R309-210-6(3)(d)(i) during which the system exceeds the lead or copper action level.

(i) At taps:

(A) pH;

(B) alkalinity;

(C) orthophosphate, when an inhibitor containing a phosphate compound is used;

(D) silica, when an inhibitor containing a silicate compound is used;

(E) calcium;

(F) conductivity; and

(G) water temperature.

(ii) At each entry point to the distribution system: all of the applicable parameters listed in R309-210-6(5)(b)(i).

(c) Monitoring after installation of corrosion control

Any large system which installs optimal corrosion control treatment pursuant to R309-210-6(2)(d)(iv) shall measure the water quality parameters at the locations and frequencies specified below during each six-month monitoring period specified in R309-210-6(3)(d)(ii)(A). Any small or medium-size system which installs optimal corrosion control treatment shall conduct such monitoring during each six-month monitoring period specified in R309-210-6(3)(d)(ii)(B) in which the system exceeds the lead or copper action level.

(i) At taps, two samples for:

(A) pH;

(B) alkalinity;

(C) orthophosphate, when an inhibitor containing a phosphate compound is used;

(D) silica, when an inhibitor containing a silicate compound is used;

(E) calcium, when calcium carbonate stabilization is used as part of corrosion control.

(ii) Except as provided in Paragraph (c)(iii) of this section, at each entry point to the distribution system, at least on sample no less frequently than every two weeks (bi-weekly) for:

(A) pH;

(B) when alkalinity is adjusted as part of optimal corrosion control, a reading of the dosage rate of the chemical used to adjust alkalinity, and the alkalinity concentration; and

(C) when a corrosion inhibitor is used as part of optimal corrosion control, a reading of the dosage rate of the inhibitor used, and the concentration of orthophosphate or silica (whichever is applicable).

(iii) Any ground water system can limit entry point sampling described in paragraph (c)(ii) of this section to those entry points that are representative of water quality and treatment conditions throughout the system. If water from untreated ground water sources mixes with water from treated ground water sources, the system must monitor for water quality parameters both at representative entry points receiving treatment and representative entry points receiving no treatment. Prior to the start of any monitoring under this paragraph, the system shall provide to the Executive Secretary written information identifying the selected entry points and documentation, including information on seasonal variability, sufficient to demonstrate that the sites are representative of water quality and treatment conditions throughout the system.

(d) Monitoring after Executive Secretary specifies water quality parameter values for optimal corrosion control.

After the Executive Secretary specifies the values for applicable water quality control parameters reflecting optimal corrosion control treatment under R309-210-6(4)(a)(vi), all large systems shall measure the applicable water quality parameters in accordance with paragraph (c) of this section and determine compliance with the requirements of R309-210-6(4)(a)(vii) every six months with the first six month period to begin on the date the Executive Secretary specifies the optimal values under R309-210-6(4)(a)(vi). Any small or medium size system shall conduct such monitoring during each six month period specified in this paragrph in which the system exceeds the lead or copper action level. For any such small and medium size system that is subject to a reduced monitoring frequency pursuant to R309-210-6(3)(d)(iv) at the time of the action level exceedance, the end of the applicable six month monitoring period under R309-210-6(3)(d)(iv). Compliance with Executive Secretary[~~State~~] designated optimal water quality parameter values shall be determined as specified under R309-210-6(4)(a)(vii).

(e) Reduced monitoring

(i) Any water system that maintains the range of values for the water quality parameters reflecting optimal corrosion control treatment during each of two consecutive six-month monitoring periods under R309-210-6(5)(d) shall continue monitoring at the entry point(s) to the distribution system as specified in R309-210-6(5)(c)(ii). Such system may collect two tap samples for applicable water quality parameters from the following reduced number of sites in Table 210-6 during each six-month monitoring period.

TABLE 210-6
REDUCED NUMBER OF WATER QUALITY PARAMETER SAMPLE SITES

System Size (# People Served)	Reduced # of Sites for Water Quality Parameters
Greater than 100,000	10
10,001 to 100,000	7
3,301 to 10,000	3
501 to 3,300	2
101 to 500	1
100 or less	1

(ii)(A) Any water system that maintains the range of values for the water quality parameters reflecting optimal corrosion control treatment specified by the Executive Secretary under R309-210-6(4)(a)(vi) during three consecutive years of monitoring may reduce the frequency with which it collects the number of tap samples for applicable water quality parameters specified in R309-210-6(5)(e)(i), Table 210-6, from every six months to annually. Any water system that maintains the range of values for the water quality parameters reflecting optimal corrosion control treatment specified by the Executive Secretary under R309-210-6(4)(a)(vi) during three consecutive years of annual monitoring may reduce the frequency with which it collects the number of tap samples for applicable water quality parameters specified in R309-210-6(5)(e)(i), Table 210-6, from annually to every three years.

(B) A water system may reduce the frequency with which it collects tap samples for applicable water quality parameters specified in paragraph (e)(i) of this section to every three years if it demonstrates during two consecutive monitoring periods that its tap water lead level at the 90th percentile is less than or equal to the PQL for lead specified in R309-200-4(3), that its tap water copper level at the 90th percentile is less than or equal to 0.65 mg/L[~~mg/l~~] for copper in R309-200-5(2)(c), and that it also has maintained the range of values for the water quality parameters reflecting optimal corrosion control treatment specified by the Executive Secretary[~~State~~] under R309-210-6(4)(a)(vi).

(iii) A water system that conducts sampling annually shall collect these samples evenly throughout the year so as to reflect seasonal variability.

(iv) Any water system subject to the reduced monitoring frequency that fails to operate at or above the minimum value or within the range of values for the water quality parameters specified by the Executive Secretary in R309-210-6(4)(a)(vi) for more than 9 days in any six month period specified in R309-210-6(4)(a)(vii) shall resume distribution system tap water sampling in accordance with the number and frequency requirements in paragraph (d) of this section. Such a system may resume annual monitoring for water quality parameters at the tap at the reduced number of sites specified in paragraph (e)(i) of this section after it has completed two subsequent consecutive six month rounds of monitoring that meet

the criteria of that paragraph or may resume triennial monitoring for water quality parameters at the tap at the reduced number os sites after it demonstrates through subsequent rounds of monitoring that it meets the criteria of either paragraph (e)(ii)(A) or (e)(ii)(B) of this section.

(f) Additional monitoring by systems

The results of any monitoring conducted in addition to the minimum requirements of this section shall be considered by the system and the Executive Secretary in making any determinations (i.e., determining concentrations of water quality parameters) under this section or R309-210-6(4)(a).

(g) The Executive Secretary has the authority to allow the use of previously collected monitoring data for purposes of monitoring, if the data were collected in accordance with this section and analyzed in accordance with R309-104-8.

(6) Monitoring requirements for lead and copper in source water.

(a) Sample location, collection methods, and number of samples

(i) A water system that fails to meet the lead or copper action level on the basis of tap samples collected in accordance with R309-210-6(3) shall collect lead and copper source water samples in accordance with the following requirements regarding sample location, number of samples, and collection methods:

(A) Groundwater systems shall take a minimum of one sample at every entry point to the distribution system which is representative of each well after treatment (hereafter called a sampling point). The system shall take one sample at the same sampling point unless conditions make another sampling point more representative of each source or treatment plant.

(B) Surface water systems shall take a minimum of one sample at every entry point to the distribution system after any application of treatment or in the distribution system at a point which is representative of each source after treatment (hereafter called a sampling point). The system shall take each sample at the same sampling point unless conditions make another sampling point more representative of each source or treatment plant. For purposes of this paragraph, surface water systems include systems with a combination of surface and ground sources.

(C) If a system draws water from more than one source and the sources are combined before distribution, the system must sample at an entry point to the distribution system during periods of normal operating conditions (i.e., when water is representative of all sources being used).

(D) The Executive Secretary may reduce the total number of samples which must be analyzed by allowing the use of compositing. Compositing of samples must be done[~~dine~~] by certified laboratory personnel. Composite samples from a maximum of five samples are allowed, provided that if the lead concentration in the composite sample is greater than or equal to 0.001 mg/L[~~mg/L~~] or the copper concentration is greater than or equal to 0.160 mg/L, then either:

(I) A follow up sample shall be taken and analyzed within 14 days at each sampling point included in the composite; or

(II) If duplicates of or sufficient quantities from the original samples from each sampling point used in the composite are available, the system may use these instead of resampling.

(ii) Where the results of sampling indicate an exceedance of maximum permissible source water levels established under R309-210-6(4)(b)(ii)(D), the Executive Secretary may require that one additional sample be collected as soon as possible after the initial sample was taken (but not to exceed two weeks) at the same sampling point. If a confirmation sample is taken for lead or copper, then the results of the initial and confirmation sample shall be averaged in determining compliance with the specified maximum permissible levels. Any sample value below the detection limit shall be considered to be zero. Any value above the detection limit but below the PQL shall either be considered as the measured value or be considered one-half the PQL.

(b) Monitoring frequency after system exceeds tap water action level.

Any system which exceeds the lead or copper action level at the tap shall collect one source water sample from each entry point to the distribution system within six months after the exceedance.

(c) Monitoring frequency after installation of source water treatment.

Any system which installs source water treatment pursuant to R309-210-6(4)(b)(i)(C) shall collect an additional source water sample from each entry point to the distribution system during two consecutive six-month monitoring periods by the deadline specified in R309-210-6(4)(b)(i)(D).

(d) Monitoring frequency after Executive Secretary specifies maximum permissible source water levels or determines that source water treatment is not needed

(i) A system shall monitor at the frequency specified below in cases where the Executive Secretary specifies maximum permissible source water levels under R309-210-6(4)(b)(ii)(D) or determines that the system is not required to install source water treatment under R309-210-6(4)(b)(ii)(B).

(A) A water system using only groundwater shall collect samples once during the three-year compliance period in effect when the applicable determination under R309-210-6(6)(d)(i) is made. Such systems shall collect samples once during each subsequent compliance period.

(B) A water system using surface water (or a combination of surface and groundwater) shall collect samples once during each year, the first annual monitoring period to begin on the date on which the applicable determination is made under R309-210-6(6)(d)(i).

(ii) A system is not required to conduct source water sampling for lead and/or copper if the system meets the action level for the specific contaminant in tap water samples during the entire source water sampling period applicable to the system under R309-210-6(6)(d)(i)(A) or (B).

(e) Reduced monitoring frequency

(i) A water system using only ground water may reduce the monitoring frequency for lead and copper in source water to once during each nine year compliance cycle, as defined in R309-110, if the system meets one of the following criteria:

(A) The system demonstrates that finished drinking water entering the distribution system has been maintained below the maximum permissible lead and copper concentrations specified by the Executive Secretary[~~State~~] in R309-210-6(4)(b)(ii)(D) during at least three consecutive compliance periods under paragraph (d)(i) of this section; or

(B) The Executive Secretary has determined that source water treatment is not needed and the system demonstrates that, during at least three consecutive compliance periods in which sampling was conducted under paragraph (d)(i) of this section, the concentration of lead in source water was less than or equal to 0.005 mg/L and the concentration of copper in source water was less than or equal to 0.65 mg/L.

(ii) A water system using surface water (or a combination of surface water and ground water) may reduce the monitoring frequency in paragraph (d)(i) of this section to once during each nine year compliance cycle, as defined in R309-110, if the system meets one of the following criteria:

(A) The system demonstrates that finished drinking water entering the distribution system has been maintained below the maximum permissible lead and copper concentrations specified by the Executive Secretary in R309-210-6(4)(b)(ii)(D) for at least three consecutive years; or

(B) The Executive Secretary has determined that source water treatment is not needed and the system demonstrates that, during at least three consecutive years, the concentration of lead in source water was less than or equal to 0.005 mg/L and the concentration of copper in source water was less than or equal to 0.65 mg/L.

(iii) A water system that uses a new source of water is not eligible for reduced monitoring for lead and/or copper until concentrations in samples collected from the new source during three consecutive monitoring periods are below the maximum permissible lead and copper concentrations specified by the Executive Secretary in R309-210-6(4)(b)(i)(E).

(iv) The Executive Secretary has the authority to allow the use of previously collected monitoring data for purposes of monitoring, if the data were collected in accordance with this section and analyzed in accordance with R309-104-8.

(7) Public education and supplemental monitoring requirements.

A water system that exceeds the lead action level based on tap water samples collected in accordance with R309-210-6(3) shall deliver the public education materials contained in R309-210-6(7)(a) and (b) in accordance with the requirements in R309-210-6(7)(c).

(a) Content of written materials.

(i) Community water systems. A community water system shall include the following text in all of the printed materials it distributes through its lead public education program. Systems may delete information pertaining to lead service lines, upon approval by the Executive Secretary, if no lead service lines exist anywhere in the water system service area. Public education language at paragraphs (a)(1)(iv)(B)(5) and (a)(1)(iv)(D)(2) of this section may be modified regarding building permit record availability and consumer access to these records, if approved by the Executive Secretary. Systems may also continue to utilize pre-printed materials that meet the public education language requirements in R309-210-6(7). Any additional information presented by a system shall be consistent with the information below and be in plain English that can be understood by lay people.

(A) INTRODUCTION

The United States Environmental Protection Agency (EPA) and (insert name of water supplier) are concerned about lead in your drinking water. Although most homes have very low levels of lead in their drinking water, some homes in the community have lead levels above the EPA action level of 15 parts per billion (ppb), or 0.015 milligrams of lead per liter of water (mg/L[~~mg/l~~]). Under Federal law we are required to have a program in place to minimize lead in your drinking water by (insert date when corrosion control will be completed for your system). This program includes corrosion control treatment, source water treatment, and public education. We are also required to replace each lead service line that we control if the line contributes lead concentrations of more than 15 ppb after we have completed the comprehensive treatment program. If you have any questions about how we are carrying out the requirements of the lead regulation please give us a call at (insert water system's phone number). This brochure explains the simple steps you can take to protect you and your family by reducing your exposure to lead in drinking water.

(B) HEALTH EFFECTS OF LEAD

Lead is a common metal found throughout the environment in lead-based paint, air, soil, household dust, food, certain types of pottery porcelain and pewter, and water. Lead can pose a significant risk to your health if too much of it enters your body. Lead builds up in the body over many years and can cause damage to the brain, red blood cells and kidneys. The greatest risk is to young children and pregnant women. Amounts of lead that won't hurt adults can slow down normal mental and physical development of growing bodies. In addition, a child at play often comes into contact with sources of lead contamination -- like dirt and dust -- that rarely affect an adult. It is important to wash children's hands and toys often, and to try to make sure they only put food in their mouths.

(C) LEAD IN DRINKING WATER

(I) Lead in drinking water, although rarely the sole cause of lead poisoning, can significantly increase a person's total lead exposure, particularly the exposure of infants who drink baby formulas and concentrated juices that are mixed with water. The EPA estimates that drinking water can make up 20 percent or more of a person's total exposure to lead.

(II) Lead is unusual among drinking water contaminants in that it seldom occurs naturally in water supplies like rivers and lakes. Lead enters drinking water primarily as a result of the corrosion, or wearing away, of materials containing lead in the water distribution system and household plumbing. These materials include lead-based solder used to join copper pipe, brass and chrome plated brass faucets, and in some cases, pipes made of lead that connect your house to the water main (service lines). In 1986, Congress banned the use of lead solder containing greater than 0.2% lead, and restricted the lead content of faucets, pipes and other plumbing materials to 8.0%.

(III) When water stands in lead pipes or plumbing systems containing lead for several hours or more, the lead may dissolve into your drinking water. This means the first water drawn from the tap in the morning, or later in the afternoon after returning from work or school, can contain fairly high levels of lead.

(D) STEPS YOU CAN TAKE IN THE HOME TO REDUCE EXPOSURE TO LEAD IN DRINKING WATER

(I) Despite our best efforts mentioned earlier to control water corrosivity and remove lead from the water supply, lead levels in some homes or buildings can be high. To find out whether you need to take action in your own home, have your drinking water tested to determine if it contains excessive concentrations of lead. Testing the water is essential because you cannot see, taste, or smell lead in drinking water. Some local laboratories that can provide this service are listed at the end of this booklet. For more information on having your water tested, please call (insert phone number of water system).

(II) If a water test indicates that the drinking water drawn from a tap in your home contains lead above 15 ppb, then you should take the following precautions:

(aa) Let the water run from the tap before using it for drinking or cooking any time the water in a faucet has gone unused for more than six hours. The longer water resides in your home's plumbing the more lead it may contain. Flushing the tap means running the cold water faucet until the water gets noticeably colder, usually about 15-30 seconds. If your house has a lead service line to the water main, you may have to flush the water for a longer time,

perhaps one minute, before drinking. Although toilet flushing or showering flushes water through a portion of your home's plumbing system, you still need to flush the water in each faucet before using it for drinking or cooking. Flushing tap water is a simple and inexpensive measure you can take to protect your family's health. It usually uses less than one or two gallons of water and costs less than (insert a cost estimate based on flushing two times a day for 30 days) per month. To conserve water, fill a couple of bottles for drinking water after flushing the tap, and whenever possible use the first flush water to wash the dishes or water the plants. If you live in a high-rise building, letting the water flow before using it may not work to lessen your risk from lead. The plumbing systems have more, and sometimes larger pipes than smaller buildings. Ask your landlord for help in locating the source of the lead and for advice on reducing the lead level.

(bb) Try not to cook with, or drink water from the hot water tap. Hot water can dissolve more lead more quickly than cold water. If you need hot water, draw water from the cold tap and heat it on the stove.

(cc) Remove loose lead solder and debris from the plumbing materials installed in newly constructed homes, or homes in which the plumbing has recently been replaced, by removing the faucet strainers from all taps and running the water from 3 to 5 minutes. Thereafter, periodically remove the strainers and flush out any debris that has accumulated over time.

(dd) If your copper pipes are joined with lead solder that has been installed illegally since it was banned in 1986, notify the plumber who did the work and request that he or she replace the lead solder with lead-free solder. Lead solder looks dull gray, and when scratched with a key looks shiny. In addition, notify your local plumbing inspector and the Utah[~~State~~] Department of Commerce about the violation.

(ee) Determine whether or not the service line that connects your home or apartment to the water main is made of lead. The best way to determine if your service line is made of lead is by either hiring a licensed plumber to inspect the line or by contacting the plumbing contractor who installed the line. You can identify the plumbing contractor by checking the city's record of building permits which should be maintained in the files of the (insert name of department that issues building permits). A licensed plumber can at the same time check to see if your homes's plumbing contains lead solder, lead pipes, or pipe fittings that contain lead. The public water system that delivers water to your home should also maintain records of the materials located in the distribution system. If the service line that connects your dwelling to the water main contributes more than 15 ppb to drinking water, after our comprehensive treatment program is in place, we are required to replace the portion of the line we own. If the line is only partially owned by the (insert name of the city, county, or water system that owns the line), we are required to provide the owner of the privately-owned portion of the line with information on how to replace the privately-owned portion of the service line, and offer to replace that portion of the line at owner's expense. If we replace only the portion of the line that we own, we also are required to notify you in advance and provide you with information on the steps you can take to minimize exposure to any temporary increase in lead levels that may result from the partial replacement, to take a follow-up sample at our expense from the line within 72 hours after the partial replacement, and to mail or otherwise provide you with the results of that sample within three business days of receiving the results. Acceptable replacement alternatives include copper, steel, iron, and plastic pipes.

(ff) Have an electrician check your wiring. If grounding wires from the electrical system are attached to your pipes, corrosion may be greater. Check with a licensed electrician or your local electrical code to determine if your wiring can be grounded elsewhere. DO NOT attempt to change the wiring yourself because improper grounding can cause electrical shock and fire hazards.

(III) The steps described above will reduce the lead concentrations in your drinking water. However, if a water test indicates that the drinking water coming from your tap contains lead concentrations in excess of 15 ppb after flushing, or after we have completed our actions to minimize lead levels, then you may want to take the following additional measures:

(aa) Purchase or lease a home treatment device. Home treatment devices are limited in that each unit treats only the water that flows from the faucet to which it is connected, and all of the devices require periodic maintenance and replacement. Devices such as reverse osmosis systems or distillers can effectively remove lead from your drinking water. Some activated carbon filters may reduce lead levels at the tap, however all lead reduction claims should be investigated. Be sure to check the actual performance of a specific home treatment device before and after installing the unit.

(bb) Purchase bottled water for drinking and cooking.

(IV) You can consult a variety of sources for additional information. Your family doctor or pediatrician can perform a blood test for lead and provide you with information about the health effects of lead. State and local government agencies that can be contacted include:

(aa) (insert the name of city or county department of public utilities) at (insert phone number) can provide you with information about your community's water supply, and a list of local laboratories that have been certified by EPA for testing water quality;

(bb) (insert the name of city or county department that issues building permits) at (insert phone number) can provide you with information about building permit records that should contain the names of plumbing contractors that plumbed your home; and

(cc) The Utah[~~State~~] Division of Drinking Water at 536-4200 or the (insert the name of the city or county health department) at (insert phone number) can provide you with information about the health effects of lead and how you can have your child's blood tested.

(V) The following is a list of some Utah Division of Drinking Water[~~State~~] approved laboratories in your area that you can call to have your water tested for lead. (Insert names and phone numbers of at least two laboratories).

(ii) Non-transient non-community water systems. A non-transient non-community water system shall either include the text specified in R309-210-6 (7)(a)(i) of this section or shall include the following text in all of the printed materials it distributes through its lead public education program. Water systems may delete information pertaining to lead service lines, upon approval by the Executive Secretary, if no lead service lines exist anywhere in the water system service area. Any additional information presented by a system shall be consistent with the information below and be in plain English that can be understood by lay people.

(A) INTRODUCTION

The United States Environmental Protection Agency (EPA) and (insert name of water supplier) are concerned about lead in your drinking water. Some drinking water samples taken from this facility have lead levels above the EPA action level of 15 parts per

billion (ppb), or 0.015 milligrams of lead per liter of water (mg/L[~~mg/l~~]). Under Federal law we are required to have a program in place to minimize lead in your drinking water by (insert date when corrosion control will be completed for your system). This program includes corrosion control treatment, source water treatment, and public education. We are also required to replace each lead service line that we control if the line contributes lead concentrations of more than 15 ppb after we have completed the comprehensive treatment program. If you have any questions about how we are carrying out the requirements of the lead regulation please give us a call at (insert water system's phone number). This brochure explains the simple steps you can take to protect yourself by reducing your exposure to lead in drinking water.

(B) HEALTH EFFECTS OF LEAD

Lead is found throughout the environment in lead-based paint, air, soil, household dust, food, certain types of pottery porcelain and pewter, and water. Lead can pose a significant risk to your health if too much of it enters your body. Lead builds up in the body over many years and can cause damage to the brain, red blood cells and kidneys. The greatest risk is to young children and pregnant women. Amounts of lead that won't hurt adults can slow down normal mental and physical development of growing bodies. In addition, a child at play often comes into contact with sources of lead contamination -- like dirt and dust -- that rarely affect an adult. It is important to wash children's hands and toys often, and to try to make sure they only put food in their mouths.

(C) LEAD IN DRINKING WATER

(I) Lead in drinking water, although rarely the sole cause of lead poisoning, can significantly increase a person's total lead exposure, particularly the exposure of infants who drink baby formulas and concentrated juices that are mixed with water. The EPA estimates that drinking water can make up 20 percent or more of a person's total exposure to lead.

(II) Lead is unusual among drinking water contaminants in that it seldom occurs naturally in water supplies like rivers and lakes. Lead enters drinking water primarily as a result of the corrosion, or wearing away, of materials containing lead in the water distribution system and household plumbing. These materials include lead-based solder used to join copper pipe, brass and chrome plated brass faucets, and in some cases, pipes made of lead that connect houses and buildings to the water mains (service lines). In 1986, Congress banned the use of lead solder containing greater than 0.2% lead, and restricted the lead content of faucets, pipes and other plumbing materials to 8.0%.

(III) When water stands in lead pipes or plumbing systems containing lead for several hours or more, the lead may dissolve into your drinking water. This means the first water drawn from the tap in the morning, or later in the afternoon if the water has not been used all day, can contain fairly high levels of lead.

(D) STEPS YOU CAN TAKE IN THE HOME TO REDUCE EXPOSURE TO LEAD IN DRINKING WATER

(I) Let the water run from the tap before using it for drinking or cooking any time the water in a faucet has gone unused for more than six hours. The longer water resides in plumbing the more lead it may contain. Flushing the tap means running the cold water faucet until the water gets noticeably colder, usually about 15-30 seconds. Although toilet flushing or showering flushes water through a portion of your home's plumbing system, you still need to flush the water in each faucet before using it for drinking or cooking. Flushing tap water is a simple and inexpensive measure you can take to protect your health. It usually uses less than one gallon of water.

(II) Do not cook with, or drink water from the hot water tap. Hot water can dissolve more lead more quickly than cold water. If you need hot water, draw water from the cold tap and heat it.

(III) The steps described above will reduce the lead concentrations in your drinking water. However, if you are still concerned, you may wish to use bottled water for drinking and cooking.

(IV) You can consult a variety of sources for additional information. Your family doctor or pediatrician can perform a blood test for lead and provide you with information about the health effects of lead. State and local government agencies that can be contacted include:

(aa) (insert the name or title of facility official if appropriate) at (insert phone number) can provide you with information about your facility's water supply, and

(bb) The Utah[~~State~~] Division of Drinking Water at 536-4200 or the (insert the name of the city or county health department) at (insert phone number) can provide you with information about the health effects of lead.

(b) Content of broadcast materials. A water system shall include the following information in all public service announcements submitted under its lead public education program to television and radio stations for broadcasting:

(i) Why should everyone want to know the facts about lead and drinking water? Because unhealthy amounts of lead can enter drinking water through the plumbing in your home. That's why I urge you to do what I did. I had my water tested for (insert free or $ per sample). You can contact the (insert the name of the city or water system) for information on testing and on simple ways to reduce your exposure to lead in drinking water.

(ii) To have your water tested for lead, or to get more information about this public health concern, please call (insert the phone number of the city or water system).

(c) Delivery of a public education program

(i) In communities where a significant proportion of the population speaks a language other than English, public education materials shall be communicated in the appropriate language(s).

(ii) A community water system that exceeds the lead action level on the basis of tap water samples collected in accordance with R309-210-6(3) and that is not already repeating public education tasks pursuant to paragraph (c)(iii), (c)(vii), or (c)(viii), of this section, shall, within 60 days:

(A) insert notices in each customer's water utility bill containing the information in R309-210-6(7)(a), along with the following alert on the water bill itself in large print: "SOME HOMES IN THIS COMMUNITY HAVE ELEVATED LEAD LEVELS IN THEIR DRINKING WATER. LEAD CAN POSE A SIGNIFICANT RISK TO YOUR HEALTH. PLEASE READ THE ENCLOSED NOTICE FOR FURTHER INFORMATION." A community water system having a billing cycle that does not include a billing within 60 days of exceeding the action level, or that cannot insert information in the water utility bill without making major changes to its billing system, may use a separate mailing to deliver the information in paragraph (a)(i) of this section as long as the information is delivered to each customer within 60 days of exceeding the action level. Such water systems shall also include the "alert" language specified in this paragraph.

(B) submit the information in R309-210-6(7)(a)(i) to the editorial departments of the major daily and weekly newspapers circulated throughout the community.

(C) deliver pamphlets and/or brochures that contain the public education materials in R309-210-6(7)(a)(i)(B) and (a)(i)(D) to facilities and organizations, including the following:

(I) public schools and/or local school boards;

(II) city or county health department;

(III) Women, Infants, and Children and/or Head Start Program(s) whenever available;

(IV) public and private hospitals and/or clinics;

(V) pediatricians;

(VI) family planning clinics; and

(VII) local welfare agencies.

(D) submit the public service announcement in R309-104-4.2.7.b. to at least five of the radio and television stations with the largest audiences that broadcast to the community served by the water system.

(iii) A community water system shall repeat the tasks contained in Subsections R309-210-6(7)(c)(ii)(A), (B) and (C) every 12 months, and the tasks contained in Subsection R309-210-6(7)(c)(ii)(D) every 6 months for as long as the system exceeds the lead action level.

(iv) Within 60 days after it exceeds the lead action level (unless it already is repeating public education tasks pursuant to paragraph (c)(v) of this section), a non-transient non-community water system shall deliver the public education materials contained in R309-210-6(7)(a)(i) or R309-210-6(7)(a)(ii) as follows:

(A) post informational posters on lead in drinking water in a public place or common area in each of the buildings served by the system; and

(B) distribute informational pamphlets and/or brochures on lead in drinking water to each person served by the non-transient non-community water system. The Executive Secretary may allow the system to utilize electronic transmission in lieu of or combined with printed materials as long as it achieves at least the same coverage.

(v) A non-transient non-community water system shall repeat the tasks contained in R309-210-6(7)(c)(iv) at least once during each calendar year in which the system exceeds the lead action level.

(vi) A water system may discontinue delivery of public education materials if the system has met the lead action level during the most recent six-month monitoring period conducted pursuant to R309-210-6(3). Such a system shall recommence public education in accordance with this section if it subsequently exceeds the lead action level during any monitoring period.

(vii) A community water system may apply to the Executive Secretary, in writing, (unless the Executive Secretary[~~State~~] has waived the requirement for prior Executive Secretary[~~State~~] approval) to use the text specified in paragraph (a)(ii) of this section in lieu of the text in paragraph (a)(i) of this section and to perform the fasks listed in paragraphs (c)(iv) and (c)(v) of this section in lieu of the tasks in paragraphs (c)(ii) and (c)(iii) of this section if:

(A) The system is a facility, such as a prison or a hospital, where the population served is not capable of or is prevented from making improvements to plumbing or installing point of use treatment devices; and

(B) The system provides water as part of the cost of services provided and does not separately charge for water consumption.

(viii)(A) A community water system serving 3,300 or fewer people may omit the task contained in paragraph (c)(ii)(D) of this section. As long as it distributes notices containing the information contained in paragraph (a)(i) of this section to every household served by the system, such systems may further limit their public education programs as follows:

(aa) Systems serving 500 or fewer people may forego the task contained in paragraph (c)(ii)(B) of this section. Such a system may limit the distribution of the public education materials required under paragraph (c)(ii)(C) of this section to facilities and organizations served by the system that are most likely to be visited regularly by pregnant women and children, unless it is notified by the Executive Secretary in writing that it must make a broader distribution.

(bb) If approved by the Executive Secretary in writing, a system serving 501 to 3,300 people may omit the task in paragraph (c)(ii)(B) of this section or limit the distribution of the public education materials required under paragraph (c)(ii)(C) of this section to facilities and organizations served by the system that are most likely to be visited regularly by pregnant wornen and children.

(B) A community water system serving 3,300 or fewer people that delivers public education in accordance with paragraph (c)(viii)(A) of this section shall repeat the required public education tasks at least once during each calendar year in which the system exceeds the lead action level.

(d) Supplemental monitoring and notification of results.

A water system that fails to meet the lead action level on the basis of tap samples collected in accordance with R309-210-6(3) shall offer to sample the tap water of any customer who requests it. The system is not required to pay for collecting or analyzing the sample, nor is the system required to collect and analyze the sample itself.

(8) Reporting requirements.

All water systems shall report all of the following information to the Executive Secretary in accordance with this section.

(a) Reporting requirements for tap water monitoring for lead and copper and for water quality parameter monitoring

(i) Except as provided in paragraph (a)(i)(H) of this section, a water system shall report the information specified below for all tap water samples specified in R309-210-6(3) and for all water quality parameter samples specified in R309-210-6(5) within the first 10 days following the end of each applicable monitoring period specified in R309-210-6 (3) and (5) (i.e., every six months, annually, every 3 years, or every 9 years).

(A) the results of all tap samples for lead and copper including the location of each site and the criteria under R309-210-6(3)(a)(iii), (iv), (v), (vi), and (vii) under which the site was selected for the system's sampling pool;

(B) Documentation for each tap water lead or copper sample for which the water system request invalidation pursuant to R309-210-6(3)(f)(ii);

(D) the 90th percentile lead and copper concentrations measured from among all lead and copper tap water samples collected during each monitoring period, (calculated in accordance with R309-200-5(2)(c))unless the Executive Secretary calculates the system's 90th percentile lead and copper levels under paragraph (h) of this section;

(E) with the exception of initial tap sampling conducted pursuant to R309-210-6(3)(d)(i), the system shall designate any site which was not sampled during previous monitoring periods, and include an explanation of why sampling sites have changed;

(F) the results of all tap samples for pH, and where applicable, alkalinity, calcium, conductivity, temperature, and orthophosphate or silica collected under R309-210-6(5)(b) through (e);

(G) the results of all samples collected at the entry point(s) to the distribution system for applicable water quality parameters under R309-210-6(5)(b) through (e).

(H) A water system shall report the results of all water quality parameter samples collected under R309-210-6(5)(c) through (f) during each six month monitoring period specified in R309-210-6(5)(d) within the first 10 days following the end of the monitoring period unless the Executive Secretary has specified a more frequent reporting requirement.

(ii) For a non-transient non-community water system, or a community water system meeting the criteria of R309-210-6(8)(c)(vii)(A) or (B), that does not have enough taps that can provide first draw samples, the system must identify, in writing, each site that did not meet the six hour minimum standing time and the length of standing time for that particular substitute sample collected pursuant to R309-210-6(3)(b)(v) and include this information with the lead and copper tap sample results required to be submitted pursuant to paragraph (a)(i)(A) of this section. The Executive Secretary has waived prior Executive Secretary[~~State~~] approval of non-first-draw samples sites selected by the system pursuant to R309-210-6(3)(b)(v).

(iii) No later than 60 days after the addition of a new source or any change in water treatment, unless the Executive Secretary required earlier notification, a water system deemed to have optimized corrosion control under R309-210-6(3)(b)(iii), a water system subject to reduced monitoring pursuant to R309-210-6(3)(d)(iv), or a water system subject to a monitoring waiver pursuant to R309-210-6(3)(g), shall send written documentation to the Executive Secretary describing the change, In those instances where prior Executive Secretary approval of the treatment change or new source is not required, water systems are encouraged to provide the notification to the Executive Secretary beforehand to minimize the risk the treatment change or new source will adversely affect optimal corrosion control.

(iv) Any small system applying for a monitoring waiver under R309-210-6(3)(g), or subject to a waiver granted pursuant to R309-210-6(3)(g)(iii), shall provide the following information to the Executive Secretary in writing by the specified deadline:

(A) By the start of the first applicable monitoring period in R309-210-6(3), any small system applying for a monitoring waiver shall provide the documentation required to demonstrate that it meets the waiver criteria of R309-210-6(3)(g)(i) and (ii).

(B) No later than nine years after the monitoring previously conducted pursuant to R309-210-6(3)(g)(ii) or (g)(iv)(A), each small system desiring to maintain its monitoring waiver shall provide the information required by R309-210-6(3)(g)(iv)(A) and (B).

(C) No later than 60 days after it becomes aware that it is no longer free of lead-containing or copper containing material, as appropriate, each small system with a monitoring waiver shall provide written notification to the Executive Secretary, setting forth the circumstances resulting in the lead containing or copper containing materials being introduced into the system and what corrective action, if any, the system plans to remove these materials

(D) By October 10, 2000, any small system with a waiver granted prior to April 11, 2000 and that has not previously met the requirements of R309-210-6(3)(g)(ii) shall provide the information required by that paragraph.

(v) Each ground water system that limits water quality parameter monitoring to a subset of entry points under R309-210-6(5)(c)(iii) shall provide, by the commencement of such monitoring, written correspondence to the Executive Secretary that identifies the selected entry points and includes information sufficient to demonstrate that the sites are representative of water quality and treatment conditions throughout the system.

(b) Source water monitoring reporting requirements

(i) A water system shall report the sampling results for all source water samples collected in accordance with R309-210-6(6) within the first 10 days following the end of each source water monitoring period (i.e., annually, per compliance period, per compliance cycle) specified in R309-210-6(6).

(ii) With the exception of the first round of source water sampling conducted pursuant to R309-210-6(6)(b), the system shall specify any site which was not sampled during previous monitoring periods, and include an explanation of why the sampling point has changed.

(c) Corrosion control treatment reporting requirements

By the applicable dates under R309-210-6(2), systems shall report the following information:

(i) for systems demonstrating that they have already optimized corrosion control, information required in R309-210-6(2)(b)(ii) or R309-210-6(2)(b)(iii).

(ii) for systems required to optimize corrosion control, their recommendation regarding optimal corrosion control treatment under R309-210-6(4)(a)(i).

(iii) for systems required to evaluate the effectiveness of corrosion control treatments under R309-210-6(4)(a)(iii), the information required by that paragraph.

(iv) for systems required to install optimal corrosion control designated by the Executive Secretary under R309-210-6(4)(a)(iv), a letter certifying that the system has completed installing that treatment.

(d) Source water treatment reporting requirements

By the applicable dates in R309-210-6(4)(b), systems shall provide the following information to the Executive Secretary :

(i) if required under R309-210-6(4)(b)(ii)(A), their recommendation regarding source water treatment;

(ii) for systems required to install source water treatment under R309-210-6(4)(b)(ii)(B), a letter certifying that the system has completed installing the treatment designated by the Executive Secretary within 24 months after the Executive Secretary designated the treatment.

(e) Lead service line replacement reporting requirements

Systems shall report the following information to the Executive Secretary to demonstrate compliance with the requirements of R309-210-6(4)(c):

(i) Within 12 months after a system exceeds the lead action level in sampling referred to in R309-210-6(4)(c)(i), the system shall demonstrate in writing to the Executive Secretary that it has conducted a materials evaluation, including the evaluation in R309-210-6(3)(a), to identify the initial number of lead service lines in its distribution system, and shall provide the Executive Secretary with the system's schedule for replacing annually at least 7 percent of the initial number of lead service lines in its distribution system.

(ii) Within 12 months after a system exceeds the lead action level in sampling referred to in R309-210-6(4)(c)(i), and every 12 months thereafter, the system shall demonstrate to the Executive Secretary in writing that the system has either:

(A) replaced in the previous 12 months at least 7 percent of the initial lead service lines (or a greater number of lines specified by the Executive Secretary under R309-210-6(4)(c)(v)) in its distribution system, or

(B) conducted sampling which demonstrates that the lead concentration in all service line samples from an individual line(s), taken pursuant to R309-210-6(3)(b)(iii), is less than or equal to 0.015 mg/L[~~mg/l~~]. In such cases, the total number of lines replaced or which meet the criteria in R309-210-6(4)(c)(iii) shall equal at least 7 percent of the initial number of lead lines identified under R309-210-6(8)(a) (or the percentage specified by the Executive Secretary under R309-210-6(4)(c)(v)).

(iii) The annual letter submitted to the Executive Secretary under R309-210-6(8)(e)(ii) shall contain the following information:

(A) the number of lead service lines scheduled to be replaced during the previous year of the system's replacement schedule;

(B) the number and location of each lead service line replaced during the previous year of the system's replacement schedule;

(C) if measured, the water lead concentration and location of each lead service line sampled, the sampling method, and the date of sampling.

(iv) Systems shall also report any additional information as specified by the Executive Secretary[~~State~~], and in a time and manner prescribed by the Executive Secretary, to verify that all partial lead service line replacement activities have taken place.

(f) Public education program reporting requirements

(i) Any water system that is subject to the public education requirements in R309-210-6(7) shall , within ten days after the end of each period in which the system is required to perform public education tasks in accordance with R309-210-6(7)(c), send written documentation to the Executive Secretary that contains:

(A) A demonstration that the system has delivered the public education materials that meet the content requirements in R309-210-6(7)(a) and (b) and the delivery requirements in R309-210-6(7)(c); and

(B) A list of all the newspapers, radio stations, television stations, and facilities and organizations to which the system delivered public education materials during the period in which the system was required to perform public education tasks.

(ii) Unless required by the Executive Secretary, a system that previously has submitted the information required by paragraph (f)(i)(B) of this section, as long as there have been no changes in the distribution list and the system certifies that the public education materials were distributed to the same list submitted previously.

(g) Reporting of additional monitoring data

Any system which collects sampling data in addition to that required by this subpart shall report the results to the Executive Secretary within the first ten day following the end of the applicable monitoring period under R309-210-6(3), R309-210-6(5) and R309-210-6(6) during which the samples are collected.

(h) Reporting of 90th percentile lead and copper concentrations where the Executive Secretary calculates a system's 90th percentile concentrations. A water system is not required to report the 90th percentile lead and copper concentrations measured from among all lead and copper tap water samples during each monitoring period, as required by paragraph (a)(i)(D) of this section if:

(i) The Executive Secretary has previously notified the water system that it will calculate the water system's 90th percentile lead and copper concentrations, based on the lead and copper tap results submitted pursuant to paragraph (h)(ii)(A) of this section, and has specified a date before the end of the applicable monitoring period by which the system must provide the results of lead and copper tap water samples;

(ii) The system has provided the following information to the Executive Secretary by the date specified in paragraph (h)(i) of this section:

(A) The results of all tap samples for lead and copper including the location of each site and the criteria under R309-210-6(3)(a)(iii), (iv), (v), (vi), and/or (vii) under which the site was selected for the system's sampling pool, pursuant to paragraph (a)(i)(A) of this section; and

(B) An identification of sampling sites utilized during the current monitoring period that were not sampled during previous monitoring periods, and an explanation why sampling sites have changed; and

(iii) The Executive Secretary has provided the results of the 90th percentile lead and copper calculations, in writing, to the water system before the end of the monitoring period.

. . . . . .

R309-210-8. Disinfection Byproducts Monitoring for Public Water Systems.

(1) General requirements. The requirements in this sub-section establish criteria under which community and non-transient non-community water systems that add a chemical disinfectant to the water in any part of the drinking water treatment process, shall modify their practices to meet MCLs and MRDLs in R309-200-5(3)(c) and meet treatment technique requirements in R309-215-12 and 13. The requirements of this sub-section also establish criteria under which transient non-community water systems that use chlorine dioxide shall modify their practices to meet MRDLs for chlorine dioxide in R309-200-5(3)(c).

(a) Compliance dates.

(i) Community and Non-transient non-community water systems. Surface water systems serving 10,000 or more persons must comply with this section beginning January 1, 2002. Surface water systems serving fewer than 10,000 persons and systems using only ground water not under the direct influence of surface water must comply with this section beginning January 1, 2004.

(ii) Transient non-community water systems. Surface water systems serving 10,000 or more persons and using chlorine dioxide as a disinfectant or oxidant must comply with any requirements for chlorine dioxide in this section beginning January 1, 2002. Surface water systems serving fewer than 10,000 persons and using chlorine dioxide as a disinfectant or oxidant and systems using only ground water not under the direct influence of surface water and using chlorine dioxide as a disinfectant or oxidant must comply with any requirements for chlorine dioxide in this section beginning January 1, 2004.

(b) Systems must take all samples during normal operating conditions.

(c) Systems may consider multiple wells drawing water from a single aquifer as one treatment plant for determining the minimum number of TTHM and HAA5 samples required, with approval from the Executive Secretary.

(d) Failure to monitor in accordance with the monitoring plan required under paragraph (5) of this section is a monitoring violation.

(e) Failure to monitor will be treated as a violation for the entire period covered by the annual average where compliance is based on a running annual average of monthly or quarterly samples

or averages and the system's failure to monitor makes it impossible to determine compliance with MCLs or MRDLs.

(f) Systems may use only data collected under the provisions of this section or the federal Information Collection Rule,(40 CFR, Part 141, Subpart M) to qualify for reduced monitoring.

(2) Monitoring requirements for disinfection byproducts.

(a) TTHMs and HAA5s

(i) Routine monitoring. Systems must monitor at the frequency indicated in the following:

(A) If a system elects to sample more frequently than the minimum required, at least 25 percent of all samples collected each quarter (including those taken in excess of the required frequency) must be taken at locations that represent the maximum residence time of the water in the distribution system. The remaining samples must be taken at locations representative of at least average residence time in the distribution system.

(B) Surface water systems serving at least 10,000 persons shall take four water samples per quarter per treatment plant. At least 25 percent of all samples collected each quarter shall be at locations representing maximum residence time. The remaining samples taken at locations representative of at least average residence time in the distribution system and representing the entire distribution system, taking into account number of persons served, different sources of water, and different treatment methods.

(C) Surface water systems serving from 500 to 9,999 persons shall take one water sample per quarter per treatment plant at a locations representing maximum residence time.

(D) Surface water systems serving fewer than 500 persons shall take one sample per year per treatment plant during month of warmest water temperature at a location representing maximum residence time. If the sample (or average of annual samples, if more than one sample is taken) exceeds the MCL, the system must increase monitoring to one sample per treatment plant per quarter, taken at a point reflecting the maximum residence time in the distribution system, until the system meets reduced monitoring criteria in paragraph (2)(a)(iv) of this section.

(E) Systems using only ground water not under direct influence of surface water using chemical disinfectant and serving at least 10,000 persons shall take one water sample per quarter per treatment plant at a locations representing maximum residence time.

(F) Systems using only ground water not under direct influence of surface water using chemical disinfectant and serving fewer than 10,000 persons shall take one sample per year per treatment plant during month of warmest water temperature at a location representing maximum residence time. If the sample (or average of annual samples, if more than one sample is taken) exceeds the MCL, the system must increase monitoring to one sample per treatment plant per quarter, taken at a point reflecting the maximum residence time in the distribution system, until the system meets criteria in paragraph (2)(a)(iv) of this section for reduced monitoring.

(ii) Systems may reduce monitoring, except as otherwise provided, if the system has monitored for at least one year and is in accordance with the following paragraphs. Any Surface water system serving fewer than 500 persons may not reduce its monitoring to less than one sample per treatment plant per year.

(A) A surface water system serving at least 10,000 persons which has a source water annual average TOC level, before any treatment, of less than or equal to 4.0 mg/L and has a TTHM annual average of less than or equal to 0.040 mg/L and has a HAA5 annual average of less than or equal to 0.030 mg/L may reduce monitoring to one sample per treatment plant per quarter at a distribution system location reflecting maximum residence time.

(B) A surface water system serving from 500 to 9,999 persons which has a source water annual average TOC level, before any treatment, of less than or equal to 4.0 mg/L and has a TTHM annual average of less than or equal to 0.040 mg/L and has a HAA5 annual average of less than or equal to 0.030 mg/L may reduce monitoring to one sample per treatment plant per year at a distribution system location reflecting maximum residence time during the month of warmest water temperature.

(C) A system using only ground water not under direct influence of surface water using chemical disinfectant and serving at least 10,000 persons that has a TTHM annual average of less than or equal to 0.040 mg/L and has a HAA5 annual average of less than or equal to 0.030 mg/L may reduce monitoring to one sample per treatment plant per year at a distribution system location reflecting maximum residence time during the month of warmest water temperature.

(D) A system using only ground water not under direct influence of surface water using chemical disinfectant and serving fewer than 10,000 persons that has a TTHM annual average of less than or equal to 0.040 mg/L and has a HAA5 annual average of less than or equal to 0.030 mg/L for two consecutive years or has a TTHM annual average of less than or equal to 0.020 mg/L and has a HAA5 annual average of less than or equal to 0.015mg/L for one year may reduce monitoring to one sample per treatment plant per three year monitoring cycle at a distribution system location reflecting maximum residence time during the month of warmest water temperature, with the three-year cycle beginning on January 1 following the quarter in which the system qualifies for reduced monitoring.

(iii) Systems on a reduced monitoring schedule may remain on that reduced schedule as long as the average of all samples taken in the year (for systems which must monitor quarterly) or the result of the sample (for systems which must monitor no more frequently than annually) is no more than 0.060 mg/L and 0.045 mg/L for TTHMs and HAA5, respectively. Systems that do not meet these levels must resume monitoring at the frequency identified in paragraph (2)(a)(i) of this section in the quarter immediately following the monitoring period in which the system exceeds 0.060 mg/L or 0.045 mg/L for TTHM or HAA5, respectively. For systems using only ground water not under the direct influence of surface water and serving fewer than 10,000 persons, if either the TTHM annual average is >0.080 mg/L or the HAA5 annual average is >0.060 mg/L, the system must go to the increased monitoring identified in paragraph (2)(a)(i) of this section in the quarter immediately following the monitoring period in which the system exceeds 0.080 mg/L or 0.060 mg/L for TTHMs or HAA5 respectively.

(iv) Systems on increased monitoring may return to routine monitoring if, after at least one year of monitoring their TTHM annual average is less than or equal to 0.060 mg/L and their HAA5 annual average is less than or equal to 0.045 mg/L.

(v) The Executive Secretary may return a system to routine monitoring when appropriate to protect public health.

(b) Chlorite. Community and non-transient non-community water systems using chlorine dioxide, for disinfection or oxidation, must conduct monitoring for chlorite.

(i) Routine monitoring.

(A) Daily monitoring. Systems must take daily samples at the entrance to the distribution system. For any daily sample that

exceeds the chlorite MCL, the system must take additional samples in the distribution system the following day at the locations required by paragraph (2)(b)(ii) of this section, in addition to the sample required at the entrance to the distribution system.

(B) Monthly monitoring. Systems must take a three-sample set each month in the distribution system. The system must take one sample at each of the following locations: near the first customer, at a location representative of average residence time, and at a location reflecting maximum residence time in the distribution system. Any additional routine sampling must be conducted in the same manner (as three-sample sets, at the specified locations). The system may use the results of additional monitoring conducted under paragraph (2)(b)(ii) of this section to meet the requirement for monitoring in this paragraph.

(ii) Additional monitoring. On each day following a routine sample monitoring result that exceeds the chlorite MCL at the entrance to the distribution system, the system is required to take three chlorite distribution system samples at the following locations: as close to the first customer as possible, in a location representative of average residence time, and as close to the end of the distribution system as possible (reflecting maximum residence time in the distribution system).

(iii) Reduced monitoring.

(A) Chlorite monitoring at the entrance to the distribution system required by paragraph (2)(b)(i)(A) of this section may not be reduced.

(B) Chlorite monitoring in the distribution system required by paragraph (2)(b)(i)(B) of this section may be reduced to one three-sample set per quarter after one year of monitoring where no individual chlorite sample taken in the distribution system under paragraph (2)(b)(i)(B) of this section has exceeded the chlorite MCL and the system has not been required to conduct monitoring under paragraph (2)(b)(ii) of this section. The system may remain on the reduced monitoring schedule until either any of the three individual chlorite samples taken monthly in the distribution system under paragraph (2)(b)(i)(B) of this section exceeds the chlorite MCL or the system is required to conduct monitoring under paragraph (2)(b)(ii) of this section, at which time the system must revert to routine monitoring.

(c) Bromate.

(i) Routine monitoring. Community and nontransient noncommunity systems using ozone, for disinfection or oxidation, must take one sample per month for each treatment plant in the system using ozone. Systems must take samples monthly at the entrance to the distribution system while the ozonation system is operating under normal conditions.

(ii) Reduced monitoring. Systems required to analyze for bromate may reduce monitoring from monthly to once per quarter, if the system demonstrates that the average source water bromide concentration is less than 0.05 mg/L based upon representative monthly bromide measurements for one year. The system may remain on reduced bromate monitoring until the running annual average source water bromide concentration, computed quarterly, is equal to or greater than 0.05 mg/L based upon representative monthly measurements. If the running annual average source water bromide concentration is greater than or equal to 0.05 mg/L, the system must resume routine monitoring required by paragraph (2)(c)(i) of this section.

(3) Monitoring requirements for disinfectant residuals.

(a) Chlorine and chloramines.

(i) Routine monitoring. Community and nontransient noncommunity water systems that use chlorine or chloramines must measure the residual disinfectant level in distribution system at the same point in the distribution system and at the same time as total coliforms are sampled, as specified in R309-210-5. The Executive Secretary may allow a public water system which uses both disinfected and undisinfected sources to take disinfectant residual samples at points other than the total coliform sampling points if the Executive Secretary determines that such sampling points are more representative of treated (disinfected) water quality within the distribution system. Water systems shall take a minimum of three residual disinfectant level samples each week.

(ii) In addition, ground water systems shall take the following readings at each facility a minimum of three times a week: the total volume of water treated; the type and amount of disinfectant used in treating the water (clearly indicating the weight if gas feeders are used, or the percent solution and volume fed if liquid feeders are used); and the setting of the rotometer valve or injector pump. Surface water systems may use the results of residual disinfectant concentration sampling conducted under R309-215-10(3) for systems which filter, in lieu of taking separate samples.

(iii) Reduced monitoring. Monitoring may not be reduced.

(b) Chlorine Dioxide.

(i) Routine monitoring. Community, nontransient noncommunity, and transient noncommunity water systems that use chlorine dioxide for disinfection or oxidation must take daily samples at the entrance to the distribution system. For any daily sample that exceeds the MRDL, the system must take samples in the distribution system the following day at the locations required by paragraph (3)(b)(ii) of this section, in addition to the sample required at the entrance to the distribution system.

