

UTAH STATE BULLETIN

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

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SPECIAL NOTICES

GOVERNOR'S PROCLAMATION: CALLING THE FIFTY-FIFTH LEGISLATURE INTO A THIRD EXTRAORDINARY SESSION

WHEREAS, since the close of the 2003 General Session of the 55th 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 55th Legislature of the State of Utah into a Third Extraordinary Session at the State Capitol in Salt Lake City, Utah, on the 18th day of June, 2003, 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 2003 General Session of the 55th 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 3rd day of June, 2003.

(STATE SEAL)

MICHAEL O. LEAVITT
Governor

OLENE S. WALKER
Lieutenant Governor

GOVERNOR'S DECLARATION: DECLARING A STATEWIDE AGRICULTURAL DISASTER

WHEREAS, extreme drought has reduced soil moisture in many areas of the state to render crop production unproductive for agricultural purposes;

WHEREAS, the U.S. Department of Agriculture's Drought Monitor classifies the drought conditions in the state of Utah as "Extreme and/or Exceptional";

WHEREAS, the well below normal snow pack has left the spring snow melt minimal or nonexistent in most areas of the state;

WHEREAS, many agricultural reservoirs throughout the state will not receive adequate supplies of irrigation water;

WHEREAS, low runoff, hot, dry winds, and insect infestations in many areas of the state have exacerbated the drought conditions;

WHEREAS, many grazing lands that are normally available to livestock owners are not available or do not offer adequate livestock feed;

WHEREAS, high forage costs, and feed and livestock transportation costs will weigh heavily on an industry already facing the fifth consecutive year of drought.

NOW THEREFORE, I Michael O. Leavitt, Governor of the state of Utah by virtue of the power vested in me by the constitution and the laws of the state of Utah, declare a "Statewide Agricultural Disaster".

IN TESTIMONY, WHEREOF, I have here unto set my hand and cause to be affixed the Great Seal of the State of Utah, this 20th day of May, 2003.

(STATE SEAL)

MICHAEL O. LEAVITT
Governor

Attest:
OLENE WALKER
Lieutenant Governor

**TRANSPORTATION
OPERATIONS, MAINTENANCE**

**CORRECTION NOTICE TO THE FILING ON R918-4 (DAR NO. 26184) IN THE MAY 15, 2003, ISSUE OF THE UTAH
STATE BULLETIN**

In the May 15, 2003, issue of the *Utah State Bulletin* (2003-10), a proposed new rule was published under Rule R918-4, Using Volunteer Groups for the Adopt-a-Highway Program (DAR No. 26184). Under the RULE ANALYSIS, the information for the ANTICIPATED COSTS OR SAVINGS TO THE STATE BUDGET was published as the opposite of what it really is--it should have stated that the cost of making signs is outweighed by the savings to the Department. The correct language for ANTICIPATED COSTS OR SAVINGS TO THE STATE BUDGET follows:

There will be a small cost to the state for building and installing recognition signs. The fiscal impact that the department incurs through the building and installation of recognition signs is outweighed by the cost that the state would otherwise incur from using its own employees for trash removal. Actual costs are currently unknown.

If you have any questions regarding this correction, please contact James Beadles, Department of Transportation, Calvin Rampton Complex, 4501 S 2700 W, Salt Lake City, UT 84119-5998, phone: (801) 965-4168, FAX: (801) 965-4796, or Internet E-mail: jbeadles@utah.gov.

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 May 16, 2003, 12:00 a.m., and June 2, 2003, 11:59 p.m. are included in this, the June 15, 2003, 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 July 15, 2003. 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 October 13, 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.

**Alcoholic Beverage Control,
Administration
R81-1
Scope, Definitions, and General
Provisions**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 26322

FILED: 06/02/2003, 14:08

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: S.B. 153, passed by the 2003 legislature, made extensive modifications to Title 32A. As a result, it is necessary to amend the supporting rules to implement the new laws. (DAR NOTE: S.B. 153 is found at UT L 2003 Ch 314, and was effective May 5, 2003.)

SUMMARY OF THE RULE OR CHANGE: Many of the amendments to Title 32A, Chapter 1, were the result of removing language from Rule R81-1 and moving that language to the statute. Therefore, many of the proposed amendments to this rule are housekeeping changes that remove language that is redundant, archaic, or incorrect. Other nonsubstantive changes include renumbering and statutory reference corrections. Substantive changes include: 1) in Section R81-1-6, the new law authorizes the ABC Commission to levy penalties, including fines, against employees of licensees who violate liquor laws; and establishes a schedule for those penalties; 2) in Sections R81-1-9 and R81-1-10, deletes language that now appears in statute; and 3) Section R81-1-17 was amended in February of 2003 in response to a Tenth Circuit Court of Appeals ruling that found many of Utah's liquor advertising laws to be in violation of the U.S. Constitution's First Amendment, S.B. 153 brought the statute in line with the Constitution and made it unnecessary to retain much of Section R81-1-17.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 32A, Chapter 1

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: None-- Most of the revisions to this rule are proposed because the language is now in statute. There should be no cost or savings to the state budget as a result of amending this rule.

❖ LOCAL GOVERNMENTS: None--The proposed provisions to this rule affect state laws and have little or no effect on local governments; neither do the amendments mandate any costs or savings to local governments.

❖ OTHER PERSONS: Since the amendments to this rule authorize the ABC Commission to levy fines and employment suspensions against any licensee's employees who violate liquor laws, there is a potential that committing a violation may cause an individual to be ordered to pay a fine or lose his/her employment for a period of time. The cost will be determined

by the severity of the violation but will not exceed \$500 for any single offense.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Many of the proposed changes to this rule are in the form of housekeeping. The substantive changes are, for the most part, a result of moving language from rule to statute and involve little or no changes in compliance requirements for licensees or other affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed amendments to this rule will have little or no fiscal impact on businesses because, for the most part, the amendment involves removing language from the rule and relocating it in statute. Some of the amendments involve general housekeeping changes to correct numbering and/or statutory references. The only possible fiscal impact will be to employees of businesses who may now be fined or suspended from employment if they are convicted of violating the state's liquor laws.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Sharon Mackay at the above address, by phone at 801-977-6800, by FAX at 801-977-6889, or by Internet E-mail at smackay@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 07/15/2003.

THIS RULE MAY BECOME EFFECTIVE ON: 07/16/2003

AUTHORIZED BY: Kenneth F. Wynn, Director

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

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

(1) "ACT" means the Alcoholic Beverage Control Act, Title 32A.

(2) "BAR" means a service structure maintained on a licensed premises to furnish glasses, ice and setups and to mix and serve liquor and to serve beer.

(3) "COMMISSION" means the Utah Alcoholic Beverage Control Commission.

(4) "COUNTER" means a level surface on which patrons consume food.

(5) "DECISION OFFICER" means a person who has been appointed by the commission or the director of the Department of

Alcoholic Beverage Control to preside over the prehearing phase of all disciplinary actions, and, in all cases not requiring an evidentiary hearing.

(6) "DEPARTMENT" or "DABC" means the Utah Department of Alcoholic Beverage Control.

(7) "DIRECTOR" means the director of the Department of Alcoholic Beverage Control.

~~(8) "DIRECTOR" of a private club means an individual elected by stockholders or members of a private club at an annual meeting to direct organizational and operational policies of the club.~~

~~(9)~~(8) "DISCIPLINARY ACTION" means the process by which violations of the Act and these rules are charged and adjudicated, and by which administrative penalties are imposed.

~~(40)~~(9) "DISPENSING SYSTEM" means a dispensing system or device which dispenses liquor in controlled ~~[one ounce]~~ quantities not exceeding one ounce and has a meter which counts the number of pours served.

~~(41) "FAIR MARKET VALUE" means the price at which a willing seller and willing buyer will trade under normal conditions. It means neither panic value, auction value, speculative value, nor a value fixed by depressed or inflated prices. Rather, it is a fair, economic, just and equitable value under normal conditions.~~

~~(42)~~(10) "GUEST ROOM" means a space normally utilized by a natural person for occupancy, usually a traveler who lodges at an inn.

~~(43)~~(11) "HEARING OFFICER" or "PRESIDING OFFICER" means a person who has been appointed by the commission or the director to preside over evidentiary hearings in disciplinary actions, and who is authorized to issue written findings of fact, conclusions of law, and recommendations to the commission for final action.

~~(44)~~(12) "LETTER OF ADMONISHMENT" is a written warning issued by a decision officer to a respondent who is alleged to have violated the Act or these rules.

~~(45)~~(13) "MANAGER" means a person chosen or appointed to manage, direct, or administer the affairs of another person, corporation, or company.

~~(46)~~(14) "MEMBER" means an individual who regularly pays dues to a private club. Member does not include any corporation or other business enterprise or association, or any other group or association. ~~[A member and the member's spouse is entitled to all rights and privileges as provided by the club's bylaws or Utah law.]~~

~~(47)~~(15) "POINT OF SALE" means that portion of a package agency, restaurant, limited restaurant, airport lounge, on-premise banquet premises, private club, on-premise beer retailer, [or selling area for a] single event ~~[permittee]~~ permitted area, temporary special event beer permitted area, or public service special use permitted area that has been designated by the department as an alcoholic beverage selling area. It also means that portion of an establishment that sells beer for off-premise consumption where the beer is displayed or offered for sale.

~~(48)~~(16) "REASONABLE" means ordinary and usual thinking, speaking, or acting, which is fit and appropriate to the end in view.

~~(49)~~(17) "RESPONDENT" means a department licensee, or permittee, or employee or agent of a licensee or permittee, or other entity against whom a letter of admonishment or notice of agency action is directed.

~~(20)~~(18) "STAFF" or "authorized staff member" means a person duly authorized by the director of the department to perform a particular act.

~~(21)~~(19) "UTAH ALCOHOLIC BEVERAGE CONTROL LAWS" means any Utah statutes ~~[or]~~ commission rules and municipal and county ordinances relating to the manufacture, possession, transportation, distribution ~~[and]~~, sale, supply, wholesale, warehousing, and furnishing of alcoholic beverages ~~;~~ commission rules, and municipal and county ordinances.

~~(22)~~(20) "VIOLATION REPORT" means a written report from any law enforcement agency or authorized department staff member alleging a violation of the Utah Alcoholic Beverage Control Act or rules of the commission by a department licensee, or permittee, or employee or agent of a licensee or permittee or other entity.

~~(23)~~(21) "WARNING SIGN" means a sign no smaller than six inches high by twelve inches wide, with print no smaller than one half inch bold letters and clearly readable, stating: "Warning: Driving under the influence of alcohol or drugs is a serious crime that is prosecuted aggressively in Utah."

R81-1-3. General Policies.

~~(4) Administrative Policy.~~

~~The administration of the department shall be nonpartisan and free of partisan political influence, and operated as a public business using sound management principles and practices. The commission and department shall regulate the sale of alcoholic beverages in a manner and at prices which reasonably satisfy the public demand and protect the public interest including the rights of citizens who do not wish to be involved with alcoholic products.~~

~~(2)~~(1) Official State Label.

Pursuant to Section 32A-1-109(6)(m), the department shall affix an official state label to every container of liquor ~~[over]~~ that is at least 187 ml sold in the state, and to every box containing containers of liquor under 187 ml in size. Removal of the label is prohibited.

~~(3)~~(2) Labeling.

No licensee or permittee shall sell or deliver any alcoholic beverage in containers not marked, branded or labeled in conformity with regulations enacted by the agencies of the United States government pertaining to labeling and advertising.

(4)(3) Manner of Paying Fees.

Payment of all fees for licenses or permits, or renewals thereof, shall be made in legal tender of the United States of America, certified check, bank draft, cashier's check, United States post office money order, or personal check.

~~(5)~~(4) Copy of Commission Rules.

Copies of the commission rules shall be available at the department's office, 1625 South 900 West, P. O. Box 30408, Salt Lake City, Utah 84130-0408 for an administrative cost of \$20 per copy.

~~(6)~~(5) Interest Assessment on Delinquent Accounts.

The department may assess the legal rate of interest provided in Section 15-1-1 for any debt or obligation owed to the department by a licensee, permittee or package agent.

~~(7)~~(6) Returned Checks.

The department will assess a \$20 charge for any check payable to the department returned for the following reasons:

(a) Insufficient Funds;

- (b) Refer to Maker; and
- (c) Account Closed.

Receipt of a check payable to the department which is returned by the bank for any of these reasons may result in the immediate suspension of the license, permit, or operation of the package agency of the person tendering the check until legal tender of the United States of America, certified check, bank draft, cashier's check, or United States post office money order is received at the department offices, 1625 South 900 West, Salt Lake City, Utah, plus the \$20 returned check charge. Failure to make good the returned check and pay the \$20 returned check charge within thirty days after the license, permit, or operation of the package agency is suspended, is grounds for revocation of the license or permit, or termination of the package agency contract, and the forfeiture of the licensee's, permittee's, or package agent's bond.

~~(8)~~(7) Disposition of unsaleable merchandise.

The department, after determining that certain alcoholic products are distressed or unsaleable, but consumable, may make those alcoholic products available to the Utah Department of Public Safety for education or training purposes.

All merchandise made available to the Utah Department of Public Safety must be accounted for as directed by the Department of Alcoholic Beverage Control.

R81-1-6. Violation Schedule.

(1) Authority. This rule is pursuant to Sections 32A-1-107(1)(c)(i), 32A-1-107(1)(e), 32A-1-107(4)(b), 32A-1-119(6) and (7). These provisions authorize the commission to establish criteria and procedures for imposing sanctions against licensees and permittees and their officers, employees and agents who violate statutes and commission rules relating to alcoholic beverages. The commission may revoke or suspend the licenses or permits, and may impose a fine against a licensee or permittee in addition to or in lieu of a suspension. The commission also may impose a fine against an officer, employee or agent of a licensee or permittee. Violations are adjudicated under procedures contained in Section 32A-1-119 and disciplinary hearing Section R81-1-7.

(2) General Purpose. This rule establishes a schedule setting forth a range of penalties which may be imposed by the commission for violations of the alcoholic beverage laws. It shall be used by department decision officers in processing violations, and by presiding officers in charging violations, in assisting parties in settlement negotiations, and in recommending penalties for violations. The schedule shall be used by the commission in rendering its final decisions as to appropriate penalties for violations.

(3) Application of Rule.

(a) This rule governs violations committed by all commission licensees and permittees and their officers, employees and agents except single event permittees. Violations by single event permittees and their employees and agents are processed under Section 32A-7-106.

(b) This rule does not apply to situations where a licensee or permittee fails to maintain the minimum qualifications provided by law for holding a license or permit. These might include failure to maintain a bond or insurance, or a conviction for a criminal offense that disqualifies the licensee or permittee from holding the license or permit. These are fundamental licensing and permitting requirements and failure to maintain them may result in immediate suspension or forfeiture of the license or permit. Thus, they are not processed in accordance with the Administrative Procedures Act,

Title 63, Chapter 46b or Section R81-1-7. They are administered by issuance of an order to show cause requiring the licensee or permittee to provide the commission with proof of qualification to maintain their license or permit.

(c) If a licensee or permittee has not received a letter of admonishment, as defined in Sections R81-1-2 and R81-1-7(2)(b), or been found by the commission to be in violation of Utah statutes or commission rules for a period of 36 consecutive months, its violation record shall be expunged for purposes of determining future penalties sought. The expungement period shall run from the date the last offense was finally adjudicated by the commission.

(d) In addition to the penalty classifications contained in this rule, the commission may:

(i) upon revocation of a license or permit, take action to forfeit the bond of any licensee or permittee;

(ii) prohibit an officer, employee or agent of a licensee or permittee from serving, selling, distributing, manufacturing, wholesaling, warehousing, or handling alcoholic beverages in the course of employment with any commission licensee or permittee for a period determined by the commission;

(iii) order the removal of a manufacturer's, supplier's or importer's products from the department's sales list and a suspension of the department's purchase of those products for a period determined by the commission if the manufacturer, supplier, or importer directly committed the violation, or solicited, requested, commanded encouraged, or intentionally aided another to engage in the violation.

(e) When the commission imposes a fine or administrative costs, it shall establish a date on which the payment is due. Failure of a licensee or permittee or its officer, employee or agent to make payment on or before that date shall result in the immediate suspension of the license or permit or the suspension of the employment of the officer, employee or agent to serve, sell, distribute, manufacture, wholesale, warehouse or handle alcoholic beverages with any licensee or permittee until payment is made. Failure of a licensee or permittee to pay a fine or administrative costs within 30 days of the initial date established by the commission shall result in the issuance of an order to show cause why the license or permit should not be revoked and the licensee's or permittee's compliance bond forfeited. The commission shall consider the order to show cause at its next regularly scheduled meeting.

(f) Violations of any local ordinance are handled by each individual local jurisdiction.

(4) Penalty Schedule. The department and commission shall follow these penalty range guidelines:

(a) Minor Violations. Violations of this category are lesser in nature and relate to basic compliance with the laws and rules. If not corrected, they are sufficient cause for action. Penalty range: Verbal warning from law enforcement or department compliance officer(s) to revocation of the license or permit and/or up to a \$25,000 fine. A record of any letter of admonishment shall be included in the licensee's or permittee's and the officer's, employee's or agent's violation file at the department to establish a violation history.

(i) First occurrence involving a minor violation: the penalty shall range from a verbal warning from law enforcement or department compliance officer(s), which is documented to a letter of admonishment to the licensee or permittee and the officer, employee or agent involved. Law enforcement or department compliance officer(s) shall notify management of the licensee or permittee when verbal warnings are given.

(ii) Second occurrence of the same type of minor violation: a written investigation report from law enforcement or department compliance officer(s) shall be forwarded to the department. The penalty shall range from a \$100 to \$500 fine for the licensee or permittee, and a letter of admonishment to a \$25 fine for the officer, employee or agent.

(iii) Third occurrence of the same type of minor violation: a one to five day suspension of the license or permit and employment of the officer, employee or agent, and/or a [~~\$100~~]\$200 to \$500 fine for the licensee or permittee and up to a \$50 fine for the officer, employee or agent.

(iv) More than three minor violations regardless of type: a six day suspension to revocation of the license or permit and a six to ten day suspension of the employment of the officer, employee or agent, and/or a \$500 to \$25,000 fine for the licensee or permittee and up to a \$75 fine for the officer, employee or agent.

(v) If more than one violation is charged during the same investigation, the penalty shall be the sum of the days of suspension and/or the monetary penalties for each of the charges in their respective categories. If other minor violations are discovered during the same investigation, a verbal warning shall be given for each violation on a first occurrence. If the same type of violation is reported more than once during the same investigation, the violations shall be charged as a single occurrence.

(b) Moderate Violations. Violations of this category demonstrate a general disregard for the laws or rules. Although the gravity of the acts are not viewed in the same light as in the serious and grave categories, they are still sufficient cause for action. Penalty range: Written investigation report from law enforcement or department compliance officer(s) shall be forwarded to the department on the first occurrence. The penalty shall range from a letter of admonishment to revocation of the license or permit and/or up to a \$25,000 fine.

(i) First occurrence involving a moderate violation: a written investigation report from law enforcement or department compliance officer(s) shall be forwarded to the department. The penalty shall range from a letter of admonishment to a \$1000 fine for the licensee or permittee, and a letter of admonishment to a \$50 fine for the officer, employee or agent.

(ii) Second occurrence of the same type of moderate violation: a three to ten day suspension of the license or permit and a three to ten day suspension of the employment of the officer, employee or agent, and/or a \$500 to \$1000 fine for the licensee or permittee and up to a \$75 fine for the officer, employee or agent.

(iii) Third occurrence of the same type of moderate violation: a ten to 20 day suspension of the license or permit and a ten to 20 day suspension of the employment of the officer, employee or agent, and/or a \$1000 to \$2000 fine for the licensee or permittee and up to a \$100 fine for the officer, employee or agent.

(iv) More than three moderate violations regardless of type: a 15 day suspension to revocation of the license or permit and a 15 to 30 day suspension of the employment of the officer, employee or agent, and/or a \$2000 to \$25,000 fine for the licensee or permittee and up to a \$150 fine for the officer, employee or agent.

(v) If more than one violation is charged during the same investigation, the penalty shall be the sum of the days of suspension and/or the sum of the monetary penalties for each of the charges in their respective categories.

(vi) If the same type of violation is reported more than once during the same investigation, the violations shall be charged as a single occurrence.

(c) Serious Violations. Violations of this category directly or indirectly affect or potentially affect the public safety, health and welfare, and involve minors. Penalty range: Written investigation report from law enforcement or department compliance officer(s) shall be forwarded to the department on the first occurrence. The penalty shall range from a five day suspension to revocation of the license or permit and/or up to a \$25,000 fine.

(i) First occurrence involving a serious violation: written investigation report from law enforcement or department compliance officer(s) shall be forwarded to the department. The penalty shall range from a five to 30 day suspension of the license or permit and a five to 30 day suspension of the employment of the officer, employee or agent, and/or a \$500 to \$3000 fine for the licensee or permittee and up to a \$100 fine for the officer, employee or agent.

(ii) Second occurrence of the same type of serious violation: a ten to 90 day suspension of the license or permit and a ten to 90 day suspension of the employment of the officer, employee or agent, and/or a \$1000 to \$9000 fine for the licensee or permittee and up to a \$150 fine for the officer, employee or agent.

(iii) More than two occurrences of any type of serious violation: a 15 day suspension to revocation of the license or permit and a 15 to 120 day suspension of the employment of the officer, employee or agent, and/or a \$9000 to \$25,000 fine for the licensee or permittee and up to a \$500 fine for the officer, employee or agent.

(iv) If more than one violation is charged during the same investigation, the penalty shall be the sum of the days of suspension and/or the sum of the monetary penalties for each of the charges in their respective categories.

(v) If the same type of violation is reported more than once during the same investigation, the violations shall be charged as a single occurrence.

(d) Grave Violations. Violations of this category pose or potentially pose, a grave risk to public safety, health and welfare, or may involve lewd acts prohibited by title 32A, fraud, deceit, willful concealment or misrepresentation of the facts, exclusion of competitors' products, unlawful tied house trade practices, commercial bribery, interfering or refusing to cooperate with authorized officials in the discharge of their duties, unlawful importations, or industry supplying liquor to persons other than the department and military installations. Penalty range: Written investigation report from law enforcement or department compliance officer(s) shall be forwarded to the department on the first occurrence. The penalty shall range from a ten day suspension to revocation of the license or permit and/or up to a \$25,000 fine.

(i) First occurrence involving a grave violation: written investigation report from law enforcement or department compliance officer(s) shall be forwarded to the department. The penalty shall range from a ten day suspension to revocation of the license or permit and a 10 to 120 day suspension of the employment of the officer, employee or agent, and/or a \$1000 to \$25,000 fine to the licensee or permittee and up to a \$300 fine for the officer, employee or agent.

(ii) More than one occurrence of any type of grave violation: a fifteen day suspension to revocation of the license or permit, and a 15 to 180 day suspension of the employment of the officer, employee or agent and/or up to a \$500 fine for the officer, employee or agent.

(iii) If more than one violation is charged during the same investigation, the penalty shall be the sum of the days of suspension and/or the sum of the monetary penalties for each of the charges in their respective categories.

(iv) If the same type of violation is reported more than once during the same investigation, the violations shall be charged as a single occurrence.

(e) The following table summarizes the penalty ranges contained in this section of the rule for licensees and permittees.

TABLE

Violation Degree and License Frequency	Warning Verbal/Written	Fine \$ Amount	Suspension No. of Days
Minor			
1st		X X	
2nd		100 to 500	
3rd		100 200 to 500	1 to 5
Over 3		500 to 25,000	6 to X
Moderate			
1st		X to 1,000	
2nd		500 to 1,000	3 to 10
3rd		1,000 to 2,000	10 to 20
Over 3		2,000 to 25,000	15 to X
Serious			
1st		500 to 3,000	5 to 30
2nd		1,000 to 9,000	10 to 90
Over 2		9,000 to 25,000	15 to X
Grave			
1st		1,000 to 25,000	10 to X
Over 1			15 to X

(f) The following table summarizes the penalty ranges contained in this section of the rule for officers, employees or agents of licensees and permittees.

TABLE

Violation Degree and License Frequency	Warning Verbal/Written	Fine \$ Amount	Suspension No. of Days
Minor			
1st	X X		
2nd	X	to 25	
3rd		to 50	1 to 5
Over 3		to 75	6 to 10
Moderate			
1st	X	to 50	
2nd		to 75	3 to 10
3rd		to 100	10 to 20
Over 3		to 150	15 to 30
Serious			
1st		to 100	5 to 30
2nd		to 150	10 to 90
Over 2		to 500	15 to 120
Grave			
1st		to 300	10 to 120
Over 1		to 500	15 to 180

(5) **Aggravating and Mitigating Circumstances.** The commission and presiding officers may adjust penalties within penalty ranges based upon aggravating or mitigating circumstances. Examples of mitigating circumstances are: no prior violation history, good faith effort to prevent a violation, existence of written policies governing employee conduct, and extraordinary cooperation in the violation investigation that shows the licensee or permittee

and the officer, employee or agent of the licensee or permittee accepts responsibility. Examples of aggravating circumstances are: prior warnings about compliance problems, prior violation history, lack of written policies governing employee conduct, multiple violations during the course of the investigation, efforts to conceal a violation, intentional nature of the violation, the violation involved more than one patron or employee, the violation involved a minor and, if so, the age of the minor, and whether the violation resulted in injury or death.

(6) **Violation Grid.** A violation grid describing each violation of the alcoholic beverage control laws, the statutory and rule reference, and the degree of seriousness of each violation is available for public inspection in the department's administrative office. A copy will be provided upon request at reproduction cost. It is entitled "Alcoholic Beverage Control Commission Violation Grid" and is incorporated by reference as part of this rule.

R81-1-7. Disciplinary Hearings.

(1) **General Provisions.**

(a) This rule is promulgated pursuant to Section 32A-1-107(1)(c)(i) and shall govern the procedure for disciplinary actions under the jurisdiction of the commission. Package agencies are expressly excluded from the provisions of this rule, and are governed by the terms of the package agency contract.

(b) **Liberal Construction.** Provisions of this rule shall be liberally construed to secure just, speedy and economical determination of all issues presented in any disciplinary action.

(c) **Emergency Adjudication Proceedings.** The department or commission may issue an order on an emergency basis without complying with the Utah Administrative Procedures Act in accordance with the procedures outlined in Section 63-46b-20.

(d) **Utah Administrative Procedures Act.** Proceedings under this rule shall be in accordance with Title 63, Chapter 46b, Utah Administrative Procedures Act (UAPA), and Sections 32A-1-119 and -120.

(e) **Penalties.** This rule shall govern the imposition of any penalty against a commission licensee, permittee, or certificate of approval holder, an officer, employee or agent of a licensee, permittee, or certificate of approval holder, and a manufacturer, supplier or importer whose products are listed in this state. Penalties may include a letter of admonishment, imposition of a fine, the suspension or revocation of a commission license, permit, or certificate of approval, the assessment of costs of action, an order prohibiting an officer, employee or agent of a licensee, permittee, or certificate of approval holder, from serving, selling, distributing, manufacturing, wholesaling, warehousing, or handling alcoholic beverages in the course of employment with any commission licensee, permittee, or certificate of approval holder for a period determined by the commission, the forfeiture of bonds, an order removing a manufacturer's, supplier's or importer's products from the department's sales list and a suspension of the department's purchase of those products for a period determined by the commission, and an order removing the products of a certificate of approval holder from the state approved sales list, and a suspension of the purchase of the products in the state. Department administrative costs are the hourly pay rate plus benefits of each department employee involved in processing and conducting the adjudicative proceedings on the violation, an hourly charge for department overhead costs, the amount billed the department by an independent contractor for services rendered in conjunction with an adjudicative proceeding, and any additional extraordinary or

incidental costs incurred by the department. The commission may also assess additional costs if a respondent fails to appear before the commission at the final stage of the adjudicative process. Department overhead costs are calculated by taking the previous year's total department expenditures less staff payroll charges expended on violations, dividing it by the previous year's total staff hours spent on violations, and multiplying this by a rate derived by taking the previous year's total staff payroll spent on violations to the previous year's total payroll of all office employees. The overhead cost figure shall be recalculated at the beginning of each fiscal year.

(f) Perjured Statements. Any person who makes any false or perjured statement in the course of a disciplinary action is subject to criminal prosecution under Section 32A-12-304.

(g) Service. Service of any document shall be satisfied by service personally or by certified mail upon any respondent, or upon any officer or manager of a corporate or limited liability company respondent, or upon an attorney for a respondent, or by service personally or by certified mail to the last known address of the respondent or any of the following:

(i) Service personally or by certified mail upon any employee working in the respondent's premises; or

(ii) Posting of the document or a notice of certified mail upon a respondent's premises; or

(iii) Actual notice. Proof of service shall be satisfied by a receipt of service signed by the person served or by a certificate of service signed by the person served, or by certificate of service signed by the server, or by verification of posting on the respondent's premises.

(h) Filing of Pleadings or Documents. Filing by a respondent of any pleading or document shall be satisfied by timely delivery to the department office, 1625 South 900 West, Salt Lake City, or by timely delivery to P. O. Box 30408, Salt Lake City, Utah 84130-0408.

(i) Representation. A respondent who is not a corporation or limited liability company may represent himself in any disciplinary action, or may be represented by an agent duly authorized by the respondent in writing, or by an attorney. A corporate or limited liability company respondent may be represented by a member of the governing board of the corporation or manager of the limited liability company, or by a person duly authorized and appointed by the respondent in writing to represent the governing board of the corporation or manager of the limited liability company, or by an attorney.

(j) Presiding Officers. The commission or the director may appoint presiding officers to receive evidence in disciplinary actions, and to submit to the commission orders containing written findings of fact, conclusions of law, and recommendations for commission action.

(i) If fairness to the respondent is not compromised, the commission or director may substitute one presiding officer for another during any proceeding.

(ii) A person who acts as a presiding officer at one phase of a proceeding need not continue as presiding officer through all phases of a proceeding.

(iii) Nothing precludes the commission from acting as presiding officer over all or any portion of an adjudication proceeding.

(iv) At any time during an adjudicative proceeding the presiding officer may hold a conference with the department and the respondent to:

(A) encourage settlement;

(B) clarify issues;

(C) simplify the evidence; or

(D) expedite the proceedings.

(k) Definitions. The definitions found in Sections 32A-1-105 and Title 63, Chapter 46b apply to this rule.

(l) Computation of Time. The time within which any act shall be done shall be computed by excluding the first day and including the last day, unless the last day is a Saturday, Sunday, or state or federal holiday, in which case the next business day shall count as the last day.

(m) Default.

(i) The presiding officer may enter an order of default against a respondent if the respondent in an adjudicative proceeding fails to attend or participate in the proceeding.

(ii) The order shall include a statement of the grounds for default, and shall be mailed to the respondent and the department.

(iii) A defaulted respondent may seek to have the default order set aside according to procedures outlined in the Utah Rules of Civil Procedure.

(iv) After issuing the order of default, the commission or presiding officer shall conduct any further proceedings necessary to complete the adjudicative proceeding without the participation of the respondent in default and shall determine all issues in the adjudicative proceeding, including those affecting the defaulting respondent.

(2) Pre-adjudication Proceedings.

(a) Staff Screening. Upon receipt of a violation report, a decision officer of the compliance section of the department shall review the report, and the alleged violator's violation history, and in accordance with R81-1-6, determine the range of penalties which may be assessed should the alleged violator be found guilty of the alleged violation.

(b) Letters of Admonishment. Because letters of admonishment are not "state agency actions" under Section 63-46b-1(1)(a), no adjudicative proceedings are required in processing them, and they shall be handled in accordance with the following procedures:

(i) If the decision officer of the department determines that the alleged violation does not warrant an administrative fine, or suspension or revocation of the license, permit, or certificate of approval, or action against an officer, employee or agent of a licensee, permittee, or certificate of approval holder, or against a manufacturer, supplier or importer of products listed in this state, a letter of admonishment may be sent to the respondent.

(ii) A letter of admonishment shall set forth in clear and concise terms:

(A) The case number assigned to the action;

(B) The name of the respondent;

(C) The alleged violation, together with sufficient facts to put a respondent on notice of the alleged violations and the name of the agency or staff member making the report;

(D) Notice that a letter of admonishment may be considered as a part of the respondent's violation history in assessing appropriate penalties in future disciplinary actions against the respondent; and

(E) Notice that a rebuttal is permitted under these rules within ten days of service of the letter of admonishment.

(F) Notice that the letter of admonishment is subject to the approval of the commission.

(iii) A copy of the law enforcement agency or staff report shall accompany the letter of admonishment. The decision officer shall

delete from the report any information that might compromise the identity of a confidential informant or undercover agent.

(iv) A respondent may file a written rebuttal with the department within ten days of service of the letter of admonishment. The rebuttal shall be signed by the respondent, or by the respondent's authorized agent or attorney, and shall set forth in clear and concise terms:

- (A) The case number assigned to the action;
- (B) The name of the respondent;
- (C) Any facts in defense or mitigation of the alleged violation, and a brief summary of any attached evidence. The rebuttal may be accompanied by supporting documents, exhibits, or signed statements.

(v) If the decision officer is satisfied, upon receipt of a rebuttal, that the letter of admonishment was not well taken, it may be withdrawn and the letter and rebuttal shall be expunged from the respondent's file. Letters of admonishment so withdrawn shall not be considered as a part of the respondent's violation history. If no rebuttal is received, or if the decision officer determines after receiving a rebuttal that the letter of admonishment is justified, the matter shall be submitted to the commission for final approval. Upon commission approval, the letter of admonishment, together with any written rebuttal, shall be placed in the respondent's department file and may be considered as part of the respondent's violation history in assessing appropriate penalties in future disciplinary actions against the respondent. If the commission rejects the letter of admonishment, it may either direct the decision officer to dismiss the matter, or may direct that an adjudicative proceeding be commenced seeking a more severe penalty.

(vi) At any time prior to the commission's final approval of a letter of admonishment, a respondent may request that the matter be processed under the adjudicative proceeding process.

(c) Designation of Informal Adjudicative Proceedings.

(i) All adjudicative proceedings conducted under this rule are hereby designated as informal proceedings.

(ii) If the decision officer determines that the alleged violation warrants commencement of adjudicative proceedings, the matter shall be referred to a presiding officer who shall commence informal adjudication proceedings.

(3) The Informal Process.

(a) Notice of agency action.

(i) Upon referral of a violation report from the decision officer for commencement of informal adjudicative proceedings, the presiding officer shall issue and sign a written "notice of agency action" which shall set forth in clear and concise terms:

(A) The names and mailing addresses of all respondents and other persons to whom notice is being given by the presiding officer, and the name, title, and mailing address of any attorney or employee who has been designated to appear for the department;

(B) The department's case number;

(C) The name of the adjudicative proceeding, "DABC vs. ";

(D) The date that the notice of agency action was mailed;

(E) A statement that the adjudicative proceeding is to be conducted informally according to the provisions of this rule and Sections 63-46b-4 and -5, and that an informal hearing will be held where the respondent and department shall be permitted to testify, present evidence and comment on the issues;

(F) The date, time and place of any prehearing conference with the presiding officer;

(G) The date, time and place of the scheduled informal hearing;

(H) A statement that a respondent who fails to attend or participate in the hearing may be held in default;

(I) A statement of the legal authority and jurisdiction under which the adjudicative proceeding is to be maintained;

(J) A statement of the purpose of the adjudicative proceeding and questions to be decided including:

(I) the alleged violation, together with sufficient facts to put the respondent on notice of the alleged violation and the name of the agency or department staff member making the violation report;

(II) the penalty sought, which may include assessment of costs under Section 32A-1-119(5)(c) if the respondent is found guilty of the alleged violation, and forfeiture of any compliance bond on final revocation under Section 32A-1-119(5)(d) if revocation is sought in the complaint;

(K) Any violation history of the respondent which may be considered in assessing an appropriate penalty should the respondent be found guilty of the alleged violation; and

(L) The name, title, mailing address, and telephone number of the presiding officer.

(ii) A copy of the law enforcement agency or staff report shall accompany the notice of agency action. The presiding officer shall delete from the report any information that might compromise the identity of a confidential informant or undercover agent.

(iii) The notice of agency action and any subsequent pleading in the case shall be retained in the respondent's department file.

(iv) The notice of agency action shall be mailed to each respondent, any attorney representing the department, and, if applicable, any law enforcement agency that referred the alleged violation to the department.

(v) The presiding officer may permit or require pleadings in addition to the notice of agency action. All additional pleadings shall be filed with the presiding officer, with copies sent by mail to each respondent and to the department.

(vi) Amendment to Pleading. The presiding officer may, upon motion of the respondent or department made at or before the hearing, allow any pleading to be amended or corrected. Defects which do not substantially prejudice a respondent or the department shall be disregarded.

(vii) Signing of Pleading. Pleadings shall be signed by the department or respondent, or their authorized attorney or representative, and shall show the signer's address and telephone number. The signature shall be deemed to be a certification by the signer that he has read the pleading and that he has taken reasonable measures to assure its truth.

(b) The Prehearing Conference.

(i) The presiding officer may hold a prehearing conference with the respondent and the department to encourage settlement, clarify issues, simplify the evidence, or expedite the proceedings.

(ii) All or part of any adjudicative proceeding may be stayed at any time by a written settlement agreement signed by the department and respondent or their authorized attorney or representative, and by the presiding officer. The stay shall take effect immediately upon the signing of the settlement agreement, and shall remain in effect until the settlement agreement is approved or rejected by the commission. No further action shall be required with respect to any action or issue so stayed until the commission has acted on the settlement agreement.

(iii) A settlement agreement approved by the commission shall constitute a final resolution of all issues agreed upon in the settlement. No further proceedings shall be required for any issue settled. The approved settlement shall take effect by its own terms and shall be binding upon the respondent and the department. Any breach of a settlement agreement by a respondent may be treated as a separate violation and shall be grounds for further disciplinary action. Additional sanctions stipulated in the settlement agreement may also be imposed.

(iv) If the settlement agreement is rejected by the commission, the action shall proceed in the same posture as if the settlement agreement had not been reached, except that all time limits shall have been stayed for the period between the signing of the agreement and the commission rejection of the settlement agreement.

(c) The Informal Hearing.

(i) The respondent and department shall be notified in writing of the date, time and place of the hearing at least ten days in advance of the hearing. Notice may appear in the notice of agency action, or may appear in a separate notice issued by the presiding officer. Continuances of scheduled hearings are not favored, but may be granted by the presiding officer for good cause shown. Failure by a respondent to appear at the hearing after notice has been given shall be grounds for default and shall waive both the right to contest the allegations, and the right to the hearing. The presiding officer shall proceed to prepare and serve on respondent an order pursuant to R81-1-7(3)(d).

(ii) All hearings shall be presided over by the presiding officer.

(iii) The respondent named in the notice of agency action and the department shall be permitted to testify, present evidence, and comment on the issues. Formal rules of evidence shall not apply, however, the presiding officer:

(A) may exclude evidence that is irrelevant, immaterial or unduly repetitious;

(B) shall exclude evidence privileged in the courts of Utah;

(C) shall recognize presumptions and inferences recognized by law;

(D) may receive documentary evidence in the form of a copy or excerpt if the copy or excerpt contains all the pertinent portions of the original document;

(E) may take official notice of any facts that could be judicially noticed under the Utah Rules of Evidence, of the record of other proceedings before the commission, and of technical or scientific facts within the commission's specialized knowledge;

(F) may not exclude evidence solely because it is hearsay; and

(G) may use his experience, technical competence, and specialized knowledge to evaluate the evidence.

(iv) All testimony shall be under oath.

(v) Discovery is prohibited.

(vi) Subpoenas and orders to secure the attendance of witnesses or the production of evidence shall be issued by the presiding officer when requested by a respondent or the department, or may be issued by the presiding officer on his own motion.

(vii) A respondent shall have access to information contained in the department's files and to material gathered in the investigation of respondent to the extent permitted by law.

(viii) Intervention is prohibited.

(ix) The hearing shall be open to the public, provided that the presiding officer may order the hearing closed upon a written finding that the public interest in an open meeting is clearly outweighed by factors enumerated in the closure order. The

presiding officer may take appropriate measures necessary to preserve the integrity of the hearing.

(x) Record of Hearing. The presiding officer shall cause an official record of the hearing to be made, at the department's expense, as follows:

(A) The record of the proceedings may be made by means of a tape recorder or other recording device at the department's expense.

(B) The record may also be made by means of a certified shorthand reporter employed by the department or by a party desiring to employ a certified shorthand reporter at its own cost in the event that the department chooses not to employ a reporter. If a party employs a certified shorthand reporter, the original transcript of the hearing shall be filed with the department. Those desiring a copy of the certified shorthand reporter's transcript may purchase it from the reporter.

(C) Any respondent, at his own expense, may have a person approved by the department, prepare a transcript of the hearing, subject to any restrictions that the department is permitted by statute to impose to protect confidential information disclosed at the hearing. Whenever a transcript or tape recording of a hearing is made, it will be available at the department for use by the respondent, but the original transcript or tape recording may not be withdrawn.

(D) The department shall retain the record of the evidentiary hearing for a minimum of one year from the date of the hearing, or until the completion of any court proceeding on the matter.

(xi) The presiding officer may grant continuances or recesses as necessary.

(xii) Order of presentation. Unless otherwise directed by the presiding officer at the hearing, the order of procedure and presentation of evidence will be as follows: (1) department; (2) respondent; (3) rebuttal by department.

(xiii) Time limits. The presiding officer may set reasonable time limits for the presentations described above.

(xiv) Continuances of the hearing. Any hearing may be continued to a time and date certain announced at the hearing, which shall not require any new notification. The continuance of the hearing may be made upon motion of a respondent or the department indicating good cause why a continuance is necessary. The continuance of the hearing may also be made upon the motion of the presiding officer when in the public interest.

(xv) Oral Argument and Briefs. Upon the conclusion of the taking of evidence, the presiding officer may, in his discretion, permit a respondent and the department to make oral arguments or submit additional briefs or memoranda upon a schedule to be designated by the presiding officer.

(d) Disposition.

(i) Presiding Officer's Order; Objections.

(A) Within a reasonable time after the close of the hearing, the presiding officer shall issue a signed order in writing that includes the following:

(I) the decision;

(II) the reasons for the decision;

(III) findings of facts;

(IV) conclusions of law;

(V) recommendations for final commission action;

(VI) notice that a respondent or the department having objections to the presiding officer's order may file written objections with the presiding officer within ten days of service of the order, setting forth the particulars in which the report is alleged to be

unfair, inaccurate, incomplete, unreasonable, unlawful or not supported by the evidence.

