

UTAH STATE BULLETIN

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

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

Inquiries concerning administrative rules or other contents of the *Bulletin* may be addressed to the responsible agency or to: Division of Administrative Rules, 4120 State Office Building, Salt Lake City, Utah 84114, 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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Division of Administrative Rules, Salt Lake City 84114

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EDITOR'S NOTES

PUBLICATION ERROR IN SECTION R884-24P-24 (DAR NO. 26574) IN THE SEPTEMBER 1, 2003, ISSUE OF THE UTAH STATE BULLETIN

A clerical error in the publication of Section R884-24P-24 (DAR No. 26574) left the word "none" at the beginning of the cost impact statement for the state budget in the September 1, 2003, issue of the *Utah State Bulletin* on page 71. The word "none" should have been removed. The Division regrets any inconvenience this may have caused..

If you have any questions regarding this correction, please contact Nancy Lancaster, Publications Editor, Division of Administrative Rules, PO Box 141007, Salt Lake City, UT 84114-1007, phone: (801) 538-3218, FAX: (801) 538-1773, or Internet E-mail: nllancaster@utah.gov.

End of the Editor's Notes Section

SPECIAL NOTICES

GOVERNOR'S PROCLAMATION: CALLING THE FIFTY-FIFTH LEGISLATURE INTO A FIFTH EXTRAORDINARY SESSION (SENATE ONLY)

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 Fifth Extraordinary Session at the State Capitol in Salt Lake City, Utah, on the 17th day of September, 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 2nd day of September, 2003.

(STATE SEAL)

MICHAEL O. LEAVITT
Governor

OLENE S. WALKER
Lieutenant Governor

End of the Special Notices Section

NOTICES OF PROPOSED RULES

A state agency may file a PROPOSED RULE when it determines the need for a new rule, a substantive change to an existing rule, or a repeal of an existing rule. Filings received between August 16, 2003, 12:00 a.m., and September 2, 2003, 11:59 p.m. are included in this, the September 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 October 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 January 13, 2004, the agency may notify the Division of Administrative Rules that it wants to make the PROPOSED RULE effective. The agency sets the effective date. The date may be no fewer than 31 days nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file a CHANGE IN PROPOSED RULE in response to comments received. If the Division of Administrative Rules does not receive a NOTICE OF EFFECTIVE DATE or a CHANGE IN PROPOSED RULE, the PROPOSED RULE filing lapses and the agency must start the process over.

The public, interest groups, and governmental agencies are invited to review and comment on PROPOSED RULES. *Comment may be directed to the contact person identified on the RULE ANALYSIS for each rule.*

PROPOSED RULES are governed by *Utah Code* Section 63-46a-4 (2001); and *Utah Administrative Code* Rule R15-2, and Sections R15-4-3, R15-4-4, R15-4-5, R15-4-9, and R15-4-10.

The Proposed Rules Begin on the Following Page.

Commerce, Occupational and
Professional Licensing
R156-54-302b
Examination Requirements - Radiology
Practical Technician

NOTICE OF PROPOSED RULE
(Amendment)

DAR FILE NO.: 26580
FILED: 08/26/2003, 10:08

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division and the Radiology Technology Licensing Board want to replace the current Utah Limited Scope Osteoporotic Exam with a nationally developed examination thus consolidating all radiology practical technician examinations under American Registry of Radiologic Technologists (ARRT) standards. The categorical content of the ARRT Bone Densitometry Equipment Operator Examination (BDEO) examination was reviewed and approved by a Board committee formed to assess the exam's appropriateness to replace the existing examination.

SUMMARY OF THE RULE OR CHANGE: Amendments are made to Section R156-54-302b to replace the Utah Limited Scope Osteoporotic Examination with the newly developed American Registry of Radiologic Technologists (ARRT) Bone Densitometry Equipment Operator Examination (BDEO).

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-54-1, 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 costs of approximately \$100 to reprint the rule and to update the application for licensure once these proposed amendments are made effective.

❖ LOCAL GOVERNMENTS: Proposed amendments do not apply to local governments. Therefore, there is no impact to local governments.