(ii) Additional monitoring. On each day following a routine sample monitoring result that exceeds the MRDL, the system is required to take three chlorine dioxide distribution system samples. If chlorine dioxide or chloramines are used to maintain a disinfectant residual in the distribution system, or if chlorine is used to maintain a disinfectant residual in the distribution system and there are no disinfection addition points after the entrance to the distribution system (i.e., no booster chlorination), the system must take three samples as close to the first customer as possible, at intervals of at least six hours. If chlorine is used to maintain a disinfectant residual in the distribution system and there are one or more disinfection addition points after the entrance to the distribution system (i.e., booster chlorination), the system must take one sample at each of the following locations: as close to the first customer as possible, in a location representative of average residence time, and as close to the end of the distribution system as possible (reflecting maximum residence time in the distribution system).

(iii) Reduced monitoring. Chlorine dioxide monitoring may not be reduced.

(4) Bromide. Systems required to analyze for bromate may reduce bromate monitoring from monthly to once per quarter, if the system demonstrates that the average source water bromide concentration is less than 0.05 mg/L based upon representative monthly measurements for one year. The system must continue bromide monitoring to remain on reduced bromate monitoring.

(5) Monitoring plans. Each system required to monitor under this section must develop and implement a monitoring plan. The system must maintain the plan and make it available for inspection by the Executive Secretary and the general public no later than 30 days following the applicable compliance dates in R309-210-8(1)(a).

All Surface water systems serving more than 3300 people must submit a copy of the monitoring plan to the Executive Secretary no later than the date of the first report required under R309-105-16(2). The Executive Secretary may also require the plan to be submitted by any other system. After review, the Executive Secretary may require changes in any plan elements. The plan must include at least the following elements.

(a) Specific locations and schedules for collecting samples for any parameters included in this subpart.

(b) How the system will calculate compliance with MCLs, MRDLs, and treatment techniques.

(c) If approved for monitoring as a consecutive system, or if providing water to a consecutive system, the Executive Secretary may modify the monitoring requirements treating the systems as a single distribution system, however, the sampling plan shall reflect the entire distribution system of all interconnected systems.

(6) Compliance requirements.

(a) General requirements.

(i) Where compliance is based on a running annual average of monthly or quarterly samples or averages and the system fails to monitor for TTHM, HAA5, or bromate, this failure to monitor will be treated as a monitoring violation for the entire period covered by the annual average. Where compliance is based on a running annual average of monthly or quarterly samples or averages and the system's failure to monitor makes it impossible to determine compliance with MRDLs for chlorine and chloramines, this failure to monitor will be treated as a monitoring violation for the entire period covered by the annual average.

(ii) All samples taken and analyzed under the provisions of this section shall be included in determining compliance, even if that number is greater than the minimum required.

(iii) If, during the first year of monitoring under R309-210-8, any individual quarter's average will cause the running annual average of that system to exceed the MCL, the system is out of compliance at the end of that quarter.

(b) Disinfection byproducts.

(i) TTHMs and HAA5.

(A) For systems monitoring quarterly, compliance with MCLs in R309-200-5(3)(c) shall be based on a running annual arithmetic average, computed quarterly, of quarterly arithmetic averages of all samples collected by the system as prescribed by R309-210-8(2)(a).

(B) For systems monitoring less frequently than quarterly, systems demonstrate MCL compliance if the average of samples taken that year under the provisions of R309-210-8(2)(a) does not exceed the MCLs in R309-200-5(3)(c). If the average of these samples exceeds the MCL, the system shall increase monitoring to once per quarter per treatment plant and such a system is not in violation of the MCL until it has completed one year of quarterly monitoring, unless the result of fewer than four quarters of monitoring will cause the running annual average to exceed the MCL, in which case the system is in violation at the end of that quarter. Systems required to increase monitoring frequency to quarterly monitoring shall calculate compliance by including the sample which triggered the increased monitoring plus the following three quarters of monitoring.

(C) If the running annual arithmetic average of quarterly averages covering any consecutive four-quarter period exceeds the MCL, the system is in violation of the MCL and shall notify the public pursuant to R309-220, in addition to reporting to the Executive Secretary pursuant to R309-105-16.

(D) If a PWS fails to complete four consecutive quarters of monitoring, compliance with the MCL for the last four-quarter compliance period shall be based on an average of the available data.

(ii) Chlorite. Compliance shall be based on an arithmetic average of each three sample set taken in the distribution system as prescribed by R309-210-8(2)(b)(i)(B) and (2)(b)(ii). If the arithmetic average of any three sample sets exceeds the MCL, the system is in violation of the MCL and shall notify the public pursuant to R309-220, in addition to reporting to the Executive Secretary pursuant to R309-105-16.

(iii) Bromate. Compliance shall be based on a running annual arithmetic average, computed quarterly, of monthly samples (or, for months in which the system takes more than one sample, the average of all samples taken during the month) collected by the system as prescribed by R309-210-8(2)(c). If the average of samples covering any consecutive four-quarter period exceeds the MCL, the system is in violation of the MCL and shall notify the public pursuant to R309-220, in addition to reporting to the Executive Secretary pursuant to R309-105-16. If a PWS fails to complete 12 consecutive months' monitoring, compliance with the MCL for the last four-quarter compliance period shall be based on an average of the available data.

(c) Disinfectant residuals.

(i) Chlorine and chloramines.

(A) Compliance shall be based on a running annual arithmetic average, computed quarterly, of monthly averages of all samples collected by the system under R309-210-8(3)(a). If the average covering any consecutive four-quarter period exceeds the MRDL, the system is in violation of the MRDL and shall notify the public pursuant to R309-220, in addition to reporting to the Executive Secretary pursuant to R309-105-16.

(B) In cases where systems switch between the use of chlorine and chloramines for residual disinfection during the year, compliance shall be determined by including together all monitoring results of both chlorine and chloramines in calculating compliance. Reports submitted pursuant to R309-105-16 shall clearly indicate which residual disinfectant was analyzed for each sample.

(ii) Chlorine dioxide.

(A) Acute violations. Compliance shall be based on consecutive daily samples collected by the system under R309-210-8(3)(b). If any daily sample taken at the entrance to the distribution system exceeds the MRDL, and on the following day one (or more) of the three samples taken in the distribution system exceed the MRDL, the system is in violation of the MRDL and shall take immediate corrective action to lower the level of chlorine dioxide below the MRDL and shall notify the public pursuant to the procedures for acute health risks in R309-220-5. Failure to take samples in the distribution system the day following an exceedance of the chlorine dioxide MRDL at the entrance to the distribution system will also be considered an MRDL violation and the system shall notify the public of the violation in accordance with the provisions for acute violations under R309-220-5 in addition to reporting the Executive Secretary pursuant to R309-105-16.

(B) Nonacute violations. Compliance shall be based on consecutive daily samples collected by the system under R309-210-8(3)(b). If any two consecutive daily samples taken at the entrance to the distribution system exceed the MRDL and all distribution system samples taken are below the MRDL, the system is in violation of the MRDL and shall take corrective action to lower the level of chlorine dioxide below the MRDL at the point of sampling

and will notify the public pursuant to the procedures for nonacute health risks in R309-220-6 in addition to reporting to the Executive Secretary pursuant to R309-105-16. Failure to monitor at the entrance to the distribution system the day following an exceedance of the chlorine dioxide MRDL at the entrance to the distribution system is also an MRDL violation and the system shall notify the public of the violation in accordance with the provisions for nonacute violations under R309-220-6 in addition to reporting to the Executive Secretary pursuant to R309-105-16.

R309-210-9. Disinfection Byproducts Monitoring for Community Water Systems with only Ground Water Sources that Serve a Population of 10,000 or Greater.

This section applies to community water system with only ground water sources that serve a population of 10,000 or greater through December 31, 2003 at which time these systems shall comply with the requirements outlined in R309-210-8.

(1) Monitoring Requirements for Total Trihalomethanes. Community water systems serving 10,000 or more people and using disinfection must sample for Total Trihalomethane. Non-transient non-community and non-community water systems are not required to monitor for total trihalomethanes.[

~~(a)~~] Groundwater systems may choose to monitor for Total Trihalomethane Formation Potential (THMFP) or TTHM compounds with the approval of the Executive Secretary.[

~~(b) Surface water systems must monitor using quarterly routine TTHM quenched samples only. THMFP samples shall not be used to determine compliance with this MCL when surface sources are used.~~]

(2) Sampling Locations For Trihalomethanes

(a) THMFP samples

A THMFP sample shall be collected in a representative manner at the point of entry to the distribution system following disinfection. One sample must be collected for each disinfected source in duplicate. Compliance for each source is based on measurement of this sample. If the results of this sample are well below 100 micrograms per liter, reduced monitoring can be requested of the Executive Secretary.

(b) Routine TTHM Samples

Samples shall be collected from the distribution system for routine TTHM quenched analysis and not the source. At least 25% of all samples collected representing each chlorinated source shall represent the extremes of the distribution system to which disinfected water travels. Operators are required to check for a chlorine residual before collecting any TTHM samples. A chlorine residual of at least 0.2 ppm shall be present at all sampling points.

(3) Sampling Frequency for Trihalomethanes

For TTHM samples, four samples, all collected on the same day, shall be collected each calendar quarter representing each disinfected source. All samples shall be collected in duplicate, although laboratories may only analyze one of these. This is a required quality control procedure for each certified laboratory.

For THMFP samples, only one sample need be collected (see paragraph (2) above).

(4) Reduced Sampling for Trihalomethanes

[~~(a) Systems with surface sources which have four consecutive calendar quarters of data may petition the Executive Secretary for reduced monitoring if the MCL has been met. Upon approval of reduced monitoring by the Executive Secretary, surface water sources shall be analyzed at least once per calendar year for TTHM compounds. Subsequent samples shall be collected from the extreme end of the distribution system. A chlorine residual of at least a detectable level shall be present at the point of sampling.~~

~~(b)~~]Systems with groundwater sources that have either completed a THMFP test or that have completed four consecutive calendar quarters may petition the Executive Secretary for reduced monitoring if the MCL has been met. Upon approval of reduced monitoring by the Executive Secretary, groundwater sources shall be analyzed at least once per year for TTHM compounds. Subsequent samples shall be collected from the extreme end of the distribution system. A chlorine residual of at least a detectable level shall be present at the point of sampling.

(5) Reporting of Results of Trihalomethane Monitoring

All results of TTHM samples shall be reported to the Executive Secretary within 10 days of the receipt of the analysis.

(6) Procedures if Total Trihalomethane MCL is Exceeded

(a) If the quarterly average of TTHM samples or THMFP samples exceeds 100 micrograms per liter, the Executive Secretary shall be so informed in writing within 10 days of the end of any month in which these analyses were performed.

(b) An accelerated sampling program shall be undertaken as determined by the Executive Secretary.

(c) Alteration of the existing treatment processes or installation of new processes for TTHM reduction shall be required if an MCL is not met. A compliance schedule shall be established which outlines any pilot studies necessary together with a plan and time schedule for completion of construction which will remedy the MCL violation. Modifications shall not endanger adequate disinfection of water in the system.

(d) When an MCL is violated, or is near the limit, action shall be taken by the suppliers involved. Generally, the Executive Secretary will notify the supplier of special sampling which is necessary on a case by case basis.

Two possibilities in this area are:

(i) A wholesaler-retailer relationship. In general, the burden in this case shall be on the supplier adding the disinfectant to show that the results of additional THMFP tests are well within limitations. Additional THMFP tests and TTHM tests may be required of the supplier distributing this water, but not treating it, to clarify the situation. The Executive Secretary shall decide the responsibility in these cases and send written confirmation of this finding to both suppliers involved.

(ii) A situation where not all sources on the system are disinfected, yet deliver water to the same system. In this case, the cause of non-compliance must be determined to be either a chlorinated source problem, a non-chlorinated source - chlorinated source interaction, a distribution system reaction, or other. The Executive Secretary shall require such tests as are necessary to resolve the problem.

As with any action, this decision may be appealed to the Utah Drinking Water Board.

(e) Notification of Executive Secretary[~~State~~] and Public

When the maximum contaminant level as set forth in R309-200-5(c) is exceeded, the supplier of water shall give public notice as required in R309-220.

KEY: drinking water, distribution system monitoring, compliance determinations
December 16[~~August 12~~], 2002
19-4-104
63-46b-4

Environmental Quality, Drinking Water
R309-215
Monitoring and Water Quality: Treatment Plant Requirements

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 25491
FILED: 10/11/2002, 16:06

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This filing is to adopt the requirements contained in the federal Interim Enhanced Surface Water Treatment Rule, the Disinfection/Disinfection By-Products Rule, and Radionuclide Rule. These changes are required in order to maintain primacy.

SUMMARY OF THE RULE OR CHANGE: This rule change includes modifying the turbidity monitoring time requirements for water systems serving over 10,000 population, adds disinfection by-product precursors (TOC) removal and monitoring requirements, and disinfection profiling and benchmarking requirements.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-4-104, and Safe Drinking Water Act (amended Aug. 6, 1996), Title XIV, Section 1419

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: Five full-time equivalents as an aggregate for the changes in Rules R309-105, R309-200, R309-205, R309-210, R309-215, R309-525, and R309-530. This staffing increase has already been authorized by the 2002 Legislature with funding coming from the federal SRF (state revolving loan funds). (DAR NOTE: The proposed amendments to R309-105 (DAR No. 25486), R309-200 (DAR No. 25488), R309-205 (DAR No. 25489), R309-210 (DAR No. 25490), R309-215 (DAR No. 25491), R309-525 (DAR No. 25493), and R309-530 (DAR No. 25494) are all found in this Bulletin.)

❖ LOCAL GOVERNMENTS: Costs will vary by water system size, sources utilized, and treatment applied. EPA estimates the total national annual cost at $1,072,000. Utah has approximately 0.5% of the total number of water systems nationally making Utah's annual cost estimated at $5,360,000 for the aggregate rule changes.

❖ OTHER PERSONS: Costs will vary depending upon water system size. EPA estimates the cost to vary from $1 to $400 per household per year with 95% of the water systems affected having households in the $1 to $12 per year cost category for the aggregate rule changes.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Compliance costs for this aggregate rule change will vary depending upon the water system size, type of source and type, of treatment. EPA estimates the cost to vary from $1 to $400 per household per year with 95% of the systems affected having households in the $1 to $12 per year cost category.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The Department of Environmental Quality agrees with the comments listed under the Cost or Savings statements and the Compliance costs for affected persons above. It is important to note that the cost of this aggregate rule change to public water systems and their consumers will occur independent of this rule action. These requirements will be applied by the federal government if these rules are not adopted by Utah. Dianne R. Nielson, Ph.D., Executive Director

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

ENVIRONMENTAL QUALITY
DRINKING WATER
150 N 1950 W
SALT LAKE CITY UT 84116-3085, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Patti Fauver or Ken Bousfield at the above address, by phone at 801-536-4196 or 801-536-4207, by FAX at 801-536-4211 or 801-536-4211, or by Internet E-mail at pfauver@utah.gov or kbousfield@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 12/02/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 12/03/2002

AUTHORIZED BY: Kevin Brown, Director

R309. Environmental Quality, Drinking Water.
R309-215. Monitoring and Water Quality: Treatment Plant Monitoring Requirements.
R309-215-1. Purpose.

The purpose of this rule is to outline the monitoring and reporting requirements for public water systems which treat water prior to providing it for human consumption.

R309-215-2 Authority.
R309-215-3 Definitions.
R309-215-4 General.
R309-215-5 Monitoring Requirements for Groundwater Disinfection.
R309-215-6 Monitoring Requirements for Miscellaneous Treatment Plants.
R309-215-7 Surface Water Treatment Plant Evaluations.
R309-215-8 Surface Water Treatment Plant Monitoring and Reporting.
R309-215-9 Turbidity Monitoring and Reporting.
R309-215-10 Residual Disinfectant Monitoring.
R309-215-11 Waterborne Disease Outbreak.
R309-215-12 Monitoring Requirements for Disinfection Byproducts Precursors (DBPP).
R309-215-13 Treatment Techniques for control of Disinfection Byproducts Precursors (DBPP).
R309-215-14 Disinfection Profiling and Benchmarking.

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R309-215-3. Definitions.

Definitions for certain terms used in this rule are given in R309-110 but may be further clarified herein.

R309-215-4. General.

(1) All public water systems are required to monitor their water to determine if they comply with the requirements for water quality stated in R309-200. In exceptional circumstances the Executive Secretary may modify the monitoring requirements given herein as is deemed appropriate.

(2) The Executive Secretary may determine compliance or initiate compliance actions based upon analytical results and other information compiled by authorized representatives.

(3) If the water fails to meet minimum standards, then certain public notification procedures shall be carried out, as outlined in R309-220. Water suppliers shall also keep analytical records in their possession, for a required length of time, as outlined in R309-105-17.

(4) All samples shall be taken at representative sites as specified herein for each contaminant or group of contaminants.

(5) For the purpose of determining compliance, samples may only be considered if they have been analyzed by the State of Utah primacy laboratory or a laboratory certified by the Utah State Health Laboratory.

(6) Measurements for pH, temperature, turbidity and disinfectant residual may, under the direction of the direct responsible operator, be performed by any water supplier or their representative.

(7) All samples shall[~~must~~] be marked either: routine, repeat, check or investigative before submission of such samples to a certified laboratory. Routine, repeat, and check samples shall be considered compliance purpose samples.

(8) All sample results can be sent to the Division of Drinking Water either electronically or in hard copy form.

(9) Unless otherwise required by the Board, the effective dates on which required monitoring shall be initiated are identical to the dates published in 40 CFR 141 on July 1, 2001 by the Office of the Federal Register

(10) Exemptions from monitoring requirements shall only be granted in accordance with R309-105-5.

R309-215-5.[~~R309-215-6.~~] Monitoring Requirements for Groundwater Disinfection.

(1) General: Continuous disinfection is recommended for all drinking water sources. Continuous disinfection shall be required of all groundwater sources which do not consistently meet standards of bacteriologic quality. Once required by the Executive Secretary continuous disinfection shall not be interrupted nor terminated unless so authorized, in writing, by the Executive Secretary.

(2) Disinfection Reporting: For each disinfection treatment facility, plant management shall report information to[~~the following to~~]the Division as specified in R309-105-16(2)(c).[~~within ten days after the end of each month that the system serves water to the public, except as otherwise noted:~~

~~(a) For each day;~~

~~(i) the total volume of water treated by the facility,~~

~~(ii) the type and amount of disinfectant used in the treating the water (clearly indicating the weight if gas feeders are used, or the percent solution and volume fed if liquid feeders are used),~~

~~(iii) the setting of rotometer valve or injector pump,~~

~~(iv) the residual level of free chlorine found in the distribution system, and~~

~~(v) the location where the chlorine residual was sampled.~~

~~(b) Monthly, certify, by signing the report form provided by the Division that;~~

~~(i) all information provided is accurate and correct, and~~

~~(ii) any chemical introduced into the drinking water complies with ANSI/NSF Standard 60.~~]

(3)[~~(c)~~] A water system shall report a malfunction of any facility or equipment such that a detectable residual cannot be maintained throughout the distribution system. The system shall[~~must~~] notify the Division as soon as possible, but no later than by the end of the next business day. The system also shall[~~must~~] notify the Division by the end of the next business day whether or not the residual was restored to at least 0.2 mg/L[~~mg/l~~] within four hours.[

~~(d) A sample indicates that the Maximum residual disinfectant level (MRDL) has been exceeded.~~]

R309-215-6.[~~R309-215-7.~~] Monitoring Requirements for Miscellaneous Treatment Plants.

(1) General: Treatment of drinking water may be required for other than inactivation of microbial contaminants indicated above or removal/inactivation of pathogens and viruses as indicated below. For miscellaneous treatment methods indicated in R309-535, the Executive Secretary may require monitoring and reporting. If required, report forms will be provided by the Division.

R309-215-7.[~~R309-215-8. Monitoring Requirements for~~] Surface Water Treatment Evaluations.[~~Plants.~~]

(1) General: Surface water sources or groundwater sources under direct influence of surface water shall be disinfected during the course of required surface water treatment. Disinfection shall not be considered a substitute for inadequate collection facilities. All public water systems which use a treatment technique to treat water obtained in whole or in part from surface water sources or ground water sources under the direct influence of surface water shall monitor the plant's operation[~~as indicated below~~] and report the results to the Division as indicated in R309-215-7 through R309-215-14. Individual plants will be evaluated in accordance with the criteria outlined in paragraph (2) below.[~~R309-215-8(6).~~] Based on information submitted and/or plant inspections, the plant will receive credit for treatment techniques other than disinfection that remove pathogens, specifically Giardia lamblia and viruses. This credit (log removal) will reduce the required disinfectant "CT" value which the plant shall[~~must~~] maintain to assure compliance with R309-200-5(7)(a)(i).

(2) Criteria for Individual Treatment Plant Evaluation: New and existing water treatment plants shall meet specified monitoring and performance criteria in order to ensure that filtration and disinfection are satisfactorily practiced. The monitoring requirements and performance criteria for turbidity and disinfection listed above provide the minimum for the Division to evaluate the plant's efficiency in removing and/or inactivating 99.9 percent (3-log) of Giardia lamblia cysts and 99.99 percent (4-log) of viruses as required by R309-505-6(2)(a) and (b).

(3) The Division, upon evaluation of individual raw water sources, surface water or ground water under the direct influence of surface water, may require greater than the 3-log, 4-log removal/inactivation of Giardia and viruses respectfully. If a raw

water source exhibits an estimated concentration of 1 to 10 Giardia cysts per 100 liters, 4 and 5-log removal/inactivation may be required. If the raw water exhibits a concentration of 10 to 100 cysts per 100 liters, 5 and 6-log removal/inactivation may be required.

(4) The Division, upon individual plant evaluation, may assign the treatment techniques (coagulation, flocculation, sedimentation and filtration) credit toward removal of Giardia cysts and viruses. The greater the number of barriers in the treatment process, the greater the reduction of pathogens, therefore lessor credit will be given to processes such as direct filtration which eliminate one or more conventional barriers. Plants may monitor turbidity at multiple points in the treatment process as evidence of the performance of an individual treatment technique.

(5) The nominal credit that will be assigned certain conventional processes are outlined in Table 215-1:

TABLE 215-1
CONVENTIONAL PROCESS CREDIT

Process	Log Reduction Credit Giardia	Viruses
Conventional Complete Treatment	2.5	2.0
Direct Filtration	2.0	1.0
Slow Sand Filtration	2.0	2.0
Diatomaceous Earth Filters	2.0	1.0

(6) Upon evaluation of information provided by individual plants or obtained during inspections by Division staff, the Division may increase or decrease the nominal credit assigned individual plants based on that evaluation.

(a) Items which would augment the treatment process and thereby warrant increased credit are:

(i) facilities or means to moderate extreme fluctuations in raw water characteristics;

(ii) sufficient on-site laboratory facilities regularly used to alert operators to changes in raw water quality;

(iii) use of pilot stream facilities which duplicate treatment conditions but allow operators to know results of adjustments much sooner than if only monitoring plant effluent;

(iv) use of additional monitoring methods such as particle size and distribution analysis to achieve greater efficiency in particulate removal;

(v) regular program for preventive maintenance, records of such, and general good housekeeping; or

(vi) adequate staff of well trained and certified plant operators.

(b) Items which would be considered a detriment to the treatment process and thereby warrant decreased credit are:

(i) inadequate staff of trained and certified operators;

(ii) lack of regular maintenance and poor housekeeping; or

(iii) insufficient on-site laboratory facilities.

R309-215-8. Surface Water Treatment Plant Monitoring and Reporting.

[~~(2) Surface Water Treatment Reporting:~~] Treatment plant management shall report the following to the Division within ten days after the end of each month that the system serves water to the public, except as otherwise noted:

(1)[~~(a)~~] For each day;

(a)[~~(i)~~] if the plant treats water from multiple sources, the sources being utilized (including recycled backwash water) and the ratio for each if blending occurs.

(b)[~~(ii)~~] the total volume of water treated by the plant,

(c)[~~(iii)~~] the turbidity of the raw water entering the plant,

(d)[~~(iv)~~] the pH of the effluent water, measured at or near the monitoring point for disinfectant residual,

(e)[~~(v)~~] the temperature of the effluent water, measured at or near the monitoring point for disinfectant residual,

(f)[~~(vi)~~] the type and amount of chemicals used in the treatment process (clearly indicating the weight and active percent of chemical if dry feeders are used, or the percent solution and volume fed if liquid feeders are used),

(g)[~~(vii)~~] the high and low temperature and weather conditions (local forecast information may be used, but any precipitation in the watershed should be further described as light, moderate, heavy, or extremely heavy), and

(h)[~~(viii)~~] the results of any "jar tests" conducted that day

(2)[~~(b)~~] For each filter, each day;

(a)[~~(i)~~] the rate of water applied to each (gpm/sq.ft.),

(b)[~~(ii)~~] the head loss across each (feet of water or psi),

(c)[~~(iii)~~] length of backwash (if conducted; in minutes), and

(d)[~~(iv)~~] hours of operation since last backwashed.

(3)[~~(c)~~] Annually; certify in writing as required by R309-105-14(1) that when a product containing acrylamide and/or epichlorohydrin is used, the combination of the amount of residual monomer in the polymer and the dosage rate does not exceed the levels specified as follows:

(a)[~~(i)~~] Acrylamide: 0.05%, when dosed at 1 part per million, and

(b)[~~(ii)~~] Epichlorohydrin: 0.01%, when dosed at 20 parts per million.

Certification may rely on manufacturers data.

R309-215-9. Turbidity Monitoring and Reporting.

[~~(3) Turbidity: Treatment plant management shall monitor for turbidity and report to the Division as outlined below:~~]Public water systems utilizing surface water and surface water under the direct influence of surface water shall monitor for turbidity in accordance with the this section. Small surface water systems serving a population less than 10,000 shall monitor in accordance with subsections (1), (2), and (3). Large surface water systems serving 10,000 or more population shall monitor in accordance with subsections (1), (2), (3) and (4).

(1)[~~(a)~~] Routine Monitoring Requirements for Treatment Facilities utilizing surface water sources or ground water sources under the direct influence of surface water.

(a)[~~(i)~~] All public water systems which use a treatment technique to treat water obtained in whole or in part from surface water sources or ground water sources under the direct influence of surface water shall monitor for turbidity at the treatment plant's clearwell outlet. This monitoring shall be independent of the individual filter monitoring required by R309-525-15(4)(b)(vi) and R309-525-15(4)(c)(vii)[~~R309-121-15(4)(e)(vii)~~]. Where the plant facility does not have an internal clearwell, the turbidity shall[~~must~~] be monitored at the inlet to a finished water reservoir external to the plant provided such reservoir receives only water from the treatment plant and, furthermore, is located before any point of consumer connection to the water system. If such external reservoir does not exist, turbidity shall[~~must~~] then be monitored at a location immediately downstream of the treatment plant filters.

(b)[~~(ii)~~] All treatment plants, with the exception of those utilizing slow sand filtration and other conditions indicated in section (c)[~~(iii)~~] below, shall be equipped with continuous turbidity monitoring and recording equipment for which the direct responsible

charge operator will validate the continuous measurements for accuracy in accordance with paragraph (d)[~~(iv)~~] below. These plants shall continuously record the finished water turbidity. If there is a failure in continuous monitoring equipment the system shall conduct grab sampling every 4 hours in lieu of continuous monitoring, but for no more than five working days following the failure of equipment. Large surface water systems serving 10,000 or more population shall monitor the turbidity results of individual filters at a frequency no greater than every 15 minutes.

(c)[~~(iii)~~] Turbidity measurements, as outlined below, shall[~~must~~] be reported to the Division within ten days after the end of each month that the system serves water to the public. Systems are required to mark and interpret turbidity values from the recorded charts at the end of each four-hour interval of operation (or some shorter regular time interval) to determine compliance with the turbidity performance criterion. For systems using slow sand filtration the Executive Secretary may reduce the sampling frequency to as little as once per day if the Executive Secretary determines that less frequent monitoring is sufficient to indicate effective filtration performance. For systems serving 500 or fewer persons, the Executive Secretary may reduce the turbidity sampling frequency to as little as once per day, regardless of the type of filtration treatment used, if the Executive Secretary determines that less frequent monitoring is sufficient to indicate effective filtration performance.

The following shall[~~must~~] be reported and the required percentage achieved for compliance:

(i)[~~(A)~~] The total number of interpreted filtered water turbidity measurements taken during the month;

(ii)[~~(B)~~] The number and percentage of interpreted filtered water turbidity measurements taken during the month which are less than or equal to the turbidity limits specified in R309-200-5(5)(a)(ii) (or increased limit approved by the Executive Secretary). The percentage of measurements which are less than or equal to the turbidity limit shall[~~must~~] be 95 percent or greater for compliance; and

(iii)[~~(C)~~] The date and value of any turbidity measurements taken during the month which exceed 5 NTU. The system shall[~~must~~] inform the Division as soon as practical, but no later than 24 hours after the exceedance is known, in accordance with R309-220-6(2)(c) if any turbidity measurements exceed 5 NTU.

(d)[~~(iv)~~] The analytical method which shall[~~must~~] be followed in making the required determinations shall be Nephelometric Method - Nephelometric Turbidity Unit as set forth in the latest edition of Standard Methods for Examination of Water and Wastewater, 1985, American Public Health Association et al., (Method 214A, pp. 134-136 in the 16th edition). Continuous turbidity monitoring equipment shall[~~must~~] be checked for accuracy and recalibrated using methods outlined in the above standard at a minimum frequency of monthly. The direct responsible charge operator will note on the turbidity report form when these recalibrations are conducted.

(2)[~~(b)~~] Procedures if a Filtered Water Turbidity Limit is Exceeded

(a)[~~(i)~~] Resampling -

If an analysis indicates that the turbidity limit has been exceeded, the sampling and measurement shall be confirmed by resampling as soon as practicable and preferably within one hour.

(b)[~~(ii)~~] If the result of resampling confirms that the turbidity limit has been exceeded, the system shall collect and have analyzed at least one bacteriologic sample near the first service connection from the source as specified in R309-210-5(1)(f). The system shall collect this bacteriologic sample within 24 hours of the turbidity exceedance. Sample results from this monitoring shall be included in determining bacteriologic compliance for that month.

(c)[~~(iii)~~] Initial Notification of the Executive Secretary[~~State~~] -

If the repeat sample confirms that the turbidity limit has been exceeded, the supplier shall report this fact to the Executive Secretary as soon as practical, but no later than 24 hours after the exceedance is known in accordance with the public notification requirements under R309-220-6(2)(c). This reporting is in addition to reporting the incident on any monthly reports.

(3)[~~(c)~~] For the purpose of individual plant evaluation and establishment of pathogen removal credit for the purpose of lowering the required "CT" value assigned a plant, plant management may do additional turbidity monitoring at other points to satisfy criteria in R309-215-7(2)[~~R309-215-8(6)~~].

(4) Additional Large surface water systems (serving greater than 10,000 population) reporting and recordkeeping requirements.

In addition to the reporting and recordkeeping requirements above, a large surface water system that provides conventional filtration treatment or direct filtration shall report monthly to the Division the information specified in paragraphs (a) and (b) of this section beginning January 1, 2002. In addition to the reporting and recordkeeping requirements above, a public water system subject to the requirements of this subpart that provides filtration approved under R309-530-8 or R309-530-9 shall report monthly to the Division the information specified in paragraphs (a) of this section beginning January 1, 2002. The reporting in paragraph (a) of this section is in lieu of the reporting specified above.

(a) Turbidity measurements, as required om R309-200-5(5)(a), shall be reported within 10 days after the end of each month the system serves water to the public. Information that shall be reported includes:

(i) The total number of filtered water turbidity measurements taken during the month.

(ii) The number and percentage of filtered water turbidity measurements taken during the month which are less than or equal to 0.3 NTU or those levels established under R309-200-5(5)(a)(ii).

(iii) The date and value of any turbidity measurements taken during the month which exceed 1 NTU for systems using conventional filtration treatment or direct filtration, or which exceed the maximum level set by the Executive Secretary under R309-530-8 or R309-530-9.

(b) Systems shall maintain the results of individual filter monitoring taken under R309-215-9(1)(b) for at least three years. Systems shall record the results of individual filter monitoring every 15 minutes. Systems shall report that they have conducted individual filter turbidity monitoring within 10 days after the end of each month the system serves water to the public. Systems shall report individual filter turbidity measurement results within 10 days after the end of each month the system serves water to the public only if measurements demonstrate one or more of the conditions in paragraphs (b)(i) through (iv) of this section. Systems that use lime softening may apply to the Executive Secretary for alternative exceedance levels for the levels specified in paragraphs (b)(i) through (iv) of this section if they can demonstrate that higher turbidity levels in individual filters are due to lime carryover only and not due to degraded filter performance.

(i) For any individual filter that has a measured turbidity level of greater than 1.0 NTU in two consecutive measurements taken 15 minutes apart, the system shall report the filter number, the turbidity

measurement, and the date(s) on which the exceedance occurred. In addition, the system shall either produce a filter profile for the filter within 7 days of the exceedance (if the system is not able to identify an obvious reason for the abnormal filter performance) and report that the profile has been produced or report the obvious reason for the exceedance.

(ii) For any individual filter that has a measured turbidity level of greater than 0.5 NTU in two consecutive measurements taken 15 minutes apart at the end of the first four hours of continuous filter operation after the filter has been backwashed or otherwise taken offline, the system shall report the filter number, the turbidity, and the date(s) on which the exceedance occurred. In addition, the system shall either produce a filter profile for the filter within 7 days of the exceedance (if the system is not able to identify an obvious reason for the abnormal filter performance) and report that the profile has been produced or report the obvious reason for the exceedance.

(iii) For any individual filter that has a measured turbidity level of greater than 1.0 NTU in two consecutive measurements taken 15 minutes apart at any time in each of three consecutive months, the system shall report the filter number, the turbidity measurement, and the date(s) on which the exceedance occurred. In addition, the system shall conduct a self-assessment of the filter within 14 days of the exceedance and report that the self-assessment was conducted. The self assessment shall consist of at least the following components: assessment of filter performance; development of a filter profile; identification and prioritization of factors limiting filter performance; assessment of the applicability of corrections; and preparation of a filter self-assessment report.

(iv) For any individual filter that has a measured turbidity level of greater than 2.0 NTU in two consecutive measurements taken 15 minutes apart at any time in each of two consecutive months, the system shall report the filter number, the turbidity measurement, and the date(s) on which the exceedance occurred. In addition, the system shall arrange for and conduct a comprehensive performance evaluation by the Division or a third party approved by the Executive Secretary no later than 30 days following the exceedance and have the evaluation completed and submitted to the Division no later than 90 days following the exceedance.

(c) Additional reporting requirements.

(i) If at any time the turbidity exceeds 1 NTU in representative samples of filtered water in a system using conventional filtration treatment or direct filtration, the system shall inform the Division as soon as possible, but no later than the end of the next business day.

(ii) If at any time the turbidity in representative samples of filtered water exceeds the maximum level set by the Executive Secretary under R309-530-8 or R309-530-9 for filtration technologies other than conventional filtration treatment, direct filtration, slow sand filtration, or diatomaceous earth filtration, the system shall inform the Division as soon as possible, but no later than the end of the next business day.

R309-215-10. Residual Disinfectant.

[~~(4) Residual Disinfectant:~~] Treatment plant management shall continuously monitor disinfectant residuals and report the following to the Division within ten days after the end of each month that the system serves water to the public, except as otherwise noted:

(1)[~~(a)~~] For each day, the lowest measurement of residual disinfectant concentration in mg/L[~~mg/l~~] in water entering the distribution system, except that if there is a failure in the continuous monitoring equipment, grab sampling every 4 hours may be conducted in lieu of continuous monitoring, but for no more than 5 working days following the failure of the equipment. Systems serving 3,300 or fewer persons may take grab samples in lieu of providing continuous monitoring on an ongoing basis at the frequencies listed in Table 215.2[~~215-1~~] below:

TABLE 215-2[~~215-1~~]
RESIDUAL GRAB SAMPLE FREQUENCY

System size by population	Samples/day
Less than 500	1
501 to 1,000	2
1,001 to 2,500	3
2,501 to 3,300	4

Note: The day's samples cannot be taken at the same time. The sampling intervals are subject to Executive Secretary's review and approval.

(2)[~~(b)~~] The date and duration of each period when the residual disinfectant concentration in water entering the distribution system fell below 0.2 mg/L[~~mg/l~~] and when the Division was notified of the occurrence. The system shall[~~must~~] notify the Division as soon as possible, but no later than by the end of the next business day. The system also shall[~~must~~] notify the Division by the end of the next business day whether or not the residual was restored to at least 0.2 mg/L[~~mg/l~~] within four hours.

(3)[~~(c)~~] The following information on the samples taken in the distribution system in conjunction with total coliform monitoring pursuant to R309-210-5:

(a)[~~(i)~~] number of instances where the residual disinfectant concentration is measured;

(b)[~~(ii)~~] number of instances where the residual disinfectant concentration is not measured but heterotrophic bacteria plate count (HPC) is measured;

(c)[~~(iii)~~] number of instances where the residual disinfectant concentration is measured but not detected and no HPC is measured;

(d)[~~(iv)~~] number of instances where no residual disinfectant concentration is detected and where HPC is greater than 500/ml;

(e)[~~(v)~~] number of instances where the residual disinfectant concentration is not measured and HPC is greater than 500/ml;

(f)[~~(vi)~~] for the current and previous month the system serves water to the public, the value of "V" in the formula, V = ((c+d+e)/(a+b)) x 100, where a = the value in sub-section (a)[~~(i)~~] above, b = the value in sub-section (b)[~~(ii)~~] above, c = the value in sub-section (c)[~~(iii)~~] above, d = the value in sub-section (d)[~~(iv)~~] above, and e = the value in sub-section (e)[~~(v)~~] above.

R309-215-11. Waterborne Disease Outbreak.

[~~(5) Waterborne Disease Outbreak:~~]Each public water system, upon discovering that a waterborne disease outbreak as defined in R309-110 potentially attributable to their water system has occurred, shall[~~must~~] report that occurrence to the Division as soon as possible, but no later than by the end of the next business day.

[~~(6) Criteria for Individual Treatment Plant Evaluation: New and existing water treatment plants must meet specified monitoring and performance criteria in order to ensure that filtration and disinfection are satisfactorily practiced. The monitoring requirements and performance criteria for turbidity and disinfection listed above provide the minimum for the Division to evaluate the plant's efficiency in removing and/or inactivating 99.9 percent (3-log) of Giardia lamblia cysts and 99.99 percent (4-log) of viruses as required by R309-505-6(2)(a) and (b).~~

~~(7) The Division, upon evaluation of individual raw water sources, surface water or ground water under the direct influence of surface water, may require greater than the 3-log, 4-log removal/inactivation of Giardia and viruses respectfully. If a raw water source exhibits an estimated concentration of 1 to 10 Giardia cysts per 100 liters, 4 and 5-log removal/inactivation may be required. If the raw water exhibits a concentration of 10 to 100 cysts per 100 liters, 5 and 6-log removal/inactivation may be required.~~

~~(8) The Division, upon individual plant evaluation, may assign the treatment techniques (coagulation, flocculation, sedimentation and filtration) credit toward removal of Giardia cysts and viruses. The greater the number of barriers in the treatment process, the greater the reduction of pathogens, therefore lessor credit will be given to processes such as direct filtration which eliminate one or more conventional barriers. Plants may monitor turbidity at multiple points in the treatment process as evidence of the performance of an individual treatment technique.~~

~~(9) The nominal credit that will be assigned certain conventional processes are outlined in Table 215-2:~~

~~TABLE 215-2~~
~~CONVENTIONAL PROCESS CREDIT~~

	Log Reduction Credit	
Process	Giardia	Viruses
Conventional Complete Treatment	2.5	2.0
Direct Filtration	2.0	1.0
Slow Sand Filtration	2.0	2.0
Diatomaceous Earth Filters	2.0	1.0

~~(10) Upon evaluation of information provided by individual plants or obtained during inspections by Division staff, the Division may increase or decrease the nominal credit assigned individual plants based on that evaluation.~~

~~(a) Items which would augment the treatment process and thereby warrant increased credit are:~~

~~(i) facilities or means to moderate extreme fluctuations in raw water characteristics;~~

~~(ii) sufficient on-site laboratory facilities regularly used to alert operators to changes in raw water quality;~~

~~(iii) use of pilot stream facilities which duplicate treatment conditions but allow operators to know results of adjustments much sooner than if only monitoring plant effluent;~~

~~(iv) use of additional monitoring methods such as particle size and distribution analysis to achieve greater efficiency in particulate removal;~~

~~(v) regular program for preventive maintenance, records of such, and general good housekeeping; or~~

~~(vi) adequate staff of well trained and certified plant operators.~~

~~(b) Items which would be considered a detriment to the treatment process and thereby warrant decreased credit are:~~

~~(i) inadequate staff of trained and certified operators;~~

~~(ii) lack of regular maintenance and poor housekeeping; or~~

~~(iii) insufficient on-site laboratory facilities.~~]

R309-215-12. Monitoring Requirements for Disinfection Byproducts Precursors (DBPP).

(1) Routine monitoring. Surface water systems which use conventional filtration treatment (as defined in R309-110) shall monitor each treatment plant for TOC no later than the point of combined filter effluent turbidity monitoring and representative of the treated water. All systems required to monitor under this paragraph (1) shall also monitor for TOC in the source water prior to any treatment at the same time as monitoring for TOC in the treated water. These samples (source water and treated water) are referred to as paired samples. At the same time as the source water sample is taken, all systems shall monitor for alkalinity in the source water prior to any treatment. Systems shall take one paired sample and one source water alkalinity sample per month per plant at a time representative of normal operating conditions and influent water quality.

(2) Reduced monitoring. Surface water systems with an average treated water TOC of less than 2.0 mg/L for two consecutive years, or less than 1.0 mg/L for one year, may reduce monitoring for both TOC and alkalinity to one paired sample and one source water alkalinity sample per plant per quarter. The system shall revert to routine monitoring in the month following the quarter when the annual average treated water TOC is greater than or equal to 2.0 mg/L.

(3) Compliance shall be determined as specified by R309-215-13(3). Systems may begin monitoring to determine whether Step 1 TOC removals can be met 12 months prior to the compliance date for the system. This monitoring is not required and failure to monitor during this period is not a violation. However, any system that does not monitor during this period, and then determines in the first 12 months after the compliance date that it is not able to meet the Step 1 requirements in R309-215-13(2)(b) and shall therefore apply for alternate minimum TOC removal (Step 2) requirements, is not eligible for retroactive approval of alternate minimum TOC removal (Step 2) requirements as allowed pursuant to R309-215-13(2)(c) and is in violation. Systems may apply for alternate minimum TOC removal (Step 2) requirements any time after the compliance date. For systems required to meet Step 1 TOC removals, if the value calculated under R309-215-13(3)(a)(iv) is less than 1.00, the system is in violation of the treatment technique requirements and shall notify the public pursuant to R309-220, in addition to reporting to the Executive Secretary pursuant to R309-105-16.

R309-215-13. Treatment technique for control of disinfection byproduct (DBP) precursors.

(1) Applicability.

(a) Surface water systems using conventional filtration treatment (as defined in R309-110) shall operate with enhanced coagulation or enhanced softening to achieve the TOC percent removal levels specified in paragraph (2) of this section unless the system meets at least one of the alternative compliance criteria listed in paragraph (1)(b) or (1)(c) of this section.

(b) Alternative compliance criteria for enhanced coagulation and enhanced softening systems. Surface Water Systems using conventional filtration treatment may use the alternative compliance criteria in paragraphs (1)(b)(i) through (vi) of this section to comply with this section in lieu of complying with paragraph (2) of this section. Systems shall still comply with monitoring requirements in R309-215-12.

(i) The system's source water TOC level, measured according to R309-200-4(3), is less than 2.0 mg/L, calculated quarterly as a running annual average.

(ii) The system's treated water TOC level, measured according to R309-200-4(3), is less than 2.0 mg/L, calculated quarterly as a running annual average

(iii) The system's source water TOC level, measured according to R309-200-4(3), is less than 4.0 mg/L, calculated quarterly as a

running annual average; the source water alkalinity, measured according to R309-200-4(3), is greater than 60 mg/L (as $CaCO_3$), calculated quarterly as a running annual average; and either the TTHM and HAA5 running annual averages are no greater than 0.040 mg/L and 0.030 mg/L, respectively; or prior to the effective date for compliance in R309-210-8(1)(a), the system has made a clear and irrevocable financial commitment not later than the effective date for compliance in R309-210-8(1)(a) to use of technologies that will limit the levels of TTHMs and HAA5 to no more than 0.040 mg/L and 0.030 mg/L, respectively. Systems shall submit evidence of a clear and irrevocable financial commitment, in addition to a schedule containing milestones and periodic progress reports for installation and operation of appropriate technologies, to the Executive Secretary for approval not later than the effective date for compliance in R309-210-8(1)(a). These technologies shall be installed and operating not later than June 30, 2005. Failure to install and operate these technologies by the date in the approved schedule will constitute a violation of National Primary Drinking Water Regulations.

(iv) The TTHM and HAA5 running annual averages are no greater than 0.040 mg/L and 0.030 mg/L, respectively, and the system uses only chlorine for primary disinfection and maintenance of a residual in the distribution system.

(v) The system's source water SUVA, prior to any treatment and measured monthly according to R309-200-4(3), is less than or equal to 2.0 L/mg-m, calculated quarterly as a running annual average.

(vi) The system's finished water SUVA, measured monthly according to R309-200-4(3), is less than or equal to 2.0 L/mg-m, calculated quarterly as a running annual average.

(c) Additional alternative compliance criteria for softening systems. Systems practicing enhanced softening that cannot achieve the TOC removals required by paragraph (2)(b) of this section may use the alternative compliance criteria in paragraphs (1)(c)(i) and (ii) of this section in lieu of complying with paragraph (2) of this section. Systems shall still comply with monitoring requirements in R309-210-8(4).

(i) Softening that results in lowering the treated water alkalinity to less than 60 mg/L (as $CaCO_3$), measured monthly according to R309-200-4(3) and calculated quarterly as a running annual average.

(ii) Softening that results in removing at least 10 mg/L of magnesium hardness (as $CaCO_3$), measured monthly and calculated quarterly as an annual running average.

(2) Enhanced coagulation and enhanced softening performance requirements.

(a) Systems shall achieve the percent reduction of TOC specified in paragraph (2)(b) of this section between the source water and the combined filter effluent, unless the Executive Secretary approves a system's request for alternate minimum TOC removal (Step 2) requirements under paragraph (2)(c) of this section.

(b) Required Step 1 TOC reductions, indicated in the following table, are based upon specified source water parameters measured in accordance with R309-200-4(3). Systems practicing softening are required to meet the Step 1 TOC reductions in the far-right column (Source water alkalinity >120 mg/L) for the specified source water TOC:

TABLE 215-3
Step 1 Required Removal of TOC by Enhanced Coagulation and Enhanced Softening for Surface Water Systems Using Conventional Treatment (notes 1,2)

Source-Water TOC, mg/L	Source-Water Alkalinity, mg/L as CaCO3		
	0-60 (percent)	>60-120 (percent)	>120 (Note 3) (percent)
>2.0-4.0	35.0%	25.0%	15.0%
>4.0-8.0	45.0%	35.0%	25.0%
>8.0	50.0%	40.0%	30.0%

Note 1: Systems meeting at least one of the conditions in paragraph (1)(b)(i)-(vi) of this section are not required to operate with enhanced coagulation.
Note 2: Softening systems meeting one of the alternative compliance criteria in paragraph (1)(c) of this section are not required to operate with enhanced softening.
Note 3: Systems practicing softening shall meet the TOC removal requirements in this column.

(c) Surface water systems using conventional treatment systems that cannot achieve the Step 1 TOC removals required by paragraph (2)(b) of this section due to water quality parameters or operational constraints shall apply to the Executive Secretary, within three months of failure to achieve the TOC removals required by paragraph (2)(b) of this section, for approval of alternative minimum TOC removal (Step 2) requirements submitted by the system. If the Executive Secretary approves the alternative minimum TOC removal (Step 2) requirements, the Executive Secretary may make those requirements retroactive for the purposes of determining compliance. Until the Executive Secretary approves the alternate minimum TOC removal (Step 2) requirements, the system shall meet the Step 1 TOC removals contained in paragraph (2)(b) of this section.

(d) Alternate minimum TOC removal (Step 2) requirements. Applications made to the Executive Secretary by enhanced coagulation systems for approval of alternate minimum TOC removal (Step 2) requirements under paragraph (2)(c) of this section shall include, at a minimum, results of bench- or pilot-scale testing conducted under paragraph (2)(d)(i) of this section. The submitted bench- or pilot- scale testing shall be used to determine the alternate enhanced coagulation level.

(i) Alternate enhanced coagulation level is defined as: Coagulation at a coagulant dose and pH as determined by the method described in paragraphs (2)(d)(i) through (v) of this section such that an incremental addition of 10 mg/L of alum (or equivalent amount of ferric salt) results in a TOC removal of less than or equal to 0.3 mg/L. The percent removal of TOC at this point on the "TOC removal versus coagulant dose" curve is then defined as the minimum TOC removal required for the system. Once approved by the Executive Secretary, this minimum requirement supersedes the minimum TOC removal required by the table in paragraph (2)(b) of this section. This requirement will be effective until such time as the Executive Secretary approves a new value based on the results of a new bench- and pilot-scale test. Failure to achieve Executive Secretary set alternative minimum TOC removal levels is a violation of R309-215-13.

(ii) Bench- or pilot-scale testing of enhanced coagulation shall be conducted by using representative water samples and adding 10 mg/L increments of alum (or equivalent amounts of ferric salt) until the pH is reduced to a level less than or equal to the enhanced coagulation Step 2 target pH shown in the following table 215-4:

TABLE 215-4
ENHANCED COAGULATION STEP 2 TARGET pH

ALKALINITY (mg/L as $CaCO_3$)	TARGET pH
0-60	5.5
>60-120	6.3
>120-240	7.0
>240	7.5

(iii) For waters with alkalinities of less than 60 mg/L for which addition of small amounts of alum or equivalent addition of iron coagulant drives the pH below 5.5 before significant TOC removal occurs, the system shall add necessary chemicals to maintain the pH between 5.3 and 5.7 in samples until the TOC removal of 0.3 mg/L per 10 mg/L alum added (or equivalant addition of iron coagulant) is reached.

(iv) The system may operate at any coagulant dose or pH necessary (consistent with other NPDWRs) to achieve the minimum TOC percent removal approved under paragraph (2)(c) of this section.

(v) If the TOC removal is consistently less than 0.3 mg/L of TOC per 10 mg/L of incremental alum dose at all dosages of alum (or equivalant addition of iron coagulant), the water is deemed to contain TOC not amenable to enhanced coagulation. The system may then apply to the Executive Secretary for a waiver of enhanced coagulation requirements.

(3) Compliance Calculations.

(a) Surface Water Systems other than those identified in paragraphs (1)(b) or (1)(c) of this section shall comply with requirements contained in paragraphs (2)(b) or (2)(c) of this section. Systems shall calculate compliance quarterly, beginning after the system has collected 12 months of data, by determining an annual average using the following method:

(i) Determine actual monthly TOC percent removal, equal to: (1 - (treated water TOC/source water TOC)) x 100.

(ii) Determine the required monthly TOC percent removal (from either the table in paragraph (2)(b) of this section or from paragraph (2)(c) of this section).

(iii) Divide the value in paragraph (3)(a)(i) of this section by the value in paragraph (3)(a)(ii) of this section.

(iv) Add together the results of paragraph (3)(a)(iii) of this section for the last 12 months and divide by 12.

(v) If the value calculated in paragraph (3)(a)(iv) of this section is less than 1.00, the system is not in compliance with the TOC percent removal requirements.

(b) Systems may use the provisions in paragraphs (3)(b)(i) through (v) of this section in lieu of the calculations in paragraph (3)(a)(i) through (v) of this section to determine compliance with TOC percent removal requirements.

(i) In any month that the system's treated or source water TOC level, measured according to R309-200-4(3), is less than 2.0 mg/L, the system may assign a monthly value of 1.0 (in lieu of the value calculated in paragraph (3)(a)(iii) of this section) when calculating compliance under the provisions of paragraph (3)(a) of this section.

(ii) In any month that a system practicing softening removes at least 10 mg/L of magnesium hardness (as $CaCO_3$), the system may assign a monthly value of 1.0 (in lieu of the value calculated in paragraph (3)(a)(iii) of this section) when calculating compliance under the provisions of paragraph (3)(a) of this section.