(B) The order shall be based on the facts appearing in the department's files and on the facts presented in evidence at the informal hearing. Any finding of fact that was contested may not be based solely on hearsay evidence. The findings of fact shall be based upon a preponderance of the evidence. The order shall not recommend a penalty more severe than that sought in the notice of agency action.

(C) A copy of the presiding officer's order shall be promptly mailed to the respondent and the department.

(D) The presiding officer shall wait ten days from service of his order for written objections, if any. The presiding officer may then amend or supplement his findings of fact, conclusions of law, and recommendations to reflect those objections which have merit or which are not disputed.

(E) Upon expiration of the time for filing written objections, the order of the presiding officer and any written objections timely filed, shall be submitted to the commission for final consideration.

(ii) Commission Action.

(A) Upon expiration of the time for filing objections, the order shall be placed on the next available agenda of a regular commission meeting for consideration by the commission. Copies of the order, together with any objections filed shall be forwarded to the commission, and the commission shall finally decide the matter on the basis of the order and any objections submitted.

(B) The commission shall be deemed a substitute presiding officer for this final stage of the informal adjudicative proceeding pursuant to Sections 63-46b-2(1)(h)(ii)(iii). This stage is not considered a "review of an order by an agency or a superior agency" under Sections 63-46b-12 and -13.

(C) No additional evidence shall be presented to the commission. The commission may, at its discretion, permit the respondent and department to present oral presentations.

(D) After the commission has reached a final decision, it shall issue a signed, written order pursuant to Section 32A-1-119(5) and 63-46b-5(1)(i), containing:

- (I) the decision;
- (II) the reasons for the decision;
- (III) findings of fact;
- (IV) conclusions of law;
- (V) action ordered by the commission and effective date of the action taken;

(VI) notice of the right to seek judicial review of the order within 30 days from the date of its issuance in the district court in accordance with Sections 63-46b-14, -15, -17, and -18, and 32A-1-119 and -120.

(E) The commission may adopt in whole or in part, any portion(s) of the initial presiding officer's order.

(F) The order shall be based on the facts appearing in the department's files and on the facts presented in evidence at the informal hearing.

(G) The order shall not impose a penalty more severe than that sought in the notice of agency action.

(H) A copy of the commission's order shall be promptly mailed to the respondent and the department.

(e) Judicial Review.

(i) Any petition for judicial review of the commission's final order must be filed within thirty days from the date the order is issued.

(ii) Appeals from informal adjudicative proceedings shall be to the district court in accordance with Sections 63-46b-15, -17, and -18, and 32A-1-119 and -120.

R81-1-9. Liquor Dispensing Systems.

A licensee may not install or use any system for the automated mixing or dispensing of spirituous liquor unless the dispensing system has been approved by the department.

(1) Minimum requirements. The department will only approve a dispensing system which:

(a) dispenses spirituous liquor in calibrated [~~one ounce~~] quantities not to exceed one ounce; and

(b) has a meter which counts the number of pours [~~served~~] dispensed.

The margin of error of the system for a one ounce pour size cannot exceed 1/16 of an ounce or two milliliters [~~variation in pour size~~].

(2) Types of systems. Dispensing systems may be of various types including: gun, stationary head, tower, insertable spout, ring activator or similar method.

(3) Method of approval.

(a) Suppliers. Companies which manufacture, distribute, sell, or supply dispensing systems must first have their product approved by the department prior to use by any liquor licensee in the state. They shall complete the "Supplier Application for Dispensing System Approval" form provided by the department, which includes: the name, model number, manufacturer and supplier of the product; the type and method of dispensing, calibrating, and metering; the degree or tolerance of error, and a verification of compliance with federal and state laws, rules, and regulations.

(b) Licensees. Before any dispensing system is put into use by a licensee, the licensee shall complete the "Licensee Application for Dispensing System Approval" form provided by the department. The department shall maintain a list of approved products and shall only authorize installation of a product previously approved by the department as provided in subsection (a). The licensee is thereafter responsible for verifying that the system, when initially installed, meets the specifications which have been supplied to the department by the manufacturer. [~~Once the product is installed, the burden is on the licensee to maintain it~~]Once installed, the licensee shall maintain the dispensing system to ensure that it continues to meet the manufacturer's specifications. Failure to maintain [~~#~~]the system may be grounds for suspension or revocation of the licensee's liquor license.

(c) Removal from approved list. In the event the system does not meet the specifications as represented by the manufacturer, the licensee shall immediately notify the department. The department shall investigate the situation to determine whether the product should be deleted from the approved list.

(4) Operational restrictions.

(a) The system must be calibrated to pour a [~~one ounce~~] quantity of spirituous liquor not to exceed one ounce. [~~The calibration may not be changed or adjusted to pour any alternate quantity.~~]

(b) Voluntary consent is given that representatives of the department, State Bureau of Investigation, or any law enforcement officer shall have access to any system for inspection or testing purposes. A licensee shall furnish to the representatives, upon request, samples of the alcoholic products dispensed through any system for verification and analysis.

(c) ~~Liquor~~ Spirituuous liquor bottles in use with a dispensing system at the dispensing location must be affixed to the dispensing system by the licensee. ~~Liquor~~ Spirituuous liquor bottles in use with a remote ~~liquor~~ dispensing system must be in a locked storage area. Any other primary spirituuous liquor not in service must remain unopened. There shall be no opened primary spirituuous liquor bottles at a dispensing location that are not affixed to an approved dispensing device. This rule does not prohibit the presence of opened containers of wine for use as provided by law.

(d) The dispensing system and spirituuous liquor bottles attached to the system must be locked or secured in such a place and manner as to preclude the dispensing of spirituuous liquor at times when liquor sales are not authorized by law.

(e) All dispensing systems and devices must ~~conform to the federal Bureau of Alcohol Tobacco and Firearms (BATF) ruling 77-32 which states in part that bar dispensing systems for use by retail liquor dealers "(1) must~~

~~(i) avoid an in-series hookup which would permit the contents of liquor bottles to flow from bottle to bottle before reaching the dispensing spigot or nozzle[-];~~

~~(2) must~~ (ii) not dispense from or utilize containers other than original liquor bottles [filled, stamped, and labeled in conformity with ATF regulations]; and

~~(3) must~~ (iii) prohibit the intermixing of different kinds of products or brands in the liquor bottles from which they are being dispensed. [..." BATF ruling 77-32 (1977) is incorporated by reference.]

(f) Pursuant to federal law, all liquor dispensed through a dispensing system shall be from its original container, and there shall be no re-use or refilling of liquor bottles with any substance whatsoever. The commission adopts federal regulations 27 CFR 194 and 26 USCA Section 5301 and incorporates them by reference.

(g) Each licensee shall keep daily records for each dispensing outlet as follows:

(i) brands ~~[and container sizes]~~ of liquor dispensed through the dispensing system;

(ii) beginning and ending meter readings by brand or sales price level and the number of [one ounce] portions dispensed through the dispensing system[- by brand or sales price level];

(iii) number of ~~[one ounce]~~ portions sold by brand or sales price level; and

(iv) a comparison of the number of portions dispensed to the number of portions sold including an explanation of any variances ~~[beginning and ending meter readings by brand or sales price level to correlate with the number of drinks sold]~~ by brand or sales price level.

(v) These records must be made available for inspection and audit by the department or law enforcement. [

~~(h) Each licensee shall file with the department a complete price list which includes the selling price, by brand, of each mixed drink dispensed through a metered dispensing system. The licensee or his agent shall not:~~

~~(i) establish a single price based on the required purchase of more than one mixed drink; or~~

~~(ii) sell a mixed drink at a price that is reduced from the usual established price on the list the licensee has on file with the department.]~~

(h) This rule does not prohibit the sale of pitchers of mixed drinks as long as the pitcher contains no more than one ounce of primary spirituuous liquor per person to which the pitcher is served.

(i) Licensees shall display in a prominent place on the premises a list of the types and brand names of spirituuous liquor being served through its dispensing system. This requirement may be satisfied either by printing the list on an alcoholic beverage menu or by wall posting or both.

~~(j)~~ (i) A licensee or his employee shall not:

(i) sell or serve any brand of spirituuous liquor not identical to that ordered by the patron; or

(ii) misrepresent the brand of any spirituuous liquor contained in any drink sold or offered for sale.

~~(k)~~ (k) All dispensing systems and devices must conform to federal, state, and local health and sanitation requirements. Where considered necessary, the department may:

(i) require the alteration or removal of any system,

(ii) require the licensee to clean, disinfect, or otherwise improve the sanitary conditions of any system.

R81-1-10. Wine Dispensing.

(1) Each licensee shall keep daily records ~~[for each dispensing outlet as follows:]~~ that compare the number of portions of wine by the glass dispensed to the number of portions sold. These records shall indicate:

(a) the brands [and container sizes] of each wine dispensed by the glass;

(b) the portion size, not to exceed five ounces per portion, and the number of [five ounce] portions dispensed by the glass of each wine by brand and sales price level; [and]

(c) the portion size and number of [five ounce] portions sold by the glass of each wine by brand and sales price level[-]; and

(d) a comparison of the number of portions dispensed to the number of portions sold including an explanation of any variances.

These records must be made available for inspection and audit by the department or law enforcement. [

~~(2) The licensee or his agent shall not:~~

~~(a) establish a single price based on the required purchase of more than one five ounce glass of wine; or~~

~~(b) sell a five ounce glass of wine at a price that is reduced from the usual established price.]~~

R81-1-11. Multiple-Licensed Facility Storage and Service.

(1) For the purposes of this rule:

(a) "premises" as defined in Section 32A-1-105~~(43)~~ (40) shall include the location of any licensed restaurant, limited restaurant, club, or on-premise beer retailer facility or facilities operated or managed by the same person or entity that are located within the same building or complex. Multiple licensed facilities shall be termed "qualified premises" as used in this rule.

(b) the terms "sell", "sale", "to sell" as defined in Section 32A-1-105~~(46)~~ (54) shall not apply to a cost allocation of alcoholic beverages as used in this rule.

(c) "cost allocation" means an apportionment of the as purchased cost of the alcoholic beverage product based on the amount dispensed in each outlet as reconciled by the record keeping requirements of this rule.

(d) "remote storage alcoholic beverage dispensing system" means a dispensing system where the alcoholic product is stored in a single centralized location, and may have separate dispensing heads at different locations, and is capable of accounting for the amount of alcoholic product dispensed to each location.

(2) Where qualified premises have consumption areas in reasonable proximity to each other, the dispensing of alcoholic beverages may be made from the alcoholic beverage inventory of an outlet in one licensed location to patrons in either consumption area of the qualified premises subject to the following requirements:

(a) for liquor and wine dispensing, daily dispensing records as required in R81-1-9~~[(4)(g)]~~ and R81-1-10~~[(4)]~~ must also show the amount of alcoholic beverage products dispensed to each licensed location;

(b) for beer dispensing, daily records must be kept in a form acceptable to the department that show the amount of beer dispensed to each outlet;

(c) point of sale control systems must be implemented that will record the amounts of each alcoholic beverage product sold in each location. Sales records and dispensing records must be balanced daily;

(d) cost allocation of the alcoholic beverage product cost must be made for each location on at least a monthly basis. Allocations must be able to be supported by the record keeping requirements of Section 32A-4-106~~[(27)(28)(33)]~~, 32A-4-307, ~~[or]~~ 32A-5-107~~[(11)(12)(15)(16)(17)]~~, or 32A-10-206~~[(44)]~~;

(e) dispensing of alcoholic beverages to a licensed location may not be made on prohibited days or at prohibited hours pertinent to that license type;

(f) if separate inventories of liquor are maintained in one dispensing location, the storage area of each licensee's liquor must remain locked during the prohibited hours and days of sale for each license type;

(g) dispensing of alcoholic beverages to a licensed location may not be made in any manner prohibited by the statutory or regulatory operational restrictions of that license type;

(h) a licensee must obtain department approval before dispensing alcoholic beverages as described in this section. Applications for approval shall be in a form prescribed by the department and shall include a floor plan of all storage, dispensing, sales, service, and consumption areas involved.

(i) alcoholic beverages dispensed under this section may be delivered by servers from one outlet to the various approved consumption areas, or dispensed to each outlet through the use of a remote storage alcoholic beverage dispensing system.

(3) On qualified premises where each licensee maintains an inventory of alcoholic beverage products, the alcoholic beverages owned by each licensee may be stored in a common location in the building subject to the following guidelines:

(a) each licensee shall identify the common storage location when applying for or renewing their license, and shall receive department approval of the location;

(b) each licensee must be able to account for its ownership of the alcoholic beverages stored in the common storage location by keeping records, balanced monthly, of expenditures for alcoholic beverages supported by items such as delivery tickets, invoices, receipted bills, canceled checks, petty cash vouchers; and

(c) the common storage area may be located on the premises of one of the licensed liquor establishments.

R81-1-12. Alcohol Training and Education Seminar.

(1) The alcohol training and education seminar, as described in Section ~~[62A-8-103.5]~~ 62A-15-401, shall be completed by every individual of every new and renewing licensee under title 32A who:

(a) is employed to sell or furnish alcoholic beverages to the public within the scope of his employment for consumption on the premises;

(b) is employed to manage or supervise the service of alcoholic beverages; or

(c) holds an ownership interest in an on-premise licensed establishment and performs the duties of a manager, supervisor, or server of alcoholic beverages.

(2) Persons described in subsection 1(a) and (b) must complete the training within 30 days of commencing employment. Persons described in subsection 1(c) must complete the training within 30 days of engaging in the duties described in subsection 1(a) and (b).

(3) Each licensee shall maintain current records on each individual indicating:

(a) date of hire, and

(b) date of completion of training.

(4) The seminar shall include the following subjects in the curriculum and training:

(a) alcohol as a drug and its effect on the body and behavior;

(b) recognizing the problem drinker;

(c) an overview of state alcohol laws;

(d) dealing with problem customers; and

(e) alternate means of transportation to get a customer safely home.

(5) Persons required to complete the seminar shall pay a fee to the seminar provider.

(6) The seminar is administered by the Division of Substance Abuse of the Utah Department of Human Services.

(7) Persons who are not in compliance with subsection (2) may not:

(a) serve or supervise the serving of alcoholic beverages to a customer for consumption on the premises of a licensee; or

(b) engage in any activity that would constitute managing operations at the premises of a licensee.

R81-1-16. Disqualification Based Upon Conviction of Crime.

(1) The Alcoholic Beverage Control Act generally disqualifies ~~[any person, licensee, or, in the case of a partnership or a corporation, a partner, manager, officer, director, or shareholder with more than 20% of the issued and outstanding stock, from being an employee of the department, receiving a license, or being an employee of a licensee]~~ persons from being employees of the department, operating a package agency, holding a license or permit, or being employed in a managerial or supervisory capacity with a package agency, licensee or permittee if they have been convicted of:

(a) a felony under any federal or state law;

(b) any violation of any federal or state law or local ordinance concerning the sale, manufacture, distribution, warehousing, adulteration, or transportation of alcoholic beverages; ~~[or]~~

(c) any crime involving moral turpitude; or

(d) driving under the influence of alcohol or drugs on two or more occasions within the last five years.

(2) In the case of a partnership, corporation, or limited liability company the proscription under Subsection (1) applies if any of the following has been convicted of any offense described in Subsection (1):

(a) a partner;

(b) a managing agent;

- ~~(c) a manager;~~
~~(d) an officer;~~
~~(e) a director;~~
 (f) a stockholder who holds at least 20% of the total issued and outstanding stock of the corporation; or
 (g) a member who owns at least 20% of the limited liability company.

~~(2)~~(3) As used in the Act and these rules:

(a) "convicted" or "conviction" means a determination of guilt by a judge or a jury, upon either a trial or entry of a plea, in any court, including a court not of record, that has not been reversed on appeal;

(b) "felony" means any crime punishable by a term of imprisonment in excess of one year; and

(c) a "crime involving moral turpitude" means a crime that involves actions done knowingly contrary to justice, honesty, or good morals. It is also described as a crime that is "malum in se" as opposed to "malum prohibitum" - actions that are immoral in themselves regardless of being punishable by law as opposed to actions that are wrong only since they are prohibited by statute. A crime of moral turpitude ordinarily involves an element of falsification or fraud or of harm or injury directed to another person or another's property. For purposes of this rule, crimes of moral turpitude may include crimes involving controlled substances, illegal drugs, and narcotics.

R81-1-17. Advertising.

~~(1) Purpose:~~

~~(a) Recognizing the rulings of the United States Supreme Court in 44 Liquormart, Inc. v. Rhode Island, 517 U.S. 484 (1996), and Lorillard Tobacco Co. v. Reilly, 121 S. Ct. 2404 (2001), and the Tenth Circuit Court of Appeals in Utah Licensed Beverage Association v. Leavitt, 256 F3d 1061 (10th Cir. 2001), this rule interprets Utah statutes and rules relating to the advertising of alcoholic beverages in a manner to preserve their constitutionality.~~

~~(b) No provision of this rule shall be construed as a concession that any current law or rule is unconstitutional. All statutes shall remain in full force and effect unless, consistent with the rulings cited above, enforcement of the statute would raise constitutional concerns. Also, the statutes should be interpreted in accordance with this rule.~~(1) Authority and General Purpose. This rule is pursuant to Section 32A-12-401(4) which authorizes the commission to establish guidelines for the advertising of alcoholic beverages in this state except to the extent prohibited by Title 32A.

(2) Definitions.

(a) For purposes of this rule, "advertisement" or "advertising" includes any written or verbal statement, illustration, or depiction which is calculated to induce alcoholic beverage sales, whether it appears in a newspaper, magazine, trade booklet, menu, wine card, leaflet, circular, mailer, book insert, catalog, promotional material, sales pamphlet, or any written, printed, graphic, or other matter accompanying the container, representations made on cases, billboard, sign, or other public display, public transit card, other periodical literature, publication or in a radio or television broadcast, or in any other media; except that such term shall not include:

(i) labels on products; or

(ii) any editorial or other reading material (i.e., news release) in any periodical or publication or newspaper for the publication of which no money or valuable consideration is paid or promised, directly or indirectly, by any alcoholic beverage industry member or

retailer, and which is not written by or at the direction of the industry member or retailer.

(b) For purposes of this rule, "minor" or "minors" shall mean persons under the age of 21 years.

~~(3) Authority.~~ This rule is enacted under the authority of Sections 63-46a-3, 32A-1-107, and 32A-12-401(2)(f) and (5).
~~(4)~~(3) Application.

(a) This rule shall govern the regulation of advertising of alcoholic beverages sold within the state, except where the regulation of interstate electronic media advertising is preempted by federal law. This rule incorporates by reference the Federal Alcohol Administration Act, 27 U.S.C. 205(f), and Subchapter A, Parts 4, 5, 6 and 7 of the regulations of the Bureau of Alcohol, Tobacco and Firearms, United States Department of the Treasury in 27 CFR 4, 5, 6 and 7 (1993 Edition). These provisions shall regulate the labeling and advertising of alcoholic beverages sold within this state, except where federal statutes and regulations are found to be contrary to or inconsistent with the provisions of the statutes and rules of this state.

(b) 27 CFR Section 7.50 provides that federal laws apply only to the extent that the laws of a state impose similar requirements with respect to advertisements of malt beverages manufactured and sold or otherwise disposed of in the state. This rule, therefore, adopts and incorporates by reference federal laws, previously referenced in subparagraph (a), relating to the advertising of malt beverage products.

~~(5)~~(4) Current statutes and rules restricting the advertising, display, or display of price lists of liquor products, as defined in 32A-1-105(~~23~~)(28), by the department, state stores, or type 1, 2 or 3 package agencies as defined in R81-3-1, are applicable [and enforceable].

~~(6) By this rule, the statutory provisions of Sections 32A-4-106(5)(d), 32A-4-106(21)(a) and (b), 32A-4-206(5)(c), 32A-6-105(7), 32A-7-106(2)(m), 32A-12-401(2)(a) through (c), (3) and (4), to the extent they restrict the advertising of liquor, as defined in 32A-1-105(23), and beer, as defined in 32A-1-105(4), by manufacturers, wholesalers, permittees, licensed retailers of such products, and type 4 and 5 package agencies as defined in R81-3-1, will not be enforced. Instead, all~~(5) All advertising of liquor and beer by [these entities] manufacturers, suppliers, importers, local industry representatives, wholesalers, permittees, and licensed retailers of such products, and type 4 and 5 package agencies as defined in R81-3-1 shall comply with the advertising requirements listed in Section [~~40~~](6) of this rule.

~~(7) By this rule, the statutory provisions of Section 32A-5-107(23) that restrict private club public solicitation or public advertising calculated to increase club membership will not be enforced. However, any such solicitation or advertising by a private club, its employees or agents, or by any person under an entertainment contract or agreement with the club shall clearly identify the establishment as being "a private club for members", and shall comply with the advertising requirements listed in Section (10) of this rule.~~

~~(8) All trade practice restrictions provided by Section 32A-12-603 regulating things of value that liquor and beer industry members, as defined in 32A-12-601, may provide to liquor and beer retailers are applicable and enforceable with the following modifications in enforcement:~~

~~(a) any on-premise beer retailer may be provided, receive and use things of value from beer industry members to the same extent authorized for any tavern licensee;~~

~~—(b) a restaurant liquor licensee may be provided, receive and use things of value from beer industry members to the same extent authorized for any beer licensee or permittee; and~~

~~—(c) product displays, inside signs, and consumer and retailer advertising specialties relating to liquor and beer products may be provided and displayed in compliance with the advertising guidelines of Section (10) to the extent authorized by this rule and federal law (see 27 CFR 6.84), to include being visible on and off the retailer's premise.~~

~~—(9) Sections 32A-12-606(1), (2), and (3) relating to unlawful acts involving consumers are applicable and enforceable. Section 32A-12-606(4) which establishes guidelines for alcoholic beverage industry members or retailers to sponsor or underwrite athletic, theatrical, scholastic, artistic, or scientific events is applicable and enforceable with the following modifications in enforcement:~~

~~—(a) the guidelines for any alcoholic beverage advertising associated with the event are those listed in Section (10) of this rule;~~

~~—(b) industry members or retailers are not precluded from sponsoring a theatrical, artistic, or scientific event that involves the display of drinking scenes; and~~

~~—(c) industry members or retailers may not sponsor an event that takes place on the premises of a school, college, university, or other educational institution.~~

~~—(10)(6) Advertising Requirements. Any advertising or advertisement authorized by this rule:~~

~~(a) May not violate any federal laws referenced in Subparagraph [(4)](3);~~

~~(b) May not contain any statement, design, device, or representation that is false or misleading;~~

~~(c) May not contain any statement, design, device, or representation that is obscene or indecent;~~

~~(d) May not refer to, portray or imply illegal conduct, illegal activity, abusive or violent relationships or situations, or anti-social behavior, except in the context of public service advertisements or announcements to educate and inform people of the dangers, hazards and risks associated with irresponsible drinking or drinking by persons under the age of 21 years;~~

~~(e) May not encourage over-consumption or intoxication, promote the intoxicating effects of alcohol consumption, or overtly promote increased consumption of alcoholic products;~~

~~(f) May not advertise any [promotional scheme]unlawful discounting practice such as "happy hour", "two drinks for the price of one", "free alcohol", or "all you can drink for \$..."~~

~~(g) May not encourage or condone drunk driving;~~

~~(h) May not depict the act of drinking;~~

~~(i) May not promote or encourage the sale to or use of alcohol by minors;~~

~~(j) May not be directed or appeal primarily to minors by:~~

~~(i) using any symbol, language, music, gesture, cartoon character, or childhood figure such as Santa Claus that primarily appeals to minors;~~

~~(ii) employing any entertainment figure or group that appeals primarily to minors;~~

~~(iii) placing advertising in magazines, newspapers, television programs, radio programs, or other media where most of the audience is reasonably expected to be minors, or placing advertising on the comic pages of magazines, newspapers, or other publications;~~

~~(iv) placing advertising in any school, college or university magazine, newspaper, program, television program, radio program, or other media, or sponsoring any school, college or university activity;~~

(v) using models or actors in the advertising that are or reasonably appear to be minors;

(vi) advertising at an event where most of the audience is reasonably expected to be minors; or

(vii) using alcoholic beverage identification, including logos, trademarks, or names on clothing, toys, games or game equipment, or other materials intended for use primarily by minors.

(k) May not portray use of alcohol by a person while that person is engaged in, or is immediately about to engage in, any activity that requires a high degree of alertness or physical coordination;

(l) May not contain claims or representations that individuals can obtain social, professional, educational, athletic, or financial success or status as a result of alcoholic beverage consumption, or claim or represent that individuals can solve social, personal, or physical problems as a result of such consumption;

(m) May not offer alcoholic beverages [to the general public]without charge;

(n) May not require the purchase, sale, or consumption of an alcoholic beverage in order to participate in any promotion, program, or other activity; and

(o) May provide information regarding product availability and price, and factual information regarding product qualities, but may not imply by use of appealing characters or life-enhancing images that consumption of the product will benefit the consumer's health, physical prowess, sexual prowess, athletic ability, social welfare, or capacity to enjoy life's activities.

[(44)](7) Violations. Any violation of this rule may result in the imposition of any administrative penalties authorized by 32A-1-119(5), (6) and (7), and may result in the imposition of the criminal penalty of a class B misdemeanor pursuant to 32A-12-104 and 401.

KEY: alcoholic beverages

~~[February 26,]2003~~

Notice of Continuation December 26, 2001

32A-1-107

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

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

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

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

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

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

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

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

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

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

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

▼ ————— ▼

**Alcoholic Beverage Control,
Administration
R81-3
Package Agencies**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 26323

FILED: 06/02/2003, 14:12

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The amendments to this rule are proposed to correct numbering in Section R81-3-4, and to bring package agency advertising rules in Section R81-3-9 in line with new statutes that took effect on May 5, 2003, as a result of the passage of S.B. 153 by the 2003 legislature. (DAR NOTE: S.B. 153 is found at UT L 2003 Ch 314, and was effective May 5, 2003.)

SUMMARY OF THE RULE OR CHANGE: The change in Section R81-3-4 is a simple numbering correction. The proposed amendments in Section R81-3-9 clarify package agency advertising restrictions addressed in Subsection 32A-12-401(2)(b) which states "A package agency may not advertise alcoholic beverages on billboards except to the extent allowed by the commission by rule".

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 32A-1-107 and Subsection 32A-12-401(2)(b)

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: None--The amendments to this rule are proposed to clarify the provisions of advertising laws in the Utah State Code. This will not affect the State budget.
- ❖ LOCAL GOVERNMENTS: None--The amendments to this rule are proposed to clarify the provisions of advertising laws in the Utah State Code. They will not impact local governments.
- ❖ OTHER PERSONS: None--The amendments to this rule only clarify advertising laws as they apply to package agencies.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--Package agencies are under no obligation to advertise publicly. The amendments to this rule only clarify advertising laws should a package agency choose to advertise.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Amendments to Subsection 32A-12-401(2)(b) as passed in S.B. 153 give the ABC Commission the authority to define acceptable package agency billboard advertising. The term "billboards" is defined in Subsection 32A-1-105(8). Since package agencies are under no obligation to advertise publicly, this rule may or may not have any fiscal impact on them.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Sharon Mackay at the above address, by phone at 801-977-6800, by FAX at 801-977-6889, or by Internet E-mail at smackay@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 07/15/2003.

THIS RULE MAY BECOME EFFECTIVE ON: 07/16/2003

AUTHORIZED BY: Kenneth F. Wynn, Director

R81. Alcoholic Beverage Control, Administration.**R81-3. Package Agencies.****R81-3-4. Change of Package Agent.**

Pursuant to Section 32A-3-106~~(45)~~(16), any change of the package agent designated in the department's package agency agreement is a violation of these rules and shall result in the immediate termination of the package agency contract.

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

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

~~[Type 4 package agencies, as defined in R81-3-1, may provide a list of the code number, brand, size, and price of each item it carries for sale to the tenants or occupants of the specific leased, rented, or licensed rooms within the facility.]~~(2) A package agency may not advertise alcoholic beverages on billboards except:

(a) a Type 1 package agency, as defined in R81-3-1, may provide informational signs on the premises of the hotel or resort directing persons to the location of the hotel's or resort's Type 1 package agency;

(b) a Type 2 package agency, as defined in R81-3-1, may provide informational signs on the premises of its business directing persons to the location of the Type 2 package agency within the business; and

(c) a Type 5 package agency, as defined in R81-3-1, may advertise the location of the winery and the Type 5 package agency, and may advertise the alcoholic beverage products produced by the winery and sold at the Type 5 package agency under the guidelines of R81-1-17 for advertising alcoholic beverages.

(3) A package agency may not display price lists in windows or showcases visible to passersby except:

(a) a Type 1 package agency, as defined in R81-3-1, may provide a price list in each guest room of the hotel or resort containing the code, number, brand, size and price of each item it carries for sale at the Type 1 package agency;

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

(c) a Type 5 package agency, as defined in R81-3-1, may provide a price list on the premises of the winery, winery tasting room, and at the entrance of the Type 5 package agency of the code, number, brand, size, and price of each item it carries for sale at the Type 5 package agency.

KEY: alcoholic beverages
[July 1, 2002]2003
Notice of Continuation December 18, 2001
32A-1-107

▼ ————— ▼

Alcoholic Beverage Control, Administration **R81-4A** Restaurants

NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE NO.: 26324
 FILED: 06/02/2003, 14:15

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule amendment is proposed for the purpose of renaming the rule, revising licensee liquor order and return procedures, and deleting archaic language related to the use of mini bottles.

SUMMARY OF THE RULE OR CHANGE: The name of Rule R81-4A will be changed from "Restaurants" to "Restaurant Liquor Licenses". The proposed amendments also establish new rules for licensees when placing liquor orders and/or returning alcoholic products to state liquor stores and package agencies. Finally, since the use of mini bottles by licensees has not been authorized for many years, it is proposed to remove archaic language related to them.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 32A-1-107; and Title 32A, Chapter 4

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** None--Licensees have always been required to follow guidelines when purchasing and returning alcoholic products to state liquor stores and package agencies. The proposed amendments changes some of the guidelines, but do not affect the state's budget. The state budget will not be affected by the removal of outdated language involving the use of mini bottles.
- ❖ **LOCAL GOVERNMENTS:** None--The amendments to Rule R81-4A involve licensee orders and product returns to state liquor stores and package agencies and do not affect costs or savings to local governments. Neither does the prohibition of mini bottles fiscally impact local governments.
- ❖ **OTHER PERSONS:** None--Other persons are not involved in the purchase and return of liquor by licensees, and since the use of mini bottles has been prohibited for many years, deleting the reference to mini bottles in the rule will have no fiscal impact on others.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed amendments merely establish new guidelines for licensees when ordering and returning alcoholic products to state liquor stores and package agencies. Compliance with these guidelines will involve no additional compliance costs. Neither

will the deletion of references to mini bottles involve compliance costs since the use of mini bottles by licensees has not been authorized for years.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Many of the guidelines established for licensees who purchase and/or return alcoholic products to state liquor stores and package agencies are no longer sufficient. The proposed rule amendments simply establish new guidelines and involves no fiscal impact to businesses. The deletion of archaic language involving the use of mini bottles will also have no fiscal impact on businesses.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Sharon Mackay at the above address, by phone at 801-977-6800, by FAX at 801-977-6889, or by Internet E-mail at smackay@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 07/15/2003.

THIS RULE MAY BECOME EFFECTIVE ON: 07/16/2003

AUTHORIZED BY: Kenneth F. Wynn, Director

R81. Alcoholic Beverage Control, Administration. **R81-4A. ~~Restaurants~~ Restaurant Liquor Licenses.** **R81-4A-1. Licensing.**

(1) Restaurant liquor licenses are issued to persons as defined in Section 32A-1-105~~(33)~~(38). Any contemplated action or transaction that may alter the organizational structure or ownership interest of the person to whom the license is issued must be submitted to the department for approval prior to consummation of any such action to ensure there is no violation of Sections 32A-4-102(3)~~[and]~~, 32A-4-103, and 32A-4-106(28).

(2) A restaurant liquor licensee that wishes to operate the same licensed premises under the operational restrictions of an on-premise beer retailer during certain designated periods of the day or night, must apply for and be issued a separate on-premise beer retailer license subject to the following:

(a) The same restaurant licensee must separately apply for a state on-premise beer retailer license pursuant to the requirements of Sections 32A-10-202, -203, and -205.

(b) Licensees applying for dually licensed premises must notify the department of the time periods under which each license will be operational at the time application is made. Changes must be requested in writing and approved in advance by the department. Licensees may operate sequentially under either license, but not concurrently.

(c) Restaurant liquor licensees holding a separate on-premise beer retailer license must operate in accordance with 32A-10-206 and R81-10 during the hours the on-premise beer retailer license is active.

(d) Liquor storage areas on the restaurant premises shall be deemed to remain on the floor plan of the restaurant premises and shall be kept locked during the hours the on-premise beer retailer license is active.

R81-4A-5. Restaurant Liquor Licensee Liquor Order and Return Procedures.

~~The following procedures shall be followed when restaurant liquor licensees order liquor from any state liquor store, package agency, or department satellite warehouse:~~

~~(1) A "Restaurant Liquor Order Form" must be completed for all restaurant liquor orders. The order form must be filled out by store/agency personnel and must include the restaurant liquor licensee name, department license number, and merchandise listed by code number.~~

~~(2) The licensee must allow at least one hour for the store/agency to fill the order. When the order is complete, the licensee will be notified by phone. The total cost of the store/agency total and the licensee total must agree.~~

~~(3) All orders must be picked up before 5:00 p.m. the same day the order is placed. The licensee's designee must check and sign for the order before it leaves the store, agency or warehouse.~~

~~(4) Merchandise shall be supplied to the licensee on request when it is available on a first come, first served basis.]The following procedures shall be followed when a restaurant liquor licensee orders liquor from or returns liquor to any state liquor store, package agency, or department satellite warehouse:~~

~~(1) The licensee must place the order in advance to allow department personnel sufficient time to assemble the order. The licensee or employees of the licensee may not pick merchandise directly off the shelves of a state store or package agency to fill the licensee's order. The order shall include the business name of the licensee, department licensee number, and list the products ordered specifying each product by code number and quantity.~~

~~(2) The licensee shall allow at least four hours for department personnel to assemble the order for pick-up. When the order is complete, the licensee will be notified by phone and given the total cost of the order. The licensee may pay for the product in cash, company check or cashier's check.~~

~~(3) The licensee or the licensee's designee shall examine and sign for the order before it leaves the store, agency or satellite warehouse to verify that the product has been received.~~

~~(4) Merchandise shall be supplied to the licensee on request when it is available on a first come first serve basis. Discounted items and limited items may, at the discretion of the department, be provided to a licensee on an allocated basis.~~

~~(5)(a) Spirituous liquor may be returned by the licensee for the original purchase price only under the following conditions:~~

~~(i) the bottle has not been opened;~~

~~(ii) the seal remains intact;~~

~~(iii) the label remains intact; and~~

~~(iv) upon a showing of the original cash register receipt.~~

~~(b) A restocking fee of 10% shall be assessed on the entire amount on any returned spirituous liquor order that exceeds \$1,000. All spirituous liquor returned that is based on a single purchase on a single cash register receipt must be returned at the same time at a single store, package agency, or satellite warehouse location.~~

~~(b) Wine and beer may not be returned by the licensee for the original purchase price except upon a showing that the product was spoiled or non-consumable.~~

R81-4A-6. Restaurant Liquor Licensee Operating Hours.

Allowable hours of liquor sales shall be in accordance with Section 32A-4-106 ~~(8)~~(9). However, the licensee may open the liquor storage area during hours otherwise prohibited for the limited purpose of inventory, restocking, repair, and cleaning.

R81-4A-7. Sale and Purchase of Alcoholic Beverages.

(1) Alcoholic beverages (including light beer) must be sold in connection with an order for food placed and paid for by a patron. An order for food may not include food items gratuitously provided by the restaurant to patrons. A patron may pay for an alcoholic beverage at the time of purchase, or, at the discretion of both the licensee and the patron, the price charged may be added to the patron's tab, provided that a written beverage tab, as provided in Section 32A-4-106 ~~(33)~~(29), shall be commenced upon the patron's first purchase and shall be maintained by the restaurant during the course of the patron's stay at the restaurant regardless of where the patron orders and consumes an alcoholic beverage.

(2) The restaurant shall maintain at least 70% of its total business from the sale of food pursuant to Section 32A-4-106 ~~(30)~~(26).

(a) The restaurant shall maintain records separately showing quarterly expenditures and sales for beer, heavy beer, liquor, wine, set-ups, and food. These shall be available for inspection and audit by representatives of the department, and maintained for a period of three years.

(b) If any inspection or audit discloses that the sales of food are less than 70% for any quarterly period, an order to show cause shall be issued by the department to determine why the license should not be immediately suspended by the commission. Any suspension shall remain in effect until the licensee is able to prove to the satisfaction of the commission that in the future, the sales of food will meet or exceed 70%. Failure of the licensee to provide satisfactory proof of the required food percentage within three months of the date the license was suspended, shall result in the revocation of the license.

(3) Liquor dispensing shall be in accordance with Section 32A-4-106; and Sections R81-1-9 (Liquor Dispensing Systems), R81-1-10 (Wine Dispensing), and R81-1-11 (Multiple Licensed Facility Storage and Service) of these rules. ~~However, an alcoholic beverage may contain the contents of a 50 ml bottle as a primary liquor if the commission has authorized the use of the 50 ml bottle for a specific liquor product.]~~

R81-4A-14. Brownbagging.

When private social functions or privately hosted events, as defined in 32A-1-105 ~~(37)~~(42), are held on the premises of a licensed restaurant, the proprietor may, in his or her discretion, allow members of the private group to bring onto the restaurant premises, their own alcoholic beverages under the following circumstances:

(1) When the entire restaurant is closed to the general public for the private function or event, or

(2) When an entire room or area within the restaurant such as a private banquet room is closed to the general public for the private function or event, and members of the private group are restricted to that area, and are not allowed to co-mingle with public patrons of the restaurant.

KEY: alcoholic beverages
~~[April 29, 2002]~~2003
 Notice of Continuation December 18, 2001
 32A-1-107

▼ ————— ▼

**Alcoholic Beverage Control,
 Administration
 R81-4B
 Airport Lounges**

NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE NO.: 26325
 FILED: 06/02/2003, 14:22

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule amendment is proposed to make numbering corrections, to revise guidelines for purchasing and returning alcoholic products to state liquor stores and package agencies, and to no longer allow the use of mini bottles in airport lounges.

SUMMARY OF THE RULE OR CHANGE: This proposed rule amendment makes numbering corrections and adds one additional statutory reference; and establishes new guidelines for operators of airport lounges when ordering and/or returning alcoholic beverages to state liquor stores and package agencies. Finally, archaic language is removed involving the use of mini bottles.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 32A-1-107; and Title 32A, Chapter 4

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** None--The new purchase and return guidelines for airport lounge licensees do not involve any cost or savings to the state. They simply replace the outdated guidelines that are presently in rule. Since the use of mini bottles has not been authorized by the ABC Commission for many years, this amendment, which removes reference to the use of mini bottles, will have no impact on the state budget.

❖ **LOCAL GOVERNMENTS:** None--Local governments are not involved in the purchase and/or return of liquor to state liquor stores and package agencies. Also, local governments do not regulate the use of mini bottles. Therefore, this proposed rule amendment will not have a fiscal impact on local governments.

❖ **OTHER PERSONS:** None--Other persons are not involved in the purchase and return of alcoholic beverages by licensees. Also, since the use of mini bottles has not been authorized for over 10 years, neither of these proposed amendments will have a fiscal impact on other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--The new guidelines for ordering and returning liquor to state liquor stores and package agencies do not impose a compliance cost to licensees. Also, since licensees have not been

authorized to use mini bottles for many years, they are already complying with this restriction.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed amendments to this rule make numbering and statutory reference corrections, establish more efficient guidelines for licensees when purchasing and/or returning liquor to state liquor stores and package agencies, and deletes archaic language involving the use of mini bottles. The proposed amendments do not impose any costs or savings to businesses.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Sharon Mackay at the above address, by phone at 801-977-6800, by FAX at 801-977-6889, or by Internet E-mail at smackay@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 07/15/2003.

THIS RULE MAY BECOME EFFECTIVE ON: 07/16/2003

AUTHORIZED BY: Kenneth F. Wynn, Director

**R81. Alcoholic Beverage Control, Administration.
 R81-4B. Airport Lounges.
 R81-4B-1. Licensing.**

Airport lounge liquor licenses are issued to persons as defined in Section 32A-1-105~~(33)~~(38). Any contemplated action or transaction that may alter the organizational structure or ownership interest of the person to whom the license is issued must be submitted to the department for approval prior to consummation of any such action to ensure there is no violation of Sections 32A-4-202(3)~~[and]~~, 32A-4-203 and 32A-4-206(21).

**R81-4B-5. Airport Lounge Liquor Licensee Liquor Order and
 Return Procedures.**

~~[The following procedures shall be followed when airport lounge liquor licensees order liquor from any state liquor store, package agency, or department satellite warehouse:~~

~~—(1) An "Airport Lounge Liquor Order Form" must be completed for all airport lounge liquor orders. The order form must be filled out by store/agency personnel and must include the airport lounge liquor licensee name, department license number, and merchandise listed by code number.~~

~~—(2) The licensee must allow at least one hour for the store/agency to fill the order. When the order is complete, the licensee will be notified by phone. The total cost of the store/agency total and the licensee total must agree.~~

—(3) All orders must be picked up before 5:00 p.m. the same day the order is placed. Licensee's designee must check and sign for the order before it leaves the store, agency or warehouse.

—(4) Merchandise shall be supplied to the licensee on request when it is available on a first come, first served basis. The following procedures shall be followed when an airport lounge liquor licensee orders liquor from or returns liquor to any state liquor store, package agency, or department satellite warehouse:

(1) The licensee must place the order in advance to allow department personnel sufficient time to assemble the order. The licensee or employees of the licensee may not pick merchandise directly off the shelves of a state store or package agency to fill the licensee's order. The order shall include the business name of the licensee, department licensee number, and list the products ordered specifying each product by code number and quantity.

(2) The licensee shall allow at least four hours for department personnel to assemble the order for pick-up. When the order is complete, the licensee will be notified by phone and given the total cost of the order. The licensee may pay for the product in cash, company check or cashier's check.

(3) The licensee or the licensee's designee shall examine and sign for the order before it leaves the store, agency or satellite warehouse to verify that the product has been received.

(4) Merchandise shall be supplied to the licensee on request when it is available on a first come first serve basis. Discounted items and limited items may, at the discretion of the department, be provided to a licensee on an allocated basis.