❖ OTHER PERSONS: Applicants who want to take the optional ARRT BDEO examination will incur a cost of an additional \$40 over the current cost of the Utah Limited Scope Osteoporotic Examination. The current Utah Limited Scope examination costs \$60 and the ARRT BDEO examination will cost \$100, thus resulting in the \$40 increase. The Division estimates that there may be only about 5 or 6 applicants a year to take the ARRT BDEO examination, which would result in an aggregate cost of \$240 per year. However, there may also be more applicants than those estimated since the bone density examination would now be a national examination and may be more accepted by other state licensing agencies.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Applicants who want to take the optional ARRT BDEO examination will incur a cost of an additional \$40 over the current cost of the Utah

Limited Scope Osteoporotic Examination. The current Utah Limited Scope examination costs \$60 and the ARRT BDEO examination will cost \$100, thus resulting in the \$40 increase.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This proposed rule replaces the Utah Limited Scope Osteoporotic Exam for the newly developed national Bone Densitometry Equipment Operator Exam (BDEO). The new examination could potentially result in a cost savings to licensees, but there may be a negative fiscal impact to the entity that currently administers the Utah Limited Scope Osteoporotic Examination. Because the examination has always been optional; however, it is difficult to know how many of the currently licensed radiology practical technicians might take the examination in the future. Therefore, the amount of the fiscal impact is difficult to estimate. Klare Bachman, 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:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 10/15/2003

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 10/10/2003 at 9:00 AM, 160 East 300 South - Conference Room 428 (4th floor) - Salt Lake City, Utah.

THIS RULE MAY BECOME EFFECTIVE ON: 10/16/2003

AUTHORIZED BY: J. Craig Jackson, Director

**R156. Commerce, Occupational and Professional Licensing.
R156-54. Radiology Technologist and Radiology Practical
Technician Licensing Act Rules.
R156-54-302b. Examination Requirements - Radiology
Practical Technician.**

In accordance with Subsection 58-54-5(3), the examination requirement for licensure as a radiology practical technician requires passing:

(1) the ARRT Limited Scope of Practice in Radiography Examination for the following:

- (a) core; and
- (b) one or more of the following sections:
 - (i) chest;
 - (ii) extremities;
 - (iii) skull/sinuses;

- (iv) spine; and
- (v) podiatric.

(2) In place of passing one or more of the sections required in Subparagraph (1)(b), an applicant for licensure may substitute passing the [~~Utah Limited Scope Osteoporotic Exam, covering bone densitometry, with a minimum score of 75%~~]ARRT Bone Densitometry Equipment Operators Examination (BDEO).

KEY: licensing, radiology technologists, radiology practical technicians

~~April 2, 2002~~2003

Notice of Continuation April 8, 2002

58-54-1

58-1-106(1)(a)

58-1-202(1)(a)



Commerce, Real Estate **R162-6-2** Standards of Practice

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 26581

FILED: 08/26/2003, 17:26

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Several of the forms that licensees use in real estate transactions have been superseded by new versions of the forms.

SUMMARY OF THE RULE OR CHANGE: The September 30, 1999, version of the Real Estate Purchase Contract, the January 1, 1999, version of the Addendum form, and the January 1, 1999, version of the FHA/VA Loan Addendum form have all been superseded by August 5, 2003, versions.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 61-2-20

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: None--Which version of the approved forms real estate agents are required to use has no impact on the State budget.
- ❖ LOCAL GOVERNMENTS: None--Which version of the approved forms real estate agents are required to use has no impact on local governments.
- ❖ OTHER PERSONS: None--Only real estate agents and brokers are required to use the approved real estate forms. Other persons may use any real estate contract they wish to use.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There may be a minimal cost to licensees if they are not able to use up their existing supply of the current version of the forms before use of the new versions becomes mandatory on January 1, 2004. However, fewer licensees use pre-printed forms instead of downloading them from the Division's web site as needed. That, plus the fact that there will be a period of time during

which the old forms may be used up, should help to minimize costs to licensees.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule filing amends the standards of practice by approving the most updated forms for use by real estate agents in real estate transactions. There appears to be no fiscal impact to businesses as a result of this amendment.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
Shelley Wismer at the above address, by phone at 801-530-6761, by FAX at 801-530-6749, or by Internet E-mail at swismer@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 10/15/2003.