(iii) In any month that the system's source water SUVA, prior to any treatment and measured according to R309-200-4(3), is less than or equal to 2.0 L/mg-m, the system may assign a monthly value of 1.0 (in lieu of the value calculated in paragraph (3)(a)(iii) of this section) when calculating compliance under the provisions of paragraph (3)(a) of this section.

(iv) In any month that the system's finished water SUVA, measured according to R309-200-4(3), is less than or equal to 2.0 L/mg-m, the system may assign a monthly value of 1.0 (in lieu of the value calculated in paragraph (3)(a)(iii) of this section) when calculating compliance under the provisions of paragraph (3)(a) of this section.

(v) In any month that a system practicing enhanced softening lowers alkalinity below 60 mg/L (as $CaCO_3$), the system may assign a monthly value of 1.0 (in lieu of the value calculated in paragraph (3)(a)(iii) of this section) when calculating compliance under the provisions of paragraph (3)(a) of this section.

(c) Surface Water Systems using conventional treatment may also comply with the requirements of this section by meeting the criteria in paragraph (1)(b) or (c) of this section.

(4) Treatment Technique Requirements for DBP Precursors. The Executive Secretary identifies the following as treatment techniques to control the level of disinfection byproduct precursors in drinking water treatment and distribution systems: For Surface Water Systems using conventional treatment, enhanced coagulation or enhanced softening.

R309-215-14. Disinfection Profiling and Benchmarking.

(1) Determination of systems required to profile. A public water system subject to the requirements of this subpart shall determine its TTHM annual average using the procedure in paragraph (1)(a) of this section and its HAA5 annual average using the procedure in paragraph (1)(b) of this section. The annual average is the arithmetic average of the quarterly averages of four consecutive quarters of monitoring.

(a) The TTHM annual average shall be the annual average during the same period as is used for the HAA5 annual average.

(i) Those systems that collected data under the provisions of 40 CFR 141.142 subpart M (Information Collection Rule) shall use the results of the samples collected during the last four quarters of required monitoring.

(ii) Those systems that use grandfathered HAA5 occurrence data that meet the provisions of paragraph (1)(b)(ii) of this section shall use TTHM data collected at the same time under the provisions of R309-200-5(3)(c)(vii) and R309-210-9.

(iii) Those systems that use HAA5 occurrence data that meet the provisions of paragraph (1)(b)(iii)(A) of this section shall use TTHM data collected at the same time under the provisions of R309-200-5(3)(c)(vii) and R309-210-9.

(b) The HAA5 annual average shall be the annual average during the same period as is used for the TTHM annual average.

(i) Those systems that collected data under the provisions of 40 CFR 141.142 subpart M (Information Collection Rule) shall use the results of the samples collected during the last four quarters of required monitoring.

(ii) Those systems that have collected four quarters of HAA5 occurrence data that meets the routine monitoring sample number and location requirements for TTHM in R309-200-5(3)(c)(vii) and R309-210-9 and handling and analytical method requirements of R309-200-4(3) may use those data to determine whether the requirements of this section apply.

(iii) Those systems that have not collected four quarters of HAA5 occurrence data that meets the provisions of either paragraph (1)(b)(i) or (ii) of this section by March 16, 1999 shall either:

(A) Conduct monitoring for HAA5 that meets the routine monitoring sample number and location requirements for TTHM in R309-200-5(3)(c)(vii) and R309-210-9 and handling and analytical method requirements of R309-200-4(3) to determine the HAA5 annual average and whether the requirements of paragraph (2) of this section apply. This monitoring shall be completed so that the applicability determination can be made no later than March 31, 2000, or

(B) Comply with all other provisions of this section as if the HAA5 monitoring had been conducted and the results required compliance with paragraph (2) of this section.

(c) The system may request that the Executive Secretary approve a more representative annual data set than the data set determined under paragraph (1)(a) or (b) of this section for the purpose of determining applicability of the requirements of this section.

(d) The Executive Secretary may require that a system use a more representative annual data set than the data set determined under paragraph (1)(a) or (b) of this section for the purpose of determining applicability of the requirements of this section.

(e) The system shall submit data to the Executive Secretary on the schedule in paragraphs (1)(e)(i) through (v) of this section.

(i) Those systems that collected TTHM and HAA5 data under the provisions of subpart M (Information Collection Rule), as required by paragraphs (1)(a)(i) and (1)(b)(i) of this section, shall submit the results of the samples collected during the last 12 months of required monitoring under 40 CFR section 141.142 (Information Collection Rule) not later than December 31, 1999.

(ii) Those systems that have collected four consecutive quarters of HAA5 occurrence data that meets the routine monitoring sample number and location for TTHM in R309-200-5(3)(c)(vii) and R309-210-9 and handling and analytical method requirements of R309-200-4(3), as allowed by paragraphs (1)(a)(ii) and (1)(b)(ii) of this section, shall submit those data to the Executive Secretary not later April 16, 1999. Until the Executive Secretary has approved the data, the system shall conduct monitoring for HAA5 using the monitoring requirements specified under paragraph (1)(b)(iii) of this section.

(iii) Those systems that conduct monitoring for HAA5 using the monitoring requirements specified by paragraphs (1)(a)(iii) and (1)(b)(iii)(A) of this section, shall submit TTHM and HAA5 data not later than April 1, 2000.

(iv) Those systems that elect to comply with all other provisions of this section as if the HAA5 monitoring had been conducted and the results required compliance with this section, as allowed under paragraphs (1)(b)(iii)(B) of this section, shall notify the Executive Secretary in writing of their election not later than December 31, 1999.

(v) If the system elects to request that the Executive Secretary approve a more representative annual data set than the data set determined under paragraph (1)(b)(i) of this section, the system shall submit this request in writing not later than December 31, 1999.

(f) Any system having either a TTHM annual average greater than or equal to 0.064 mg/L or an HAA5 annual average greater than or equal to 0.048 mg/L during the period identified in paragraphs (1)(a) and (b) of this section shall comply with paragraph (2) of this section.

(2) Disinfection profiling.

(a) Any system that meets the criteria in paragraph (1)(f) of this section shall develop a disinfection profile of its disinfection practice for a period of up to three years.

(b) The system shall monitor daily for a period of 12 consecutive calendar months to determine the total logs of inactivation for each day of operation, based on the CT99.9 values in Tables 1.1-1.6, 2.1, and 3.1 of Section 141.74(b)(3) in the code of Federal Regulations (also available from the Division), as appropriate, through the entire treatment plant. This system shall begin this monitoring not later than April 1, 2000. As a minimum, the system with a single point of disinfectant application prior to entrance to the distribution system shall conduct the monitoring in paragraphs (2)(b)(i) through (iv) of this section. A system with more than one point of disinfectant application shall conduct the monitoring in paragraphs (2)(b)(i) through (iv) of this section for each disinfection segment. The system shall monitor the parameters necessary to determine the total inactivation ratio, using analytical methods in R309-200-4(3), as follows:

(i) The temperature of the disinfected water shall be measured once per day at each residual disinfectant concentration sampling point during peak hourly flow.

(ii) If the system uses chlorine, the pH of the disinfected water shall be measured once per day at each chlorine residual disinfectant concentration sampling point during peak hourly flow.

(iii) The disinfectant contact time(s) (``T'') shall be determined for each day during peak hourly flow.

(iv) The residual disinfectant concentration(s) (``C'') of the water before or at the first customer and prior to each additional point of disinfection shall be measured each day during peak hourly flow.

(c) In lieu of the monitoring conducted under the provisions of paragraph (2)(b) of this section to develop the disinfection profile, the system may elect to meet the requirements of paragraph (2)(c)(i) of this section. In addition to the monitoring conducted under the provisions of paragraph (2)(b) of this section to develop the disinfection profile, the system may elect to meet the requirements of paragraph (2)(c)(ii) of this section.

(i) A PWS that has three years of existing operational data may submit those data, a profile generated using those data, and a request that the Executive Secretary approve use of those data in lieu of monitoring under the provisions of paragraph (2)(b) of this section not later than March 31, 2000. The Executive Secretary shall determine whether these operational data are substantially equivalent to data collected under the provisions of paragraph (2)(b) of this section. These data shall also be representative of Giardia lamblia inactivation through the entire treatment plant and not just of certain treatment segments. Until the Executive Secretary approves this request, the system is required to conduct monitoring under the provisions of paragraph (2)(b) of this section.

(ii) In addition to the disinfection profile generated under paragraph (2)(b) of this section, a PWS that has existing operational data may use those data to develop a disinfection profile for additional years. Such systems may use these additional yearly disinfection profiles to develop a benchmark under the provisions of paragraph (3) of this section. The Executive Secretary shall determine whether these operational data are substantially equivalent to data collected under the provisions of paragraph (2)(b) of this section. These data shall also be representative of inactivation through the entire treatment plant and not just of certain treatment segments.

(d) The system shall calculate the total inactivation ratio as follows:

(i) If the system uses only one point of disinfectant application, the system may determine the total inactivation ratio for the

disinfection segment based on either of the methods in paragraph (2)(d)(i)(A) or (2)(d)(i)(B) of this section.

(A) Determine one inactivation ratio ($CTcalc/CT_{99.9}$) before or at the first customer during peak hourly flow.

(B) Determine successive $CTcalc/CT_{99.9}$ values, representing sequential inactivation ratios, between the point of disinfectant application and a point before or at the first customer during peak hourly flow. Under this alternative, the system shall calculate the total inactivation ratio by determining ($CTcalc/CT_{99.9}$) for each sequence and then adding the ($CTcalc/CT_{99.9}$) values together to determine sum of ($CTcalc/CT_{99.9}$).

(ii) If the system uses more than one point of disinfectant application before the first customer, the system shall determine the CT value of each disinfection segment immediately prior to the next point of disinfectant application, or for the final segment, before or at the first customer, during peak hourly flow. The ($CTcalc/CT_{99.9}$) value of each segment and sum of ($CTcalc/CT_{99.9}$) shall be calculated using the method in paragraph (b)(4)(i) of this section.

(iii) The system shall determine the total logs of inactivation by multiplying the value calculated in paragraph (2)(d)(i) or (ii) of this section by 3.0.

(e) A system that uses either chloramines or ozone for primary disinfection shall also calculate the logs of inactivation for viruses using a method approved by the Executive Secretary.

(f) The system shall retain disinfection profile data in graphic form, as a spreadsheet, or in some other format acceptable to the Executive Secretary for review as part of sanitary surveys conducted by the Executive Secretary.

(3) Disinfection Benchmarking

(a) Any system required to develop a disinfection profile under the provisions of paragraphs (1) and (2) of this section and that decides to make a significant change to its disinfection practice shall consult with the Executive Secretary prior to making such change. Significant changes to disinfection practice are:

(i) Changes to the point of disinfection;

(ii) Changes to the disinfectant(s) used in the treatment plant;

(iii) Changes to the disinfection process; and

(iv) Any other modification identified by the Executive Secretary.

(b) Any system that is modifying its disinfection practice shall calculate its disinfection benchmark using the procedure specified in paragraphs (3)(b)(i) through (ii) of this section.

(i) For each year of profiling data collected and calculated under paragraph (2) of this section, the system shall determine the lowest average monthly Giardia lamblia inactivation in each year of profiling data. The system shall determine the average Giardia lamblia inactivation for each calendar month for each year of profiling data by dividing the sum of daily Giardia lamblia of inactivation by the number of values calculated for that month.

(ii) The disinfection benchmark is the lowest monthly average value (for systems with one year of profiling data) or average of lowest monthly average values (for systems with more than one year of profiling data) of the monthly logs of Giardia lamblia inactivation in each year of profiling data.

(c) A system that uses either chloramines or ozone for primary disinfection shall also calculate the disinfection benchmark for viruses using a method approved by the Executive Secretary.

(d) The system shall submit information in paragraphs (3)(d)(i) through (iii) of this section to the Executive Secretary as part of its consultation process.

(i) A description of the proposed change;

(ii) The disinfection profile for Giardia lamblia (and, if necessary, viruses) under paragraph (2) of this section and benchmark as required by paragraph (3)(b) of this section; and

(iii) An analysis of how the proposed change will affect the current levels of disinfection.

KEY: drinking water, surface water treatment plant monitoring, disinfection monitoring, compliance determinations
December 16[~~August 12~~], 2002
19-4-104
63-46b-4

Environmental Quality, Drinking Water
R309-225
Monitoring and Water Quality: Consumer Confidence Reports

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 25492
FILED: 10/11/2002, 16:12

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This filing is to adopt the requirements contained in the federal Interim Enhanced Surface Water Treatment Rule, the Disinfection/Disinfection By-Products Rule, and Radionuclide Rule. These changes are required in order to maintain primacy.

SUMMARY OF THE RULE OR CHANGE: The changes include correcting the references to surface water turbidity monitoring and a few typographical corrections.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-4-104, and Safe Drinking Water Act (amended Aug. 6, 1996), Title XIV, Section 1419

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: No impact--This rule change does not add any additional requirements.
❖ LOCAL GOVERNMENTS: No impact--This rule change does not add any additional requirements.
❖ OTHER PERSONS: No impact--This rule change does not add any additional requirements.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule change does not add any additional requirements. There should be no additional compliance costs due to this rule change.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The Department of Environmental Quality agrees with the comments listed under the Cost or Savings statements and the Compliance costs for affected persons above. Dianne R. Nielson, Ph.D., Executive Director

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

ENVIRONMENTAL QUALITY
DRINKING WATER
150 N 1950 W
SALT LAKE CITY UT 84116-3085, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Patti Fauver or Ken Bousfield at the above address, by phone at 801-536-4196 or 801-536-4207, by FAX at 801-536-4211 or 801-536-4211, or by Internet E-mail at pfauver@utah.gov or kbousfield@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 12/02/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 12/03/2002

AUTHORIZED BY: Kevin Brown, Director

R309. Environmental Quality, Drinking Water.
R309-225. Monitoring and Water Quality: Consumer Confidence Reports.

. . . . . .

R309-225-5. Content of the Reports.

(1) Each community water system must provide to its customers an annual report that contains the information specified in this section and R309-225-6.

(2) Information on the source of the water delivered.

(a) Each report must identify the source(s) of the water delivered by the community water system by providing information on:

(i) The type of the water: e.g., surface water, ground water; and

(ii) The commonly used name (if any) and location of the body (or bodies) of water.

(b) If a source water assessment has been completed, the report must notify consumers of the availability of this information and the means to obtain it. In addition, systems are encouraged to highlight in the report significant sources of contamination in the source water area if they have readily available information. Where a system has received a source water assessment from the Executive Secretary, the report must include a brief summary of the system's susceptibility to potential sources of contamination, using language provided by the Executive Secretary or written by the operator.

(3) Definitions.

(a) Each report must include the following definitions:

(i) Maximum Contaminant Level Goal or MCLG: The level of a contaminant in drinking water below which there is no known or expected risk to health. MCLGs allow for a margin of safety.

(ii) Maximum Contaminant Level or MCL: The highest level of a contaminant that is allowed in drinking water. MCLs are set as close to the MCLGs as feasible using the best available treatment technology.

(b) A report for a community water system operating under a variance or an exemption issued under R309-100-10 or R309-100-11 must include the following definition: Variances and Exemptions: Executive Secretary[~~State~~] or EPA permission not to meet an MCL or a treatment technique under certain conditions.

(c) A report which contains data on a contaminant that EPA regulates using any of the following terms must include the applicable definitions:

(i) Treatment Technique: A required process intended to reduce the level of a contaminant in drinking water.

(ii) Action Level: The concentration of a contaminant which, if exceeded, triggers treatment or other requirements which a water system must follow.

(iii) Maximum residual disinfectant level goal or MRDLG: The level of a drinking water disinfectant below which there is no known or expected risk to health. MRDLGs do not reflect the benefits of the use of disinfectants to control microbial contaminants.

(iv) Maximum residual disinfectant level or MRDL: The highest level of a disinfectant allowed in drinking water. There is convincing evidence that addition of a disinfectant is necessary for control of microbial contaminants.

(4) Information on Detected Contaminants.

(a) This sub-section specifies the requirements for information to be included in each report for contaminants subject to mandatory monitoring (except Cryptosporidium). It applies to:

(i) Contaminants subject to an MCL, action level, maximum residual disinfectant level, or treatment technique (regulated contaminants);

(ii) Contaminants for which monitoring is required by 40 CFR section 141.40 (unregulated contaminants); and

(iii) Disinfection by-products or microbial contaminants for which monitoring is required by R309-210, R309-215 and 40 CFR sections 141.142 and 141.143, except as provided under paragraph (e)(1) of this section, and which are detected in the finished water.

(b) The data relating to these contaminants must be displayed in one table or in several adjacent tables. Any additional monitoring results which a community water system chooses to include in its report must be displayed separately.

(c) The data must be derived from data collected to comply with EPA and State monitoring and analytical requirements during calendar year 1998 for the first report and subsequent calendar years thereafter except that:

(i) Where a system is allowed to monitor for regulated contaminants less often than once a year, the table(s) must include the date and results of the most recent sampling and the report must include a brief statement indicating that the data presented in the report are from the most recent testing done in accordance with the regulations. No data older than 5 years need be included.

(ii) Results of monitoring in compliance with federal Information Collection Rule, (40 CFR sections 141.142 and 141.143) need only be included for 5 years from the date of last sample or until any of the detected contaminants becomes regulated and subject to routine monitoring requirements, whichever comes first.

(d) For detected regulated contaminants, the table(s) must contain:

(i) The MCL for that contaminant expressed as a number equal to or greater than 1.0;

(ii) The MCLG for that contaminant expressed in the same units as the MCL;

(iii) If there is no MCL for a detected contaminant, the table must indicate that there is a treatment technique, or specify the

action level, applicable to that contaminant, and the report must include the definitions for treatment technique and/or action level, as appropriate, specified in paragraph(3)(c) of this section;

(iv) For contaminants subject to an MCL, except turbidity and total coliforms, the highest contaminant level used to determine compliance with the quality standards listed in R309-200 and the range of detected levels, as follows:

(A) When compliance with the MCL is determined annually or less frequently: the highest detected level at any sampling point and the range of detected levels expressed in the same units as the MCL.

(B) When compliance with the MCL is determined by calculating a running annual average of all samples taken at a sampling point: the highest average of any of the sampling points and the range of all sampling points expressed in the same units as the MCL.

(C) When compliance with the MCL is determined on a system-wide basis by calculating a running annual average of all samples at all sampling points: the average and range of detection expressed in the same units as the MCL.

(D) When rounding of results to determine compliance with the MCL is allowed by the rules, rounding should be done prior to converting the number in order to express it as a number equal to or greater than 1.0.

(v) For turbidity.

(A) When it is reported pursuant to R309-205-8 and R309-215-9[~~R309-215-8(3)~~]: the highest average monthly value.

(B) When it is reported pursuant to R309-215-9[~~R309-215-8(3)~~]: the highest single measurement and the lowest monthly percentage of samples meeting the turbidity limits specified in R309-200-5(5)(a) and (b)[~~R309-215-8(3)~~] for the filtration technology being used. The report should include an explanation of the reasons for measuring turbidity.

(vi) For lead and copper: the 90th percentile value of the most recent round of sampling and the number of sampling sites exceeding the action level.

(vii) For total coliform:

(A) The highest monthly number of positive samples for systems collecting fewer than 40 samples per month; or

(B) The highest monthly percentage of positive samples for systems collecting at least 40 samples per month.

(viii) For fecal coliform: the total number of positive samples.

(ix) The likely source(s) of detected contaminants to the best of the operator's knowledge. Specific information regarding contaminants may be available in sanitary surveys and source water assessments, and should be used when available to the operator. If the operator lacks specific information on the likely source, the report must include one or more of the typical sources for that contaminant listed in R309-225-8 that is most applicable to the system.

(e) If a community water system distributes water to its customers from multiple hydraulically independent distribution systems that are fed by different raw water sources, the table should contain a separate column for each service area and the report should identify each separate distribution system. Alternatively, systems could produce separate reports tailored to include data for each service area.

(f) The table(s) must clearly identify any data indicating violations of MCLs, MRDLs or treatment techniques and the report must contain a clear and readily understandable explanation of the violation including: the length of the violation, the potential adverse health effects, and actions taken by the system to address the violation. To describe the potential health effects, the system must use the relevant language in R309-220-14.

(g) For detected unregulated contaminants for which monitoring is required (except Cryptosporidium), the table(s) must contain the average and range at which the contaminant was detected. The report may include a brief explanation of the reasons for monitoring for unregulated contaminants.

(5) Information on Cryptosporidium, radon, and other contaminants.

(a) If the system has performed any monitoring for Cryptosporidium, including monitoring performed to satisfy the requirements of the federal Information Collection Rule (40 CFR section 141.143), which indicates that Cryptosporidium may be present in the source water or the finished water, the report must include:

(i) A summary of the results of the monitoring; and

(ii) An explanation of the significance of the results.

(b) If the system has performed any monitoring for radon which indicates that radon may be present in the finished water, the report must include:

(i) The results of the monitoring; and

(ii) An explanation of the significance of the results.

(c) If the system has performed additional monitoring which indicates the presence of other contaminants in the finished water, EPA strongly encourages systems to report any results which may indicate a health concern. To determine if results may indicate a health concern, EPA recommends that systems find out if EPA has proposed a regulation or issued a health advisory for that contaminant by calling the Safe Drinking Water Hotline (800-426-4791). EPA considers detects above a proposed MCL or health advisory level to indicate possible health concerns. For such contaminants, EPA recommends that the report include:

(i) The results of the monitoring; and

(ii) An explanation of the significance of the results noting the existence of a health advisory or a proposed regulation.

(6) Compliance with UPDWR. In addition to the requirements of R309-225-5(4)(f), the report must note any violation that occurred during the year covered by the report of a requirement listed below, and include a clear and readily understandable explanation of the violation, any potential adverse health effects, and the steps the system has taken to correct the violation.

(a) Monitoring and reporting of compliance data;

(b) Filtration and disinfection prescribed by R309-505 of this part. For systems which have failed to install adequate filtration or disinfection equipment or processes, or have had a failure of such equipment or processes which constitutes a violation, the report must include the following language as part of the explanation of potential adverse health effects: Inadequately treated water may contain disease-causing organisms. These organisms include bacteria, viruses, and parasites which can cause symptoms such as nausea, cramps, diarrhea, and associated headaches.

(c) Lead and copper control requirements prescribed by R309-210-6. For systems which fail to take one or more actions prescribed by R309-210-6(1)(c), R309-210-6(2), or R309-210-6(4), the report must include the applicable language in R309-220-14 for lead, copper, or both.

(d) Treatment techniques for Acrylamide and Epichlorohydrin prescribed by R309-215-8. For systems which violate the requirements of R309-215-8, the report must include the relevant language from R309-220-14.

(e) Recordkeeping of compliance data.

(f) Special monitoring requirements prescribed by 40 CFR section 141.40 (unregulated contaminants); and

(g) Violation of the terms of a variance, an exemption, or an administrative or judicial order.

(7) Variances and Exemptions. If a system is operating under the terms of a variance or an exemption issued under R309-100-10 or R309-100-11, the report must contain:

(a) An explanation of the reasons for the variance or exemption;

(b) The date on which the variance or exemption was issued;

(c) A brief status report on the steps the system is taking to install treatment, find alternative sources of water, or otherwise comply with the terms and schedules of the variance or exemption; and

(d) A notice of any opportunity for public input in the review, or renewal, of the variance or exemption.

(8) Additional information.

(a) The report must contain a brief explanation regarding contaminants which may reasonably be expected to be found in drinking water including bottled water. This explanation may include the language of paragraphs (8)(a)(i) through (iii) or systems may use their own comparable language. The report also must include the language of paragraph (8)(a)(iv) of this section.

(i) The sources of drinking water (both tap water and bottled water) include rivers, lakes, streams, ponds, reservoirs, springs, and wells. As water travels over the surface of the land or through the ground, it dissolves naturally-occurring minerals and, in some cases, radioactive material, and can pick up substances resulting from the presence of animals or from human activity.

(ii) Contaminants that may be present in source water include:

(A) Microbial contaminants, such as viruses and bacteria, which may come from sewage treatment plants, septic systems, agricultural livestock operations, and wildlife.

(B) Inorganic contaminants, such as salts and metals, which can be naturally-occurring or result from urban stormwater runoff, industrial or domestic wastewater discharges, oil and gas production, mining, or farming.

(C) Pesticides and herbicides, which may come from a variety of sources such as agriculture, urban stormwater runoff, and residential uses.

(D) Organic chemical contaminants, including synthetic and volatile organic chemicals, which are by-products of industrial processes and petroleum production, and can also come from gas stations, urban stormwater runoff, and septic systems.

(E) Radioactive contaminants, which can be naturally-occurring or be the result of oil and gas production and mining activities.

(iii) In order to ensure that tap water is safe to drink, EPA prescribes regulations which limit the amount of certain contaminants in water provided by public water systems. FDA regulations establish limits for contaminants in bottled water which must provide the same protection for public health.

(iv) Drinking water, including bottled water, may reasonably be expected to contain at least small amounts of some contaminants. The presence of contaminants does not necessarily indicate that water poses a health risk. More information about contaminants and potential health effects can be obtained by calling the Environmental Protection Agency's Safe Drinking Water Hotline (800-426-4791).

(b) The report must include the telephone number of the owner, operator, or designee of the community water system as a source of additional information concerning the report.

(c) In communities with a large proportion of non-English speaking residents, as determined by the Executive Secretary, the report must contain information in the appropriate language(s) regarding the importance of the report or contain a telephone number or address where such residents may contact the system to obtain a translated copy of the report or assistance in the appropriate language.

(d) The report must include information (e.g., time and place of regularly scheduled board meetings) about opportunities for public participation in decisions that may affect the quality of the water.

(e) The systems may include such additional information as they deem necessary for public education consistent with, and not detracting from, the purpose of the report.

R309-225-6. Required Additional Health Information.

(1) All reports must prominently display the following language:

Some people may be more vulnerable to contaminants in drinking water than the general population. Immuno-compromised persons such as persons with cancer undergoing chemotherapy, persons who have undergone organ transplants, people with HIV/AIDS or other immune system disorders, some elderly, and infants can be particularly at risk from infections. These people should seek advice about drinking water from their health care providers. EPA/CDC guidelines on appropriate means to lessen the risk of infection by Cryptosporidium and other microbial contaminants are available from the Safe Drinking Water Hotline (800-426-4791).

(2) A system which detects arsenic at levels above 5 micrograms per liter, but below the MCL:

(a) Must include in its report a short informational statement about arsenic, using language such as: While your drinking water meets EPA's standard for arsenic, it does contain low levels of arsenic. EPA's standard balances the current understanding of arsenic's possible health effects against the costs of removing arsenic from drinking water. EPA continues to research the health effects of low levels of arsenic, which is a mineral known to cause cancer in humans at high concentrations and is linked to other health effects such as skin damage and circulatory problems.

(b) May write its own educational statement, but only in consultation with the Executive Secretary.

(3) A system which detects nitrate at levels above 5 mg/L[~~mg/l~~], but below the MCL:

(a) Must include a short informational statement about the impacts of nitrate on children using language such as: Nitrate in drinking water at levels above 10 ppm is a health risk for infants of less than six months of age. High nitrate levels in drinking water can cause blue baby syndrome. Nitrate levels may rise quickly for short periods of time because of rainfall or agricultural activity. If you are caring for an infant you should ask advice from your health care provider.

(b) May write its own educational statement, but only in consultation with the Executive Secretary.

(4) Systems which detect lead above the action level in more than 5 percent, and up to and including 10 percent, of homes sampled:

(a) Must include a short informational statement about the special impact of lead on children using language such as: Infants and young children are typically more vulnerable to lead in drinking water than the general population. It is possible that lead levels at

your home may be higher than at other homes in the community as a result of materials used in your home's plumbing. If you are concerned about elevated lead levels in your home's water, you may wish to have your water tested and flush your tap for 30 seconds to 2 minutes before using tap water. Additional information is available from the Safe Drinking Water Hotline (800-426-4791).

(b) May write its own educational statement, but only in consultation with the Executive Secretary.

(5) Community water systems that detect TTHM above 0.080 mg/L[~~mg/l~~] (milligrams per liter), but below the MCL in R309-200-5(3)(c), as an annual average, monitored and calculated under the provisions of R309-210-8, must include health effects language for TTHMs prescribed in R309-220-14.

(6) Beginning in the report due by July 1, 2002 and ending January 22, 2006, a community water system that detects arsenic above 0.01 milligrams per liter and up to and including 0.05 milligrams per liter must include the arsenic health effects language prescribed in R309-220-14.

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KEY: drinking water, consumer confidence report, water quality
December 16,[~~August 12~~], 2002
19-4-104
63-46b-4

Environmental Quality, Drinking Water
R309-525
Facility Design and Operation: Conventional Surface Water Treatment

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 25493
FILED: 10/11/2002, 16:19

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule filing is to adopt the requirements contained in the federal Interim Enhanced Surface Water Treatment Rule, the Disinfection/Disinfection By-Products Rule, and Radionuclide Rule. These changes are required in order to maintain primacy.

SUMMARY OF THE RULE OR CHANGE: This rule change includes modifying the design criteria to lower the turbidity requirements for future construction or modification of surface water treatment facilities.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-4-104

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: Five full-time equivalents as an aggregate for the changes in Rules R309-105, R309-200, R309-205, R309-210, R309-215, R309-525, and R309-530. This staffing increase has already been authorized by the 2002 Legislature with funding coming from the federal SRF (state revolving loan funds). (DAR NOTE: The proposed amendments to R309-105 (DAR No. 25486), R309-200 (DAR No. 25488), R309-205 (DAR No. 25489), R309-210 (DAR No. 25490), R309-215 (DAR No. 25491), R309-525 (DAR No. 25493), and R309-530 (DAR No. 25494) are all found in this Bulletin.)

❖ LOCAL GOVERNMENTS: Costs will vary by water system size, sources utilized, and treatment applied. EPA estimates the total national annual cost at $1,072,000. Utah has approximately 0.5% of the total number of water systems nationally making Utah's annual cost estimated at $5,360,000 for the aggregate rule changes.

❖ OTHER PERSONS: Costs will vary depending upon water system size. EPA estimates the cost to vary from $1 to $400 per household per year with 95% of the water systems affected having households in the $1 to $12 per year cost category for the aggregate rule changes.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Compliance costs for this aggregate rule change will vary depending upon the water system size, type of source, and type of treatment. EPA estimates the cost to vary from $1 to $400 per household per year with 95% of the systems affected having households in the $1 to $12 per year cost category.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The Department of Environmental Quality agrees with the comments listed under the Cost or Savings statements and the Compliance costs for affected persons above. It is important to note that the cost of this aggregate rule change to public water systems and their consumers will occur independent of this rule action. These requirements will be applied by the federal government if these rules are not adopted by Utah.

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

ENVIRONMENTAL QUALITY
DRINKING WATER
150 N 1950 W
SALT LAKE CITY UT 84116-3085, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Bill Birkes or Michael Georgeson at the above address, by phone at 801-536-4201 or 801-536-4197, by FAX at 801-536-4211 or 801-536-4211, or by Internet E-mail at bbirkes@utah.gov or mgeorgeson@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 12/02/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 12/03/2002

AUTHORIZED BY: Kevin Brown, Director

R309. Environmental Quality, Drinking Water.
R309-525. Facility Design and Operation: Conventional Surface Water Treatment.

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R309-525-4. General.

(1) Treatment plants used for the purification of surface water supplies or ground water supplies under direct influence of surface water must conform to the requirements given herein. The plants shall have, as a minimum, facilities for flash mixing of coagulant chemicals, flocculation, sedimentation, filtration and disinfection.

(2) The overall design of a water treatment facility must be carefully examined to assure the compatibility of all devices and processes. The design of treatment processes and devices shall depend on an evaluation of the nature and quality of the particular water to be treated. The combined unit processes shall produce water meeting all established drinking water standards as given in R309-200[~~R309-103~~].

(3) Direct filtration may be acceptable and rules governing this method are given in R309-530-5.

(4) Refer to R309-530-9 for policy with regards to novel water treatment equipment or techniques which may depart from the requirements outlined herein.

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R309-525-15. Filtration.

(1) General.

Filters may be composed of one or more media layers. Mono-media filters are relatively uniform throughout their depth. Dual or multi-layer beds of filter material are so designed that water being filtered first encounters coarse material, and progressively finer material as it travels through the bed.

(2) Rate of Filtration.

(a) The rate of filtration shall be determined through consideration of such factors as raw water quality, degree of pretreatment provided, filter media, water quality control parameters, competency of operating personnel, and other factors as determined by the Executive Secretary. Generally, higher filter rates can be assigned for the dual or multi-media filter than for a single media filter because the former is more resistant to filter breakthrough.

(b) The filter rate shall be proposed and justified by the designing engineer to the satisfaction of the Executive Secretary prior to the preparation of final plans and specifications.

(c) The use of dual or multi-media filters may allow a reduction of sedimentation detention time (see R309-525-13(2)(a)) due to their increased ability to store sludge.

(d) Filter rates assigned by the Executive Secretary must never be exceeded, even during backwash periods.

(e) The use of filter types other than conventional rapid sand gravity filters must receive written approval from the Executive Secretary prior to the preparation of final plans and specifications.

(3) Number of Filters Required.

At least two filter units shall be provided. Where only two filter units are provided, each shall be capable of meeting the plant design capacity (normally the projected peak day demand) at the approved filtration rate. Where more than two filter units are provided, filters shall be capable of meeting the plant design capacity at the approved filtration rate with one filter removed from service. Refer to R309-525-5 for situations where these requirements may be relaxed.

(4) Media Design.

R309-525-15(4)(a) through R309-525-15(4)(e), which follow, give requirements for filter media design. These requirements are considered minimum and may be made more stringent if deemed appropriate by the Executive Secretary.

(a) Mono-media, Rapid Rate Gravity Filters.

The allowable maximum filtration rate for a silica sand, mono-media filter is three gpm/sf This type of filter is composed of clean silica sand having an effective size of 0.35 mm to 0.65 mm and having a uniformity coefficient less than 1.7. The total bed thickness must not be less than 24 inches nor generally more than 30 inches.

(b) Dual Media, Rapid Rate Gravity Filters.

The following applies to all dual media filters:

(i) Total depth of filter bed shall not be less than 24 inches nor generally more than 30 inches.

(ii) All materials used to make up the filter bed shall be of such particle size and density that they will be effectively washed at backwash rates between 15 and 20 gpm/sf They must settle to reconstitute the bed essentially in the original layers upon completion of backwashing.

(iii) The bottom layer must be at least ten inches thick and consist of a material having an effective size no greater than 0.45 mm and a uniformity coefficient not greater than 1.5.

(iv) The top layer shall consist of clean crushed anthracite coal having an effective size of 0.45 mm to 1.2 mm, and a uniformity coefficient not greater than 1.5.

(v) Dual media filters will be assigned a filter rate up to six gpm/sf. Generally if the bottom fine layer consists of a material having an effective size of 0.35 mm or less, a filtration rate of six gpm/sf can be assigned.

(vi) Each dual media filter must be provided with equipment which shall continuously monitor turbidity in the filtered water. The equipment shall be so designed to initiate automatic backwash if the filter effluent turbidity exceeds 0.3[~~0.5~~] NTU. If the filter turbidity exceeds one[~~five~~] NTU, filter shutdown is required. In plants attended part-time, this shutdown must be accomplished automatically and shall be accompanied by an alarm. In plants having full-time operators, a one[~~five~~] NTU condition need only activate an alarm. Filter shutdown may then be accomplished by the operator.

(c) Tri-Media, Rapid Rate Gravity Filters.

The following applies to all Tri-media filters:

(i) Total depth of filter bed shall not be less than 24 inches nor generally more than 30 inches.

(ii) All materials used to make up the filter bed shall be of such particle size and density that they will be effectively washed at backwash rates between 15 and 20 gpm/sf. They must settle to reconstitute the bed to the normal gradation of coarse to fine in the direction of flow upon completion of backwashing.

(iii) The bottom layer must be at least four inches thick and consist of a material having an effective size no greater than 0.45 mm and uniformity coefficient not greater than 2.2. The bottom layer thickness may be reduced to three inches if it consists of a material having an effective size no greater than 0.25 mm and a uniformity coefficient not greater than 2.2.

(iv) The middle layer must consist of silica sand having an effective size of 0.35 mm to 0.8 mm, and a uniformity coefficient not greater than 1.8.

(v) The top layer shall consist of clean crushed anthracite coal having an effective size of 0.45 mm to 1.2 mm, and a uniformity coefficient not greater than 1.85.

(vi) Tri-media filters will be assigned a filter rate up to 6 gpm/sf. Generally, if the bottom fine layer consists of a material having an effective size of 0.35 mm or less, a filtration rate of six gpm/sf can be assigned.

(vii) Each Tri-media filter must be provided with equipment which shall continuously monitor turbidity in the filtered water. The equipment shall be so designed to initiate automatic backwash if the effluent turbidity exceeds 0.3[~~0.5~~] NTU. If the filter turbidity exceeds one[~~five~~] NTU, filter shutdown is required. In plants attended part-time, this shutdown must be accomplished automatically and shall be accompanied by an alarm. In plants having full-time operators, a one[~~five~~] NTU condition need only activate an alarm. Filter shutdown may then be accomplished by the operator.

(d) Granulated Activated Carbon (GAC).

Use of granular activated carbon media shall receive the prior approval of the Executive Secretary, and must meet the basic specifications for filter material as given above, and:

(i) There shall be provision for adding a disinfectant to achieve a suitable residual in the water following the filters and prior to distribution,

(ii) There shall be a means for periodic treatment of filter material for control of biological or other growths,

(iii) Facilities for carbon regeneration or replacement must be provided.

(e) Other Media Compositions and Configurations.

Filters consisting of materials or configurations not prescribed in this section will be considered on experimental data or available operation experience.

(5) Support Media, Filter Bottoms and Strainer Systems.

Care must be taken to insure that filter media, support media, filter bottoms and strainer systems are compatible and will give satisfactory service at all times.

(a) Support Media.

The design of support media will vary with the configuration of the filtering media and the filter bottom. Thus, support media and/or proprietary filter bottoms shall be reviewed on a case-by-case basis.

(b) Filter Bottoms and Strainer Systems.

(i) The design of manifold type collection systems shall:

(A) Minimize loss of head in the manifold and laterals,

(B) Assure even distribution of washwater and even rate of filtration over the entire area of the filter,

(C) Provide a ratio of the area of the final openings of the strainer system to the area of the filter of about 0.003,

(D) Provide the total cross-sectional area of the laterals at about twice the total area of the final openings,

(E) Provide the cross-sectional area of the manifold at 1.5 to 2 times the total area of the laterals.

(ii) Departures from these standards may be acceptable for high rate filter and for proprietary bottoms.

(iii) Porous plate bottoms shall not be used where calcium carbonate, iron or manganese may clog them or with waters softened by lime.

(6) Structural Details and Hydraulics.

The filter structure shall be so designed as to provide for:

(a) Vertical walls within the filter,

(b) No protrusion of the filter walls into the filter media,

(c) Cover by superstructure,

(d) Head room to permit normal inspection and operation,

(e) Minimum water depth over the surface of the filter media of three feet, unless an exception is granted by the Executive Secretary,

(f) Maximum water depth above the filter media shall not exceed 12 feet,

(g) Trapped effluent to prevent backflow of air to the bottom of the filters,

(h) Prevention of floor drainage to enter onto the filter by installation of a minimum four inch curb around the filters,

(i) Prevention of flooding by providing an overflow or other means of control,

(j) Maximum velocity of treated water in pipe and conduits to filters of two fps,

(k) Cleanouts and straight alignment for influent pipes or conduits where solids loading is heavy or following lime-soda softening,

(l) Washwater drain capacity to carry maximum flow,

(m) Walkways around filters, to be not less than 24 inches wide,

(n) Safety handrails or walls around filter areas adjacent to normal walkways,

(o) No common wall between filtered and unfiltered water shall exist. This requirement may be waived by the Executive Secretary for small "package" type plants using metal tanks of sufficient thickness,

(p) Filtration to waste for each filter.

(7) Backwash.

(a) Water Backwash Without Air.

Water backwash systems shall be designed so that backwash water is not recycled to the head of the treatment plant unless it has been settled, as a minimum. Furthermore, water backwash systems; including tanks, pumps and pipelines, shall:

(i) Provide a minimum backwash rate of 15 gpm/sf, consistent with water temperatures and the specific gravity of the filter media. The design shall provide for adequate backwash with minimum media loss. A reduced rate of 10 gpm/sf may be acceptable for full depth anthracite or granular activated carbon filters.

(ii) provide finished drinking water at the required rate by washwater tanks, a washwater pump, from the high service main, or a combination of these.

(iii) Permit the backwashing of any one filter for not less than 15 minutes.

(iv) Be capable of backwashing at least two filters, consecutively.

(v) Include a means of varying filter backwash rate and time.

(vi) Include a washwater regulator or valve on the main washwater line to obtain the desired rate of filter wash with washwater valves or the individual filters open wide.

(vii) Include a rate of flow indicator, preferably with a totalizer on the main washwater line, located so that it can be easily read by the operator during the washing process.

(viii) Be designed to prevent rapid changes in backwash water flow.

(ix) Use only finished drinking water.

(x) Have washwater pumps in duplicate unless an alternate means of obtaining washwater is available.

(xi) Perform in conjunction with "filter to waste" system to allow filter to stabilize before introduction into clearwell.

(b) Backwash with Air Scouring.

Air scouring can be considered in place of surface wash when:

(i) air flow for air scouring the filter must be 3 to 5 scfm/sf of filter area when the air is introduced in the underdrain; a lower air rate must be used when the air scour distribution system is placed above the underdrains,

(ii) a method for avoiding excessive loss of the filter media during backwashing must be provided,

(iii) air scouring must be followed by a fluidization wash sufficient to restratify the media,

(iv) air must be free from contamination,

(v) air scour distribution systems shall be placed below the media and supporting bed interface; if placed at the interface the air scour nozzles shall be designed to prevent media from clogging the nozzles or entering the air distribution system.

(vi) piping for the air distribution system shall not be flexible hose which will collapse when not under air pressure and shall not be a relatively soft material which may erode at the orifice opening with the passage of air at high velocity.

(vii) air delivery piping shall not pass down through the filter media nor shall there be any arrangement in the filter design which would allow short circuiting between the applied unfiltered water and the filtered water,

(viii) consideration shall be given to maintenance and replacement of air delivery piping,

(ix) when air scour is provided the backwash water rate shall be variable and shall not exceed eight gpm/sf unless operating experience shows that a higher rate is necessary to remove scoured particles from filter surfaces.

(x) the filter underdrains shall be designed to accommodate air scour piping when the piping is installed in the underdrain, and

(xi) the provisions of Section R309-525-15(7)(a) (Backwash) shall be followed.

(8) Surface Wash or Subsurface Wash.

Surface wash or subsurface wash facilities are required except for filters used exclusively for iron or manganese removal. Washing may be accomplished by a system of fixed nozzles or a revolving-type apparatus, provided:

(a) Provisions for water pressures of at least 45 psi,

(b) A properly installed vacuum breaker or other approved device to prevent back-siphonage if connected to a finished drinking water system,

(c) All washwater must be finished drinking water,

(d) Rate of flow of two gpm/sf of filter area with fixed nozzles or 0.5 gpm/sf with revolving arms.

(9) Washwater Troughs.

Washwater troughs shall be so designed to provide:

(a) The bottom elevation above the maximum level of expanded media during washing,

(b) A two inch freeboard at the maximum rate of wash,

(c) The top edge level and all edges of trough at the same elevation

(d) Spacing so that each trough serves the same number of square feet of filter areas,

(e) Maximum horizontal travel of suspended particles to reach the trough not to exceed three feet.

(10) Appurtenances.

(a) The following shall be provided for every filter:

(i) Sample taps or means to obtain samples from influent and effluent,

(ii) A gauge indicating loss of head,

(iii) A meter indicating rate-of-flow. A modified rate controller which limits the rate of filtration to a maximum rate may be used. However, equipment that simply maintains a constant water level on the filters is not acceptable, unless the rate of flow onto the filter is properly controlled,

(iv) A continuous turbidity monitoring device where the filter is to be loaded at a rate greater than three gpm/sf

(v) Provisions for draining the filter to waste with appropriate measures for backflow prevention (see R309-525-23).

(i) Wall sleeves providing access to the filter interior at several locations for sampling or pressure sensing,

(ii) A 1.0 inch to 1.5 inch diameter pressure hose and storage rack at the operating floor for washing filter walls.

(11) Miscellaneous.

Roof drains shall not discharge into filters or basins and conduits preceding the filters.

. . . . . .

R309-525-17. Miscellaneous Plant Facilities.

(1) Laboratory.

Sufficient laboratory equipment shall be provided to assure proper operation and monitoring of the water plant. A list of required laboratory equipment is:

(a) one floc testing apparatus with illuminated base and variable speed stirrer,

(b) 10 each 1000 ml Griffin beakers (plastic is highly recommended over glass to prevent breakage),

(c) one 1000 ml graduated cylinder (plastic is highly recommended over glass to prevent breakage),

(d) pH test strips (6.0 to 8.5),

(e) five wide mouth 25 ml Mohr pipets,

(f) one triple beam, single pan or double pan balance with 0.1 g sensitivity and 2000 g capacity (using attachment weights),

(g) DPD chlorine test kit,

(h) bench-top turbidimeter,

(i) five each 1000 ml reagent bottles with caps,

(j) dish soap,

(k) brush (2 3/4 inch diameter by 5 inch),

(l) one platform scale 1/2 lb sensitivity, 100 lb capacity,

(m) book - Simplified Procedures for Water Examination, AWWA Manual M12

(2) Continuous Turbidity Monitoring and Recording Equipment.

Continuous turbidity monitoring and recording facilities shall be located as specified in R309-215-9[~~R309-104-4.4.1a~~].

(3) Sanitary and Other Conveniences.

All treatment plants shall be provided with finished drinking water, lavatory and toilet facilities unless such facilities are otherwise conveniently available. Plumbing must conform to the Utah Plumbing Code and must be so installed to prevent contamination of a public water supply.

. . . . . .

KEY: drinking water, flocculation, sedimentation, filtration
December 16, 2002[~~August 15, 2001~~]
Notice of Continuation September 16, 2002
19-4-104

Environmental Quality, Drinking Water
R309-530
Facility Design and Operation: Alternative Surface Water Treatment

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 25494
FILED: 10/11/2002, 16:24

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule filing is to adopt the requirements contained in the federal Interim Enhanced Surface Water Treatment Rule, the Disinfection/Disinfection By-Products Rule, and Radionuclide Rule. These changes are required in order to maintain primacy.

SUMMARY OF THE RULE OR CHANGE: This rule change includes modifying the design criteria to ensure compliance with the water quality standards and treatment techniques in Rule R309-200 for future construction or modification of alternative surface water treatment facilities.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-4-104, and Safe Drinking Water Act (amended Aug. 6, 1996), Title XIV, Section 1419

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: Five full-time equivalents as an aggregate for the changes in Rules R309-105, R309-200, R309-205, R309-210, R309-215, R309-525, and R309-530. This staffing increase has already been authorized by the 2002 Legislature with funding coming from the federal SRF (state revolving loan funds). (DAR NOTE: The proposed amendments to R309-105 (DAR No. 25486), R309-200 (DAR No. 25488), R309-205 (DAR No. 25489), R309-210 (DAR No. 25490), R309-215 (DAR No. 25491), R309-525 (DAR No. 25493), and R309-530 (DAR No. 25494) are all found in this Bulletin.)

❖ LOCAL GOVERNMENTS: Costs will vary by water system size, sources utilized, and treatment applied. EPA estimates the total national annual cost at $1,072,000. Utah has approximately 0.5% of the total number of water systems nationally making Utah's annual cost estimated at $5,360,000 for the aggregate rule changes.

❖ OTHER PERSONS: Costs will vary depending upon water system size. EPA estimates the cost to vary from $1 to $400 per household per year with 95% of the water systems affected having households in the $1 to $12 per year cost category for the aggregate rule changes.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Compliance costs for this aggregate rule change will vary depending upon the water system size, type of source, and type of treatment. EPA estimates the cost to vary from $1 to $400 per household per year with 95% of the systems affected having households in the $1 to $12 per year cost category.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The Department of Environmental Quality agrees with the comments listed under the Cost or Savings statements and the Compliance costs for affected persons above. It is important to note that the cost of this aggregate rule change to public water systems and their consumers will occur independent of this rule action. These requirements will be applied by the federal government if these rules are not adopted by Utah. Dianne R. Nielson, Ph.D., Executive Director

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

ENVIRONMENTAL QUALITY
DRINKING WATER
150 N 1950 W
SALT LAKE CITY UT 84116-3085, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Patti Fauver or Ken Bousfield at the above address, by phone at 801-536-4196 or 801-536-4207, by FAX at 801-536-4211 or 801-536-4211, or by Internet E-mail at pfauver@utah.gov or kbousfield@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 12/02/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 12/03/2002

AUTHORIZED BY: Kevin Brown, Director

R309. Environmental Quality, Drinking Water.
R309-530. Facility Design and Operation: Alternative Surface Water Treatment Methods.

. . . . . .

R309-530-8. Membrane Technology.

(1) Acceptability.

Surface waters, or groundwater under the direct influence of surface water (UDI), may be treated using membrane technology (microfiltration, ultrafiltration, nanofiltration) coupled with "primary and secondary disinfection."

(2) Pilot Plant Study.

Because this is a relatively new technology, appropriate investigation shall be conducted by the public water system to assure that the process will produce the required quality of water at a cost which can be borne by the public water system consumers. A pilot plant study shall be conducted prior to the commencement of design. The study must be conducted in accordance with EPA's Environmental Technology Verification Program (ETV) or the protocol and treated water parameters must be approved prior to conducting any testing by the Executive Secretary.

(3) Design Requirements.

The following items shall be addressed in the design of any membrane technology plant intended to provide microbiological treatment of surface waters or groundwater "UDI:"

(a) The facility shall be equipped with an on-line particle counter on the final effluent.

(b) The facility shall be equipped with an automatic membrane integrity test system.

(4) The Executive Secretary shall establish the turbidity limit for 95% of turbidity measurements and the maximum turbidity limit which shall not be exceeded. The plant effluent shall meet the requirements of R309-200-5(5)(a)(ii).

R309-530-9. New Treatment Processes or Equipment.

The policy of the Board is to encourage, rather than to obstruct, the development of new methods and equipment for the treatment of water. Nevertheless, any new processes or equipment must have been thoroughly tested in full-scale, comparable installations, before approval of plans can be issued. Refer to EPA's Environmental Technology Verification Program (ETV).

No new treatment process will be approved for use in Utah unless the designer or supplier can present evidence satisfactory to the Executive Secretary that the process will insure the delivery of water of safe, sanitary quality, without imposing undue problems of supervision, operation and/or control.

The Executive Secretary shall establish the turbidity limit for 95% of turbidity measurements and the maximum turbidity limit which shall not be exceeded. The plant effluent shall meet the requirements of R309-200-5(5)(a)(ii).

KEY: drinking water, direct filtration, slow sand filtration, membrane technology
December 16, 2002[~~August 15, 2001~~]
Notice of Contnuation September 16, 2002
19-4-104

Health, Health Care Financing, Coverage and Reimbursement Policy

R414-504

Nursing Facility Payments

NOTICE OF PROPOSED RULE
(New Rule)
DAR FILE NO.: 25502
FILED: 10/15/2002, 15:45

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Adopt a case mix or severity based payment system for nursing facilities, commonly referred to as RUGS (Resource Utilization Group System). This system will reimburse facilities based on the case mix index of the facility. This will apply to the payment of freestanding and provider based nursing facilities for services rendered to nursing care level I, II, and III Medicaid patients as defined in Rule R414-502. The current system for reimbursement for intensive skilled Medicaid patients will remain in effect.

SUMMARY OF THE RULE OR CHANGE: Reimbursement for most nursing homes is currently based on a modified flat rate. The new system will pay about 50% of the rate based on the medical care needs of the residents of the facility. The more difficult the medical needs of the patient, the higher the reimbursement. About 30 will be based on fixed costs, other than property, and will be a flat amount that will not vary by facility. About 12% will be used to freeze the property payment to the facility that was in effect as of July 1, 2002, adjusted down if a facility has occupancy below 75%. Property payments will be phased out by January 1, 2006. The remaining portion will be used to pay an "add-on" for "behaviorally complex residents" with conditions such as Alzheimer's that also present behavior problems that add to the cost of caring for this type of resident. Wage-index and sole community provider factors are also addressed.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 26-1-5 and 26-18-3

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The rule requires that the reimbursement stay within available appropriations. No current fiscal year impact to the state budget is expected.