(5)(a) Spirituous liquor may be returned by the licensee for the original purchase price only under the following conditions:

(i) the bottle has not been opened;

(ii) the seal remains intact;

(iii) the label remains intact; and

(iv) upon a showing of the original cash register receipt.

(b) A restocking fee of 10% shall be assessed on the entire amount on any returned spirituous liquor order that exceeds \$1,000. All spirituous liquor returned that is based on a single purchase on a single cash register receipt must be returned at the same time at a single store, package agency, or satellite warehouse location.

(b) Wine and beer may not be returned by the licensee for the original purchase price except upon a showing that the product was spoiled or non-consumable.

R81-4B-6. Airport Lounge Liquor Licensee Operating Hours.

Liquor sales shall be in accordance with Section 32A-4-206[(7)](9). However, licensees may open the liquor storage area during hours otherwise prohibited for the limited purpose of inventory, restocking, repair, and cleaning.

R81-4B-7. Sale and Purchase of Alcoholic Beverages.

[(+)—]A patron may pay for an alcoholic beverage at the time of purchase, or, at the discretion of both the licensee and the patron, the price charged may be added to the patron's tab, provided that a written beverage tab, as provided in Section 32A-4-206(22), shall be commenced upon the patron's first purchase and shall be maintained by the airport lounge during the course of the patron's stay at the airport lounge regardless of where the patron orders and consumes an alcoholic beverage. Customers shall be notified of the price charged for any packaged wine or heavy beer and any service charges for the supply of glasses, chilling, or wine service.[]

—(2) An alcoholic beverage may contain the contents of a 50 ml bottle as a primary liquor if the commission has authorized the use of the 50 ml bottle for a specific liquor product.[]

KEY: alcoholic beverages

[1994]2003

Notice of Continuation April 2, 2001

32A-1-107

Alcoholic Beverage Control, Administration

R81-4C

Limited Restaurant Licenses

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 26326

FILED: 06/02/2003, 14:24

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The 2003 legislature passed S.B. 153 which added a new restaurant license type called a Limited Restaurant License (Title 32A, Chapter 4, Part 3). This rule is proposed to implement the provisions of the new law. (DAR NOTE: S.B. 153 is found at UT L 2003 Ch 314, and was effective May 5, 2003.)

SUMMARY OF THE RULE OR CHANGE: This new rule is proposed to further define and clarify the provisions of Title 32A, Chapter 4, Part 3.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 32A-1-107; and Title 32A, Chapter 4, Part 3

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** None--This rule is proposed for the purpose of implementing Title 32A, Chapter 4, Part 3. The proposed rule, in itself, will not affect the State's budget. Any costs or savings are a result of the passage of S.B. 153.

❖ **LOCAL GOVERNMENTS:** None--This proposed rule does not affect local governments. Rather it is proposed to implement the provisions of Title 32A, Chapter 4, Part 3, which became effective on May 5, 2003.

❖ **OTHER PERSONS:** None--Since this rule is proposed to simply implement the provisions of Title 32A, Chapter 4, Part 3, no other persons will be impacted economically by its passage.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--This proposed rule only defines and clarifies the provisions of Title 32A, Chapter 4, Part 3. By itself, this proposed rule does not invoke any compliance costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Any fiscal impact on businesses comes as a result of the provisions of Title 32A, Chapter 4, Part 3. This proposed rule is only intended to help define and clarify the provisions of the statute.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Sharon Mackay at the above address, by phone at 801-977-6800, by FAX at 801-977-6889, or by Internet E-mail at smackay@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 07/15/2003.

THIS RULE MAY BECOME EFFECTIVE ON: 07/16/2003

AUTHORIZED BY: Kenneth F. Wynn, Director

R81. Alcoholic Beverage Control, Administration.

R81-4C. Limited Restaurant Licenses.

R81-4C-1. Licensing.

Limited restaurant licenses are issued to persons as defined in Section 32A-1-105(38). Any contemplated action or transaction that may alter the organizational structure or ownership interest of the person to whom the license is issued must be submitted to the department for approval prior to consummation of any such action to ensure there is no violation of Sections 32A-4-303(4), 32A-4-304, and 32A-4-307(28).

R81-4C-2. Application.

A license application shall be included in the agenda of the monthly commission meeting for consideration for issuance of a limited restaurant license when the requirements of Sections 32A-4-303, -304, and -306 have been met, a completed application has been received by the department, and the limited restaurant premises have been inspected by the department.

R81-4C-3. Bonds.

No part of any corporate or cash bond required by Section 32A-4-306, may be withdrawn during the time the license is in effect. If the licensee fails to maintain a valid corporate or cash bond, the license shall be immediately suspended until a valid bond is obtained. Failure to obtain a bond within 30 days of notification by the department of the delinquency shall result in the automatic revocation of the license.

R81-4C-4. Insurance.

Public liability and dram shop insurance coverage required in Section 32A-4-303(1)(h) and (i) must remain in force during the time the license is in effect. Failure of the licensee to maintain the required insurance coverage may result in a suspension or revocation of the license by the commission.

R81-4C-5. Limited Restaurant Licensee Wine and Heavy Beer Order and Return Procedures.

The following procedures shall be followed when a limited restaurant licensee orders wine or heavy beer from or returns wine or heavy beer to any state liquor store, package agency, or department satellite warehouse:

(1) The licensee must place the order in advance to allow department personnel sufficient time to assemble the order. The licensee or employees of the licensee may not pick merchandise directly off the shelves of a state store or package agency to fill the licensee's order. The order shall include the business name of the licensee, department licensee number, and list the products ordered specifying each product by code number and quantity.

(2) The licensee shall allow at least four hours for department personnel to assemble the order for pick-up. When the order is complete, the licensee will be notified by phone and given the total cost of the order. The licensee may pay for the product in cash, company check or cashier's check.

(3) The licensee or the licensee's designee shall examine and sign for the order before it leaves the store, agency or satellite warehouse to verify that the product has been received.

(4) Merchandise shall be supplied to the licensee on request when it is available on a first come first serve basis. Discounted items and limited items may, at the discretion of the department, be provided to a licensee on an allocated basis.

(5) Wine and beer may not be returned by the licensee for the original purchase price except upon a showing that the product was spoiled or non-consumable.

R81-4C-6. Limited Restaurant Licensee Operating Hours.

Allowable hours of wine and heavy beer sales shall be in accordance with Section 32A-4-307(9)(a). However, the licensee may open the wine and heavy beer storage area during hours otherwise prohibited for the limited purpose of inventory, restocking, repair, and cleaning.

R81-4C-7. Sale and Purchase of Alcoholic Beverages.

(1) Alcoholic beverages (including beer) must be sold in connection with an order for food placed and paid for by a patron. An order for food may not include food items gratuitously provided by the limited restaurant to patrons. A patron may pay for an alcoholic beverage at the time of purchase, or, at the discretion of both the licensee and the patron, the price charged may be added to the patron's tab, provided that a written beverage tab, as provided in Section 32A-4-307(29), shall be commenced upon the patron's first purchase and shall be maintained by the limited restaurant during the course of the patron's stay at the limited restaurant regardless of where the patron orders and consumes an alcoholic beverage.

(2) The limited restaurant shall maintain at least 70% of its total business from the sale of food pursuant to Section 32A-4-307(26).

(a) The limited restaurant shall maintain records separately showing quarterly expenditures and sales for beer, heavy beer, wine, and food. These shall be available for inspection and audit by representatives of the department, and maintained for a period of three years.

(b) If any inspection or audit discloses that the sales of food are less than 70% for any quarterly period, an order to show cause shall be issued by the department to determine why the license should not be immediately suspended by the commission. Any suspension shall remain in effect until the licensee is able to prove to the satisfaction of the commission that in the future, the sales of food will meet or exceed 70%. Failure of the licensee to provide satisfactory proof of the required food percentage within three months of the date the license was suspended, shall result in the revocation of the license.

(3) Wine dispensing shall be in accordance with Section 32A-4-307; and Section R81-1-10 (Wine Dispensing), and R81-1-11 (Multiple-Licensed Facility Storage and Service) of these rules.

R81-4C-8. Alcoholic Product Flavoring.

(1) Limited restaurant licensees may use alcoholic product flavorings including spirituous liquor products in the preparation of food items and desserts at any time if plainly and conspicuously labeled "cooking flavoring".

(2) No limited restaurant employee under the age of 21 years may handle alcoholic product flavorings.

R81-4C-9. Table Service.

A wine service may be performed by the server at the patron's table for wine either purchased at the limited restaurant or carried in by a patron, provided the wine has an official state label affixed. The wine may be opened and poured by the server.

R81-4C-10. Consumption at Patron's Table.

(1) A patron's table may be located in waiting, patio, garden and dining areas previously approved by the department, but may not be located at the site where alcoholic beverages are dispensed to the server or stored.

(2) Consumption of any alcoholic beverage must be within a reasonable proximity of a patron's table so as to ensure that the server can maintain a written beverage tab on the amount of alcoholic beverages consumed.

(3) All wine and heavy beer consumed in a limited restaurant must come from a container or package having an official state label affixed.

R81-4C-11. Menus; Price Lists.

(1) Contents of Alcoholic Beverage Menu.

(a) Each limited restaurant licensee shall have readily available for its patrons a printed alcoholic beverage price list, or menu containing current prices of all wine, heavy beer, and beer. This list shall include any charges for the service of packaged wines or heavy beer.

(b) Any printed menu, master beverage price list or other printed list is sufficient as long as the prices are current and it meets the requirements of this rule.

(c) Customers shall be notified of the price charged for any packaged wine or heavy beer and any service charges for the supply of glasses, chilling, or wine service.

(d) A licensee or his employee may not misrepresent the price of any alcoholic beverage that is sold or offered for sale on the licensed premises.

R81-4C-12. Identification Badge.

Each employee of the licensee who sells, dispenses or provides alcoholic beverages shall wear a unique identification badge visible

above the waist, bearing the employee's first name, initials, or a unique number in letters or numbers not less than 3/8 inch high. The identification badge must be worn on the front portion of the employee's body. The licensee shall maintain a record of all employee badges assigned, which shall be available for inspection by any peace officer, or representative of the department. The record shall include the employee's full name and address and a driver's license or similar identification number.

KEY: alcoholic beverages

2003

32A-1-107

32A-4 Part 3

Alcoholic Beverage Control, Administration

R81-4D

On-Premise Banquet License

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE No.: 26327

FILED: 06/02/2003, 14:30

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The 2003 legislature passed S.B. 153 which added a new license for the storage, sale, service, and consumption of alcoholic beverages in connection with the banquet and room service activities of hotels, resorts, sports centers, and convention centers (Title 32A, Chapter 4, Part 4). This rule is proposed to aid in the implementation of the new law. (DAR NOTE: S.B. 153 is found at UT L 2003 Ch 314, and was effective May 5, 2003.)

SUMMARY OF THE RULE OR CHANGE: This new rule is proposed to further define and clarify the provisions of Title 32A, Chapter 4, Part 4, which provides for a new On-Premise Banquet License.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 32A-1-107 and Title 32A, Chapter 4, Part 4

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: None--This rule is proposed for the purpose of implementing Title 32A, Chapter 4, Part 4. The proposed rule, in itself, will not affect the State's budget. Any costs or savings are a result of the passage of S.B. 153.

❖ LOCAL GOVERNMENTS: None--This proposed rule does not affect local governments. Rather it is proposed to implement the provisions of Title 32A, Chapter 4, Part 4, which became effective May 5, 2003.

❖ OTHER PERSONS: None--Since this rule is proposed to implement the provisions of Title 32A, Chapter 4, Part 4, no other persons will be impacted economically by its passage.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--This proposed rule only defines and clarifies the provisions of Title 32A, Chapter 4, Part 4. By itself, this proposed rule does not invoke any compliance costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Any fiscal impact on businesses comes as a result of Title 32A, Chapter 4, Part 4.

This proposed rule is only intended to help define and clarify the provisions of that statute.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Sharon Mackay at the above address, by phone at 801-977-6800, by FAX at 801-977-6889, or by Internet E-mail at smackay@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 07/15/2003.

THIS RULE MAY BECOME EFFECTIVE ON: 07/16/2003

AUTHORIZED BY: Kenneth F. Wynn, Director

R81. Alcoholic Beverage Control, Administration.

R81-4D. On-Premise Banquet License.

R81-4D-1. Licensing.

(1) An on-premise banquet license may be issued only to a hotel, resort facility, sports center or convention center as defined in this rule.

(a) "Hotel" is a commercial lodging establishment:

(i) that offers temporary sleeping accommodations for compensation;

(ii) that is capable of hosting conventions, conferences, and food and beverage functions under a banquet contract;

(iii) that has adequate kitchen or culinary facilities on the premises of the hotel to provide complete meals; and

(iv) that has at least 1000 square feet of function space consisting of meeting and/or dining rooms that can be reserved for private use under a banquet contract that can accommodate a minimum of 75 people, provided that in cities of the third, fourth or fifth class, unincorporated areas of a county, and towns, the commission shall have the authority to waive the minimum function space size requirements.

(b) "Resort facility" is a publicly or privately owned or operated commercial recreational facility or area:

(i) that is designed primarily to attract and accommodate people to a recreational or sporting environment;

(ii) that is capable of hosting conventions, conferences, and food and beverage functions under a banquet contract;

(iii) that has adequate kitchen or culinary facilities on the premises of the resort to provide complete meals; and

(iv) that has at least 1500 square feet of function space consisting of meeting and/or dining rooms that can be reserved for private use under a banquet contract that can accommodate a minimum of 100 people, provided that in cities of the third, fourth, or fifth class, unincorporated areas of a county, and towns, the commission shall have the authority to waive the minimum function space size requirements.

(c) "Sports center" is a publicly or privately owned or operated facility:

(i) that is designed primarily to attract people to and accommodate people at sporting events;

(ii) that has a fixed seating capacity for more than 2,000 persons;

(iii) that is capable of hosting conventions, conferences, and food and beverage functions under a banquet contract; (iv) that has adequate kitchen or culinary facilities on the premises of the sports center to provide complete meals; and

(v) that has at least 2500 square feet of function space consisting of meeting and/or dining rooms that can be reserved for private use under a banquet contract that can accommodate a minimum of 100 people, provided that in cities of the third, fourth, or fifth class, unincorporated areas of a county, and towns, the commission shall have the authority to waive the minimum function space size requirements.

(d) "Convention center" is a publicly or privately owned or operated facility:

(i) the primary business or function of which is to host conventions, conferences, and food and beverage functions under a banquet contract;

(ii) that is a total of at least 30,000 square feet;

(iii) that has adequate kitchen or culinary facilities on the premises of the convention center to provide complete meals; and

(iv) that has at least 3000 square feet of function space consisting of meeting and/or dining rooms that can be reserved for private use under a banquet contract that can accommodate a minimum of 100 people, provided that in cities of the third, fourth, or fifth class, unincorporated counties, and towns, the commission shall have the authority to waive the minimum function space size requirements.

(2)(a) A "banquet contract" as used in this rule means an agreement between an on-premise banquet licensee and a host of a banquet to provide alcoholic beverage services at a meal, reception, or other private banquet function at a defined location on a specific date and time for a pre-arranged, guaranteed number of attendees at a negotiated price.

(b) Each "banquet contract" shall:

(i) clearly define the location of the private banquet function;

(ii) require that the private banquet function be separate from other areas of the facility that are open to the general public; and (iii) require signage at or near the entrance to the private banquet function to indicate that the location has been reserved for a specific group.

(3) On-premise banquet licenses are issued to persons as defined in Section 32A-1-105(38). Any contemplated action or transaction that may alter the organizational structure or ownership interest of the person to whom the license is issued must be submitted to the department for approval prior to consummation of any such action to ensure there is no violation of Sections 32A-4-402(4), 32A-4-403, and 32A-4-406(26).

R81-4D-2. Application.

(1) A license application shall be included in the agenda of the monthly commission meeting for consideration for issuance of an on-premise banquet license when the requirements of Sections 32A-4-402, -403, and -405 have been met, a completed application has been received by the department, and the on-premise banquet premises have been inspected by the department.

(2)(a) The application shall include a floor plan showing the locations of function space in or on the applicant's business premises that may be reserved for private banquet functions where alcoholic beverages may be stored, sold or served, and consumed. Hotels shall also indicate the number of sleeping rooms where room service will be provided and include a sample floor plan of a guest room level. No application will be accepted that merely designates the entire hotel, resort, sports center or convention center facility as the proposed licensed premises.

(b) After an on-premise banquet license has been issued, the licensee may apply to the commission for approval of additional locations in or on the premises of the hotel, resort, sports center or convention center that were not included in the licensee's original application.

R81-4D-3. Bonds.

No part of any corporate or cash bond required by Section 32A-4-405, may be withdrawn during the time the license is in effect. If the licensee fails to maintain a valid corporate or cash bond, the license shall be immediately suspended until a valid bond is obtained. Failure to obtain a bond within 30 days of notification by the department of the delinquency shall result in the automatic revocation of the license.

R81-4D-4. Insurance.

Public liability and dram shop insurance coverage required in Section 32A-4-402(1)(h) and (i) must remain in force during the time the license is in effect. Failure of the licensee to maintain the required insurance coverage may result in a suspension or revocation of the license by the commission.

R81-4D-5. On-Premise Banquet Licensee Liquor Order and Return Procedures.

The following procedures shall be followed when an on-premise banquet licensee orders liquor from or returns liquor to any state liquor store, package agency, or department satellite warehouse:

(1) The licensee must place the order in advance to allow department personnel sufficient time to assemble the order. The licensee or employees of the licensee may not pick merchandise directly off the shelves of a state store or package agency to fill the licensee's order. The order shall include the business name of the licensee, department licensee number, and list the products ordered specifying each product by code number and quantity.

(2) The licensee shall allow at least four hours for department personnel to assemble the order for pick-up. When the order is complete, the licensee will be notified by phone and given the total cost of the order. The licensee may pay for the product in cash, company check or cashier's check.

(3) The licensee or the licensee's designee shall examine and sign for the order before it leaves the store, agency or satellite warehouse to verify that the product has been received.

(4) Merchandise shall be supplied to the licensee on request when it is available on a first come first serve basis. Discounted

items and limited items may, at the discretion of the department, be provided to a licensee on an allocated basis.

(5)(a) Spirituous liquor may be returned by the licensee for the original purchase price only under the following conditions:

(i) the bottle has not been opened;

(ii) the seal remains intact;

(iii) the label remains intact; and

(iv) upon a showing of the original cash register receipt.

(b) A restocking fee of 10% shall be assessed on the entire amount on any returned spirituous liquor order that exceeds \$1,000. All spirituous liquor returned that is based on a single purchase on a single cash register receipt must be returned at the same time at a single store, package agency, or satellite warehouse location.

(b) Wine and beer may not be returned by the licensee for the original purchase price except upon a showing that the product was spoiled or non-consumable.

R81-4D-6. On-Premise Banquet Licensee Operating Hours.

Allowable hours of alcoholic beverage sales shall be in accordance with Section 32A-4-406(7). However, the licensee may open the alcoholic beverage storage area during hours otherwise prohibited for the limited purpose of inventory, restocking, repair, and cleaning.

R81-4D-7. Sale and Purchase of Alcoholic Beverages.

Liquor dispensing shall be in accordance with Section 32A-4-406; and Sections R81-1-9 (Liquor Dispensing Systems), and R81-1-10 (Wine Dispensing) of these rules.

R81-4D-8. Liquor Storage.

Liquor bottles kept for sale in use with a dispensing system, liquor flavorings in properly labeled unsealed containers, and unsealed containers of wines poured by the glass may be stored in the same storage area of the on-premise banquet licensee as approved by the department.

R81-4D-9. Alcoholic Product Flavoring.

On-premise banquet licensees may use alcoholic products as flavoring subject to the following guidelines:

(1) Alcoholic product flavoring may be utilized in beverages only during the authorized selling hours under the on-premise banquet license. Alcoholic product flavoring may be used in the preparation of food items and desserts at any time if plainly and conspicuously labeled "cooking flavoring".

(2) No on-premise banquet licensee employee under the age of 21 years may handle alcoholic product flavorings.

R81-4D-10. State Label.

All liquor consumed on the premises of an on-premise banquet license must come from a container or package having an official state label affixed.

R81-4D-11. Menus; Price Lists.

(1) An on-premise banquet licensee shall have readily available for any host of a contracted banquet a printed alcoholic beverage price list, or menu containing prices of all mixed drinks, wine, beer, and heavy beer. This list shall include any charges for the service of packaged wines or heavy beer.

(2) Any printed menu, master beverage price list or other printed list is sufficient as long as the prices are current and it meets the requirements of this rule.

(3) Any host of a contracted banquet shall be notified of the price charged for any packaged wine or heavy beer and any service charges for the supply of glasses, chilling, or wine service.

(4) The on-premise banquet licensee or an employee of the licensee may not misrepresent the price of any alcoholic beverage that is sold or offered for sale on the licensed premises.

R81-4D-12. Identification Badge.

Each employee of the licensee who sells, dispenses or provides alcoholic beverages shall wear a unique identification badge visible above the waist, bearing the employee's first name, initials, or a unique number in letters or numbers not less than 3/8 inch high. The identification badge must be worn on the front portion of the employee's body. The licensee shall maintain a record of all employee badges assigned, which shall be available for inspection by any peace officer, or representative of the department. The record shall include the employee's full name and address and a driver's license or similar identification number.

KEY: alcoholic beverages

2003

32A-1-107

32A-4 Part 4



Alcoholic Beverage Control,
Administration
R81-5
Private Clubs

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 26328

FILED: 06/02/2003, 14:31

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: With the 2003 legislature's passage of S.B. 153, many rules in Title 32A, Chapter 5, need to be amended to implement the new provisions. (DAR NOTE: S.B. 153 is found at UT L 2003 Ch 314, and was effective May 5, 2003.)

SUMMARY OF THE RULE OR CHANGE: Some of the proposed amendments simply make rule numbering and statutory reference corrections. The proposed amendments that are substantive are:

1) in Section R81-5-1, proposed amendments will further clarify private club licensing requirements, particularly as they apply to new classifications of private club licenses identified in the new provisions of Title 32A, Chapter 5; 2) in Section R81-5-6, this proposed amendment updates procedures private clubs must follow when purchasing and/or returning liquor to state liquor stores and package agencies; 3) in Section R81-5-7, Title 32A, Chapter 5, establishes operating hours for private clubs and redundant language is deleted; 4) in Section R81-5-8, the use of mini bottles in private clubs has been prohibited for many years so this proposed amendment deletes archaic language; 5) in Section R81-5-13, current

language specifies requirements for issuing and recording visitor cards. Title 32A, Chapter 5, now contains this information, therefore it is proposed to delete this entire section as the information is redundant; 6) in Section R81-5-15, Title 32A, Chapter 5, now prohibits minors from being admitted to the lounge or bar area of any Private Club. This section of the proposed rule amendment defines "lounge or bar area" and clarifies the restrictions; and 7) in Section R81-5-16, Subsection 32A-5-107(8)(v) prohibits minors from being admitted into, using, or being on the premises of any private club that provides sexually-oriented adult entertainment. The term "sexually oriented adult entertainment" is defined.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 32A-1-107; and Title 32A, Chapter 5

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: None--These amendments to Rule R81-5 are proposed to implement the changes to Title 32A, Chapter 5, resulting from the passage of S.B. 153 by the 2003 legislature, and are in the nature of defining and clarifying that law and deleting passages that are archaic or redundant. None of the proposed amendments affect the State budget.

❖ LOCAL GOVERNMENTS: None--These proposed amendments simply define and clarify Title 32A, Chapter 5, and do not affect a cost or savings local governments.

❖ OTHER PERSONS: None--These proposed amendments simply define and clarify Title 32A, Chapter 5, and do not affect a cost or savings to any other person.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--These proposed rule amendments, themselves, does not generate compliance costs to affected persons. Rather, the amendments define and clarify the new provisions of Title 32A, Chapter 5, and delete language that is outdated or superfluous.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed amendments to this rule do not assess additional fees or create any other type of fiscal impact. The amendments rather simply further define and clarify the new provisions of that statute.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Sharon Mackay at the above address, by phone at 801-977-6800, by FAX at 801-977-6889, or by Internet E-mail at smackay@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 07/15/2003.

THIS RULE MAY BECOME EFFECTIVE ON: 07/16/2003

AUTHORIZED BY: Kenneth F. Wynn, Director

R81. Alcoholic Beverage Control, Administration.

R81-5. Private Clubs.

R81-5-1. Licensing.

~~(1) Private club liquor licenses are issued [in the name of an officer or director of the club or association. Any contemplated action or transaction that may alter the organizational structure or ownership interest of the corporation to whom the license is issued must be submitted to the department for approval prior to consummation of any such action.] to persons as defined in Section 32A-1-105(38). Any contemplated action or transaction that may alter the organizational structure or ownership interest of the person to whom the license is issued must be submitted to the department for approval prior to consummation of any such action to ensure there is no violation of Sections 32A-5-103 and 32A-5-107(44).~~

~~(2)(a) At the time the commission grants a private club license the commission must designate whether the private club qualifies to operate as a class A, B, C, or D private club based on criteria in 32A-5-101.~~

~~(b) After the license is granted, a private club may request that the commission approve a change in the club's classification in writing supported by evidence to establish that the club qualifies to operate under the new class designation based on the criteria in 32A-5-101.~~

~~(c) The department shall conduct an investigation for the purpose of gathering information and making a recommendation to the commission as to whether or not the request should be granted. The information shall be forwarded to the commission to aid in its determination.~~

~~(d) If the commission determines that the private club has provided credible evidence to establish that it meets the statutory criteria to operate under the new class designation, the commission shall approve the request.~~

~~(3)(a) A class C private club must operate as a dining club as defined in 32A-5-101(3)(c), and must maintain at least 50% of its total private club business from the sale of food, not including mix for alcoholic beverages, service charges, and membership fees.~~

~~(b) A class C private club shall maintain records separately showing quarterly expenditures and sales for beer, heavy beer, liquor, wine, set-ups and food. These shall be available for inspection and audit by representatives of the department, and maintained for a period of three years.~~

~~(c) If any inspection or audit discloses that the sales of food are less than 50% for any quarterly period, an order to show cause shall be issued by the department to determine why the license should not be immediately reclassified by the commission as a class D private club. If the commission grants the order to show cause, the reclassification shall remain in effect until the licensee files a request for and receives approval from the commission to be classified as a class C private club. The request shall provide credible evidence to prove to the satisfaction of the commission that in the future, the sales of food will meet or exceed 50%.~~

R81-5-4. Insurance.

Public liability and dram shop insurance coverage required in Subsections 32A-5-102(1)(~~i~~) and (~~k~~)(i) and (j) must remain in force during the time the license is in effect. Failure of the licensee

to maintain the required insurance coverage may result in a suspension or revocation of the license by the commission.

R81-5-5. Advertising.

(1) Any public solicitation or public advertising by a private club, its employees or agents, or by any person under ~~an~~ ~~entertainment~~ contract or agreement with the club shall clearly identify the club as being "a private club for members". In print media, this club identification information must be no smaller than 10 point bold type.

R81-5-6. Private Club Licensee Liquor Order and Return Procedures.

~~[The following procedures shall be followed when private club licensees order liquor from any state liquor store, package agency, or department satellite warehouse:~~

~~(1) A "Private Club Order Form" must be completed for all private club orders. The order form must be filled out by store/agency personnel and must include the private club licensee name, department license number, and merchandise listed by code number.~~

~~(2) The licensee must allow at least one hour for the store/agency to fill the order. When the order is complete, the licensee will be notified by phone. The total cost of the store/agency total and the licensee total must agree.~~

~~(3) All orders for private clubs must be picked up before 5:00 p.m. the same day the order is placed. Licensee's designee must check and sign for the order before it leaves the store, agency or warehouse.~~

~~(4) Merchandise shall be supplied to the licensee on request when it is available on a first come, first served basis.] The following procedures shall be followed when a private club liquor licensee orders liquor from or returns liquor to any state liquor store, package agency, or department satellite warehouse:~~

~~(1) The licensee must place the order in advance to allow department personnel sufficient time to assemble the order. The licensee or employees of the licensee may not pick merchandise directly off the shelves of a state store or package agency to fill the licensee's order. The order shall include the business name of the licensee, department licensee number, and list the products ordered specifying each product by code number and quantity.~~

~~(2) The licensee shall allow at least four hours for department personnel to assemble the order for pick-up. When the order is complete, the licensee will be notified by phone and given the total cost of the order. The licensee may pay for the product in cash, company check or cashier's check.~~

~~(3) The licensee or the licensee's designee shall examine and sign for the order before it leaves the store, agency or satellite warehouse to verify that the product has been received.~~

~~(4) Merchandise shall be supplied to the licensee on request when it is available on a first come first serve basis. Discounted items and limited items may, at the discretion of the department, be provided to a licensee on an allocated basis.~~

~~(5)(a) Spirituous liquor may be returned by the licensee for the original purchase price only under the following conditions:~~

~~(i) the bottle has not been opened;~~

~~(ii) the seal remains intact;~~

~~(iii) the label remains intact; and~~

~~(iv) upon a showing of the original cash register receipt.~~

~~(b) A restocking fee of 10% shall be assessed on the entire amount on any returned spirituous liquor order that exceeds \$1,000.~~

All spirituous liquor returned that is based on a single purchase on a single cash register receipt must be returned at the same time at a single store, package agency, or satellite warehouse location.

(b) Wine and beer may not be returned by the licensee for the original purchase price except upon a showing that the product was spoiled or non-consumable.

R81-5-7. Private Club Licensee Operating Hours.

Allowable hours of liquor sales shall be in accordance with Section 32A-5-107[(24)(i)] (28). [~~Liquor may be sold from 10 a.m. until 1 a.m. except on Sundays and holidays when liquor may be sold from noon to midnight. On a state or national election day, liquor may not be sold until after the polls are closed. On a local election day, liquor may be sold unless prohibited by local ordinance. Private club licensees]~~However, the licensee may open [~~their~~the liquor storage area during hours otherwise prohibited for the limited purpose of inventory, restocking, repair, and cleaning.

R81-5-8. Sale and Purchase of Alcoholic Beverages.

(1) A patron may pay for an alcoholic beverage at the time of purchase, or, at the discretion of both the licensee and the patron, the price charged may be added to the patron's tab.

(2) Liquor dispensing shall be in accordance with Section 32A-5-107; and Sections R81-1-9 (Liquor Dispensing Systems), R81-1-10 (Wine Dispensing), and R81-1-11 (Multiple Licensed Facility Storage and Service) of these rules.~~—However, an alcoholic beverage may contain the contents of a 50 ml bottle as a primary liquor if the commission has authorized the use of the 50 ml bottle for a particular liquor product.]~~

~~R81-5-13. Visitor Cards and Records.~~

~~(1) Pursuant to Section 32A-5-107(6), each visitor card issued shall include:~~

- ~~— (a) the visitor's full name and signature;~~
- ~~— (b) the name of the sponsoring member;~~
- ~~— (c) the date the card was issued;~~
- ~~— (d) the date the card expires;~~
- ~~— (e) the club's name; and~~
- ~~— (f) the serial number of the card.~~

~~(2) A record of visitor cards issued shall be maintained by the club and shall be available for inspection by the department. Such record shall be kept in a serial numbered order and shall contain:~~

- ~~— (a) the serial number of the card;~~
- ~~— (b) the name of the person to whom the card was issued;~~
- ~~— (c) the name of the sponsoring member;~~
- ~~— (d) the date the card was issued; and~~
- ~~— (e) the date the card expires.]~~

~~R81-5-14~~R81-5-13. Brownbagging.

When private social functions or privately hosted events, as defined in 32A-1-105[(37)](42), are held on the premises of a licensed private club, the proprietor may, in his or her discretion, allow members of the private group to bring onto the club premises, their own alcoholic beverages under the following circumstances:

(1) When the entire club is closed to regular patrons for the private function or event, or

(2) When an entire room or area within the club such as a private banquet room is closed to regular patrons for the private function or event, and members of the private group are restricted to that area, and are not allowed to co-mingle with regular patrons of the club.

~~R81-5-15~~R81-5-14. Membership Fees and Monthly Dues.

Each private club shall establish in its by-laws initial membership fees and monthly membership dues in amounts determined by the club. However, monthly dues may not be less than one dollar per month.

~~R81-5-15. Minors in Lounge or Bar Areas.~~

~~(1) Pursuant to 32A-5-107(8)(iv), a minor may not be admitted into, use, or be on the premises of any lounge or bar area of any class A, B, C, or D of private club except when the minor is employed by the club to perform maintenance and cleaning services during hours when the club is not open for business.~~

~~(2) "Lounge or bar area" includes:~~

- ~~— (a) the bar structure as defined in 32A-5-105(5);~~
- ~~— (b) any area in the immediate vicinity of the bar structure where the sale, service, display, and advertising of alcoholic beverages is emphasized; or~~
- ~~— (c) any area that is in the nature of or has the ambience or atmosphere of a bar, parlor, lounge, cabaret or night club.~~

~~(3) A minor who is otherwise permitted to be on the premises of a class A, B or C private club may momentarily pass through the club's lounge or bar area en route to those areas of the club where the minor is permitted to be. However, no minor shall remain or be seated in the club's bar or lounge area.~~

~~(3) A minor who is otherwise permitted to be on the premises of a class A, B or C private club may momentarily pass through the club's lounge or bar area en route to those areas of the club where the minor is permitted to be. However, no minor shall remain or be seated in the club's bar or lounge area.~~

~~R81-5-16. Sexually Oriented Adult Entertainment or Businesses.~~

~~(1) Pursuant to 32A-5-107(8)(v), a minor may not be admitted into, use, or be on the premises of any private club that provides sexually oriented adult entertainment or operates as a sexually oriented business. This includes any club:~~

~~— (a) that is licensed by local authority as a sexually oriented business;~~

~~— (b) that allows any person on the premises to dance, model, or be or perform in a state of nudity or semi-nudity; or~~

~~— (c) that shows films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by their emphasis upon the exhibition or description of specified anatomical areas or specified sexual activities.~~

~~(2) "Nudity" or "state of nudity" means the showing of the human male or female genitals, pubic area, vulva, anus, or anal cleft with less than a fully opaque covering or the showing of the female breast with less than a fully opaque covering of any part of the nipple.~~

~~(3) "Semi-nudity" means a state of dress in which any opaque clothing covers the genitals, anus, anal cleft or cleavage, pubic area, and vulva narrower than four inches wide in the front and five inches wide in the back, and less than one inch wide at the narrowest point, and which covers the nipple and areola of the female breast narrower than a two inch radius.~~

~~(4) "Specified anatomical areas" means:~~

- ~~— (a) human male genitals in a state of sexual arousal; or~~
- ~~— (b) less than completely and opaquely covered buttocks, anus, anal cleft or cleavage, male or female genitals, or a female breast.~~

~~(5) "Specified sexual activities" means acts of, or simulating:~~

- ~~— (a) masturbation;~~
- ~~— (b) sexual intercourse;~~
- ~~— (c) sexual copulation with a person or a beast;~~
- ~~— (d) fellatio;~~
- ~~— (e) cunnilingus;~~
- ~~— (f) bestiality;~~

(g) pederasty;
(h) buggery;
(i) sodomy;
(j) excretory functions as part of or in connection with any of the activities set forth in (a) through (i).

KEY: alcoholic beverages

~~February 26, 2003~~

Notice of Continuation December 18, 2001

32A-1-107

32A-5-107(23)



Alcoholic Beverage Control,
Administration
R81-6-4
Public Service Permittee Operating
Guidelines

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 26329

FILED: 06/02/2003, 14:33

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule amendment is proposed to clarify the operating guidelines in regards to liquor purchases for entities holding a public service permit from the Department of Alcoholic Beverage Control.

SUMMARY OF THE RULE OR CHANGE: This rule originally stated that a public service permittee may purchase liquor outside the state and bring it into the state for service to passengers traveling on the permittee's public conveyance. This rule amendment is proposed to clarify the fact that permittees may only purchase liquor outside the state if they operate on an interstate basis. Those permittees that operate conveyances that only travel within the state must purchase liquor from a Utah State Liquor Store or Package Agency. This has always been the intent of the rule and the practice of permittees, though it was not stated clearly in the past.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 32A-1-107 and 32A-6-4

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** None--This proposed amendment would only affect the State budget if intrastate permittees had purchased liquor outside the state in the past and must now shift their purchases to Utah stores. This has not been the case.

❖ **LOCAL GOVERNMENTS:** None--This proposed amendment only clarifies liquor purchase guidelines for public service permittees and will not affect local governments.

❖ **OTHER PERSONS:** None--This proposed amendment only clarifies liquor purchase guidelines for public service permittees and will not affect other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--Since it has always been the practice of intrastate public service permittees to purchase liquor within the state of Utah, there will be no compliance costs involved in amending this rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This proposed amendment is a technical change to the rule. The intent of the law and rule have not changed. Also, since intrastate permittees have always understood they must buy liquor within the State of Utah, their purchasing behaviors will not change as a result of amending this rule.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Sharon Mackay at the above address, by phone at 801-977-6800, by FAX at 801-977-6889, or by Internet E-mail at smackay@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 07/15/2003.

THIS RULE MAY BECOME EFFECTIVE ON: 07/16/2003

AUTHORIZED BY: Kenneth F. Wynn, Director

R81. Alcoholic Beverage Control, Administration.

R81-6. Special Use Permits.

R81-6-4. Public Service Permittee Operating Guidelines.

(1) A public service permittee that operates on an interstate basis may purchase liquor outside of the state and bring it into the state and/or purchase liquor within the state and sell, store and serve it to passengers traveling on the permittee's public conveyance for consumption while en route on the conveyance. However, all liquor utilized within a public service permittee's hospitality room must be purchased from a state liquor store or package agency within this state.

(2) All liquor transported from outside the state to the permittee's storage facility shall be carried in sealed conveyances which may be inspected at any time by the department.

(3) A public service permittee shall keep available and open for audit during regular business hours, complete and accurate records of alcoholic product shipments to and from their storage facility. Records shall be kept for a minimum of three years.

(4) A public service permittee shall allow the department, through its auditors or examiners, to audit all records relating to the storage, sale, consumption and transportation of alcoholic products by the permittee.

KEY: alcoholic beverages
~~[April 29, 2002]~~2003
 Notice of Continuation December 18, 2001
 32A-1-107

▼ ————— ▼

**Alcoholic Beverage Control,
 Administration
 R81-7
 Single Event Permits**

NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE NO.: 26330
 FILED: 06/02/2003, 14:38

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: By passing S.B. 153, the 2003 legislature made certain amendments to the Single Event Permits statute (Title 32A, Chapter 7). This rule amendment is proposed to implement that law. (DAR NOTE: S.B. 153 is found at UT L 2003 Ch 314, and was effective May 5, 2003.)

SUMMARY OF THE RULE OR CHANGE: Many of the amendments are proposed to make numbering and statutory reference corrections. The amendments with substantive changes are: 1) in Section R81-7-1, the amendment adds "partnerships", "limited liability companies", and "incorporated associations" to those who qualify to hold a single event permit. It also increases the number of single event permits allowed an entity from two to four per year; and 2) in Section R81-7-3, the amendment clarifies what is required of a single event permittee by way of posting their alcoholic beverage prices at an event.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 32A-1-107; and Title 32A, Chapter 7

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: None--Implementation of these changes will have little or no cost or savings to the State budget. The only possible cost will be in updating the current single event application form.
- ❖ LOCAL GOVERNMENTS: None--Local governments are not involved in issuing single event permits. These rule amendments should have no impact on them.
- ❖ OTHER PERSONS: None--Implementing these proposed rules amendments will bring the rule into line with the single event statute. It should not have a cost or savings impact of other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There may be a minimal cost in preparing and printing price lists to single event permit holders. No other part of the rule amendment will impact the permit holder economically.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Though the amendments to the single event permit statute offer many fiscal advantages to permit holders, the rule amendments, in themselves, do not directly affect permit holders fiscally.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Sharon Mackay at the above address, by phone at 801-977-6800, by FAX at 801-977-6889, or by Internet E-mail at smackay@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 07/15/2003.

THIS RULE MAY BECOME EFFECTIVE ON: 07/16/2003

AUTHORIZED BY: Kenneth F. Wynn, Director

**R81. Alcoholic Beverage Control, Administration.
 R81-7. Single Event Permits.
 R81-7-1. Application Guidelines.**

(1) A single event permit application for the purpose of conducting a convention, civic or community enterprise, shall be included in the agenda of the monthly commission meeting for consideration for issuance of a single event permit, when the requirements of Section 32A-7 have been met, and a completed application has been received by the department. "Conducting" as used herein means the conduct, management, control or direction of an event. The organization directly benefiting from the event, monetarily or otherwise, shall be deemed to be conducting the event.

(2) Pursuant to Section 32A-7-101(1) and (3), the commission may grant ~~two~~four single event permits within a calendar year to each bona fide ~~incorporated association~~partnership, corporation, limited liability company, church ~~or~~, political organization, or incorporated association. The commission may also grant ~~two~~four single event permits within a calendar year to each bona fide and recognized subordinate lodge, chapter or local unit of any qualifying parent entity. To be a "bona fide" and "recognized" subordinate or local entity, the applicant must have been in existence for at least one year prior to the date of the application and must furnish proof thereof.

(3) If the applicant is a bona fide incorporated association, corporation, or a separately incorporated subordinate lodge, chapter or local unit thereof, the applicant shall submit a copy of its certificate and articles of incorporation from the state, which reflect that the applicant has been in existence for at least one year prior to date of application.

~~(4)~~ If the applicant is a bona fide limited liability company, the applicant shall submit a copy of its limited liability company certificate of existence from the state, which reflects that the applicant has been in existence for at least one year prior to date of application.

~~(4)~~~~(5)~~ If the applicant is a bona fide church, political organization, or recognized subordinate chapter or local unit thereof, the applicant shall submit proof of its tax exempt status as provided by the Internal Revenue Service.

~~(5)~~~~(6)~~ Any subordinate or local entity of a parent entity must also establish that it is duly "recognized" by the parent entity by providing written verification of its "recognized" status such as a letter from, or bylaws of the parent entity. The subordinate or local unit shall also furnish proof that the parent entity qualifies under sections (1), (2), (3), ~~and~~ ~~(4)~~, and ~~(5)~~ of this rule. These requirements shall not apply in situations where the subordinate or local unit is separately incorporated.

~~(6)~~~~(7)~~ Calendar year is defined as January 1 through December 31.

~~(7)~~~~(8)~~ The single event permit bond, as required by Section 32A-7-105, shall not be released back to the single event permittee until the permittee provides to the department the required data regarding liquor purchases, sales, prices charged, and net profit generated at the event for which the single event permit was issued.