THIS RULE MAY BECOME EFFECTIVE ON: 10/16/2003

AUTHORIZED BY: Klare Bachman, Executive Director

R162. Commerce, Real Estate.

R162-6. Licensee Conduct.

R162-6-2. Standards of Practice.

6.2.1. Approved Forms. The following standard forms are approved by the Utah Real Estate Commission and the Office of the Attorney General for use by all licensees:

- (a) [~~September 30, 1999, Real Estate Purchase Contract (mandated use of this form is July 1, 2000)~~]August 5, 2003, Real Estate Purchase Contract (use of this form shall be mandatory beginning January 1, 2004);
- (b) January 1, 1999 Real Estate Purchase Contract for Residential Construction;
- (c) January 1, 1987, Uniform Real Estate Contract;
- (d) October 1, 1983, All Inclusive Trust Deed;
- (e) October 1, 1983, All Inclusive Promissory Note Secured by All Inclusive Trust Deed;
- (f) [~~January 1, 1999, Addendum/Counteroffer to Real Estate Purchase Contract~~]August 5, 2003, Addendum to Real Estate Purchase Contract;
- (g) January 1, 1999, Seller Financing Addendum to Real Estate Purchase Contract;
- (h) January 1, 1999, Survey Addendum to Real Estate Purchase Contract;
- (i) January 1, 1999, Buyer Financial Information Sheet;
- (j) [~~January 1, 1999, FHA/VA Loan Addendum to Real Estate Purchase Contract~~]August 5, 2003, FHA/VA Loan Addendum to Real Estate Purchase Contract;

(k) January 1, 1999, Assumption Addendum to Real Estate Purchase Contract;

(l) January 1, 1999, Lead-based Paint Addendum to Real Estate Purchase Contract;

(m) January 1, 1999, Disclosure and Acknowledgment Regarding Lead-based Paint and/or Lead-based Paint Hazards.

6.2.1.1. Forms Required for Closing. Principal brokers and associate brokers may fill out forms in addition to the standard state-approved forms if the additional forms are necessary to close a transaction. Examples include closing statements, and warranty or quit claim deeds.

6.2.1.2. Forms Prepared by an Attorney. Any licensee may fill out forms prepared by the attorney for the buyer or lessee or the attorney for the seller or lessor to be used in place of any form listed in R162-6.2.1 (a) through (g) if the buyer or lessee or the seller or lessor requests that other forms be used and the licensee verifies that the forms have in fact been drafted by the attorney for the buyer or lessee, or the attorney for the seller or lessor.

6.2.1.3. Additional Forms. If it is necessary for a licensee to use a form for which there is no state-approved form, for example a lease, the licensee may fill in the blanks on any form which has been prepared by an attorney, regardless of whether the attorney was employed for the purpose by the buyer, seller, lessor, lessee, brokerage, or an entity whose business enterprise is selling blank legal forms.

6.2.1.4. Standard Supplementary Clauses. There are Standard Supplementary Clauses approved by the Utah Real Estate Commission which may be added to Real Estate Purchase Contracts by all licensees. The use of the Standard Supplementary Clauses will not be considered the unauthorized practice of law.

6.2.2. Copies of Agreement. After a purchase agreement is properly signed by both the buyer and seller, it is the responsibility of each participating licensee to cause copies thereof, bearing all signatures, to be delivered or mailed to the buyer and seller with whom the licensee is dealing. The licensee preparing the document shall not have the parties sign for a final copy of the document prior to all parties signing the contract evidencing agreement to the terms thereof. After a lease is properly signed by both landlord and tenant, it is the responsibility of the principal broker to cause copies of the lease to be delivered or mailed to the landlord or tenant with whom the brokerage or property management company is dealing.

6.2.3. Residential Construction Agreement. The Real Estate Purchase Contract for Residential Construction must be used for all transactions for the construction of dwellings to be built or presently under construction for which a Certificate of Occupancy has not been issued.