❖ LOCAL GOVERNMENTS: The overall reimbursement to nursing homes will not change. Under the current system, facilities had a guaranteed amount of reimbursement per year. Under the new system, that is supported by the majority of the nursing homes in the state, the rate will fluctuate. This may cause some disruption in the nursing home industry. Local governments operate nursing homes and will be impacted. Facilities have received information on what their rate will be on January 1, 2003, and there still appears to be strong support for this rule change. Fiscal impact will be a subject of the planned public hearings.

❖ OTHER PERSONS: The overall reimbursement to nursing homes will not change. Under the current system, facilities had a guaranteed amount of reimbursement per year. Under the new system, that is supported by the majority of the nursing homes in the state, the rate will fluctuate. This may cause some disruption in the nursing home industry. Nursing homes and will be impacted. Facilities have received information on what their rate will be on January 1, 2003, and there still appears to be strong support for this rule change. Fiscal impact will be a subject of the planned public hearings.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule change is supported by and requested by the majority of nursing homes. The systems to determine the reimbursement are already part of the certification and licensing process mandated by the federal government. Compliance costs should be minimal.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule change is supported by the majority of nursing homes. The fiscal impact on individual nursing homes will be the subject of the public hearing and necessary changes will be made in early November if supported by the public hearings. 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 rmartin@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 12/02/2002

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 11/04/2002 at 3:00 PM, Martha Hughes Cannon Building, Utah State Department of Health, 288 N 1460 W, Room 101, Salt Lake City, UT; 11/07/2002 at 10:00 AM, Brigham City Library, 26 E Forest, Brigham City, UT; and 11/08/2002 at 2:00 PM, Washington County Library, 50 S Main, St. George, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 12/03/2002

AUTHORIZED BY: Rod Betit, Executive Director

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

R414-504. Nursing Facility Payments.

R414-504-1. Introduction.

This rule adopts a case mix or severity based payment system, commonly referred to as RUGS (Resource Utilization Group System). This system will reimburse facilities based on the case mix index of the facility.

R414-504-2. Definitions.

The definitions in R414-1-2 and R414-501-2 apply to this rule. In addition:

(1) "Behaviorally Complex Residents" Behaviorally complex resident means a Long Term Care resident with a severe medically based behavior disorder (including but not limited to Traumatic Brain Injury, Dementia, Alzheimer, Huntington's Chorea) which causes diminished capacity for judgement, retention of information and/or decision making skills, or a resident , who meets the Medicaid criteria for Nursing facility level of care, and who has a medically based mental health disorder or diagnosis and has a high level resource use in the Nursing facility not currently recognized in the case mix.

(2) "Case Mix Index" means a score assigned to each facility based on the average of the RUGS scores for that facility, excluding pending Medicaid cases.

(3) "Certified program" means a nursing facility program with Medicaid certification.

(4) "Facility Case Mix Rate" means the rate issued to a facility for a specified period of time. This rate utilizes the case mix index for a provider, labor wage index application and other case mix related costs.

(5) "FCP" means the Facility Cost Profile cost report filed by the provider on an annual basis.

(6) "Medicaid certification" means the right to payment from Medicaid as a provider demonstrated by a valid federal Health Care Financing Administration (CMS) Form 1539 (7-84).

(7) "Minimum Data Set" (MDS) means a set of screening, clinical and functional status elements, including common definitions and coding categories, that form the foundation of the comprehensive assessment for all residents of long term care facilities certified to participate in Medicaid.

(8) "Nursing facility" means any Medicaid participating NF, SNF, or a combination thereof, as defined in 42 USC 1396r (a) (1988), 42 CFR 440.150 and 442.12 (1993), and UCA 26-21-2(15).

(9) "Patient day" means the care of one patient during a day of service. In maintaining statistics, the day of discharge is not counted as a patient day.

(10) "Property costs" means the most current property costs from the annual FCP report reported on lines 230 (Rent and Leases Expense), 240 (Real Estate and Personal Property Taxes), 250 (Depreciation - Building and Improvement), 260 (Depreciation - Transportation Equipment), 270 (Depreciation - Equipment), 280 (Interest - Mortgage, Personal Property Furniture and Equipment - Small Items), 300 (Property Insurance).

(11) "Prospective Payment" means that providers are issued a payment rate prior to their provision of services to the Medicaid program. The rate is final for the designated period and no cost settlement will be made.

(12) "RUGS" means the 34 RUG identification system based on the Resource Utilization Group System established by Medicare to measure and ultimately pay for the labor, fixed costs and other resources necessary to provide care to Medicaid patients. Each "RUG" will be assigned a weight based on an assessment of its relative value as measured by resource utilization.

(13) "RUGS Score" means a total number based on the individual RUGS derived from resident's physical, mental and clinical condition, which projects the amount of relative resources needed to provide care to the resident. RUGS will be calculated from the information obtained through the submission of the MDS data.

R414-504-3. Principles of Facility Case Mix Rates and Other Payments.

The following principles shall apply to the payment of freestanding and provider based nursing facilities for services rendered to nursing care level I, II and III Medicaid patients as defined in R414-502. The current system for reimbursement for intensive skilled Medicaid patients will remain in effect.

(1) Effective January 1, 2003 and continuing indefinitely payments to nursing facilities for nursing care level I, II and III Medicaid patients shall be based on a prospective facility case mix rate.

(2) Each nursing facility's case mix index shall be calculated quarterly based upon the previous 12 months (moving average)case mix history.

(3) For any fiscal year the total amount paid to nursing facilities will be limited by available appropriations. Rates may be

adjusted as needed to reflect changes in appropriations or to keep payments within available appropriations.

(4) A behaviorally complex patient may qualify for a special rate add-on upon filing of a written request with the Division of Health Care Financing from the facility. The add-on rate, if approved, will be based on an assessment of the acuity and needs of the patient that are not adequately reimbursed by the RUGS score for that patient. The rate is added-on for the specific resident's payment and will not be subsumed as part of the facility case mix rate. The Resident Assessment Section will make the determination as to qualification for any additional payment. The Division of Health Care Financing will determine the amount of any add-on based on available appropriations.

(5) Property costs will be paid separately from the RUGS rate. Each facility's property payment will be set as follows:

(a) Each facility's reimbursement rate effective July 1, 2002 includes a property payment between $11.19 per patient day or up to a maximum of $20.00 per patient day. No facility will receive a higher payment attributable to property as a result of this rule. The current payment will be reduced if the occupancy of the facility is below 75%, by assuming occupancy of 75% and adjusting 2001 FCP allowable property costs accordingly.

(b) This payment will be set on January 1, 2003, based on the calculation in (a) above. Property payments will be phased out by reducing the payment by 25% for each of the succeeding two calendar years, with property payment stopping effective January 1, 2006.

(6) Newly constructed facilities shall be paid at the average rate. No transition for property or "add on" will be allowed for new property construction. This average rate shall remain in place for a new facility for six month whereupon the provider's case mix index will be established. A new case mix adjusted rate will be issued at this point in time and thereafter the property payment to the facility will be controlled by R414-504-3(5).

(7) An existing facility acquired by a new owner will continue at the same case mix index and property cost payment established for the facility under the previous ownership. No rate adjustment will be allowed for increased property and related costs that occur due to the purchase or takeover.

(8) If the department determines that a facility is located in an under-served area, or addresses an underserved need, the department may negotiate a payment rate that is different from the case mix index established rate. This exception will be awarded only after consideration of historical payment levels and need.

(9) Providers may challenge the rate set pursuant to this rule using the appeal process set up in R410-14. Providers must exhaust administrative remedies before challenging rates in any other forum.

(10) A wage index adjustment will be utilized to recognize the local labor market indices relative to the State as a whole. The Federal wage index promulgation for hospitals will be utilized for this purpose, but shall be adjusted to reflect unique nursing home factors. The wage index adjustment will recognize the three Standard Metropolitan Areas (SMAs) as recognized by the U.S. Department of Health and Human Services and the rural factor. The Cities of Logan and St. George shall be considered as urban SMA's. Exceptions to this rule can be requested in writing with the Division of Health Care Financing by individual nursing facilities that seek designation to another wage index area. To be designated to another rural or an urban area, a facility must demonstrate a close proximity to the area to which it seeks designation as well as documented evidence of significant wage and salary differential payments. Appropriate proximity data would be the demonstration that the distance from the facility to the area to which it would apply is no more than 35 miles. This measurement is determined by evidence of the shortest route over improved roads to the area and the distance of that route. Significant wage and salary differential information would include documentation that the facility's average hourly wage is at least 108% of the average hourly wage of the facilities in the area in which it is located and is at least 90% of the average hourly wage of the facilities in the area to which it seeks designation. Exceptions shall be granted for 3-year periods of duration, commencing with the day the exception is officially recognized by the State.

KEY: Medicaid
2002
26-1-5
26-18-3

Health, Health Systems Improvement, Licensing
R432-4
General Construction

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 25449
FILED: 10/03/2002, 17:21

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The reasons for the changes include: updating referenced national codes and guidelines to the current editions; eliminating redundant information; clarifying misunderstood sections; correcting reference numbers; and modifying the penalties section.

SUMMARY OF THE RULE OR CHANGE: A summary of the changes include: 1) in Section R432-4-5, corrects a typographical error in a reference; 2) in Subsection R432-4-14(2)(a) and R432-4-6(2), modifies to the 2001 edition the Guidelines for Design and Construction of Hospital and Health Care Facilities (Guidelines); 3) in Subsection R432-4-8(1)(b)(i)(ii), updates the reference to the latest edition of the Life Safety Code and chapters (NFPA 101, 2000); 4) in Subsections R432-4-8(2)(b) and (f), updates to the International Building Code and International Fire Code; 5) in Subsections R432-4-8(2)(d) and (e), updates the International Plumbing and Mechanical codes to the 2000 edition; 5) in Subsection R432-4-8(2)(k), updates NFPA 99 standard to the 1999 edition; 6) in Subsections R432-4-8(2)(n-p), deletes unnecessary information related to radiation protection; 7) in Subsection R432-4-9(2), clarifies the 50 percent rule to include additions; 8) in Section R432-4-15, corrects a typographical error in reference R432-4-14(2)(a); 9) in Subsection R432-4-16(2)(b), modifies the Uniform Building Code to the International Building Code; 10) in Section R432-4-20, updates the reference to the current edition of the "Guidelines"; 11) in Subsection R432-4-23(5), deletes "operable" from the hospital construction requirements to

meet other current codes for windows; 12) in Subsection R432-4-23(1), adopts by reference the 2001 edition of the "Guidelines"; 13) in Subsection R432-4-23(11), limits the need for homogenous coved flooring in some non-patient areas; 14) deletes Subsection R432-4-23(12), it is covered by the "Guidelines"; 15) in Subsections R432-4-23-(13)(b-d), updates the reference to the 1999 edition of the American Association of Textiles, Chemists, and Colorists (AATCC) and would add an option to provide resilient backed carpet; 16) in Subsections R432-4-23-(17)(a) and (b) and Table 1, deletes these references and Table 1 which is now covered by the "Guidelines"; 17) in Subsection R432-4-23(18), adds the reference in the "Guidelines" for medical gas outlets; 18) in Subsection R432-4-23(21)(b), updates the edition of the parking lot lighting handbook; 19) in Subsection R432-4-23(21)(c), modifies the color of outlets to emergency power receptacles; 20) in Section R432-4-24, adopts by reference the 2001 edition of the "Guidelines"; 21) in Subsection R432-4-24(1), adds the word "have" which was inadvertently left out in the current rule; 22) in Subsections R432-4-24(2)(b) and (c), deletes the handwash facility exceptions to match the current standard in the "Guidelines"; 23) in Subsection R432-4-24(2)(b), adds a new "(b)" requirement for a tub to be provided on pediatric units; 24) in Subsections R432-4-24(3-6), adds the requirement for medical gasses in continuing care nurseries, modifies "Guidelines A7.7.C14 to apply to new construction only, deletes the requirement for an isolation room for infectious patients in phase II recovery and requires postpartum rooms, in new construction to be single occupancy; and 25) in Section R432-4-26, adds new language and fees to the penalties.

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

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: International Building Code, 2000 edition; International Fire Code, 2000 edition; International Plumbing Code, 2000 edition; International Mechanical Code, 2000 edition; National Fire Protection Association 99, 1999 edition; National Fire Protection Association 101, 2000 edition; and the Guidelines for Design and Construction of Hospital and Health Care Facilities, 2001 edition. All publications noted above are on file in the Division of Administrative Rules and the State Fire Marshal's Office per Subsection R710-4-1(1.10).

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: Costs to print the modifications and distribute the rule to the licensed health care facilities can be handled within existing appropriations.

❖ LOCAL GOVERNMENTS: The rule is not retroactive and has an exception for renovations so there is no expected cost to existing facilities owned by local governments. There are 15 local governments that own or lease hospitals. If these local agencies decided to construct new facilities or add on to existing facilities they will incur costs related to the following changes in adopted standards: the cost of requiring all private rooms in post partum and med-surg units, the cost of handwash sinks required in both the patient rooms and toilet rooms, the cost of increased size of critical care rooms, and the requirement for operable windows is deleted which is a cost reduction. If we assume each hospital will add on one room in post partum, one critical care room and add the hand wash sinks the total cost will be $17,500 per facility for an aggregate cost of $262,500. In the last 8 years only 10 such rooms would have been impacted. The unit cost per bed for each of these items is identified in Box 8.

❖ OTHER PERSONS: The rule is not retroactive and has exceptions for renovations so there is no cost to existing facilities. Facilities that start the design review process after the effective date of the rules will incur costs related to the higher minimum standards. Intermountain Health Care has already exceeded the proposed minimums in their current new construction. They already provide all private rooms, sinks in the toilet room and patient room and the larger Intensive Care Unit (ICU) rooms. Other corporations that may choose to construct facilities to the minimum would incur costs related to the following changes in adopted standards: the cost of requiring all private rooms in post partum and med-surg units, the cost of handwash sinks required in both the patient rooms and toilet rooms, the cost of increased size of critical care rooms, the cost of increased size of Newborn Intensive Care Unit (NICU) space, the requirement for operable windows is deleted which is a cost reduction, and the cost of requiring all private rooms in post partum and med-surg units. If we assume that all 20 other general hospitals construct new or add on each room described above than the cost would be $21,200 per facility with an aggregate cost of $422,000. The number of patient rooms, ICU rooms, and NICU rooms that will be constructed is also not predictable. The unit cost per bed for each of these items is identified below under Compliance costs for affected persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Only additions and new facilities that start the design review process after the effective date of the rules and design to the minimum standard will be affected. Unit costs per bed include the following: the cost of requiring all private rooms in post partum and med-surg units, the cost of construction of private patient rooms is approximately $8,100 higher per bed than the cost of semi-private rooms, the cost of handwash sinks required in both the patient rooms and toilet rooms, and the cost of the second sink is approximately $500 per patient bedroom. The cost of increased size of critical care rooms: the minimum size of critical care rooms was increased from 150 SF to 200 SF. This increases the cost per ICU bed approximately $9,000. The cost of increased size of NICU space: the minimum size of Newborn Intensive Care Units (NICU) was increased from 100 SF to 120 SF per bassinet. This increases the cost per NICU bassinet approximately $3,600. The requirement for operable windows is deleted - this will decrease cost by $75 per window.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule amendment, if adopted, would update health facility construction standards in Utah to a standard consistent with national standards. The general hospital under construction in Salt Lake County by Intermountain Health Care is being built to a higher standard or to the standard imposed by this rule. The fiscal impact

should not be great since it does not have retroactive impact on current facilities. Rod L. Betit

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

HEALTH
HEALTH SYSTEMS IMPROVEMENT, 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 debwynkoop@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 12/02/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 12/03/2002

AUTHORIZED BY: Rod Betit, Executive Director

R432. Health, Health Systems Improvement, Licensing.
R432-4. General Construction.

. . . . . .

R432-4-6. Parking.

(1) Parking shall be provided in accordance with local zoning ordinances.

(2) If local zoning ordinances do not exist, Section 3.2.B Parking, from Guidelines for Design and Construction of Hospital and Health Care Facilities [~~1996-1997~~]2001 Edition shall apply and is adopted and incorporated by reference.

(3) The requirements of the Americans with Disabilities Act Accessibility Guidelines, (ADAAG) for handicapped parking access shall apply and parking spaces for the disabled shall be directly accessible to the facility without the need to go behind parked cars.

. . . . . .

R432-4-8. Standards Compliance.

(1) The following standards are adopted and incorporated by reference:

(a) Illuminating Engineering Society of North America, IESNA, publication RP-29-95, Lighting for Hospitals and Health Care Facilities, 1995 edition;

(b) The following chapters of the National Fire Protection Association Life Safety Code, NFPA 101, [~~1997~~]2000 edition:

(i) Chapter 1[~~2~~]8, New Health Care Occupancies;

(ii) Chapter 1[~~3~~]9, Existing Health Care Occupancies.

(2) The following codes and standards apply to health care facilities. The licensee shall obtain clearance from the authority having jurisdiction and submit documentation to the Department verifying compliance with these codes and standards as they apply to the category of health care facility being constructed:

(a) Local zoning ordinances;

(b) [~~Uniform~~]International Building Code, [~~1997~~]2000 edition;

(c) Americans with Disabilities Act Accessibility Guidelines, (ADAAG) 28 CFR 36, Appendix A, (July 1993);

(d) [~~Uniform~~]International Mechanical Code, [~~1997~~]2000 edition;

(e) International Plumbing Code, [~~1997~~]2000 edition;

(f) [~~Uniform~~]International Fire Code, [~~1997~~]2000 edition.

(g) R313. Environmental Health, Radiation Control, 1994;

(h) R309. Environmental Health, Drinking Water and Sanitation, 1994;

(i) R315. Environmental Health, Solid and Hazardous Waste, 1994;

(j) NFPA 70, National Electric Code, 1999 edition;

(k) NFPA 99, Standards for Health Care Facilities, [~~1996~~]1999 edition;

(l) NFPA 110, Emergency and Standby Power Systems, 1988 edition;

(m) American Society of Heating, Refrigerating, and Air Conditioning Engineers (ASHRAE), Handbook of Fundamentals, 1997 edition[~~;~~

~~(n) National Council on Radiation Protection (NCRP), Medical X-ray, Electron beam and Gamma Ray Protection for Energies up to 50 MeV Equipment Design, Performance and Use, Report 102, 1989;~~

~~(o) National Council on Radiation Protection (NCRP), Radiation Protection Design Guidelines for 0.1-100, MeV Particle Accelerator Facilities, Pamphlet 51, 1977;~~

~~(p) National Council on Radiation Protection (NCRP), Medical X-ray and Gamma Ray Protection for Energies up to 10 MeV Structural Shielding Design and Evaluation, Pamphlet 49, 1976~~].

(3) The licensee shall obtain a Certificate of Occupancy from the local building official having jurisdiction.

(4) The licensee shall obtain a Certificate of Fire Clearance from the Fire Marshal having jurisdiction.

(5) The licensee must obtain clearance from the Department prior to utilization of newly constructed facilities and additions or remodels of existing facilities.

R432-4-9. New Construction, Additions and Remodeling.

(1) New construction, additions and remodels to existing structures, shall comply with Department rules in effect on the date the schematic drawings are submitted to the Department.

(2) If the remodeled area or addition in any building, wing, floor or service area of a building exceeds 50 percent of the total square foot area of the building, wing, floor or service area, then the entire building, wing, floor or service area shall be brought into compliance with adopted codes and rules governing new construction which are in effect on the date the schematic drawings are submitted to the Department.

(3) During remodeling and new construction, the licensee must maintain the safety level which existed prior to the start of work.

R432-4-15. Functional Program.

The functional program required in R432-4-14([~~3~~]2)(a) must include the following:

(1) the purpose and proposed license category of the facility;

(2) services offered, including a detailed description of each service;

(3) ancillary services required to support each function or program;

(4) departmental relationships;

(5) services offered under contract by outside providers and the required in-house facilities to support these services;

(6) services shared with other licensure categories or functions;

(7) a description of anticipated in-patient workloads;

(8) a description of anticipated out-patient workloads;

(9) physical and mental condition of intended patients;

(10) patient age range;

(11) ambulatory condition of intended patients, such as non-ambulatory, mobile, or ambulatory;

(12) type and use of general or local anesthetics;

(13) use of physical or chemical restraints;

(14) special requirements which could affect the building;

(15) area requirements for each service offered, stated in net square feet;

(16) seclusion treatment rooms, if provided, including staff monitoring procedures;

(17) exhaust systems, medical gases, laboratory hoods, filters on air conditioning systems, and other special mechanical requirements;

(18) special electrical requirements;

(19) x-ray facilities, nurse call systems, communication systems, and other special systems;

(20) a list of specialized equipment which could require special dedicated services or special structures.

(21) a description of how essential core services will accommodate increased demand, if a building is designed for expansion;

(22) inpatient services, treatment areas, or diagnostic facilities planned or anticipated to be housed in other buildings, the construction type of the other buildings, and provisions for protecting the patient during transport between buildings.

(23) infection control risk assessment to determine the need for the number and types of isolation rooms over and above the minimum numbers required by the Guidelines.

R432-4-16. Drawings.

Drawings must show all equipment necessary for the operation of the facility.

(1) Schematic drawings may be single line and shall contain the following information:

(a) list of applicable building codes;

(b) location of the building on the site and access to the building for public, emergency, and service vehicles;

(c) site drainage;

(d) any unusual site conditions, including easements which might affect the building or its appurtenances;

(e) relationships of departments to each other, to support facilities, and to common facilities;

(f) relationships of rooms and areas within departments;

(g) number of inpatient beds;

(h) total building area or area of additions or remodeled portions.

(2) Design development drawings, drawn to scale, shall contain the following information:

(a) room sizes;

(b) type of construction, using [~~Uniform~~]International Building Code classifications;

(c) site plan, showing relationship to streets and vehicle access;

(d) outline specification;

(e) location of fire walls, corridor protection, fire hydrants, and other fire protection equipment;

(f) location and size of all public utilities;

(g) types of mechanical, electrical and auxiliary systems; and

(h) provisions for the installation of equipment which requires dedicated building services, special structure or which require a major function of space.

(3) Working drawings shall include all previous submitted drawings and specifications.

(a) The licensee shall provide one copy of completed working drawings and specifications to the Department.

(b) Within 30 days after receipt of the required documentation and plan review fee, the Department will provide to the licensee and the project architect a written report of modifications required to comply with construction standards.

(c) The licensee shall submit the revised plans for review and final Department approval.

R432-4-20. Construction Phasing.

Projects involving remodeling or additions to existing buildings shall be scheduled and phased to minimize disruption to the occupants of facilities and to protect the occupants against construction traffic, dust, and dirt from the construction site. Guidelines for Design and Construction of Hospital and Health Care Facilities [~~1996-97~~]2001 edition Section 5 is adopted and incorporated by reference.

R432-4-23. General Construction.

(1) Guidelines for Design and Construction of Hospital and Health Care Facilities [~~1996-1997~~]2001 edition, Section 7 and Appendix A (Guidelines), and Sections 9.1, 9.2, 9.3, 9.4, and 9.9 for free-standing satellites or in-house outpatient programs, are adopted and incorporated by reference except as modified in this section. Swing beds must meet the requirements of Sections 7 and 8 of the Guidelines.

(2) If a modification is cited for the Guidelines, the modification supersedes conflicting requirements of the Guidelines.

(3) Yard equipment and supply storage areas shall be located so that equipment may be moved directly to the exterior without passing through building rooms or corridors.

(4) Waste Processing Systems. Facilities shall provide sanitary storage and treatment areas for the disposal of all categories of waste, including hazardous and infectious wastes using techniques acceptable to the Utah Department of Environmental Quality, and the local health department having jurisdiction.

(5) Windows, in rooms intended for 24-hour occupancy, shall[~~be operable and~~] open to the building exterior or to a court which is open to the sky.

(a) Windows shall be equipped with insect screens.

(b) Operation of windows shall be restricted to a maximum opening of six inches to prevent escape or suicide.

(c) Window opening shall be restricted regardless of the method of operation or the use of tools or keys.

(6) Trash chutes, laundry chutes, dumb waiters, elevator shafts, and other similar systems shall not pump contaminated air into clean areas.

(7) All [~~P~~]public and patient toilet and bath areas must have grab bars.[~~installed in accordance with ADAAG~~] Grab bar sizes and configurations shall comply with ADAAG.

(8) Each patient handwashing fixture shall have a mirror. Patient toilet and bath rooms that are required to be accessible to

persons utilizing wheel chairs shall have mirrors installed in accordance with ADAAG.

(9) Showers and tubs shall contain recessed soap dishes.

(10) Cubicle curtains and draperies shall be affixed to permanently mounted tracks or rods. Portable curtains or visual barriers are not permitted.

(11) Floors and bases of kitchens, toilet rooms, bath rooms, janitor's closets[~~,~~] and soiled workrooms[~~, and other areas subject to frequent wet cleaning~~] shall be homogenous and shall be coved. Other areas subject to frequent wet cleaning shall have coved bases that are sealed to the floor.

[~~(12) Ceilings in operating rooms, delivery rooms for caesarean sections, isolation rooms, and sterile processing rooms shall be smooth and crevice free.~~]

(12[~~3~~]) Acoustical treatment for sound control shall be provided in areas where sound control is needed, including corridors in patient areas, nurse stations, dayrooms, recreation rooms, dining areas, and waiting areas.

(13[~~4~~]) Carpet.

Carpet in institutional occupancy patient areas, except public lobbies and offices, shall be treated to meet the following microbial resistance ratings as tested in accordance with test methods of the American Association of Textiles, Chemists, and Colorists (AATCC):

(a) Rating: minimum 90% bacterial reduction, test method: AATCC 100.

(b) Rating: maximum 20% fungal growth, test method: AATCC 174-[~~91~~]99.

(c) Rating: Exhibits no zone of inhibition, test method: AATCC 174-[~~91~~]99.

(d) Resilient backed carpet may be used in lieu of anti-microbial carpet.

(e) Carpet and padding shall be stretched taut and be free of loose edges to prevent tripping.

(14[~~5~~]) Signs shall be provided as follows:

(a) General and circulation direction signs in corridors;

(b) Identification on or by the side of each door; and

(c) Emergency evacuation directional signs.

(15[~~6~~]) Elevators.

Elevators intended for patient transport shall accommodate a gurney with attendant and have minimum inside cab dimensions of 5'8" wide by 8'5" deep and a minimum clear door width of 3'8".

(16[~~7~~]) All rooms and occupied areas in the facility shall have provisions for ventilation. Natural window ventilation may be used for ventilation of nonsensitive areas and patient rooms when weather conditions permit, but mechanical ventilation shall be provided during periods of temperature extremes.

(a) Bottoms of ventilation openings shall be located at least three inches, above the floor.

(b) Supply and return systems shall be in ducts. Common returns using corridors or attic spaces as plenums are prohibited.

(17[~~8~~]) In facilities other than general hospitals, specialty hospitals, and nursing care facilities, hot water recirculation is not required if the linear distance along the supply pipe from the water heater to the fixture does not exceed 50 feet.

[~~(a) Rooms requiring medical gas, vacuum, and oxygen systems are listed in construction rules for each licensure category.~~

~~(b) If nonflammable medical gas and air system outlets are required, they shall be provided as outlined in Table 1.~~]

(18) Medical gas and air system outlets shall be provided as outlined in Table 7.5 of the Guidelines.

[~~TABLE 1~~

~~Medical Gas Outlets~~

~~Section~~	~~Location~~	~~Oxygen~~	~~Vacuum~~	~~Medical Air~~
~~7.2.A~~	~~Patient Rooms (Medical and Surgical~~	~~1(one outlet accessible to each bed)~~	~~1(one outlet accessible to each bed)~~	~~-~~
~~7.2.B10~~	~~Examination/ Treatment Medical Surgical, and Postpartum Care)~~	~~1~~	~~1~~	~~-~~
~~7.2.C/ 7.2.D~~	~~Isolation (Infectious and Protective) (Medical and Surgical)~~	~~1~~	~~1~~	~~-~~
~~7.2.E~~	~~Security Room (Medical, Surgical And Postpartum)~~	~~1~~	~~1~~	~~-~~
~~7.3.A~~	~~Critical Care (General)~~	~~2~~	~~3~~	~~1~~
~~7.3.A14~~	~~Isolation (Critical)~~	~~2~~	~~3~~	~~1~~
~~7.3.B~~	~~Coronary Critical Care~~	~~2~~	~~2~~	~~1~~
~~7.3.D~~	~~Pediatric Critical Care~~	~~2~~	~~3~~	~~1~~
~~7.3.E~~	~~Newborn Intensive Care~~	~~3~~	~~3~~	~~3~~
~~7.4.B~~	~~Newborn Nursery (full term)~~	~~1~~	~~1~~	~~1~~
~~7.5.A~~	~~Pediatric and Adolescent~~	~~1~~	~~1~~	~~1~~
~~7.5.B~~	~~Pediatric Nursery~~	~~1~~	~~1~~	~~1~~
~~7.6.A~~	~~Psychiatric Patient Rooms~~	~~-~~	~~-~~	~~-~~
~~7.6.D~~	~~Seclusion Treatment Room~~	~~-~~	~~-~~	~~-~~
~~7.7.A1~~	~~General Operating Room~~	~~2~~	~~4~~	~~2~~
~~7.7.A2~~	~~Cardio, Ortho, Neurological~~	~~2~~	~~4~~	~~2~~
~~7.7.A3~~	~~Orthopedic Surgery~~	~~2~~	~~4~~	~~2~~
~~7.7.A4~~	~~Surgical Cysto and Endo~~	~~1~~	~~3~~	~~2~~
~~7.7.B2~~	~~Post Anesthetic Care Unit~~	~~1~~	~~1~~	~~1~~
~~7.7.C9~~	~~Anesthesia Workroom~~	~~1 per workstation~~	~~-~~	~~1 per work-station~~
~~7.7.C14~~	~~Outpatient Recovery~~	~~1~~	~~1~~	~~1~~
~~7.8.A3~~	~~Caesarean/ Delivery Room~~	~~2~~	~~4~~	~~2~~
~~7.8.A3(d)~~	~~Labor Room~~	~~1~~	~~1~~	~~1~~
~~7.8.A3(e)~~	~~Recovery Room~~	~~1~~	~~1~~	~~1~~
~~7.8.A4~~	~~Labor/Delivery/ Recovery (LDR)~~	~~2~~	~~3~~	~~2~~
~~7.8.A4~~	~~Labor/Delivery/ Recovery/ Postpartum (LDRP)~~	~~2~~	~~3~~	~~2~~
~~7.9.C2~~	~~Initial Emergency Management per bed~~	~~1~~	~~1~~	~~1~~

7.9.D3	Triage Area (Definitive Emergency Care)	1	1	
7.9.D7	Definitive Emergency Care Exam/Treatment Rooms	1	1	1
7.9.D7	Definitive Emergency Care Holding Area	1	1	
7.9.D8	Trauma/Cardiac Room(s)	2	2	1
7.9.D9	Orthopedic and Cast Room	1	1	1
7.10.H	Cardiac Catheterization Lab	1	3	2
7.16.A2	Autopsy Room		1 per work station	1 per work station

]

(c) Bed pan washing devices may be deleted from inpatient toilet rooms where a soiled utility room is within the unit which includes bed pan washing capability.

(19) Building sewers shall discharge into a community sewer system. If a system is not available, the facility shall treat its sewage in accordance with local requirements and Utah Department of Environmental Quality requirements.

(20) Dishwashers, disposers and appliances shall be National Sanitation Foundation, NSF, approved and shall have the NSF seal affixed.

(21) Electrical materials shall be listed as complying with standards of Underwriters Laboratories, Inc. or other equivalent nationally recognized standards.

(a) Approaches to buildings and all spaces within the buildings occupied by people, machinery, or equipment shall have fixtures for lighting in accordance with at least mid range requirements shown in Tables 1A and 1B of the Guidelines in 29-95, Lighting for Health Facilities, by the Illuminating Engineering Society of North America.

(b) Parking lots shall have fixtures for lighting to provide light levels as recommended in IESNA Lighting for Parking Facilities (RP-20-[~~85~~]1998).

(c) Receptacles and receptacle [~~C~~]cover plates on the electrical [~~receptacles connected to the~~]emergency system shall be red.

(d) The activating device for nurse call stations shall be of a contrasting color to the adjacent floor and wall surfaces to make it easily visible in an emergency.

(e) Fuel storage capacity of the emergency generator shall permit continuous operation of the facility for 48 hours.

(f) Building electrical services connected to the emergency electrical source must comply with the specific rules for each licensure category.

R432-4-24. General Construction, Patient Service Facilities.

Guidelines for Design and Construction of Hospital and Health Care Facilities [~~1996-1997~~]2001 edition, Section 7 and Appendix A (Guidelines), are incorporated and adopted by reference and shall be met except as modified in this section. Where a modification is cited, the modification supersedes conflicting requirements of the Guidelines.

(1) Hospitals must have at least one nursing unit of at least six beds containing patient rooms, patient care spaces, and service areas.

(a) When more than one nursing unit shares spaces and service areas, as permitted in this rule, the service areas shall be contiguous to each nursing unit served.

(b) Identifiable spaces shall be provided for each of the required services.

(i) When used in this rule, "room or office" describes a specific, separate, enclosed space for the service.

(ii) When "room or office" is not used, multiple services may be accommodated in one enclosed space.

(c) Facility services shall be accessible from common areas without compromising patient privacy.

(2) Patient room area is identified in each individual construction rule for the licensure category rule.

(a) The closets in each patient room shall be a minimum of 22 inches deep by at least 22 inches wide and high enough to hang full length garments and to accommodate two storage shelves.

[~~(b) In new construction, all patient rooms shall have a hand washing fixture within the room.~~

~~(c) The hand washing fixture may be omitted from the toilet room if each patient room served by that toilet room contains a hand washing fixture.~~](b) Pediatric units must have at least one tub room with a bathtub, toilet and sink convenient to the unit. The tub room may be omitted if all patient rooms contain a tub in the toilet room.

(3) A "Continuing Care Nursery"must have one oxygen, one medical air and one vacuum per bassinet.

(4) Appendix A7.2.A1 of the Guidelines , single patient room occupancy, applies to new construction only.

(5) Provisions for an isolation room for infectious patients in Phase II recovery, as discussed in 7.7.C14 of the Guidelines, is deleted.

(6) Postpartum rooms, in new construction, shall be single patient rooms.

([~~3~~]7) The facility must provide linen services as follows:

(a) Processing laundry may be done within the facility, in a separate building on or off site, or in a commercial or shared laundry.

(b) If laundry is processed by an outside commercial laundry, the following shall be provided:

(i) a separate room for receiving and holding soiled linen until ready for transport;

(ii) a central, clean linen storage and issuing room(s) to accommodate linen storage for four days operation or two normal deliveries, whichever is greater; and

(iii) handwashing facilities in each area where unbagged, soiled linen is handled.

(c) If the facility processes it's own laundry, within the facility or in a separate building, the following shall be provided:

(i) a receiving, holding, and sorting room for control and distribution of soiled linen;

(ii) a washing room with handwashing facilities and commercial equipment that can process a seven day accumulation of laundry within a regularly scheduled work week;

(iii) a drying room with dryers adequate for the quantity and type of laundry being processed; and

(iv) a clean linen storage room with space and shelving adequate to store one half of all linens and personal clothing being processed.

(d) Soiled linen chutes shall discharge directly into the receiving room or in a room separated from the washing room, drying room and clean linen storage.

(e) Prewash facilities may be provided in the receiving, holding and sorting rooms.

(f) If laundry is processed by the facility, either a two or three room configuration may be used as follows;

(i) A two room configuration shall consist of the following:

(A) a room housing soiled linen receiving, sorting, holding, and prewash facilities; washers; and handwashing facilities; and

(B) a room housing dryers; clean linen folding, sorting, and storage facilities; and handwashing facilities.

(ii) A three room configuration shall consist of:

(A) a soiled linen receiving, sorting, holding room with prewash and handwashing facilities;

(B) a combination washer and dryer room arranged so linen flows from the soiled receiving area to the washers, to the dryers, and then to clean storage; and

(C) a clean storage room with folding, sorting, storage and handwashing facilities.

(iii) Physical separation shall be maintained between rooms by means of self closing doors.

(iv) Air movements shall be from the clean area to the soiled area. Air from the soiled area shall be exhausted directly to the outside.

(g) Handwashing sinks shall be provided and located within the laundry areas to maintain the functional separation of the clean and soiled processes.

(h) Rooms shall be arranged to prevent the transport of soiled laundry through clean areas and the transport of clean laundry through soiled areas.

(i) Convenient access to employee lockers and lounges shall be provided.

(j) Storage for laundry supplies shall be provided.

(k) A cart storage area for separate parking of clean and soiled linen carts shall be provided out of normal traffic paths.

R432-4-25. Excluded Sections of the Guidelines.

The Linen Services section 7.23 of the Guidelines does not apply.

R432-4-26. Penalties.

[~~Any person who violates any provision of this rule may be subject to the penalties enumerated in 26-21-11 and R432-3-6 and be punished for violation of a class A misdemeanor as provided in 26-21-16.~~]The Department may assess a civil money penalty of up to $5,000 and deny approval for patient utilization of new or remodeled areas if a health care provider does not submit architectural drawings to the Bureau of Licensing. The Department may assess a civil money penalty of up to $5,000 if the licensee fails to follow Department-approved architectural plans. The Department may assess a civil money penalty of up to $500 per day for each day a new or renovated area is occupied prior to Bureau of licensing approval.

KEY: health facilities
[~~December 1, 1999~~]2002
Notice of Continuation January 29, 1999
26-21-5
26-21-16

▼ ▼

Health, Health Systems Improvement, Licensing
R432-5
Nursing Facility Construction

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 25452
FILED: 10/03/2002, 17:24

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The reasons for the changes include: 1) updating referenced guidelines to the current edition; 2) clarifying misunderstood sections; 3) encouraging residential like environments; and 4) modifying the "Penalties" section (R432-5-17).

SUMMARY OF THE RULE OR CHANGE: In Section R432-5-2, adds language to the "Purpose" statement to emphasize residential-like environments. In Subsection R432-5-4(6), requires that windows be operable in 24-hour occupied patient rooms. In Subsection R432-5-6(1), adopts by reference the 2001 edition of the Guidelines for Design and Construction of Hospital and Health Care Facilities, 2001 edition (Guidelines). In Subsection R432-5-15(2), updates the edition of the parking lot lighting handbook (Illuminating Engineering Society of North America, RP-20-1998). In Subsection R432-5-15(5), modifies red receptacle cover plates to include red receptacles. In Subsection R432-5-16(3), changes "utility room" to "workroom." In Subsection R432-5-16(4), deletes the exclusion of the "windows" section in the "Guidelines". In Subsection R432-5-16(5), excludes, but encourages consideration of the cluster concept in new construction. In Section R432-5-17, modifies the penalties with new language and fees.

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

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: Guidelines for Design and Construction of Hospital and Health Care Facilities, 2001 edition; and the Illuminating Engineering Society of North America, RP-20-1998. These publications are on file at the Division of Administrative Rules.

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: Cost to print the modifications and distribute the rule to licensed health care facilities can be handled within current appropriation. There are two state owned nursing care facilities, however the changes proposed in these rules would not affect these facilities. If the state proposed to construct a new facility these rules would not significantly impact the cost of the construction.

❖ LOCAL GOVERNMENTS: Local governments own or lease two nursing facilities statewide. Changes proposed in this amendment do not add any cost to the current facilities. If the county proposed to construct a new facility, this rule would not increase the cost of the construction.

❖ OTHER PERSONS: There are currently 7 nursing homes proposing either new facilities or an addition of up to 44 beds. All of these, if built, will be constructed under the existing administrative rule. A review of the proposed facilities plans against the amended rule documents that the proposed changes would not add any cost to the construction of these facilities. The clarifications and corrections may actually lead to a savings by providers if there is less need to clarify ambiguous regulations.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Proposed changes will alter future construction in some areas, but will not be more costly than the requirements under the current rule. Therefore the Department does not believe that this rule change will impose any compliance costs on affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: As detailed in "Cost" explanations above, this rule change will have little, if any, fiscal impact on regulated businesses. The rule change is based on the recommendation from a broadly based group representing this industry. These changes appear to be appropriate to protect the health and safety of residents of these facilities. Public comment will be carefully reviewed and assessed before the rule is allowed to go into effect. Rod L. Betit

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

HEALTH
HEALTH SYSTEMS IMPROVEMENT, 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 debwynkoop@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 12/02/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 12/03/2002

AUTHORIZED BY: Rod Betit, Executive Director

R432. Health, Health Systems Improvement, Licensing.
R432-5. Nursing Facility Construction.
R432-5-2. Purpose.

The purpose of this rule is to promote the health and welfare through the establishment and enforcement of construction standards. The intent is to provide residential like environments and encourage social interaction of residents.

R432-5-4. Description of Service.

(1) A nursing unit shall consist of resident rooms, resident care spaces, and services spaces.

(2) Each nursing unit shall contain at least four resident beds.

(3) Rooms and spaces composing a nursing unit shall be contiguous.

(4) A nursing care facility operated in conjunction with a general hospital or other licensed health care facility shall comply with all provisions of this section. Dietary, storage, pharmacy, maintenance, laundry, housekeeping, medical records, and laboratory functions may be shared by two or more facilities.

(5) Special care units shall comply with all provisions of R432-5.

(6) Windows, in rooms intended for 24-hour occupancy, shall be operable.

R432-5-6. General Construction Requirements.

(1) Nursing facilities shall be constructed in accordance with the Guidelines for Design and Construction of Hospital and Health Care Facilities (Guidelines), Section 8 and Appendix A, [~~1996-1997~~]2001 edition which is adopted by reference.

(2) Where a modification is cited, the modification supersedes conflicting requirements of the Guidelines.

R432-5-15. Electric Standards.

(1) Operators shall maintain written certification to the Department verifying that systems and grounding comply with NFPA 99 and NFPA 70.

(2) Approaches to buildings and all spaces within buildings occupied by people, machinery, or equipment shall have fixtures for lighting in accordance with the requirements of the Illuminating Engineering Society of North America (IESNA). Parking lots shall have fixtures for lighting to provide light levels as recommended in IES [~~Lighting Handbook 1987, Volume 2, Applications~~]Recommended Practice RP-20-1998, Lighting for parking facilities by the Illuminating Engineering Society of North America.

(3) Automatic emergency lighting shall be provided in accordance with NFPA 99 and NFPA 101.

(4) Each examination and work table shall have access to a minimum of two duplex outlets.

(5) Receptacles and [~~R~~]receptacle cover plates on the emergency system shall be red.

(6) An on-site emergency generator shall be provided in all nursing care facilities except small ICF/MR health care facilities of 16 beds or less.

(a) In addition to requirements of NFPA 70, Section 517-40, the following equipment shall be connected to the critical branch of the essential electrical system.

(i) heating equipment necessary to provide heated space sufficient to house all residents under emergency conditions,

(ii) duplex convenience outlets in the emergency heated area at the ratio of one duplex outlet for each ten residents,

(iii) nurse call system,

(iv) one duplex receptacle in each resident bedroom.

(b) Fuel storage shall permit continuous operation of the services required to be connected to the emergency generator for 48 hours.

R432-5-16. Exclusions to the Guidelines.

The following sections of the Guidelines do not apply:

(1) Parking, Section 8.1.F.

(2) Program of Functions, Section 8.1.G.

(3) Clean [~~Utility Room~~]workroom, Subsection 8.2.C.5.[

~~(4) Windows, Subsection 8.2.B3. and 8.8.A4.~~]

([~~5~~]4) Linen Services, section 8.11.

(5) Clusters and Staffing Considerations, section A8.2.A. The cluster design concept has proven beneficial in numerous cases, but is optional. However, the Department encourages new construction projects to consider this concept.

R432-5-17. Penalties.

[~~Any person who violates any provision of this rule may be subject to the penalties enumerated in 26-21-11 and R432-3-6 and be punished for violation of a class A misdemeanor as provided in 26-21-16.~~]The Department may assess a civil money penalty of up to $5,000 and deny approval for patient utilization of new or remodeled areas if a health care provider does not submit architectural drawings to the Bureau of Licensing. The Department may assess a civil money penalty of up to $5,000 if the licensee fails to follow Department-approved architectural plans. The Department may assess a civil money penalty of up to $500 per day for each day a new or renovated area is occupied prior to Bureau of Licensing approval.

KEY: health facilities
[~~December 1, 1999~~]2002
Notice of Continuation January 29, 1999
26-21-5
26-21-16

▼ ▼

Health, Health Systems Improvement, Licensing
R432-6
Assisted Living Facility General Construction

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 25448
FILED: 10/03/2002, 17:20

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Updating referenced national codes and guidelines to the current editions, eliminating redundant information, replacing sections which were omitted in the 1999 revision, and adding the penalty for noncompliance with the rule.

SUMMARY OF THE RULE OR CHANGE: A summary of the changes include: 1) in Section R432-6-5, adopts the latest edition of the International Building Code, the International Plumbing Code, and the International Fire Code; 2) in Sections R432-6-6, R432-6-18, and R432-6-19, clarifies language; 3) in Section R432-6-21, requires small facilities to provide a housekeeping room. This requirement was in the 1999 version of the rule, however, it was omitted in the last revision; 4) in Section R432-6-22, the International Mechanical Code, adopted by the state, requires the 10 foot separation between exhaust and intakes. This has been an industry standard and the rule change now clarifies the degree of separation; 5) in Section R432-6-24, adopts the Illuminating Engineering Society of North America, 1998 edition of the Lighting for Parking Facilities, and requires an extra outlet on the wall in the resident room, which had been previously in the rule but was omitted in the 1999 rule amendment; 6) in Section R432-6-107, requires a signal system in an Assisted Living I (AL I) facility to be designed to turn off only at the resident calling location. This rule change is required to be consistent with the AL II requirements; 7) in Section R432-6-201, the change coordinates the language to match the International Building Code referring to corridors, area and height of the building; 8) in Section R432-6-203, requires the AL II facility to provide a bed, comfortable chair, chest of drawers and reading lamp, if the resident does not own these items, to be consistent with the AL I requirements; 9) in Section R432-6-210, requires the door between the clean and soiled linen rooms to have a self closing device; and 10) in Section R432-6-211, adds civil money penalty language.

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

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: International Building Code, 2000 edition; International Fire Code, 2000 edition; International Plumbing Code, 2000 edition; Guidelines for Design and Construction of Hospital and Health Care Facilities, 2001 edition. All publications noted above are on file in the Division of Administrative Rules and the State Fire Marshal's Office per Subsection R710-4-1(1.10).

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: Costs to print the amended rule and distribute it to the licensed health care facilities can be handled within current appropriation.

❖ LOCAL GOVERNMENTS: There are no government owned assisted living facilities. Therefore it is not anticipated that local governments would have any costs associated with the proposed amendments.

❖ OTHER PERSONS: The rule is not retroactive and has exceptions for renovations so there is no cost to existing facilities. Facilities that start the design review process after the effective date of the rule will incur costs related to the higher minimum standards, including: the cost of requiring an extra outlet in resident rooms of AL 1 facilities; the cost of a housekeeping room in small assisted living facilities; the cost of furnishing a resident's room if they cannot provide a bed, chair, chest of drawers and reading lamp upon admission in an AL II facility; and the cost of a self-closing device on the door separating the clean and soiled laundry room in an AL II facility. If we assume 10 new Assisted Living I facilities are planned over the next 2 years, adding 100 rooms, then the aggregate cost will be $9,500, an average of $950 per facility. If we assume that 90 Assisted Living II facilities are planned over the next 2 years, adding 100 resident rooms, the aggregate cost will be $14,000. Total cost increase of

$23,500. However, new construction is not predictable. The unit cost for each of these changes is identified below under Compliance Costs for Affected Persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Only additions and new facilities that start the design review process after the effective date of the rule are affected. Unit costs per facility include the following: the cost of requiring an extra outlet in resident rooms of AL 1 facilities - extra outlet cost is $35 per room; the cost of a housekeeping room in small assisted living facilities - the cost of constructing a housekeeping closet 6 ft. x ft. at $100 a foot is $600 per facility; the cost of furnishing a resident's room if they cannot provide a bed, chair, chest of drawers and reading lamp - since most resident's are private pay and are admitted from their homes, they bring their personal furnishings with them - if an individual did not own these items then the cost would be $1,000 per room; and the cost of a self-closing device on the door separating the clean and soiled laundry room in an AL II facility - each new door would require a $70 device and $30 installation fee, for a cost of $100.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule has been developed with the input of regulated industries, the Health Facility Committee and was circulated in draft form to the Assisted Living Facility Association. It appears that this will bring the rule up-to-date with current construction standards that the industry recognizes are necessary to protect public health and safety. Rod L. Betit

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

HEALTH
HEALTH SYSTEMS IMPROVEMENT, 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 debwynkoop@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 12/02/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 12/03/2002

AUTHORIZED BY: Rod Betit, Executive Director

R432. Health, Health Systems Improvement, Licensing.
R432-6. Assisted Living Facility General Construction.
R432-6-5. Codes and Code Compliance.

(1) The following codes and standards enforced by other agencies or jurisdictions apply to assisted living facilities. The licensee shall obtain documentation of compliance for the following codes and standards from the authority having jurisdiction and submit the documentation to the Department:

(a) Local zoning ordinances;

(b) [~~Uniform~~]International Building Code, 2000 edition;

(c) [~~Uniform~~]International Plumbing Code, 2000 edition;

(d) [~~Uniform~~]International Fire Code, 2000 edition; and[

~~(e) ASME Elevator and Escalator A17.1; and~~]

([~~f~~]e) Americans with Disabilities Act Accessibility Guidelines, (ADAAG) 28 CFR 36, Appendix A (July 1993).

(2) The licensee shall obtain a certificate of occupancy from the local building official having jurisdiction.

(3) The licensee shall obtain a certificate of fire clearance from the Fire Marshal having jurisdiction.

(4) The licensee shall submit a copy of the certificates to the Department prior to resident utilization of newly constructed facilities, additions or remodels of existing facilities.

R432-6-6. Application of Codes for New and Existing Buildings.

(1) New construction, additions and remodels to existing buildings shall comply with Department rules in effect on the date the first drawings are received by the Department.

(2) If the remodeled area or addition in any building, wing, floor or service area of a building exceeds 50 percent of the total square foot area of the building, wing, floor or service area, then the entire building, wing, floor or service area shall be brought into compliance with rules governing new construction which are in effect on the date the first drawings are submitted to the Department.

(3) During remodeling, new construction or additions, the safety level which existed prior to the start of work shall be maintained.

(4) Current licensed buildings shall conform to Department construction rules in effect at the time of initial facility licensure.

(5) Buildings which are changing license classification shall comply with requirements for new construction.

(6) Buildings undergoing refurbishing shall comply with the following:

(a) All materials installed as part of a refurbishing project shall comply with flame spread ratings required by the fire marshal having jurisdiction.

(b) The facility shall keep written documentation of compliance with codes and standards.

R432-6-18. Special Design Features.

(1) Building entrances in large facilities shall be at grade level, clearly marked, and located to minimize the need for residents to traverse other program areas. A main facility entrance shall be designated and accessible to persons with disabilities.

(2) Lobbies of multi-occupancy buildings may be shared if the design precludes unrelated traffic within or through units or suites of the licensed health care facility.

(3) At least one building entrance shall be accessible to persons with physical disabilities. Entrances requiring ramps with a slope in excess of 1:20 shall have steps as well as ramps.

(4) In Large facilities where all resident units do not have kitchens or toilet facilities, at least one drinking fountain or water cooler, toilet, and handwashing fixture on each floor shall be wheelchair accessible.

(5) Each resident bedroom or sleeping room[~~living unit~~] shall have a wardrobe, closet, or locker for each resident occupying the unit. The closet, wardrobe or locker shall have a shelf and a hanging rod, with minimum inside dimensions of 22 inches deep by 36

inches wide by 72 inches tall, suitable for hanging full-length garments.

R432-6-19. General Standards for Details.

(1) Placement of drinking fountains, telephone booths, or vending machines shall not restrict corridor traffic or reduce required corridor width.

(2) Doors and windows shall comply with the following requirements:

(a) Rooms which contain bathtubs, showers, or water closets for resident use shall be equipped with doors and hardware which permit emergency access.

(b) Doors, except those to spaces such as small closets not subject to occupancy, shall not swing into corridors in a manner which will obstruct traffic or reduce corridor width. Large walk-in type closets are occupiable spaces.