~~(8)~~~~(9)~~ If an organization or individual other than the one applying for the single event permit posts the \$1,000 bond required by Section 32A-7-105, an affidavit must be submitted attesting that the \$1,000 bond is for the permittee's compliance with the provisions of the Act and the commission rules, and that if a violation occurs at the single event, the bond may be forfeited.

~~(9)~~~~(10)~~ The commission may authorize multiple sales outlets on different properties under one single event permit, provided that each site conforms to location requirements of Section 32A-7. The commission may authorize simultaneous sale and consumption hours at multiple sales outlets.

~~R81-7-3~~~~R81-7-2~~. **Guidelines for Issuing Permits for Outdoor or Large-Scale Public Events.**

(1) Purpose. The sale of alcohol at outdoor public events such as street festivals, fairs, concerts, and rodeos poses special control issues for event organizers and law enforcement officials. Furthermore, the sale of alcohol at public events attended by large numbers of people, many of whom may be under the age of 21, also poses special control issues. In deciding whether to issue a single event permit for such events, the commission must be satisfied that sufficient controls will be in place to minimize the possibility of minors being sold or furnished alcohol or adults being over-served alcohol at the event. This rule identifies control measures that must be in place before the commission will issue a single event permit for an outdoor or a large-scale public event. However, this rule gives the commission discretion not to require specific control measures under certain circumstances after considering the facts and circumstances of a particular event.

(2) Definitions.

(a) For purposes of this rule, "large-scale public event" includes any event that is open to the general public and the estimated attendance at the event is in excess of 1000 people.

(3) Authority. This rule is enacted under the authority of Sections 63-46A-3, 32A-1-107 and 32A-7-101 and -104.

(4) Policy.

(a) Before a single event permit will be issued by the commission to allow the sale of alcoholic beverages at an outdoor or a large-scale public event, the following control measures must be present at the event:

(i) There must be at least one location at the event where those wanting to purchase alcoholic beverages must show proof of age and either have their hand stamped or be issued a non-transferable wristband.

(A) The proof of age location(s) shall be separate from the alcoholic beverage sales and dispensing location(s).

(B) Proof of age may be established by:

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

(II) a current valid identification card that includes date of birth and has a picture affixed issued by this state under Title 53, Chapter 3, Part 8, identification Card Act, or issued by another state that is substantially similar to this state's identification card;

(III) a current valid military identification that includes date of birth and has a picture affixed; or

(IV) a current valid passport.

(C) Any person assigned to check proof of age shall have completed the alcohol server-training seminar outlined in ~~[62A-8-403-5]~~~~[63A-15-401]~~.

(D) The use of hand stamps or issuance of wristbands does not relieve those selling and dispensing alcoholic beverages from asking for proof of age if they suspect a person attempting to purchase an alcoholic beverage is under the age of 21 years.

(ii) Alcoholic sales and dispensing location(s) shall be separate from food and non-alcoholic beverage concession locations. However, if the consumption of alcohol at the event is limited to a confined, restricted area such as a "beer garden", then alcoholic beverages, food and non-alcoholic beverages may be sold at the same sales locations within the confined, restricted area.

(iii) Alcoholic beverages shall be served in readily identifiable cups or containers distinct from those used for non-alcoholic beverages.

(iv) No more than two alcoholic beverages shall be sold to a customer at a time.

(v) At least one person who has completed the alcohol server training seminar outlined in ~~[62A-8-403-5]~~~~[62A-15-401]~~ shall be at each location where alcoholic beverages are sold and dispensed to supervise the sale and dispensing of alcoholic beverages.

(vi) If minors may attend the event, all dispensing and consumption of alcoholic beverages shall be in a designated, confined, and restricted area where minors are not allowed without being accompanied by a parent or guardian, and where alcohol consumption may be closely monitored.

(b) Notwithstanding Subsection (a), the commission, after reviewing the facts and circumstances of a particular outdoor or large-scale public event, may in its discretion relax any of the control measures outlined in Subsection (a) above.

(c) After reviewing the facts and circumstances of the outdoor or large-scale public event, the commission may in its discretion require additional control measures as a condition of issuing a single event permit. These can include but are not limited to the following:

(i) Placing limits on the variety of alcoholic beverages served at the event.

(ii) Requiring that alcoholic beverages be distinguishable in appearance from non-alcoholic beverages.

(iii) Requiring a certain minimum number of law enforcement and/or security personnel at the event.

(5) Procedure. The following procedure shall govern applications for single event permits for outdoor or large-scale public events:

(a) In addition to providing a description of the times, dates, location, nature and purpose of the event, the applicant shall include in the single event permit application a summary of all control measures that will be taken at the event to reduce the possibility of minors being furnished alcohol and adults being over-served alcohol at the event.

(b) Department staff shall provide this information to the commissioners prior to the commission's consideration of the single event permit application.

(c) The commission shall review the application to determine if all statutory requirements are in place, to determine if all controls listed in Subsections (4)(a)(i) through (vi) are in place, to consider any request to waive any of the controls listed in Subsections (4)(a)(i) through (vi), and to assess whether any additional control measures such as those listed in Subsection (4)(c) should be required prior to issuing the single event permit.

R81-7-3. Price Lists.

(1) A single event permittee shall have a printed alcoholic beverage price list available for inspection containing prices of mixed drinks, wine, beer, and heavy beer. The list shall include any charges for the service of packaged wines or heavy beer, and any service charges for the supply of glasses, chilling, or wine service.

(2) The permittee or an employee of the licensee may not misrepresent the price of any alcoholic beverage that is sold or offered for sale on the event premises.

KEY: alcoholic beverages
[January 24, 2003]2003
Notice of Continuation December 18, 2001
32A-1-107



**Alcoholic Beverage Control,
 Administration
 R81-10
 (Changed to R81-10A)
 On-Premise Beer Retailer**

NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE NO.: 26332
 FILED: 06/02/2003, 14:46

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: With the passage of S.B. 153 by the 2003 state legislature, some of the

provision in Title 32A, Chapter 10, have changed significantly. This rule amendment is proposed for the purpose of implementing the new provisions. (DAR NOTE: S.B. 153 is found at UT L 2003 Ch 314, and was effective May 5, 2003.)

SUMMARY OF THE RULE OR CHANGE: Many of the proposed amendments to this rule are simple numbering corrections, including the addition of an "A" at the end of the rule number itself. Substantive changes include: 1) in Section R81-10-1, removes language stating it is not necessary for persons holding a temporary special event beer license or permit from a local licensing authority to obtain a temporary permit from the state. S.B. 153 created new laws that now require those persons to also obtain a state permit; and 2) in Section R81-10-7, adds airport lounges, limited restaurant licensees, and on-premise banquet licensees to those authorized to allow minors on their premises if they sell draft beer.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 32A-1-107; and Title 32A, Chapter 10

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: None--These proposed rule amendments only aid in implementing the new provisions of Title 32A, Chapter 10. They do not, in themselves, mandate any costs or savings to the state budget.

❖ LOCAL GOVERNMENTS: None--These proposed rule amendments only aid in implementing the new provisions of Title 32A, Chapter 10. They do not, in themselves, mandate any costs or savings to local governments.

❖ OTHER PERSONS: None--These proposed rule amendments only aid in implementing the new provisions of Title 32A, Chapter 10. They do not, in themselves, mandate any costs or savings to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--These proposed rule amendments will not impose additional compliance costs to affected persons. They simply aid in the implementation of the new provisions to Title 32A, Chapter 10, that resulted from the passage of S.B. 153.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Any fiscal impact on businesses comes as a result of the new provisions of Title 32A, Chapter 10, that were brought about by the passage of S.B. 153. The proposed amendments to this rule do not address additional costs to businesses.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
 Sharon Mackay at the above address, by phone at 801-977-6800, by FAX at 801-977-6889, or by Internet E-mail at smackay@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 07/15/2003.

THIS RULE MAY BECOME EFFECTIVE ON: 07/16/2003

AUTHORIZED BY: Kenneth F. Wynn, Director

R81. Alcoholic Beverage Control, Administration.

R81-10A. On-Premise Beer Retailer Licenses.

~~R81-10-1~~R81-10A-1. Licensing.

(1) On-premise beer retailer licenses are issued to persons as defined in Section 32A-1-105~~[(33)](38)~~. ~~[Persons holding a temporary special event beer license or permit from a local licensing authority for events not exceeding 30 days are not required to obtain a state on-premise beer license.]~~ The department must be immediately notified of any action or transaction that may alter the organizational structure or ownership interest of the person to whom the license is issued to ensure there is no violation of Sections 32A-10-202 (3), ~~and~~ 32A-10-203, and 32A-10-206(18).

(2) An on-premise beer retailer licensee that wishes to operate the same licensed premises under the operational restrictions of a restaurant liquor license during certain designated periods of the day or night, must apply for and be issued a separate restaurant liquor license subject to the following:

(a) The same on-premise beer retailer licensee must separately apply for a state restaurant liquor license pursuant to the requirements of Sections 32A-4-102, -103, and -105.

(b) Licensees applying for dually licensed premises must notify the department of the time periods under which each license will be operational at the time application is made. Changes must be requested in writing and approved in advance by the department. Licensees may operate sequentially under either license, but not concurrently.

(c) On-premise beer retailer licensees holding a separate restaurant liquor license must operate in accordance with 32A-4-106 and R81-4A during the hours the restaurant liquor license is active.

(d) Liquor storage areas on the restaurant premises shall be deemed to remain on the floor plan of the restaurant premises and shall be kept locked during the hours the on-premise beer retailer license is active.

~~R81-10-2~~R81-10A-2. Application.

A license application shall be included in the agenda of the monthly commission meeting for consideration for issuance of an on-premise beer retailer license when the requirements of Sections 32A-10-202, -203, and -205 have been met, and a completed application has been received by the department and the beer retailer premises have been inspected by the department.

~~R81-10-3~~R81-10A-3. Bonds.

No part of any corporate or cash bond required by Section 32A-10-205 may be withdrawn during the time the license is in effect. If the on-premise beer licensee fails to maintain a valid corporate or cash bond, the license shall be immediately suspended until a valid bond is obtained. Failure to obtain a bond within 30 days of notification by the department of the delinquency shall result in the automatic revocation of the license.

~~R81-10-4~~R81-10A-4. Insurance.

Public liability and dram shop insurance coverage required in Section 32A-10-202(1)(h) and (i) must remain in force during the time the license is in effect. Failure of the licensee to maintain the required insurance coverage may result in a suspension or revocation of the license by the commission.

~~R81-10-5~~R81-10A-5. On-premise Beer Licensee Operating Hours.

Beer sales shall be in accordance with Section 32A-10-206(4). However, on-premise beer licensees may open their beer storage area during hours otherwise prohibited for the limited purpose of inventory, restocking, repair, and cleaning.

~~R81-10-6~~R81-10A-6. Identification Badge.

Each employee of the licensee who sells, dispenses or provides alcoholic beverages shall wear a unique identification badge visible above the waist, bearing the employee's first name, initials, or a unique number in letters or numbers not less than 3/8 inch high. The identification badge must be worn on the front portion of the employee's body. The licensee shall maintain a record of all employee badges assigned, which shall be available for inspection by any peace officer, or representative of the department. The record shall include the employee's full name and address and a driver's license or similar identification number.

~~R81-10-7~~R81-10A-7. Draft Beer Sales/Minors on Premises.

A state on-premise beer license, restaurant liquor license, airport lounge license, limited restaurant license, on-premise banquet license or private club license authorizes the licensee to sell beer on draft regardless of the nature of the business (e.g. cafe, restaurant, pizza parlor, bowling alley, golf course clubhouse, club, tavern, etc.). Minors may not be precluded from establishments based upon whether draft beer is sold. However, minors may not be employed by or be on the premises of any establishment or portion of an establishment which is a "tavern" as defined in Section 32A-1-105~~[(5)(e)](61)~~. This does not preclude local authorities and licensees from excluding minors from premises or portions of premises which have the atmosphere or appearance of a "tavern" as so defined.

KEY: alcoholic beverages

~~1994~~2003

Notice of Continuation April 2, 2001

32A-1-107



Alcoholic Beverage Control, Administration **R81-10B** Temporary Special Event Beer Permits

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 26336

FILED: 06/02/2003, 15:02

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The 2003 legislature passed S.B. 153 which added a new license that allows any person to sell beer at retail for on-premise consumption at a temporary special event that does not last longer than 30 days (Title 32A, Chapter 10, Part 3). This rule is proposed to implement the provisions of the new law. (DAR NOTE: S.B. 153 is found at UT L 2003 Ch 314, and was effective May 5, 2003.)

SUMMARY OF THE RULE OR CHANGE: This new rule is proposed to further define and clarify the provisions of Title 32A, Chapter 10, Part 3.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 32A-1-107; and Title 32A, Chapter 10, Part 3

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: None--This rule is proposed for the purpose of implementing Title 32A, Chapter 10, Part 3. The proposed rule, in itself, will not affect the State's budget. Any costs or savings are a result of the passage of S.B. 153, which took effect on May 5, 2003.

❖ LOCAL GOVERNMENTS: None--In the past, state law gave local governments the authority to issue permits to any person for the sale of beer at temporary events. Local governments may continue to issue such permits, however, individuals are now required to also obtain a state license.

❖ OTHER PERSONS: None--Since this rule is proposed to simply implement the provisions imposed by Title 32A, Chapter 10, Part 3, no other persons will be impacted economically by its passage.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--This proposed rule only defines and clarifies the provisions of Title 32A, Chapter 10, Part 3. By itself, this proposed rule does not invoke any compliance costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Any fiscal impact on businesses comes as a result of the provisions of Title 32A, Chapter 10, Part 3. This proposed rule is only intended to help define and clarify the provisions of the statute.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Sharon Mackay at the above address, by phone at 801-977-6800, by FAX at 801-977-6889, or by Internet E-mail at smackay@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 07/15/2003.

THIS RULE MAY BECOME EFFECTIVE ON: 07/16/2003

AUTHORIZED BY: Kenneth F. Wynn, Director

R81-1. Alcoholic Beverage Control, Administration.**R81-10B. Temporary Special Event Beer Permits.****R81-10B-1. Application Guidelines.**

(1) A temporary special event beer permit application shall be included in the agenda of the monthly commission meeting for consideration for issuance of the permit, when the requirements of 32A-10-302, -303, and -305 have been met, and a completed application has been received by the department.

(2) The sale of beer under a series of permits issued to the same person may not exceed a total of 90 days in any one calendar year. "Calendar year" means January 1 through December 31.

(3)(a) The temporary special event permit bond, as required by Section 32A-10-305, shall not be released back to the permittee sooner than 30 days following the event.

(b) If an organization or individual other than the one applying for the permit posts the bond, an affidavit must be submitted attesting that the bond is for the permittee's compliance with the provisions of the Act and the commission rules, and that if a violation occurs at the event, the bond may be forfeited.

(4) The commission may authorize multiple sales outlets on different properties under one temporary special event beer permit, provided that each site conforms to location requirements of Section 32A-10-301. The commission may authorize simultaneous sale and consumption hours at multiple sales outlets.

R81-10B-2. Guidelines for Issuing Permits for Outdoor or Large-Scale Public Events.

(1) Purpose. The sale of alcohol at outdoor public events such as street festivals, fairs, concerts, and rodeos poses special control issues for event organizers and law enforcement officials. Furthermore, the sale of beer at public events attended by large numbers of people, many of whom may be under the age of 21, also poses special control issues. In deciding whether to issue a temporary special event beer permit for such events, the commission must be satisfied that sufficient controls will be in place to minimize the possibility of minors being sold or furnished beer or adults being over-served beer at the event. This rule identifies control measures that must be in place before the commission will issue a temporary special event beer permit for an outdoor or a large-scale public event. However, this rule gives the commission discretion not to require specific control measures under certain circumstances after considering the facts and circumstances of a particular event.

(2) Definitions.

(a) For purposes of this rule, "large-scale public event" includes any event that is open to the general public and the estimated attendance at the event is in excess of 1000 people.

(3) Authority. This rule is enacted under the authority of Sections 63-46A-3, 32A-1-107 and 32A-10-301 and -304.

(4) Policy.

(a) Before a temporary special event beer permit will be issued by the commission to allow the sale of beer at an outdoor or a large-scale public event, the following control measures must be present at the event:

(i) There must be at least one location at the event where those wanting to purchase beer must show proof of age and either have their hand stamped or be issued a non-transferable wristband.

(A) The proof of age location(s) shall be separate from the beer sales and dispensing location(s).

(B) Proof of age may be established by:

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

(II) a current valid identification card that includes date of birth and has a picture affixed issued by this state under Title 53, Chapter 3, Part 8, Identification Card Act, or issued by another state that is substantially similar to this state's identification card;

(III) a current valid military identification that includes date of birth and has a picture affixed; or

(IV) a current valid passport.

(C) Any person assigned to check proof of age shall have completed the alcohol server-training seminar outlined in 63A-15-401.

(D) The use of hand stamps or issuance of wristbands does not relieve those selling and dispensing beer from asking for proof of age if they suspect a person attempting to purchase beer is under the age of 21 years.

(ii) Beer sales and dispensing location(s) shall be separate from food and non-alcoholic beverage concession locations. However, if the consumption of beer at the event is limited to a confined, restricted area such as a "beer garden", then beer, food and non-alcoholic beverages may be sold at the same sales locations within the confined, restricted area.

(iii) Beer shall be served in readily identifiable cups or containers distinct from those used for non-alcoholic beverages.

(iv) No more than two beers shall be sold to a customer at a time.

(v) At least one person who has completed the alcohol server training seminar outlined in 62A-15-401 shall be at each location where beer is sold and dispensed to supervise the sale and dispensing of beer.

(vi) If minors may attend the event, all dispensing and consumption of beer shall be in a designated, confined, and restricted area where minors are not allowed without being accompanied by a parent or guardian, and where beer consumption may be closely monitored.

(b) Notwithstanding Subsection (a), the commission, after reviewing the facts and circumstances of a particular outdoor or large-scale public event, may in its discretion relax any of the control measures outlined in Subsection (a) above.

(c) After reviewing the facts and circumstances of the outdoor or large-scale public event, the commission may in its discretion require additional control measures as a condition of issuing a temporary special event beer permit. These can include but are not limited to the following:

(i) Requiring that beer products be distinguishable in appearance from non-alcoholic beverages.

(ii) Requiring a certain minimum number of law enforcement and/or security personnel at the event.

(5) Procedure. The following procedure shall govern applications for temporary special event beer permits for outdoor or large-scale public events:

(a) In addition to providing a description of the times, dates, location, nature and purpose of the event, the applicant shall include

in the permit application a summary of all control measures that will be taken at the event to reduce the possibility of minors being furnished beer and adults being over-served beer at the event.

(b) Department staff shall provide this information to the commissioners prior to the commission's consideration of the permit application.

(c) The commission shall review the application to determine if all statutory requirements are in place, to determine if all controls listed in Subsections (4)(a)(i) through (vi) are in place, to consider any request to waive any of the controls listed in Subsections (4)(a)(i) through (vi), and to assess whether any additional control measures such as those listed in Subsection (4)(c) should be required prior to issuing the permit.

R81-10B-3. Price Lists.

(1) A temporary special event beer event permittee shall have a printed price list or menu available for inspection containing beer prices.

(2) The permittee or an employee of the licensee may not misrepresent the price of any alcoholic beverage that is sold or offered for sale on the event premises.

KEY: alcoholic beverages

2003

32A-1-107

32A-10



Alcoholic Beverage Control, Administration **R81-12** Manufacturer Representative (Distillery, Winery, Brewery)

NOTICE OF PROPOSED RULE

(Amendment)

DAR File No.: 26333

FILED: 06/02/2003, 14:59

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: With the passage of S.B. 153 by the 2003 legislature, it has become necessary to modify and amend this rule to aid in the implementation of the new laws. (DAR NOTE: S.B. 153 is found at UT L 2003 Ch 314, and was effective May 5, 2003.)

SUMMARY OF THE RULE OR CHANGE: The proposed amendments to Rule R81-12 are in the nature of "housekeeping". Language in Subsection R81-12-1(1) better defines and describes the activities that are allowed manufacturer representatives (the old language was archaic). References to "department trade shows" are removed because S.B. 153 repealed statutes that allow for the department to conduct alcoholic beverage trade shows.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 32A-1-107 and 32A-12-603

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: None--The amendments to this rule are proposed for the purpose of implementing the law changes resulting from the passage of S.B. 153. These amendments do not affect the state's budget.

❖ LOCAL GOVERNMENTS: None--The amendments to this rule are proposed for the purpose of implementing the law changes resulting from the passage of S.B. 153. These amendments do not create costs or savings to local governments.

❖ OTHER PERSONS: None--The amendments to this rule are proposed for the purpose of implementing the changes resulting from the passage of S.B. 153. These amendments do not create costs or savings to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs associated with the proposed amendments to this rule. The majority of the changes are proposed to restate and/or delete rule language that is either archaic or irrelevant.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The amendments to this rule will have no fiscal impact on business. Most of the amendments are "housekeeping" amendments and/or serve to implement changes in the new liquor laws.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Sharon Mackay at the above address, by phone at 801-977-6800, by FAX at 801-977-6889, or by Internet E-mail at smackay@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 07/15/2003.

THIS RULE MAY BECOME EFFECTIVE ON: 07/16/2003

AUTHORIZED BY: Kenneth F. Wynn, Director

R81. Alcoholic Beverage Control, Administration.**R81-12. Manufacturer Representative (Distillery, Winery, Brewery).****R81-12-2. Industry Participation in Educational Seminars Involving Liquor, Wine and Heavy Beer Products.**

(1) Authority. This rule is pursuant to 32A-12-201~~(2)~~(1) and (3), ~~32A-12-603(2), 32A-12-603(9), 32A-12-603(3) and (4),~~ and 32A-12-606. These provisions preclude an industry member[s] from [soliciting or canvassing for orders, or otherwise furnishing or supplying]selling, shipping, transporting, furnishing or supplying or causing the selling, shipping, transporting, furnishing or supplying

of liquor, wine, and heavy beer products to another within this state other than the department [and], a military installation[s], a holder of a special use permit to the extent authorized in the permit, and a bonded liquor warehouse; preclude an industry member[s] from supplying anything of value except as allowed by law; preclude an industry member[s] from giving away any of its alcoholic products to any person except for testing, analysis, and sampling purposes by the department[; and] local industry representative licensees[; and] licensed alcoholic beverage retailers] to the extent authorized by the Act; allow an industry member[s] to participate in educational seminars involving the department, retailers, holders of educational or scientific special use permits, or other industry members under certain conditions, but preclude the use of samples at such seminars; and allow an industry member[s] to serve alcoholic products to others at a private social function[s] hosted by the industry member so long as the product is not served as part of a promotion of [its]the industry member's products or as a subterfuge to provide samples to others for product testing, analysis, or sampling purposes.

(2) Definitions. For purposes of this rule:

(a) "Educational seminar" means an educational class involving the study of alcoholic beverages attended only by students who have registered in advance for the course, a privately-hosted event or social function held by a private group engaged in the study of alcoholic beverages, and a private training session held by a retailer for the purpose of educating the retailer and the retailer's employees of the qualities and characteristics of alcoholic beverages. An educational seminar does not include a seminar to which the general public is invited to attend.

(b) "Industry member" means a liquor, wine or heavy beer manufacturer, supplier, importer, wholesaler, or any of its affiliates, subsidiaries, officers, directors, agents, employees, or representatives.

(c) "Privately-hosted event" or "private social function" means a specific social, business, or recreational event for which an entire room, area, or hall has been leased, rented, or reserved, in advance by an identified group, and the event or function is limited in attendance to people who have been specifically designated and their guests. "Privately-hosted event" and "private social function" does not include an event or function to which the general public is invited whether for an admission fee or not.

(d) "Retailer" means the holder of an alcoholic beverage license or permit issued by the commission to allow the holder to engage in the sale of alcoholic beverages to consumers, or any of the holder's agents, officers, directors, shareholders, partners, or employees.

(e) "Sample" means liquor, wine and heavy beer that is placed in the possession of the department for testing, analysis, and sampling by the department, ~~[for use in a trade show conducted by the department,]~~ or for testing, analysis, and sampling by local industry representatives on the premises of the department. Samples are furnished by industry members to the department for these purposes at no cost, and are labeled by the department as samples. Sample does not include liquor, wine and heavy beer that is sold by the department at retail after taxes and markup have been included.

(3) General Purpose. This rule authorizes industry representatives, under certain restrictions, to attend and participate in educational seminars where liquor, wine and heavy beer products are analyzed, tested, and tasted.

(4) Application of Rule.

(a) An industry member may attend and participate in an educational seminar where liquor, wine and heavy beer products are

analyzed, tested, and tasted only as the invited guest of the host of the seminar. An industry member may not directly or indirectly host, organize, or otherwise arrange for an educational seminar where such products are present.

(b) Liquor, wine and heavy beer products used at an educational seminar must be purchased by the host from the department at full retail. An industry member may not directly or indirectly furnish or otherwise provide the liquor, wine and heavy beer products for the seminar. No liquor, wine or heavy beer samples may be present or used at an educational seminar. Tastings involving samples may occur only ~~[at department trade shows or]~~ on the department's premises in accordance with Section 32A-12-603~~(9)(b)~~(4)(c).

(c) ~~[Industry]~~An industry member[s] may be invited by the host to lecture, and analyze, test, and taste the liquor, wine and heavy beer products during ~~[their]~~the industry member's presentation at an educational seminar.

(d) An educational seminar where liquor, wine and heavy beer products are present may not be used by an industry member[s] to introduce retailers to new products which are not presently listed by the department for sale in this state.~~[Department trade shows are provided for this purpose.]~~

(e) An educational seminar may not be open to the general public~~, and there shall be no public advertising of the seminar.]~~

KEY: alcoholic beverages

~~[1993]~~2003

Notice of Continuation December 26, 2001

32A-1-107



**Commerce, Occupational and
Professional Licensing
R156-26a-302a
Qualifications for CPA licensure -
Education Requirements**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 26297

FILED: 05/19/2003, 15:14

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division needs to correct an education requirement contained in this rule.

SUMMARY OF THE RULE OR CHANGE: Amendments are made to Subsection R156-26a-302a(1)(a)(ii) to change graduate degree in business to a masters of business administration (MBA) degree. When this rule was previously written, the language used was meant to be an MBA degree. However, the Division has found that there are other graduate business degrees besides the MBA degree. These other graduate business degrees do not require the minimum accounting classes that are required to obtain the MBA degree; therefore, applicants with other business degrees are

not adequately educated to perform duties of a certified public accountant (CPA).

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-26a-101, and Subsections 58-1-106(1)(a) and 58-1-202(1)(a)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The Division will incur minimal costs, less than \$75, 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: Proposed rule amendments do not apply to local governments. Therefore, there is no impact to local government.

❖ OTHER PERSONS: Applicants for licensure as a CPA with a graduate business degree, other than an MBA degree, may be required to obtain additional classes to qualify for licensure.

The amount of classes for any particular applicant would vary depending on how many electives they had taken. It is estimated that on average a person with such other graduate business degree may be required to take an additional two or three accounting classes to qualify for licensure under an alternative rule that is already in effect.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Applicants for licensure as a CPA with a graduate business degree, other than an MBA degree, may be required to obtain additional classes to qualify for licensure. The amount of classes for any particular applicant would vary depending on how many electives they had taken. It is estimated that on average a person with such other graduate business degree may be required to take an additional two or three accounting classes to qualify for licensure under an alternative rule that is already in effect.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule change clarifies that the type of graduate degree in business that meets the educational requirement for CPA licensure is a MBA. Therefore, CPA license applicants with business degrees other than MBAs may be required to take two or three additional accounting courses. The fiscal impact to business and to the public would undoubtedly be positive in that all CPA licensees will have the same level of required education. 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:

Dan S. Jones at the above address, by phone at 801-530-6720, by FAX at 801-530-6511, or by Internet E-mail at dsjones@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/15/2003

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 6/25/2003 at 1:00 PM, 160 East 300 South, Conference Room 428, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 07/16/2003

AUTHORIZED BY: J. Craig Jackson, Director

**R156. Commerce, Occupational and Professional Licensing.
R156-26a. Certified Public Accountant Licensing Act Rules.
R156-26a-302a. Qualifications for CPA Licensure - Education Requirements.**

The education requirements for CPA licensure in Subsection 58-26a-302(1)(d) are defined, clarified, or established as follows:

(1) An applicant shall submit transcripts showing completion of course work consisting of a minimum of 150 semester hours (225 quarter hours) as follows:

(a) a graduate or undergraduate program within an institution whose business or accounting education program is accredited by the American Assembly of Collegiate Schools of Business (AACSB), or the Association of Collegiate Business Schools and Programs (ACBSP), from which the applicant received one of the following:

(i) a graduate degree in accounting;

(ii) a ~~graduate~~ master of business administration degree ~~in business including~~ which includes not less than:

(A) 24 semester hours (36 quarter hours) in upper division accounting courses covering the subjects of financial accounting, auditing, taxation, and management accounting; or

(B) 15 semester hours (23 quarter hours) graduate level accounting courses covering the subjects of financial accounting, auditing, taxation, and management accounting; or

(C) an equivalent combination of graduate and upper division accounting courses covering the subjects of financial accounting, auditing, taxation, and management accounting with one hour of graduate level course work being equivalent to 1.6 hours of upper division course work; or

(iii) a baccalaureate degree in business or accounting and 30 semester hours (45 quarter hours) beyond the requirements for a baccalaureate degree which includes not less than:

(A) 16 semester hours (24 quarter hours) in upper division accounting courses, which when combined with the accounting courses listed in Subsection (B) below, have at least one course with a minimum of two semester hours (three quarter hours) each covering the subjects of financial accounting, auditing, taxation, and management accounting;

(B) eight semester hours (12 quarter hours) in graduate level accounting courses, which when combined with the accounting courses listed in Subsection (A) above, have at least one course each covering the subjects of financial accounting, auditing, taxation, and management accounting;

(C) 12 semester hours (18 quarter hours) in upper division non-accounting business courses;

(D) 12 semester hours (18 quarter hours) in graduate level business or accounting courses; and

(E) 10 semester hours (15 quarter hours) of either graduate or upper division accounting or business courses.

(b) a graduate or undergraduate program from an institution accredited by the Northwest Association of Schools and Colleges, Commission on Colleges, or the North Central Association of Colleges and Schools, Commission on Institutions of Higher Education, or an equivalent accrediting institution from which the applicant received a baccalaureate or graduate degree with not less than:

(i) 30 semester hours (45 quarter hours) in business or related courses providing a minimum of two semester hours (three quarter hours) in each of the following subjects:

(A) business law;

(B) computers;

(C) economics;

(D) ethics;

(E) finance;

(F) statistics and quantitative methods;

(G) written and oral communications; and

(H) business administration such as marketing, production, management, policy or organizational behavior;

(ii) 24 semester hours (36 quarter hours) in upper division accounting courses with a minimum of two semester hours (three quarter hours) in each of the following subjects:

(A) auditing;

(B) finance;

(C) managerial or cost;

(D) systems; and

(E) taxes; and

(iii) 30 semester hours (45 quarter hours) beyond the requirements for a baccalaureate degree of additional business related course work including not less than:

(A) eight semester hours (12 quarter hours) in graduate accounting courses;

(B) 12 semester hours (18 quarter hours) in graduate accounting or graduate business courses; and

(C) 10 semester hours (15 quarter hours) of additional business related hours shall be taken in upper division undergraduate or graduate level courses.

(2) The division in collaboration with the board or the education subcommittee of the board may make a written finding for cause that a particular accredited institution or program is not acceptable.

(3) The Division in collaboration with the board or the education subcommittee of the board may accept education of a person who holds a license as a certified public accountant or equivalent designation in a foreign country, if the applicant has obtained from the National Association of State Boards of Accountancy (NASBA) verification of compliance with the terms of an agreement for reciprocal licensure between the foreign country and the International Qualifications Appraisal Board of NASBA, which agreement provides the applicant's examinations, education and experience is determined to be substantially equivalent to the 1994 Uniform Accountancy Act licensure requirements or a version of the Uniform Accountancy Act having substantially equivalent requirements.

KEY: accountants, licensing, peer review

~~July 3, 2002~~ 2003

Notice of Continuation April 15, 2002

58-26a-101

58-1-106(1)(a)

58-1-202(1)(a)

▼ ————— ▼

Health, Epidemiology and Laboratory Services, Epidemiology

R386-702

Communicable Disease Rule

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 26294

FILED: 05/16/2003, 10:29

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This amendment clarifies that Severe Acute Respiratory Syndrome (SARS) is reportable to public health and that such reporting should occur immediately by telephone. Such reporting is currently required because SARS is a "sudden or extraordinary occurrence of infectious or communicable disease."

SUMMARY OF THE RULE OR CHANGE: The Department of Health is adding SARS to the list of conditions of public health interest for which reporting to public health is required. SARS will also be added to the list of conditions for which immediate reporting by telephone is required. (DAR NOTE: A corresponding 120-day (emergency) rule that is effective as of May 16, 2003, is under DAR No. 26290 in this issue.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-6-3

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** Since this rule change only clarifies that this reporting is required, no additional cost will be incurred. If this rule results in improved reporting as intended, it might save costs for extensive investigations that could result from delayed reporting.

❖ **LOCAL GOVERNMENTS:** Since this rule change only clarifies that this reporting is required and assures that immediate reporting will occur by telephone, no significant additional cost is predicted for local governments.

❖ **OTHER PERSONS:** Since this rule change only clarifies that this reporting is required and assures that immediate reporting will occur by telephone, no significant additional cost is predicted for health care providers. Existing surveillance procedures will be adequate to respond to this required reporting. Providers will only be required to report more quickly.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No new compliance costs are predicted for this rule change. Existing surveillance procedures will be adequate to respond to this required reporting. Providers will only be required to report more quickly.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: In February of 2003, a new syndrome was identified, Severe Acute Respiratory Syndrome (SARS). As of April 10, 2003 2,781 cases of SARS were reported to the World Health Organization, including 166 in U.S., and 5 in Utah; 111 deaths have occurred worldwide. The condition is highly infectious and has resulted in disruption of international travel, overwhelmed medical care services in affected areas and resulted in quarantine orders, including for more than 1,000 people in Ontario, Canada. While reporting is authorized under this rule for "any sudden or extraordinary occurrence of infectious or communicable disease," I believe it is appropriate to clarify the importance of reporting SARS by adding it to the reporting rule specifically. Rod L. Betit

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

HEALTH
EPIDEMIOLOGY AND LABORATORY SERVICES,
EPIDEMIOLOGY
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:
Robert Rolfs at the above address, by phone at 801-538-6386, by FAX at 801-538-6694, or by Internet E-mail at rolfs@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 07/15/2003.

THIS RULE MAY BECOME EFFECTIVE ON: 07/16/2003

AUTHORIZED BY: Rod L. Betit, Executive Director

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**R386. Health, Community Health Services, Epidemiology.
R386-702. Communicable Disease Rule.
R386-702-2. Reportable Diseases.**

(1) The Utah Department of Health declares the following diseases to be of concern to the public health. Each confirmed or suspected case shall be reported to the Bureau of Epidemiology, Utah Department of Health or to the local health department. Upon receipt of a report, the local health department shall forward a written or electronic copy of the report to the Bureau of Epidemiology, Utah Department of Health.

(a) Acquired Immunodeficiency Syndrome

- (b) Amebiasis
- (c) Anthrax
- (d) Botulism
- (e) Brucellosis
- (f) Campylobacteriosis
- (g) Chancroid
- (h) Chickenpox
- (i) Chlamydia trachomatis
- (j) Cholera
- (k) Coccidioidomycosis
- (l) Colorado tick fever
- (m) Creutzfeldt-Jakob disease
- (n) Cryptosporidiosis
- (o) Cyclospora infection
- (p) Diphtheria
- (q) Echinococcosis
- (r) Ehrlichiosis, human granulocytic and human monocytic
- (s) Encephalitis: primary, post-infectious, arthropod-borne and unspecified
- (t) Enterococcal infection, vancomycin-resistant
- (u) Escherichia coli O157:H7
- (v) Giardiasis
- (w) Gonorrhea: sexually transmitted and ophthalmia neonatorum
- (x) Haemophilus influenzae, invasive disease
- (y) Hansen Disease (Leprosy)
- (z) Hantavirus infections and pulmonary syndrome
- (aa) Hemolytic Uremic Syndrome, postdiarrheal
- (bb) Hepatitis A
- (cc) Hepatitis B, cases and carriers
- (dd) Hepatitis, other viral: type C, and non-A non-B
- (ee) Human Immunodeficiency Virus Infection. Reporting requirements are listed in R388-803.
- (ff) Influenza, laboratory confirmed
- (gg) Kawasaki syndrome
- (hh) Legionellosis
- (ii) Listeriosis
- (jj) Lyme Disease
- (kk) Malaria
- (ll) Measles
- (mm) Meningitis, aseptic and bacterial (specify etiology)
- (nn) Meningococcal Disease, invasive
- (oo) Mumps
- (pp) Pelvic Inflammatory Disease
- (qq) Pertussis
- (rr) Plague
- (ss) Poliomyelitis, paralytic
- (tt) Psittacosis
- (uu) Q Fever
- (vv) Rabies, human and animal
- (ww) Relapsing fever, tick-borne and louse-borne
- (xx) Reye syndrome
- (yy) Rheumatic fever
- (zz) Rocky Mountain spotted fever
- (aaa) Rubella
- (bbb) Rubella, congenital syndrome
- (ccc) Salmonellosis
- (ddd) Shigellosis
- (eee) Staphylococcal diseases, all outbreaks and Staphylococcus aureus with resistance or intermediate resistance to vancomycin or resistance to methicillin isolated from any site

- (fff) Streptococcal Disease, invasive, Group A, isolated from a normally sterile site
- (ggg) Streptococcal Toxic-Shock Syndrome
- (hhh) Streptococcus pneumoniae, drug-resistant invasive disease, isolated from a normally sterile site
- (iii) Syphilis, all stages and congenital
- (jjj) Tetanus
- (kkk) Toxic-Shock Syndrome
- (lll) Trichinosis
- (mmm) Tuberculosis. Special Measures for the Control of Tuberculosis are listed in R388-804.
- (nnn) Tularemia
- (ooo) Typhoid, cases and carriers
- (ppp) Yellow fever
- (qqq) Severe Acute Respiratory Syndrome (SARS)
- (rrr) Any sudden or extraordinary occurrence of infectious or communicable disease is also reportable. Any disease occurrence, pattern of cases, suspect cases, or increased incidence of any illness which may indicate an outbreak, epidemic or related public health hazard, including but not limited to suspected or confirmed outbreaks of foodborne or waterborne disease, newly recognized or re-emergent diseases or disease producing agents, shall be reported immediately by telephone to the Bureau of Epidemiology, Utah Department of Health, 801-538-6191.

R386-702-3. Reporting.

(1) Case Report: Unless otherwise specified, the report of these diseases to the Bureau of Epidemiology, Utah Department of Health shall provide the following information: name, age, sex, address, date of onset, and all other information as prescribed by the Department. A standard report form has been adopted and is supplied to physicians and other reporting sources by the Department.

(2) Immediate Reports: Any outbreak or suspected outbreak shall be reported immediately by telephone. Cases and suspect cases of anthrax, botulism, cholera, diphtheria, measles, meningococcal disease, mumps, pertussis, plague, poliomyelitis, rabies, relapsing fever, rubella, tetanus, tuberculosis, typhoid, ~~and~~ yellow fever, and Severe Acute Respiratory Syndrome (SARS) are to be made by telephone to the Bureau of Epidemiology, Utah Department of Health, 801-538-6191, or the local health department.

(3) Case Notification: Chickenpox, influenza, Staphylococcus aureus with resistance to methicillin and vancomycin resistant enterococcus are to be reported by number of cases only. These reports shall be made monthly.

(4) Mandatory Submission of Isolates: Laboratories shall submit all isolates of the following organisms to the Utah Department of Health, public health laboratory:

- (a) Bacillus anthracis;
- (b) Bordetella pertussis;
- (c) Campylobacter species;
- (d) Clostridium botulinum;
- (e) Corynebacterium diphtheriae;
- (f) Enterococcus, vancomycin-resistant;
- (g) Escherichia coli, enterohemorrhagic;
- (h) Francisella tularensis;
- (i) Haemophilus influenzae, from normally sterile sites;
- (j) Influenza, types A and B;
- (k) Legionella species;
- (l) Listeria monocytogenes;
- (m) Mycobacterium tuberculosis complex;

- (n) Neisseria gonorrhoeae;
- (o) Neisseria meningitidis, from normally sterile sites;
- (p) Salmonella species;
- (q) Shigella species;
- (r) Staphylococcus aureus with resistance or intermediate resistance to vancomycin isolated from any site;
- (s) Vibrio cholera;
- (t) Yersinia species.

(5) Occurrence of Unusual Diseases: Any unusual disease of public health importance, including newly identified multi-drug resistant bacteria, and any outbreak or undue prevalence of a disease, whether or not listed as reportable, shall also be promptly reported by telephone to the local health department or the Bureau of Epidemiology, Utah Department of Health.

(6) Timing of Reports: All diseases not required to be reported by telephone or by number of cases shall be reported within seven calendar days from the time of identification. Reports are to be sent to the local health department or the Bureau of Epidemiology, 288 North 1460 West, P. O. Box 142104, Salt Lake City, Utah 84114-2104.

(7) Individuals Required to Report Communicable Diseases: Section 26-6-6 lists those individuals and facilities required to report diseases known or suspected of being communicable. Physicians, hospitals, health care facilities, home health agencies, health maintenance organizations, and other health care providers shall report details regarding each case. Schools, child day care centers, and citizens shall provide any relevant information. Laboratories and other testing sites shall report laboratory evidence confirming any of the reportable diseases. Laboratories and other testing sites shall also report any test results which provide presumptive evidence of infection such as positive tests for syphilis, measles, and viral hepatitis.

(8) Confidentiality of Reports: All reports required by this rule are confidential and are not open to public inspection. Nothing in this rule, however, precludes the discussion of case information with the attending physician or public health workers. All information collected pursuant to this rule may not be released or made public, except as provided by Section 26-6-27. Penalties for violation of confidentiality are prescribed in Section 26-6-29.

KEY: communicable diseases, rules and procedures
~~October 1, 1999~~ **2003**
Notice of Continuation August 20, 2002
26-6-3



Public Safety, Driver License
R708-40
Driving Simulation Devices

NOTICE OF PROPOSED RULE
 (New Rule)
 DAR FILE No.: 26334
 FILED: 06/02/2003, 15:00

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to define standards for fully interactive driving simulation devices for use in conducting driver training.

SUMMARY OF THE RULE OR CHANGE: This rule outlines the standards that are acceptable for both regular driving simulation devices and fully interactive driving simulation devices.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 53-3-505(1)(d)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: This is an optional device that can be used by driver education providers. There is no cost impact to the state since the state only established the standards for the devices.