6.2.4. Real Estate Auctions. A principal broker who contracts or in any manner affiliates with an auctioneer or auction company which is not licensed under the provisions of Section 61-2-1 et seq. for the purpose of enabling that auctioneer or auction company to auction real property in this state, shall be responsible to assure that all aspects of the auction comply with the requirements of this section and all other laws otherwise applicable to real estate licensees in real estate transactions. Auctioneers and auction companies who are not licensed under the provisions of Section 61-2-1 et seq. may conduct auctions of real property located within this state upon the following conditions:

6.2.4.1. Advertising. All advertising and promotional materials associated with an auction must conspicuously disclose that the auction is conducted under the supervision of a named principal broker licensed in this state; and

6.2.4.2. Supervision. The auction must be conducted under the supervision of a principal broker licensed in this state who must be present at the auction; and

6.2.4.3. Use of Approved Forms. Any purchase agreements used at the auction must meet the requirements of Section 61-2-20 and must be filled out by a Utah real estate licensee; and

6.2.4.4. Placement of Deposits. All monies deposited at the auction must be placed either in the real estate trust account of the principal broker who is supervising the auction or in an escrow depository agreed to in writing by the parties to the transaction.

6.2.4.5. Closing Arrangements. The principal broker supervising the auction shall be responsible to assure that adequate arrangements are made for the closing of each real estate transaction arising out of the auction.

6.2.5. Guaranteed Sales. As used herein, the term "guaranteed sales plan" includes: (a) any plan in which a seller's real estate is guaranteed to be sold or; (b) any plan whereby a licensee or anyone affiliated with a licensee will purchase a seller's real estate if it is not purchased by a third party in the specified period of a listing or within some other specified period of time.

6.2.5.1. In any real estate transaction involving a guaranteed sales plan, the licensee shall provide full disclosure as provided herein regarding the guarantee:

(a) Written Advertising. Any written advertisement by a licensee of a "guaranteed sales plan" shall include a statement advising the seller that if the seller is eligible, costs and conditions may apply and advising the seller to inquire of the licensee as to the terms of the guaranteed sales agreement. This information shall be set forth in print at least one-fourth as large as the largest print in the advertisement.

(b) Radio/Television Advertising. Any radio or television advertisement by a licensee of a "guaranteed sales plan" shall include a conspicuous statement advising if any conditions and limitations apply.

(c) Guaranteed Sales Agreements. Every guaranteed sales agreement must be in writing and contain all of the conditions and other terms under which the property is guaranteed to be sold or purchased, including the charges or other costs for the service or plan, the price for which the property will be sold or purchased and the approximate net proceeds the seller may reasonably expect to receive.

6.2.6. Agency Disclosure. In every real estate transaction involving a licensee, as agent or principal, the licensee shall clearly disclose in writing to his respective client(s) or any unrepresented parties, his agency relationship(s). The disclosure shall be made prior to the parties entering into a binding agreement with each other. The disclosure shall become part of the permanent file.

6.2.6.1. When a binding agreement is signed in a sales transaction, the prior agency disclosure shall be confirmed in the currently approved Real Estate Purchase Contract or, with substantially similar language, in a separate provision incorporated in or attached to that binding agreement.

6.2.6.2. When a lease or rental agreement is signed, a separate provision shall be incorporated in or attached to it confirming the prior agency disclosure. The agency disclosure shall be in the form stated in R162-6.2.6.1, but shall substitute terms applicable for a rental transaction for the terms "buyer", "seller", "listing agent", and "selling agent".

6.2.6.3. Disclosure to other agents. An agent who has established an agency relationship with a principal shall disclose who he or she represents to another agent upon initial contact with the other agent.

6.2.7. Duty to Inform. Sales agents and associate brokers must keep their principal broker or branch broker informed on a timely basis of all real estate transactions in which the licensee is involved, as agent or principal, in which the licensee has received funds on behalf of the principal broker or in which an offer has been written.

6.2.8. Broker Supervision. Principal brokers and associate brokers who are branch brokers shall be responsible for exercising active supervision over the conduct of all licensees affiliated with them.

6.2.8.1. A broker will not be held responsible for inadequate supervision if:

(a) An affiliated licensee violates a provision of Section 61-2-1, et seq., or the rules promulgated thereunder, in contravention of the supervising broker's specific written policies or instructions; and

(b) Reasonable procedures were established by the broker to ensure that licensees receive adequate supervision and the broker has followed those procedures; and

(c) Upon learning of the violation, the broker attempted to prevent or mitigate the damage; and

(d) The broker did not participate in the violation; and

(e) The broker did not ratify the violation; and

(f) The broker did not attempt to avoid learning of the violation.