(c) Windows which open to the exterior shall be equipped with insect screens.

(d) Resident rooms and suites intended for 24-hour occupancy shall have operable windows which open to the exterior of the building or to a court open to the sky.

(e) Doors, sidelights, borrowed lights, and windows glazed to within 18 inches of the floor shall be constructed of safety glass, wired glass, or plastic break-resistant material that creates no dangerous cutting edges when broken.

(f) Safety glass, wired glass, or plastic break-resistant materials shall be used for wall openings in recreation rooms, exercise rooms, and other activity areas unless prohibited in the [~~Uniform~~]International Building Code.

(g) Doors used for shower and bath enclosures shall be made of safety glass or plastic glazing materials.

(3) Trash chutes, laundry chutes, dumbwaiters, elevator shafts, and other similar systems shall not allow movement of contaminated air into clean areas.

(4) Thresholds and expansion joint covers shall be flush with the floor surface to facilitate use of wheelchairs and carts.

(5) All lavatories must be equipped with hand drying facilities.

(a) Lavatories that are expected to serve more than one resident shall have single use paper towel dispensing units or cloth towel dispensing units that are enclosed to protect towels from being soiled. Double occupancy units are not required to provide towel dispensing units if occupied by two related persons.

(b) Lavatories shall be anchored to withstand an applied vertical load of not less than 250 pounds on the fixture front.

R432-6-21. Building Systems.

(1) Facilities and equipment shall be provided for the sanitary storage and treatment or disposal of all categories of waste, including hazardous and infectious wastes if applicable, using techniques acceptable to the State Department of Environmental Quality, and the local health department having jurisdiction.

(2) The following engineering service and equipment shall be provided for effective service and maintenance functions:

(a) rooms for mechanical equipment or electrical equipment;

(b) a storage room for building maintenance supplies;

(c) yard equipment and supply storage areas located so that equipment may be moved directly to the exterior of the building without passing through building rooms or corridors;

(d) central storage for supplies, equipment and miscellaneous storage in large and small facilities; and

(e) in large facilities, a separate maintenance room or office.

(3) In small and large facilities a housekeeping room shall be located on each floor of the assisted living facility. In large facilities[~~T~~]this room shall have a floor receptor or service sink. All housekeeping rooms shall be mechanically exhausted.

(4) Sound Control for large assisted living facilities must be designed and constructed to meet the noise reduction criteria as outlined in Table 1.

TABLE 1
Sound Transmission Limitations

	Airborne Sound Transmissions Class	
	Partitions	Floors
Residents' room to residents' room	35	40
Public space to residents' room	40	40
Service areas to residents' room	45	45

(a) Sound transmission class shall be determined by tests in accordance with methods set forth in ASTM Standard E 90 and ASTM Standard E 413. Where partitions do not extend to the structure above, sound transmission through ceilings and composite STC performance must be considered.

(b) Public space includes lobbies, dining rooms, recreation rooms, treatment rooms, and similar space.

(c) Service areas include kitchens, elevators, elevator machine rooms, laundries, garages, maintenance rooms, boilers and mechanical equipment rooms, and similar spaces of high noise. Mechanical equipment located on the same floor or above resident's rooms, offices, and similarly occupied space shall be effectively isolated from the floor.

(d) Recreation rooms, exercise rooms, equipment rooms and similar spaces where impact noises may be generated may not be located directly over residents' rooms.

R432-6-22. Mechanical, Heating, Cooling and Ventilation Systems.

(1) The HVAC system design shall prevent large temperature differentials, high velocity supply, excessive noise, and air stagnation.

(2) Air supply and exhaust in rooms for which no minimum total air change rate is mandated by Table 2 may vary to zero in response to room load.

(3) Mechanical ventilation shall be provided for interior spaces independent of thermostat-controlled demands.

(a) Minimum total air change, room temperature, and temperature control shall comply with standards in Table 2.

(b) To maintain asepsis and odor control, airflow supply and exhaust shall be controlled to ensure movement of air from clean to less clean areas.

(c) Rooms containing heat-producing equipment shall be insulated and ventilated to prevent the floor surface above or the walls of adjacent occupied areas from exceeding a temperature of ten degrees Fahrenheit above ambient room temperature.

(d) All rooms and occupiable areas in the facility shall have provisions for ventilation. Natural window ventilation may be used for ventilation of nonsensitive areas and resident rooms when weather conditions permit, but mechanical ventilation shall be provided during periods of temperature extremes.

(e) The heating system shall be capable of maintaining temperatures of 80 degrees F. in areas occupied by residents.

(f) The cooling system shall be capable of maintaining temperatures of 72 degrees F. in areas occupied by residents.

(g) Equipment must be available to provide essential heating during a loss of normal heating capability. All emergency heating devices shall be approved by the local fire jurisdiction.

(h) Fans serving exhaust systems shall be located at the discharge end and shall be readily serviceable. Exhaust fans may be on the inlet side if individually ducted directly to the outside.

(i) Fresh air intakes shall be located at least 10 feet[~~to prevent fumes~~] from exhaust outlets of ventilating systems, combustion equipment stacks, plumbing vents, or areas subject to vehicular exhaust or other noxious fumes[~~from entering the building~~].

(j) All ventilation, air conditioning systems and air delivery equipment, including through wall units, shall be equipped with filters in accordance with Table [~~3~~]2.

(k) Gravity exhaust may be used where conditions permit for boiler rooms, central storage, and other nonresident areas.

(l) The ventilation system shall be air tested and balanced prior to the final Department construction inspection. The initial test results and air balancing report shall be maintained for Department review.

TABLE 2
Ventilation Requirements

AREA DESIGNATION	AIR MOVEMENT IN RELATION TO ADJACENT AREAS	MINIMUM AIR CHANGES OF OUTDOOR AIR PER HOUR TO ROOM	MINIMUM TOTAL AIR CHANGES PER HOUR	ALL AIR EXHAUSTED OUTSIDE
Bath and Shower Rooms	N	Optional	10	YES
Clean Linen Storage	P	Optional	2	Optional
Dietary Day Storage	V	Optional	2	Optional
Food Preparation Center	E	2	10	YES
Janitors' Closets	N	Optional	10	YES
Laundry	V	2	10	YES
Corridor	E	Optional	2	Optional
Grooming Area	N	2	2	YES
Resident Room	E	Greater	2	Optional of one air change or minimum 20 CFM/ person
Soiled Linen Sorting and Storage	N	Optional	10	YES
Toilet Rooms	N	Optional	10	YES
Ware Washing	N	Optional	10	YES
Common Areas	E	2	2	Optional

E = Equal; N = Negative; P = Positive; V = Variable

(m) The requirements of Table 2 do not apply to limited capacity facilities. Limited capacity facilities shall provide exhaust for kitchens and bathrooms.

(n) If an existing building bathroom or toilet room is not exhausted to the outside, the licensee may submit a Request for Agency Action Variance to the Table 2 requirements at the time of initial licensing.

(4) All areas for resident care, and those areas providing direct service or clean supplies shall provide at least one filter bed with a minimum of 30% efficiency.

(5) All administrative, bulk storage, soiled holding, food preparation and laundries shall provide at least one filter bed with a minimum of 25% efficiency.

R432-6-24. Electrical.

(1) In large assisted living facilities, panel boards serving normal lighting and appliance circuits shall be located on the same floor or on the same wing as the circuits served. Panels for emergency circuits, if provided, may serve the floors above and below for general resident areas and administration.

(2) Corridors shall be illuminated at night in accordance with Table 4.

(3) Light intensity shall be at or above the minimum foot-candle in accordance with Table 4. Areas not shown in Table 4, including parking lots and approaches to the building, shall have fixtures to provide light levels as recommended in IES [~~Lighting Handbook, RP-29-95~~]Recommended Practice RP-20-1998, Lighting for Parking Facilities[~~Hospitals and Health Care Facilities~~] by the Illuminating Engineering Society of North America, which is adopted and incorporated by reference.

TABLE 4
Assisted Living Facilities Lighting Standards

Physical Plant Area	Minimum Foot-candle
Corridors	
Day	15
Night	7.5
Exits	15
Stairways	15
Res. Room	
General	7.5
Reading/Mattress Level	30
Toilet area	30
Lounge	
General	7.5
Reading	30
Recreation	30
Dining	20
Dining and Recreation	30
Laundry	30

(4) Each resident room shall have a duplex grounded receptacle on every wall. If a TV jack is included, there must be an extra outlet on the wall with the TV jack.

(5) Duplex grounded receptacles for general use shall be installed no more than 50 feet apart in corridors, on either side, and within 25 feet of corridor ends.

(6) A night light shall be provided in each resident bedroom and bathroom.

R432-6-100. Type I Facilities.

The following sections in the 100 series apply to Type I assisted living facilities.

R432-6-101. Occupancy Type.

(1) Large assisted living facilities shall comply with I-[~~2~~]1, [~~Uniform~~]International Building Code, requirements.

(2) Small assisted living facilities shall comply with R-4, [~~Uniform~~]International Building Code, requirements.

(3) Limited capacity assisted living facilities shall comply with R-3, [~~Uniform~~]International Building Code, requirements.

R432-6-103. Resident Units.

(1) Minimum room areas, exclusive of toilet rooms, closets, lockers, wardrobes, alcoves, and vestibules, shall be 100 square feet in single-bed rooms and 80 square feet per bed in multiple-bed rooms.

(a) The areas noted above are minimums and do not prohibit larger rooms.

(b) Resident units may not have more than two beds per unit

(2) No room used for other purposes, such as a hall, corridor, unfinished attic, garage, storage area, shed, or similar detached building, may be used as a residents' sleeping room.

(3) No bedroom may be used as a passageway to another room, bath, or toilet other than those serving the bedroom.

(4) Bedrooms shall open directly into a corridor or common living area, but shall not open into a food preparation area.

(5) Unless furnished by the resident, the licensee shall provide for each resident a bed, comfortable chair, a chest of drawers and a reading lamp.

R432-6-107. Signal System.

(1) A signal system is required for the following facilities:

(a) a large facility;

(b) a facility with bedrooms on more than one floor; and

(c) when staff are not continuously present on the same level as any resident.

(2) The signal system shall be designed to:

(a) operate from each resident's living unit, and from each bathroom or toilet room;

(b) transmit a visual or auditory signal or both to a centrally staffed location, or produce an auditory signal at the living unit loud enough to summon staff; [~~and~~]

(c) the signal system shall be designed to turn off only at the resident calling station; and

([~~c~~]d) identify the location of the resident summoning help.

R432-6-200. Type II Facilities.

The following sections in the 200 series apply to Type II assisted living facilities.

R432-6-201. Occupancy Type.

(1) Large assisted living facilities shall comply with I-2 International Building Code requirements and shall have, at a minimum, 6 foot wide corridors. Area, height and story increases as permitted in the body of IBC paragraph 504.2 shall be permitted.

([~~1~~]2) [~~Large and s~~]Small assisted living facilities shall comply with I-[~~2~~]1, [~~Uniform~~]International Building Code, requirements and shall have, at a minimum, six-foot wide corridors.

([~~2~~]3) Limited capacity assisted living facilities that house Type II assisted living residents shall comply with R-4, [~~Uniform~~]International Building Code requirements and shall either have an approved sprinkler system, or provide a staff to resident ratio of one to one on a 24-hour basis. Residents shall be housed on floors at grade level.[

~~(3 Multiple level assisted living facilities shall provide smoke compartmentation on all levels above the first floor. Each compartment shall have space to accommodate all occupants of that floor.~~]

R432-6-203. Resident Units.

(1) Facility services shall be accessible from common areas without compromising resident privacy.

(2) Resident living units shall include room areas exclusive of space for toilet rooms, closets, lockers, wardrobes, alcoves, or vestibules as follows:

(a) A single occupant unit without additional living space shall be a minimum of 120 square feet.

(b) A double occupant unit without additional living space shall be a minimum of 200 square feet.

(c) A single occupant bedroom in a unit with additional living space shall be a minimum of 100 square feet.

(d) A double occupant bedroom in a unit with additional living space shall be a minimum of 160 square feet.

(3) No space used for other purposes, such as a hall, corridor, unfinished attic, garage, storage area, shed, or similar detached building, may be used as a resident's bedroom.

(4) Bedrooms may not be used as a passageway to another room, bath, or toilet other than those serving the bedroom.

(5) Each resident living unit shall open directly into a corridor or common living area, but must not open into a food preparation area.

(6) A maximum of two residents may occupy a resident living unit.

(7) Unless furnished by the resident, the licensee shall provide for each resident a bed, comfortable chair, a chest of drawers and a reading lamp.

R432-6-208. Special Design Features.

(1) A signal system shall be provided to alert staff of a resident's need for help.

(2) The signal system shall be designed to:

(a) operate from each resident's living unit and from each bath room or toilet room;

(b) transmit a visual and auditory signal to a 24-hour staffed location, except a limited capacity facility signal system shall produce an auditory signal to summon staff;

(c) identify the location of the resident summoning help; and

(d) allow it to be turned off only at the source of the call.

(3) Large and small facilities shall provide a thermostat control in each resident living unit. The Department shall grant a variance upon request from the licensee to this requirement for an existing building seeking initial licensure.

(4) Plumbing shutoff valves shall be located on the main water supply line and at each fixture. In addition, large facilities shall

provide an accessible shutoff valve on each primary hot and cold branch of the water line and shall provide a minimum of two hot and two cold water zones. The Department shall grant a variance upon request from the licensee to this requirement for an existing building seeking initial licensure.

(5) Building entrances in large and small facilities shall be at grade level, clearly marked, and located to minimize the need for residents to traverse other program areas. A main facility entrance shall be designated and accessible to persons with disabilities.

(6) Special units intended to accommodate residents with Alzheimers or Dementia shall comply with Section 8.8 of the Guidelines for Design and Construction of Hospital and Health Care Facilities, [~~1996-97~~]2001 edition, which is adopted and incorporated by reference.

R432-6-210. Linen Services.

(1) Each facility shall have space and equipment to store and process clean and soiled linen as required for resident care. Laundry may be done within the facility, in a building on or off-site, or in a commercial or shared laundry.

(2) If laundry is done off the site, the following shall be provided:

(a) a room for receiving and holding soiled linen until ready for pickup or processing;

(b) a central, clean linen storage room(s); and

(c) a lavatory in each area where unbagged, soiled linen is handled.

(3) If a large or small facility processes its own laundry on-site, the following shall be provided:

(a) a room for receiving, holding, and sorting soiled linens, with pre-wash clinical sink facilities and separate hand washing facilities;

(b) a laundry processing room with washer(s) and dryer(s);

(c) rooms (a) and (b) above must be separated by a door with a self closing device installed;

([~~e~~]d) storage for laundry supplies;

([~~d~~]e) arrangement of equipment that will permit an orderly workflow and minimize cross-traffic that might mix clean and soiled operations; and

([~~e~~]f) a central, clean linen storage room(s);

([~~f~~]g) Facilities may provide holding rooms on each level for bagged, soiled linen.

(4) If a limited capacity facility processes its own laundry on-site, the following shall be provided:

(a) a room to store and process both clean and soiled linen;

(b) a washer and dryer; and

(c) a utility sink in the laundry room.

(5) Each facility shall provide a minimum of one washing machine, one clothes dryer, and ironing equipment in good working order for resident use.

R432-6-211 Penalties.

The Department may assess a civil money penalty of up to $5,000 and deny approval for patient utilization of new or remodeled areas if a health care provider does not submit architectural drawings to the Bureau of Licensing. The Department may assess a civil money penalty of up to $5,000 if the licensee fails to follow Department-approved architectural plans. The Department may assess a civil money penalty of up to $500 per day for each day a new or renovated area is occupied prior to Bureau of Licensing approval.

KEY: health facilities
[~~January 29, 1999~~]2002
Notice of Continuation January 29, 1999
26-21-5
26-21-16

Health, Health Systems Improvement, Licensing
R432-7
Specialty Hospital - Psychiatric Hospital Construction

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 25445
FILED: 10/03/2002, 17:18

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The reasons for the changes include updating referenced national codes and guidelines to the current editions. This is accomplished by reference to Rule R432-4 and in Section R432-7-5. Also, modifies the "Penalties" section (R432-7-7).

SUMMARY OF THE RULE OR CHANGE: In Section R432-7-5, adopts the Guidelines for Design and Construction of Hospital and Health Care Facilities, 2001 edition. In Subsection R432-7-5(2)(e), changes to Rule R432-4 required the subsection to be modified to clarify that a hand washing is only required in the bathroom vs. the patient room. In Section R432-7-6, adopts the Guideline standard for windows, which had previously been excluded because the old Guideline was inconsistent with Utah practice of not requiring operable windows in psychiatric hospitals. The new Guideline is consistent with Utah practice so it will no longer be excluded but will also not change the cost of construction. The Guideline version now meets the current Utah standard. In Section R432-7-7, clarifies the civil money penalty for violation of the rule. (DAR NOTE: The proposed amendments to Rule R432-4 are under DAR No. 25449 in this Bulletin.)

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

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: Guidelines for the Design and Construction of Hospital and Health Care Facilities, including Appendix A, 2001 edition

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: Costs to print the modifications and distribute the rule to licensed health care facilities can be handled within existing appropriation. The State of Utah owns two psychiatric hospitals and it is believed that there will be no increased costs since the rule is not retroactive.

❖ LOCAL GOVERNMENTS: Local governments do not operate any psychiatric hospital facilities currently and therefore it is believed that there is no cost.
❖ OTHER PERSONS: The rule is not retroactive and has exceptions for renovations so there will be no costs for the four existing facilities. Facilities that start the design process after the effective date of the rules would be required to meet the minimum standards. These standards will change some construction practices but are not believed to add to the cost of the construction of the facility.

COMPLIANCE COSTS FOR AFFECTED PERSONS: In our opinion there will not be additional compliance costs as a result of adopting the proposed amendments. The requirement for a hand washing sink in the patient bathroom is a change but will not add to the cost, since the previous rule required the sink to be in the patient room. Only new facilities that start the design review process will be affected.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule has been developed with the input of regulated industries, the Health Facility Committee and was circulated in draft form to the Utah Hospital Association. It appears that this will bring the rule up-to-date with current construction standards that the industry recognizes are necessary to protect public health and safety. Rod L. Betit

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
HEALTH
HEALTH SYSTEMS IMPROVEMENT, 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 debwynkoop@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 12/02/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 12/03/2002

AUTHORIZED BY: Rod Betit, Executive Director

R432. Health, Health Systems Improvement, Licensing.
R432-7. Specialty Hospital - Psychiatric Hospital Construction.
R432-7-5. General Construction, Patient Facilities.

(1) The requirements of R432-4-24 and Section 11 of the Guidelines for Design and Construction of Hospital and Health Care Facilities, including Appendix A, [~~1996-1997~~]2001 edition (Guidelines) shall be met except as modified in this rule. Where a modification is cited, the modification supersedes conflicting requirements of R432-4-24 and the Guidelines.

(2) Patient Rooms.

(a) At least two single bed rooms with a private toilet room shall be provided for each nursing unit.

(b) Minimum clear dimensions of closets in patient rooms shall be 22 inches deep and 36 inches wide. The clothes rod shall be of the breakaway type.

(3) The Service Area, Guidelines Section 11.2.B, is modified as follows:

(a) Each bathtub or shower shall be in an individual room or enclosure sized to allow staff assistance and designed to provide privacy during bathing, drying, and dressing.

(b) At least one shower in central bathing facilities shall be designed in accordance with the Americans with Disabilities Act Accessibility Guidelines (ADAAG) for use by a person with a wheelchair.

(c) A toilet room with direct access from the bathing area, shall be provided at each central bathing area.

(d) Doors to toilet rooms shall comply with ADAAG. The doors shall permit access from outside in case of an emergency.

(e) A handwashing fixture shall be provided in each toilet room[~~, except as provided in R432-4-24(2)(d)~~].

(f) At least one patient toilet room in each nursing unit shall contain a shower or tub in addition to the toilet and lavatory. Fixtures shall be wheelchair accessible with wheelchair turning space within the room.

(g) Separate activity areas shall be provided for pediatric and adolescent nursing units.

(4) Child Psychiatric Unit, Guidelines Section 11.3, is modified as follows:

(a) Pediatric and adolescent nursing units shall be physically separated from adult nursing units.

(b) Examination and treatment rooms shall be provided for pediatric and adolescent patients separate from adult rooms.

(i) Each room shall provide a minimum of 100 square feet of usable space exclusive of fixed cabinets, fixtures, and equipment.

(ii) Each room shall contain a work counter, storage facilities, and lavatory equipped for handwashing.

(5) In addition to the service area requirements, individual rooms or a multipurpose room shall be provided for dining, education, and recreation.

(a) Insulation, isolation, and structural provisions shall minimize the transmission of impact noise through the floor, walls, or ceiling of these multipurpose rooms.

(b) Service rooms may be shared by more than one pediatric or adolescent nursing unit, but shall not be shared with adult nursing units.

(6) A patient toilet room, in addition to those serving bed areas, shall be conveniently accessible from multipurpose rooms.

(7) Storage closets or cabinets for toys, educational, and recreational equipment shall be provided.

(8) Linen services shall comply with R432-4-24(3).

R432-7-6. Exclusions to the Guidelines.

The following sections of the Guidelines do not apply:

(1) Linen services, section 11.16.[

~~(2) Windows, Subsection 11.2.A3.~~]

([~~3~~]2) Parking, Subsection 11.1.C.

R432-7-7. Penalties.

[~~Any person who violates any provision of this rule may be subject to the penalties enumerated in 26-21-11 and R432-3-6 and~~

~~be punished for violation of a class A misdemeanor as provided in 26-21-16.~~]The Department may assess a civil money penalty of up to $5,000 and deny approval for patient utilization of new or remodeled areas if a health care provider does not submit architectural drawings to the Bureau of Licensing. The Department may assess a civil money penalty of up to $5,000 if the licensee fails to follow Department-approved architectural plans. The Department may assess a civil money penalty of up to $500 per day for each day a new or renovated area is occupied prior to Bureau of Licensing approval.

KEY: health facilities
[~~December 1, 1999~~]2002
Notice of Continuation February 1, 2000
26-21-5
26-21-2.1
26-21-20

Health, Health Systems Improvement, Licensing
R432-8
Specialty Hospital - Chemical Dependency/Substance Abuse Construction

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 25447
FILED: 10/03/2002, 17:19

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The reasons for the changes include updating referenced national codes and guidelines to the current editions. This is accomplished by reference to Rule R432-4 where the updates are adopted and in Sections R432-8-4 and R432-8-5. Also, modifies the "Penalties" section (R432-8-8). (DAR NOTE: The proposed amendments to Rule R432-4 are under DAR No. 25449 in this Bulletin.)

SUMMARY OF THE RULE OR CHANGE: In Section R432-8-4, clarifies that windows in patient rooms must be operable and not sealed. In Section R432-8-5, adopts the Guidelines for Design and Construction of Hospital and Health Care Facilities, 2001 edition. In Section R432-8-8, adds civil money penalties to the facilities violating the rule.

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

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: Guidelines for Design and Construction of Hospital and Health Care Facilities, 2001 edition. This publication is on file in the Division of Administrative Rules.

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: Costs to print the modifications and distribute the rule to licensed health care facilities may be handled within the current appropriation.
❖ LOCAL GOVERNMENTS: Since no local governments own or operate a chemical dependency specialty hospital there is no anticipated cost or savings.
❖ OTHER PERSONS: The rule is not retroactive and has exceptions for renovations so there is no cost or savings to the one Chemical Dependency/Substance Abuse Hospital currently in operation. A new facility would be required to meet the minimum standard for construction. Operable windows are required in the current rule so there is no savings or cost associated with the rule amendment

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will not be additional compliance costs as a result of adopting the proposed amendment since the rule is not retroactive and has exceptions for the one licensed hospital affected by the rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule has been developed with the input of regulated industries, the Health Facility Committee and was circulated in draft form to the Utah Hospital Association. It appears that this will bring the rule up-to-date with current construction standards that the industry recognizes are necessary to protect public health and safety. Rod L. Betit

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
HEALTH
HEALTH SYSTEMS IMPROVEMENT, LICENSING
CANNON HEALTH BLDG
288 N 1460 W
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Debra Wynkoop at the above address, by phone at 801-538-6152, by FAX at 801-538-6325, or by Internet E-mail at debwynkoop@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 12/02/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 12/03/2002

AUTHORIZED BY: Rod Betit, Executive Director

R432. Health, Health Systems Improvement, Licensure.
R432-8. Specialty Hospital - Chemical Dependency/Substance Abuse Construction.
R432-8-4. General Construction, Ancillary Support Facilities.
R432-4-23 applies with the following modifications:
(1) Corridors. Corridors in patient use areas shall be a minimum six feet wide.

(2) Door leaf width for patient room doors and doors to patient treatment rooms shall be a minimum three feet.

(3) Ceiling finishes. Ceiling construction in patient and seclusion rooms shall be monolithic.

(4) Bed pan flushing devices are optional.

(5) Windows, in rooms intended for 24-hour occupancy, shall be operable.

([~~5~~]6) Emergency Electrical Service.

(a) An on-site emergency generator shall be provided.

(b) The following services shall be connected to the emergency generator:

(i) life safety branch, as defined in section 517-32 of the National Electric Code NFPA 70;

(ii) critical branch, as defined in 517-33 of the National Electric Code NFPA 70;

(iii) equipment system, as defined in 517-34 of the National Electric Code NFPA 70;

(iv) telephone;

(v) nurse call;

(vi) heating equipment necessary to provide adequate heated space to house all patients under emergency conditions;

(vii) one duplex convenience outlet in each patient bedroom;

(viii) one duplex convenience outlet at each nurse station;

(ix) duplex convenience outlets in the emergency heated area at a ratio of one for each ten patients.

(6) Nurse Call System.

(a) A nurse call system is optional.

(b) If a nurse call system is installed, provisions shall be made for the easy removal or covering of call buttons.

R432-8-5. General Construction, Patient Service Facilities.

(1) The requirements of R432-4-24 and the requirements of Chapter 7 including Appendix A of the Guidelines for Design and Construction of Hospital and Health Care Facilities, [~~1996-1997~~]2001 edition (Guidelines) shall be met. Where a modification is cited, the modification supersedes conflicting requirements of R432-4-24 and the Guidelines. Swing beds must meet Sections 7 and 8 of the Guidelines.

(2) The environment of the nursing unit shall give a feeling of openness with emphasis on natural light and exterior views.

(a) Interior finishes, lighting, and furnishings shall suggest a residential rather than an institutional setting.

(b) Security and safety devices shall be presented in a manner which will not attract or challenge tampering by patients.

(3) Patient rooms.

(a) At least two single-bed rooms, with private toilet rooms, shall be provided for each nursing unit.

(b) Minimum patient room areas, exclusive of toilet rooms, closets, lockers, wardrobes, alcoves, or vestibules, shall be 100 square feet in single-bed rooms and 80 square feet per bed in multiple-bed rooms. The areas listed are minimum and do not prohibit larger rooms.

(c) Patient rooms shall include a wardrobe, closet, or locker, having minimum clear dimensions of 22 inches deep by 36 inches wide, suitable for hanging full-length garments. A break-away clothes rod and adjustable shelf shall be provided.

(d) Visual privacy is not required in all multiple-bed rooms, however privacy curtains shall be provided in five percent of multiple-bed rooms for use in treating detoxification patients.

(4) Laundry facilities shall be available to patients, including an automatic washer and dryer.

(5) Bathing facilities shall be provided in each nursing unit at a ratio of one bathing facility for each six beds not otherwise served by bathing facilities within individual patient rooms.

(a) Each bathtub or shower shall be in an individual room or enclosure adequately sized to allow staff assistance and designed to provide privacy during bathing, drying, and dressing.

(b) At least one shower in central bathing facilities shall be designed in accordance with ADAAG for use by a wheelchair patient.

(6) A toilet room with direct access from the bathing area shall be provided at each central bathing area.

(a) Doors to toilet rooms shall comply with ADAAG. The doors shall permit access from the outside in case of an emergency.

(b) A handwashing fixture shall be provided for each toilet in each toilet room.

(c) At least one patient toilet room in each nursing unit shall contain a shower or tub in addition to the toilet and lavatory. Fixtures shall be wheel chair accessible.

(7) There shall be at least one seclusion room for each 24 beds, or a fraction thereof, located for direct nursing staff supervision or equipped with a closed circuit television system with a monitor at the nursing station.

(a) Each seclusion room shall be designed for occupancy by one patient. The room shall have an area of at least 60 square feet and shall be constructed to prevent patient hiding, escape, injury, or suicide.

(b) If a facility has more than one nursing unit, the number of seclusion rooms shall be a function of the total number of beds in the facility.

(c) Seclusion rooms may be grouped in a common area.

(d) Special fixtures and hardware for electrical circuits shall be used to provide safety for the occupant.

(e) Doors shall be 44 inches wide and shall permit staff observation of the patient while providing patient privacy.

(f) Seclusion rooms shall be accessed through an anteroom or vestibule which also provides direct access to toilet rooms. The toilet and anteroom shall be large enough to safely manage the patient.

(g) Seclusion rooms including floor, walls, ceiling, and all openings, shall be protected with not less than one-hour-rated construction.

R432-8-8. Penalties.

[~~Any person who violates any provision of this rule may be subject to the penalties enumerated in 26-21-11 and R432-3-6 and be punished for violation of a class A misdemeanor as provided in 26-21-16.~~]The Department may assess a civil money penalty of up to $5,000 and deny approval for patient utilization of new or remodeled areas if a health care provider does not submit architectural drawings to the Bureau of Licensing. The Department may assess a civil money penalty of up to $5,000 if the licensee fails to follow approved architectural plans. The Department may assess a civil money penalty of up to $500 per day for each day a new or renovated area is occupied prior to Bureau of Licensing approval.

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[~~December 1, 1999~~]2002
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26-21-5

26-21-2.1
26-21-20

Health, Health Systems Improvement, Licensing
R432-9
Specialty Hospital - Rehabilitation Construction Rule

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 25444
FILED: 10/03/2002, 17:16

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The reasons for the changes include updating referenced national codes and guidelines to the current editions. This is accomplished by reference to Rule R432-4 and in Section R432-9-5 where the updates are adopted. Also, modifies the "Penalties" section (R432-9-7). (DAR NOTE: The proposed amendments to Rule R432-4 are under DAR No. 25449 in this Bulletin.)

SUMMARY OF THE RULE OR CHANGE: A summary of the changes include: 1) adopting the 2001 edition of the Guidelines for Design and Construction of Hospital and Health Care Facilities, and 2) amends the civil money penalty assessed to facilities violating this rule.

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

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: Guidelines for Design and Construction of Hospital and Health Care Facilities, 2001 edition. This publication is on file in the Division of Administrative Rules and in the State Fire Marshal's office per Subsection R710-4-1(1.10).

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: Costs to print the modifications and distribute the rule to licensed health care facilities may be handled within existing appropriation.

❖ LOCAL GOVERNMENTS: Local governments do no own or operate a rehabilitation hospital so there is no cost increase or decrease with this amendment.

❖ OTHER PERSONS: This rule is not retroactive and has exceptions for renovations so there is no cost or savings to the two Rehabilitation Hospitals currently in operation. A new facility would be required to meet the minimum standards for construction. There is no cost or savings with this amendment since the standards change but do not impose added costs.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule is not retroactive and has exceptions for renovations so there is no cost or savings as a result of adopting the proposed amendment since the new requirements are different, but not more costly.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule has been developed with the input of regulated industries, the Health Facility Committee and was circulated in draft form to the Utah Hospital Association. It appears that this will bring the rule up-to-date with current construction standards that the industry recognizes are necessary to protect public health and safety. Rod L. Betit

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

HEALTH
HEALTH SYSTEMS IMPROVEMENT, 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 debwynkoop@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 12/02/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 12/03/2002

AUTHORIZED BY: Rod Betit, Executive Director

R432. Health, Health Systems Improvement, Licensing.
R432-9. Specialty Hospital - Rehabilitation Construction Rule.
R432-9-5. General Construction, Patient Facilities.

(1) The requirements of R432-4-24 and the requirements of Section 10 Rehabilitation Facilities and Appendix A of Guidelines for Design and Construction of Hospital and Health Care Facilities (Guidelines) 2001 edition shall be met except as modified in this rule. Where a modification is cited, the modification supersedes conflicting requirements of R432-4-24 and the Guidelines.

(2) Vocational Services Unit, Guidelines section 10.5 is modified to allow psychological services, social services, and vocational services to share the same office space when the licensee provides evidence in the functional program that the needs of the population served are met in the proposed space arrangement.

(3) Nursing Unit, Section 10.15 is modified as follows:

(a) Fixtures in patient rooms shall be wheelchair accessible.

(b) Patient rooms shall contain space for wheelchair storage separate from normal traffic flow areas.

(c) Toilet room doors shall swing out from the toilet room or shall be double acting.

(d) Patient rooms shall provide each patient a wardrobe, closet, or locker, having minimum clear dimensions of 22 inches by 36 inches, suitable for hanging full-length garments. A clothes rod and adjustable shelf shall be provided.

(4) A clean workroom or clean holding room shall be provided for preparing patient care items which shall contain a counter, handwashing facilities, and storage facilities. The work counter and handwashing facilities may be omitted in rooms used only for storage and holding, as part of a larger system for distribution of clean and sterile supply materials.

(5) A soiled workroom shall be provided containing a clinical sink, a sink equipped for handwashing, a work counter, waste receptacles, and a linen receptacle. The work counter and handwashing facilities may be omitted in rooms used only for storage and holding.

(6) In addition to Guideline Section 10.15.B11, the medicine preparation room or unit shall be under visual control of the nursing staff and have the following:

(a) a minimum area of 50 square feet,

(b) a locking mechanism to prohibit unauthorized access.

(7) Each nursing unit shall have equipment to provide ice for patient treatment and nourishment.

(a) Ice-making equipment may be located in the clean workroom or at the nourishment station if access is controlled by staff.

(b) Ice intended for human consumption shall be dispensed by self-dispensing ice makers.

(8) Yard equipment and supply storage areas shall be located so that equipment may be moved directly to the exterior without passing through building rooms or corridors.

R432-9-7. Penalties.

[~~Any person who violates any provision of this rule may be subject to the penalties enumerated in 26-21-11 and R432-3-6 and be punished for violation of a class A misdemeanor as provided in 26-21-16.~~]The Department may assess a civil money penalty of up to $5,000 and deny approval for patient utilization of new or remodeled areas if a health care provider does not submit architectural drawings to the Bureau of Licensing. The Department may assess a civil money penalty of up to $5,000 if the licensee fails to follow Department-approved architectural plans. The Department may assess a civil money penalty of up to $500 per day for each day a new or renovated area is occupied prior to Bureau of Licensing approval.

KEY: health facilities
[~~December 1, 1999~~]2002
Notice of Continuation February 1, 2000
26-21-5
26-21-2.1
26-21-20

Health, Health Systems Improvement, Licensing
R432-10
Specialty Hospital - Chronic Disease Construction

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 25450
FILED: 10/03/2002, 17:22

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The reasons for the changes include: 1) updating referenced national codes and guidelines to the current editions. This is accomplished by reference to Rule R432-4 where the updates are adopted and in Section R432-10-4; 2) changes the title to Long Term Acute Care Hospital instead of Chronic Disease; and 3) modifies the "Penalties" section (R432-10-8). (DAR NOTE: The proposed amendments to Rule R432-4 are under DAR No. 25449 in this Bulletin.)

SUMMARY OF THE RULE OR CHANGE: Adopts the latest edition (2001) of the Guidelines for Design and Construction of Hospital and Health Care Facilities; and modifies the penalties for violating the rule.

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

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: Guidelines for Design and Construction of Hospital and Health Care Facilities, 2001 edition. This publication is on file in the Division of Administrative Rules.

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: Costs to print the modifications and distribute the rule to the two licensed health care facilities can be handled within the existing appropriation. The State of Utah does not own or operate a Long-Term Acute Care Hospital.

❖ LOCAL GOVERNMENTS: Local government does not own or operate a long-term acute care hospital and it is believed that there is no cost.

❖ OTHER PERSONS: The rule is not retroactive and has exceptions for renovations so there is no cost to the two facilities which are currently licensed. This rule will only apply to new facilities. The added cost for new construction is anticipated at $125 per square foot for a new facility. A new facility may utilize space in an existing general acute hospital with vacant floors and may have renovation costs of $75 per square foot.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will not be additional compliance costs as a result of adopting the proposed modifications for the existing facilities. This rule will only apply to new facilities at approximately $125 per square foot. No new facilities in this category are currently proposed.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule has been developed with the input of regulated industries, the Health Facility Committee and was circulated in draft form to the Utah Hospital Association. It appears that this will bring the rule up-to-date with current construction standards that the industry recognizes are necessary to protect public health and safety. Rod L. Betit

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DIRECT QUESTIONS REGARDING THIS RULE TO:

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INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 12/02/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 12/03/2002

AUTHORIZED BY: Rod Betit, Executive Director

R432. Health, Health Systems Improvement, Licensing.
R432-10. Specialty Hospital - [~~Chronic Disease~~|Long-Term Acute Care Construction Rule.
R432-10-4. General Construction, Patient Facilities.

(1) The requirements of R432-4-24 and the requirements of Sections 7 and 8 including Appendix A, of the Guidelines for Design and Construction of Hospital and Health Care Facilities [~~1996-1997~~]2001 edition (Guidelines) shall be met. Where a modification is cited, the modification supersedes conflicting requirements of the Guidelines.

(2) The maximum number of beds on each nursing unit shall be 60.

(a) The minimum number of beds in a nursing unit shall be four.

(b) Rooms and spaces comprising the nursing unit shall be contiguous.

(3) At least two single-bed rooms, with a private toilet room containing a toilet, lavatory, and bathing facility, shall be provided for each nursing unit.

(a) The minimum patient room area shall be 120 feet.

(b) In addition to the lavatory in the toilet room, in new construction a lavatory or handwashing sink shall be provided in the patient room.

(c) Ventilation shall be in accordance with Table 6 of Guidelines with all air exhausted to the outside.

(4) The nurses' station shall have handwashing facilities located near the nurses' station and the drug distribution station. The nurses' toilet room, located in the unit, may also serve as a public toilet room.

(5) A nurse call system is not required in facilities that care for developmentally disabled or mentally retarded persons. With the prior approval of the Department, facilities which serve patients who pose a danger to themselves or others may modify the system to alleviate hazards to patients.

(6) Patient rooms shall include a wardrobe, closet, or locker having minimum clear dimensions of 22 inches deep by 36 inches wide, suitable for hanging full length garments.

(7) A clean workroom or clean holding room with a minimum area of 80 square feet for preparing patient care items which shall contain a counter, handwashing facilities, and storage facilities.

(a) The work counter and handwashing facilities may be omitted in rooms used only for storage and holding, as part of a larger system for distribution of clean and sterile supply materials.

(b) A soiled workroom with a minimum area of 80 square feet which shall contain a clinical sink, a sink equipped for handwashing, a work counter, waste receptacles and a linen receptacle.

(c) Handwashing sinks and work counters may be omitted in rooms used only for temporary holding of soiled, bagged materials.

(8) If a medication dispensing unit is used it shall be under visual control of staff, including double locked storage for controlled drugs.

(9) Clean Linen Storage.

(a) If a closed cart system is used it shall be stored in a room with a self closing door.

(b) Storage of a closed cart in an alcove in a corridor is prohibited.

(10) Each nursing unit shall have equipment to provide ice for patient treatment and nourishment.

(a) Ice making equipment may be located in the clean workroom or at the nourishment station if access is controlled by staff.

(b) Ice intended for human consumption shall be dispensed by self-dispensing ice makers.

(11) At least one room for toilet training, accessible from the nursing corridor, shall be provided on each floor containing a nursing unit.

(a) All fixtures in this room shall comply with the Americans with Disabilities Act Accessibility Guidelines.

(b) A toilet room, with direct access from the bathing area, shall be provided at each central bathing area.

(c) Doors to toilet rooms shall comply with ADAAG. The doors shall permit access from the outside in case of an emergency.

(d) A handwashing fixture shall be provided for each toilet in each toilet room.

(12) Storage. There shall be an equipment storage room with a minimum area of 120 square feet for portable storage.

(13) Resident Support Areas Shall Include the Following:

(a) Occupational Therapy may be counted in the required space of Guidelines section 8.3, Resident Support Area.

(b) Physical Therapy, personal care room and public waiting lobbies may not be included in the calculation of space of Guidelines section 8.3, Resident Support Area.

(c) Storage space for recreation equipment and supplies shall be provided and secured for safety.

(d) There shall be a general purpose room with a minimum area of 100 square feet equipped with table, and comfortable chairs.

(e) A minimum area of ten square feet per bed shall be provided for outdoor recreation. Recreation areas shall be enclosed by a secure fence.

(14) An examination and treatment Room shall be provided except when all patient rooms are single-bed rooms.

(a) The examination and treatment room may be shared by multiple nursing units.

(b) The room shall have a minimum floor area of 100 square feet, excluding space for vestibules, toilet, closets, and work counters, whether fixed or movable.

(c) The minimum allowable room dimension shall be ten feet.

(d) The room shall contain a lavatory or sink equipped for handwashing; work counter; storage facilities; and desk, counter, or shelf space for writing.

(15) A room shall be arranged to permit evaluation of patient needs and progress.

(a) The room shall include a desk and work area for the evaluators, writing and work space for patients, and storage for supplies.

(b) If psychological services are provided, then the unit shall contain an office and work space for testing, evaluation, and counseling.

(c) If social services are provided, then the unit shall contain office space for private interviewing and counseling.

(d) If vocational services are provided, then the unit shall contain office and work space for vocational training, counseling, and placement.

(e) Evaluation, psychological services, social services, and vocational services may share the same office space when the owner provides evidence in the functional program that the needs of the population served are met in the proposed space arrangement.

(16) Pediatric and Adolescent Unit.

(a) Pediatric and adolescent nursing units shall comply with the spatial standards in section 7.5 of the Guidelines.

(b) There shall be an area for hygiene, toileting, sleeping, and personal care for parents if the program allows parents to remain with young children.

(c) Service areas in the pediatric and adolescent nursing unit shall conform to the standards of section 7.5.[~~F~~]C. of the Guidelines and the following:

(i) Multipurpose or individual rooms shall be provided in the nursing unit for dining, education, and recreation.

(ii) A minimum of 20 square feet per bed shall be provided.

(iii) Installation, isolation and structural provisions shall minimize the transmission of impact noise through the floor, walls, or ceiling of multipurpose rooms.

(iv) Service rooms may be shared by more than one pediatric or adolescent nursing unit, but may not be shared with adult patient units.

(v) A patient toilet room, in addition to those serving bed areas, shall be conveniently located to each multipurpose room and to each central bathing facility.

(vi) Storage closets or cabinets for toys, educational, and recreational equipment shall be provided.

(d) At least one single-bed isolation room shall be provided in each pediatric unit. Each isolation room shall comply with the following:

(i) Room entry shall be through an adjacent work area which provides for aseptic control, including facilities separate from patient areas for handwashing, gowning, and storage of clean and soiled materials. The work area entry may be a separate, enclosed anteroom.

(ii) A separate, enclosed anteroom for an isolation room is not required but, when provided, shall include a viewing panel for staff observation of the patient from the anteroom.

(iii) One anteroom may serve several isolation rooms.

(iv) Toilet, bathing, and handwashing facilities shall be arranged to permit access from the bed area without entering or passing through the work area of the vestibule or anteroom.

(17) Rehabilitation therapy, Physical Therapy and Occupational Therapy areas shall include:

(a) Waiting areas to accommodate patients in wheelchairs, including room for turning wheelchairs.

(b) Storage space, with separate storage rooms for clean and soiled linen.

R432-10-6. Construction Features.

(1) Mechanical tests shall be conducted prior to the final Department construction inspection. Written test results shall be retained in facility maintenance files and available for Department review.

(2) Any insulation containing any asbestos is prohibited.

(3) The heating system shall be capable of maintaining temperatures of 80 degrees F. in areas occupied by patients.

(a) The cooling system shall be capable of maintaining temperatures of 72 degrees F. in areas occupied by patients.

(b) Furnace and boiler rooms shall be provided with sufficient outdoor air to maintain equipment combustion rates and to limit work station temperatures to a temperature not to exceed 90 degrees F. When ambient outside air temperature is higher, maximum temperature may be 97 degrees F.

(c) A relative humidity between 30 percent and 60 percent shall be provided in all patient areas.

(d) Evaporative coolers may only be used in kitchen hood systems that provide 100% outside air.

(e) Isolation rooms may be ventilated by reheat induction units in which only the primary air supplied from a central system passes through the reheat unit. No air from the isolation room may be recirculated into the building system.

(f) Supply and return systems shall be ducted. Common returns using corridors or attic spaces as return plenums are prohibited.

(g) The bottom of ventilation supply and return opening shall be at least three inches above the floor.

(4) Filtration shall be provided when mechanically circulated outside air is used see section 8.31.D5, of the Guidelines. All areas for inpatient care, treatment, or diagnosis, and those areas providing direct service or clean supplies shall have a minimum of one filter bed with an efficiency of 80.

(5) Fans and dampers shall be interconnected so that activation of dampers will automatically shut down fans.

(a) Smoke dampers shall be equipped with remote control reset devices.

(b) Manual reopening is permitted where dampers are located for convenient access.

(6) All hoods over cooking ranges shall be equipped with grease filters, fire extinguishing systems, and heat actuated fan controls. Cleanout openings shall be provided every 20 feet in horizontal sections of the duct systems serving these hoods.

(7) Gravity exhaust may be used, where conditions permit, for boiler rooms, central storage, and other non-patient areas.

(8) Handwashing facilities shall comply with section 8.11.E1 of the Guidelines and include the following:

(a) Handwashing facilities shall be arranged to provide sufficient clearance for single-lever operating handles.

(b) Handwashing facilities shall be installed to permit use by persons in wheelchairs.

(c) Fixtures in patient use areas shall be equipped with cross or tee handles or single lever operating handles.

(9) Dishwashers, disposers and appliances shall be National Sanitation Foundation, NSF, approved and have the NSF seal affixed.

(10) Kitchen grease traps shall be located and arranged to permit easy access without the need to enter the food preparation or storage area.

(11) Hot water systems. Hot water provided in patient tubs, showers, whirlpools, and handwashing facilities shall be regulated by thermostatically controlled automatic mixing valves. Mixing valves may be installed on the recirculating system or on individual inlets to appliances.

(12) Drainage Systems. Building sewers shall discharge into community sewerage except, where such a system is not available, the facility shall treat its sewage in accordance with local requirements and Department of Environmental Quality requirements.

(13) Piping and Valve systems. All piping and valves in all systems, except control line tubing, shall be labeled to show content of line and direction of flow. Labels shall be permanent type, either metal or paint, and shall be clearly visible to maintenance personnel.

(14) [~~o~~]Oxygen and suction systems shall be installed in accordance with the requirements of section 7.31.E5 of the Guidelines and Table [~~1 of R432-4~~]7.5 of the Guidelines.

(15) Electric materials shall be new and listed as complying with standards of Underwriters Laboratories, Inc., or other equivalent nationally recognized standards. The owner shall provide written certification to the Department verifying that systems and grounding comply with NFPA 99 and NFPA 70.

(16) Approaches to buildings and all spaces within buildings occupied by people, machinery, or equipment shall have fixtures for lighting in accordance with at least the mid range requirements shown in Tables 1A and 1B of Illuminating Engineering Society of North America IESNA, publication RP-29-95, Lighting for Health Care Facilities, 1995 edition. Automatic Emergency lighting shall be provided in accordance with NFPA 99 and NFPA 101.

(17) Receptacles shall comply with section 8.32.A4c of the Guidelines and shall include:

(a) Each examination and work table shall have access to minimum of two duplex outlets.

(b) Receptacle cover plates on electrical receptacles supplied for the emergency system shall be red.

(18) Emergency Electrical Service shall comply with section [~~8.12B~~]7.32H of the Guidelines and shall include:

(a) An on-site emergency generator shall be provided.

(b) The following services shall be connected to the emergency generator:

(i) life safety branch, as defined in section 517-32 of the National Electric Code NFPA 70;

(ii) critical branch as defined in 517-33 of the National Electric Code NFPA 70;

(iii) equipment system, as defined in 517-34 of the National Electric Code NFPA 70;

(iv) telephone;

(v) nurse call;

(vi) heating equipment necessary to provide adequate heated space to house all patients under emergency conditions;

(vii) one duplex convenience outlet in each patient room;

(viii) one duplex convenience outlet at each nurse station;

(ix) duplex convenience outlets in the emergency heated area at a ratio of one for each ten patients.

(c) fuel storage capacity shall permit continuous operation for 48 hours.

R432-10-7. Excluded Section of the Guidelines.

The following sections of the Guidelines do not apply:

(1) Parking, Section 7.1.D.

(2) Nursing Unit, Section 7.2.

(3) Critical Care Unit, Section 7.3.

(4) Newborn Nurseries, Section 7.4.

(5) Psychiatric Nursing Unit, Section 7.6.

(6) Surgical Suite, Section 7.7.

(7) Obstetrical Facilities, Section 7.8.

(8) Emergency Services, Section 7.9.

(9) Imaging Suite, Section 7.10.

(10) Nuclear Medicine, Section 7.11.[

~~(11) Rehabilitation Therapy, Section 7.13.~~

~~(12) Respiratory Therapy, Section 7.15.~~]

(1[~~3~~]1) Morgue, Section 7.15.

(1[~~4~~]2) Linen Services, Section 7.23.

(1[~~5~~]3) Parking, Section 8.1.F.

(1[~~6~~]4) Linen Services, Section 8.11.

(1[~~7~~]5) Mechanical Standards, Section 8.31.

(1[~~8~~]6) Electrical Standards, Section 8.32.

(1[~~9~~]7) Bathing facilities, Section 8.2.C.11.

([~~20~~]18) Clean utility rooms, Section 8.2.C5.

([~~21~~]19) Soiled Utility rooms, Section 8.2.C6.

([~~22~~]20) Windows, Section 8.2.B3.

R432-10-8. Penalties.

[~~Any person who violates any provision of this rule may be subject to the penalties enumerated in 26-21-11 and R432-3-6 and be punished for violation of a class A misdemeanor as provided in 26-21-16.~~]The Department may assess a civil money penalty of up to $5,000 and deny approval for patient utilization of new or remodeled areas if a health care provider does not submit architectural drawings to the Bureau of Licensing. The Department may assess a civil money penalty of up to $5,000 if the licensee fails to follow Department-approved architectural plans. The Department may assess a civil money penalty of up to $500 per day for each day a new or renovated area is occupied prior to Bureau of Licensing approval.

KEY: health facilities
[~~December 1, 1999~~]2002
Notice of Continuation February 1, 2000
26-21-5
26-21-2.1
26-21-20

Health, Health Systems Improvement, Licensing

R432-11

Orthopedic Hospital Construction

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 25451
FILED: 10/03/2002, 17:22

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Update referenced national codes and guidelines to the current editions. This is accomplished by reference to Rule R432-4 where the updates are adopted and in Section R432-11-5. Also, modifies the "Penalties" section (R432-11-7). (DAR NOTE: The proposed amendments to Rule R432-4 are under DAR No. 25449 in this Bulletin.)

SUMMARY OF THE RULE OR CHANGE: Adopts the 2001 edition of the Guidelines for Design and Construction of Hospital and Health Care Facilities and amends the penalty section adding civil money penalties for violating this rule.

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

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: Guidelines for Design and Construction of Hospital and Health Care Facilities, 2001 edition. This publication is on file in the Division of Administrative Rules.

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: Cost to print the modifications and distribute the rule to licensed health care facilities may be handled within current appropriation.

❖ LOCAL GOVERNMENTS: No Orthopedic Hospitals are currently owned or operated by local government so there will be no cost or savings with the adoption of this rule.

❖ OTHER PERSONS: This rule is not retroactive and there are exceptions for renovations for the two existing Orthopedic Hospitals, therefore there are no additional construction costs or savings. New facilities (none are currently proposed) which are constructed after the rule's effective date will be required to meet the minimum construction standard. We do not believe there will be any additional costs or savings as a result of the proposed construction changes.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule is not retroactive and has exceptions for renovations so there is no cost as a result of adopting the proposed amendment for existing facilities. New construction will follow well accepted national standards, so compliance costs should be minimal, if any.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule has been developed with the input of regulated industries, the Health Facility Committee and was circulated in draft form to the Utah Hospital Association. It appears that this will bring the rule up-to-date with current construction standards that the industry recognizes are necessary to protect public health and safety. Rod L. Betit

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HEALTH
HEALTH SYSTEMS IMPROVEMENT, LICENSING
CANNON HEALTH BLDG
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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 debwynkoop@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 12/02/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 12/03/2002

AUTHORIZED BY: Rod Betit, Executive Director

R432. Health, Health Systems Improvement, Licensing.
R432-11. Orthopedic Hospital Construction.
R432-11-5. General Construction. Patient Service Facilities.