❖ LOCAL GOVERNMENTS: Because the fully interactive driving simulation device is optional for use by driver education providers in the public education system, there would not be a mandatory cost incurred. The cost incurred for purchasing the device would be optional.

❖ OTHER PERSONS: Because the fully interactive driving simulation device is optional for use by private driver education providers, there would not be a mandatory cost incurred. The cost incurred for purchasing the device would be optional.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Because the fully interactive driving simulation device is optional for use by driver education providers, there would not be a mandatory cost incurred. The cost incurred for purchasing the device would be optional.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be no impact on businesses unless they choose to purchase a fully interactive driving simulation device because use of the device is optional.

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

PUBLIC SAFETY
 DRIVER LICENSE
 CALVIN L RAMPTON COMPLEX
 4501 S 2700 W 3RD FL
 SALT LAKE CITY UT 84119-5595, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Vinn Roos at the above address, by phone at 801-965-4456, by FAX at 801-964-4482, or by Internet E-mail at vroos@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 07/15/2003.

THIS RULE MAY BECOME EFFECTIVE ON: 07/16/2003

AUTHORIZED BY: Judy Hamaker Mann, Director

R708. Public Safety, Driver License.**R708-40. Driving Simulation Devices.****R708-40-1. Purpose.**

The purpose of this rule is to define standards for fully interactive driving simulation devices for use in conducting driver training.

R708-40-2. Authority.

This rule is authorized by Subsection 53-03-505(1)(d).

R708-40-3. Standards.

(1) A fully interactive driving simulation device shall:

(a) be fully interactive as defined by taking in operator control inputs, processing them with a high-fidelity dynamics model, and displaying the resulting vehicle state;

(b) be capable of maintaining a 60 Hz visual update rate in a fully populated, dynamic driving scenario;

(c) provide active steering force feedback;

(d) present a minimum of 150 degrees forward field-of-view;

(e) include fully articulated scenario vehicles with independent dynamics and tire articulation;

(f) support real time driving performance monitoring, presentation of feedback, and storage of training performance data; and

(g) simulate Utah driving conditions and environment.

(2) Driving simulation devices that do not conform to these standards are not considered to be fully interactive driving simulation devices.

KEY: driving simulation devices**2003****53-3-505**

Transportation, Operations, Traffic and Safety

R920-50

Ropeway Operation Safety Rules

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 26296

FILED: 05/16/2003, 13:01

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This amendment is issued to change numbering and tie the rule into the department's regular administrative appellate procedures.

SUMMARY OF THE RULE OR CHANGE: This rule amendment: 1) eliminates the section on fees and all references to it; 2) changes numbering; and 3) eliminates the portion of the current rule that establishes an appellate procedure, instead tying it to the regular procedures in Rule R907-1. (DAR NOTE: A 120-day (emergency) rule that removes the section on fees (Section R920-50-11) and was effective May 16, 2003, is under DAR No. 26295 in this issue.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 72-1-101

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There will be no cost to the budget from this change as the legislature already set increased fees in the 2003 General Session.

❖ LOCAL GOVERNMENTS: This rule does not affect local governments. Therefore, there is no impact on local governments.

❖ OTHER PERSONS: This rule amendment does not affect other persons. Therefore, there is no impact to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be no additional costs to comply as a result of these changes since they are administrative fixes.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The industry will see an increased fiscal impact because of the separately adopted legislative schedule of fees, but that is not the result of this rule amendment. (DAR NOTE: The fee schedule was approved as part of H.B. 1, UT L 2003 Ch 342 Section 2, which will be effective July 1, 2003.)

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

TRANSPORTATION
OPERATIONS, TRAFFIC AND SAFETY
CALVIN L RAMPTON COMPLEX
4501 S 2700 W
SALT LAKE CITY UT 84119-5998, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

James Beadles at the above address, by phone at 801-965-4168, by FAX at 801-965-4796, or by Internet E-mail at jbeadles@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 07/15/2003.

THIS RULE MAY BECOME EFFECTIVE ON: 07/16/2003

AUTHORIZED BY: John R. Njord, Executive Director

R920. Transportation, Operations, Traffic and Safety.

R920-50. Ropeway Operation Safety Rules.

R920-50-1. Utah Ropeway Rules for Passenger Ropeways.

A. Introduction

These rules are issued pursuant to Utah Code Annotated, Section 72-11-210 to implement the Passenger Ropeway Safety Act, Utah Code Ann., Sections 72-11-201 et seq.

B. Governing Standard

1. The governing standard in Utah is the standard entitled "ANSI B-77.1, 1999", published by the American National Standards Institute, 1430 Broadway, New York, New York 10018, and approved by ANSI on March 11, 1999, and as modified by rule

of the Committee. Use of this standard is authorized by Section 72-11-201.

2. The Utah Passenger Ropeway Safety Committee reserves the right to modify, add, or delete provisions included in the Governing Standard.

C. Classification of Ropeways and Applicable Standards

1. Section 1.2.4.1 of the Governing Standard is modified by the following requirements:

a. Existing installations need not comply with the new or revised requirements of the Governing Standard and these rules, except as set forth in R920-50-1.D.1.b;

b. Existing ropeways, when removed and reinstalled, shall be classified as new installations (see R920-50-1-C.2);

c. Ropeway modifications shall meet the requirements of R920-50-2.F and R920-50-8.

2. Section 1.2.4.2 of the Governing Standard is modified by the following requirement: New installations and those with design review completed by the Committee after the effective date of the Governing Standard, shall comply with the new or revised requirements of the Governing Standard and with these rules.

D. Inspections of Ropeways

1. The annual general inspection requirements stated in ANSI B77.1, 2.3.4.1, 3.3.4.1, 4.3.4.1, 5.3.4.1 and 6.3.4.1, are replaced by the following requirements:

a. An annual general or pre-operational inspection of each passenger ropeway shall be made by a Ropeway Inspector prior to approval of any application for licensure. An operational inspection of each passenger ropeway may be made by a Ropeway Inspector at least once a year during the high-use season. For each passenger ropeway inspected, items found either deficient or in noncompliance shall be noted. A report signed by the Ropeway Inspector listing items found either deficient or in noncompliance shall be filed with the owner. The owner shall correct all deficiencies and noncompliance items listed in the Ropeway Inspector's report or request an exception from the Governing Standard and applicable Utah Ropeway Operations Safety Rules. In addition to the annual general, pre-operational, and operational inspections, the Committee may order other inspections in accordance with Section 72-11-211;

b. All installations shall comply with the new or revised requirements of the Governing Standard and these rules in the following areas, on or before the effective date of each paragraph, as set forth below:

1. Requirements for auxiliary drives, as set forth in ANSI B77.1, 2.1.2.1.1, 3.1.2.1.1, 4.1.2.1.1. These requirements shall be effective November 1, 1994;

2. Requirement for one device that senses the position of the rope shall be installed on each sheave unit, as set forth in ANSI B77.1, 3.1.3.3.2, paragraph 6. This requirement shall be effective November 1, 1994;

3. Requirements for audible warning devices, as specified by ANSI B77.1, 2.1.1.12, 3.1.1.12. These requirements shall be effective November 1, 2001;

4. Section 4.1.1.12 of the Governing Standard is modified by the following requirement: The aerial lift shall incorporate an audible warning device that signals an impending start of the ropeway. After the start button is pressed, the device shall sound an audible alarm for a minimum of two seconds before the ropeway begins to move. The audible device shall be heard inside and outside all terminals and machine rooms above the ambient noise level. These requirements shall be effective November 1, 2001;

5. "Qualified personnel" as used in X.1.1.11 means a qualified engineer approved by the Committee. A "aerial tramway specialist" as used in 2.3.4, "aerial lift specialist" as used in 3.3.4 and 4.3.4, "surface lift specialist" as used in 5.3.4, and a "tow specialist" as used in 6.3.4 means a ropeway inspector approved by the Committee.

c. Grips, clips, hangars, chairs, carriages and cabins shall be tested according to ANSI B77.1, X.3.4.3, except as modified in this subsection c.

1. Testing personnel shall be qualified in accordance with ASNT Recommended Practice No. SNT-TC-1A-1992. Testing agency shall provide certification of qualification of personnel performing testing.

2. Testing agency inspector shall certify to the owner or area operator that the passenger ropeway components tested were non-destructively tested in accordance with current acceptance criteria established by the designer or manufacturer, or in case the designer or manufacturer is no longer in business, by a Qualified Engineer;

3. Sampling size and method of obtaining the sample shall comply with X.3.4.3 of the Governing Standard;

4. Rejection rate and retest procedures shall comply with current acceptance criteria established by the designer or manufacturer, or in case the designer or manufacturer is no longer in business, by a Qualified Engineer;

5. Types of inspections to be performed and the procedures to be used shall comply with current acceptance criteria established by the designer or manufacturer, or in case the designer or manufacturer is no longer in business, by a Qualified Engineer;

6. Criteria for acceptance/rejection of samples shall comply with current acceptance criteria established by the designer or manufacturer, or in case the designer or manufacturer is no longer in business, by a Qualified Engineer.

d. Wire rope inspection shall be performed according to Section 7.4.1 of the Governing Standard and shall be performed by a competent inspector defined by the Governing Standard and who is approved by the Committee. The wire rope inspector shall certify to the owner or area operator whether the wire rope in its present condition meets requirements for continued operation.

e. All installations shall comply with the Operation and Maintenance requirements of the Governing Standard. These requirements are stated in ANSI B77.1, 2.3, 3.3, 4.3, 5.3, 6.3, and 7.4.

E. Fire Detection

All machine rooms that are in an enclosed structure located adjacent to the rope of the ropeway (vaulted) shall have a fire detection system installed in accordance with the National Fire Alarm Code. This system shall initiate a visual and audible alarm monitored at the drive terminal operator station.

F. Conveyors Standards

1. Section 8 of the ANSI B77.1-1999 is modified by the following requirement:

a. Modifying the maximum conveyor speed requirements stated in 8.1.1.5, that maximum speed is 160 feet/minute.

b. Loading and unloading areas requirements of 8.1.1.9 shall also accommodate the use of adaptive devices.

c. "Qualified personnel" as used in 8.1.1.11 means a qualified engineer approved by the Committee. A "conveyor specialist" as used in 8.3.4 means a ropeway inspector approved by the Committee.

d. Power units referred to in 8.1.2.1 may not have reverse capability.

e. "Power supply cords" referred to in 8.2.1.5.5 shall be protected from snow grooming, skiers, and other equipment and shall be ground fault protected.

f. The belt transition entry stop device referred to in 8.1.2.11.2 shall include redundant (double) sensors. Each sensor shall be part of an independent control circuit that can initiate an emergency shutdown of the conveyor. The device shall be so designed and maintained that no single point of failure can cause the entry stop device to malfunction. The device shall not be remotely resettable and shall require the operator to reset the device prior to restarting the conveyor.

g. A single operator, as referred to in 8.3.2.2 may not operate more than one conveyor.

h. No bypass of circuits, as referred to in 8.3.2.5.9 is allowed.

G. Dynamic Testing

1. Section X.3.3.1 is replaced with:

Foundations and structural, mechanical and electrical components shall be inspected regularly and kept in a state of good repair. The maintenance requirements of the designer or a Qualified Engineer (see X.1.6.2) shall be followed. Maintenance and testing logs shall be kept (see X.3.5.3).

2. Section X.3.3.1.2 is replaced with:

A written schedule for systematic dynamic testing shall be developed and followed. The schedule shall establish specific frequencies and conditions for periodic testing. The owner shall provide Experienced personnel to develop and conduct the dynamic test. The testing shall simulate or duplicate inertial loadings. The test load shall be equivalent to the design live load. Dynamic testing shall be performed at intervals not exceeding 7 years. The testing requirements shall include, but not be limited to the following:

- a) braking systems;
- b) auxiliary power units;
- c) tension systems; and
- d) electrical systems.

R920-50-2. Definition of Terms.

A. "Aerial lift" means a ropeway on which passengers are transported in cabins or on chairs and that circulate in one direction between terminals without reversing the travel path.

B. "Aerial tramway (reversible)" means a ropeway on which the passengers are transported in cable-supported carriers are not in contact with the ground or snow surface, and in which the carrier(s) reciprocate between terminals.

C. "Annual general inspection" means an inspection of a passenger ropeway made by a Ropeway Inspector to verify preservation of original design integrity and to determine that components and systems of the passenger ropeway are in proper working order and in accordance with Committee rules.

D. "Committee" means the Passenger Ropeway Safety Committee as outlined in Section 72-11-202.

E. "Conveyor" means a device used to transport skiers uphill while standing on a flexible moving element which consists of multiple tread plates or belting.

F. "Detachable grip lift" means a ropeway system on which carriers circulate around the system alternately attaching to and detaching from a moving haul rope(s). The ropeway system may be monocable or bicable.

G. "Experienced personnel" means an individual who has acquired knowledge and skills through study, training, or experience

in ropeway maintenance, operation, or testing.

H. "Funicular" means a ropeway in which carrier(s) are supported and guided by a guideway and are propelled by means of a haul rope system and operates as a single reversible or as a double reversible.

I. "Incident inspection" means an inspection of a passenger ropeway incident made by an approved Ropeway Inspector or a qualified engineer at the request of the Committee.

J. "Modification" means any change as defined in the Governing Standard, ANSI B77.1 Standard 1.2.4.3 and the replacement of a ropeway component by one that alters the certified design or construction provided by the passenger ropeway manufacturer or designer.

K. "Operational inspection" means an inspection of a passenger ropeway made by a Ropeway Inspector to determine compliance with the operation and maintenance requirements of the Governing Standard and with Committee rules.

L. "Operating personnel" means persons employed by the operator for the purpose of supervising the operation, or engaged in servicing, checking, inspecting or maintaining the machinery or structures of a ropeway and when specifically on duty for such purpose on that ropeway.

M. "Operator" means a person, including any political subdivision or instrumentality of the political subdivision, who owns, manages, or directs the operation of a passenger ropeway.

N. "Passenger" means any person riding a ropeway, other than "operating personnel".

O. "Passenger ropeway" means all devices that carry, pull, or push passengers along a level or inclined path(excluding elevators) by means of a haul rope or other flexible element that is driven by a power unit remaining essentially at a single location. Passenger ropeways include the following:

- (1) aerial tramway (reversible);
- (2) aerial lifts (detachable lifts, chair lifts and similar equipment);
- (3) conveyor;
- (4) funicular;
- (5) rope tow (wire rope and fiber rope tows);and
- (6) surface lifts (J-bar, T-bar, or platter pull and similar equipment).

P. "Passenger Ropeway Incident" means:

1. Any structural, mechanical, or electrical malfunction or failure of a passenger ropeway component that results in bodily injury to any person on, or inside the load or unload zone of, a passenger ropeway;

2. Any deropement regardless of whether or not the passenger ropeway is evacuated;

3. Any evacuation of the passenger ropeway other than by prime mover or auxiliary power unit, regardless of cause;

4. Any fire involving a passenger ropeway component or adjacent structure;

5. Any structural, mechanical, or electrical malfunction or failure of a passenger ropeway component that results in a loss of control of the passenger ropeway as defined in the Governing Standard, ANSI B77.1 Standard X.2.1.7.2;

6. Any wire rope damage which exceeds the requirement in the Governing Standard, ANSI B77.1 Standard 7.4.1.1; or

7. Any structural, mechanical, or electrical malfunction or failure of a passenger ropeway component or its primary connection that has the apparent potential for causing bodily injury to any person, including but not limited to, the following;

- a. Terminal Structure
- b. Bullwheel
- c. Brake System
- d. Tower Structure
- e. Sheave, Axle, or Sheave Assembly
- f. Carrier
- g. Grip.

Q. "Pre-operational inspection" means an inspection made by a Ropeway Inspector prior to the operation of any new or modified passenger ropeway requiring an Acceptance Inspection and Test.

R. "Qualified engineer" means, notwithstanding any different definition in the ANSI B77.1 Standard, any engineer who is licensed to practice engineering in the state of Utah and who has been approved by the Committee.

S. "Responsible charge" means effective control and direction of projects of the type discussed in these rules.

T. "Rope tow" means a ropeway wherein passengers grasp a circulating fiber hauling rope or a towing device attached to a circulating wire rope or fiber rope and are propelled uphill. Passenger riding on recreational devices are also propelled uphill.

U. "Ropeway inspector" means an engineer licensed to practice engineering in the state of Utah, independent of the ropeway owner, and approved by the Committee to inspect passenger ropeways.

V. "Surface lift" ("J bar," "T bar," or "platter pull," and similar equipment) means a ropeway wherein passengers or passengers on recreational devices are transported on the surface by means of towing devices propelled by a main overhead traveling wire rope supported by trestles or towers with one or more spans.

R920-50-3. Registration of Ropeways.

A. General

1. Purpose - In order to ensure that all passenger Ropeways conform with the requirements set forth by the Passenger Ropeway Act and these rules, all passenger Ropeways operating in the state of Utah shall be registered annually with the committee, and no passenger Ropeway shall be operated for passengers without a valid certificate of registration;

2. Term - Passenger Ropeways shall be registered annually starting November 1st of each year, and each registration expires on October 31st next following date of issue;

3. New ropeways - Any passenger ropeway which shall be opened for the first time for passenger operation shall, during its first calendar year of operation, be construed to be a new ropeway for purposes stated in these rules;

4. Existing ropeways - Any passenger ropeway which shall have been operated for passengers in excess of one calendar year, shall be construed to be an existing ropeway for purposes stated in these rules;

5. Relocated ropeways - Any passenger ropeway moved to a new location shall be construed to be a new ropeway for purposes stipulated in these rules, with the exception that ropeways expressly designed to be portable, operated without a permanent foundation, and that have a design range of maximum grade, shall not be considered new ropeways when moved to different locations but remaining under the jurisdiction of the same operator;

6. Identification number - For each ropeway, upon receipt of the first application for a certificate of registration, the committee shall assign an identification number to the ropeway, which shall remain as a permanent identification number for the life of the ropeway; all correspondence with the committee pertaining to any

ropeway shall refer to the identification number assigned to that ropeway;

7. All ropeway operators shall be covered by a liability insurance of a minimum of \$300,000;

8. Submittal of application for registration of ropeways - All applications for registration of new or existing ropeways shall be submitted in accordance with requirements of these rules and shall be made in writing and addressed to:

Utah Department of Transportation
 Passenger Ropeway Safety Committee
 Division of Safety
 4501 South 2700 West
 Salt Lake City, Utah 84119-5998;

9. "As Built" drawings for each passenger ropeway shall be submitted no later than 60 days after the project is completed and the Acceptance Test and Inspection is finished.

B. Attachments

In addition to supporting documents indicated in R920-50-4 or R920-50-7, each application is to include as attachments:

1. Certificate of insurance
2. Annual registration fee.

R920-50-4. Registration of New Ropeways.

A. Application for Certification of Registration

Prior to the operation of any new passenger ropeway, the operator shall apply to the Committee for a Certificate of Registration in such form as the Committee shall designate.

B. The Application must include the name, address and telephone number of operator of the ropeway, and operator's designation of the ropeway. The application and certifications must be in accordance with R920-50-3.A and submitted as follows:

1. A Pre-Operational Inspection Report must be submitted by an approved Ropeway Inspector, and must include the name and address of the Inspector and date of his or her inspection.

2. Any Request for Exception from Standards for Passenger Ropeway shall be submitted in accordance with R920-50-10. Any known items that require a Request for Exception from Standards for Passenger Ropeways must be submitted to the Committee before work begins.

3. A Certification of Ropeway Design for New or Modified Passenger Ropeways, must be submitted. The Qualified Engineer in responsible charge of the design shall certify to the Committee on the top drawing of the design drawing packet that the design, plans and specifications conform to the Utah Passenger Ropeway Safety Act, the Governing Standard and the Utah Ropeway Operations Safety Rules. This Certification must be submitted prior to the performance of the Acceptance Inspection and Test and must state the following:

"I hereby certify that the design for this ropeway or ropeway modification is in complete compliance with the Utah Passenger Ropeway Safety Act, Governing Standard and the Utah Ropeway Operations Safety Rules and that I accept responsibility for the engineering designs, calculations, drawings and specifications for this ropeway or ropeway modification." This statement shall be placed on the top drawing of the drawing packet and signed and sealed by the Qualified Engineer. Each additional sheet of this drawing packet shall be sealed by the Qualified Engineer. Any variation from the design drawings shall be noted in the drawings and approved by the Qualified Design Engineer.

4. A Certification of Compliance for Passenger Ropeway shall be made on the Application for Certificate of Registration for New

or Modified Ropeway. This Certification shall include the following statement, signed and dated by the ropeway owner or area operator: "I certify that the reports, requests and certificates attached hereto were provided and signed by the persons required by law to provide them, and the deficiencies noted in the inspection report have been corrected with the exception of those listed in the Request for Exception from Standards for Passenger Ropeway."

~~[5. The Annual Registration Fee must be submitted in accordance with R920-50-11-A.~~

~~6]5.~~ A Certification of Fabrication and Materials for Passenger Ropeway must be submitted by a Qualified Engineer of the manufacturing concern or concerns directly responsible for the supply of equipment for this ropeway. This Certification must be submitted prior to the performance of the Acceptance Inspection and Test. This Certification must include the following information:

a. Name, address and telephone number of operator of the ropeway, name of ropeway supervisor, operator's designation of the ropeway.

b. Name and address of manufacturing concern, and name, seal and Utah license number of the qualified engineer making certification.

c. A certifying statement signed by the Qualified Engineer, to read as follows: "I hereby certify that all components, all fabrication procedures and all material used in the production of the equipment for this ropeway, or ropeway modification, conform with the Utah Passenger Ropeway Safety Act, Governing Standard, the Utah Ropeway Operations Safety Rules and the drawings and specifications issued for this ropeway or ropeway modification by the Qualified Design Engineer."

[7]6. A Certification of Construction for Passenger Ropeways must be submitted by a Qualified Engineer directly responsible for the construction for the ropeway. This Certification must be submitted prior to the performance of the Acceptance Inspection and Test. This Certification shall include the following information:

a. Name, address and telephone number of operator of the ropeway name of ropeway supervisor, operator's designation of the ropeway identification number, as assigned by the committee for the ropeway;

b. Name, Utah license number and seal of the Qualified Engineer making the certification.

c. A certifying statement signed by the Qualified Engineer, to read as follows: "I hereby certify that all footings and other concrete structures, field assembly, excavations, placement of reinforcing steel and anchoring components, quality of concrete and placement of concrete were carried out in accordance with plans and specifications, so that the design bearing value will be attained, as specified by the drawings and specifications issued for this ropeway or ropeway modification by the Qualified Design Engineer."

[8]7. A final Acceptance Test report must be submitted to the Committee. A copy of the acceptance test procedure proposed and submitted by the designer or manufacturer must be provided to the Committee for review at least fourteen (14) days before acceptance testing begins. Acceptance inspection and tests will be scheduled by the Committee or Committee's representative as the acceptance test procedures are received. The owner or area operator shall notify the Committee in writing before the scheduled date that the passenger ropeway has been operated in accordance with the Governing Standard, section X.1.1.11.2.

[9]8. A Certification of "As-Built" Profile for Passenger Ropeway must be submitted by a Land Surveyor or Civil Engineer

licensed in the state of Utah. This Certification must be submitted prior to the performance of the Acceptance Inspection and Test, and shall be signed by the Civil Engineer or Land Surveyor, and shall read as follows: "I hereby certify that the attached "as-built" profile of the herein-identified ropeway is as represented on the attached profile drawing and that the completed ropeway conforms to the profile as identified in the plans and specifications prepared by the Qualified Design Engineer."

[10]9. A Utah Passenger Ropeway Safety Committee Lift Data Form must be submitted along with other requested supporting documents. This form must be submitted prior to the performance of the Acceptance Inspection and Test.[]

~~R920-50-5. Annual Registration Fee.~~

~~—This fee shall be submitted in accordance with stipulations of R920-50-11(A).]~~

R920-50-[6]5. Certificate of Registration.

If the application for certificate of registration and supporting documentation attest that the ropeway complies with the Governing Standard and these rules, the Committee, if satisfied with the facts stated in the application, shall issue a certificate of registration to the operator.

R920-50-[7]6. Registration of Existing Ropeways.

A. Before November 1st, of each year, every operator of an Existing Passenger Ropeway who intends to operate the ropeway during the ensuing 12-month period shall apply to the Committee, in such form as the Committee shall designate, for a Certificate of Registration. In the event a new operator is assigned, the operator shall notify the Committee of such action and shall apply for a Certificate of Registration.

B. The Application shall include the following;

1. An Annual General Inspection Report by an approved Ropeway Inspector, including the name and address of the Inspector and date of inspection.

2. Approved Request for Exception from Standards for Passenger Ropeways which meets the requirements of R920-50-10, if applicable.

3. A Certification of Compliance for Passenger Ropeway shall be made on the Application for Certificate of Registration for Existing Ropeway. This Certification shall include the following statement, dated and signed by the ropeway owner or area operator: "I certify that the reports, requests and certificates attached hereto were provided and signed by the persons required by law to provide them, and the deficiencies noted in the inspection report have been corrected with the exception of those listed in the Request for Exception from Standards for Passenger Ropeway."

4. The Annual Registration Fee in accordance with R920-50-11.A.

R920-50-[8]7. Modifications.

If a modification, as defined in R920-50-2(E) has been made to an existing ropeway, the data as required by R920-50-7 shall also be accompanied by a design certification, fabrication and materials certification, and a construction certification, and also a survey profile certification if applicable, submitted by a qualified engineer to cover the modification. Depending on the nature and extent of the modification, the Committee, or the Committee's appointed representative, may require an Acceptance Inspection and Test.

R920-50-[9]8. Certificate of Registration.

If the application for certificate of registration and documentation required by R920-50-7 and R920-50-8, if applicable, attest that the existing ropeway complies with the governing standard and these rules, the committee, if satisfied with facts stated in the application, shall issue a certificate of registration to the owner.

R920-50-[10]9. Exception.

A. In the event that the ropeway does not conform with the requirements set forth in R920-50-1-C, the Committee may issue a certificate of registration with an exception. Two types of exceptions may be granted after a Request for Exception from Standards is submitted. The first type is an Annual Exception. It continues indefinitely, but this type of exception must be reviewed annually by the Committee. This type of exception is subject to cancellation at any time pursuant to a determination by the committee that a change is necessary. The second type of exception is a Limited Exception. This type of exception is granted only for a fixed time period to be determined by the Committee. The nature of the exception shall be stated in the Request for Exception from Standards. The Committee shall, as expeditiously as possible, and within thirty (30) days of receipt of a Request for Exception from Standards, notify the owner or area operator in writing of its action on the Request.

B. The Request for Exception from Standards shall include the following information:

1. Reasons for requesting an exception from requirements set forth in R920-50-1-C.
2. Specification of the ways in which the ropeway does not conform to requirements set forth in R920-50-1-C.
3. Procedures, with estimated time and cost, which would be required to bring the ropeway into conformance with the requirements set forth in R920-50-1-C.

C. Except as required in R920-50-10-F, the Committee shall issue a certification of registration with an exception if the operator satisfies the requirements stated in R920-50-10-B and also supplies the following for new or existing ropeways:

New Ropeways - A design certification by a qualified engineer attesting that the ropeway is so designed and equipped that its devices or methods provide features that are comparable in performance and safety to those that meet requirements set forth in R920-50-1-C;

Existing Ropeways - A design certification by a qualified engineer attesting that the ropeway is so designed and equipped that its devices or methods provide features that are comparable in performance and safety to those that meet requirements set forth in R920-50-1-C and a statement of the operator certifying that the ropeway has been operated safely and without any passenger ropeway incident, as defined in R920-50-2-J-1 or -7, related to the feature for which the exception is requested, for any period of time the ropeway has been operated up to 2 years prior to the date of the Request for Exception from Standards.

D. In exceptional circumstances, the Committee may issue a certificate of registration with an exception even if the operator does not satisfy the requirements defined in R920-50-10-C if the Committee determines that the ropeway is so designed and equipped that its devices or methods provide features that are comparable in performance and safety to those that meet requirements set forth in R920-50-1-C.

E. The issuance of a certificate of registration with an annual exception shall not bind the committee to issue such a certificate for

the ropeway involved in subsequent years, nor to issue such a certificate for another ropeway of same or similar design.

F. In special cases where doubt exists as to the safety of a ropeway, the committee may require a special inspection to ascertain that the ropeway is so designed and equipped that its devices or methods provide features that are comparable in performance and safety to those that meet requirements set forth in R920-50-1-C.[]

R920-50-11. Fees.

~~A. In accordance with the requirements of Section 72-11-208 and these rules, each Application for a Certificate of Registration shall be accompanied by the applicable fee fixed by the Committee and approved by the Legislature:~~

- ~~1. Aerial Tramway (Reversible) (101 HP or over) \$440.00 each~~
- ~~2. Aerial Tramway (Reversible) (100 HP or under) \$ 220.00 each~~
- ~~3. Aerial lift (Double) \$140.00 each~~
- ~~4. Aerial lift (Triple) \$165.00 each~~
- ~~5. Aerial lift (Quad) \$195.00 each~~
- ~~6. Aerial lift (Detachable) \$440.00 each~~
- ~~7. Conveyor, Rope Tow) \$55.00 each~~
- ~~8. Funicular (Single or Double Reversible) \$440.00 each~~
- ~~9. Surface lift (J bar, T bar, or platter pull) \$55.00each]~~

R920-50-[12]10. Violations.

The terms in this rule are outlined in Sections 72-11-212 and 72-11-213.

R920-50-[13]11. Operation of Ropeways.

A. Operation and maintenance

Operators shall comply with the Governing Standard.

B. Reporting of Incidents

1. Every passenger ropeway incident, as defined in R920-50-2J shall be verbally reported to the Committee, or the Committee's appointed representative, as soon as reasonably possible, but no later than twenty-four (24) hours after the time of the incident. A written report shall be delivered to the Committee within five (5) days of the incident.

2. Every passenger ropeway incident shall be reported to the Committee regardless of the time of year in which it occurs and regardless of whether or not the ropeway was open to the public at the time of the incident.

3. The reports required by this section are to be maintained for administrative enforcement, licensing and certification purposes only. The reports are "protected" records under the Government Records Management Act, Utah Code Annotated, Section 63-2-304 and are also governed by the provisions of Utah Code Annotated, Section 63-2-207.

4. When a passenger ropeway incident, as defined in R920-50-2J(1) or (7), occurs, the owner or area operator of the ropeway shall suspend operation of the ropeway and shall notify the Committee through the Committee's appointed representative. The owner or area operator of the ropeway, with the Committee or the Committee's appointed representative, shall perform a joint incident inspection of the ropeway. The inspection shall precede any authorization to resume public operation of the passenger ropeway.

C. Revocation of certificate of registration - Section 72-11-213.

R920-50-[44]12. Ropeway Inspector and Qualified Engineer.**A. General**

1. In order to promulgate the uniformity and reliability of the inspections required by law and these rules, and of ropeway designs, any person performing inspection services must be a "ropeway inspector" as required by these rules, and any person performing design services must be a "qualified engineer", as required by these rules.

2. The committee shall maintain up-to-date lists of qualified engineers and ropeway inspectors, which lists shall be open to inspection by the public.

3. Any person desiring to be approved by the committee as a ropeway inspector or qualified engineer shall submit a written request to the committee enumerating his or her professional experience and attesting as far as possible to meeting the requirements stated in R920-50-14(B).

B. Requirements

1. Applicant shall satisfy the Ropeway committee that by his or her education, training and experience gained by participation in Ropeway inspections or designs as a principal or an assistant to a recognized Ropeway inspector or Ropeway designer, he or she is qualified to be, respectively, an approved inspector or Ropeway designer or both.

2. Applicant shall satisfy the committee that he has a working familiarity and understanding of drawings and design data such as are furnished to design, construct, test, and inspect passenger ropeways, and that he or she has an understanding and working knowledge of the governing standard and these rules.

3. The committee may approve qualifications based on experience gained by an applicant through work under direct supervision of a qualified ropeway inspector or qualified ropeway designer.

4. The committee may approve employees of the state or individuals retained by the state as qualified ropeway inspectors. Such engineers may be given certain assignments where time is of the essence or a private engineer is not available or willing to undertake the inspection or investigation. It shall be the policy of the committee to use the services and talents of qualified private engineers wherever possible.

C. Revocation or suspension of approval as ropeway inspector or qualified engineer.

The committee may revoke or suspend the approval of any qualified engineer or ropeway inspector who is found by the committee to have:

1. Practiced any fraud, misrepresentation, or deceit in applying for approval; or,
2. Caused damage to another by gross negligence in the practice of passenger ropeway designing, construction, or inspection; or
3. Been engaged in acts of unlawful or unprofessional conduct.

R920-50-[45]13. Inspection Requirements.

1. The ropeway inspector shall verify that the intent of the design and operational requirements imposed by the Governing Standard and these rules are met.

2. Ropeway inspectors may inspect ropeways at any time during the operation of the ropeway (spot check). All reports, logs, etc. shall be made available to them upon request.

R920-50-[46]14. Administrative Procedures.

Appeals from orders issued pursuant to any provision of R920-50 shall be handled pursuant to R907-1.[A. Informal proceedings

~~1. All adjudicative proceedings described in the Passenger Ropeway Act and these rules R920-50-1 through R920-50-17, shall be characterized as informal adjudicative proceedings. This includes the following:~~

- ~~— a. applications for certification and/or registration of new or existing ropeway;~~
- ~~— b. modifications under R920-50-8;~~
- ~~— c. exceptions under R920-50-10;~~
- ~~— d. revocations under R920-50-13;~~
- ~~— e. any other adjudicative proceedings that are within the scope of the Utah Administrative Procedures Act.~~

~~2. All adjudicative proceedings shall be commenced initially before the secretary to the committee except for variances and revocations which shall commence initially before the committee.~~

~~3. Adjudicative proceedings declared by these rules herein above to commence "informally" shall be processed according to R920-50-17. All other requirements of R920-50-1 through R920-50-16, shall apply when they supplement these rules governing the informal adjudicative process and when not in conflict with R920-50-17. In case of conflict between these and any other provision of the Ropeway rules, these administrative procedure rules shall control and govern the informal adjudicative process.~~

~~**B. Definitions**~~

~~1. The terms used in this rule are defined in Section 63-46b-2.~~

~~2. In addition, "committee" means the passenger ropeway safety committee and is the presiding officer for all appeals of adjudicative proceedings which commenced before the secretary to the committee as well as all adjudicative proceedings which commence before the committee.~~

~~3. "Secretary to the committee" means the duly appointed secretary to the committee and is the presiding officer for all informal adjudicative proceedings which commence before the secretary to the committee in accordance with R920-50-17.~~

~~**C. Commencement of adjudicative proceedings**~~

~~1. The terms used in this rule are defined in Section 63-46b-2.~~

~~2. In addition, the person requesting the action shall use the forms of the Committee. The secretary to the committee is hereby authorized to codify said forms in conformance with this section. Said forms shall be deemed a request for agency action. The person requesting agency action shall file the request with the secretary to the committee and shall, unless waived, send a copy by mail to each affected passenger Ropeway operator.~~

~~3. A statement that the parties' may request an informal hearing before the secretary to the committee, except for variances and revocations which shall be before the committee, within 10 days of the date of mailing or publication and that failure to make such a request may preclude that party from any further participation, appeal or judicial review in regard to the subject adjudicative proceeding;~~

~~4. Give the name, title, mailing address, and telephone number of the Secretary to the Committee; and~~

~~5. If the purpose of the adjudicative proceeding is to award a license or other privilege as to which there are multiple competing applicants, the Chairman of the Committee or Secretary to the Committee, whichever is the Presiding Officer of the proceeding, may, by rule or order, conduct a single adjudicative proceeding to determine the award of that license or privilege.~~

— D. Conversion of informal to formal phase

— 1. Any time before a final order is issued in any adjudicative proceeding, the Presiding Officer may convert an informal adjudicative proceeding to a formal adjudicative proceeding if:

— a. Conversion of the proceeding is in the public interest; and

— b. Conversion of the proceeding does not unfairly prejudice the rights of any party.

— E. Procedures for informal phase

— 1. A Request for Agency Action or Notice of Agency Action shall be the method of commencement of an adjudicative process as previously discussed in these rules.

— 2. The mailing requirements of these Rules shall be met.

— 3. The Notice of Agency Action shall be published in a newspaper of general circulation likely to give notice to interested persons when required by statute or by these Ropeway Rules.

— 4. All notices required herein shall indicate the date of publication or mailing. These notices shall specify that any affected person may file with the Secretary to the Committee within ten days of said date, a written objection and request for informal hearing before the Secretary to the Committee. Failure to make such a request within the time specified may preclude that person from further participation, appeal or judicial review in regard to the subject adjudicative proceeding. Said ten day period shall be waived if the Secretary to the Committee receives a waiver signed by those entitled to notice under these rules. An exception to the above would be requests for variances or for modifications which shall be heard before the Committee.

— 5. In any hearing, the parties named in the Notice of Agency Action or in the Request for Agency Action shall be permitted to testify, present evidence, and comment on the issues.

— 6. Hearings will be held only after timely notice to all parties.

— 7. Discovery is prohibited, and no subpoenas or other discovery orders will be issued.

— 8. All parties shall have access to information contained in the Committee's files and to all materials and information gathered in any investigation, to the extent permitted by law.

— 9. Intervention is prohibited, except where required by federal statute or rule.

— 10. All hearings shall be open to all parties.

— 11. Within a reasonable time after the close of the hearing, or after the parties' failure to request a hearing within said ten (10) day period, the Presiding Officer shall issue a written, signed order that states the following:

— a. The decision;

— b. The reasons for the decision;

— c. A notice of any right to appeal to the Committee if the matter was before the Secretary to the Committee; and

— d. The time limits for filing any appeal.

— 12. The order shall be based on the facts appearing in the Committee's files and on the facts presented in evidence at any hearings.

— 13. Unless waived, a copy of the order shall be promptly mailed to each of the parties.

— 14. All hearings shall be recorded at the Committee's expense. Any party, at his or her own expense, may have a reporter approved by the Secretary to the Committee prepare a transcript from the Committee's record of the hearing.

— 15. Nothing in this section restricts or precludes any investigative right to power given to the Committee by another statute.

— 16. Default. The Presiding Officer may enter an order of default against a party if the party fails to participate in the adjudicative proceeding. The order shall include a statement of the grounds for default and shall be mailed to all parties. A defaulted party may seek to have the Presiding Officer set aside the default order according to procedures outlined in the Utah Rules of Civil Procedure. After issuing the order of default, the Presiding Officer shall conduct any further proceedings necessary to complete the adjudicative proceeding without the participation of the party in default and shall determine all issues in the adjudicative proceeding, including those affecting the defaulting party.

— 17. Appeal of Division Order. Any aggrieved party that participated at a hearing before the Secretary to the Committee or an applicant who is aggrieved by a denial or approval with conditions, may file a written appeal to the Committee within ten days of the issuance of the order. Such a written request for appeal shall be deemed to commence a contested informal adjudicative proceeding and hearing before the Committee. The appeal shall be conducted in accordance with the informal procedures described herein above, as well as the procedures of Utah Administrative Procedure Act Section 63-46b-12, where applicable. The written appeal shall:

— a. Be signed by the party seeking the appeal;

— b. State the grounds for the appeal and the relief requested;

— c. State the date upon which it was mailed; and

— d. Be sent by mail to the Presiding Officer and to each party.

— 18. Response on Appeal. Within 15 days of the mailing of the appeal, any party may file a response with the Secretary to the Committee. One copy of the response shall be sent by mail to each of the parties and to the Committee.

— 19. Notices of the informal hearing before the Committee shall be mailed to all parties and all parties may mail briefs, written statements and/or present testimony. The appeal is considered de novo and a record may be developed before the Committee.

— 20. Emergency Orders. Notwithstanding the other provisions of these Rules, the Chairman of the Committee or Secretary to the Committee is authorized to issue an emergency order without notice and hearing in accordance with applicable law. The emergency order shall remain in effect no longer than until the next regular meeting of the Committee, or such shorter period of time as shall be prescribed by statute.

— a. Prerequisites for Emergency Order. The following must exist to allow an emergency order:

— (1) The facts known to the Chairman or Secretary or presented to the Chairman or Secretary show that an immediate and significant danger to the public health, safety, or welfare exists; and

— (2) The threat requires immediate action by the Chairman or Secretary;

— b. Limitations. In issuing its Emergency Order, the Chairman or Secretary shall:

— (1) Limit its order to require only the action necessary to prevent or avoid the danger to the public health, safety, or welfare;

— (2) Issue promptly a written order, effective immediately, that includes a brief statement of findings of fact, conclusions of law, and reasons for the Chairman or Secretary's utilization of emergency adjudicative proceedings;

— (3) Give immediate notice to the persons who are required to comply with the order; and

— (4) If the emergency order issued under this section will result in the continued infringement or impairment of any legal right or interest of any party, the Committee shall commence a formal

adjudicative proceeding before the Committee in accordance with the Utah Administrative Procedures Act.