6.2.8.2. The existence of an independent contractor relationship or any other special compensation arrangement between the broker and affiliated licensees shall not release the broker and licensees of any duties, obligations, or responsibilities.

6.2.9. Disclosure of Fees. If a real estate licensee who is acting as an agent in a transaction will receive any type of fee in connection with a real estate transaction in addition to a real estate commission, that fee must be disclosed in writing to all parties to the transaction.

6.2.10. Fees from Builders. All fees paid to a licensee for referral of prospects to builders must be paid to the licensee by the principal broker with whom he is licensed and affiliated. All fees must be disclosed as required by R162-6.2.10.

6.2.11. Fees from Manufactured Housing Dealers. If a licensee refers a prospect to a manufactured home dealer or a mobile home dealer, under terms as defined in Section 58-56-1, et seq., any fee paid for the referral of a prospect must be paid to him by the principal broker with whom he is licensed.

6.2.12. Gifts and Inducements. A gift given by a principal broker to a buyer or seller, lessor or lessee, in a real estate transaction as an inducement to use the services of a real estate brokerage, or in appreciation for having used the services of a brokerage, is permissible and is not an illegal sharing of commission. If an inducement is to be offered to a buyer or seller, lessor or lessee, who will not be obligated to pay a real estate commission in a transaction, the principal broker must notify the party who will pay the commission that the inducement will be offered. This rule does not authorize a principal broker to give any type of inducement that would violate the underwriting guidelines that apply to the loan for which a borrower has applied.

6.2.13. "Due-On-Sale" Clauses. Real estate licensees have an affirmative duty to disclose in writing to buyers and sellers the existence or possible existence of a "due-on-sale" clause in an underlying encumbrance on real property, and the potential consequences of selling or purchasing a property without obtaining the authorization of the holder of the underlying encumbrance.

6.2.14. Personal Assistants. With the permission of the principal broker with whom the licensee is affiliated, the licensee may employ an unlicensed individual to provide services in connection with real estate transactions which do not require a real estate license, including the following examples:

(a) Clerical duties, including making appointments for prospects to meet with real estate licensees, but only if the contact has been initiated by the prospect and not by the unlicensed person;

(b) At an open house, distributing preprinted literature written by a licensee, so long as a licensee is present and the unlicensed person furnishes no additional information concerning the property or financing and does not become involved in negotiating, offering, selling or filling in contracts;

(c) Acting only as a courier service in delivering documents, picking up keys, or similar services, so long as the courier does not engage in any discussion of, or filling in of, the documents;

(d) Placing brokerage signs on listed properties;

(e) Having keys made for listed properties; and

(f) Securing public records from the County Recorders' Offices, zoning offices, sewer districts, water districts, or similar entities.

6.2.14.1. If personal assistants are compensated for their work, they shall be compensated at a predetermined rate which is not contingent upon the occurrence of real estate transactions. Licensees may not share commissions with unlicensed persons who have assisted in transactions by performing the services listed in this rule.

6.2.14.2. The licensee who hires the unlicensed person will be responsible for supervising the unlicensed person's activities, and shall ensure that the unlicensed person does not perform activity which requires a real estate license.

6.2.14.3. Unlicensed individuals may not engage in telephone solicitation or other activity calculated to result in securing prospects for real estate transactions, except as provided in R162-6.2.15.(a) above.

6.2.15. Fiduciary Duties. A principal broker and licensees acting on his behalf owe the following fiduciary duties to the principal:

6.2.15.1. Duties of a seller's or lessor's agent. A principal broker and licensees acting on his behalf who act solely on behalf of the seller or the lessor owe the seller or the lessor the following fiduciary duties:

(a) Loyalty, which obligates the agent to act in the best interest of the seller or the lessor instead of all other interests, including the agent's own;

(b) Obedience, which obligates the agent to obey all lawful instructions from the seller or lessor;

(c) Full disclosure, which obligates the agent to tell the seller or lessor all material information which the agent learns about the buyer or lessee or about the transaction;

(d) Confidentiality, which prohibits the agent from disclosing any information given to the agent by the seller or lessor which would likely weaken the seller's or lessor's bargaining position if it were known, unless the agent has permission from the seller or lessor to disclose the information. This duty does not require the agent to withhold any known material fact concerning a defect in the property or the seller's or lessor's ability to perform his obligations;

(e) Reasonable care and diligence;

(f) Holding safe and accounting for all money or property entrusted to the agent; and

(g) Any additional duties created by the agency agreement.