(1) Requirements of R432-4-24 and the requirements of Section 7 including Appendix A of Guidelines for Design and Construction of Hospital and Health Care Facilities, [~~1996-1997~~]2001 edition (Guidelines) shall be met. Where a modification is cited, the modification supersedes conflicting requirements of the Guidelines.

(2) Nursing Units shall meet the following:

(a) At least two single-bed rooms, with private toilet rooms, shall be provided for each nursing unit.

(b) Minimum room areas exclusive of toilet rooms, closets, lockers, wardrobes, alcoves, or vestibules, shall be 140 square feet in single-bed rooms and 125 square feet per bed in multiple-bed rooms. The listed areas are minimum and do not prohibit larger rooms.

(3) Imaging Suites. Imaging facilities for diagnostic procedures, include the following: radiology, mammography, computerized scanning, ultrasound and other imaging techniques.

(a) Imaging facilities may be provided within the facility or through contractual arrangement with a qualified radiology service or nearby hospital.

(b) If imaging facilities are provided in-house, they shall meet the requirements for an imaging suite defined in Guidelines for Design and Construction of Hospital and Health Care Facilities, section 7.10.

(4) Laboratory Services.

(a) Laboratory space and equipment shall be provided in-house for testing blood counts, urinalysis, blood glucose, electrolytes, blood urea nitrogen (BUN), and for the collection, processing, and storage of specimens.

(b) In lieu of providing laboratory services in-house, contractual arrangements with a Department-approved laboratory shall be provided. Even when contractual services are arranged, the facility shall maintain space and equipment to perform the tests listed in R432-105-5(7)(a).

(5) Pharmacy Guidelines.

(a) The size and type of services provided in the pharmacy shall depend on the drug distribution system chosen and whether the facility proposes to provide, purchase, or share pharmacy services.

A description of pharmacy services shall be provided in the functional program.

(b) There shall be a pharmacy room or suite, under the direct control of staff, which is located for convenient access and equipped with appropriate security features for controlled access.

(c) The room shall contain facilities for the dispensing, basic manufacturing, storage and administration of medications, and for handwashing.

(d) In lieu of providing pharmacy services in-house, contractual arrangements with a licensed pharmacy shall be provided. If contractual services are arranged, the facility shall maintain space and basic pharmacy equipment to prepare and dispense necessary medications in back-up or emergency situations.

(e) If additional pharmacy services are provided, facilities shall comply with requirements of Guidelines section 7.17.

(6) Linen Services shall comply with R432-4-24(3).

(7) Patient bathing facilities shall be provided in each nursing unit at a ratio of one bathing facility for each eight beds not otherwise served by bathing facilities within individual patient rooms.

(a) Each bathtub or shower shall be in an individual room or enclosure adequately sized to allow staff assistance and designed to provide privacy during bathing, drying, and dressing.

(b) Showers in central bathing facilities shall have a floor area of at least four feet square, be curb free, and be designed for use by a wheelchair patient in accordance with ADAAG.

(c) At least one island-type bathtub shall be provided in each nursing unit.

(8) Toilet Facilities. A toilet room, with direct access from the bathing area shall be provided at each central bathing area.

(a) Doors to toilet rooms shall comply with ADAAG. The doors shall permit access from the outside in case of an emergency.

(b) A handwashing fixture shall be provided for each toilet in each toilet room.

(c) Fixtures shall be wheelchair accessible.

(9) Patient Day Spaces.

(a) The facility shall include a minimum total inpatient space for dining, recreation, and day use computed on the basis of 30 square feet per bed for the first 100 beds and 27 square feet per bed for all beds in excess of 100.

(b) In addition to the required space defined for inpatients, the facility shall include a minimum of 200 square feet for outpatient and visitors when dining is part of a day care program. If dining is not part of a day care program, the facility shall provide a minimum of 100 square feet of additional outpatient day space.

(c) Enclosed storage space for recreation equipment and supplies shall be provided in addition to the requirements of R432-105-4.

(10) Examination and Treatment Room. An examination and treatment room shall be provided except when all patient rooms are single-bed rooms.

(a) An examination and treatment room may be shared by multiple nursing units.

(b) When provided, the room shall have a minimum floor area of 120 square feet, excluding space for vestibules, toilet, closets, and work counters, whether fixed or movable.

(c) The minimum floor dimension shall be ten feet.

(d) The room shall contain a lavatory or sink equipped for handwashing, work counter, storage facilities, and a desk, counter, or shelf space for writing.

(11) Consultation Room. A consultation room, arranged to permit an evaluation of patient needs and progress, shall be provided. The room shall include a desk and work area for the evaluators, writing and work space for patients, and storage for supplies.

(12) Surgical Unit. If surgical services are offered, facilities shall be provided in accordance with the Guidelines.

R432-11-7. Penalties.

[~~Any person who violates any provision of this rule may be subject to the penalties enumerated in 26-21-11 and R432-3-6 and be punished for violation of a class A misdemeanor as provided in 26-21-16.~~]The Department may assess a civil money penalty of up to $5,000 and deny approval for patient utilization of new or remodeled areas if a health care provider does not submit architectural drawings to the Bureau of Licensing. The Department may assess a civil money penalty of up to $5,000 if the licensee fails to follow Department-approved architectural plans. The Department may assess a civil money penalty of up to $500 per day for each day a new or renovated area is occupied prior to Bureau of Licensing approval.

KEY: health facilities
[~~December 1, 1999~~]2002
Notice of Continuation February 1, 2000
26-21-5
26-21-2.1
26-21-20

Health, Health Systems Improvement, Licensing
R432-12
Small Health Care Facility (Four to Sixteen Beds) Construction Rule

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 25442
FILED: 10/03/2002, 17:11

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The reasons for the changes include updating referenced national codes to the current editions. This is accomplished by reference to Rule R432-4 and in Section R432-12-23 where the updates are adopted. Also, modifies the "Penalties" section (R432-12-25). (DAR NOTE: The proposed amendments to Rule R432-4 are under DAR No. 25449 in this Bulletin.)

SUMMARY OF THE RULE OR CHANGE: A summary of the changes include: 1) adding the IESN Lighting for Parking Facilities, 1998 edition, and IESN Lighting for Hospitals and Health Care Facilities, 1995 edition in Section R432-12-23; and 2) modifying the penalties in Section R432-12-25.

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

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: Illuminating Engineering Society of North American Lighting for Parking Facilities, 1998 edition; and Lighting for Hospitals and Health Care Facilities, 1995 edition. All publications noted above are on file in the Division of Administrative Rules.

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: Costs to print the modifications and distribute the rule to licensed health care facilities can be handled within existing appropriations.

❖ LOCAL GOVERNMENTS: No local governments own or operate any currently licensed small health care facility.

❖ OTHER PERSONS: A new small health care facility has not been built in Utah for many years. We do not believe there will be any additional costs or savings as a result of the proposed changes.

COMPLIANCE COSTS FOR AFFECTED PERSONS: In our opinion there will not be additional compliance costs as a result of adopting the proposed modifications since they reflect current building practices in the industry.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule has been developed with the input of regulated industries and the Health Facility Committee and was circulated in draft form to the Utah Health Care Association. It appears that this will bring the rule up-to-date with current construction standards that the industry recognizes are necessary to protect public health and safety. Rod L. Betit

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

HEALTH
HEALTH SYSTEMS IMPROVEMENT, 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 debwynkoop@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 12/02/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 12/03/2002

AUTHORIZED BY: Rod Betit, Executive Director

R432. Health, Health Systems Improvement, Licensing.
R432-12. Small Health Care Facility (Four to Sixteen Beds) Construction Rule.
R432-12-23. Electrical Systems.

(1) All electrical materials shall be tested and approved by Underwriters Laboratory.

(2) The electrical installations, including alarm and nurse call system, if required, shall be tested to demonstrate that equipment installation and operation is as intended and appropriate. A written record of performance tests of special electrical systems and equipment shall show compliance with applicable codes.

(3) Switchboards and Power Panels.

(a) The main switchboard shall be located in an area separate from plumbing and mechanical equipment and be accessible only to authorized persons.

(b) The switchboards shall be convenient for use, readily accessible for maintenance, clear of traffic lanes, and located in a dry, ventilated space.

(c) Overload protection devices shall operate properly in the ambient room temperatures, except for existing Level IV facilities.

(d) Panelboards serving normal lighting and appliance circuits shall be located on the same floor as the circuits they serve.

(4) Lighting. All spaces within buildings that house people, machinery, equipment, or approaches to buildings shall have fixtures for lighting. (See Table 4.)

(a) Resident rooms shall have general and night lighting.

(i) A reading light shall be provided for each resident.

(ii) Flexible light arms, if used, shall be mechanically controlled to prevent the bulb from coming in contact with bed linen.

(iii) At least one night light fixture shall be controlled at the entrance to each resident room.

(iv) All controls for lighting in resident areas shall operate quietly.

(b) Parking lots shall have fixtures for lighting to provide light at levels recommended in the[~~IES Lighting Handbook, 1987, Volume 2, Applications by~~] the Illuminating Engineering Society of North America (IESN) Lighting for Parking Facilities (RP-20-1998.

(c) Lighting levels shown in Table 4 shall be used as minimum standards and do not preclude the use of higher levels that may be needed to insure the health and safety of the specific facility population served.

TABLE 4
SMALL HEALTH CARE FACILITIES LIGHTING STANDARDS

	MINIMUM FOOT-CANDLES	
Physical Plant Area	Level I, II, III Facilities	Level IV Facilities
Corridors		
Day	20	15
Night	10	10
Exits	20	20
Stairways	20	20
Nursing Station		
General	30	30
Charting	75	75
Med. Prep.	75	75

Pt./Res. Room		
General	10	10
Reading/Mattress Level	30	30
Toilet area	30	30
Lounge		
General	10	10
Reading	30	30
Recreation	30	30
Dining	30	30
Laundry	30	30

Based on lighting guidelines published in "Lighting for Hospitals and Health Care Facilities", Illuminating Engineering Society of North America, [~~1985~~]1995 edition.

(5) Each resident room shall have duplex grounding type receptacles as follows:

(a) one located on each side of the head of each bed;

(b) one for television, if used; and

(c) one on each other wall.

(6) Receptacles may be omitted from exterior walls where construction would make installation impractical.

(7) Duplex grounded receptacles for general use shall be installed in all corridors.

R432-12-25. Penalties.

[~~Any person who violates any provision of this rule may be subject to the penalties enumerated in 26-21-11 and R432-3-6 and be punished for violation of a class A misdemeanor as provided in 26-21-16.~~]The Department may assess a civil money penalty of up to $5,000 and deny approval for patient utilization of new or remodeled areas if a health care provider does not submit architectural drawings to the Bureau of Licensing. The Department may assess a civil money penalty of up to $5,000 if the licensee fails to follow Department-approved architectural plans. The Department may assess a civil money penalty of up to $500 per day for each day a new or renovated area is occupied prior to Bureau of Licensing approval.

KEY: health facilities
[~~December 1, 1999~~]2002
Notice of Continuation February 1, 2000
26-21-5

Health, Health Systems Improvement, Licensing
R432-16
Hospice Inpatient Facility Construction

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 25446
FILED: 10/03/2002, 17:19

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Updating references to national codes and guidelines to the current editions by amending the reference to Rule R432-4 where the updates are adopted and in Section R432-16-7. Also, adds a "Penalties" section (R432-16-16). (DAR NOTE: The proposed amendments to Rule R432-4 are under DAR No. 25449 in this Bulletin.)

SUMMARY OF THE RULE OR CHANGE: In Section R432-16-7, adopts the 2001 edition of Guidelines for Design and Construction of Hospital and Health Care Facilities which requires an operable window in each resident room. In Section R432-16-15, adopts 1998 edition of the IESNA Lighting for Parking Facilities. Adds Section R432-16-16 which is the civil money penalties for violating the rule.

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

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: Guidelines for Design and Construction of Hospital and Health Care Facilities, 2001 edition, and IESNA Lighting for Parking Facilities, 1998 edition. All publications noted above are on file in the Division of Administrative Rules.

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: Costs to print the modifications and distribute the rule to the licensed health care facilities may be handled within existing appropriation.

❖ LOCAL GOVERNMENTS: No local government owns or operates an inpatient hospice facility therefor there is no cost or savings to adopt the amendment.

❖ OTHER PERSONS: A review of the proposed facilities plans against the new rules documents that the proposed changes would not add any cost to the construction of these facilities. The clarifications and corrections may actually lead to a savings by providers if there is less need to clarify ambiguous regulations.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will not be additional compliance costs as a result of adopting the proposed modifications for the existing facilities. This rule will only apply to new facilities at approximately $125 per square foot. No new facilities in this category are currently proposed.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule has been developed with the input of regulated industries, the Health Facility Committee and was circulated in draft form to the Utah Hospital Association. It appears that this will bring the rule up-to-date with current construction standards that the industry recognizes are necessary to protect public health and safety. Rod L. Betit

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SALT LAKE CITY UT 84116-3231, or
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THIS RULE MAY BECOME EFFECTIVE ON: 12/03/2002

AUTHORIZED BY: Rod Betit, Executive Director

R432. Health, Health Systems Improvement, Licensing.
R432-16. Hospice Inpatient Facility Construction.
R432-16-7. Resident Rooms.

(1) Maximum room occupancy is two residents.

(2) Minimum room areas for new construction (exclusive of toilets, closets, lockers, wardrobes, alcoves or vestibules) shall be 120 square feet in single bed rooms and 100 square feet per bed in multiple-bed room. Existing buildings or spaces being licensed as a hospice shall have a minimum of 80 square feet of clear floor area per bed in multiple-bed areas and 100 square feet of clear floor area in single-bed rooms.

(3) In multiple-bed rooms, clearance shall allow for the movement of beds and equipment without disturbing residents. The dimensions and arrangement of rooms shall be such that there is a minimum of three feet clearance at least at one side, the foot, and between another bed.

(4) A nurse call system shall be provided. Each bed shall be provided with a call device. Two call devices serving adjacent beds may be served by one calling station. Calls in a large inpatient hospice facility shall also activate a visible signal in the corridor at the resident's door.

(5) A nurse emergency call device shall be provided at each inpatient toilet, bath, and shower room. The call device shall be accessible to a collapsed resident lying on the floor. Inclusion of a pull cord will satisfy this standard. The emergency call system shall be designed so that a signal activated at a resident's calling station will initiate a visible and audible signal distinct from the regular nurse call system and can be turned off only at the resident calling station. The signal shall activate an annunciator panel at the nurse station or other location appropriate to ensure immediate nurse notification. Emergency calls in a large hospice inpatient facility shall also activate a visible signal in the corridor at the resident's door.

(6) Each resident shall have access to a toilet room without having to enter the corridor area. One toilet room shall serve not more than four beds and no more than two resident rooms. The toilet room shall contain a water closet and a lavatory. The toilet room door shall swing outward.

(7) At least one single-bed room with a private toilet room containing a toilet, lavatory, and bathing facility shall be provided for each eight beds, or fraction thereof, in a hospice facility.

(a) In addition to the lavatory in the toilet room, in new construction and remodeling, a lavatory or hand washing sink shall be provided in the patient room.

(b) Ventilation shall be in accordance with Table [~~6~~]8.1 of Section 8 of the Guidelines for Construction and Equipment of Hospital and Medical Facilities, [~~1992-93~~]2001 edition, which is adopted and incorporated by reference.

(8) Each resident room intended for 24-hour occupancy, shall have an operable window open to the building exterior or to a court which is open to the sky[~~that meets the requirements of R432-4-23(7)~~].

(9) Each resident closet shall be a minimum of 22 inches deep by 36 inches wide with a shelf to store clothing and a clothes rod positioned at 70 inches to hang full length garments.

(10) Visual privacy shall be provided for each resident in multiple-bed rooms. Design for privacy shall not restrict resident access to the toilet, lavatory, or room entrance.

R432-16-15. Electric Standards.

(1) The Licensee shall maintain written certification to the Department verifying that systems and grounding comply with NFPA 99 and NFPA 70.

(2) Approaches to buildings and all spaces within buildings occupied by people, machinery, or equipment shall have fixtures for lighting in accordance with the requirements of the Illuminating Engineering Society of North America (IESNA). Parking lots shall have fixtures for lighting to provide light levels as recommended in IES [~~Lighting Handbook 1987, Volume 2, Applications~~]Recommended Practice RP-20-1998, Lighting for parking facilities by Illuminating Engineering Society of North America.

(3) Automatic emergency lighting shall be provided in accordance with NFPA 99 and NFPA 101.

(4) General lighting shall be provided as required in R432-[~~150-33, Table 1~~]5-15(2).

R432-16-16. Penalties.

[~~Any person who violates any provision of this rule may be subject to the penalties enumerated in 26-21-11 and R432-3-6 and be punished for violation of a class A misdemeanor as provided in 26-21-16.~~]The Department may assess a civil money penalty up to $5,000 and deny approval for patient utilization of new or remodeled areas if a health care provider does not submit architectural drawings to the Bureau of Licensing. The Department may assess a civil money penalty of up to $5,000, if the licensee fails to follow Department-approved architectural plans. The Department may assess a civil money penalty of up to $500 per day for each day a new or renovated area is occupied prior to Bureau of Licensing approval.

KEY: health facilities
[~~March 4, 1998~~]2002
26-21-5
26-21-16

Health, Health Systems Improvement, Licensing
R432-104
Specialty Hospital - Chronic Disease

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 25443
FILED: 10/03/2002, 17:15

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Medicare standards were changed in 2001 to describe the Prospective Payment System payment for Long-term acute care hospitals vs. the Designated Resource Group system. Admission and discharge criteria were added. The rule will reflect the new standards adding the discharge criteria. The rule will further clarify the difference in the level of care provided in a long-term acute care hospital and a skilled nursing care facility. It is anticipated that 1% of the general hospital discharged patients may benefit from this level of care.

SUMMARY OF THE RULE OR CHANGE: Changes the title of the rule to Long-term Acute Care Hospital. In Section R432- 104-5, permits a long-term acute care hospital to be located in an existing licensed health care facility. In Section R432-104-5b, adds standards if the long-term acute care hospital is located within a general acute hospital. In Section R432-104-7, defines and clarifies the admission criteria for patients and adds new discharge criteria; clarifies that the facility provides registered nursing care 24 hours per day; and provides that some patients who meet the discharge criteria may remain in the facility if there is no other medically appropriate alternative. In Section R432-104-8, requires that respiratory therapy services be provided. In Section R432-104-9, requires that each hospital has an automatic external defibrillator and that an employee competent in its use is on duty at all times. In Section R432-104-10, eliminates the anesthesia services, surgical services, and critical care unit from the complementary services. If the patient requires surgical intervention the long-term acute care hospital would be required to transfer the patient to a general acute facility. In Section R432-104-11, corrects a wrong citation and reference.

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

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: Minimal cost of copying the rule and distributing to the two affected facilities.
❖ LOCAL GOVERNMENTS: There should not be a cost to any local government since they do not currently operate any chronic disease hospitals.
❖ OTHER PERSONS: Discussion with the two existing licensed providers indicates that they are currently meeting the admission and discharge criteria. There will be a small one-time cost for any updates to the policy and procedure manuals to reflect the name change to long-term acute care hospital; however both reflect this to be a one-time aggregate cost of $200.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The cost to an individual facility is estimated to be $100, considering the writing of policies and procedures.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule change will make Utah rules more consistent with national standards. The two affected facilities are already complying with the standards. The only fiscal impact will be to update policy manuals to conform to the facilities' current practice and the rule. Rod L. Betit

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HEALTH SYSTEMS IMPROVEMENT, LICENSING
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SALT LAKE CITY UT 84116-3231, or
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THIS RULE MAY BECOME EFFECTIVE ON: 12/03/2002

AUTHORIZED BY: Rod Betit, Executive Director

R432. Health, Health Systems Improvement, Licensing.
R432-104. Specialty Hospital - [~~Chronic Disease~~]Long-Term Acute Care.
R432-104-1. Legal Authority.
This rule is adopted pursuant to Title 26, Chapter 21.

R432-104-2. Purpose.
The purpose of this rule is to promote the public health and welfare through the establishment and enforcement of program standards for the operation of [~~chronic disease~~]long-term acute care (LTAC) hospitals.

~~R432-104-3. Definition.~~
~~(1) Refer to R432-1-3.~~

~~R432-104-4.~~] License.
(1) To be licensed as an [~~chronic disease~~]LTAC hospital, the facility shall:
(a) Have a duly constituted governing body with overall administrative and professional responsibility;
(b) Have an organized medical staff which provides 24-hour inpatient care;
(c) Have a chief executive officer to whom the governing body delegates the responsibility for the operation of the hospital;
(d) Maintain at least one nursing unit containing patient rooms, patient care spaces, and service spaces defined in construction rules R432-10-3;

(e) Each nursing unit shall contain at least six patient beds;

(f) Rooms and spaces comprising each nursing unit shall be organized in a contiguous arrangement.

(g) Maintain current and complete medical records.

(h) Provide continuous registered nurse supervision and other nursing services;

(i) Provide in house the following basic services:

(i) Pharmacy;

(ii) Laboratory;

(iii) Nursing services;

(iv) Occupational, Physical, Respiratory and Speech therapies;

(v) Dietary;

(vi) Social Services; and

(vii) Specialized Diagnosis and therapeutic services.

(2) The [~~chronic disease~~]LTAC hospital shall provide on site all basic service required of a general hospitals that are needed for the diagnosis, therapy, and treatment offered or required by all patients admitted to the hospital.[

~~(3) Rooms and spaces compromising each nursing unit shall be organized in an contiguous arrangement.~~]

R432-104-[~~5~~]4. General Design Requirements.

(1) See R432-10, [~~Chronic Disease~~]Long-Term Acute Care Hospital Construction Rules.

(2) The LTAC hospital may be located within an existing licensed health care facility or be freestanding.

R432-104-5. Hospital located within an Acute Care Hospital.

If an LTAC is located within a licensed acute care hospital, it must:

(1) have a separate governing body, chief executive officer, chief medical officer, and medical staff from the co-located hospital;

(2) perform basic functions independently from the host hospital;

(3) incur not more that 15 per cent of its total inpatient operating costs for items and services supplied by the host hospital;

(4) admit 75 per cent of patients from other sources than the host hospital;

(5) maintain admission and discharge records separately from those of the hospital in which it is co-located;

(6) not commingle beds with beds in which it is located; and

(7) be serviced by the same Medicare fiscal intermediary as the hospital of which it is a part.

R432-104-6. Organization and Staff.

[~~(1)~~]The following services and policies shall comply with R432-100.

([~~a~~]1) Governing Body, R432-100-5.

([~~b~~]2) Administrator, R432-100-6.

([~~c~~]3) Medical and Professional Staff, R432-100-7.

([~~d~~]4) Nursing Care Services, R432-100-12.

([~~e~~]5) Personnel Management Services, R432-100-8.

([~~f~~]6) Infection Control, R432-100-10.

([~~g~~]7) Quality Improvement Plan, R432-100-9.

([~~h~~]8) Patient Rights, R432-100-11.

R432-104-7. Admission and Discharge Policy.

(1) An [~~Chronic Disease Hospital~~]LTAC shall implement as an admission policy an average inpatient length of stay greater than 25 days and which complies with R432-104-7(2)[~~ and R432-104-3~~].

(2) Patients who have one or more of the following conditions may be admitted to an [~~Chronic Disease Hospital~~]LTAC:

(a) the [~~P~~]patient is medically unstable due to chronic or long-term illness and requires a weekly physician visit[~~.~~]; or

(b) [~~P~~]the patient requires dangerous drug therapy, continuous use of a respirator or ventilator, or suctioning or nasopharyngeal aspiration at least once per nursing shift.[

~~(c) Patient may have one of the following conditions:~~

~~(i) uncontrolled epileptic seizures more than three times a week;~~

~~(ii) assaultive or disruptive episodes at least once per week along with at least two skilled nursing services at the frequency described in R432-104-7(2)(d) below;~~]

([~~d~~]c) [~~P~~]the patient requires skilled nursing services and care [~~in excess of those services provided in a nursing care facility.~~]which requires a registered nurse present for care 24 hours per day for[

~~(i) Patient is dependent on others for activities of daily living;~~

~~(ii) Patient requires~~] at least three of the following treatments at the specified frequency;

([~~A~~]i) extensive dressings for deep decubiti, surgical wounds, or vascular ulcers daily;

([~~B~~]ii) isolation for infectious disease 24 hours per day;

([~~C~~]iii) suctioning three days per week;

([~~D~~]iv) occupational therapy, physical therapy, or speech therapy five days a week;

(v) respiratory therapy;

([~~E~~]6) special ostomy care daily;

([~~F~~]7) oxygen daily;

([~~G~~]8) traction; or

([~~H~~]9) catheter or wound irrigation daily.

(3) Within 24 hours of admission the attending physician shall document:

(i) The patient=s current medical and respiratory status, including pertinent clinical parameters; and

(ii) Treatment plan and goals;

(iii) Estimated length of stay; and

(iv) Anticipated discharge plan.

(4) The LTAC shall discharge the patient from the facility if:

(a) the physician documents that the patient:

(i) requires additional intense services in an acute hospital;

(ii) exhibits no evidence of progress towards current, documented goals over an eight-week period and a medically appropriate alternative for discharge exists; or

(iii) has met documented goals established at or modified following admission and medically appropriate alternatives for discharge exist; or

(b) the patient or care giver exhibit ability to care for the patient=s physical needs.

R432-104-8. Clinical Services.

The following services shall be provided in-house and comply with R432-100.

(1) Pharmacy Service, R432-100-24.

(2) Laboratory Service, R432-100-[~~23~~]22.

(3) Rehabilitation Therapy Services, R432-100-20.

(4) Dietary Service, R432-100-31.

(5) Social Services, R432-100-25.

(6) Occupational Therapy Services shall be available for all patients who require the service.

(a) The occupational therapy services shall be directed by a licensed occupational therapist who shall have administrative responsibility for the occupational therapy department.

(b) Staff occupational therapists shall be licensed by the Utah Department of Commerce Title 58, Chapter 42.

(i) If Occupational Therapy Assistants are employed to provide patient services they shall be supervised by a licensed therapist.

(ii) Patient services shall be commensurate with each person's documented training and experience.

(c) Occupational Therapy services shall be initiated by an order from the medical staff.

(d) Written policies and procedures shall be developed and approved in conjunction with the medical staff to include:

(i) Methods of referral for services,

(ii) Scope of services to be provided,

(iii) Responsibilities of professional therapists,

(iv) Admission and discharge criteria for treatment,

(v) infection control,

(vi) safety,

(vii) individual treatment plans, objectives, clinical documentation and assessment,

(viii) incident reporting system,

(ix) emergency procedures.

(e) Equipment shall be calibrated to manufacturer's specifications.

(f) There shall be a written individual treatment plan for each patient appropriate to the diagnoses and condition.

(g) The Occupational Therapy department shall organize and participate in continuing education programs.

(7) Speech Therapy services shall be available for all patients who require the service.

(a) The Speech-Pathology language services shall be directed by a licensed Speech-Pathologist or Audiologist who shall have administrative responsibility for the Speech-Audiology therapy department.

(b) Staff speech therapist and audiologist shall be licensed the Utah Department of Commerce, see Title 58, Chapter 41.

(i) If Speech-language pathology aides or audiology aides are employed to provide patient services they shall be supervised by a licensed therapist.

(ii) Patient services shall be commensurate with each person's documented training and experience.

(c) Speech and Audiology services shall be initiated by an order from the medical staff.

(d) Written policies and procedures shall be developed and approved in conjunction with the medical staff to include:

(i) Methods of referral for services,

(ii) Scope of services to be provided,

(iii) Responsibilities of professional therapists,

(iv) Admission and discharge criteria for treatment,

(v) [~~i~~]Infection control,

(vi) Assistive Technology,

(vii) [~~i~~]Individual treatment plans, objectives, clinical documentation and assessment,

(viii) [~~i~~]Incident reporting system,

(ix) [~~e~~]Emergency procedures.

(e) Equipment shall be calibrated to manufacturer's specifications.

(f) There shall be a written individual treatment plan for each patient appropriate to the diagnoses and condition.

(g) The Department shall organize and participate in continuing education programs.

(8) Respiratory Care Services, R432-100-19.

R432-104-9. Emergency Services.

(1) Each specialty hospital shall have the ability to provide emergency first aid treatment to patients, staff, and visitors and to persons who may be unaware of or unable to immediately reach services in other facilities.

(2) Provisions for services shall include:

(a) Treatment room;

(b) Storage for supplies;

(c) Provisions for reception area and control of walk-in traffic;

(d) Patient toilet room;

(e) Telephone service in order to call the poison control center;

(f) Staff available in the facility to respond in case of an emergency.

(3) Each hospital shall have available an automated external defibrillator unit and at least one staff on duty who is competent on its use.

R432-104-10. Complementary Services.

[~~When~~]If the following services are provided in-house, they shall comply with R432-100.

(1) [~~Anesthesia Services, R432-100-15.~~

~~(2)~~]Radiology Services, R432-100-21.

[~~(3) Respiratory Service, R432-100-19.~~

~~(4) Surgical Services, R432-100-14.~~

~~(5) Critical Care Unit, R432-100-13.~~

~~(6)~~](2) Outpatient Services, R432-100-28.

([~~7~~]3) Pediatric Services, R432-100-18.

([~~8~~]4) Hospice, R432-750.

R432-104-11. Ancillary Services.

The following services shall be provided in-house and shall comply with R432-100.

(1) Central Supply, R432-100-34.

(2) Laundry, R432-100-[~~38~~]35.

(3) Medical Records, R432-100-33.

(4) Maintenance, R432-100-37.

(5) Housekeeping, R432-100-36.

(6) Emergency and Disaster Plans, R432-100-38.

R432-104-12. Penalties.

Any person who violates any provision of this rule may be subject to the penalties enumerated in 26-21-11 and R432-3-6 and be punished for violation of a class A misdemeanor as provided in 26-21-16.

KEY: health facilities
[~~March 3, 1995~~]2002
Notice of Continuation December 15, 1997
26-21-5
26-21-2.1
26-21-20

Health, Health Systems Improvement, Licensing
R432-270
Assisted Living Facilities

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 25453
FILED: 10/03/2002, 17:24

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To provide consistency with other rules.

SUMMARY OF THE RULE OR CHANGE: The change clarifies that the licensees must maintain facilities to the construction standards under which the facility was built. Changes are in Subsections R432-270-19(11) and R432-270-25(1).

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

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: Cost to print the modifications and distribute the rule to licensed health care facilities is less than $1,000.
❖ LOCAL GOVERNMENTS: This rule modification re-emphasizes the enforcement practice currently followed in the Bureau of Licensing. No additional costs or savings will result due to this modification.
❖ OTHER PERSONS: This rule modification re-emphasizes the enforcement practice currently followed in the Bureau of Licensing. No additional costs or savings will result due to this modification.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No compliance costs are anticipated as a result of the proposed rule modification since this has been the enforcement standard for many years.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule clarification and update will avoid confusion by regulated industries. No fiscal impact is anticipated. Rod L. Betit

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
HEALTH
HEALTH SYSTEMS IMPROVEMENT, 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 debwynkoop@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 12/02/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 12/03/2002

AUTHORIZED BY: Rod Betit, Executive Director

R432. Health, Health Systems Improvement, Licensing.
R432-270. Assisted Living Facilities.
R432-270-25. Maintenance Services.

(1) The facility shall conduct maintenance, including preventive maintenance, according to a written schedule to ensure that the facility equipment, buildings, fixtures, spaces, and grounds are safe, clean, operable, [~~and~~]in good repair and in compliance with R432-6.

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

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

(c) Electrical systems, including appliances, cords, equipment call lights, and switches shall be maintained to guarantee safe functioning.

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

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

(3) The facility shall document maintenance work performed.

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

R432-270-30. Penalties.

Any person who violates any provision of this rule may be subject to the penalties enumerated in 26-21-11 and R432-3-6 and be punished for violation of a class A misdemeanor as provided in Section 26-21-16.

KEY: health facilities
March 30, [~~2001~~]2002
Notice of Continuation February 9, 2000
26-21-5
26-21-1

Insurance, Administration
R590-165
Health Benefit Plans

NOTICE OF PROPOSED RULE
(Repeal)
DAR FILE NO.: 25483
FILED: 10/11/2002, 11:31

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: S.B. 100 in 2001 eliminated the requirement for designated health care plans in Section 31A-22-613.5. As a result, this rule is no longer needed and it is proposed that it be repealed. (DAR NOTE: S.B. 100 is found at UT L 2001 Ch 116, and was effective April 30, 2001.)

SUMMARY OF THE RULE OR CHANGE: This rule is repealed in its entirety.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 31A-22-613.5

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: There will be no savings or cost to the state budget as a result of the repeal of this rule since it has required very little regulatory effort to enforce.
❖ LOCAL GOVERNMENTS: The repeal of this rule will not affect local government since the rule applies only to licensees of the department.
❖ OTHER PERSONS: Any financial impact that the insurance companies might have incurred to comply with this rule came when it was first implemented when they developed the basic benefit plans. Since then there have been no required changes to the plans, no upkeep has been required. As far as the consumer goes, these plans were simply used for comparison purposes to determine which insurer had the best price. However, since the products actually sold by the insurers are so completely different, their usefulness has been voided out.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Any financial impact that the insurance companies might have incurred to comply with this rule came when it was first implemented when they developed the basic benefit plans. Since then there have been no required changes to the plans, no upkeep has been required. As far as the consumer goes, these plans were simply used for comparison purposes to determine which insurer had the best price. However, since the products actually sold by the insurers are so completely different, their usefulness has been voided out.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The repeal of this rule will have no fiscal impact on businesses in Utah.

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@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 12/02/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 12/03/2002

AUTHORIZED BY: Jilene Whitby, Information Specialist

{**DAR Note:** Because of publication constraints, the text of this rule is not printed in this *Bulletin*, but is published by reference to a copy on file at the Division of Administrative Rules. The text may also be inspected at the agency (address above) or in the *Utah Administrative Code* which is available at any state depository library.}

Pardons (Board Of), Administration
R671-207
Mentally-Ill Offender Custody Transfer

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 25481
FILED: 10/11/2002, 06:06

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule defines the process of transferring offender custody to and from the Utah State Prison and the State Hospital.

SUMMARY OF THE RULE OR CHANGE: Changes clarify the process of transferring offender custody to and from the Utah State Prison and the State Hospital.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 77-16a-204

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: None--The changes are for clarification only and have no effect on the process outcome or the costs.
❖ LOCAL GOVERNMENTS: None--The changes are for clarification only and have no effect on the process outcome or the costs.
❖ OTHER PERSONS: None--The changes are for clarification only and have no effect on the process outcome or the costs.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--The changes are for clarification only and have no effect on the process outcome or the costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: None--These changes provide clarification only and have no effect on businesses.

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

PARDONS (BOARD OF)
ADMINISTRATION
Room 300
448 E 6400 S
SALT LAKE CITY UT 84107-8530, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Nannette Johnson at the above address, by phone at 801-261-6485, by FAX at 801-261-6481, or by Internet E-mail at njohnson@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 12/02/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 12/03/2002

AUTHORIZED BY: Mike Sibbett, Chairman

R671. Pardons (Board of), Administration.
R671-207. [~~Mentally-Ill Offender Custody Transfer~~]Mentally Ill and Deteriorated Offender Custody Transfer.
R671-207-1. [~~General~~]Transfer From the Prison to the Hospital of an Offender Whose Mental Health Has Deteriorated.

[~~Custody transfer of a mentally-ill offender from the Utah State Hospital to the Utah State Prison will occur when the Hospital and the Prison agree that the prison can provide the mentally-ill offender with the level of care necessary to maintain the offender's current mental condition. If the Hospital and the Prison cannot agree upon the transfer, the Board will make the decision as to where the offender is to be housed.~~

~~The Division of Human Services shall notify the Department of Corrections and the Board's mental health advisor when a mentally ill offender is eligible for transfer to the Prison. If the Department of Corrections agrees that the prison can provide the mentally ill offender with the level of care necessary to maintain the offender's mental condition, pursuant to 77-16a-204 (1) (2), the custody transfer will occur. The Board may hold an administrative review hearing within 30 days of the actual transfer date.~~

~~In the event the Division of Human Services and the Department of Corrections do not agree on the transfer of a mentally ill offender, the Division of Human Services will notify the Board's mental health advisor, in writing, of the dispute. The Division of Human Services and the Department of Corrections will provide the mental health advisor with copies of all reports and recommendation by both agencies. The Board's mental health advisor will make a recommendation to the Board of the transfer and the Board will issue its decision upon the transfer within 30 days pursuant to 77-16a-204 (4).~~]The Department of Corrections will notify the Board whenever a mentally ill offender is transferred from the Hospital to the Prison pursuant to 77-16a-204 (5).The custody transfer of an inmate, who has not been adjudicated as mentally-ill by the Court and who is housed at the Prison, whose mental health has deteriorated to the point that admission to the State Hospital is necessary to ensure adequate mental health treatment, will occur when the Prison and the Hospital agree to a transfer. The Department of Corrections will notify the Board's Mental Health Advisor whenever an offender is transferred from the Prison to the Hospital and the Board will stay any hearing until the offender is transferred from the Hospital back to the Prison pursuant to the requirements of 77-16a-204 and rule 207-2.

If the Prison and the Hospital cannot agree upon the transfer, the Board will make the decision as to whether the transfer should occur pursuant to 62A-12-209. Upon notification by the Department of Corrections to the Board's Mental Health Advisor that the agencies cannot agree, the Mental Health Advisor will conduct an administrative hearing. Both agencies will provide written reports and recommendations to the Advisor prior to the hearing and the Advisor will take testimony at the hearing. The Mental Health Advisor will then make a recommendation pursuant to the requirement of 62-12-209(2) to the Board. The Board will issue its decision within 30 days of the Administrative Hearing.

R671-207-2 Mentally-Ill Offender Custody Transfer.

Custody transfer of a mentally-ill offender, under the jurisdiction of the Board of Pardons and Parole, and placed by the Court at the Utah State Hospital, will occur when the Hospital and the Prison agree that the Prison can provide the mentally-ill offender with the level of care necessary to maintain the offender's current mental condition and status. The Department of Corrections will notify the Board whenever a mentally-ill offender is transferred from the Hospital to the Prison and the Board will set a date for a parole hearing.

If the Hospital and the Prison cannot agree upon the transfer, the Board will make the decision as to whether the offender should be transferred to the Prison. Upon notification from the Division of Human Services to the Board's Mental Health Advisor that the agencies cannot agree upon the transfer, the Advisor will conduct an Administrative hearing. Both agencies will provide written reports and recommendations to the Advisor prior to the hearing and th Advisor will take testimony at the hearing. The Mental Health Advisor will then make a recommendation, pursuant to the requirements of 77-16a-204, to the Board as to the transfer. The Board will issue its decision within 30 days of the Administrative Hearing.

R671-207-3. Retainer From the Department of Corrections to the Utah State Hospital.

Custody transfer of a mentally-ill offender, under the jurisdiction of the Board, whose custody was transferred from the Utah State Hospital to the Utah State Prison may be transferred back to the Utah State Hospital when the Prison and the Hospital agree that the offender's mental condition has deteriorated or the offender has become mentally unstable to the point that admission to the State Hospital is necessary to ensure adequate mental health treatment. The Department of Corrections will notify the Board's Mental Health Advisor whenever a mentally-ill offender is transferred back to the State Hospital from the Prison. The Board will stay any hearing until the offender's mental health has been stabilized and the offender has been transferred back to the prison, in accordance with Rule 207-1, and 77-16a-204.

If the Prison and the Hospital cannot agree upon the transfer, the Board will make the decision as to whether the offender should be transferred back to the Hospital. Upon notification form the Department of Corrections that the Prison and the Hospital cannot agree upon a transfer, the Mental Health Advisor will conduct an administrative hearing. Both agencies will provide written reports

and recommendations to the Advisor prior to the hearing and the Advisor will take testimony at the hearing. The Advisor will then make a recommendation to the Board as to the transfer pursuant to the requirements of 77-16a-204. The Board will issue its decision within 30 days of the administrative hearing.

A mentally-ill offender who has been readmitted to the Utah State Hospital pursuant to these rules may be transferred back to the Department of Corrections in accordance with Rule 207-1 and the requirements of 77-16a-204.

KEY: criminal competency
[~~February 18, 1998~~]2002
Notice of Continuation December 12, 1997
77-16a-204

Pardons (Board Of), Administration
R671-208
Confirmation of Psychological Evaluation and Alienist Reports

NOTICE OF PROPOSED RULE
(Repeal)
DAR FILE NO.: 25498
FILED: 10/15/2002, 13:44

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Title 63, Chapter 2, of the Government Records Access Management Act outlines document classification of psychological and alienist evaluations. Rule R671-208 is duplicative and should be deleted.

SUMMARY OF THE RULE OR CHANGE: This rule is repealed in its entirety.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 77-27-7(3)

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: Rule R671-208 is duplicative and should be deleted. Consequently, there is no cost to the state budget.
❖ LOCAL GOVERNMENTS: Local government does not request psychological or alienist evaluations and therefore there is no cost if the rule is deleted.
❖ OTHER PERSONS: Document classification of psychological or alienist evaluations does financially affect other people.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Document classification of psychological or alienist evaluations does not financially affect other people.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Title 63, Chapter 2, of the Government Records Access Management Act outlines document classification of psychological and alienist evaluations. R671-208 is duplicative and should be deleted. There is no cost to business.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
PARDONS (BOARD OF)
ADMINISTRATION
Room 300
448 E 6400 S
SALT LAKE CITY UT 84107-8530, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Nannette Johnson at the above address, by phone at 801-261-6485, by FAX at 801-261-6481, or by Internet E-mail at njohnson@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 12/02/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 12/03/2002

AUTHORIZED BY: Mike Sibbett, Chairman

{**DAR Note:** Because of publication constraints, the text of this rule is not printed in this *Bulletin*, but is published by reference to a copy on file at the Division of Administrative Rules. The text may also be inspected at the agency (address above) or in the *Utah Administrative Code* which is available at any state depository library.}

Pardons (Board Of), Administration
R671-307
Foreign Nationals and Offenders with Detainers

NOTICE OF PROPOSED RULE
(Repeal)
DAR FILE NO.: 25499
FILED: 10/15/2002, 14:18

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: An international treaty governs the transfer of foreign nationals to their country of origin. Rule R671-307 is duplicative and the process outlined in this rule is no longer necessary.

SUMMARY OF THE RULE OR CHANGE: This rule is repealed in its entirety.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 77-27-9

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: Rule R671-307 is duplicative and the process outlined in this rule is no longer necessary. There is no cost to the state of this rule being repealed.
❖ LOCAL GOVERNMENTS: Local government is not involved with the international transfer of offenders and consequently there is no cost to local government if the rule is repealed.
❖ OTHER PERSONS: An international treaty governs the transfer of foreign offenders to their country of origin and must be followed. The Board has no option but to follow the treaty which may financially burden foreign governments.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no cost to the foreign offender to be transferred back to their country of origin.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: An international treaty outlines procedures to be followed by states to transfer foreign offenders back to the country of origin. While there may be a cost to the receiving country, there will be savings to the state every time an offender is transferred back to their country of origin.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
PARDONS (BOARD OF)
ADMINISTRATION
Room 300
448 E 6400 S
SALT LAKE CITY UT 84107-8530, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Nannette Johnson at the above address, by phone at 801-261-6485, by FAX at 801-261-6481, or by Internet E-mail at njohnson@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 12/02/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 12/03/2002

AUTHORIZED BY: Mike Sibbett, Chairman

{**DAR Note:** Because of publication constraints, the text of this rule is not printed in this *Bulletin*, but is published by reference to a copy on file at the Division of Administrative Rules. The text may also be inspected at the agency (address above) or in the *Utah Administrative Code* which is available at any state depository library.}

Pardons (Board Of), Administration
R671-317
Interim Decisions

NOTICE OF PROPOSED RULE
(Repeal)
DAR FILE NO.: 25497
FILED: 10/15/2002, 13:36

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The process outlined in this rule is no longer necessary.

SUMMARY OF THE RULE OR CHANGE: This rule is repealed in its entirety.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 77-27-5

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: Rule R671-317 outlines the process whereby single Board members or a hearing officer conduct hearings. The Board believes this rule is unnecessary as compliance with current case law ensures due process protection to offenders. There is no cost to the state by eliminating this rule.
❖ LOCAL GOVERNMENTS: Local government does not participate in this process nor is there a cost that passed on to local government.
❖ OTHER PERSONS: The deletion of this rule causes no anticipated cost or savings to the other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The Board believes this rule is redundant and unnecessary. Current case law and constitutional mandates govern due process protection to offenders at hearings. The rule is duplicative and there are no costs to be passed on to affected parties.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The department head believes this rule is unnecessary as compliance with current case law ensures due process protection to offenders. There is no cost to businesses by eliminating this rule.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
PARDONS (BOARD OF)
ADMINISTRATION
Room 300
448 E 6400 S
SALT LAKE CITY UT 84107-8530, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Nannette Johnson at the above address, by phone at 801-261-6485, by FAX at 801-261-6481, or by Internet E-mail at njohnson@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 12/02/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 12/03/2002

AUTHORIZED BY: Mike Sibbett, Chairman

{**DAR Note:** Because of publication constraints, the text of this rule is not printed in this *Bulletin*, but is published by reference to a copy on file at the Division of Administrative Rules. The text may also be inspected at the agency (address above) or in the *Utah Administrative Code* which is available at any state depository library.}

Pardons (Board Of), Administration
R671-405
Parole Termination

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 25479
FILED: 10/11/2002, 05:53

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The changes are simple wording and punctuation changes.

SUMMARY OF THE RULE OR CHANGE: The changes are simple wording and punctuation changes.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 76-3-202

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: None--The changes are for clarification only and have no effect on the process outcome or the costs.
❖ LOCAL GOVERNMENTS: None--The changes are for clarification only and have no effect on the process outcome or the costs.
❖ OTHER PERSONS: None--The changes are for clarification only and have no effect on the process outcome or the costs.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--The changes are for clarification only and have no effect on the process outcome or the costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: None--The changes are for clarification only and have no effect on businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
PARDONS (BOARD OF)
ADMINISTRATION
Room 300
448 E 6400 S
SALT LAKE CITY UT 84107-8530, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Nannette Johnson at the above address, by phone at 801-261-6485, by FAX at 801-261-6481, or by Internet E-mail at njohnson@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 12/02/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 12/03/2002

AUTHORIZED BY: Mike Sibbett, Chairman

R671. Pardons (Board of), Administration.
R671-405. Parole Termination.
R671-405-1. Termination of Parole.

The Board will consider terminating an offender's parole when petitioned to do so by the Department of Corrections, other interested parties or on its own initiative. When considering termination, the Board will toll any parole time when a parolee is an absconder. The toll time will be from the date a Board warrant was issued to the date the warrant was executed.

When a termination is approved by the Board, written notification of the Board's action will be provided to the parolee [~~and~~]through the Department of Corrections.

Depending on the crime, statutory periods of parole without violation are three, ten years, or life.

Upon receipt of written notification of the service of the statutory maximum period on parole and verification of that information, the Board of Pardons will then order the closing of the file.

KEY: sentencing, parole
[~~February 12, 1998~~]2002
Notice of Continuation December 12, 1997
76-3-202
77-27-9
77-27-12

Tax Commission, Auditing
R865-9I-2
Determination of Utah Resident and Military Personnel Pursuant to Utah Code Ann. Section 59-10-103

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 25466
FILED: 10/08/2002, 16:50

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Section 59-10-103 defines a Utah Resident as an individual who has either established domicile in the state, or spends in the

aggregate 183 days or more in a year in a permanent place of abode in the state.

SUMMARY OF THE RULE OR CHANGE: Proposed amendment makes technical changes to the definition of domicile; indicates how a foreign domicile is determined; clarifies when a prior domicile has been abandoned; clarifies that "permanent place of abode does not include a dwelling maintained only during a temporary stay for the accomplishment of a particular purpose; makes technical amendments to the treatment of military servicepersons.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 59-10-103

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: Undetermined, but minimal. Determination of residency is fact specific. Proposed amendment provides additional guidance to make that determination. While most of the additional guidance is technical in nature, the determination of whether an individual has established a foreign domicile broadens existing commission practice. This is, however, a rare situation.
❖ LOCAL GOVERNMENTS: None--Local governments do not receive revenues from income tax receipts.
❖ OTHER PERSONS: Same as State budget above.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--Proposed amendment provides clarifying language for an individual to determine whether he is a resident.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be no fiscal impact on businesses as a result of this amendment.

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@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 12/02/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 12/03/2002

AUTHORIZED BY: Pam Hendrickson, Commissioner

R865. Tax Commission, Auditing.
R865-9I. Income Tax.
R865-9I-2. [~~Definitions of Resident and Military Personnel~~]Determination of Utah Resident Individual Status Pursuant to Utah Code Ann. Section 59-10-103.

[~~A. "Resident" or "resident taxpayer" means "resident individual" as defined in Utah Code Ann. Section 59-10-103.~~

~~B. "Nonresident" or "nonresident taxpayer" means "nonresident individual" as defined in Utah Code Ann. Section 59-10-103.~~

~~C. "Part-year resident" means an individual who changes his status during the tax year from a resident to a nonresident or from a nonresident to a resident.~~]A. Domicile.

[~~D.~~]1. [~~"~~]Domicile[~~"~~] [~~means~~]is the place where an individual has a [~~true, fixed,~~]permanent home[~~ and principal establishment,~~] and to which [~~place~~]he [~~has (whenever he is~~]intends to return after being absent[~~) the intention of returning~~]. It is the place [~~in~~]at which [~~a person~~]an individual has voluntarily fixed [~~the~~]his habitation[~~ of himself and family~~], not for a [~~mere~~]special or temporary purpose, but with the [~~present intention~~]intent of making a permanent home.

2. For purposes of establishing domicile, an individual's intent will not be determined by the individual's statement, or the occurrence of any one fact or circumstance, but rather on the totality of the facts and circumstances surrounding the situation.

a) Tax Commission rule R884-24P-52, Criteria for Determining Primary Residence, provides a non-exhaustive list of factors or objective evidence determinative of domicile.

b) Domicile applies equally to a permanent home within and without the United States.

3. [~~After domicile has been established, two things are necessary to create a new domicile: first, an abandonment of the old domicile; and second, the intention and establishment of a new domicile. The mere intention to abandon a domicile once established is not of itself sufficient to create a new domicile; for before a person can be said to have changed his domicile, a new domicile must be shown.~~]A domicile, once established, is not lost until there is a concurrence of the following three elements:

a) a specific intent to abandon the former domicile;

b) the actual physical presence in a new domicile; and

c) the intent to remain in the new domicile permanently.

4. An individual who has not severed all ties with the previous place of residence may nonetheless satisfy the requirement of abandoning the previous domicile if the facts and circumstances surrounding the situation, including the actions of the individual, demonstrate that the individual no longer intends the previous domicile to be the individual's permanent home, and place to which he intends to return after being absent.

B. Permanent place of abode does not include a dwelling place maintained only during a temporary stay for the accomplishment of a particular purpose. For purposes of this provision, temporary may mean years.

C. Determination of resident individual status for military servicepersons.

1. The status of a military serviceperson as a resident individual or a nonresident individual is determined as follows, based on the Soldiers' and Sailors' Civil Relief Act of 1940, 50 U.S.C. 574.

[~~E.~~]a) A [~~person~~]resident individual in active military service [~~shall~~]does not lose his [~~domicile in Utah solely by reason of being absent under~~]status as a resident individual if the resident individual's absence from the state is a result of military orders.

b) A [~~person~~]nonresident individual in active military service who is stationed in Utah [~~solely by reason of military orders~~]does not [~~thereby establish~~]become a [~~new domicile in this state~~]resident individual for income tax purposes if the nonresident individual's presence in Utah is due solely to military orders.[~~Reference: Soldiers and Sailors Relief Act, Title 50, U.S. Code Section 574.~~]

[~~1.~~]2. [~~It is possible for~~]Subject to federal law, an individual in active military service [~~to~~]may change [~~his domicile by definite intent supported by actions~~]from a resident individual to a nonresident individual or from a nonresident individual to a resident individual if he establishes that he satisfies the conditions of A.3.[~~He may be required to prove any change by disclosing actions taken.~~]

[~~2.~~]3. A nonresident [~~serviceman~~]individual serviceperson is [~~tax~~]exempt from Utah income tax only on his active service pay[~~;~~]. [~~all~~]All other Utah source income received by the nonresident individual serviceperson is [~~taxable~~]subject to Utah income tax as provided by [~~the nonresident provisions of the Utah law~~]Section 59-10-116.