~~— F. Declaratory rulings~~

~~— 1. Petition for Declaratory Rulings. Any person may petition the Committee for a declaratory ruling on the applicability of any administrative rule, regulation or order as well as any provision of the Utah Code to the operations or activities of that person. The petition shall include the questions and answers sought and reasons in support of or in opposition to the applicability of the statute, rule, regulation or order involved. All other classes of circumstances shall not be subject to declaratory ruling.~~

~~— 2. Not subject to Declaratory Rulings. The Committee shall not issue a declaratory ruling if:~~

~~— a. The request is not one of the classes of circumstances listed herein above;~~

~~— b. The person requesting the declaratory ruling participated in an adjudicative proceeding concerning the same issue within 12 months of the date of the present request; or~~

~~— c. There would be substantial prejudice to the rights of a person who would be a necessary party unless that person consents in writing to the determination of the matter by a declaratory proceeding.~~

~~— 3. Intervention. Persons may intervene in declaratory proceedings if they meet the applicable requirements of the Utah Administrative Procedures Act and file such request with the Secretary of the Committee at least five (5) days prior to the Committee meeting at which the petition will be considered.~~

~~— 4. Forms of Rulings. After receipt of a petition for a declaratory order, the Committee may issue a written order:~~

~~— a. Declaring the applicability of the statute, rule, regulation or order in question to the specified circumstances; or~~

~~— b. Decline to issue a declaratory order and stating the reasons for its action.~~

~~— 5. Contents of Order. A declaratory order shall contain:~~

~~— a. The names of all parties to the proceeding on which it is based;~~

~~— b. The particular facts on which it is based; and~~

~~— c. The reasons for its conclusion.~~

~~— 6. Mailing of Order. A copy of all orders issued in response to a request for a declaratory proceeding shall be mailed promptly to the petitioner and any other parties.~~

~~— 7. Binding Effect. A declaratory order has the same status and binding effect as any other order issued in an adjudicative proceeding.~~

~~— 8. Time Limit. Unless the petitioner and the Committee agree in writing to an extension, if the Committee has not issued a declaratory order within 60 days after receipt of the request for a declaratory order, the petition is denied.~~

~~— G. Exhaustion of administrative remedies~~

~~— 1. Persons must exhaust their administrative remedies in accordance with Section 63-46b-14 prior to seeking judicial review.~~

~~— 2. In any informal communication with the Secretary to the Committee, there is an opportunity given to request an informal hearing before the Secretary to the Committee. If a timely request is made, the Secretary to the Committee will conduct an informal hearing and issue a decision thereafter. Only those aggrieved parties that participated in any hearing or an applicant who is aggrieved by a denial or an approval with conditions will then be entitled to appeal such Secretary's decision to the Committee within ten (10)~~

~~days of issuance of the Secretary's order. Such rights to request an informal hearing before the Secretary to the Committee or to appeal the Secretary's order and have the matter be contested and heard before the Committee are available and adequate administrative remedies and should be exercised prior to seeking judicial review.~~

~~— H. Deadline for judicial review. A party shall file a petition for judicial review of final agency action within thirty (30) days after the date that the order constituting the final agency action is issued. The petition shall name the agency and all other appropriate parties as respondents and shall meet the form requirements specified in Title 63, Chapter 46b of the Utah Code Annotated (1953, as amended).~~

~~— I. Judicial review of informal adjudicative proceedings. Judicial review of informal adjudicative proceedings shall be conducted in conformance with Sections 63-46b-15 and 63-46b-17 through 63-46b-18.~~

~~— J. Civil enforcement~~

~~— 1. Agency Action. In addition to other remedies provided by law and other rules of this Committee, the Committee or Secretary to the Committee may seek enforcement of an order by seeking civil enforcement in the district courts subject to the following:~~

~~— a. The action seeking civil enforcement must name, as defendants, each alleged violator against whom civil enforcement is sought.~~

~~— b. Venue for an action seeking civil enforcement shall be determined by the Utah Rules of Civil Procedure.~~

~~— c. The action may request, and the court may grant, any of the following:~~

~~— (1) declaratory relief;~~

~~— (2) temporary or permanent injunctive relief;~~

~~— (3) any other civil remedy provided by law; or~~

~~— (4) any combination of the foregoing.~~

~~— 2. Individual Action. Any person whose interests are directly impaired or threatened by the failure of an agency to enforce its order may timely file a complaint seeking civil enforcement of that order. The complaint must name as defendants, the agency whose order is sought to be enforced, the agency that is vested with the power to enforce the order, and each alleged violator against whom the plaintiff seeks civil enforcement. The action may not be commenced:~~

~~— a. Until at least thirty (30) days after the plaintiff has given notice of its intent to seek civil enforcement of the alleged violation to the Committee, the attorney general, and to each alleged violator against whom the petitioner seeks civil enforcement;~~

~~— b. If the Committee or Secretary to the Committee has filed and is diligently prosecuting a complaint seeking civil enforcement of the same order against the same or similarly situated defendant; or~~

~~— c. If a petition for judicial review of the same order has been filed and is pending in court.]~~

KEY: transportation safety, tramways, ropeways, tramway permits

[October 2, 2002]2003

Notice of Continuation December 13, 2002

72-11-201 through 72-11-216

63-46b-1 et seq.



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 July 15, 2003. At its option, the agency may hold public hearings.

From the end of the waiting period through October 13, 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.

**Commerce, Occupational and
Professional Licensing
R156-56
Utah Uniform Building Standard Act
Rules**

NOTICE OF CHANGE IN PROPOSED RULE

DAR File No.: 26153
Filed: 05/29/2003, 14:38

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division needs to make two changes in the proposed rule following a public hearing regarding the flashing requirements to prevent moisture from entering structures. After the public hearing, it was decided to amend the proposed rule filing to delete the portion of the filing that required the inspection of flashings occur at a certain stage of construction. The building inspectors making public comment did not believe the timing of the inspection specified in the proposed rule was appropriate. The changes being made leave the inspection requirement in place but allow the contractor and the building inspector to adjust the timing of the inspection to meet the individual requirements of a particular construction project.

SUMMARY OF THE RULE OR CHANGE: In Subsection R156-56-704(3) under Section 109, deleted timeframe requirements for when an inspection should be completed. In Subsection R156-56-711(2) under Section 109, deleted timeframe requirements for when an inspection should be completed. NOTE: Paragraph numbering will be corrected via a nonsubstantive rule filing once the Division and Uniform Building Code Commission have determined which rule amendment filings should be made effective as there are four rule filings all affecting the same rule. (DAR NOTES: This change in proposed rule has been filed to make additional changes to a proposed amendment that was published in the May 1, 2003, issue of the Utah State Bulletin, on page 33. 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. The other filings referred to were also published in the May 1, 2003, Bulletin under R156-56 (DAR No. 26154), R156-56-704 (DAR No. 26151), and R156-56-707 (DAR No. 26152).)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-56-1, and Subsections 58-1-106(1)(a), 58-1-202(1)(a), 58-56-4(2), and 58-56-6(2)(a)

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** There will be no additional costs or savings to the state budget beyond those previously identified in the original rule filing as a result of these proposed changes as the proposed changes are only deleting timeframe requirements when the required inspection must occur.

❖ **LOCAL GOVERNMENTS:** There will be no additional costs or savings to local governments beyond those previously identified in the original rule filing as a result of these proposed changes as the proposed changes are only deleting timeframe requirements when the required inspection must occur.

❖ **OTHER PERSONS:** There will be no additional costs or savings to other persons beyond those previously identified in the original rule filing as a result of these proposed changes as the proposed changes are only deleting timeframe requirements when the required inspection must occur.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be no additional costs or savings to affected persons beyond those previously identified in the original rule filing as a result of these proposed changes as the proposed changes are only deleting timeframe requirements when the required inspection must occur.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The changes in the proposed rule do not appear to alter the fiscal impact statement issued with respect to the original rule amendment, which was as follows: The purpose of this rule filing is to amend the International Building Code and the International Residential Code by adding a requirement for inspections of flashing and weatherproofing that would prevent moisture from entering structures. This amendment could create a business fiscal impact of \$1,000 per home or structure and would thereby be a negative fiscal impact to the construction industry and to buyers of homes and businesses. However, these costs might be outweighed by the damages incurred and the cost of repairs if moisture enters structures through lack of proper weatherproofing, which could amount to \$100,000 per structure. 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:

Dan S. Jones at the above address, by phone at 801-530-6720, by FAX at 801-530-6511, or by Internet E-mail at dsjones@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/15/2003.

THIS RULE MAY BECOME EFFECTIVE ON: 07/16/2003

AUTHORIZED BY: J. Craig Jackson, Director

**R156. Commerce, Occupational and Professional Licensing.
R156-56. Utah Uniform Building Standard Act Rules.
R156-56-704. Statewide Amendments to the IBC.**

The following are adopted as amendments to the IBC to be applicable statewide:

(1) All references to the International Electrical Code are deleted and replaced with the National Electrical Code adopted under Subsection R156-56-701(1)(b).

(2) Section 101.4.1 is deleted and replaced with the following:

101.4.1 Electrical. The provisions of the National Electrical Code (NEC) shall apply to the installation of electrical systems, including alterations, repairs, replacement, equipment, appliances, fixtures, fittings and appurtenances thereto.

(3) In Section 109, a new section is added as follows:

109.3.5 Weather-resistive barrier and flashing. ~~[After all framing, firestopping, draftstopping, and bracing are in place, and after the plumbing, mechanical, and electrical rough inspections are approved, and before brick veneer, masonry, lath, or stucco is installed on the exterior of a structure, a]~~An inspection shall be made of the weather-resistive barrier as required by Section 1403.2 and flashing as required by Section 1405.3 to prevent water from entering the weather-resistant exterior wall envelope.

The remaining sections will be renumbered as follows:

109.3.6 Lath or gypsum board inspection

109.3.7 Fire-resistant penetrations

109.3.8 Energy efficiency inspections

109.3.9 Other inspections

109.3.10 Special inspections

109.3.11 Final inspection.

(3) In Section 202, the following definition is added:

ASSISTED LIVING FACILITY. See Section 308.1.1.

(4) Section 302.3.3 is deleted and replaced with the following:

302.3.3 Separated uses. Each portion of the building shall be individually classified as to use and shall be considered separated from other occupancies when completely separated from adjacent areas by fire barrier walls or horizontal assemblies or both having a fire-resistance rating determined in accordance with this sections.

302.3.3.1 All occupancies. Each fire area shall be separated from other occupancies in other fire areas in accordance with Table 302.3.3 based on the occupancy in the fire areas, and shall comply with the height limitations based on the use of that space and the type of construction classification. In each story the building area shall be such that the sum or the ratios of the floor area of each use divided by the allowable area for each use shall not exceed 1.

Exceptions for R-3 and U Groups:

1. The private garage shall be separated from the residence and its attic area by means of materials approved for one-hour fire resistive construction applied to the garage side. Door openings between the garage and the residence shall be equipped with either solid wood doors not less than 1 3/8 inches (35 mm) thick or doors in compliance with Section 714.2.3. Openings from a private garage directly into a room used for sleeping purposes shall not be permitted.

2. Ducts in the private garage and ducts penetrating the walls or ceilings separating the dwelling from the garage shall be constructed of a minimum No. 26 gage (.48 mm) sheet steel and shall have no openings into the garage.

3. A separation is not required between a Group R-3 and Group U carport provided the carport is entirely open on two or more sides and there are not enclosed spaces above.

Where the building is equipped throughout with an automatic sprinkler system, the fire resistance ratings in Table 302.3.3 shall be reduced by one hour but not to less than one hour and to not less than that required for floor construction according to the type of construction. The one hour reduction shall not apply to fire area separations when H-1, H-2, H-3, or I-2 occupancies are included in the areas being separated.

Table 302.3.3 is deleted and replaced with:

Table 302.3.3, entitled "Required Separation of Occupancies", dated January 1, 2002, published by the Department of Commerce, Division of Occupational and Professional Licensing is hereby adopted and incorporated by reference. Table 302.3.3 identifies what type of separation of occupancies requirements are mandated in various types of property use classifications.

(5) A new Section 302.4 is added as follows:

302.4 Spaces used for different purposes. A room or space that is intended to be occupied at different times for different purposes shall comply with all requirements that are applicable to each of the purposes for which the room or space will be occupied.

(6) Section 305.2 is deleted and replaced with the following:

305.2 Day care. The building or structure, or portion thereof, for educational, supervision, child day care centers, or personal care services of more than four children shall be classified as a Group E occupancy. See Section 419 for special requirements for Group E child day care centers.

Exception: Areas used for child day care purposes with a Residential Certificate, Family License or Family Group License may be located in a Group R-2 or R-3 occupancy as provided in Section 310.1 and as applicable in Section 101.2.

Child day care centers providing care for more than 100 children 2 1/2 years or less of age shall be classified as Group I-4.

(7) In Section 308 the following definitions are added:

308.1.1 Definitions. The following words and terms shall, for the purposes of this section and as used elsewhere in this code, have the meanings shown herein.

TYPE 1 ASSISTED LIVING FACILITY. A residential facility that provides a protected living arrangement for ambulatory, non-restrained persons who are capable of achieving mobility sufficient to exit the facility without the assistance of another person.

TYPE 2 ASSISTED LIVING FACILITY. A residential facility that provides an array of coordinated supportive personal and health care services to residents who meet the definition of semi-independent.

SEMI-INDEPENDENT. A person who is:

A. Physically disabled but able to direct his or her own care; or

B. Cognitively impaired or physically disabled but able to evacuate from the facility with the physical assistance of one person.

(8) Section 308.2 is deleted and replaced with the following:

308.2 Group I-1. This occupancy shall include a building or part thereof housing more than 16 persons, on a 24-hour basis, who because of age, mental disability or other reasons, live in a supervised residential environment that provides personal care services. The occupants are capable of responding to an emergency situation without physical assistance from staff. This group shall include, but not be limited to, the following: residential board and care facilities, type 1 assisted living facilities, half-way houses, group homes, congregate care facilities, social rehabilitation facilities, alcohol and drug centers and convalescent facilities. A facility such as the above with five or fewer persons shall be classified as a Group R-3. A facility such as above, housing at least six and not more than 16 persons, shall be classified as a Group R-4.

(9) Section 308.3 is deleted and replaced with the following:

308.3 Group I-2. This occupancy shall include buildings and structures used for medical, surgical, psychiatric, nursing or custodial care on a 24-hour basis of more than three persons who are not capable of self-preservation. This group shall include, but not be limited to the following: hospitals, nursing homes (both intermediate care facilities and skilled nursing facilities), mental hospitals, detoxification facilities, ambulatory surgical centers with two or more operating rooms where care is less than 24 hours and type 2 assisted living facilities. Type 2 assisted living facilities with five or fewer persons shall be classified as a Group R-4. Type 2 assisted living facilities as defined in 308.1.1 with at least six and not more than sixteen residents shall be classified as a Group I-1 facility.

(10) Section 308.3.1 is deleted and replaced with the following:

308.3.1 Child care facility. A child care facility that provides care on a 24 hour basis to more than four children 2 1/2 years of age or less shall be classified as Group I-2.

(11) Section 308.5 is deleted and replaced with the following:

308.5 Group I-4, day care facilities. This group shall include buildings and structures occupied by persons of any age who receive custodial care less than 24 hours by individuals other than parents or guardians, relatives by blood, marriage, or adoption, and in a place other than the home of the person cared for. A facility such as the above with four or fewer persons shall be classified as an R-3. Places of worship during religious functions and Group E child day care centers are not included.

(12) Section 308.5.2 is deleted and replaced with the following:

308.5.2 Child care facility. A facility that provides supervision and personal care on less than a 24 hour basis for more than 100 children 2 1/2 years of age or less shall be classified as Group I-4.

(13) Section 310.1 is deleted and replaced with the following:

310.1 Residential Group "R". Residential Group R includes, among others, the use of a building or structure, or a portion thereof, for sleeping purposes when not classed as an Institutional Group I. Residential occupancies shall include the following:

R-1 Residential occupancies where the occupants are primarily transient in nature (less than 30 days) including: Boarding Houses (transient), Hotels (transient), and Motels (transient).

R-2 Residential occupancies containing sleeping units or more than two dwelling units where the occupants are primarily permanent in nature, including: Apartment Houses, Boarding houses (not transient), Convents, Dormitories, Fraternities and Sororities, Monasteries, Vacation timeshare properties, Hotels (non transient), and Motels (non transient).

R-3 Residential occupancies where the occupants are primarily permanent in nature and not classified as R-1, R-2, R-4 or I and where buildings do not contain more than two dwelling units, as applicable in Section 101.2, or adult and child care facilities that provide accommodations for five or fewer persons of any age for less than 24 hours. Adult and child care facilities that are within a single family home are permitted to comply with the International Residential Code in accordance with Section 101.2. Areas used for day care purposes may be located in a Residential Group, R-3 occupancy provided the building substantially complies with the requirements for a dwelling unit and under all of the following conditions:

1. Compliance with the Utah Administrative Code, R710-8, Day Care Rules, as enacted under the authority of the Utah Fire Prevention Board.

2. Use is approved by the State Department of Health, as enacted under the authority of the Utah Child Care Licensing Act, UCA, Sections 26-39-101 through 26-39-110, and in any of the following categories:

a. Utah Administrative Code, R430-50, Residential Certificate Child Care Standards.

b. Utah Administrative Code, R430-90, Licensed Family Child Care.

3. Compliance with all zoning regulations of the local regulator.

R-4 Residential occupancies shall include buildings arranged for occupancy as Residential Care/Assisted Living Facilities including more than five but not more than 16 occupants, excluding staff.

Group R-4 occupancies shall meet the requirements for construction as defined for Group R-3 except as otherwise provided for in this code or shall comply with the International Residential Code in accordance with Section 101.2.

(14) A new section 310.4 is added as follows:

310.4 Floor-level exit signs. Where exit signs are required by section 1003.2.10.1, additional approved exit signs that are internally or externally illuminated, photoluminescent or self-luminous, shall be provided in all corridors serving guest rooms of R-1 occupancies. The bottom of such signs shall not be less than 6 inches (152 mm) nor more than 8 inches (203 mm) above the floor level and shall indicate the path of exit travel. For exit and exit access doors, the sign shall be on the door or adjacent to the door with the closest edge of the sign with 8 inches (203 mm) of the door frame.

(15) In section 403.10.1.1 the exception is deleted.

(16) A new Section 403.9.1 is added as follows:

403.9.1 Elevator lobby. Elevators on all floors shall open into elevator lobbies that are separated from the remainder of the building, including corridors and other means of egress by smoke partitions complying with Section 710. Elevator lobbies shall have at least one means of egress complying with Chapter 10 and other provisions within the code. Elevator lobbies separated from a fire resistance rated corridor shall have walls of not less than one-hour fire resistance rating and openings shall conform to Section 714.

Exceptions:

1. Separations are not required from a street floor elevator lobby.

2. In atria complying with the provisions of Section 404 elevator lobbies are not required.

(17) A new section 419 is added as follows:

Section 419 Group E Child Day Care Centers. Group E child day care centers shall comply with Section 419.

419.1 Location at grade. Group E child day care centers shall be located at the level of exit discharge.

Exception: Child day care spaces for children over the age of 24 months may be located on the second floor of buildings equipped with automatic fire protection throughout and an automatic fire alarm system.

419.2 Egress. All Group E child day care spaces with an occupant load of 10 or more shall have a second means of egress. If the second means of egress is not an exit door leading directly to the exterior, the room shall have an emergency escape and rescue window complying with Section 1009.

(18) Section 706.3.5 is deleted and replaced with the following:

706.3.5 Separation of mixed occupancies. Where the provisions of Section 302.3.3 are applicable, the fire barrier separating mixed occupancies shall have a fire-resistance rating of not less than that indicated in Section 302.3.3 based on the occupancies being separated.

(19) A new Section 706.3.6 is added as follows:

706.3.6. Single occupancy fire areas. The fire barrier separating a single occupancy into different fire areas shall have a fire resistance rating of not less than that indicated in Table 706.3.6.

TABLE 706.3.6
FIRE-RESISTANCE RATING REQUIREMENTS
FOR FIRE BARRIER ASSEMBLIES BETWEEN
FIRE AREAS

OCCUPANCY GROUP	FIRE-RESISTANCE RATING (IN HOURS)
H-1, H-2	4
F-1, H-3, S-1	3
A, B, E, F-2, H-4, H-5, I M, R, S-2	2
U	1

(20) In Section 707.14.1 Exception 4 is deleted and replaced with the following:

4. See Section 403.9.1 for high rise buildings.

(21) Section 710.3 is deleted and replaced with the following: 710.3 Fire-resistance rating. The fire-resistance rating of floor and roof assemblies shall not be less than that required by the building type of construction. Where the floor assembly separates mixed occupancies, the assembly shall have a fire-resistance rating of not less than that required in Section 302.3.3 based on the occupancies being separated. Where the floor assembly separates a single occupancy into different fire areas, the assembly shall have a fire-resistance rating of not less than that required by Section 706.3.6. Floor assemblies separating dwelling units or guestrooms shall be a minimum of 1-hour fire-resistance-rated construction.

Exception: Dwelling unit and guestroom separations in buildings of Type IIB, IIIB and VB construction shall have fire-resistance ratings of not less than 1/2 hour in buildings equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1.

(22) In Section 902, the definition for record drawings is deleted and replaced with the following:

RECORD DRAWINGS. Drawings ("as built") that document all aspects of a fire protection system as installed.

(23) Section 903.2.5 is deleted and replaced with the following:

903.2.5 Group I. An automatic sprinkler system shall be provided throughout buildings with Group I fire areas. Listed quick response or residential sprinkler heads shall be installed in patient or resident sleeping areas.

(24) Section 903.2.9 Group R-4 is deleted and replaced with the following:

An automatic sprinkler system shall be provided throughout all buildings with Group R-4 fire areas that contain more than eight occupants.

Exception:

1. An automatic sprinkler system installed in accordance with Section 903.3.1.2 or Section 903.3.1.3. shall be allowed in Group R-4 facilities.

2. Buildings not more than 4,500 gross square feet and not containing more than 16 residents, provided the building is equipped throughout with an approved fire alarm system that is interconnected

and receives its primary power from the building wiring and a commercial power system.

(25) Section 905.5.3 is deleted and replaced with the following:

905.5.3 Class II system 1-inch hose. A minimum 1-inch (25.4 mm) hose shall be permitted to be used for hose stations in light-hazard occupancies where investigated and listed for this service and where approved by the code official.

(26) In Section 1002, the definition for exit discharge is deleted and replaced with the following:

EXIT DISCHARGE. That portion of a means of egress system between the termination of an exit and a public way or safe dispersal area.

(27) In Section 1003.2.12.1 the exception is deleted and replaced with the following:

Exceptions:

1. For occupancies in Group R-3 and within individual dwelling units in occupancies in Group R-2, as applicable in Section 101.2, guards whose top rail serves as a handrail shall have a height not less than 34 inches (864 mm) and not more than 38 inches (965 mm) measured vertically from the leading edge of the stair tread nosing.

2. For occupancies in Group R-3 and within individual dwelling units in occupancies in Group R-2, as applicable in section 101.2, guards shall form a protective barrier not less than 36 inches (914 mm).

(28) Section 1003.2.12.2 is deleted and replaced with the following:

1003.2.12.2 Opening limitations. Open guards shall have balusters or ornamental patterns such that a 4-inch-diameter (102 mm) sphere cannot pass through any opening up to a height of 34 inches (864 mm). From a height of 34 inches (864 mm) to 42 inches (1067 mm) above the adjacent walking surface, a sphere 8 inches (203 mm) in diameter shall not pass. For occupancies in Group R-3 and within individual dwelling units in occupancies in Group R-2, as applicable in Section 101.2, required guards shall not be constructed with horizontal rails or other ornamental pattern that results in a ladder effect.

Exceptions:

1. The triangular openings formed by the riser, tread and bottom rail at the open side of a stairway shall be of a maximum size such that a sphere of 6 inches (152 mm) in diameter cannot pass through the opening.

2. At elevated walking surfaces for access to and use of electrical, mechanical, or plumbing systems or equipment, guards shall have balusters or be of solid materials such that a sphere with a diameter of 21 inches (533 mm) cannot pass through any opening.

3. In occupancies in Group I-3, F, H or S, balusters, horizontal intermediate rails or other construction shall not permit a sphere with a diameter of 21 inches (533 mm) to pass through any opening.

4. In assembly seating areas, guards at the end of aisles where they terminate at a fascia of boxes, balconies, and galleries shall have balusters or ornamental patterns such that a 4-inch-diameter (102 mm) sphere cannot pass through any opening up to a height of 26 inches (660 mm). From a height of 26 inches (660 mm) to 42 inches (1067 mm) above the adjacent walking surfaces, a sphere 8 inches (203 mm) in diameter shall not pass.

(29) Section 1003.3.3.3, Exception #5 is deleted and replaced with the following:

5. In occupancies in Group R-3, as applicable in Section 101.2, within dwelling units in occupancies in Group R-2, as applicable in Section 101.2, and in occupancies in Group U, which are accessory to an occupancy in Group R-3, as applicable in Section 101.2, the maximum riser height shall be 8 inches (203 mm) and the minimum tread depth shall be 9 inches (229 mm). A nosing not less than 0.75 inch (19.1 mm) but not more than 1.25 inches (32 mm) shall be provided on stairways with solid risers where the tread depth is less than 10 inches (254 mm).

(30) Section 1003.3.3.11 Exemption #4 is deleted and replaced with the following:

4. In occupancies in Group R-3, as applicable in Section 101.2 and in occupancies in Group U, which are accessory to an occupancy in Group R-3, as applicable in Section 101.2, handrails shall be provided on at least one side of stairways consisting of four or more risers.

(31) Section 1003.3.3.11.3 is amended to include the following exception at the end of the section:

Exception. Non-circular handrails serving an individual unit in a Group R-1, Group R-2 or Group R-3 occupancy shall be permitted to have a maximum cross sectional dimension of 3.25 inches (83 mm) measured 2 inches (51 mm) down from the top of the crown. Such handrail is required to have an indentation on both sides between 0.625 inch (16 mm) and 1.5 inches (38 mm) down from the top or crown of the cross section. The indentation shall be a minimum of 0.25 inch (6 mm) deep on each side and shall be at least 0.5 (13 mm) high. Edges within the handgrip shall have a minimum radius of 0.0625 inch (2 mm). The handrail surface shall be smooth with no cusps so as to avoid catching clothing or skin.

(32) In Section 1004.3.2.5 Exception 2 is deleted.

(33) New Sections 1006.2.3, 1006.2.3.1 and 1006.2.3.2 are added as follows:

1006.2.3 Safe dispersal areas. Where approved by the code official, the exit discharge is permitted to lead to a safe dispersal area on the same property as the structure being discharged. The proximity and size of such safe dispersal area shall be based on such factors as the occupant load served, the mobility of occupants, the type of construction of the building, the fire protection systems installed in the building, the height of the building and the degree of hazard of the occupancy. In any case, the entire safe dispersal area shall be located not less than 50 feet (15 420 mm) from the structure served.

1006.2.3.1 School ground fences and gates. School grounds shall be permitted to be fenced and gates therein equipped with locks, provided safe dispersal areas are located between the school and fence with the entire dispersal area no less than 50 feet (15 420mm) from school buildings. Safe dispersal area capacity shall be determined by providing a minimum of 3 square feet (0.28 m²) of net clear area per occupant.

1006.2.3.2 Reviewing stands, grandstands and bleachers. Safe dispersal areas serving reviewing stands, grandstands and bleachers shall accommodate a number of persons equal to the total capacity of the stand or building served. Safe dispersal area capacity shall be determined by providing a minimum of 3 square feet (0.28 m²) of net clear area per occupant.

(34) Section 1109.7 of Chapter 11 in the 2001 Supplement to the International Building Code is deleted and replaced with the following:

Section 1109.7 Lifts. Platform (wheelchair) lifts shall not be a part of a required accessible route in new construction. Platform (wheelchair) lifts shall be installed in accordance with ASME A18.1.

Exceptions: Platform (wheelchair) lifts are permitted for:

1. An accessible route to a performing area and speaker's platforms in occupancies in Group A.

2. An accessible route to wheelchair spaces required to comply with the wheelchair space dispersion and line-of-sight requirements of Section 1108.2.2.

3. An accessible route to spaces that are not open to the general public with an occupant load of not more than five.

4. An accessible route within a dwelling or sleeping unit.

5. An accessible route to wheelchair seating spaces located in outdoor dining terraces in A-5 occupancies where the means of egress from the dining terrace to a public way is open to the outdoors.

6. An accessible route to raised judges' benches, clerks' stations, jury boxes, witness stands and other raised or depressed areas in a court.

7. An accessible route where existing exterior site constraints make use of a ramp or elevator infeasible.

8. Wheelchair access where an accessible route is not required per the exceptions to Section 1104.4 and/or Section 1107.4.

All platform (wheelchair) lifts shall be capable of independent operation without a key.

Standby power shall be provided for platform lifts permitted to serve as part of the accessible means of egress.

(35) Section 1207.2 is deleted and replaced with the following:

1207.2 Minimum ceiling heights. Occupiable spaces, habitable spaces and corridors shall have a ceiling height of not less than 7 feet 6 inches (2286 mm). Rooms in one- and two-family dwellings, bathrooms, toilet rooms, kitchens, storage rooms and laundry rooms shall be permitted to have a ceiling height of not less than 7 feet (2134 mm).

Exceptions:

1. In one- and two-family dwellings, beams or girders spaced not more than 4 feet (1219 mm) on center or projecting not more than 6 inches (152 mm) below the required ceiling height.

2. Basement rooms without habitable spaces in one- and two-family dwellings having a ceiling height of not less than 6 feet 8 inches (2033mm) with not less than 6 feet 4 inches (1932 mm) of clear height under beams, girders, ducts and similar obstructions.

3. If any room in a building has a sloping ceiling, the prescribed ceiling height for the room is required in one-half the area thereof. Any portion of the room measuring less than 5 feet (1524 mm) from the finished floor to the finished ceiling shall not be included in any computation of the minimum area thereof.

4. Mezzanines constructed in accordance with Section 505.1.

(36) Section 1207.3 is deleted and replaced with the following:

1207.3 Room area. Every dwelling unit shall have at least one room that shall have not less than 120 square feet (11.2 m²) of net floor area. Other habitable rooms shall have a net floor area of not less than 70 square feet (6.5 m²).

Exception: Every kitchen in a one- and two-family dwelling shall have not less than 50 square feet (4.64 m²) of gross floor area.

(37) Section 1207.4 subparagraph 1 is deleted and replaced with the following:

1. The unit shall have a living room of not less than 165 square feet (15.3 m) of floor area. An additional 100 square feet (9.3 m) of floor area shall be provided for each occupant of such unit in excess of two.

(38) Section 1405.3 is deleted and replaced with the following:

1405.3 Flashing. Flashing shall be installed in such a manner as to prevent moisture from entering the top and sides of exterior

window and door openings. Flashing shall be installed in such a manner as to prevent moisture from entering at the intersection of chimneys or other masonry construction with frame or stucco walls, with projecting flanges on both sides under stucco copings; under and at the ends of masonry, wood or metal copings and sills, continuously above projecting wood trim; at the intersection of exterior walls and porches and decks; at wall and roof intersections with the step-flashing methods; at built-in gutters; and at the intersection of foundation to stucco, masonry, siding, or brick veneer with an approved corrosive-resistance flashing with a 1/2" drip leg extending past exterior side of the foundation.

(38) Section 1604.5, footnote "c" is added to Table 1604.5 Classification of Buildings and Other Structures for Importance Factors:

c. For determining "W" per sections 1616.4.1, 1617.4.1, 1617.5.1, or 1618.4, the Snow Factor I, may be taken as 1.0.

(39) In Section 1605.2.1, the formula shown as " $f_2 = 0.2$ for other roof configurations" is deleted and replaced with the following:

$f_2 = 0.20 + .025(A-5)$ for other configurations where roof snow load exceeds 30 psf

$f_2 = 0$ for roof snow loads of 30 psf (1.44kN/m²) or less.

Where A = Elevation above sea level at the location of the structure (ft/1000).

(40) In Section 1605.3.1 and section 1605.3.2, Exception number 2 in each section is deleted and replaced with the following:

Flat roof snow loads of 30 pounds per square foot (1.44 kNm²) or less need not be combined with seismic loads. Where flat roofs exceed 30 pounds per square foot (1.44 kNm²), the snow loads may be reduced in accordance with the following in load combinations including both snow and seismic loads.

$$W_s = (0.20 + 0.025(A-5))P_f$$

Where

W_s = Weight of snow to be included, psf

A = Elevation above sea level at the location of the structure (ft/1000)

P_f = Design roof snow load, psf

(41) In Table 1607.1 number 27 is deleted and replaced with the following:

TABLE 1607.1 NUMBER 27

Occupancy or Use	Uniform (psf)	Concentrated (lbs)
27. Residential		
Group R-3 as applicable in Section 101.2		-
Uninhabitable attics without storage	10 ¹	
Uninhabitable attics with storage	20	
Habitable attics and sleeping areas	30	
All other areas except balconies and decks	40	
Hotels and multifamily dwellings		
Private rooms	40	
Public rooms and corridors serving them	100	

(42) In Notes to Table 1607.1, Note i is added as follows:

i. This live load need not be considered as acting simultaneously with other live loads imposed upon the ceiling framing or its supporting structure.

(43) Section 1608.1 is deleted and replaced with the following:

Except as modified in section 1608.1.1, design snow loads shall be determined in accordance with Section 7 of ASCE 7, but the design roof load shall not be less than that determined by Section 1607.

(44) Section 7.4.5 of Section 7 of ASCE 7 referred to in Section 1608.1 of the IBC is deleted and replaced with the following:

Section 7.4.5 Ice Dams and Icicles Along Eaves. Where ground snow loads exceed 75 psf, eaves shall be capable of sustaining a uniformly distributed load of $2P_f$ on all overhanging portions. No other loads except dead loads shall be present on the roof when this uniformly distributed load is applied. All building exits under down-slope eaves shall be protected from sliding snow and ice.

(45) Section 1608.1.1 is added as follows:

1608.1.1 Utah Snow Loads. The ground snow load, P_g , to be used in the determination of design snow loads for buildings and other structures shall be determined by using the following formula: $P_g = (P_o^2 + S^2(A-A_o)^2)^{0.5}$ for A greater than A_o , and $P_g = P_o$ for A less than or equal to A_o .

WHERE

P_g = Ground snow load at a given elevation (psf)

P_o = Base ground snow load (psf) from Table No. 1608.1.1(a)

S = Change in ground snow load with elevation (psf/100 ft.)

From Table No. 1608.1.1(a)

A = Elevation above sea level at the site (ft./1000)

A_o = Base ground snow elevation from Table 1608.1.1(a) (ft./1000)

The building official may round the roof snow load to the nearest 5 psf. The ground snow load, P_g , may be adjusted by the building official when a licensed engineer or architect submits data substantiating the adjustments. A record of such action together with the substantiating data shall be provided to the division for a permanent record.

The building official may also directly adopt roof snow loads in accordance with Table 1608.1.1(b), provided the site is no more than 100 ft. higher than the listed elevation.

Where the minimum roof live load in accordance with section 1607.11 is greater than the design roof snow load, such roof live load shall be used for design, however, it shall not be reduced to a load lower than the design roof snow load. Drifting need not be considered for roof snow loads less than 20 psf.

(46) Table 1608.1.1(a) and Table 1608.1.1(b) are added as follows:

TABLE NO. 1608.1.1(a)
STATE OF UTAH - REGIONAL SNOW LOAD FACTORS

COUNTY	P_o	S	A_o
Beaver	43	63	6.2
Box Elder	43	63	5.2
Cache	50	63	4.5
Carbon	43	63	5.2
Daggett	43	63	6.5
Davis	43	63	4.5
Duchesne	43	63	6.5
Emery	43	63	6.0
Garfield	43	63	6.0
Grand	36	63	6.5
Iron	43	63	5.8
Juab	43	63	5.2
Kane	36	63	5.7
Millard	43	63	5.3
Morgan	57	63	4.5
Piute	43	63	6.2
Rich	57	63	4.1
Salt Lake	43	63	4.5
San Juan	43	63	6.5
Sanpete	43	63	5.2
Sevier	43	63	6.0
Summit	86	63	5.0

Tooele	43	63	4.5
Uintah	43	63	7.0
Utah	43	63	4.5
Wasatch	86	63	5.0
Washington	29	63	6.0
Wayne	36	63	6.5
Weber	43	63	4.5

TABLE NO. 1608.1.1(b)
RECOMMENDED SNOW LOADS FOR SELECTED UTAH CITIES AND TOWNS

		Roof Snow Load (PSF)	Ground Snow Load (PSF)
Beaver County			
Beaver	5920 ft.	43	62
Box Elder County			
Brigham City	4300 ft.	30	43
Tremonton	4290 ft.	30	43
Cache County			
Logan	4530 ft.	35	50
Smithfield	4595 ft.	35	50
Carbon County			
Price	5550 ft.	30	43
Daggett County			
Manila	5377 ft.	30	43
Davis County			
Bountiful	4300 ft.	30	43
Farmington	4270 ft.	30	43
Layton	4400 ft.	30	43
Fruit Heights	4500 ft.	40	57
Duchesne County			
Duchesne	5510 ft.	30	43
Roosevelt	5104 ft.	30	43
Emery County			
Castledale	5660 ft.	30	43
Green River	4070 ft.	25	36
Garfield County			
Panguitch	6600 ft.	30	43
Grand County			
Moab	3965 ft.	25	36
Iron County			
Cedar City	5831 ft.	30	43
Juab County			
Nephi	5130 ft.	30	43
Kane County			
Kanab	5000 ft.	25	36
Millard County			
Millard	5000 ft.	30	43
Delta	4623 ft.	30	43
Morgan County			
Morgan	5064 ft.	40	57
Piute County			
Piute	5996 ft.	30	43
Rich County			
Woodruff	6315 ft.	40	57
Salt Lake County			
Murray	4325 ft.	30	43
Salt Lake City	4300 ft.	30	43
Sandy	4500 ft.	30	43
West Jordan	4375 ft.	30	43
West Valley	4250 ft.	30	43
San Juan County			
Blanding	6200 ft.	30	43
Monticello	6820 ft.	35	50
Sanpete County			
Fairview	6750 ft.	35	50
Mt. Pleasant	5900 ft.	30	43
Manti	5740 ft.	30	43
Ephraim	5540 ft.	30	43
Gunnison	5145 ft.	30	43
Sevier County			
Salina	5130 ft.	30	43
Richfield	5270 ft.	30	43
Summit County			
Coalville	5600 ft.	60	86

Kamas	6500 ft.	70	100
Park City	6400 ft.	85	121
Summit Park	7200 ft.	90	128
Tooele County			
Tooele	5100 ft.	30	43
Uintah County			
Vernal	5280 ft.	30	43
Utah County			
American Fork	4500 ft.	30	43
Orem	4650 ft.	30	43
Pleasant Grove	5000 ft.	30	43
Provo	5000 ft.	30	43
Spanish Fork	4720 ft.	30	43
Wasatch County			
Heber	5630 ft.	60	86
Washington County			
Central	5209 ft.	25	36
Dameron	4550 ft.	25	36
Leeds	3460 ft.	20	29
Rockville	3700 ft.	25	36
Santa Clara	2850 ft.	15 (1)	21
St. George	2750 ft.	15 (1)	21
Wayne County			
Loa	7080 ft.	30	43
Hanksville	4308 ft.	25	36
Weber County			
North Ogden	4500 ft.	40	57
Ogden	4350 ft.	30	43

NOTES

(1) The IBC requires a minimum live load - See 1607.11.2.

(47) Section 1608.2 is deleted and replaced with the following:

1608.2 Ground Snow Loads. The ground snow loads to be used in determining the design snow loads for roofs in states other than Utah are given in Figure 1608.2 for the contiguous United States and Table 1608.2 for Alaska. Site-specific case studies shall be made in areas designated CS in figure 1608.2. Ground snow loads for sites at elevations above the limits indicated in Figure 1608.2 and for all sites within the CS areas shall be approved. Ground snow load determination for such sites shall be based on an extreme value statistical analysis of data available in the vicinity of the site using a value with a 2-percent annual probability of being exceeded (50-year mean recurrence interval). Snow loads are zero for Hawaii, except in mountainous regions as approved by the building official.

(48) Section 1614.2 is deleted and replaced with the following:

1614.2 Change in Occupancy. When a change of occupancy results in a structure being reclassified to a higher Seismic Use Group, or when such change of occupancy results in a design occupant load increase of 100% or more, the structure shall conform to the seismic requirements for a new structure.

Exceptions:

1. This is not required if the design occupant load increase is less than 25 persons and the Seismic Use Group does not change.

2. Specific detailing provisions required for a new structure are not required to be met where it can be shown an equivalent level of performance and seismic safety contemplated for a new structure is obtained. Such analysis shall consider the regularity, overstrength, redundancy and ductility of the structure within the context of the specific detailing provided. Alternatively, the building official may allow the structure to be upgraded in accordance with the latest edition of the "Guidelines for Seismic Rehabilitation of Existing Buildings" or another nationally recognized standard for retrofit of existing buildings.

(49) In Section 1616.4.1, Definition of W, Item 4 is deleted and replaced with the following:

4. Roof snow loads of 30 psf or less need not be included. Where the roof snow load exceeds 30 psf, the snow load shall be included, but may be adjusted in accordance with the following formula: $W_s = (0.20 + 0.025(A-5))P_f$

WHERE:

W_s = Weight of snow to be included in seismic calculation;

A = Elevation above sea level at the location of the structure (ft/1000)

P_f = Design roof snow load, psf

For the purposes of this section, snow load shall be assumed uniform on the roof footprint without including the effects of drift or sliding.

(50) In Section 1617.2.2, the fourth definition of r_{maxi} is deleted and replaced with the following:

=For shear walls, r_{maxi} shall be taken as the maximum value of the product of the shear in the wall or wall pier and $10/l_w$ ($3.3/l_w$ for SI), divided by the story shear, where l_w is the length of the wall or wall pier in feet (m). The ratio $10/l_w$ need not be taken greater than 1.0 for buildings of light frame construction.

(51) In Section 1617.4.1, Definition of W, Item 4 is deleted and replaced with the following:

4. Roof snow loads to be included shall be as outlined in section 1616.4.1, Definition of W, Item 4, as amended.

(52) In Section 1617.5.1, Definition of W, Item 4 is deleted and replaced with the following:

4. Roof snow loads to be included shall be as outlined in section 1616.4.1, Definition of W, Item 4, as amended.

(53) In Section 1618.4, Definition of W, Item 4 is deleted and replaced with the following:

4. Roof snow loads to be included shall be as outlined in section 1616.4.1, Definition of W, Item 4, as amended.

(54) Section 1805.5 is deleted and replaced with the following:

1805.5 Foundation walls. Concrete and masonry foundation walls shall be designed in accordance with Chapter 19 or 21. Foundation walls that are laterally supported at the top and bottom and within the parameters of Tables 1805.5(1) through 1805.5(4) are permitted to be designed and constructed in accordance with Sections 1805.5.1 through 1805.5.4 and 1805.5.8 through 1805.5.8.2. Concrete foundation walls may also be constructed in accordance with Section 1805.5.9.

(55) New Sections 1805.5.8, 1805.5.8.1 1805.5.8.2 and 1805.5.9 are added as follows:

1805.5.8 Seismic requirements. Tables 1805.5(1) through 1805.5(4) shall be subject to the following limitations based on the seismic design category assigned to the structure as defined in Section 1616.

1805.5.8.1 Seismic requirements for concrete foundation walls. Concrete foundation walls constructed using Tables 1805.5(1) through 1805.5(4) shall be subject to the following:

1. Seismic Design Category A and B. Provide two No. 5 bars around window and door openings. Such bars shall extend at least 24 inches (610 mm) beyond the corners of the openings.

2. Seismic Design Category C. Tables shall not be used except as permitted for plain concrete members in Section 1910.4.

3. Seismic Design Categories D, E and F. Tables shall not be used except as allowed for plain concrete members in ACI 318, Section 22.10.