[~~3~~]4. The spouse of [~~a person~~]an individual in active military service generally is considered to have [~~that person's domicile and is subject to~~]the same residency status as that individual for purposes of Utah income tax[~~laws and rules that apply to the service person~~].

KEY: historic preservation, income tax, tax returns, enterprises
2002
59-7-03

▼ ▼

Tax Commission, Property Tax

R884-24P-33

2003 Personal Property Valuation Guides and Schedules Pursuant to Utah Code Ann. Section 59-2-301

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 25500
FILED: 10/15/2002, 15:05

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Section 59-1-210 authorizes the State Tax Commission to promulgate rules that aide county officials in the performance of any duties relating to the assessment and equalization of property within the county.

SUMMARY OF THE RULE OR CHANGE: This is an additional update to the personal property guides and schedules for local assessment of business personal property .

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

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: The amount of savings or cost to state government is undetermined. The State receives tax revenue for assessing and collecting and for the uniform school fund based on increased or decreased personal property value. These funds are distributed back to local governments. Without knowing the acquisitions and deletions of personal property during 2002, any increase or decrease in 2003 tax revenue, even with no percent good schedule changes, could not be determined. An adjustment to Class 15, Semiconductor Manufacturing Equipment is proposed to reflect a 37% reduction in valuation in this class due to economic obsolescence. This adjustment will result in a lower valuation and reduction in tax revenue from property in this class.
❖ LOCAL GOVERNMENTS: The amount of saving or cost to local government is undetermined. Local governmental entities receive tax revenue based on increased or decreased personal property value. Without knowing the acquisitions and deletions of personal property during 2002, any increase or decrease in 2003 tax revenue, even with no percent good schedule changes, could not be determined. An adjustment to Class15, Semiconductor Manufacturing is proposed to reflect a 37% reduction in valuation due to economic obsolescence. This adjustment will result in a lower valuation and reduction in tax revenue from property in this class. Currently only some taxing entities in Utah County will be affected by this proposed adjustment to Class 15. In aggregate for all personal property schedules, it is not anticipated that the change in Class 15 schedule will have a large impact on revenue.
❖ OTHER PERSONS: In the aggregate, the amount of savings or cost to individuals and business is undetermined. Affected persons pay taxes based on increased or decreased personal property value. Without knowing the acquisitions and deletions of personal property during 2002, any increase or decrease in 2003 tax liability, even without the proposed change to Class 15, could not be determined.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Only one entity currently has property which will be affected by the proposed changes in Class 15. That taxpayer may pay less taxes due to a reduced valuation of their personal property in 2003 compared to 2002 if the amount of their taxable personal property does not change from 2003 from 2002 and if there is no change in tax rates.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The fiscal impact to businesses from changes in the proposed personal property schedules due to the proposed changes to this rule will not be as significant as changes in the annual tax rate.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
TAX COMMISSION
PROPERTY TAX
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@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 12/02/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 12/03/2002

AUTHORIZED BY: Pam Hendrickson, Commissioner

R884. Tax Commission, Property Tax.
R884-24P. Property Tax.
R884-24P-33. 2003 Personal Property Valuation Guides and Schedules Pursuant to Utah Code Ann. Section 59-2-301.

A. Definitions.

. . . . . .

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

. . . . . .

14. Class 15 - Semiconductor Manufacturing Equipment. Class 15 applies only to equipment used in the production of semiconductor products. Equipment used in the semiconductor manufacturing industry is subject to significant economic and functional obsolescence due to rapidly changing technology and economic conditions.

a) Examples of property in this class include:

(1) crystal growing equipment;

(2) die assembly equipment;

(3) wire bonding equipment;

(4) encapsulation equipment;

(5) semiconductor test equipment;

(6) clean room equipment;

(7) chemical and gas systems related to semiconductor manufacturing;

(8) deionized water systems;

(9) electrical systems; and

(10) photo mask and wafer manufacturing dedicated to semiconductor production.

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

. . . . . .

KEY: taxation, personal property, property tax, appraisals
[~~December 11, 2001~~]2002
Notice of Continuation April 15, 2002
59-2-301

▼ ▼

Tax Commission, Property Tax
R884-24P-35
Annual Affidavit of Exempt Use Pursuant to Utah Code Ann. Section 59-2-1101

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 25465
FILED: 10/08/2002, 14:38

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Section 59-2-1102 requires the Tax Commission to make rules indicating the information a property owner must supply to the county in order to claim the property tax exemption, as well as the manner and procedures for filing that statement with the county.

SUMMARY OF THE RULE OR CHANGE: The proposed amendment indicates the information a property owner must supply the county on an annual basis in order to claim the property tax exemptions under Subsections 59-2-1101(2)(d) and (e), as well as procedures for filing that statement.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 59-2-1102

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: None--Any cost or savings was taken into account in 2002 H.B. 305, which amended Section 59-2-1102 to require the annual statement and Tax Commission rulemaking. (DAR NOTE: H.B. 305 is found at UT L 2002 Ch 169, and will be effective on January 1, 2003.)

❖ LOCAL GOVERNMENTS: None--Any cost or savings was taken into account in 2002 H.B. 305, which amended Section 59-2-1102 to require the annual statement and Tax Commission rulemaking.

❖ OTHER PERSONS: None--Any cost or savings was taken into account in 2002 H.B. 305, which amended Section 59-2-1102 to require the annual statement and Tax Commission rulemaking.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--Property owners must file an annual statement, in certain circumstances, in order to claim property tax exemptions under Subsections 59-2-1101(2)(d) and (e). This essentially tracks the current practice.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be no fiscal impact on businesses since this amendment reflects current practice.

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

TAX COMMISSION
PROPERTY TAX
210 N 1950 W
SALT LAKE CITY UT 84134, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Cheryl Lee at the above address, by phone at 801-297-3900, by FAX at 801-297-3919, or by Internet E-mail at clee@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 12/02/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 12/03/2002

AUTHORIZED BY: Pam Hendrickson, Commissioner

R884. Tax Commission, Property Tax.
R884-24P. Property Tax.
R884-24P-35. Annual [~~Affidavit of~~]Statement for Certain Exempt [~~Use~~]Uses of Property Pursuant to Utah Code Ann. Section [~~59-2-1101~~]59-2-1102.

A. [~~The owner of property receiving a full or partial exemption from property tax based on exclusive use for religious, charitable or educational purposes, is required to file the annual affidavit prescribed in Utah Code Ann. Section 59-2-1101.~~]The purpose of this rule is to provide guidance to property owners required to file an annual statement under Section 59-2-1102 in order to claim a property tax exemption under Section 59-2-1101 (2)(d) or (e).

B. The annual statement filed pursuant to Section 59-2-1102 shall contain the following information for the specific property for which an exemption is sought:

1. the owner of record of the property;
2. the property parcel, account, or serial number;
3. the location of the property;
4. the tax year in which the exemption was originally granted;
5. a description of any change in the use of the real or personal property since January 1 of the prior year;
6. the name and address of any person or organization conducting a business for profit on the property;
7. the name and address of any organization that uses the real or personal property and pays a fee for that use that is greater than the cost of maintenance and utilities associated with the property;
8. a description of any personal property leased by the owner of record for which an exemption is claimed;
9. the name and address of the lessor of property described in B.8.;
10. the signature of the owner of record or the owner's authorized representative
; and
11. any other information the county may require.

C. The annual statement shall be filed:

1. with the county legislative body in the county in which the property is located;
2. on or before March 1; and
3. using:

a) Tax Commission form PT-21, Annual Statement for Continued Property Tax Exemption; or

b) a form that contains the information required under B.

KEY: taxation, personal property, property tax, appraisals
[~~December 11, 2001~~]2002
Notice of Continuation April 5, 2002
59-2-1102

▼ ▼

Tax Commission, Property Tax
R884-24P-52
Criteria for Determining Primary Residence Pursuant to Utah Code Ann. Sections 59-2-102 and 59-2-103

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 25464
FILED: 10/08/2002, 12:37

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Section 59-2-103.5 requires the Tax Commission to make rules providing the form of the application and the contents of the application if the county has enacted an ordinance requiring property owners to apply for the primary residential exemption.

SUMMARY OF THE RULE OR CHANGE: The proposed amendment indicates the information a property owner must supply to the county to qualify for the property tax primary residential exemption if the county has enacted an ordinance under Section 59-2-103.5 requires property owners to apply for the primary residential exemption.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 59-2-102, 59-2-103, and 59-2-103.5

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: None--Any cost or savings was taken into account in 2002 H.B. 305, which enacted Section 59-2-103.5. (DAR NOTE: H.B. 305 is found at UT L 2002 Ch 169, was will be effective on January 1, 2003.)
❖ LOCAL GOVERNMENTS: None--Any cost or savings was taken into account in 2002 H.B. 305, which enacted Section 59-2-103.5.
❖ OTHER PERSONS: None--Any cost or savings was taken into account in 2002 H.B. 305, which enacted Section 59-2-103.5.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None. Property owners in counties that have enacted an ordinance requiring property owners to apply for the primary residential exemption will have to fill out an application form.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impact. The amendment gives guidance on the information required in an application for residential exemption required by counties.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
TAX COMMISSION
PROPERTY TAX
210 N 1950 W
SALT LAKE CITY UT 84134, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Cheryl Lee at the above address, by phone at 801-297-3900, by FAX at 801-297-3919, or by Internet E-mail at clee@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 12/02/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 12/03/2002

AUTHORIZED BY: Pam Hendrickson, Commissioner

R884. Tax Commission, Property Tax.
R884-24P. Property Tax.
R884-24P-52. Criteria for Determining Primary Residence Pursuant to Utah Code Ann. Sections 59-2-102, [~~and~~]59-2-103, and 59-2-103.5.

A. "Household" is as defined in Section 59-2-1202.

B. "Primary residence" means the location where domicile has been established.

C. Except as provided in D. and F.3., the residential exemption provided under Section 59-2- 103 is limited to one primary residence per household.

D. An owner of multiple properties may receive the residential exemption on all properties for which the property is the primary residence of the tenant.

E. Factors or objective evidence determinative of domicile include:

1. whether or not the individual voted in the place he claims to be domiciled;

2. the length of any continuous residency in the location claimed as domicile;

3. the nature and quality of the living accommodations that an individual has in the location claimed as domicile as opposed to any other location;

4. the presence of family members in a given location;

5. the place of residency of the individual's spouse or the state of any divorce of the individual and his spouse;

6. the physical location of the individual's place of business or sources of income;

7. the use of local bank facilities or foreign bank institutions;

8. the location of registration of vehicles, boats, and RVs;

9. membership in clubs, churches, and other social organizations;

10. the addresses used by the individual on such things as:

a) telephone listings;

b) mail;

c) state and federal tax returns;

d) listings in official government publications or other correspondence;

e) driver's license;

f) voter registration; and

g) tax rolls;

11. location of public schools attended by the individual or the individual's dependents;

12. the nature and payment of taxes in other states;

13. declarations of the individual:

a) communicated to third parties;

b) contained in deeds;

c) contained in insurance policies;

d) contained in wills;

e) contained in letters;

f) contained in registers;

g) contained in mortgages; and

h) contained in leases.

14. the exercise of civil or political rights in a given location;

15. any failure to obtain permits and licenses normally required of a resident;

16. the purchase of a burial plot in a particular location;

17. the acquisition of a new residence in a different location.

F. Administration of the Residential Exemption.

1. Except as provided in F.2., [~~and~~]F.4., and F.5., the first one acre of land per residential unit shall receive the residential exemption.

2. If a parcel has high density multiple residential units, such as an apartment complex or a mobile home park, the amount of land, up to the first one acre per residential unit, eligible to receive the residential exemption shall be determined by the use of the land. Land actively used for residential purposes qualifies for the exemption.

3. If the county assessor determines that a property under construction will qualify as a primary residence upon completion, the property shall qualify for the residential exemption while under construction.

4. A property assessed under the Farmland Assessment Act shall receive the residential exemption only for the homesite.

5. A property with multiple uses, such as residential and commercial, shall receive the residential exemption only for the percentage of the property that is used as a primary residence.

6. If the county assessor determines that an unoccupied property will qualify as a primary residence when it is occupied, the property shall qualify for the residential exemption while unoccupied.

7.a) An application for the residential exemption required by an ordinance enacted under Section 59-2-103.5 shall contain the following information for the specific property for which the exemption is requested:

(1) the owner of record of the property;

(2) the property parcel number;

(3) the location of the property;

(4) the basis of the owner's knowledge of the use of the property;

(5) a description of the use of the property;

(6) evidence of the domicile of the inhabitants of the property; and

(7) the signature of all owners of the property certifying that the property is residential property.

b) The application under F.7.a) shall be:

(1) on a form provided by the county; or

(2) in a writing that contains all of the information listed in F.7.a).

KEY: taxation, personal property, property tax, appraisals
[~~December 11, 2001~~]2002
Notice of Continuation April 5, 2002
59-2-102
59-2-103
59-2-103.5

Tax Commission, Property Tax
R884-24P-53
2000 Valuation Guides for Valuation of Land Subject to the Farmland Assessment Act Pursuant to Utah Code Ann. Section 59-2-515

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 25496
FILED: 10/15/2002, 12:26

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Section 59-2-515 authorizes the State Tax Commission to promulgate rules regarding the Property Tax Act, Part 5, "Farmland Assessment Act". Section 59-2-514 authorizes the State Tax Commission to receive valuation recommendations from the State Farmland Advisory Committee for implementation as outlined in Section R884-24P-53.

SUMMARY OF THE RULE OR CHANGE: This amendment annually updates the agricultural use-values to be applied by county assessors to land qualifying for valuation and assessment under the Farmland Assessment Act. The values are recommended to the Commission by the State Farmland Evaluation Advisory Committee, which meets under the authority of Section 59-2-514.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 59-2-515

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: The amount of savings or cost to state government is undetermined. Tax revenue is distributed to local governments for assessing and collecting and for the Uniform School Fund based on increased or decreased real and personal property valuation, including property assessed under the Farmland Assessment Act (greenbelt). Property valuation (taxable value) changes have been recommended by class and by county. This year, 204 class/county valuations will increase, 27 will decrease and 78 will remain unchanged. No total cost or savings could be calculated without an exhaustive study of farmland acreage in each county by class, a listing of property newly-qualified for FAA assessment during 2003, and a listing of property no longer qualifying which is removed from greenbelt during 2003. However, it is estimated that the overall change is minimal due to this amendment.
❖ LOCAL GOVERNMENTS: The amount of saving or cost to local government is undetermined. Local governmental entities receive tax revenue based on increased or decreased property valuation, including property on "greenbelt". Property valuation changes have been recommended by class and by county. This year 204 class/county valuations will increase, 27 will decrease and 78 will remain unchanged. No total cost or savings could be calculated without an exhaustive study of farmland acreage in each county by class, a listing of property newly-qualified for greenbelt during 2003, and a listing of property no longer qualifying which is removed from greenbelt during 2003. However, it is estimated that the overall change is minimal due to this amendment.
❖ OTHER PERSONS: Each property owner with property eligible for assessment under the Farmland Assessment Act may see a change in value, depending on property class and situs county; 204 such value indicators will increase, 27 will decrease and 78 will not change. The affect on the property owner will be valuation increase, decrease or no change depending on the mix of property types and situs. No aggregate compliance cost can be determined without an exhaustive study of farmland acreage in each county by class, a listing of property newly-qualified for greenbelt during 2002, and a listing of property no longer qualifying which is removed from greenbelt during 2003. In addition, the compliance cost will further be altered by changes to local property tax rates. However, it is estimated that the overall change due to this amendment is minimal.

COMPLIANCE COSTS FOR AFFECTED PERSONS: County assessor offices statewide will be required to input the new value indicators into their computer systems to be applied against the acreage for individual properties. This input process is easily done and represents no significant cost in time or money to the assessors' offices.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This fiscal impact to businesses will vary depending on the county and the property classification. The impact is estimated to be minimal.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
TAX COMMISSION
PROPERTY TAX
210 N 1950 W
SALT LAKE CITY UT 84134, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Cheryl Lee at the above address, by phone at 801-297-3900, by FAX at 801-297-3919, or by Internet E-mail at clee@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 12/02/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 12/03/2002

AUTHORIZED BY: Pam Hendrickson, Commissioner

R884. Tax Commission, Property Tax.
R884-24P. Property Tax.
R884-24P-53. [~~2002~~]2003 Valuation Guides for Valuation of Land Subject to the Farmland Assessment Act Pursuant to Utah Code Ann. Section 59-2-515.

A. Each year the Property Tax Division shall update and publish schedules to determine the taxable value for land subject to the Farmland Assessment Act on a per acre basis.

1. The schedules shall be based on the productivity of the various types of agricultural land as determined through crop budgets and net rents.

2. Proposed schedules shall be transmitted by the Property Tax Division to county assessors for comment before adoption.

3. County assessors may not deviate from the schedules.

4. Not all types of agricultural land exist in every county. If no taxable value is shown for a particular county in one of the tables, that classification of agricultural land does not exist in that county.

B. All property defined as farmland pursuant to Section 59-2-501 shall be assessed on a per acre basis as follows:

1. Irrigated farmland shall be assessed under the following classifications.

a) Irrigated I. The following counties shall assess Irrigated I property based upon the per acre values listed below:

TABLE 1
Irrigated I

1)	Box Elder	[~~750~~]800
2)	Cache	[~~600~~]650
3)	Carbon	525
4)	Davis	[~~750~~]775
5)	Emery	500
6)	Iron	[~~750~~]800
7)	Kane	[~~450~~]465
8)	Millard	[~~750~~]780
9)	Salt Lake	[~~625~~]680
10)	Utah	[~~675~~]725
11)	Washington	[~~625~~]650
12)	Weber	[~~700~~]760

b) Irrigated II. The following counties shall assess Irrigated II property based upon the per acre values listed below:

TABLE 2
Irrigated II

1)	Box Elder	[~~650~~]700
2)	Cache	[~~500~~]550
3)	Carbon	425
4)	Davis	[~~650~~]675
5)	Duchesne	[~~500~~]480
6)	Emery	400
7)	Grand	[~~375~~]410
8)	Iron	[~~650~~]700
9)	Juab	[~~425~~]440
10)	Kane	[~~350~~]365
11)	Millard	[~~650~~]680
12)	Salt Lake	[~~525~~]580
13)	Sanpete	550
14)	Sevier	[~~600~~]575
15)	Summit	[~~475~~]450
16)	Tooele	[~~425~~]450
17)	Utah	[~~575~~]625
18)	Wasatch	[~~475~~]500
19)	Washington	[~~525~~]550
20)	Weber	[~~600~~]660

c) Irrigated III. The following counties shall assess Irrigated III property based upon the per acre values listed below:

TABLE 3
Irrigated III

1)	Beaver	[~~525~~]560
2)	Box Elder	[~~500~~]550
3)	Cache	[~~350~~]400
4)	Carbon	275
5)	Davis	[~~500~~]525
6)	Duchesne	[~~350~~]330
7)	Emery	250
8)	Garfield	[~~190~~]200
9)	Grand	[~~225~~]260
10)	Iron	[~~500~~]550
11)	Juab	[~~275~~]290
12)	Kane	[~~200~~]215
13)	Millard	[~~500~~]530
14)	Morgan	[~~350~~]360
15)	Piute	350
16)	Rich	[~~250~~]225
17)	Salt Lake	[~~375~~]430
18)	San Juan	190
19)	Sanpete	400
20)	Sevier	[~~450~~]425
21)	Summit	[~~325~~]300
22)	Tooele	[~~275~~]300
23)	Uintah	[~~350~~]360
24)	Utah	[~~425~~]475
25)	Wasatch	[~~325~~]350
26)	Washington	[~~375~~]400
27)	Wayne	[~~350~~]360
28)	Weber	[~~450~~]510

d) Irrigated IV. The following counties shall assess Irrigated IV property based upon the per acre values listed below:

TABLE 4
Irrigated IV

1)	Beaver	[~~425~~]460
2)	Box Elder	[~~400~~]450
3)	Cache	[~~250~~]300
4)	Carbon	175
5)	Daggett	[~~250~~]220
6)	Davis	[~~400~~]425
7)	Duchesne	[~~250~~]230
8)	Emery	150
9)	Garfield	[~~90~~]100
10)	Grand	[~~125~~]160
11)	Iron	[~~400~~]450
12)	Juab	[~~175~~]190
13)	Kane	[~~100~~]115
14)	Millard	[~~400~~]430
15)	Morgan	[~~250~~]260
16)	Piute	250
17)	Rich	[~~150~~]125
18)	Salt Lake	[~~275~~]330
19)	San Juan	90
20)	Sanpete	300
21)	Sevier	[~~350~~]325
22)	Summit	[~~225~~]200
23)	Tooele	[~~175~~]200
24)	Uintah	[~~250~~]260
25)	Utah	[~~325~~]375
26)	Wasatch	[~~225~~]250
27)	Washington	[~~275~~]300
28)	Wayne	[~~250~~]260
29)	Weber	[~~350~~]410

2. Fruit orchards shall be assessed per acre based upon the following schedule:

TABLE 5
Fruit Orchards

1)	Beaver	590
[~~a)~~] 2)	Box Elder	[~~610~~]625
3)	Cache	590
4)	Carbon	590
[~~b)~~] 5)	Davis	[~~610~~]620
6)	Duchesne	590
7)	Emery	590
8)	Garfield	590
9)	Grand	590
10)	Iron	590
11)	Juab	590
12)	Kane	590
13)	Millard	590
14)	Morgan	590
15)	Piute	590
16)	Salt Lake	590
17)	San Juan	590
18)	Sanpete	590
19)	Sevier	590
20)	Summit	590
21)	Tooele	590
22)	Uintah	590
[~~c)~~] 23)	Utah	[~~570~~]590
24)	Wasatch	590
[~~d)~~] 25)	Washington	750
26)	Wayne	590
[~~e)~~] 27)	Weber	[~~610~~]620[
~~f)	All other counties	580~~]

3. Meadow IV property shall be assessed per acre based upon the following schedule:

TABLE 6
Meadow IV

1)	Beaver	[~~200~~]230
2)	Box Elder	[~~190~~]235
3)	Cache	[~~215~~]250
4)	Carbon	[~~125~~]130
5)	Daggett	[~~165~~]170
6)	Davis	[~~235~~]250
7)	Duchesne	[~~150~~]160
8)	Emery	[~~105~~]120
9)	Garfield	[~~100~~]110
10)	Grand	[~~105~~]130
11)	Iron	[~~190~~]225
12)	Juab	[~~130~~]140
13)	Kane	[~~90~~]100
14)	Millard	[~~165~~]190
15)	Morgan	[~~160~~]170
16)	Piute	[~~155~~]160
17)	Rich	[~~125~~]130
18)	Salt Lake	[~~180~~]210
19)	Sanpete	[~~180~~]190
20)	Sevier	[~~190~~]205
21)	Summit	[~~185~~]190
22)	Tooele	[~~170~~]185
23)	Uintah	[~~170~~]180
24)	Utah	[~~195~~]225
25)	Wasatch	[~~185~~]210
26)	Washington	[~~195~~]215
27)	Wayne	[~~150~~]160
28)	Weber	[~~240~~]280

4. Dry land shall be classified as one of the following two categories and shall be assessed on a per acre basis as follows:

a) Dry III. The following counties shall assess Dry III property based upon the per acre values listed below:

TABLE 7
Dry III

1)	Beaver	45
2)	Box Elder	[~~65~~]75
3)	Cache	70
4)	Carbon	45
5)	Davis	[~~60~~]55
6)	Duchesne	45
7)	Garfield	45
8)	Grand	45
9)	Iron	45
10)	Juab	[~~55~~]45
11)	Kane	45
12)	Millard	[~~65~~]50
13)	Morgan	[~~65~~]55
14)	Rich	50
15)	Salt Lake	45
16)	San Juan	[~~40~~]50
17)	Sanpete	45
18)	Summit	45
19)	Tooele	45
20)	Uintah	[~~40~~]45
21)	Utah	[~~40~~]45
22)	Washington	45
23)	Weber	[~~60~~]50

b) Dry IV. The following counties shall assess Dry IV property based upon the per acre values listed below:

TABLE 8
Dry IV

1)	Beaver	10
2)	Box Elder	[~~30~~]40
3)	Cache	35
4)	Carbon	10
5)	Davis	[~~25~~]20
6)	Duchesne	10
7)	Garfield	10
8)	Grand	10
9)	Iron	10
10)	Juab	[~~20~~]10
11)	Kane	10
12)	Millard	[~~30~~]15
13)	Morgan	[~~30~~]20
14)	Rich	15
15)	Salt Lake	10
16)	San Juan	[~~5~~]15
17)	Sanpete	10
18)	Summit	10
19)	Tooele	10
20)	Uintah	[~~5~~]10
21)	Utah	[~~5~~]10
22)	Washington	10
23)	Weber	[~~25~~]15

5. Grazing land shall be classified as one of the following four categories and shall be assessed on a per acre basis as follows:

TABLE 9
Grazing Land

a)	Graze I	
1)	All Counties	[~~55~~]60
b)	Graze II	
2)	All Counties	[~~15~~]17
c)	Graze III	
3)	All Counties	[~~10~~]11
d)	Graze IV	
4)	All Counties	5

6. Land classified as nonproductive shall be assessed as follows on a per acre basis:

TABLE 10
Nonproductive Land

a) Nonproductive Land
1) All Counties 5

KEY: taxation, personal property, property tax, appraisals
2002
59-2-201

End of the Notices of Proposed Rules Section

NOTICES OF
CHANGES IN PROPOSED RULES

After an agency has published a PROPOSED RULE in the *Utah State Bulletin*, it may receive public comment that requires the PROPOSED RULE to be altered before it goes into effect. A CHANGE IN PROPOSED RULE allows an agency to respond to comments it receives.

As with a PROPOSED RULE, a CHANGE IN PROPOSED RULE is preceded by a RULE ANALYSIS. This analysis provides summary information about the CHANGE IN PROPOSED RULE including the name of a contact person, anticipated cost impact of the rule, and legal cross-references.

Following the RULE ANALYSIS, the text of the CHANGE IN PROPOSED RULE is usually printed. The text shows only those changes made since the PROPOSED RULE was published in an earlier edition of the *Utah State Bulletin*. Additions made to the rule appear underlined (e.g., example). Deletions made to the rule appear struck out with brackets surrounding them (e.g., [~~example~~]). A row of dots in the text (. . . . .) indicates that unaffected text was removed to conserve space. If a CHANGE IN PROPOSED RULE is too long to print, the Division of Administrative Rules will include only the RULE ANALYSIS. A copy of rules that are too long to print is available from the agency or from the Division of Administrative Rules.

While a CHANGE IN PROPOSED RULE does not have a formal comment period, there is a 30-day waiting period during which interested parties may submit comments. The 30-day waiting period for CHANGES IN PROPOSED RULES published in this issue of the *Utah State Bulletin* ends December 2, 2002. At its option, the agency may hold public hearings.

From the end of the waiting period through March 1, 2003, 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.

Insurance, Administration
R590-76
Health Maintenance Organizations and Limited Health Plans

NOTICE OF CHANGE IN PROPOSED RULE
DAR File No.: 25131
Filed: 10/15/2002, 13:39

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Further changes are being made to this rule as a result of comments received during the comment period and hearing.

SUMMARY OF THE RULE OR CHANGE: The following changes are being made to this rule: 1) in Section R590-76-4, removes definitions already in the code, and adds clarification to the rule regarding coinsurance; 2) in Subsection R590-76-7(2)(d), clarifies that infertility services only require coverage for diagnosis; 3) in Subsections R590-76-5(6) and R590-76-7(3), clarifies out of area coverage, and in Subsection R590-76-7(1)(b) clarifies the primary care physician requirements; 4) in Subsection R590-76-7(3), removes the proposed requirement to transport patients that are out of area; 5) in Subsection R590-76-5(13), removes the proposed continuation of benefits provision; and 6) in Subsection R590-76-9(1)(c), provides the date when a company's quality report is due. (DAR NOTE: This change in proposed rule has been filed to make additional changes to a proposed repeal and reenact that was published in the August 15, 2002, issue of the Utah State Bulletin, on page 16. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the change in proposed rule and the proposed amendment together to understand all of the changes that will be enforceable should the agency make this rule effective.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 31A-2-201

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: There will be no changes to the state budget in the way of savings or additional costs. Since there is no additional or reduced work load, no additional people will need to be let off or hired as a result.
❖ LOCAL GOVERNMENTS: The rule changes will not affect local government since the rule applies only to licensees of the department.
❖ OTHER PERSONS: The changes being made to this rule are mainly for clarification purposes and to bring the rule into compliance with the law. Insurers are already in compliance with the changes being made to this rule and as a result there will be no fiscal impact to them or their customers.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The changes being made to this rule are mainly for clarification purposes and to bring the rule into compliance with the law. Insurers are already in compliance with the changes being made to this rule and as a result there will be no fiscal impact to them or their customers.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule will have no fiscal impact on insurers or other businesses in Utah.

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@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 12/02/2002

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:
11/18/2002 at 9:00 AM, State Office Building (just behind the Capitol), Room 1112, Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 12/03/2002

AUTHORIZED BY: Jilene Whitby, Information Specialist

R590. Insurance, Administration.
R590-76. Health Maintenance Organizations and Limited Health Plans.
R590-76-1. Authority.

This rule is issued pursuant to the authority set forth in Title 31A, Chapter 8, Health Maintenance Organizations (HMOs) and Limited Health Plans.

R590-76-2. Purpose.

The purpose of this rule is to implement Chapter 8 of Title 31A to assure the availability, accessibility and quality of services provided by HMOs and to provide reasonable standards for terms and provisions contained in HMO group and individual contracts and evidences of coverage.

R590-76-3. Applicability and Scope.

This rule applies to all organizations defined in 31A-8-101[~~that are required to obtain a certificate of authority in this state~~](8). In the event of conflict between the provisions of this regulation and the provisions of any other regulation issued by the commissioner, the provisions of this regulation shall be controlling. This rule also applies to all HMO contracts covering individuals and groups issued or renewed and effective on or after January 1, 2003.

R590-76-4. HMO Definitions.

A group or individual contract and evidence of coverage delivered or issued for delivery to any person in this state by an HMO required to obtain a certificate of authority in this state shall contain definitions respecting the matters set forth below. The definitions shall comply with the requirements of this section. Definitions other than those set forth in this regulation may be used as appropriate providing that they do not contradict these requirements. [~~All definitions used in the group or individual contract and evidence of coverage shall be in alphabetical order.~~] As used in this regulation and as used in the group or individual contract and evidence of coverage:

[~~(1) "Basic health care services" means the following medically necessary services: preventive care, emergency care, inpatient and outpatient hospital and physician care, diagnostic laboratory and diagnostic and therapeutic radiological services. It does not include mental health services or services for alcohol or drug abuse, dental or vision services or long-term rehabilitation treatment.~~]

([~~2~~]1) "Copayment" means, other than coinsurance, the amount an enrollee must pay in order to receive a specific service that is not fully prepaid.

([~~3~~]2) "Deductible" means the amount an enrollee is responsible to pay out-of-pocket before the HMO begins to pay the costs or provide the services associated with treatment.

([~~4~~]3) "Directors" [~~means~~] mean the executive director of [~~the Utah~~]Department of Health[~~ (UDOH)~~] or his authorized representative, and the director of the Health Division of the Utah Insurance Department.

([~~5~~]4) "Eligible dependent" means any member of an enrollee's family who meets the eligibility requirements set forth in the contract.

([~~6~~]5) "Emergency care services" means services for an emergency medical condition as defined in 31A-22-627(3).

(a) Within the service area, emergency care services shall include covered health care services from non-affiliated providers only when delay in receiving care from the HMO could reasonably be expected to cause severe jeopardy to the enrollee's condition.

(b) Outside the service area, [~~emergence~~]emergency care services include medically necessary health care services that are immediately required because of unforeseen illness or injury while the enrollee is outside the geographical limits of the HMO's service area.

[~~(7) "Enrollee" means an individual who is covered by an HMO.~~]

([~~8~~]6) "Evidence of coverage" means a certificate or a statement of the essential features and services of the HMO coverage that is given to the subscriber by the HMO or by the group contract holder.

[~~(9) "Extension of benefits" means the continuation of coverage of a particular benefit provided under a group or individual contract following termination with respect to an enrollee who is totally disabled on the date of termination.~~](7) "Facility" means an institution providing health care services or a health care setting, including but not limited to hospitals and other licensed inpatient centers, ambulatory surgical or treatment centers, skilled nursing centers, residential treatment centers, diagnostic, laboratory and imaging centers, and rehabilitation and other therapeutic health settings which operate within their specific licensures requirements.

([~~10~~]8) "Grievance" means a written complaint submitted in accordance with the HMO's formal grievance procedure by or on behalf of the enrollee regarding any aspect of the HMO relative to the enrollee.

([~~11~~]9) "Group contract" means a contract for health care services by which its terms limit eligibility to enrollees of a specified group.

([~~12~~]10) "Group contract holder" means the person to which a group contract has been issued.

[~~(13) "Health maintenance organization" or "HMO" means a person that undertakes to provide or arrange for the delivery of basic health care services to enrollees on a prepaid basis, except for enrollee responsibility for copayments and deductibles.~~

~~(14) "Hospital" means a duly licensed facility and that operates within the scope of its license. The term "hospital" shall not include a convalescent facility, nursing home, or an institution or part of an institution that is used principally as a convalescent facility, rest facility, nursing facility or facility for the aged.~~]

([~~15~~]11) "Individual contract" means a contract for health care services issued to and covering an individual. The individual contract may include coverage for dependents of the subscriber.

([~~16~~]12) "Medical necessity" or "medically necessary" [~~has the same meaning as Rule R590-203.~~]means:

([~~17~~]a) [~~"Non-basic health~~]Health care services[~~" means~~] or products that a prudent health care [~~services~~]professional would provide to a patient for the purpose of preventing, [~~other than basic health care services~~]diagnosing or treating an illness, [~~that may be provided~~]injury, disease or its symptoms in [~~the absence of basic health care services.~~]a manner that is:

(i) in accordance with generally accepted standards of medical practice in the United States;

(ii) clinically appropriate in terms of type, frequency, extent, site, and duration;

([~~18~~])iii) not primarily for the convenience of the patient, physician, or other health care provider; and

(iv) covered under the contract; and

(b) when a medical question-of-fact exists medical necessity shall include the most appropriate available supply or level of service for the individual in question, considering potential benefits and harms to the individual, and known to be effective.

(i) For interventions not yet in widespread use, the effectiveness shall be based on scientific evidence.

(ii) For established interventions, the effectiveness shall be based on:

(a) scientific evidence;

(b) professional standards; and

(c) expert opinion.

(13) "Out-of-area services" means[~~ the health care~~] the health care services that an HMO covers when its enrollees are outside of the service area.

[~~(19) "Participating provider" means a provider as defined in Subsection R590-76-5(22), who, under an express or implied contract with the HMO or with its contractor or subcontractor, has agreed to provide health care services to enrollees with an expectation of receiving payment, other than copayment or deductible, directly or indirectly from the HMO.~~]

([~~20~~]14) "Physician" means a duly licensed doctor of medicine or osteopathy practicing within the scope of the license.

([~~21~~]15) "Primary care physician" means a physician who supervises, coordinates, and provides initial and basic care to enrollees, and who initiates their referral for specialist care and maintains continuity of patient care.

[~~(22) "Provider" means a physician, hospital or other person licensed or otherwise authorized to furnish health care services.~~]

([~~23~~]16) "Replacement coverage" means the benefits provided by a succeeding carrier.

(17) "Scientific evidence" means:

(a) scientific studies published in or accepted for publication by medical journals that meet nationally recognized requirements for scientific manuscripts and that submit most of their published articles for review by experts who are not part of the editorial staff; or

(b) findings, studies or research conducted by or under the auspices of federal government agencies and nationally recognized federal research institutes.

(c) Scientific evidence shall not include published peer-reviewed literature sponsored to a significant extent by a pharmaceutical manufacturing company or medical device manufacturer or a single study without other supportable studies.

([~~24~~]18) "Service area" means the geographical area within a 40[~~-~~]-mile radius of the HMO's health care facility nearest where the insured lives, resides or works.

[~~(25) "Skilled nursing facility" means a facility that is licensed and operating within the scope of its license.~~]

([~~26~~]19) "Subscriber" means an individual whose employment or other status, except family dependency, is the basis for eligibility for enrollment in the HMO, or in the case of an individual contract, the person in whose name the contract is issued.

[~~(27) "Supplemental health care services" means any health care services that are provided in addition to basic health care services.~~]

R590-76-5. Requirements for HMO Contracts and Evidence of Coverage.

(1)(a) Individual contracts. Each subscriber shall be entitled to receive an individual contract and evidence of coverage in a form that has been filed with the commissioner.

(b) Group contracts. Each group contract holder shall be entitled to receive a group contract that has been filed with the commissioner.

(c) Group contracts, individual contracts and evidences of coverage shall be delivered or issued for delivery to subscribers or group contract holders within a reasonable time after enrollment, but not more than [~~15~~]30 days from the later of the effective date of coverage or the date on which the HMO is notified of enrollment.

(2) [~~Health Maintenance Organization Information~~]HMO information. The group or individual contract and evidence of coverage shall contain the name, address and telephone number of the HMO, and where and in what manner information is available as to how services may be obtained. A telephone number within the service area for calls, without charge to members, to the HMO's administrative office shall be made available and disseminated to enrollees to adequately provide telephone access for enrollee services, problems or questions. [~~An HMO shall provide a method by which the enrollee may contact the HMO, at no cost to the enrollee. This may be done through the use of toll-free or collect telephone calls, etc. The enrollee shall be informed of the method by notice in the handbook, newsletter or flyer.~~]The group or individual contract and evidence of coverage may indicate the manner in which the number will be disseminated rather than list the number itself.

(3) Eligibility [~~Requirements~~]requirements. The group or individual contract and evidence of coverage shall contain eligibility requirements indicating the conditions that shall be met to enroll. [~~It~~]The forms shall include a clear statement regarding coverage of dependents and newborn children.

(4) Benefits and [~~Services~~]services within the [~~Service~~]service [~~Area~~]area. The group or individual contract and evidence of coverage shall contain a specific description of benefits and services available within the service area.

(5) Emergency [~~Care Benefits~~]care benefits and [~~Services~~]services. The group or individual contract and evidence of coverage shall contain a specific description of benefits and services available for emergencies 24 hours a day, 7 days a week, including disclosure of any restrictions on emergency care services. No group or individual contract and evidence of coverage shall limit the coverage of emergency services within the service area to affiliated providers only.

(6) Out[~~-of Area Benefits and Services. The~~]-of-area benefits and services. Other than emergency care, if benefits and services are covered outside the service area, a group or individual contract and evidence of coverage shall contain a specific description of [~~benefits and services available out of the service area~~]that coverage.

(7) Copayments, coinsurance, and [~~Deductibles~~]deductibles. The group or individual contract and evidence of coverage shall contain a description of any copayments, coinsurance, or deductibles that must be paid by enrollees.

(8) Limitations and [~~Exclusions~~]exclusions. The group or individual contract and evidence of coverage shall contain a description of any limitations or exclusions on the services or benefits, including any limitations or exclusions due to preexisting conditions or waiting periods.

[~~(9) Enrollee Termination.~~

~~(a) An HMO shall not cancel or terminate coverage of services provided an enrollee under an HMO group or individual contract except for one or more of the following reasons:~~

~~(i) failure to pay the amounts due under the group or individual contract;~~

~~(ii) fraud or material misrepresentation in enrollment or in the use of services or facilities;~~

~~(iii) failure to meet the eligibility requirements under a group contract; or~~

~~(iv) termination of the group contract under which the enrollee was covered.~~

~~(b) An HMO shall not cancel or terminate an enrollee's coverage for services provided under an HMO group or individual contract without giving the enrollee at least 15 days written notice of termination. Notice will be considered given on the date of mailing or, if not mailed, on the date of delivery. This notice shall include the reason for termination. If termination is due to nonpayment of premium, the grace period shall apply. Advance notice of termination shall not be required for termination due to non-payment of premium.~~

~~(10) Enrollee Reinstatement. If an HMO permits reinstatement of an enrollee's coverage, the group or individual contract and evidence of coverage shall include any terms and conditions concerning reinstatement. The contract and evidence of coverage may state that all reinstatements are at the option of the HMO and that the HMO is not obligated to reinstate any terminated coverage.~~]

([~~11~~]9) Claims [~~Procedures~~]procedures. The group or individual contract and evidence of coverage shall contain procedures for filing claims that include:

(a) any required notice to the HMO;

(b) any required claim forms, including how, when and where to obtain them;

(c) any requirements for filing proper proofs of loss;

(d) any time limit of payment of claims;

(e) notice of any provisions for resolving disputed claims, including arbitration; and

(f) a statement of restrictions, if any, on assignment of sums payable to the enrollee by the HMO.

([~~12~~]10) Enrollee [~~Grievance~~]grievance [~~Procedures~~]procedures and [~~Arbitration~~]arbitration. In compliance with [~~Section~~]R590-76-[~~9.~~]8(4), the group or individual contract and evidence of coverage shall contain a description of the HMO's method for resolving enrollee grievances, including procedures to be followed by the enrollee in the event any dispute arises under the contract, including any provisions for arbitration.

[~~(13) Continuation of Coverage. A group contract and evidence of coverage shall contain a provision that an enrollee, who is an inpatient in a hospital or a skilled nursing facility on the date of discontinuance of the group contract, shall be covered in accordance with the terms of the group contract until discharged from the hospital or skilled nursing facility. The enrollee may be charged the appropriate premium for coverage that was in effect prior to discontinuance of the group contract.~~]

([~~14~~]11) Extension and [~~Conversion~~]conversion of [~~Coverage~~]coverage. [~~The~~]A group contract,[~~certificate~~] and evidence of coverage shall contain a conversion provision which provides each enrollee the right to [~~convert~~]a conversion policy and/or extend coverage to a contract as set forth in Chapter 22 of Title 31A, Part VII.

[~~(15) Extension of Benefits for Total Disability.~~

~~(a) Each group contract issued by an HMO shall contain a reasonable extension of benefits upon discontinuance of the group contract with respect to enrollees who become totally disabled while enrolled under the contract and who continue to be totally disabled at the date of discontinuance of the contract.~~

~~(b) Upon payment of premium at the current group rate, coverage shall remain in full force and effect until the first of the following to occur:~~

~~(i) the end of a period of 180 days starting with the date of termination of the group contract;~~

~~(ii) the date the enrollee is no longer totally disabled; or~~

~~(iii) the date a succeeding carrier provides replacement coverage to that enrollee without limitation as to the disabling condition.~~

~~(c) Upon termination of the extension of benefits, the enrollee shall have the right to convert coverage.~~]

([~~16~~]12) Coordination of [~~Benefits~~]benefits. The group or individual contract and evidence of coverage may contain a provision for coordination of benefits that shall be consistent with that applicable to other carriers in the jurisdiction. Any provisions or rules for coordination of benefits established by an HMO shall not relieve an HMO of its duty to provide or arrange for a covered health care service to an enrollee because the enrollee is entitled to coverage under any other contract, policy or plan, including coverage provided under government programs.[~~The HMO shall be required to provide covered health care services first and then, at its option, seek coordination of benefits.~~]

([~~17~~]13) Description of the [~~Service~~]service [~~Area~~]area. The group or individual contract and evidence of coverage shall contain a description of the service area.

([~~18~~]14) Entire [~~Contract~~]contract [~~Provision~~]provision. The group or individual contract shall contain a statement that the contract, all applications and any amendments thereto shall constitute the entire agreement between the parties. No portion of the charter, bylaws or other document of the HMO shall be part of the contract unless set forth in full in the contract or attached to it. However, the evidence of coverage may be attached to and made a part of the group contract.

([~~19~~]15) Term of [~~Coverage~~]coverage. The group or individual contract and evidence of coverage shall contain the time and date or occurrence upon which coverage takes effect, including any applicable waiting periods, or describe how the time and date or occurrence upon which coverage takes effect is determined. The contract and evidence of coverage shall also contain the time and date or occurrence upon which coverage will terminate.

([~~20~~]16) Cancellation or [~~Termination~~]termination. The group or individual contract and evidence of coverage shall contain the conditions upon which cancellation or termination may be effected by the HMO, the group contract holder or the subscriber.

([~~21~~]17) Renewal. The group or individual contract and evidence of coverage shall contain the conditions for, and any restrictions upon, the subscriber's right to renewal.

([~~22~~]18) Reinstatement of [~~Group~~]group or [~~Individual Contract Holder~~]individual contract holder. If an HMO permits reinstatement of a group or individual, the contract and evidence of coverage shall include any terms and conditions concerning reinstatement. The contract and evidence of coverage may state that all reinstatements are at the option of the HMO and that the HMO is not obligated to reinstate any terminated contract.

[~~(23) Grace Period.~~

~~(a) The group or individual contract shall provide for a grace period of not less than 30 days for the payment of any premium except the first, during which time the coverage shall remain in effect if payment is made during the grace period. The evidence of coverage shall include notice that a grace period exists under the group contract and that coverage continues in force during the grace period.~~

~~(b) During the grace period:~~

~~(i) the HMO shall remain liable for providing the services and benefits contracted for;~~

~~(ii) the contract holder shall remain liable for the payment of premium for coverage during the grace period; and~~

~~(iii) the subscriber shall remain liable for any copayments and deductibles.~~

~~(c) If the premium is not paid during the grace period, coverage is automatically terminated at the end of the grace period. Following the effective date of termination, the HMO shall deliver written notice of the termination to the contract holder.~~]

([~~24~~]19) Conformity with State Law. A group or individual contract and evidence of coverage delivered or issued for delivery in this state shall include a provision that states that any provision not in conformity with Chapter 8 of Title 31A, this regulation or any other applicable law or regulation in this state shall not be rendered invalid but shall be construed and applied as if it were in full compliance with the applicable laws and regulations of this state.

[~~(25) Right to Examine Contract. An individual contract shall contain a provision stating that a person who has entered into an individual contract with an HMO shall be permitted to return the contract within 10 days of receiving it and to receive a refund of the premium paid if the person is not satisfied with the contract for any reason. If the contract is returned to the HMO or to the agent~~

~~through whom it was purchased, it is considered void from the beginning. However, if services are rendered or claims are paid for the person by the HMO during the ten-day examination period and the person returns the contract to receive a refund of the premium paid, the person shall be required to pay for these services.~~]

(20) Definitions. All definitions used in the group or individual contract and evidence of coverage shall be in alphabetical order.

R590-76-6. Unfair Discrimination.

An HMO shall not unfairly discriminate against an enrollee or applicant for enrollment on the basis of the age, sex, race, color, creed, national origin, ancestry, religion, marital status or lawful occupation of an enrollee, or because of the frequency of utilization of services by an enrollee. [~~However, nothing shall prohibit an HMO from setting rates or establishing a schedule of charges in accordance with relevant actuarial data.~~]An HMO shall not expel or refuse to re-enroll any enrollee nor refuse to enroll individual members of a group on the basis of an individual's or enrollee's health status or health care needs, except for a policy which contains a lifetime policy maximum and such maximum has been reached. However, nothing shall prohibit an HMO from setting rates, establishing a schedule of charges in accordance with actuarially sound and appropriate data, or appropriately applying policy provisions in compliance with the Utah Insurance Code.

R590-76-7. HMO Services.

(1) Access to Care.

(a) An HMO shall establish and maintain adequate arrangements to provide health services for its enrollees, including:

(i) reasonable proximity to the business or personal residences of the enrollees so as not to result in unreasonable barriers to accessibility;

(ii) reasonable hours of operation and after-hours services;

(iii) emergency care services available and accessible within the service area 24 hours a day, 7 days a week; and

(iv) sufficient providers, personnel, administrators and support staff to assure that all services contracted for will be accessible to enrollees on an appropriate basis without delays detrimental to the health of enrollees.

(b) [~~An~~]If a primary care physician is required in order to obtain covered services, an HMO shall make available to each enrollee a primary care physician and provide accessibility to medically necessary specialists through staffing, contracting or referral[~~. An HMO shall provide for continuity of care for enrollees referred to specialists~~].

(c) An HMO shall have written procedures governing the availability of services utilized by enrollees, including at least the following:

(i) well-patient examinations and immunizations;

[~~(ii) emergency telephone consultation on a 24 hours per day, 7 days per week basis;~~](ii) treatment of emergencies;

(iii) treatment of [~~emergencies;~~]minor illness; and

(iv) treatment of [~~minor illness; and~~

~~(v) treatment of~~]chronic illnesses.

(2) Basic [~~Health Care Services~~]health care services. An HMO shall provide, or arrange for the provision of, as a minimum, basic health care services, which shall include the following:

(a) emergency care services;

(b) inpatient hospital services, meaning medically necessary hospital services including:

(i) room and board;

(ii) general nursing care;

(iii) special diets when medically necessary;

(iv) use of operating room and related facilities;

(v) use of intensive care units and services;

(vi) x-ray, laboratory and other diagnostic tests;

(vii) drugs, medications, biologicals;

(viii) anesthesia and oxygen services;

(ix) special nursing when medically necessary;

(x) physical therapy, radiation therapy and inhalation therapy;

(xi) administration of whole blood and blood plasma; and

(xii) short-term rehabilitation services;

(c) inpatient physician care services, meaning medically necessary health care services performed, prescribed, or supervised by physicians or other providers including diagnostic, therapeutic, medical, surgical, preventive, referral and consultative health care services;

(d) Outpatient medical services, meaning preventive and medically necessary health care services provided in a physician's office, a non-hospital-based health care facility or at a hospital. Outpatient medical services shall include:

(i) diagnostic services;

(ii) treatment services;

(iii) laboratory services;

(iv) x-ray services;

(v) referral services;

(vi) physical therapy, radiation therapy and inhalation therapy; and

(vii) preventive health services, which shall include at least a [~~broad~~]range of [~~voluntary family planning services,~~]services for the diagnosis of infertility, well-child care from birth, periodic health evaluations for adults, screening to determine the need for vision and hearing correction, and pediatric and adult immunizations in accordance with accepted medical practice;

(e) Coverage of inborn metabolic errors as required by 31A-22-623 and Rule R590-194, Coverage of Dietary Products for Inborn Errors of Amino Acid or Urea Cycle Metabolism, and benefits for diabetes as required by 31A-22-626 and Rule R590-200, Diabetes Treatment and Management.

[~~(3) Out-of-Area Services and Benefits.~~]

([~~a) Out~~]3) Out-of-area benefits and services. Other than emergency care, if the contract provides out-of-area services, they shall be subject to the same copayment, coinsurance, and deductible requirements set forth in [~~Subsection~~]R590-76-5(7).

[~~(b) When an enrollee is traveling or temporarily residing out of an HMO's service area, an HMO shall provide benefits for reimbursement for emergency care services and transportation that is medically necessary and appropriate under the circumstances to return the enrollee to an HMO provider, subject to the following conditions:~~

~~(i) the condition could not reasonably have been foreseen;~~

~~(ii) the enrollee could not reasonably arrange to return to the service area to receive treatment from the HMO's provider;~~

~~(iii) the travel or temporary residence must be for some purpose other than the receipt of medical treatments; and~~

~~(iv) the HMO is notified by telephone within 24 hours of the commencement of such care unless it is shown that it was not reasonably possible to communicate with the HMO in those time limits.~~

~~(c) Services received by a enrollee outside of the HMO's service area will be covered only so long as it is unreasonable to return the enrollee to the service area.~~

~~(4) Supplemental Health Care Services. In addition to the basic health care services required to be provided in Subsection R590-76-7(2), an HMO may offer to its enrollees any supplemental health care services it chooses to provide. Limitations as to time and cost may vary from those applicable to basic health care services.~~]

R590-76-8. Other HMO Requirements.

[~~(1) Description of Providers.~~]

(1) Provider lists.

(a) An HMO shall provide its subscribers with a list of the names and locations of all of its providers no later than the time of enrollment or the time the group or individual contract and evidence of coverage are issued and upon reenrollment.

(b) If a provider is no longer affiliated with an HMO, the HMO shall [~~provide notice of the change to its affected subscribers~~]within 30 days[~~.~~] of the provider termination date:

(i) notify enrollees who are receiving ongoing care; and

(ii) update any applicable web site provider lists.

(c) Subject to the approval of the commissioner, an HMO may provide its subscribers with a list of providers or provider groups for a segment of the service area. However, a list of all providers shall be made available to subscribers upon request.