1805.5.8.2 Seismic requirements for masonry foundation walls. Masonry foundation walls constructed using Tables 1805.5(1) through 1805.5(4) shall be subject to the following:

1. Seismic Design Category A and B. No additional seismic requirements.

2. Seismic Design Category C. The requirements of Section 2106.4 shall apply.

3. Seismic Design Category D. The requirements of Section 2106.5 shall apply.

4. Seismic Design Categories E and F. The requirements of Section 2106.6 shall apply.

1805.5.9 Empirical foundation design. Group R, Division 3 Occupancies three stories or less in height, and Group U Occupancies, which are constructed in accordance with Section 2308, or with other methods employing repetitive wood-frame construction or repetitive cold-formed steel structural member construction, shall be permitted to have concrete foundations constructed in accordance with Table 1805.5.9.

(56) Table 1805.5.9 is added as follows:

Table 1805.5.9, entitled "Empirical Foundation Walls, dated September 1, 2002, published by the Department of Commerce, Division of Occupational and Professional Licensing is hereby adopted and incorporated by reference. Table 1805.5.9 identifies foundation requirements for empirical walls.

(57) Table 2305.3.3 is deleted and replaced with the following:

TABLE 2305.3.3
MAXIMUM SHEAR WALL ASPECT RATIOS

TYPE	MAXIMUM HEIGHT-WIDTH RATIO
Wood structural panels or particleboard, nailed edges	For wind: 3 1/2:1 For seismic: 2:1a
Diagonal sheathing, single Fiberboard	2:1 1 1/2:1

a. For design to resist seismic forces, shear wall aspect ratios greater than 2:1, but not exceeding 3 1/2:1, are permitted provided the allowable shear capacities in Table 2306.4.1 are multiplied by $2w/h$.

(58) A new section 2306.1.4 is added as follows:

2306.1.4 The allowable stress increase of 1.15 for snow load, shown in Table 2.3.2, Load Duration Factors, C_d , of the National Design Specifications, shall not be utilized at elevations above 5,000 feet (1524 M).

(59) Section 2308.6 is deleted and replaced with the following:

2308.6 Foundation plates or sills. Foundations and footings shall be as specified in Chapter 18. Foundation plates or sills resting on concrete or masonry foundations shall comply with Section 2304.3.1 and shall be bolted or anchored by one of the following:

1. Foundation plates or sill shall be bolted or anchored to the foundation with not less than 1/2 inch (12.7 mm) diameter steel bolts or approved anchors. Bolts shall be embedded at least 7 inches (178 mm) into concrete or masonry, and spaced not more than 6 feet (1829 mm) apart. There shall be a minimum of two bolts or anchor straps per piece with one bolt or anchor strap located not more than 12 inches (305 mm) or less than 4 inches (102 mm) from each end of each piece.

2. Foundation plates or sills shall be bolted or anchored to the foundation with not less than 1/2 inch (12.7 mm) diameter steel bolts or approved anchors. Bolts shall be embedded at least 7 inches (178 mm) into concrete or masonry, and spaced not more than 32 inches (816 mm) apart. There shall be a minimum of two bolts or anchor straps per piece located not less than 4 inches (102 mm) from each end of each piece.

A properly sized nut and washer shall be tightened on each bolt to the plate.

(60) A new section 2902.1.1 is added as follows:

2902.1.1 Unisex toilets and bath fixtures. Fixtures located within unisex toilet and bathing rooms complying with section 2902 are permitted to be included in determining the minimum number of fixtures for assembly and mercantile occupancies.

(61) Section 3006.5 Shunt Trip, the following exception is added:

Exception: Hydraulic elevators and roped hydraulic elevators with a rise of 50 feet or less.

(62) In Section 3104.2, a second exception is added as follows:

2. For the purposes of calculating the number of Type B units required by Chapter 11, structurally connected buildings and buildings with multiple wings shall be considered one structure.

(63) A new section 3402.5 is added as follows:

3402.5 Parapets and other appendages. Building constructed prior to 1975 with parapet walls, cornices, spires, towers, tanks, signs, statuary and other appendages shall have such appendages evaluated by a licensed engineer to determine resistance to design loads specified in this code when said building is undergoing reroofing, or alteration of or repair to said feature.

EXCEPTION: Group R-3 and U occupancies.

Original Plans and/or structural calculations may be utilized to demonstrate that the parapet or appendages are structurally adequate.

When found to be deficient because of design or deteriorated condition, the engineer shall prepare specific recommendations to anchor, brace, reinforce or remove the deficient feature.

The maximum height of an unreinforced masonry parapet above the level of the diaphragm tension anchors or above the parapet braces shall not exceed one and one-half times the thickness of the parapet wall. The parapet height may be a maximum of two and one-half times its thickness in other than Seismic Design Categories D, E, or F. If the required parapet height exceeds this maximum height, a bracing system designed using the coefficients specified in Table 1621.2 shall support the top of the parapet. When positive diaphragm connections are absent, tension roof anchors shall be added. Approved alternative methods of equivalent strength will be considered when accompanied by engineer sealed drawings, details and calculations.

(64) Section 3408.1 is deleted and replaced with the following:

3408.1 Scope: The provision of sections 3408.2 through 3408.5 apply to maintenance, change of occupancy, additions and alterations to existing buildings, including those identified as historic buildings.

Exceptions:

1. When maintenance, additions or alteration occur, Type B dwelling units required by section 1107.5.4 are not required to be provided in existing buildings and facilities.

2. When a change of occupancy in a building or portion of a building results in multiple dwelling units as determined in section 1107.5.4, not less than 20 percent of the dwelling units shall be Type B dwelling units. These dwelling units may be located on any floor of the building provided with an accessible route. Two percent, but not less than one, of the dwelling units shall be Type A dwelling units.

(65) Referenced standards number 1557-91 under ASTM in chapter 35 is deleted and replaced with the following:

TABLE

Standard Number	Title	Code Section
D1557-91 E01	Laboratory Compaction Characteristics of soil using Modified Effort	1508.15.2 K1.1.2, K1.7.5

(66) A new appendix K, Grading, is added as follows:

APPENDIX K - GRADING

K1.1 GENERAL

K1.1.1 Scope. The provisions of this chapter apply to grading, excavation and earthwork construction, including fills and embankments. Where conflicts occur between the technical requirements of this chapter and the soils report, the soils report shall govern.

K1.1.2 Standards. The following standards of quality shall apply:

1. ASTM D1557-91 E01, Test Method for Laboratory Compaction Characteristics of Soil Using Modified Effort (56,000 ft-lb/ft).

K1.2 DEFINITIONS

K1.2.1 Definitions. For the purposes of this appendix chapter, the terms, phrases and words listed in this section and their derivatives shall have the indicated meanings.

BENCH. A relatively level step excavated into earth material on which fill is to be placed.

COMPACTION. The densification of a fill by mechanical means.

CUT. See Excavation.

DOWN DRAIN. A device for collecting water from a swale or ditch located on or above a slope, and safely delivering it to an approved drainage facility.

EROSION. The wearing away of the ground surface as a result of the movement of wind, water or ice.

EXCAVATION. The removal of earth material by artificial means, also referred to as a cut.

FILL. Deposition of earth materials by artificial means.

GRADE. The vertical location of the ground surface.

GRADE, EXISTING. The grade prior to grading.

GRADE, FINISHED. The grade of the site at the conclusion of all grading efforts.

GRADING. An excavation or fill or combination thereof.

KEY. A compacted fill placed in a trench excavated in earth material beneath the toe of a slope.

SLOPE. An inclined surface, the inclination of which is expressed as a ratio of horizontal distance to vertical distance.

TERRACE. A relatively level step constructed in the face of a graded slope for drainage and maintenance purposes.

K1.3 PERMITS REQUIRED

K1.3.1 Permits required. Except as exempted in Section K1.3.2, no grading shall be performed without first having obtained a permit therefor from the building official. A grading permit does not include the construction of retaining walls or other structures.

K1.3.2 Exemptions. A grading permit shall not be required for the following:

1. Grading in an isolated, self-contained area, provided there is no danger to the public, and that such grading will not adversely affect adjoining properties.

2. Excavation for construction of a structure permitted under this code.

3. Cemetery graves.
4. Refuse disposal sites controlled by other regulations.
5. Excavations for wells, or trenches for utilities.
6. Mining, quarrying, excavating, processing or stockpiling rock, sand, gravel, aggregate or clay controlled by other regulations, provided such operations do not affect the lateral support of, or significantly increase stresses in, soil on adjoining properties.
7. Exploratory excavations performed under the direction of a registered design professional for the sole purpose of preparing a soils report.

Exemption from the permit requirements of this appendix shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances of this jurisdiction. The listed exemptions shall not apply to areas located in a floodway or floodplain regulated under Appendix G.

K1.4 PERMIT APPLICATION AND SUBMITTALS

K1.4.1 Submittal requirements. In addition to the provisions of Section 105.3, the applicant shall state the estimated quantities of excavation and fill.

K1.4.2 Site plan requirements. In addition to the provisions of Section 106, a grading plan shall show the existing grade and finished grade in contour intervals of sufficient clarity to indicate the nature and extent of the work and show in detail that it complies with the requirements of this code. The plans shall show the existing grade on adjoining properties in sufficient detail to identify how grade changes will conform to the requirements of this code.

K1.4.3 Soils report. A soils report prepared by registered design professionals shall be provided which shall identify the nature and distribution of existing soils; conclusions and recommendations for grading procedures; soil design criteria for any structures or embankments required to accomplish the proposed grading; and, where necessary, slope stability studies, and recommendations and conclusions regarding site geology.

Exception: A soils report is not required where the building official determines that the nature of the work applied for is such that a report is not necessary.

K1.4.4 Liquefaction study. For sites with mapped maximum considered earthquake spectral response accelerations at short period (S_s) greater than 0.5g as determined by Section 1615, a study of the liquefaction potential of the site shall be provided, and the recommendations incorporated in the plans.

Exception: A liquefaction study is not required where the building official determines from established local data that the liquefaction potential is low.

K1.5 INSPECTIONS

K1.5.1 General. Inspections shall be governed by Section 109 of this code.

K1.5.2 Special inspections. The special inspection requirements of Section 1704.7 shall apply to work performed under a grading permit where required by the building official.

K1.6 EXCAVATIONS

K1.6.1 Maximum slope. The slope of cut surfaces shall be no steeper than is safe for the intended use, and shall be no steeper than 2 horizontal to 1 vertical (50%) unless the applicant furnishes a soils report justifying a steeper slope.

Exceptions:

1. A cut surface may be at a slope of 1.5 horizontal to 1 vertical (67%) provided that all the following are met:
 - (a) it is not intended to support structures or surcharges;
 - (b) it is adequately protected against erosion;

- (c) it is no more than 8 feet (2438 mm) in height; and
- (d) it is approved by the building official.

2. A cut surface in bedrock shall be permitted to be at a slope of 1 horizontal to 1 vertical (100%)

K1.7 FILLS

K1.7.1 General. Unless otherwise recommended in the soils report, fills shall conform to provisions of this section.

K1.7.2 Surface preparation. The ground surface shall be prepared to receive fill by removing vegetation, topsoil and other unsuitable materials, and scarifying the ground to provide a bond with the fill material.

K1.7.3 Benching. Where existing grade is at a slope steeper than 5 horizontal to 1 vertical (20%) and the depth of the fill exceeds five feet (1524 mm) benching shall be provided in accordance with Figure K1.7.3 dated July 1, 2001, published by State and Local Building Codes Amendments, Department of Commerce, Division of Occupational and Professional Licensing, which is hereby adopted and incorporated by reference. A key shall be provided which is at least 10 feet (3048 mm) in width and two feet (610 mm) in depth.

K1.7.4 Fill material. Fill material shall not include organic, frozen or other deleterious materials. No rock or similar irreducible material greater than 12 inches (305mm) in any dimension shall be included in fills.

K1.7.5 Compaction. All fill material shall be compacted to 90% of maximum density as determined by ASTM D1557, Modified Proctor, in lifts not exceeding 12 inches (305 mm) in depth.

K1.7.6 Maximum slope. The slope of fill surfaces shall be no steeper than is safe for the intended use. Fill slopes steeper than 2 horizontal to 1 vertical (50%) shall be justified by soils reports or engineering data.

K1.8 SETBACKS

K1.8.1 General. Cut and fill slopes shall be set back from the property lines in accordance with this section. Setback dimensions shall be measured perpendicular to the property line and shall be as shown in Figure K1.8.1, dated July 1, 2001, published by State and Local Building Codes Amendments, Department of Commerce, Division of Occupational and Professional Licensing, which is hereby adopted and incorporated by reference. unless substantiating data is submitted justifying reduced setbacks.

K1.8.2 Top of slope. The setback at the top of a cut slope shall not be less than that shown in Figure K1.8.1, or that is required to accommodate any required interceptor drains, whichever is greater.

K1.8.3 Slope protection. Where required to protect adjacent properties at the toe of a slope from adverse effects of the grading, additional protection, approved by the building official, shall be included. Such protection may include but shall not be limited to:

1. Setbacks greater than those required by Figure K1.8.1.
2. Provisions for retaining walls or similar construction.
3. Erosion protection of the fill slopes.
4. Provision for the control of surface waters.

K1.9 DRAINAGE AND TERRACING

K1.9.1 General. Unless otherwise recommended by a registered design professional, drainage facilities and terracing shall be provided in accordance with the requirements of this section.

Exception: Drainage facilities and terracing need not be provided where the ground slope is not steeper than 3 horizontal to 1 vertical (33%).

K1.9.2 Terraces. Terraces at least six feet (1829 mm) in width shall be established at not more than 30-foot (9144 mm) vertical

intervals on all cut or fill slopes to control surface drainage and debris. Suitable access shall be provided to allow for cleaning and maintenance.

Where more than two terraces are required, one terrace, located at approximately mid-height, shall be at least 12 feet (3658 mm) in width.

Swales or ditches shall be provided on terraces. They shall have a minimum gradient of 20 horizontal to 1 vertical (5%) and shall be paved with concrete not less than three inches (76 mm) in thickness, or with other materials suitable to the application. They shall have a minimum depth of 12 inches (305 mm) and a minimum width of five feet (1524 mm).

A single run of swale or ditch shall not collect runoff from a tributary area exceeding 13,500 square feet (1256 m²) (projected) without discharging into a down drain.

K1.9.3 Interceptor drains. Interceptor drains shall be installed along the top of cut slopes receiving drainage from a tributary width greater than 40 feet, measured horizontally. They shall have a minimum depth of one foot (305 mm) and a minimum width of three feet (915 mm). The slope shall be approved by the building official, but shall not be less than 50 horizontal to 1 vertical (2%). The drain shall be paved with concrete not less than three inches (76 mm) in thickness, or by other materials suitable to the application. Discharge from the drain shall be accomplished in a manner to prevent erosion and shall be approved by the building official.

K1.9.4 Drainage across property lines. Drainage across property lines shall not exceed that which existed prior to grading. Excess or concentrated drainage shall be contained on site or directed to an approved drainage facility. Erosion of the ground in the area of discharge shall be prevented by installation of non-erosive down drains or other devices.

K1.10 EROSION CONTROL

K1.10.1 General. The faces of cut and fill slopes shall be prepared and maintained to control erosion. This control shall be permitted to consist of effective planting.

Exception: Erosion control measures need not be provided on cut slopes not subject to erosion due to the erosion-resistant character of the materials.

Erosion control for the slopes shall be installed as soon as practicable and prior to calling for final inspection.

K1.10.2 Other devices. Where necessary, check dams, cribbing, riprap or other devices or methods shall be employed to control erosion and provide safety.

R156-56-711. Statewide Amendments to the IRC.

The following are adopted as amendments to the IRC to be applicable statewide:

(1) All amendments to the IBC under Section R156-56-704, local amendments under Section R156-56-705, the NEC under Section R156-56-706, the IPC under Section R156-56-707, the IMC under Section R156-56-708, the IFGC under Section R156-56-709 and the IECC under Section R156-56-710 which may be applied to detached one and two family dwellings and multiple single family dwellings shall be applicable to the corresponding provisions of the IRC. All references to the International Electrical Code are deleted and replaced with the National Electrical Code adopted under Section R156-56-701(1)(b). Should there be any conflicts between the NEC and the IRC, the NEC shall prevail.

(2) In Section 109, a new section is added as follows:

R109.1.5 Weather-resistive barrier and flashing inspections. ~~After the roof, masonry, all framing, firestopping, draftstopping and bracing are in place; and after the plumbing, mechanical and electrical rough inspections are approved; and before brick veneer, masonry or stucco is installed on the exterior of a structure, a~~ An inspection shall be made of the weather-resistive barrier as required by Section R703.1 and flashings as required by Section R703.8 to prevent water from entering the weather-resistant exterior wall envelope.

The remaining sections are renumbered as follows:

R109.1.6 Other inspections

R109.1.6.1 Fire-resistance-rated construction inspection

R109.1.7 Final inspection.

(2) In Section R202, the definition of "Backsiphonage" is deleted and replaced with the following:

BACKSIPHONAGE: The backflow of potentially contaminated, polluted or used water into the potable water system as a result of the pressure in the potable water system falling below atmospheric pressure of the plumbing fixtures, pools, tanks or vats connected to the potable water distribution piping.

(3) In Section R202 the following definition is added:

CERTIFIED BACKFLOW PREVENTER ASSEMBLY TESTER: A person who has shown competence to test Backflow prevention assemblies to the satisfaction of the authority having jurisdiction under Subsection 19-4-104(4), Utah Code Ann. (1953), as amended.

(4) In Section R202 the definition of "Cross Connection" is deleted and replaced with the following:

CROSS CONNECTION. Any physical connection or potential connection or arrangement between two otherwise separate piping systems, one of which contains potable water and the other either water of unknown or questionable safety or steam, gas or chemical, whereby there exists the possibility for flow from one system to the other, with the direction of flow depending on the pressure differential between the two systems(see "Backflow, Water Distribution").

(5) In Section R202 the following definition is added:

HEAT exchanger (Potable Water). A device to transfer heat between two physically separated fluids (liquid or steam), one of which is potable water.

(6) In section R202 the definition of "Potable Water" is deleted and replaced with the following:

POTABLE WATER. Water free from impurities present in amounts sufficient to cause disease or harmful physiological effects and conforming to the Titles 19-4 and 19-5, Utah Code Ann. (1953), as amended and the regulations of the public health authority having jurisdiction.

(7) In Section R202 the definition of "Water Heater" is deleted and replaced with the following:

WATER HEATER. A closed vessel in which water is heated by the combustion of fuels or electricity and is withdrawn for use externally to the system at pressures not exceeding 160 psig (1100 kPa (gage)), including the apparatus by which heat is generated, and all controls and devices necessary to prevent water temperatures from exceeding 210 degrees Fahrenheit (99 degrees Celsius).

(8) Section R301.4 is deleted and replaced with the following:

R301.4 Live Load. The minimum uniformly distributed live load shall be as provided in Table R301.4.

TABLE R301.4
MINIMUM UNIFORMLY DISTRIBUTED LIVE LOADS
(in pounds per square foot)

USE	LIVE LOAD
Exterior balconies	60
Decks (f)	40
Fire escapes	40
Passenger vehicle garages (a)	50(a)
Attics without storage (b), (e), (g)	10
Attics with storage (b), (e)	20
Rooms other than sleeping rooms	40
Sleeping rooms	30
Stairs	40(c)
Guardrails and handrails (d)	200

For SI: 1 pound per square foot = 0.0479kN/m², 1 square inch = 645 mm², 1 pound = 4.45N.

(a) Elevated garage floors shall be capable of supporting a 2,000-pound load applied over a 20-square-inch area.

(b) No storage with roof slope not over 3 units in 12 units.

(c) Individual stair treads shall be designed for the uniformly distributed live load or a 300-pound concentrated load acting over an area of 4 square inches, whichever produces the greater stresses.

(d) A single concentrated load applied in any direction at any point along the top.

(e) Attics constructed with wood trusses shall be designated in accordance with Section R802.10.1.

(f) See Section R502.2.1 for decks attached to exterior walls.

(g) This live load need not be considered as acting simultaneously with other live loads imposed upon the ceiling framing or its supporting structure.

(9) Section R304.3 is deleted and replaced with the following:

R304.3 Minimum dimensions. Habitable rooms shall not be less than 7 feet (2134 mm) in any horizontal dimension.

Exception: Kitchens shall have a clear passageway of not less than 3 feet (914 mm) between counter fronts and appliances or counter fronts and walls.

(10) Section R309.2 is deleted and replaced with the following:

R309.2 Separation required. The garage shall be separated from the residence and its attic area by installation of materials approved for one-hour fire-resistive construction applied to the garage side. Where the separation is a floor-ceiling assembly, the structure supporting the separation shall also be protected by installation of materials approved for one-hour fire-resistive construction.

(11) Section R312.1.2 is deleted and replaced with the following:

R312.1.2 Landings at doors. There shall be a floor or landing on each side of each exterior door.

Exception: At the exterior side of all non required exit doors. The floor or landing at a door shall not be more than 1.5 inches (38 mm) lower than the top of the threshold.

Exception: The landing of an exterior doorway shall not be more than 8 inches (197 mm) below the top of the threshold, provided that the door, other than an exterior storm or screen door, does not swing over the landing.

(12) Section R314.2 is deleted and replaced with the following:

R314.2 Treads and risers. The maximum riser height shall be 8 inches (203 mm) and the minimum tread depth shall be 9 inches (229 mm). The riser height shall be measured vertically between leading edges of the adjacent treads. The tread depth shall be measured horizontally between the vertical planes of the foremost projection of adjacent treads and at a right angle to the tread's leading edge. The walking surface of treads and landings of a

stairway shall be sloped no steeper than one unit vertical in 48 units horizontal (2-percent slope). The greatest riser height within any flight of stairs shall not exceed the smallest by more than 3/8 inch (9.5 mm). The greatest tread depth within any flight of stairs shall not exceed the smallest by more than 3/8 inch (9.5 mm).

R314.2.1 Profile. The radius of curvature at the leading edge of the tread shall be no greater than 9/16 inch (14.3 mm). A nosing not less than 3/4 inch (19.1 mm) but not more than 1 1/4 inches (32 mm) shall be provided on stairways with solid risers. The greatest nosing projection shall not exceed the smallest nosing projection by more than 3/8 inches (9.5 mm) between two stories, including the nosing at the level of floors and landings. Beveling of nosing shall not exceed 1/2 inch (12.7 mm). Risers shall be vertical or sloped from the underside of the leading edge of the tread above at an angle not more than 30 degrees from the vertical. Open risers are permitted, provided that the opening between treads does not permit the passage of a 4-inch diameter (102 mm) sphere.

Exceptions.

1. A nosing is not required where the tread depth is a minimum of 10 inches (254 mm).

2. The opening between adjacent treads is not limited on stairs with a total rise of 30 inches (762 mm) or less.

(13) Section R315.1 is deleted and replaced with the following:

R315.1 Handrails. Handrails shall be provided on at least one side of stairways consisting of four or more risers. Handrails shall have a minimum height of 34 inches (864 mm) and a maximum height of 38 inches (965 mm) measured vertically from the nosing of the treads. All required handrails shall be continuous the full length of the stairs from a point directly above the top riser to a point directly above the lowest riser of the stairway. The ends of the handrail shall be returned into a wall or shall terminate in newel post or safety terminals. A minimum clear space of 1 1/2 inches (38 mm) shall be provided between the wall and the handrail.

Exceptions:

1. Handrails shall be permitted to be interrupted by a newel post at a turn.

2. The use of a volute, turnout or starting easing shall be allowed over the lowest tread.

(14) Section R315.2 is deleted and replaced with the following:

R315.2 Handrail grip size. The handgrip portion of handrails shall have a circular cross section of 1 1/4 inches (32mm) minimum to 2 5/8 inches (67mm) maximum. Edges shall have a minimum radius of 1/8 inch (3.2mm).

Exception: Non-circular handrails shall be permitted to have a maximum cross sectional dimension of 3.25 inches (83mm) measured 2 inches (51 mm) down from the top of the crown. Such handrail is required to have an indentation on both sides between 0.625 inch (16mm) and 1.5 inches (38mm) down from the top or crown of the cross section. The indentation shall be a minimum of 0.25 inch (6mm) deep on each side and shall be at least 0.5 inch (13 mm) high. Edges within the handgrip shall have a minimum radius of 0.0625 inch (2 mm). The handrail surface shall be smooth with no cusps so as to avoid catching clothing or skin.

(15) In Section 321.3.2 Exception 1.1 is deleted and replaced with the following:

1.1 By a horizontal distance of not less than the width of a stud space regardless of stud spacing, or

(16) Section R403.1.6.1 is deleted and replaced with the following:

R403.1.6.1 Foundation anchorage in Seismic Design Categories D₁ and D₂. In addition to the requirements of Section R403.1.6, the

following requirements shall apply to light-wood frame structures in Seismic Design Categories D₁ and D₂. Anchor bolts shall be located within 12 inches (305 mm) from the ends of each plate section at interior bearing walls, interior braced wall lines and at all exterior walls. Plate washers a minimum of 2 inches by 2 inches by 3/16 inch (51 mm by 4.8 mm) thick shall be used on each bolt.

Exceptions:

a. When anchor bolt spacing does not exceed 32 inches (816 mm) apart, anchor bolts may be placed with a minimum of two bolts per plate section located not less than 4 inches (102 mm) from each end of each plate section at interior bearing walls, interior braced wall lines and at all exterior walls.

b. When anchor bolt spacing does not exceed 32 inches (816 mm) apart, a properly sized round washer may be used.

The maximum anchor bolt spacing shall be 4 feet (1219 mm) for two-story structures.

(17) Section R703.6 is deleted and replaced with the following:
R703.6 Exterior plaster.

R703.6.1 Lath. All lath and lath attachments shall be of corrosion-resistant materials. Expanded metal or woven wire lath shall be attached with 1 1/2 inch-long (38 mm), 11 gage nails having 7/16 inch (11.1 mm) head, or 7/8-inch-long (22.2 mm), 16 gage staples, spaced at no more than 6 inches (152 mm), or as otherwise approved.

R703.6.2 Weather-resistant barriers. Weather-resistant barriers shall be installed as required in Section R703.2 and, where applied over wood-based sheathing, shall include a weather-resistive vapor permeable barrier with a performance at least equivalent to two layers of Grade D paper.

R703.6.3 Plaster. Plastering with portland cement plaster shall be not less than three coats when applied over metal lath or wire lath and shall be not less than two coats when applied over masonry, concrete or gypsum backing. If the plaster surface is completely covered by veneer or other facing material or is completed concealed, plaster application need be only two coats, provided the total thickness is as set forth in Table R702.1(1). On wood-frame construction with an on-grade floor slab system, exterior plaster shall be applied in such a manner as to cover, but not extend below, lath, paper and screed.

The proportion of aggregate to cementitious materials shall be as set forth in Table R702.1(3).

(18) In Section R703.7 Stone and masonry veneer, general the following exceptions are added:

Exceptions:

3. For detached one- or two-family dwellings with a maximum nominal thickness of 4 inches (102 mm) of exterior masonry veneer with a backing of wood frame located in Seismic Design Category D₁, the masonry veneer shall not exceed 20 feet (6096 mm) in height above a noncombustible foundation, with an additional 8 feet (2438 mm) permitted for gabled ends, or 30 feet (9144 mm) in height with an additional 8 feet (2438 mm) permitted for gabled ends where the lower 10 feet (3048 mm) has a backing of concrete or masonry wall, provided the following criteria are met:

(a) Braced wall panels shall be constructed with a minimum of 7/16 inch (11.1 mm) thick sheathing fastened with 8d common nails at 4 inches (102 mm) on center on panel edges and at 12 inches (305 mm) on center on intermediate supports.

(b) The bracing of the top story shall be located at each end and at least every 25 feet (7620 mm) on center but not less than 45% of the braced wall line. The bracing of the first story shall be as provided in Table R602.10.3.

(c) Hold down connectors shall be provided at the ends of braced walls for the second floor to first floor wall assembly with an allowable design of 2100 lbs (952.5 kg). Hold down connectors shall be provided at the ends of each wall segment of the braced walls for the first floor to foundation assembly with an allowable design of 3700 lbs. (1678 kg). In all cases, the hold down connector force shall be transferred to the foundation.

(d) Cripple walls shall not be permitted.

4. For detached one- and two-family dwellings with a maximum actual thickness of 3 inches (76 mm) of exterior masonry veneer with a backing of wood frame located in Seismic Design Category D₂, the masonry veneer shall not exceed 20 feet (6096 mm) in height above a noncombustible foundation, with an additional 8 feet (2438 mm) permitted for gabled ends, or 30 feet (9144 mm) in height with an additional 8 feet (2438 mm) permitted for gabled ends where the lower 10 feet (3048 mm) has a backing of concrete on masonry wall, provided the following criteria are met:

(a) Braced wall panels shall be constructed with a minimum of 7/16 inch (11.1 mm) thick sheathing fastened with 8d common nails at 4 inches (102 mm) on center on panel edges and at 12 inches (305 mm) on center on intermediate supports.

(b) The bracing of the top story shall be located at each end and at least every 25 feet (7620 mm) on center but not less than 55% of the braced wall line. The bracing of the first story shall be as provided in Table R602.10.3.

(c) Hold down connectors shall be provided at the ends of braced walls for the second floor to first floor wall assembly with an allowable design of 2300 lbs (1043 kg). Hold down connectors shall be provided at the ends of each wall segment of the braced walls for the first floor to foundation assembly with an allowable design of 3900 lbs. (1769 kg). In all cases, the hold down connector force shall be transferred to the foundation.

(d) Cripple walls shall not be permitted.

(19) In Section R703.8, number 8 is added as follows:

8. At the intersection of foundation to stucco, masonry, siding, or brick veneer with an approved corrosive-resistance flashing with a 1/2" drip leg extending past exterior side of the foundation.

(19) Section P2602.2 is added as follows:

P2602.2 Individual water supply. Where a potable public water supply is not available, individual sources of potable water supply shall be utilized provided that the source has been developed in accordance with Sections 73-3-1 and 73-3-25, Utah Code Ann. (1953), as amended, as administered by the Department of Natural Resources, Division of Water Rights. In addition, the quality of the water shall be approved by the local health department having jurisdiction.

(20) Section P2602.3 is added as follows:

P2602.3 Sewer required. Every building in which plumbing fixtures are installed and all premises having drainage piping shall be connected to a public sewer where the sewer is within 300 feet of the property line in accordance with Section 10-8-38, Utah Code Ann. (1953), as amended; or an approved private sewage disposal system in accordance with Rule R317-5501 through R317-513 and Rule R317-5, Utah Administrative Code, as administered by the Department of Environmental Quality, Division of Water Quality.

(21) Section P2603.2.1 is deleted and replaced with the following:

P2603.2.1 Protection against physical damage. In concealed locations where piping, other than cast-iron or galvanized steel, is installed through holes or notches in studs, joists, rafters, or similar members less than 1 1/2 inch (38 mm) from the nearest edge of the

member, the pipe shall be protected by shield plates. Protective shield plates shall be a minimum of 1/16 inch-thick (1.6 mm) steel, shall cover the area of the pipe where the member is notched or bored, and shall be at least the thickness of the framing member penetrated.

(22) Section P2710.1 is deleted and replaced with the following:

P2710.1 Finished. Shower walls shall be finished in accordance with Section R307.2.

(23) Section P2801.2 is added as follows:

P2801.2 Water heater seismic bracing. Water heaters shall be anchored or strapped in the upper third of the appliance to resist a horizontal force equal to one third the operating weight of the water heater, acting in any horizontal direction, or in accordance with the appliance manufacturers recommendations.

(24) Section P2902.1.1 is added as follows:

P2902.1.1 Backflow assembly testing. The premise owner or his designee shall have backflow prevention assemblies operation tested at the time of installation, repair and relocation and at least on an annual basis thereafter, or more frequently as required by the authority having jurisdiction. Testing shall be performed by a Certified Backflow Preventer Assembly Tester. The assemblies that are subject to this paragraph are the Spill Resistant Vacuum Breaker, the Pressure Vacuum Breaker Assembly, the Double Check Backflow Prevention Assembly, the Double Check Detector Assembly Backflow Preventer, the Reduced Pressure Principle Backflow Preventer, and Reduced Pressure Detector Assembly, and the spring loaded check valve assembly described in amended Section 608.16.4 of the International Plumbing Code.

(25) Section P2903.9.3 is deleted and replaced with the following:

P2903.9.3 Valve requirements. Valves serving individual fixtures, appliances, risers, and branches shall be provided with access. An individual shutoff valve shall be required on the water supply pipe to each water closet, lavatory, kitchen sink, and appliance.

(26) Section P3003.2.1 is added as follows:

Section P3003.2.1 Improper Connections. No drain, waste, or vent piping shall be drilled and tapped for the purpose of making connections.

(27) In Section P3103.6, the following sentence is added at the end of the paragraph:

Vents extending through the wall shall terminate not less than 12 inches from the wall with an elbow pointing downward.

(28) In Section P3104.4, the following sentence is added at the end of the paragraph:

Horizontal dry vents below the flood level rim shall be permitted for floor drain and floor sink installations when installed below grade in accordance with Chapter 30, and Sections P3104.2 and P3104.3. A wall cleanout shall be provided in the vertical vent.

(29) Chapter 43, Referenced Standards, is amended as follows:

The following reference standard is added:

TABLE

USC- FCCCHR 9th Edition Manual of Cross Connection Control	Foundation for Cross-Connection Control and Hydraulic Research University of Southern California Kaprielian Hall 300 Los Angeles CA 90089-2531	Section P2902
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KEY: contractors, building codes, building inspection, licensing 2003

Notice of Continuation May 16, 2002

58-1-106(1)(a)

58-1-202(1)(a)

58-56-1

58-56-4(2)

58-56-6(2)(a)



End of the Notices of Changes in Proposed Rules Section

NOTICES OF 120-DAY (EMERGENCY) RULES

An agency may file a 120-DAY (EMERGENCY) RULE when it finds that the regular rulemaking procedures would:

- (a) cause an imminent peril to the public health, safety, or welfare;
- (b) cause an imminent budget reduction because of budget restraints or federal requirements; or
- (c) place the agency in violation of federal or state law (*Utah Code* Subsection 63-46a-7(1) (2001)).

As with a PROPOSED RULE, a 120-DAY RULE is preceded by a RULE ANALYSIS. This analysis provides summary information about the 120-DAY RULE including the name of a contact person, justification for filing a 120-DAY RULE, anticipated cost impact of the rule, and legal cross-references. A row of dots in the text (· · · · ·) indicates that unaffected text was removed to conserve space.

A 120-DAY RULE is effective at the moment the Division of Administrative Rules receives the filing, or on a later date designated by the agency. A 120-DAY RULE is effective for 120 days or until it is superseded by a permanent rule.

Because 120-DAY RULES are effective immediately, the law does not require a public comment period. However, when an agency files a 120-DAY RULE, it usually files a PROPOSED RULE at the same time, to make the requirements permanent. Comment may be made on the proposed rule. Emergency or 120-DAY RULES are governed by *Utah Code* Section 63-46a-7 (2001); and *Utah Administrative Code* Section R15-4-8.

Health, Epidemiology and Laboratory Services, Epidemiology **R386-702** Communicable Disease Rule

NOTICE OF 120-DAY (EMERGENCY) RULE

DAR FILE NO.: 26290
FILED: 05/16/2003, 10:24

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This emergency rule clarifies that Severe Acute Respiratory Syndrome (SARS) is reportable to public health and that such reporting should occur immediately by telephone. Such reporting is currently required because SARS is a "sudden or extraordinary occurrence of infectious or communicable disease."

SUMMARY OF THE RULE OR CHANGE: The Department of Health is adding SARS to the list of conditions of public health interest for which reporting to public health is required. SARS will also be added to the list of conditions for which immediate reporting by telephone is required. (DAR NOTE: A corresponding proposed amendment is under DAR No. 26294 in this issue.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-6-3

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: Since this rule change only clarifies that this reporting is required, no additional cost will be incurred. If this rule results in improved reporting as intended, it might

save costs for extensive investigations that could result from delayed reporting.

❖ LOCAL GOVERNMENTS: Since this rule change only clarifies that this reporting is required and assures that immediate reporting will occur by telephone, no significant additional cost is predicted for local governments.

❖ OTHER PERSONS: Since this rule change only clarifies that this reporting is required and assures that immediate reporting will occur by telephone, no significant additional cost is predicted for health care providers. Existing surveillance procedures will be adequate to respond to this required reporting. Providers will only be required to report more quickly.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No new compliance costs are predicted for this rule change. Existing surveillance procedures will be adequate to respond to this required reporting. Providers will only be required to report more quickly.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: In February of 2003, a new syndrome was identified, Severe Acute Respiratory Syndrome (SARS). As of April 10, 2003, 2,781 cases of SARS were reported to the World Health Organization, including 166 in U.S., and 5 in Utah; 111 deaths have occurred worldwide. The condition is highly infectious and has resulted in disruption of international travel, overwhelmed medical care services in affected areas and resulted in quarantine orders, including for more than 1,000 people in Ontario, Canada. While reporting is authorized under this rule for "any sudden or extraordinary occurrence of infectious or communicable disease," I believe it is appropriate to clarify the importance of reporting SARS by adding it to the reporting rule specifically.
Rod L. Betit

EMERGENCY RULE REASON AND JUSTIFICATION: REGULAR RULEMAKING PROCEDURES WOULD cause an imminent peril to the public health, safety, or welfare.

SARS is a disease of great concern to public health. To be in a position to respond to an imminent threat that would be posed if a carrier of the disease was not managed to minimize the likelihood of this disease spreading to others, it is critical that SARS immediately be added to the list of mandatory reportable diseases.

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

HEALTH
EPIDEMIOLOGY AND LABORATORY SERVICES,
EPIDEMIOLOGY
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:

Robert Rolfs at the above address, by phone at 801-538-6386, by FAX at 801-538-6694, or by Internet E-mail at rrolfs@utah.gov

THIS RULE IS EFFECTIVE ON: 05/16/2003

AUTHORIZED BY: Rod L. Betit, Executive Director

R386. Health, Community Health Services, Epidemiology.

R386-702. Communicable Disease Rule.

R386-702-2. Reportable Diseases.

(1) The Utah Department of Health declares the following diseases to be of concern to the public health. Each confirmed or suspected case shall be reported to the Bureau of Epidemiology, Utah Department of Health or to the local health department. Upon receipt of a report, the local health department shall forward a written or electronic copy of the report to the Bureau of Epidemiology, Utah Department of Health.

- (a) Acquired Immunodeficiency Syndrome
- (b) Amebiasis
- (c) Anthrax
- (d) Botulism
- (e) Brucellosis
- (f) Campylobacteriosis
- (g) Chancroid
- (h) Chickenpox
- (i) Chlamydia trachomatis
- (j) Cholera
- (k) Coccidioidomycosis
- (l) Colorado tick fever
- (m) Creutzfeldt-Jakob disease
- (n) Cryptosporidiosis
- (o) Cyclospora infection
- (p) Diphtheria
- (q) Echinococcosis
- (r) Ehrlichiosis, human granulocytic and human monocytic
- (s) Encephalitis: primary, post-infectious, arthropod-borne and unspecified

- (t) Enterococcal infection, vancomycin-resistant
- (u) Escherichia coli O157:H7
- (v) Giardiasis
- (w) Gonorrhea: sexually transmitted and ophthalmia neonatorum
- (x) Haemophilus influenzae, invasive disease
- (y) Hansen Disease (Leprosy)
- (z) Hantavirus infections and pulmonary syndrome
- (aa) Hemolytic Uremic Syndrome, postdiarrheal
- (bb) Hepatitis A
- (cc) Hepatitis B, cases and carriers
- (dd) Hepatitis, other viral: type C, and non-A non-B
- (ee) Human Immunodeficiency Virus Infection. Reporting requirements are listed in R388-803.
- (ff) Influenza, laboratory confirmed
- (gg) Kawasaki syndrome
- (hh) Legionellosis
- (ii) Listeriosis
- (jj) Lyme Disease
- (kk) Malaria
- (ll) Measles
- (mm) Meningitis, aseptic and bacterial (specify etiology)
- (nn) Meningococcal Disease, invasive
- (oo) Mumps
- (pp) Pelvic Inflammatory Disease
- (qq) Pertussis
- (rr) Plague
- (ss) Poliomyelitis, paralytic
- (tt) Psittacosis
- (uu) Q Fever
- (vv) Rabies, human and animal
- (ww) Relapsing fever, tick-borne and louse-borne
- (xx) Reye syndrome
- (yy) Rheumatic fever
- (zz) Rocky Mountain spotted fever
- (aaa) Rubella
- (bbb) Rubella, congenital syndrome
- (ccc) Salmonellosis
- (ddd) Shigellosis
- (eee) Staphylococcal diseases, all outbreaks and Staphylococcus aureus with resistance or intermediate resistance to vancomycin or resistance to methicillin isolated from any site
- (fff) Streptococcal Disease, invasive, Group A, isolated from a normally sterile site
- (ggg) Streptococcal Toxic-Shock Syndrome
- (hhh) Streptococcus pneumoniae, drug-resistant invasive disease, isolated from a normally sterile site
- (iii) Syphilis, all stages and congenital
- (jjj) Tetanus
- (kkk) Toxic-Shock Syndrome
- (lll) Trichinosis
- (mmm) Tuberculosis. Special Measures for the Control of Tuberculosis are listed in R388-804.
- (nnn) Tularemia
- (ooo) Typhoid, cases and carriers
- (ppp) Yellow fever
- (qqq) Severe Acute Respiratory Syndrome (SARS)
- (rrr) Any sudden or extraordinary occurrence of infectious or communicable disease is also reportable. Any disease occurrence, pattern of cases, suspect cases, or increased incidence of any illness which may indicate an outbreak, epidemic or related public health

hazard, including but not limited to suspected or confirmed outbreaks of foodborne or waterborne disease, newly recognized or re-emergent diseases or disease producing agents, shall be reported immediately by telephone to the Bureau of Epidemiology, Utah Department of Health, 801-538-6191.

R386-702-3. Reporting.

(1) Case Report: Unless otherwise specified, the report of these diseases to the Bureau of Epidemiology, Utah Department of Health shall provide the following information: name, age, sex, address, date of onset, and all other information as prescribed by the Department. A standard report form has been adopted and is supplied to physicians and other reporting sources by the Department.

(2) Immediate Reports: Any outbreak or suspected outbreak shall be reported immediately by telephone. Cases and suspect cases of anthrax, botulism, cholera, diphtheria, measles, meningococcal disease, mumps, pertussis, plague, poliomyelitis, rabies, relapsing fever, rubella, tetanus, tuberculosis, typhoid, ~~and~~ yellow fever, and Severe Acute Respiratory Syndrome (SARS) are to be made by telephone to the Bureau of Epidemiology, Utah Department of Health, 801-538-6191, or the local health department.