([~~b) A list of providers~~]d) Provider lists shall contain a notice regarding the availability of the listed primary care physicians. The notice shall be in not less than [~~twelve~~]12-point type and be placed in a prominent place on the list of providers. The notice shall contain the following or similar language:

"Enrolling in (name of HMO) does not guarantee services by a particular provider on this list. If you wish to receive care from specific providers listed, you should contact those providers to be sure that they are accepting additional patients for (name of HMO)."

(2) Description of the [~~Services Area~~]services area. An HMO shall provide its subscribers with a description of its service area no later than the time of enrollment or the time the group or individual contract and evidence of coverage is issued and upon request thereafter. If the description of the service area is changed, the HMO shall provide at such time a new description of the service area to its affected subscribers within 30 days.

(3) Copayments, coinsurance, and [~~Deductibles~~]deductibles. An HMO may require copayments, coinsurance, or deductibles of enrollees as a condition for the receipt of [~~specific~~]health care services. Copayments[~~for basic health care services shall be shown in the group or individual contract and evidence of coverage as a specified dollar amount. Copayments~~], coinsurance, and deductibles shall be the only allowable charge, other than premiums, [~~assessed~~]insurers may assess to subscribers[~~for basic, supplemental and non-basic health care services~~].

(4) Grievance [~~Procedure~~]procedure. A grievance procedure in compliance with 31A-22-629 and Rule R590-203, Health Care Benefit Plans-Grievance and Voluntary Independent Review Procedures Rule, shall be established and maintained by an HMO to provide reasonable procedures for the prompt and effective resolution of written grievances.

(5) Provider [~~Contracts~~]contracts. All provider contracts must be on file and available for review by the commissioner and the director of the UDOH.

R590-76-9. Quality Assurance.

(1) Quality assurance plan.

(a) Each HMO shall develop a quality assurance plan[~~that is subject to the approval of the directors~~]. The plan shall be designed to objectively and systematically monitor and evaluate the quality and appropriateness of patient care, pursue opportunities to improve patient care, and resolve identified problems.[~~The directors shall use the following approval criteria to assess the quality assurance plan.~~

~~(1) Qualifications of Personnel.~~

~~Health care services specified in the contract and certificate may be delivered through providers who have signed contracts with the HMO as outlined in R590-76-8(5) of this rule.~~]

([~~2~~]b) Certification of [~~Quality Assurance Plan~~]quality assurance plan.[

~~(a)~~] Each HMO shall arrange and pay for a review and certification of its quality assurance plan no later than 18 months from the effective date of this rule and at least every three years thereafter. Each new HMO shall arrange and pay for a review and certification of its quality assurance plan no later than 18 months after receiving a Certificate of Authority and commencing operation, and every three years thereafter.

([~~b~~]i) The review shall be conducted by a professionally recognized expert or entity in the area of quality assurance programs for HMOs, such as NCQA or JACHO. Reviews conducted for the federal government shall satisfy the requirements of this subsection if the requirements of subsections ([~~b~~]i), ([~~c~~]ii), and ([~~d~~]iii) are met.

([~~c~~]ii) Each HMO shall arrange for the directors to receive a copy of the review findings, recommendations, and certification, or notice of non-approval, of the quality assurance plan. This material shall be sent directly from the certifying entity to the directors. Certification status and review materials will be [~~treated confidentially~~]maintained as a protected record by the directors.

([~~d~~]iii) Each HMO shall[~~be prepared to~~] implement [~~the substantive~~]clinical and procedural [~~recommendations~~]requirements made by the certifying entity [~~within reasonable time~~]after the findings are received by the HMO[~~and the directors~~].

(c) Each year on or before July 1, an HMO shall file to the directors a written report of the effectiveness of its internal quality control. The report must include a copy of the HMO's quality assurance plan.

(2) Quality assurance audits. The commissioner may audit an HMO's quality control system. Such audit shall be performed by qualified persons designated by the commissioner.

([~~c~~]a) The HMO shall comply with reasonable requests for information required for the [~~external review, including, if available on site at the HMO, an original or copy of patient medical records which would be reviewed only by the directors or external review agency,~~]audit and[~~information~~] necessary to:

(i) measure health care outcomes according to established medical standards;

(ii) evaluate the process of providing or arranging for the provision of patient care;

(iii) evaluate the system the HMO uses to conduct concurrent reviews and preauthorized medical care;

(iv) evaluate the system the HMO uses to conduct retrospective reviews of medical care; and

(v) evaluate the accessibility and availability of medical care provided or arranged for by the HMO.

(b) Information furnished shall only be used in accordance with 31A-8-404.

(3) Internal [~~Peer Review.~~]peer review. The HMO shall show written evidence of continuing internal peer reviews of medical care given. The program must provide for review by physicians and other health professionals; have direct accountability to senior

management; and have resources specifically budgeted for quality assessment, monitoring, and remediation.

R590-76-10. Reporting Requirements and Fee Payments.

Section 31A-3-103 and 31A-4-113 apply to organizations. Both types of entities shall submit their annual reports on the National Association of Insurance Commissioner's (NAIC) blanks that have been adopted for HMOs. In addition, all HMOs shall submit the information asked for in the annual statistical report required by the UDOH. The annual statement blank will be filed with the Insurance Department and the UDOH by March 1 each year.

R590-76-11. Financial Condition.

(1) Qualified [~~Assets~~]assets. In determining the financial condition of any organization, only the following assets may be used:

(a) assets as determined to be admitted in the Accounting Practices and Procedures Manual published by the NAIC; and

(b) other assets, not inconsistent with the foregoing provisions, deemed by the commissioner available for the provision of health care, at values determined by him/her.

(2) Investments. Investments of organizations shall be consistent with Title 31A, Chapter 18.

(3) Liability [~~Insurance~~]insurance. Evidence of adequate [~~insurance or a plan for~~]general liability and professional liability insurance, or a plan for self-insurance approved by the commissioner, must be maintained by the organization. [~~All~~]Organizations may only contract with providers of health services [~~to the organization, contracted or on staff, must be covered by~~]that have liability insurance.

R590-76-12. Enforcement Date.

Effective January 1, 2003, the department will enforce this rule.

R590-76-13. 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 end the provisions of this rule are declared to be severable.

KEY: HMO insurance
2002
Notice of Continuation October 13, 1999
31A-2-201

End of the Notices of Changes in Proposed Rules Section

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the responsible agency is required to review the rule. This review is designed to remove obsolete rules from the *Utah Administrative Code*.

Upon reviewing a rule, an agency may: repeal the rule by filing a PROPOSED RULE; continue the rule as it is by filing a NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (NOTICE); or amend the rule by filing a PROPOSED RULE and by filing a NOTICE. By filing a NOTICE, the agency indicates that the rule is still necessary.

NOTICES are not followed by the rule text. The rule text that is being continued may be found in the most recent edition of the *Utah Administrative Code*. The rule text may also be inspected at the agency or the Division of Administrative Rules. NOTICES are effective when filed. NOTICES are governed by *Utah Code* Section 63-46a-9 (1998).

Community and Economic Development, Community Development, History
R212-1
Adjudicative Proceedings

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 25463
FILED: 10/08/2002, 10:45

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule was enacted in compliance with the Utah Administrative Procedures Act, Section 63-46b-1 et seq. and applies only to actions which are governed by the Act.

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: This rule provides procedures for any person aggrieved by a decision by the Board of State History for the submission, review, and disposition of petitions for agency declaratory orders on the applicability of statutes, rules, and orders governing or issued by the agency and should be continued.

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

COMMUNITY AND ECONOMIC DEVELOPMENT
COMMUNITY DEVELOPMENT, HISTORY
300 RIO GRANDE
SALT LAKE CITY UT 84101-1182, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Alycia Aldrich at the above address, by phone at 801-533-3556, by FAX at 801-533-3503, or by Internet E-mail at AALDRICH@utah.gov

AUTHORIZED BY: Wilson Martin, Acting Director

EFFECTIVE: 10/08/2002

Environmental Quality, Water Quality
R317-1
Definitions and General Requirements

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 25454
FILED: 10/07/2002, 12:42

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: Subsection 19-5-104(1)(a) authorizes the Utah Water Quality Board to develop programs for the prevention, control, and abatement of new or existing pollution of the waters of the state. Subsection 19-5-104(1)(f) authorizes the Board to make rules which implement or effectuate the powers and duties of the Board.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Since the rule was enacted, it has been amended several times. The limited comments which have been received on the rule have been of a technical and noncontroversial nature. Comments received during hearings and public comment periods for rule changes have been addressed through preparation of Responsiveness Summaries by Division of Water Quality staff and have been presented to the Water Quality Board for their consideration during the rulemaking process.

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 definitions and general requirements for implementation of the Utah Water Quality Act. It is central to the implementation of the Act, in that it provides the general framework for control of water pollution, including the requirements for construction permits, compliance with state Water Quality Standards, and requirements for waste discharges and should be continued.

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@utah.gov

AUTHORIZED BY: Don Ostler, Director

EFFECTIVE: 10/07/2002

Environmental Quality, Water Quality
R317-2
Standards of Quality for Waters of the State

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 25455
FILED: 10/07/2002, 12:42

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: Subsection 19-5-104(1)(e) authorizes the Utah Water Quality Board to adopt, modify, or repeal standards of quality of the waters of the state and classify those waters according to their reasonable uses. Subsection 19-5-104(1)(f) authorizes the Board to make rules which implement or effectuate the powers and duties of the Board.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Since the rule was enacted, it has been amended several times. The limited comments which have been received on the rule have generally been of a technical and noncontroversial nature. Comments received during hearings and public comment periods for rule changes have been addressed through preparation of responsiveness summaries by Division of Water Quality Staff and have been presented to the Water Quality Board for their consideration during the rulemaking process.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule classifies waters of the state according to their beneficial uses and sets numerical standards of quality for those waters. The existence of the rule is central to implementation of water quality protection programs under the Utah Water Quality Act and should be continued.

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@utah.gov

AUTHORIZED BY: Don Ostler, Director

EFFECTIVE: 10/07/2002

Environmental Quality, Water Quality
R317-3
Design Requirements for Wastewater Collection, Treatment and Disposal Systems

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 25456
FILED: 10/07/2002, 12:43

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 19-5-104(1)(h) authorizes the Water Quality Board to review plans, specifications, or other data relative to wastewater disposal systems or any part of disposal systems, and issue construction permits for the installation or modification of treatment works or any parts of them. Subsection 19-5-104(1)(f) authorizes the Board to make rules which implement or effectuate the powers and duties of the Board.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Since the rule was enacted, it has been amended several times. The limited comments which have been received on the rule have generally been of a technical and noncontroversial nature. Comments received during hearings and public comment periods for rule changes have been addressed through preparation of responsiveness summaries by Division of Water Quality Staff and have been presented to the Water Quality Board for their consideration during the rulemaking process. During the last major revision to the rule, a technical review committee consisting of the regulated community and other interested and affected parties was formed to provide input to the Division of Water Quality and the Board.

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 design requirements for construction of wastewater collection, treatment and disposal systems. The Water Quality Board is charged with review and approval of these systems. The rule is required to meet this charge and should be continued.

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@utah.gov

AUTHORIZED BY: Don Ostler, Director

EFFECTIVE: 10/07/2002

Environmental Quality, Water Quality
R317-5
Large Underground Wastewater Disposal Systems

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 25457
FILED: 10/07/2002, 12:44

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: Subsection 19-5-104(1)(h) authorizes the Water Quality Board to review plans, specifications, or other data relative to wastewater disposal systems or any part of disposal systems, and issue construction permits for the installation or modification of treatment works or any parts of them. Subsection 19-5-104(1)(f) authorizes the Board to make rules which implement or effectuate the powers and duties of the Board.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Since the rule was enacted, it has been amended several times. The limited comments which have been received on the rule have generally been of a technical and noncontroversial nature. Comments received during hearings and public comment periods for rule changes have been addressed through preparation of responsiveness summaries by Division of Water Quality Staff and have been presented to the Water Quality Board for their consideration during the rulemaking process.

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 design requirements for construction of wastewater collection, treatment, and disposal systems. The Water Quality Board is charged with review and approval of these systems. The rule is required to meet this charge and should be continued.

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@utah.gov

AUTHORIZED BY: Don Ostler, Director

EFFECTIVE: 10/07/2002

Environmental Quality, Water Quality
R317-10
Certification of Wastewater Works Operators

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 25458
FILED: 10/07/2002, 12:44

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: Subsections 19-5-104(1)(p) and 19-5-104(3) authorize the Utah Water Quality Board to adopt and enforce rules, and establish fees to cover the costs of testing for certification of operators of treatment works and sewerage systems operated by political subdivisions.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Since the rule was enacted, it has been amended several times. The limited comments which have been received on the rule have been of a technical and noncontroversial nature. Comments received during hearings and public comment periods for rule changes have been addressed through preparation of responsiveness summaries by Division of Water Quality staff and have been presented to the Water Quality Board for their consideration during the rulemaking process. During the enactment of the rule, a technical review committee, consisting of the regulated community and other interested and affected parties, was formed to provide input to the Division of Water Quality and the Board. This Committee has also provided oversight of subsequent amendments.

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 for the Water Quality Board to implement the state's Wastewater Operator Certification Program as outlined in the Water Quality Act. The certification program is established in order to assist in protecting the quality of waters in the state of Utah by helping ensure that personnel in charge of wastewater works are trained, experienced, reliable and efficient; to protect the public health and the environment, and provide for the health and safety of wastewater works operators; and to establish standards and methods whereby wastewater works operating personnel can demonstrate competency and should be continued.

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@utah.gov

AUTHORIZED BY: Don Ostler, Director

EFFECTIVE: 10/07/2002

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Environmental Quality, Water Quality

R317-100

Utah State Project Priority System for the Utah Wastewater Project Assistance Program

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 25459
FILED: 10/07/2002, 12:45

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 19-5-104(1)(f) authorizes the Water Quality Board to enact rules for construction loans, including development of a priority schedule for awarding loans.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: This rule has been amended annually for the last five years. No comments were received during the rulemaking process. The rule has been noncontroversial.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The priority ranking system is used to rank wastewater projects for possible state and federal funding assistance. It is a needed component of the state wastewater project assistance program and should be continued.

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@utah.gov

AUTHORIZED BY: Don Ostler, Director

EFFECTIVE: 10/07/2002

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Environmental Quality, Water Quality
R317-103
Rural Communities Hardship Grants Program

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 25460
FILED: 10/07/2002, 12:45

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: The authority for the Department of Environmental Quality acting through the Utah Water Quality Board to issue grants to political subdivisions to finance all or part of wastewater project costs from a federal grant is provided in Sections 73-10c-4 and 73-10c-5; and Section 73-10c-8 requires the Water Quality Board to enact rules to administer Title 73.

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. This rule provides for the receipt and expenditure of EPA grants. It is noncontroversial.

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 required to implement the Rural Hardship Grant Program. The grant for which this rule was created has not been spent. Until it has been, the rule should be continued.

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@utah.gov

AUTHORIZED BY: Don Ostler, Director

EFFECTIVE: 10/07/2002

Environmental Quality, Water Quality
R317-550
Rules for Waste Disposal By Liquid Scavenger Operations

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 25461
FILED: 10/07/2002, 12:45

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 19-5-104(1)(f)(v) authorizes the Utah Water Quality Board to adopt rules to protect the public health for the design, construction, operation, and maintenance of individual wastewater disposal systems, liquid scavenger operations, and vault and earthen pit privies. Subsection 19-5-104(1)(f) authorizes the Board to make rules which implement or effectuate the powers and duties of the Board.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Since the rule was enacted, it has been amended several times. The limited comments which have been received on the rule have generally been of a technical and noncontroversial nature. Comments received during hearings and public comment periods for rule changes have been addressed through preparation of responsiveness summaries by Division of Water Quality Staff and have been presented to the Water Quality Board for their consideration during the rulemaking process. During the last major revision to the rule, a technical review committee consisting of the regulated community and other interested and affected parties was formed to provide input to the Division of Water Quality and the Board.

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 to protect the public health for operation of Liquid Scavenger Operations and should be continued.

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@utah.gov

AUTHORIZED BY: Don Ostler, Director

EFFECTIVE: 10/07/2002

Environmental Quality, Water Quality
R317-560
Rules for the Design, Construction, and Maintenance of Vault Privies and Earthen Pit Privies

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 25462
FILED: 10/07/2002, 12:45

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 19-5-104(1)(f)(v) authorizes the Utah Water Quality Board to adopt rules to protect the public health for the design, construction, operation, and maintenance of individual wastewater disposal systems, liquid scavenger operations, and vault and earthen pit privies. Subsection 19-5-104(1)(f) authorizes the Board to make rules which implement or effectuate the powers and duties of the Board.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Since the rule was enacted, it has been amended several times. The limited comments which have been received on the rule have generally been of a technical and noncontroversial nature. Comments received during hearings and public comment periods for rule changes have been addressed through preparation of responsiveness summaries by Division of Water Quality Staff and have been presented to the Water Quality Board for their consideration during the rulemaking process. During the last major revision to the rule, a technical review committee consisting of the regulated community and other interested and affected parties was formed to provide input to the Division of Water Quality and the Board.

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 to protect the public health for the design, construction, operation, and maintenance of vault and earthen pit privies and should be continued.

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@utah.gov

AUTHORIZED BY: Don Ostler, Director

EFFECTIVE: 10/07/2002

Health, Epidemiology and Laboratory Services, Environmental Services
R392-200
Design, Construction, Operation, Sanitation, and Safety of Schools

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 25467
FILED: 10/09/2002, 10:48

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized under Section 26-15-2. The department is tasked with establishing and enforcing, or providing for the enforcement of minimum rules of sanitation necessary to protect the public health. Such rules shall include, but not be limited to, rules necessary for the design, construction, operation, maintenance, or expansion of schools.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Comments were received from the Davis School District and the Utah State Office of Education and Gene Devenport, Salt Lake Valley Health Department. They support having the rule and offered the following comments/questions: a) language should be included in the rule that specifies a time line to getting plans back; b) the locations of schools need to be looked at with reference to negative influences; c) there is a problem with having conveniently located toilet facilities accessible for after hours recreational events; d) question on how many privacy showers need to be available; e) nonporous ceiling tiles are too restrictive; f) water temperature of 126 degrees F is too hot; g) mixing valves should be provided for lavatories automatic faucets; h) eliminate the need for keeping a

temperature log; i) question on who does the weekly cleaning of equipment and who verifies it is being done; j) question on who performs the six-month inspections; k) concern was expressed over the interpretation of the rule from different jurisdictions; l) the frequency of inspections should be reduced to 12 months; m) the section on storage of chemicals should be more specific; n) carpeting on walls may be hazardous and should be addressed by the rule; o) electrical safety concerns; p) fencing requirements need to be addressed; q) diapering needs to be covered in the rule; and r) there should be a requirement for coat hooks to ensure coats are properly hung up.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule establishes minimum requirements and standards for the design, construction, operation, sanitation, and safety of schools as prescribed by statute and should be continued. Comments received from the Davis School District, Utah State Office of Education, and Gene Devenport will be forwarded to the School Rule Advisory Committee so that an amendment to the current rule can be drafted. The Advisory Committee is made up of regulatory and industry representatives.

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

HEALTH
EPIDEMIOLOGY AND LABORATORY SERVICES, ENVIRONMENTAL SERVICES
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Tim Lane at the above address, by phone at 801-538-6755, by FAX at 801-538-6036, or by Internet E-mail at tlane@utah.gov

AUTHORIZED BY: Rod Betit, Executive Director

EFFECTIVE: 10/09/2002

Health, Epidemiology and Laboratory Services, Environmental Services

R392-402

Mobile Home Park Sanitation

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 25473
FILED: 10/09/2002, 16:38

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized under Section 26-15-2. The department is tasked with establishing and enforcing, or providing for the enforcement of minimum rules of sanitation necessary to protect the public health. Such rules shall include, but not be limited to, rules necessary for the design, construction, operation, maintenance, or expansion of mobile home parks.

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 establishes minimum requirements for the design, construction, operation, sanitation, and safety of mobile home parks as prescribed by statute and should be continued.

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

HEALTH
EPIDEMIOLOGY AND LABORATORY SERVICES, ENVIRONMENTAL SERVICES
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Tim Lane at the above address, by phone at 801-538-6755, by FAX at 801-538-6036, or by Internet E-mail at tlane@utah.gov

AUTHORIZED BY: Rod Betit, Executive Director

EFFECTIVE: 10/09/2002

Health, Health Systems Improvement, Licensing

R432-150

Nursing Care Facility

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 25468
FILED: 10/09/2002, 10:57

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: Title 26, Chapter 21, creates the Health Facility Licensing and Inspection Act. Section 26-21-5 requires the health facility committee to make rules in accordance with Title 63, Chapter 46a, the Utah Administrative Rulemaking Act, for the licensing of health-care facilities. Section 26-21-6 requires that the department enforce rules, conduct inspections of health-care facilities, collect information authorized by the committee that may be necessary to ensure that adequate health-care facilities are available to the public, establish reasonable standards for criminal background checks by public and private entities, collect and credit fees for licenses, and make rules as necessary to implement the provisions of Title 26, Chapter 21, except as authority is specifically delegated to the committee.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Since the last five-year review on December 15, 1997, there have been five amendments to the rule, with the last amendment being done in 2001. In 1998, a subcommittee of the health facility committee proposed that Rule R432-149, Intermediate Care Facility, be combined with Rule R432-150, Skilled Nursing Care Facility. A subcommittee proposed and reviewed four successive draft amendments to the rule. Twenty letters were received during the drafting of the rule regarding changing the age of the certified nurse aide to 18. It was determined after discussion with the health facility committee to not impose an age limit for aides since the public school system has an approved training program and the nurse aides are under supervision of a licensed nurse 24 hours a day. Following the filing of the rule, four comments were received. Three comments requested that the Department not eliminate the "certified dietary manager". However, the rule was not changed in the filed version of the rule and the individuals withdrew their comments. One comment requested definitions for "privacy", "confidential access", "drug holiday" and "patient clinical condition". The department determined to not amend the rule and felt that each term was commonly understood by the industry and widely used. In September 1998, a nonsubstantive rule change was made to correct numbering in Sections R432-150-9, R432-150-27, and R432-150-32. The second substantive amendment was filed in 1999, which modified the food service rule allowing facilities to document monthly consultation with a dietitian if the dietetic supervisor was not a registered dietitian. The Utah Health Care Association supported the amendment and no written comments opposing the amendment were received during the publication period. The final nonsubstantive change was made in 2001 to correct references and the penalty language section. No other comments have been received outside of those submitted with amendments.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R432-150 establishes the minimum standard for the operation of a nursing care facility that provides skilled and intermediate care services. Continuation of the rule is required to ensure that consumers are aware of the standard of care that is to be delivered in a nursing care facility. This rule provides the minimum health and safety standards to ensure a safe environment is provided for consumers. The Health Facility Committee supports the continuation of the rule and will continue to review this rule as medical practice and standards of care change. In 1998 the Department opposed only one requested rule change to add definitions because the terms were commonly used and understood by the affected industry.

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

HEALTH
HEALTH SYSTEMS IMPROVEMENT, 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 debwynkoop@utah.gov

AUTHORIZED BY: Rod Betit, Executive Director

EFFECTIVE: 10/09/2002

Health, Health Systems Improvement, Licensing

R432-300

Small Health Care Facility - Type N

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 25469
FILED: 10/09/2002, 11:01

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: Title 26, Chapter 21, creates the Health Facility Licensing and Inspection Act. Section 26-21-5 requires the health facility committee to make rules in accordance with Title 63, Chapter 46a, the Utah Administrative Rulemaking Act, for the licensing of health-care facilities. Section 26-21-6 requires that the department enforce rules, conduct inspections of health-care facilities, collect information authorized by the committee that may be necessary to ensure that adequate health-care facilities are available to the public, establish reasonable standards for criminal background checks by public and private entities, collect and credit fees for licenses, and make rules as

necessary to implement the provisions of Title 26, Chapter 21, except as authority is specifically delegated to the committee.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Since the last five-year review on December 8, 1997, the rule has been amended three times with the last effective date of January 25, 2001. In 1998, S.B. 153 repealed the residential health care category and this rule was amended to replace the old Residential Health Care - Limited Capacity standards. One written response to the rule was received April 19, 1999, opposing the standards imposed in the 1998 rule change and the Bureau responded to the concerns expressed. In August 2000, an amendment was filed to resolve conflicts between Small Health Care facility - Type N category and the Assisted Living Facility Category. Health and safety standards included on-site nursing care, medication policies, Alzheimer/dementia care, infection control practices, admission criteria, and assessments and quality improvement policies. One written comment was received during the publication of the rule seeking clarification on the Utah Nurse Practice Act and dependent resident restriction. After clarification was provided, the respondent supported the rule amendment. The final amendment was January 25, 2001, which was a nonsubstantive change correcting cross-references to other state laws and statutes. (DAR NOTE: S.B. 153 can be found at UT L 1998 Ch 192, and was effective on July 1, 1998.)

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R432-300 establishes the minimum standard for the operation of a Small Health Care Facility - Type N. One comment was received in 1999 opposing the 1998 amendments. The Department disagreed with the comment and submitted a written response, clarifying that the rule was not retroactive to programs licensed prior to 1998, and that the intent of the category was to provide a small nursing home environment in a residential setting with 24-hour nursing services. New facilities licensed after the 1998 amendments shall be owned or operated by a licensed nurse. The Department received one opposing comment to the 1999 amendment but was able to provide clarification to satisfy the questions without adopting any change to the rule. This rule sets a minimum standard to ensure that consumers are aware of the standard of care which is to be delivered in a free standing residential facility. The Health Facility Committee supports the continuation of the rule and will continue to review this rule as medical practice and standards of care change.

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

HEALTH
HEALTH SYSTEMS IMPROVEMENT, 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 debwynkoop@utah.gov

AUTHORIZED BY: Rod Betit, Executive Director

EFFECTIVE: 10/09/2002

Health, Health Systems Improvement, Licensing
R432-650
End Stage Renal Disease

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 25470
FILED: 10/09/2002, 11:05

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: Title 26, Chapter 21, creates the Health Facility Licensing and Inspection Act. Section 26-21-5 requires the health facility committee to make rules in accordance with Title 63, Chapter 46a, the Utah Administrative Rulemaking Act, for the licensing of health-care facilities. Section 26-21-6 requires that the department enforce rules, conduct inspections of health-care facilities, collect information authorized by the committee that may be necessary to ensure that adequate health-care facilities are available to the public, establish reasonable standards for criminal background checks by public and private entities, collect and credit fees for licenses, and make rules as necessary to implement the provisions of Title 26, Chapter 21, except as authority is specifically delegated to the committee.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Since the last five-year review on December 15, 1997, the rule has been amended twice, with the last effective date of March 16, 2001. In January 1999, a subcommittee of the Facility Licensing Committee reviewed the rule and made substantive amendments to reflect current practice in the dialysis industry, specifically for staffing ratios, health evaluations for employees, continuous quality improvement policies, physical environment, and equipment standards. No opposing or supporting comments were made during the public comment period. There have been no other written comments received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R432-650 establishes the minimum standard for the operation of End Stage Renal Disease facilities or Dialysis centers. This rule sets a

minimum standard to ensure that consumers are aware of the standard of care that is to be delivered in a freestanding facility. The Health Facility Committee supports the continuation of the rule and will continue to review this rule as medical practice and standards of care change.

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

HEALTH
HEALTH SYSTEMS IMPROVEMENT, 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 debwynkoop@utah.gov

AUTHORIZED BY: Rod Betit, Executive Director

EFFECTIVE: 10/09/2002

Health, Health Systems Improvement, Licensing
R432-700
Home Health Agency Rule

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 25471
FILED: 10/09/2002, 11:17

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 26, Chapter 21, creates the Health Facility Licensing and Inspection Act. Section 26-21-5 requires the health facility committee to make rules in accordance with Title 63, Chapter 46a, the Utah Administrative Rulemaking Act, for the licensing of health-care facilities. Section 26-21-6 requires that the department enforce rules, conduct inspections of health-care facilities, collect information authorized by the committee that may be necessary to ensure that adequate health-care facilities are available to the public, establish reasonable standards for criminal background checks by public and private entities, collect and credit fees for licenses, and make rules as necessary to implement the provisions of Title 26, Chapter 21, except as authority is specifically delegated to the committee.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Since the last five-year review December 15, 1997, the rule has been amended three times, with the last effective date of January 15, 2001. In February 1998, a substantive amendment was adopted which created a Personal Care Agency service for a home health agency that provides personal care services and assists patients who do not require a skilled nursing service. No opposing or supporting comments were received. In October 2000, the Utah Technology Certification Center combined the two certifications for home health aides and certified nursing aides in an effort to increase the available work force in long-term care facilities. All comments were reviewed prior to the filing of the amendment and consensus reached by interested parties. In February 2001, one written comment was submitted regarding the age limits for certified nursing aides employed by home health agencies requiring the individual to be 18, although they can be certified at 15. Concerns were also expressed that a personal care agency may employ an individual who has failed his or her certified nurse aide certification exam and the individual questioned why this should be allowed. Discussion and clarification was provided to the written comment regarding the difference in personal care for an individual who does not require skilled nursing services and the position of the Department that these individuals do not require the same level of expertise to provide the services of a certified individual. The final amendment became effective January 25, 2001, which corrected references to state laws and statutes.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R432-700 establishes a minimum standard for the operation of Home Health and Personal Care Agencies. This rule sets a minimum standard to ensure that consumers are aware of the standard of care which is to be delivered in a free standing facility or residential home. The Department responded to the February 2001 comment regarding the age limits for individuals employed as a certified nurse aide in a nursing care facility, where there is direct nursing supervision. The individual may be employed at 15; however, in the independent setting of a person's home, the aide shall be 18. The Department did not adopt the recommendation to change the age limit restriction. The Health Facility Committee supported this decision. The Department did not agree with the request that personal care agencies not be permitted to employ a person who had failed the certified nurse aide certification exam since these agencies provide care for individuals who do not require skilled nursing services. A certified nurse aide training is required for any individual who requires skilled services or total assistance with activities of daily living. The Health Facility Committee supports the continuation of the rule and will continue to review this rule as medical practice and standards of care change.

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

HEALTH
HEALTH SYSTEMS IMPROVEMENT, 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 debwynkoop@utah.gov

AUTHORIZED BY: Rod Betit, Executive Director

EFFECTIVE: 10/09/2002

Health, Health Systems Improvement, Licensing
R432-750
Hospice Rule

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 25472
FILED: 10/09/2002, 11:58

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 26, Chapter 21, creates the Health Facility Licensing and Inspection Act. Section 26-21-5 requires the health facility committee to make rules in accordance with Title 63, Chapter 46a, the Utah Administrative Rulemaking Act, for the licensing of health-care facilities. Section 26-21-6 requires that the department enforce rules, conduct inspections of health-care facilities, collect information authorized by the committee that may be necessary to ensure that adequate health-care facilities are available to the public, establish reasonable standards for criminal background checks by public and private entities, collect and credit fees for licenses, and make rules as necessary to implement the provisions of Title 26, Chapter 21, except as authority is specifically delegated to the committee.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Since the last five-year review on December 15, 1997, the rule has been amended four times, with the last effective date of January 15, 2001. In February 1998, a substantive amendment was adopted which clarified acceptance and termination criteria for patients, specified records to be maintained by an agency, and described specific services to be delivered to be consistent with federal regulations. No opposing or supporting comments were received. In February 1999, the rule was amended to establish inpatient care requirements for freestanding facilities when an individual did not receive the hospice services in their home or institutional setting. The changes received support from the Utah Hospice Association and one new freestanding facility has been constructed. In October 2000, the Utah Health Technology Certification Center submitted the consolidation of the home health aide certification and certified nurse aide certification classification and an amendment was filed to replace the home health aide designation. No opposing or supporting comments were received. The final nonsubstantive rule change was effective January 25, 2001, which corrected references to state statute for reporting abuse, neglect, and exploitation of patients.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R432-750 establishes a minimum standard for the operation of inpatient and outpatient Hospice services. This rule sets a minimum standard to ensure that consumers are aware of the standard of care that is to be delivered in a freestanding facility or a persons place of residence. The Health Facility Committee supports the continuation of the rule and will continue to review this rule as medical practice and standards of care change.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
HEALTH
HEALTH SYSTEMS IMPROVEMENT, 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 debwynkoop@utah.gov

AUTHORIZED BY: Rod Betit, Executive Director

EFFECTIVE: 10/09/2002

Pardons (Board Of), Administration
R671-207
Mentally-Ill Offender Custody Transfer

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 25482
FILED: 10/11/2002, 06:09

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 77-16a-204 allows the transfer of inmates to and from the Utah State Prison and the State Hospital.

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: This rule defines the process of transferring inmates to and from the Utah State Prison and the State Hospital and should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
PARDONS (BOARD OF)
ADMINISTRATION
Room 300
448 E 6400 S
SALT LAKE CITY UT 84107-8530, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Nannette Johnson at the above address, by phone at 801-261-6485, by FAX at 801-261-6481, or by Internet E-mail at njohnson@utah.gov

AUTHORIZED BY: Mike Sibbett, Chairman

EFFECTIVE: 10/11/2002

Pardons (Board Of), Administration
R671-310
Rescission Hearings

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 25475
FILED: 10/11/2002, 05:37

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 77-27-5 allows the Board to review and rescind any prior decision until the actual release of an offender from custody.

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: This rule allows the Board to review and rescind any prior decision until the actual release of an offender from custody and should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
PARDONS (BOARD OF)
ADMINISTRATION
Room 300
448 E 6400 S
SALT LAKE CITY UT 84107-8530, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Nannette Johnson at the above address, by phone at 801-261-6485, by FAX at 801-261-6481, or by Internet E-mail at njohnson@utah.gov

AUTHORIZED BY: Mike Sibbett, Chairman

EFFECTIVE: 10/11/2002

Pardons (Board Of), Administration
R671-315
Pardons

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 25476
FILED: 10/11/2002, 05:41

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 77-27-2 allows the Board to consider petitions for pardon.

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: This rule defines the process of considering individual requests for a pardon and should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
PARDONS (BOARD OF)
ADMINISTRATION
Room 300
448 E 6400 S
SALT LAKE CITY UT 84107-8530, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Nannette Johnson at the above address, by phone at 801-261-6485, by FAX at 801-261-6481, or by Internet E-mail at njohnson@utah.gov

AUTHORIZED BY: Mike Sibbett, Chairman

EFFECTIVE: 10/11/2002

Pardons (Board Of), Administration
R671-316
Redetermination

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 25477
FILED: 10/11/2002, 05:44

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 77-27-5 allows the Board to consider requests for redetermination of decisions.

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: This rule defines the process of addressing requests for redetermination of Board decisions and should be continued.

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

PARDONS (BOARD OF)
ADMINISTRATION
Room 300
448 E 6400 S
SALT LAKE CITY UT 84107-8530, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Nannette Johnson at the above address, by phone at 801-261-6485, by FAX at 801-261-6481, or by Internet E-mail at njohnson@utah.gov

AUTHORIZED BY: Mike Sibbett, Chairman

EFFECTIVE: 10/11/2002

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Pardons (Board Of), Administration
R671-402
Special Conditions of Parole

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 25478
FILED: 10/11/2002, 05:46

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 77-27-5 allows the Board to order special conditions as part of a parole agreement.

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: This rule defines the process of adding special conditions of parole to a parole agreement and should be continued.

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

PARDONS (BOARD OF)
ADMINISTRATION
Room 300
448 E 6400 S
SALT LAKE CITY UT 84107-8530, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Nannette Johnson at the above address, by phone at 801-261-6485, by FAX at 801-261-6481, or by Internet E-mail at njohnson@utah.gov

AUTHORIZED BY: Mike Sibbett, Chairman

EFFECTIVE: 10/11/2002

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Pardons (Board Of), Administration
R671-405
Parole Termination

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 25480
FILED: 10/11/2002, 05:56

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 76-3-202 allows the Board to consider termination of offender's parole.

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: This rule defines the process of considering termination of an offender's parole and should be continued.

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

PARDONS (BOARD OF)
ADMINISTRATION
Room 300
448 E 6400 S
SALT LAKE CITY UT 84107-8530, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Nannette Johnson at the above address, by phone at 801-261-6485, by FAX at 801-261-6481, or by Internet E-mail at njohnson@utah.gov

AUTHORIZED BY: Mike Sibbett, Chairman

EFFECTIVE: 10/11/2002

Public Safety, Peace Officer Standards and Training
R728-101
Public Petitions For Declaratory Rulings

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 25431
FILED: 10/03/2002, 10:13

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: The authority for this rule is authorized under Section 63-46a-12, which describes how interested parties may petition an agency with regard to making, amending, or repealing rules.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: 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: This rule provides public input for Peace Officer Standards and Training's rulemaking authority and should be continued.

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

PUBLIC SAFETY
PEACE OFFICER STANDARDS AND TRAINING
4525 S 2700 W
SALT LAKE CITY UT 84119, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Kenneth R. Wallentine or Bonnie Braegger at the above address, by phone at 801-957-8531 or 801-965-4099, by FAX at 801-965-4519 or 801-965-4619, or by Internet E-mail at kenwallentine@utah.gov or bbraegge@utah.gov

AUTHORIZED BY: Kenneth R. Wallentine, Administrative Counsel

EFFECTIVE: 10/03/2002

Public Safety, Peace Officer Standards and Training
R728-401
Requirements For Approval and Certification of Peace Officer Basic Training Programs and Applicants

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 25433
FILED: 10/03/2002, 11:47

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: The authority for this rule is authorized under Section 53-6-105 which authorizes the Director of Peace Officer Standards and Training (POST) to promulgate standards for the certification of peace officer training academies.

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: This rule facilitates the process by which POST maintains the integrity and quality control of training academies and applicants for peace officer training and certification and should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
PUBLIC SAFETY
PEACE OFFICER STANDARDS AND TRAINING
4525 S 2700 W
SALT LAKE CITY UT 84119, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Bonnie Braegger or Kenneth R. Wallentine at the above address, by phone at 801-965-4099 or 801-957-8531, by FAX at 801-965-4619 or 801-965-4519, or by Internet E-mail at bbraegge@utah.gov or kenwallentine@utah.gov

AUTHORIZED BY: Kenneth R. Wallentine, Administrative Counsel

EFFECTIVE: 10/03/2002

Public Safety, Peace Officer Standards and Training
R728-402
Application Procedures to Attend a Basic Peace Officer Training Program

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 25432
FILED: 10/03/2002, 11:23

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 authority for this rule is authorized under Section 53-6-105 which authorizes the Director of Peace Officer Standards and Training (POST) to promulgate standards for the certification of peace officer training academies, and by Sections 53-6-203 and 53-6-205, requiring completion and submission to POST of applications for admission to a Peace Officer Basic Training 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: 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: This rule facilitates the process by which POST receives and considers applications for peace officer training and certification and provides notice to agencies and individuals of the application process and should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
PUBLIC SAFETY
PEACE OFFICER STANDARDS AND TRAINING
4525 S 2700 W
SALT LAKE CITY UT 84119, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Bonnie Braegger or Kenneth R. Wallentine at the above address, by phone at 801-965-4099 or 801-957-8531, by FAX at 801-965-4619 or 801-965-4519, or by Internet E-mail at bbraegge@utah.gov or kenwallentine@utah.gov

AUTHORIZED BY: Kenneth R. Wallentine, Administrative Counsel

EFFECTIVE: 10/03/2002

Public Safety, Peace Officer Standards and Training
R728-403
Qualifications For Admission To Certified Peace Officer Training Academies

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 25434
FILED: 10/03/2002, 11:58

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: The authority for this rule is authorized under Subsection 53-6-105(k) which authorizes the Director of Peace Officer Standards and Training to create rules to govern the qualifications for admission to a basic training academy.

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: This rule provides notice to the public, applicants, and agencies of the admission requirements and should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
PUBLIC SAFETY
PEACE OFFICER STANDARDS AND TRAINING
4525 S 2700 W
SALT LAKE CITY UT 84119, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Bonnie Braegger or Kenneth R. Wallentine at the above address, by phone at 801-965-4099 or 801-957-8531, by FAX at 801-965-4619 or 801-965-4519, or by Internet E-mail at bbraegge@utah.gov or kenwallentine@utah.gov

AUTHORIZED BY: Kenneth R. Wallentine, Administrative Counsel

EFFECTIVE: 10/03/2002

Public Safety, Peace Officer Standards and Training
R728-404
Basic Training Basic Academy Rules

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 25440
FILED: 10/03/2002, 15:47

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: The authority for this rule is authorized under Sections 53-6-105, 53-6-106, and 53-6-107 which authorize the Director of Peace Officer Standards and Training (POST) and the POST Council to create rules to govern the conduct of cadets in a basic training academy.

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: This rule provides notice to the public, applicants, and agencies of the conduct requirements in the Basic Training Academies and provides for orderly administration of the Academies and should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
PUBLIC SAFETY
PEACE OFFICER STANDARDS AND TRAINING
4525 S 2700 W
SALT LAKE CITY UT 84119, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Bonnie Braegger or Kenneth R. Wallentine at the above address, by phone at 801-965-4099 or 801-957-8531, by FAX at 801-965-4619 or 801-965-4519, or by Internet E-mail at bbraegge@utah.gov or kenwallentine@utah.gov

AUTHORIZED BY: Kenneth R. Wallentine, Administrative Counsel

EFFECTIVE: 10/03/2002

Public Safety, Peace Officer Standards and Training
R728-406
Requirements For Approval and Certification of Basic Correctional, Reserve and Special Function Training Programs and Applicants

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 25436
FILED: 10/03/2002, 12:10

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: The authority for this rule is authorized under Section 53-6-105 which authorizes the Director of Peace Officer Standards and Training to promulgate standards for operations of satellite academy training programs for Special Functions, Reserve, and Correctional candidates.

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: This rule established standards for the operation of Special Function, Corrections, and Reserve training programs, facilitating the integrity and quality control of such programs and should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
PUBLIC SAFETY
PEACE OFFICER STANDARDS AND TRAINING
4525 S 2700 W

SALT LAKE CITY UT 84119, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Bonnie Braegger or Kenneth R. Wallentine at the above address, by phone at 801-965-4099 or 801-957-8531, by FAX at 801-965-4619 or 801-965-4519, or by Internet E-mail at bbraegge@utah.gov or kenwallentine@utah.gov

AUTHORIZED BY: Kenneth R. Wallentine, Administrative Counsel

EFFECTIVE: 10/03/2002

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Public Safety, Peace Officer Standards and Training
R728-407
Waiver/Reactivation Process

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 25437
FILED: 10/03/2002, 15:11

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: The authority for this rule is authorized under Section 53-6-206 which authorizes the Director of Peace Officer Standards and Training to promulgate standards for waiver of Basic Training program requirements for individuals who have otherwise met prescribed training standards to become certified as Utah peace officers.

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: This rule establishes standards for the operation of Special Function, Corrections, and Reserve training programs, facilitating the integrity and quality control of such programs and should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
PUBLIC SAFETY
PEACE OFFICER STANDARDS AND TRAINING
4525 S 2700 W
SALT LAKE CITY UT 84119, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Bonnie Braegger or Kenneth R. Wallentine at the above address, by phone at 801-965-4099 or 801-957-8531, by FAX at 801-965-4619 or 801-965-4519, or by Internet E-mail at bbraegge@utah.gov or kenwallentine@utah.gov

AUTHORIZED BY: Kenneth R. Wallentine, Administrative Counsel

EFFECTIVE: 10/03/2002

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Public Safety, Peace Officer Standards and Training
R728-409
Refusal, Suspension, or Revocation of Peace Officer Certification

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 25438
FILED: 10/03/2002, 15:26

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: The authority for this rule is authorized under Section 53-6-211 which authorizes the Director of Peace Officer Standards and Training (POST) to revoke, suspend, or refuse certification, upon concurrence of the POST Council.

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 received

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule protects the public and law enforcement by facilitating appropriate discipline and certification action for officers found to have violated legal and ethical standards and should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
PUBLIC SAFETY
PEACE OFFICER STANDARDS AND TRAINING
4525 S 2700 W
SALT LAKE CITY UT 84119, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Bonnie Braegger or Kenneth R. Wallentine at the above address, by phone at 801-965-4099 or 801-957-8531, by FAX at 801-965-4619 or 801-965-4519, or by Internet E-mail at bbraegge@utah.gov or kenwallentine@utah.gov

AUTHORIZED BY: Kenneth R. Wallentine, Administrative Counsel

EFFECTIVE: 10/03/2002

Public Safety, Peace Officer Standards and Training
R728-410
Guidelines Regarding Failure To Obtain Annual Statutory Training

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 25439
FILED: 10/03/2002, 15:34

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: The authority for this rule is authorized under Subsection 53-6-105(k), and Sections 53-6-202 and 53-6-211 which authorize the Director of Peace Officer Standards and Training to make rules to implement annual training requirements.

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: This rule protects the public by requiring annual in-service training of peace officers and should be continued.

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

PUBLIC SAFETY
PEACE OFFICER STANDARDS AND TRAINING
4525 S 2700 W
SALT LAKE CITY UT 84119, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Bonnie Braegger or Kenneth R. Wallentine at the above address, by phone at 801-965-4099 or 801-957-8531, by FAX at 801-965-4619 or 801-965-4519, or by Internet E-mail at bbraegge@utah.gov or kenwallentine@utah.gov

AUTHORIZED BY: Kenneth R. Wallentine, Administrative Counsel

EFFECTIVE: 10/03/2002

Public Safety, Peace Officer Standards and Training
R728-500
Utah Peace Officer Standards and Training In-Service Training Certification Procedures

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 25430
FILED: 10/03/2002, 08:48

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: The authority for this rule is authorized under Section 53-6-105 and Subsection 53-13-103(4)(b) which authorize the Director of Peace Officer Standards and Training to make rules governing annual in-service training requirements.

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: This rule protects the public by requiring annual in-service training of peace officers and should be continued.

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

PUBLIC SAFETY
PEACE OFFICER STANDARDS AND TRAINING
4525 S 2700 W
SALT LAKE CITY UT 84119, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Bonnie Braegger or Kenneth R. Wallentine at the above address, by phone at 801-965-4099 or 801-957-8531, by FAX at 801-965-4619 or 801-965-4519, or by Internet E-mail at bbraegge@utah.gov or kenwallentine@utah.gov

AUTHORIZED BY: Kenneth R. Wallentine, Administrative Counsel

EFFECTIVE: 10/03/2002

Regents (Board Of), University of Utah, Parking and Transportation Services

R810-1

University of Utah Parking Regulations

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 25484

FILED: 10/11/2002, 13:47

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 53B-3-103 gives the board the authority to enact regulations governing the conduct of university students, faculty, and employees. Section 53B-3-107 regulates what are and how to deal with parking violations.

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: University of Utah parking is self-funded. Parking is regulated on campus to ensure proper management of scarce parking assets in compliance with governmental laws and regulations. Additionally, regulation is required to ensure that students, facility, staff, and visitors paying to park on campus have access to parking in accordance with the fees paid. This rule deals with these parking regulations and should be continued.

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

REGENTS (BOARD OF)
UNIVERSITY OF UTAH, PARKING AND TRANSPORTATION SERVICES
Room 101
1910 E SOUTH CAMPUS DR
SALT LAKE CITY UT 84112-9350, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

John Crawford at the above address, by phone at 801-585-6941, by FAX at 801-581-4056, or by Internet E-mail at john@parking.utah.edu

AUTHORIZED BY: John Crawford, Office Operations Manager

EFFECTIVE: 10/11/2002

School and Institutional Trust Lands, Administration

R850-130

Materials Permits

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 25429

FILED: 10/02/2002, 09:30

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: Subsections 53C-1-302(1)(a)(ii) and 53C-4-101(1) authorize the Director of the School and Institutional Trust Lands Administration to prescribe agency objectives, standards and conditions for the issuance of materials permits and for conveyances for common varieties of sand, gravel, cinders, and other materials that are not in conflict with mineral lease classifications as indicated in Section R850-20-200.

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 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: The statute requires that objectives, standards, and conditions be set for the issuance of materials permits and the conveyance of common varieties of sand, gravel, cinders, clay, or stone having a primary value or use in building, construction, or landscaping, and similar materials that do not conflict with mineral lease classifications listed under Section R580-20-200. These materials contribute a substantial amount of income that would be lost to the various trusts if they could not be conveyed to interested parties. This rule sets forth the requirements for the acquisition of such materials by interested parties and should be continued.

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:
Thomas B. Faddies at the above address, by phone at 801-538-5150, by FAX at 801-355-0922, or by Internet E-mail at tomfaddies@utah.gov

AUTHORIZED BY: Kevin S. Carter, Deputy Director

EFFECTIVE: 10/02/2002

End of the Five-Year Notices of Review and Statements of Continuation Section

NOTICES OF RULE EFFECTIVE DATES

These are the effective dates of PROPOSED RULES or CHANGES IN PROPOSED RULES published in earlier editions of the *Utah State Bulletin*. These effective dates are at least 31 days and not more than 120 days after the date the following rules were published.

Abbreviations
AMD = Amendment
CPR = Change in Proposed Rule
NEW = New Rule
R&R = Repeal and Reenact
REP = Repeal

Administrative Services
Facilities Construction and Management
No. 24880 (NEW): R23-12. Building Code Appeals Process.
Published: June 15, 2002
Effective: October 10, 2002

Agriculture and Food
Regulatory Services
No. 25146 (AMD): R70-310. Grade A Pasteurized Milk.
Published: September 1, 2002
Effective: October 2, 2002

Environmental Quality
Air Quality
No. 25087 (AMD): R307-220-4. Section III, Small Municipal Waste Combustion Units.
Published: August 1, 2002
Effective: October 3, 2002

Radiation Control
No. 24758 (CPR): R313-19-2. Requirements of General Applicability to Licensing of Radioactive Material.
Published: August 15, 2002
Effective: October 7, 2002

No. 24738 (CPR): R313-24. Uranium Mills and Source Material Mill Tailings Disposal Facility Requirements.
Published: August 15, 2002
Effective: October 7, 2002

Health
Health Care Financing, Coverage and Reimbursement Policy
No. 25164 (AMD): R414-1. Utah Medicaid Program.
Published: September 1, 2002
Effective: October 2, 2002

No. 25163 (AMD): R414-11. Podiatry Services.
Published: September 1, 2002
Effective: October 2, 2002

Natural Resources
Wildlife Resources
No. 25165 (AMD): R657-9. Taking Waterfowl, Wilson's Snipe and Coot.
Published: September 1, 2002
Effective: October 2, 2002

No. 25166 (AMD): R657-10. Taking Cougar.
Published: September 1, 2002
Effective: October 2, 2002

No. 25167 (AMD): R657-41. Conservation and Sportsman Permits.
Published: September 1, 2002
Effective: October 2, 2002

No. 25168 (AMD): R657-51. Youth Permits.
Published: September 1, 2002
Effective: October 2, 2002

Pardons (Board Of)
Administration
No. 25142 (AMD): R671-305. Notification of Board Decision.
Published: September 1, 2002
Effective: October 8, 2002

Public Safety
Highway Patrol
No. 25129 (AMD): R714-500. Chemical Analysis Standards and Training.
Published: August 15, 2002
Effective: October 3, 2002

Transportation
Administration
No. 25128 (AMD): R907-1. Appeal of Departmental Actions.
Published: August 15, 2002
Effective: October 2, 2002

Operations, Traffic and Safety
No. 25127 (AMD): R920-50. Ropeway Operation Safety Rules.
Published: August 15, 2002
Effective: October 2, 2002

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 October 15, 2002, the effective dates of which are no later than November 1, 2002. The *Rules Index* is published in the *Utah State Bulletin* and in the annual *Index of Changes*. Nonsubstantive changes, while not published in the *Bulletin*, do become part of the *Utah Administrative Code (Code)* and are included in this *Index*, as well as 120-Day (Emergency) rules that do not become part of the *Code*. The rules are indexed by Agency (Code Number) and Keyword (Subject).

DAR NOTE: Because of publication constraints neither index 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.utah.gov/).

DAR NOTE: The index may contain inaccurate page number references. Also the index is incomplete in the sense that index entries for Changes in Proposed Rules (CPRs) are not preceded by entries for their parent Proposed Rules. These difficulties with the index are related to a new software package used by the Division to create the Bulletin and related publications; we hope to have them resolved as soon as possible. Bulletin issue information and effective date information presented in the index are, to the best of our knowledge, complete and accurate. If you have any questions regarding the index and the information it contains, please contact Nancy Lancaster (801 538-3218), Mike Broschinsky (801 538-3003), or Kenneth A. Hansen (801 538-3777).