(3) Case Notification: Chickenpox, influenza, Staphylococcus aureus with resistance to methicillin and vancomycin resistant enterococcus are to be reported by number of cases only. These reports shall be made monthly.

(4) Mandatory Submission of Isolates: Laboratories shall submit all isolates of the following organisms to the Utah Department of Health, public health laboratory:

- (a) Bacillus anthracis;
 - (b) Bordetella pertussis;
 - (c) Campylobacter species;
 - (d) Clostridium botulinum;
 - (e) Corynebacterium diphtheriae;
 - (f) Enterococcus, vancomycin-resistant;
 - (g) Escherichia coli, enterohemorrhagic;
 - (h) Francisella tularensis;
 - (i) Haemophilus influenzae, from normally sterile sites;
 - (j) Influenza, types A and B;
 - (k) Legionella species;
 - (l) Listeria monocytogenes;
 - (m) Mycobacterium tuberculosis complex;
 - (n) Neisseria gonorrhoeae;
 - (o) Neisseria meningitidis, from normally sterile sites;
 - (p) Salmonella species;
 - (q) Shigella species;
 - (r) Staphylococcus aureus with resistance or intermediate resistance to vancomycin isolated from any site;
 - (s) Vibrio cholera;
 - (t) Yersinia species.
- (5) Occurrence of Unusual Diseases: Any unusual disease of public health importance, including newly identified multi-drug resistant bacteria, and any outbreak or undue prevalence of a disease, whether or not listed as reportable, shall also be promptly reported by telephone to the local health department or the Bureau of Epidemiology, Utah Department of Health.
- (6) Timing of Reports: All diseases not required to be reported by telephone or by number of cases shall be reported within seven calendar days from the time of identification. Reports are to be sent to the local health department or the Bureau of Epidemiology, 288

North 1460 West, P. O. Box 142104, Salt Lake City, Utah 84114-2104.

(7) Individuals Required to Report Communicable Diseases: Section 26-6-6 lists those individuals and facilities required to report diseases known or suspected of being communicable. Physicians, hospitals, health care facilities, home health agencies, health maintenance organizations, and other health care providers shall report details regarding each case. Schools, child day care centers, and citizens shall provide any relevant information. Laboratories and other testing sites shall report laboratory evidence confirming any of the reportable diseases. Laboratories and other testing sites shall also report any test results which provide presumptive evidence of infection such as positive tests for syphilis, measles, and viral hepatitis.

(8) Confidentiality of Reports: All reports required by this rule are confidential and are not open to public inspection. Nothing in this rule, however, precludes the discussion of case information with the attending physician or public health workers. All information collected pursuant to this rule may not be released or made public, except as provided by Section 26-6-27. Penalties for violation of confidentiality are prescribed in Section 26-6-29.

KEY: communicable diseases, rules and procedures

May 16, 2003

Notice of Continuation August 20, 2002

26-6-3



Transportation, Operations, Traffic and Safety **R920-50-11** Fees

NOTICE OF 120-DAY (EMERGENCY) RULE

DAR FILE NO.: 26295

FILED: 05/16/2003, 12:51

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This emergency rule repeals the fees that are set forth in the rule and allows the legislatively-set fees to take effect.

SUMMARY OF THE RULE OR CHANGE: This amendment eliminates Section of R920-50-11 that establishes fees.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 72-11-208

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** The removal of this section has no affect on the state budget since higher fees have already been set by the legislature.

❖ **LOCAL GOVERNMENTS:** This rule does not affect local governments.

❖ **OTHER PERSONS:** The repeal of this section does not increase the costs to any person.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs resulting from the repeal of this section.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The repeal of this section will have no fiscal impact on business.

EMERGENCY RULE REASON AND JUSTIFICATION: REGULAR RULEMAKING PROCEDURES WOULD cause an imminent budget reduction because of budget restraints or federal requirements.

With the budget cut to the ropeway committee from the 2003 session, the current rates would not produce sufficient revenue to keep the committee in existence. The legislature approved a different fee schedule during the 2003 General Session, as part of H.B. 1. (DAR NOTES: H.B. 1 is found at UT L 2003 Ch 342 (Section 2 is the fees), and will be effective July 1, 2003. A corresponding amendment that also includes other changes to the rule is under DAR No. 26296 in this issue.)

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

TRANSPORTATION
OPERATIONS, TRAFFIC AND SAFETY
CALVIN L RAMPTON COMPLEX
4501 S 2700 W
SALT LAKE CITY UT 84119-5998, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

James Beadles at the above address, by phone at 801-965-4168, by FAX at 801-965-4796, or by Internet E-mail at jbeadles@utah.gov

THIS RULE IS EFFECTIVE ON: 05/16/2003

AUTHORIZED BY: John R. Njord, Executive Director

R920. Transportation, Operations, Traffic and Safety.

R920-50. Ropeway Operation Safety Rules.

~~R920-50-11. Fees.~~

~~A. In accordance with the requirements of Section 72-11-208 and these rules, each Application for a Certificate of Registration shall be accompanied by the applicable fee fixed by the Committee and approved by the Legislature:~~

- ~~1. Aerial Tramway (Reversible) (101 HP or over) \$440.00 each~~
- ~~2. Aerial Tramway (Reversible) (100 HP or under) \$ 220.00 each~~
- ~~3. Aerial lift (Double) \$140.00 each~~
- ~~4. Aerial lift (Triple) \$165.00 each~~
- ~~5. Aerial lift (Quad) \$195.00 each~~
- ~~6. Aerial lift (Detachable) \$440.00 each~~
- ~~7. Conveyor, Rope Tow) \$55.00 each~~
- ~~8. Funicular (Single or Double Reversible) \$440.00 each~~
- ~~9. Surface lift (J bar, T bar, or platter pull) \$55.00each~~

]

KEY: transportation safety, tramways, ropeways, tramway permits

May 16, 2003

Notice of Continuation December 13, 2002

72-11-201 through 72-11-216

63-46b-1 et seq.



End of the Notices of 120-Day (Emergency) 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).

Commerce, Occupational and Professional Licensing **R156-31b** Nurse Practice Act Rules

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 26319
FILED: 06/02/2003, 09:49

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 58, Chapter 31b, provides for the licensure of nurses. Subsection 58-1-106(1)(a) provides that the Division may adopt and enforce rules to administer Title 58. Subsection 58-31b-201(3) provides that the Nursing Board's duties and responsibilities shall be in accordance with Section 58-1-202. Subsection 58-1-202(1)(a) provides that one of the duties of each board is to recommend appropriate rules to the division director. This rule was enacted to clarify the provisions of Title 58, Chapter 31b, with respect to nurses.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Since this rule was originally enacted on July 1, 1998, it has been amended eight times (August 20, 1998; September 1, 1998; April 15, 1999; November 16, 1999; February 15, 2000; November 9, 2000; September 4, 2001; and November 18, 2002). Rule hearings were only held relative to the September 4, 2001, and November 18, 2002, rule filings. A May 25, 2001, rule hearing was held regarding proposed amendments; however, no written comments were received at that time. An August 23, 2002, rule hearing was held with respect to numerous proposed amendments due to statute amendments made to Title 58, Chapter 31b, during the 2002 legislative session. The Division received numerous written comments with respect to a proposed amendment which would affect Excelsior College graduates effective July 1, 2003. Due to the

numerous written comments and the controversial nature of the proposed amendment, the Division filed a change in proposed rule in which the amendment was deleted. No other written comments have been received by the Division with respect to this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued as it clarifies the provisions of Title 58, Chapter 31b, with respect to nurses.

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:
Laura Poe at the above address, by phone at 801-530-6789,
by FAX at 801-530-6511, or by Internet E-mail at
lpoe@utah.gov

AUTHORIZED BY: J. Craig Jackson, Director

EFFECTIVE: 06/02/2003



Commerce, Occupational and Professional Licensing **R156-53** Landscape Architects Licensing Act Rules

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 26320
FILED: 06/02/2003, 09:52

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 58, Chapter 53, provides for the licensure of landscape architects. Subsection 58-1-106(1)(a) provides that the Division may adopt and enforce rules to administer Title 58. Subsection 58-53-201(3) provides that the Landscape Architects Board's duties and responsibilities shall be in accordance with Section 58-1-202. Subsection 58-1-202(1)(a) provides that one of the duties of each board is to recommend appropriate rules to the division director. This rule was enacted to clarify the provisions of Title 58, Chapter 53, with respect to landscape architects.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Since this rule was last reviewed in July 1998, no amendments have been made to the rule. As a result, no written comments have been received by the Division with respect to this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued as it clarifies the provisions of Title 58, Chapter 53, with respect to landscape architects.

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:
Douglas Vilnius at the above address, by phone at 801-530-6621, by FAX at 801-530-6511, or by Internet E-mail at dvilnius@utah.gov

AUTHORIZED BY: J. Craig Jackson, Director

EFFECTIVE: 06/02/2003



Commerce, Occupational and
Professional Licensing
R156-68
Utah Osteopathic Medical Practice Act
Rules

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 26321
FILED: 06/02/2003, 09:53

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 58, Chapter 68, provides for the licensure of osteopathic physicians and surgeons. Subsection 58-1-106(1)(a) provides that the Division may adopt and enforce rules to administer Title 58. Subsection 58-68-201(3)(a) provides that the Osteopathic Physician and Surgeons Licensing Board's duties and responsibilities shall be in accordance with Section 58-1-202. Subsection 58-1-202(1)(a) provides that one of the duties of each board is to recommend appropriate rules to the division director. This rule was enacted to clarify the provisions of Title 58, Chapter 68, with respect to osteopathic physicians and surgeons.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Since this rule was last reviewed in 1998, it has only been amended one time to delete the quality review requirement. No rule hearing was held with respect to the amendment and no written comments have been received by the Division with respect to this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued as it clarifies the provisions of Title 58, Chapter 68, with respect to osteopathic physicians and surgeons.

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:
Diana Baker at the above address, by phone at 801-530-6179, by FAX at 801-530-6511, or by Internet E-mail at dbaker@utah.gov

AUTHORIZED BY: J. Craig Jackson, Director

EFFECTIVE: 06/02/2003



Health, Health Care Financing,
Coverage and Reimbursement Policy
R414-51
Dental, Orthodontia

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 26318
FILED: 05/30/2003, 09:55

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 26-18-3 requires the Department of Health to develop implementing policy to administer the Medicaid program. Furthermore, 42 CFR 441.56 requires Medicaid agencies to provide dental care for children under the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) program which includes preventive, diagnostic, and treatment services. Also, 42 CFR 440.100 authorizes the Department of Health to provide dental services for Medicaid recipients who suffer from disease, injury, or any kind of impairment which may affect their oral or general health.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written or oral comments have been received regarding this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is necessary to provide dental and orthodontic services for children who require these services so that preventive, corrective, and early treatments will ensure proper dental health. This rule also ensures that Medicaid eligible adults who have a handicapping malocclusion, either through accident or disease, will receive necessary dental and orthodontic care and should be continued.

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

AUTHORIZED BY: Rod L. Betit, Executive Director

EFFECTIVE: 05/30/2003



Human Services, Mental Health, State
Hospital
R525-1
Medical Records

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 26298
FILED: 05/20/2003, 10:03

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 62A-15-606 allows the rule to be established. Section 62A-15-643 explains confidentiality of patient information.

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 during the past five years regarding this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule provides guidelines under which patient information may be accessed while maintaining patient's rights to confidentiality. It also complies with GRAMA and HIPAA and should be continued.

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

HUMAN SERVICES
MENTAL HEALTH, STATE HOSPITAL
UTAH STATE HOSPITAL
PROVO UT 84603-0270, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Danette Faretta-Brady at the above address, by phone at 801-344-4217, by FAX at 801-344-4225, or by Internet E-mail at dfaretta@utah.gov

AUTHORIZED BY: Mark Payne, Superintendent

EFFECTIVE: 05/20/2003



Human Services, Mental Health, State
Hospital
R525-2
Patient Rights

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 26299
FILED: 05/20/2003, 10:20

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 62A-15-606 allows the rule to be established. Section 62A-15-641 explains civil rights of patients at the Utah 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 during the past five years regarding this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule ensures patients are notified of their rights when admitted to the Utah State Hospital. It also identifies assistance for protecting patient rights, assists public (families) in identifying rights of patients, and should be continued.

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

HUMAN SERVICES
MENTAL HEALTH, STATE HOSPITAL
UTAH STATE HOSPITAL
PROVO UT 84603-0270, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Danette Faretta-Brady at the above address, by phone at 801-344-4217, by FAX at 801-344-4225, or by Internet E-mail at dfaretta@utah.gov

AUTHORIZED BY: Mark Payne, Superintendent

EFFECTIVE: 05/20/2003

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**Human Services, Mental Health, State
Hospital
R525-3
Medication Treatment of Patients**

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 26300
FILED: 05/20/2003, 10:40

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS

AUTHORIZE OR REQUIRE THE RULE: Sections 62A-606 and 62A-15-644 provide the authority to establish the rule. Sections 62A-15-640 and 62A-15-704 set forth requirements for medication treatment.

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 during the past five years regarding this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule ensures a due process proceeding for patients receiving medication treatment at the Utah State Hospital. It also complies with state statute and case law and should be continued.

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

HUMAN SERVICES
MENTAL HEALTH, STATE HOSPITAL
UTAH STATE HOSPITAL
PROVO UT 84603-0270, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Danette Faretta-Brady at the above address, by phone at 801-344-4217, by FAX at 801-344-4225, or by Internet E-mail at dfaretta@utah.gov

AUTHORIZED BY: Mark Payne, Superintendent

EFFECTIVE: 05/20/2003

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**Human Services, Mental Health, State
Hospital
R525-4
Visitors**

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 26302
FILED: 05/20/2003, 11:20

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Sections 62A-15-606 and 62A-15-644 authorize the rule to be established.

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 during the past five years regarding this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule informs the public on how to access patients at the Utah State Hospital. It also complies with state statute and should be continued.

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

HUMAN SERVICES
 MENTAL HEALTH, STATE HOSPITAL
 UTAH STATE HOSPITAL
 PROVO UT 84603-0270, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 Danette Faretta-Brady at the above address, by phone at 801-344-4217, by FAX at 801-344-4225, or by Internet E-mail at dfaretta@utah.gov

AUTHORIZED BY: Mark Payne, Superintendent

EFFECTIVE: 05/20/2003



Human Services, Mental Health, State
 Hospital
R525-5
 Background Checks

**FIVE YEAR NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**
 DAR FILE No.: 26303
 FILED: 05/20/2003, 11:36

**NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Sections 62A-15-606 and 62A-15-644 authorize the rule to be established.

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 during the past five years regarding this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule complies with state statute referencing background checks for employees working with vulnerable children and adults, and should be continued.

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

HUMAN SERVICES
 MENTAL HEALTH, STATE HOSPITAL
 UTAH STATE HOSPITAL
 PROVO UT 84603-0270, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 Danette Faretta-Brady at the above address, by phone at 801-344-4217, by FAX at 801-344-4225, or by Internet E-mail at dfaretta@utah.gov

AUTHORIZED BY: Mark Payne, Superintendent

EFFECTIVE: 05/20/2003



Human Services, Mental Health, State
 Hospital
R525-7
 Complaint/Suggestions/Concerns

**FIVE YEAR NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**
 DAR FILE No.: 26304
 FILED: 05/20/2003, 11:44

**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: Sections 62A-15-606 and 62A-15-644 authorize the rule to be established.

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 during the past five years regarding this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule informs the public on how to provide input into hospital operations, and should be continued.

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

HUMAN SERVICES
 MENTAL HEALTH, STATE HOSPITAL
 UTAH STATE HOSPITAL
 PROVO UT 84603-0270, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Danette Faretta-Brady at the above address, by phone at 801-344-4217, by FAX at 801-344-4225, or by Internet E-mail at dfaretta@utah.gov

AUTHORIZED BY: Mark Payne, Superintendent

EFFECTIVE: 05/20/2003

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Labor Commission, Administration

R600-1 Declaratory Orders

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 26313
FILED: 05/28/2003, 09:08

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 34A-1-104 authorizes the Labor Commission to adopt rules necessary to administer the Workers' Compensation Act, Occupational Disease Act, Safety Act, Payment of wages and employment of minors laws, Antidiscrimination Act, and Occupational Safety and Health Act. Pursuant to that authority, and as required by Section 63-46b-21, the Commission has adopted Rule R600-1, which establishes the requirements and appeal rights for declaratory orders.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: During the last five-year period, the Commission has received no written comments supporting or opposing the rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: As required by Section 63-46b-21, this rule provides the procedures for submission, review, and disposition of petitions for agency declaratory orders on the applicability of statutes, rules and orders governing or issued by the Commission, and should be continued.

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

LABOR COMMISSION
ADMINISTRATION
HEBER M WELLS BLDG
160 E 300 S
SALT LAKE CITY UT 84111-2316, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Alan Hennebold at the above address, by phone at 801-530-

6937, by FAX at 801-530-6390, or by Internet E-mail at ahennebold@utah.gov

AUTHORIZED BY: R Lee Ellertson, Commissioner

EFFECTIVE: 05/28/2003

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Labor Commission, Industrial Accidents

R612-2 Workers' Compensation Rules - Health Care Providers

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 26315
FILED: 05/28/2003, 09:23

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: Section 34A-1-104 gives the Labor Commission authority to establish rules to administer the Workers' Compensation Act and the Occupational Disease Act. Subsection 34A-2-407(8) requires health care providers, except hospitals, to comply with the Commission's 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: The Commission has received written comments regarding the regulations relating to the fees medical providers are paid for services provided to injured workers. The Commission has also received written comments regarding the fees charged for medical records relating to claims for workers' compensation benefits.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: In light of the Commission's continuing statutory responsibility to administer Utah's workers' compensation system, it remains necessary for the Commission to address issues relating to health care providers, such as the proper codes to use in billing and the amount providers will be paid for their services. It is also necessary for the Commission to establish rules to maintain consistency in the handling of injured workers claims so this rule should be continued.

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

LABOR COMMISSION
INDUSTRIAL ACCIDENTS
HEBER M WELLS BLDG
160 E 300 S
SALT LAKE CITY UT 84111-2316, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Joyce Sewell at the above address, by phone at 801-530-6988, by FAX at 801-530-6804, or by Internet E-mail at jsewell@utah.gov

AUTHORIZED BY: R Lee Ellertson, Commissioner

EFFECTIVE: 05/28/2003



Labor Commission, Industrial Accidents

R612-3

Workers' Compensation Rules - Self-Insurance

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 26316
FILED: 05/28/2003, 09:31

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 34A-1-104 gives the Labor Commission authority to establish rules to administer the Workers' Compensation Act and the Occupational Disease Act. Section 34A-2-201 authorizes the Commission to approve employers' requests for permission to self-insure their workers' compensation obligations.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Commission has received no written comments supporting or opposing this rule in the last five years.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Labor Commission has been given the responsibility to see that all employers in the State have workers' compensation insurance. This rule establishes the method by which a Utah employer can provide their own insurance in the areas of workers' compensation and occupational diseases. This rule also sets forth the method for review of a denial of self-insured status and should be continued.

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

LABOR COMMISSION
INDUSTRIAL ACCIDENTS
HEBER M WELLS BLDG
160 E 300 S
SALT LAKE CITY UT 84111-2316, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Joyce Sewell at the above address, by phone at 801-530-6988, by FAX at 801-530-6804, or by Internet E-mail at jsewell@utah.gov

AUTHORIZED BY: R Lee Ellertson, Commissioner

EFFECTIVE: 05/28/2003



Labor Commission, Industrial Accidents

R612-5

Employee Leasing Company Workers' Compensation Insurance Policy Endorsements

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 26317
FILED: 05/28/2003, 09:41

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 34A-1-104 gives the Labor Commission authority to establish rules to administer the Workers' Compensation Act and the Occupational Disease Act. Subsection 34A-2-103(3) requires employee leasing companies to comply with Commission rules for purposes of obtaining workers' compensation coverage.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Commission has received no written comments supporting or opposing this rule in the last five years.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Utah law requires all Utah employers to have workers' compensation insurance. This rule establishes the method by which employee leasing companies notify the Commission of the employers covered by the leasing company's policy and should be continued.

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

LABOR COMMISSION
INDUSTRIAL ACCIDENTS
HEBER M WELLS BLDG
160 E 300 S
SALT LAKE CITY UT 84111-2316, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Joyce Sewell at the above address, by phone at 801-530-6988, by FAX at 801-530-6804, or by Internet E-mail at jsewell@utah.gov

AUTHORIZED BY: R Lee Ellertson, Commissioner

EFFECTIVE: 05/28/2003



Labor Commission, Industrial Accidents

R612-7

Impairment Ratings for Industrial Injuries and Diseases

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 26314
FILED: 05/28/2003, 09:15

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 34A-1-104 gives the Labor Commission authority to establish rules to administer the Workers' Compensation Act and the Occupational Disease 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: The Commission has not received any written comments supporting or opposing this rule in the last five years.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: In light of the Commission's continuing responsibility to administer Utah's workers' compensation system, it remains necessary for the Commission to address the method of rating impairments of injured workers so this rule should be continued.

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

LABOR COMMISSION
INDUSTRIAL ACCIDENTS
HEBER M WELLS BLDG
160 E 300 S
SALT LAKE CITY UT 84111-2316, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Joyce Sewell at the above address, by phone at 801-530-6988, by FAX at 801-530-6804, or by Internet E-mail at jsewell@utah.gov

AUTHORIZED BY: R Lee Ellertson, Commissioner

EFFECTIVE: 05/28/2003



Labor Commission, Safety

R616-1

Coal Mine Rules

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 26312
FILED: 05/28/2003, 09:00

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 34a-1-104 gives the Labor Commission authority to establish rules to administer and enforce all laws for the protection of the life, health, and safety of employees.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: During the last five years, the Commission has received no written comments supporting or opposing this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: In light of the Commission's continuing responsibility to ensure the protection of life, health, and safety of employees, it remains necessary for the Commission to address issues relating to the safety of employees in coal mine operations so this rule should be continued.

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

LABOR COMMISSION
SAFETY
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:

Sara Danielson or Larry Patrick at the above address, by phone at 801-530-6953 or 801-530-6872, by FAX at 801-530-6390 or 801-530-6390, or by Internet E-mail at sdanielson@utah.gov or lpatrik@utah.gov

AUTHORIZED BY: R Lee Ellertson, Commissioner

EFFECTIVE: 05/28/2003



Public Safety, Peace Officer Standards
and Training
R728-505

Service Dog Program Rules

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 26337
FILED: 06/02/2003, 15:58

**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: Subsection 53-6-105(k) authorizes the Director to make rules to effect the purposes of Peace Officer Standards and Training (POST) training which include implementing in-service training programs.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

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 for orderly administration of the POST In-Service Bureau Police Service Dog Training Program. Continuation of this rule is necessary because it assists the POST In-Service Bureau administer K-9 training.

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: 06/02/2003



Workforce Services, Workforce
Information and Payment Services
R994-201
Definition of Terms in Employment
Security Act

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 26306
FILED: 05/23/2003, 14:13

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 35A-1-104 authorizes the Department to make rules to carry out its responsibilities. This rule provides definitions necessary for understanding other 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: The Department has received no comments during the last five-year period.

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 necessary to define terms used in other rules authorized by law and should be continued. The Department is currently re-writing all of the rules in Title R994 and will be submitting a new rule to replace this one within the next year.

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

WORKFORCE SERVICES
WORKFORCE INFORMATION AND
PAYMENT SERVICES
140 E 300 S
SALT LAKE CITY UT 84111-2333, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Suzan Pixton at the above address, by phone at 801-526-9645, by FAX at 801-526-9211, or by Internet E-mail at spixton@utah.gov

AUTHORIZED BY: Raylene G. Ireland, Executive Director

EFFECTIVE: 05/23/2003



Workforce Services, Workforce
Information and Payment Services
R994-202
Employing Units

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 26309
FILED: 05/23/2003, 15:20

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 35A-1-104 authorizes the Department to make rules to carry out its responsibilities. The Department administers the Employment Security Act (Section 35A-4-101 et seq.). It is necessary to define employing units by rule to determine which employers and employees are subject to 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: The Department has received no comments received during the last five-year period.

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 necessary to define which employing units are subject to the Act and should be continued. The Department is currently re-writing all of the rules in Title R994 and will be submitting a new rule to replace this one within the next year.

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

WORKFORCE SERVICES
WORKFORCE INFORMATION AND
PAYMENT SERVICES
140 E 300 S
SALT LAKE CITY UT 84111-2333, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Suzan Pixton at the above address, by phone at 801-526-9645, by FAX at 801-526-9211, or by Internet E-mail at spixton@utah.gov

AUTHORIZED BY: Raylene G. Ireland, Executive Director

EFFECTIVE: 05/23/2003



Workforce Services, Workforce
Information and Payment Services
R994-208
Definition of Wages

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 26307
FILED: 05/23/2003, 14:28

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 35A-1-104 authorizes the Department to make rules to carry out its responsibilities. The Employment Security Act (Section 35A-4-101 et seq.) requires the Department to collect unemployment taxes on wages and pay claims based on an employee's earnings. This rule is necessary to define what wages are for those purpose.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Department has received no comments during the last five-year period.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is necessary to define what wages are subject to the Act for both taxation and compensation purposes and should be continued. The Department is currently re-writing all of the rules in Title R994 and will be submitting a new rule to replace this one within the next year.

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

WORKFORCE SERVICES
WORKFORCE INFORMATION AND
PAYMENT SERVICES
140 E 300 S
SALT LAKE CITY UT 84111-2333, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Suzan Pixton at the above address, by phone at 801-526-9645, by FAX at 801-526-9211, or by Internet E-mail at spixton@utah.gov

AUTHORIZED BY: Raylene G. Ireland, Executive Director

EFFECTIVE: 05/23/2003



**Workforce Services, Workforce
Information and Payment Services
R994-600
Dislocated Workers**

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 26308
FILED: 05/23/2003, 15:16

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 35A-1-104 authorizes the Department to make rules to carry out its responsibilities. The Department is responsible for administering the Dislocated Worker provisions of State and Federal law. This rule establishes the guidelines for that and other programs.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Department has received no comments received during the last five-year period.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is necessary to administer State and Federal programs for Dislocated Workers and should be continued. This rule is outdated as it refers to the Job Training Partnership Act (JTPA) which has been replaced with the Workforce Investment Act (WIA). The Department is currently re-writing all of the rules in Title R994 and will be submitting a new rule to replace this one within the next year.

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

WORKFORCE SERVICES
WORKFORCE INFORMATION AND
PAYMENT SERVICES
140 E 300 S
SALT LAKE CITY UT 84111-2333, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Suzan Pixton at the above address, by phone at 801-526-9645, by FAX at 801-526-9211, or by Internet E-mail at spixton@utah.gov

AUTHORIZED BY: Raylene G. Ireland, Executive Director

EFFECTIVE: 05/23/2003



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. 26115 (NEW): R23-14. Management of Roofs on State Buildings.

Published: April 15, 2003

Effective: May 16, 2003

Purchasing and General Services

No. 26136 (AMD): R33-2-102. Authority to Make Small Purchases.

Published: April 15, 2003

Effective: May 27, 2003

No. 26138 (AMD): R33-3. Source Selection and Contract Formation.

Published: April 15, 2003

Effective: May 27, 2003

No. 26139 (AMD): R33-5. Construction and Architect - Engineer Selection.

Published: April 15, 2003

Effective: May 27, 2003

Commerce

Occupational and Professional Licensing

No. 26126 (AMD): R156-47b-202. Massage Therapy Education Peer Committee.

Published: April 15, 2003

Effective: May 19, 2003

No. 26116 (REP): R156-59. Professional Employer Organization Act Rules.

Published: April 15, 2003

Effective: May 19, 2003

Real Estate

No. 26118 (AMD): R162-9. Continuing Education.

Published: April 15, 2003

Effective: May 21, 2003

Human Services

Aging and Adult Services

No. 26052 (AMD): R510-100. Funding Formulas.

Published: March 15, 2003

Effective: May 21, 2003

Services for People with Disabilities

No. 26062 (AMD): R539-3-2. The Individual Plan.

Published: March 15, 2003

Effective: May 20, 2003

Insurance

Administration

No. 26133 (AMD): R590-215. Permissible Arbitration Provisions for Individual and Group Health Insurance.

Published: April 15, 2003

Effective: May 20, 2003

Natural Resources

Parks and Recreation

No. 26127 (AMD): R651-301. State Recreation Fiscal Assistance Programs.

Published: April 15, 2003

Effective: May 19, 2003

No. 26128 (AMD): R651-410. Off-Highway Vehicle Safety Equipment.

Published: April 15, 2003

Effective: May 19, 2003

Pardons (Board Of)

Administration

No. 26120 (AMD): R671-201. Original Parole Grant Hearing Schedule and Notice.

Published: April 15, 2003

Effective: May 16, 2003

Regents (Board Of)

No. 26034 (NEW): R765-136. Language Proficiency in the Utah System of Higher Education (USHE).

Published: March 1, 2003

Effective: May 29, 2003

No. 25906 (NEW): R765-254. Secure Area Hearing Rooms.

Published: February 1, 2003

Effective: May 29, 2003

No. 26085 (AMD): R765-685. Utah Educational Savings Plan Trust.

Published: April 1, 2003

Effective: May 20, 2003

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, 2003, including notices of effective date received through June 2, 2003, the effective dates of which are no later than June 15, 2003. 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: 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).

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/>).

RULES INDEX - BY AGENCY (CODE NUMBER)

ABBREVIATIONS

AMD = Amendment	NSC = Nonsubstantive rule change
CPR = Change in proposed rule	REP = Repeal
EMR = Emergency rule (120 day)	R&R = Repeal and reenact
NEW = New rule	* = Text too long to print in <i>Bulletin</i> , or repealed text not printed in <i>Bulletin</i>
5YR = Five-Year Review	
EXD = Expired	

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
Administrative Services					
<u>Facilities Construction and Management</u>					
R23-3	Authorization of Programs for Capital Development Projects	25639	R&R	01/02/2003	2002-23/3
R23-3	Planning and Programming for Capital Projects	25989	AMD	03/24/2003	2003-4/4
R23-4	Contract Performance Review Committee and Suspension/Debarment From Consideration for Award of State Contracts	25964	5YR	01/15/2003	2003-3/62
R23-4	Contract Performance Review Committee and Suspension/Debarment From Consideration for Award of State Contracts	25783	AMD	02/04/2003	2003-1/3
R23-5	Contingency Funds	25955	5YR	01/15/2003	2003-3/62
R23-6	Value Engineering and Life Cycle Costing of State-Owned Facilities Rules and Regulations	25956	5YR	01/15/2003	2003-3/63
R23-7	Utah State Building Board Policy Statement Master Planning (5YR EXTENSION)	25984	NSC	02/04/2003	Not Printed

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R23-7	Utah State Building Board Policy Statement	25770	REP	02/04/2003	2003-1/5
R23-8	Master Planning Planning Fund Use	25640	REP	01/02/2003	2002-23/5
R23-9	Building Board State/Local Cooperation Policy	25957	5YR	01/15/2003	2003-3/63
R23-9	Building Board State/Local Cooperation Policy	25988	R&R	03/24/2003	2003-4/5
R23-10	Naming of State Buildings	25962	5YR	01/15/2003	2003-3/64
R23-10	Naming of State Buildings	25784	AMD	02/04/2003	2003-1/5
R23-11	Facilities Allocation and Sale Procedures	25771	REP	02/04/2003	2003-1/7
R23-11	Facilities Allocation and Sales Procedures (5YR EXTENSION)	25986	NSC	02/04/2003	Not Printed
R23-13	State of Utah Parking Rules for Facilities Managed by the Division of Facilities Construction and Management	26117	5YR	03/25/2003	2003-8/43
R23-14	Management of Roofs on State Buildings	26115	NEW	05/16/2003	2003-8/5
R23-21	Division of Facilities Construction and Management Lease Procedures	25959	5YR	01/15/2003	2003-3/64
R23-24	Capital Projects Utilizing Non-appropriated Funds	25960	5YR	01/15/2003	2003-3/65
<u>Finance</u>					
R25-6	Relocation Reimbursement	26206	5YR	05/01/2003	2003-10/150
R25-7	Travel-Related Reimbursements for State Employees	26203	5YR	05/01/2003	2003-10/150
<u>Fleet Operations</u>					
R27-3	Vehicle Use Standards	25879	AMD	05/15/2003	2003-2/5
<u>Purchasing and General Services</u>					
R33-2-102	Authority to Make Small Purchases	26136	AMD	05/27/2003	2003-8/6
R33-3	Source Selection and Contract Formation	26138	AMD	05/27/2003	2003-8/7
R33-5	Construction and Architect - Engineer Selection	26139	AMD	05/27/2003	2003-8/14
Alcoholic Beverage Control					
<u>Administration</u>					
R81-1-17	Advertising	25886	AMD	02/26/2003	2003-2/5
R81-5-5	Advertising	25887	AMD	02/26/2003	2003-2/8
R81-7-3	Guidelines for Issuing Permits for Outdoor or Large-Scale Public Events	25650	AMD	01/24/2003	2002-24/6
Commerce					
<u>Administration</u>					
R151-14	New Automobile Franchise Act Rules	25624	AMD	01/02/2003	2002-23/6
R151-33	Pete Suazo Utah Athletic Commission Act Rule	25649	AMD	01/15/2003	2002-24/7
R151-35	Powersport Vehicle Franchise Act Rule	25724	NEW	01/15/2003	2002-24/9
R151-46b	Department of Commerce Administrative Procedures Act Rules	25822	AMD	02/18/2003	2003-1/8
<u>Corporations and Commercial Code</u>					
R154-2	Utah Uniform Commercial Code, Revised Article 9 Rules	25549	AMD	03/14/2003	2002-22/7
R154-10	Utah Digital Signatures Rules	25553	AMD	03/14/2003	2002-22/9
<u>Occupational and Professional Licensing</u>					
R156-22	Professional Engineers and Professional Land Surveyors Licensing Act Rules	25922	5YR	01/13/2003	2003-3/65
R156-22	Professional Engineers and Professional Land Surveyors Licensing Act Rules	25763	AMD	04/03/2003	2003-1/10
R156-22	Professional Engineers and Professional Land Surveyors Licensing Act Rules	25763	CPR	04/03/2003	2003-5/27

RULES INDEX

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R156-31b	Nurse Practice Act Rules	26319	5YR	06/02/2003	2003-12/71
R156-46a	Hearing Instrument Specialist Licensing Act Rules	25987	AMD	03/18/2003	2003-4/7
R156-47b-202	Massage Therapy Education Peer Committee	26126	AMD	05/19/2003	2003-8/15
R156-47b-302a	Qualifications for Licensure as a Massage Therapist - Massage School Curriculum Standards - Equivalent Education and Training	25651	AMD	01/16/2003	2002-24/10
R156-53	Landscape Architects Licensing Act Rules	26320	5YR	06/02/2003	2003-12/71
R156-59	Professional Employer Organization Act Rules	25920	5YR	01/09/2003	2003-3/66
R156-59	Professional Employer Organization Act Rules	26116	REP	05/19/2003	2003-8/16
R156-60a	Social Worker Licensing Act Rules	25629	AMD	01/02/2003	2002-23/8
R156-68	Utah Osteopathic Medical Practice Act Rules	26321	5YR	06/02/2003	2003-12/72
<u>Real Estate</u>					
R162-8-9	Disclosure Requirements	25663	AMD	01/16/2003	2002-24/11
R162-9	Continuing Education	26118	AMD	05/21/2003	2003-8/18
R162-105	Scope of Authority	26024	AMD	04/23/2003	2003-5/4
R162-106	Professional Conduct	26060	AMD	04/23/2003	2003-6/3
R162-107	Unprofessional Conduct	25981	5YR	01/21/2003	2003-4/52
Community and Economic Development					
<u>Community Development, History</u>					
R212-1	Adjudicative Proceedings	25630	AMD	01/06/2003	2002-23/10
R212-1	Adjudicative Proceedings	25570	AMD	01/06/2003	2002-22/10
R212-4	Archaeological Permits	25787	AMD	03/11/2003	2003-1/13
Corrections					
<u>Administration</u>					
R251-110	Sex Offender Notification	25991	AMD	03/21/2003	2003-4/9
R251-304	Contract Procedures	25885	AMD	02/19/2003	2003-2/9
R251-304	Contract Procedures	26053	5YR	02/21/2003	2003-6/17
Education					
<u>Administration</u>					
R277-469	Instructional Materials Commission Operating Procedures	26157	5YR	04/04/2003	2003-9/135
R277-470	Charter Schools	25726	AMD	01/15/2003	2002-24/12
R277-483	Persistently Dangerous Schools	25965	NEW	03/07/2003	2003-3/5
R277-485	Loss of Enrollment	25966	NEW	03/07/2003	2003-3/7
R277-508	Employment of Substitute Teachers	26188	5YR	04/25/2003	2003-10/151
R277-508	Employment of Substitute Teachers (5YR EXTENSION)	26073	NSC	04/25/2003	Not Printed
R277-516	Library Media Certificates and Programs	25925	5YR	01/14/2003	2003-3/67
R277-518	Vocational-Technical Certificates	25926	5YR	01/14/2003	2003-3/67
R277-600	Student Transportation Standards and Procedures	25928	5YR	01/14/2003	2003-3/68
R277-605	Coaching Standards and Athletic Clinics	25931	5YR	01/14/2003	2003-3/68
R277-610	Released-Time Classes for Religious Instruction	25932	5YR	01/14/2003	2003-3/68
R277-611	Medical Recommendations by School Personnel to Parents	25647	NEW	01/03/2003	2002-23/12
R277-615	Foreign Exchange Students	25933	5YR	01/14/2003	2003-3/69

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R277-700	The Elementary and Secondary School Core Curriculum	25935	5YR	01/14/2003	2003-3/69
R277-702	Procedures for the Utah General Educational Development Certificate	25936	5YR	01/14/2003	2003-3/70
R277-705	Secondary School Completion and Diplomas	25648	AMD	01/03/2003	2002-23/13
R277-709	Education Programs Serving Youth in Custody	25937	5YR	01/14/2003	2003-3/70
R277-717	Math, Engineering, Science Achievement (MESA)	26087	AMD	05/02/2003	2003-7/6
R277-718	Utah Career Teaching Scholarship Program	25938	5YR	01/14/2003	2003-3/71
R277-721	Deadline for CACFP Sponsor Participation in Food Distribution Program	25929	5YR	01/14/2003	2003-3/71
R277-722	Withholding Payments and Commodities in the CACFP	25930	5YR	01/14/2003	2003-3/72
R277-730	Alternative High School Curriculum	25939	5YR	01/14/2003	2003-3/72
R277-746	Driver Education Programs for Utah Schools	26089	5YR	03/12/2003	2003-7/73
R277-747	Private School Student Driver Education	26090	5YR	03/12/2003	2003-7/73
R277-751	Special Education Extended School Year	26091	5YR	03/12/2003	2003-7/74
<u>Applied Technology Education (Board for), Rehabilitation</u>					
R280-200	Rehabilitation	26088	5YR	03/12/2003	2003-7/74
R280-203	Certification Requirements for Interpreters for the Hearing Impaired	25646	AMD	01/03/2003	2002-23/16
Environmental Quality					
<u>Air Quality</u>					
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.	25495	AMD	01/09/2003	2002-21/6
R307-840	Lead-Based Paint Accreditation, Certification and Work Practice Standards	26249	5YR	05/05/2003	2003-11/96
<u>Drinking Water</u>					
R309-710	Drinking Water Source Protection Funding	25863	REP	03/05/2003	2003-2/10
<u>Environmental Response and Remediation</u>					
R311-207	Accessing the Petroleum Storage Tank Trust Fund for Leaking Petroleum Storage Tanks	25161	CPR	02/04/2003	2003-1/46
<u>Radiation Control</u>					
R313-12-3	Definitions	25785	AMD	03/14/2003	2003-1/22
R313-15	Standards for Protection Against Radiation	25943	5YR	01/14/2003	2003-3/73
R313-19-100	Transportation	26074	AMD	05/09/2003	2003-7/9
R313-25	License Requirements for Land Disposal of Radioactive Waste - General Provisions	26086	AMD	05/09/2003	2003-7/10
R313-28	Use of X-Rays in the Healing Arts	25786	AMD	03/14/2003	2003-1/27
<u>Solid and Hazardous Waste</u>					
R315-15	Standards for the Management of Used Oil	26064	5YR	03/03/2003	2003-7/75
R315-301	Solid Waste Authority, Definitions, and General Requirements	26092	5YR	03/14/2003	2003-7/75
R315-302	Solid Waste Facility Location Standards, General Facility Requirements, and Closure Requirements	26093	5YR	03/14/2003	2003-7/76
R315-303	Landfilling Standards	26094	5YR	03/14/2003	2003-7/77
R315-305	Class IV and VI Landfill Requirements	26095	5YR	03/14/2003	2003-7/78
R315-306	Energy Recovery and Incinerator Standards	26096	5YR	03/14/2003	2003-7/79
R315-307	Landtreatment Disposal Standards	26097	5YR	03/14/2003	2003-7/79

RULES INDEX

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R315-308	Ground Water Monitoring Requirements	26098	5YR	03/14/2003	2003-7/80
R315-309	Financial Assurance	26100	5YR	03/14/2003	2003-7/81
R315-310	Permit Requirements for Solid Waste Facilities	26099	5YR	03/14/2003	2003-7/82
R315-311	Permit Approval for Solid Waste Disposal, Waste Tire Storage, Energy Recovery, And Incinerator Facilities	26101	5YR	03/14/2003	2003-7/82
R315-312	Recycling and Composting Facility Standards	26102	5YR	03/14/2003	2003-7/83
R315-313	Transfer Stations and Drop Box Facilities	26103	5YR	03/14/2003	2003-7/84
R315-314	Facility Standards for Piles Used for Storage and Treatment	26104	5YR	03/14/2003	2003-7/84
R315-315	Special Waste Requirements	26105	5YR	03/14/2003	2003-7/85
R315-316	Infectious Waste Requirements	26106	5YR	03/14/2003	2003-7/86
R315-317	Other Processes, Variances, and Violations	26107	5YR	03/14/2003	2003-7/87
R315-318	Permit by Rule	26108	5YR	03/14/2003	2003-7/87
<u>Water Quality</u>					
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ABBREVIATIONS

AMD = Amendment	NSC = Nonsubstantive rule change
CPR = Change in proposed rule	REP = Repeal
EMR = Emergency rule (120 day)	R&R = Repeal and reenact
NEW = New rule	* = Text too long to print in <i>Bulletin</i> , or repealed text not printed in <i>Bulletin</i>
5YR = Five-Year Review	
EXD = Expired	

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