6.2.15.2. Duties of a buyer's or lessee's agent. A principal broker and licensees acting on his behalf who act solely on behalf of the buyer or lessee owe the buyer or lessee the following fiduciary duties:

(a) Loyalty, which obligates the agent to act in the best interest of the buyer or lessee instead of all other interests, including the agent's own;

(b) Obedience, which obligates the agent to obey all lawful instructions from the buyer or lessee;

(c) Full Disclosure, which obligates the agent to tell the buyer or lessee all material information which the agent learns about the property or the seller's or lessor's ability to perform his obligations;

(d) Confidentiality, which prohibits the agent from disclosing any information given to the agent by the buyer or lessee which would likely weaken the buyer's or lessee's bargaining position if it were known, unless the agent has permission from the buyer or lessee to disclose the information. This duty does not permit the agent to misrepresent, either affirmatively or by omission, the buyer's or lessee's financial condition or ability to perform;

(e) Reasonable care and diligence;

(f) Holding safe and accounting for all money or property entrusted to the agent; and

(g) Any additional duties created by the agency agreement.

6.2.15.3. Duties of a limited agent. A principal broker and licensees acting on his behalf who act as agent for both seller and buyer, or lessor and lessee, commonly referred to as "dual agents," are limited agents since the fiduciary duties owed to seller and to buyer, or to lessor and lessee, are inherently contradictory. A principal broker and licensees acting on his behalf may act in this limited agency capacity only if the informed consent of both buyer and seller, or lessor and lessee, is obtained.

6.2.15.3.1. In order to obtain informed consent, the principal broker or a licensee acting on his behalf shall clearly explain to both buyer and seller, or lessor and lessee, that they are each entitled to be represented by their own agent if they so choose, and shall obtain written agreement from both parties that they will each be giving up performance by the agent of the following fiduciary duties:

(a) The principal broker or a licensee acting on his behalf shall explain to buyer and seller, or lessor and lessee, that they are giving up their right to demand undivided loyalty from the agent, although the agent, acting in this neutral capacity, shall advance the interest of each party so long as it does not conflict with the interest of the other party. In the event of conflicting interests, the agent will be held to the standard of neutrality; and

(b) The principal broker or a licensee acting on his behalf shall explain to buyer and seller, or lessor and lessee, that there will be a conflict as to a limited agent's duties of confidentiality and full disclosure, and shall explain what kinds of information will be held confidential if told to a limited agent by either buyer or seller, or lessor and lessee, and what kinds of information will be disclosed if told to the limited agent by either party. The limited agent may not disclose any information given to the agent by either principal which would likely weaken that party's bargaining position if it were known, unless the agent has permission from the principal to disclose the information; and

(c) The principal broker or a licensee acting on his behalf shall explain to the buyer and seller, or lessor and lessee, that the limited agent will be required to disclose information given to the agent in confidence by one of the parties if failure to disclose the information would be a material misrepresentation regarding the property or regarding the abilities of the parties to fulfill their obligations.

(d) The Division and the Commission shall consider use of consent language approved by the Division and the Commission to be informed consent.

6.2.15.3.2. In addition, a limited agent owes the following fiduciary duties to all parties:

(a) Obedience, which obligates the limited agent to obey all lawful instructions from either the buyer or the seller, lessor and lessee, consistent with the agent's duty of neutrality;

(b) Reasonable care and diligence;

(c) Holding safe all money or property entrusted to the limited agent; and

(d) Any additional duties created by the agency agreement.

6.2.15.4. Duties of a sub-agent. A principal broker and licensees acting on his behalf who act as sub-agents owe the same fiduciary duty to a principal as the brokerage retained by the principal.

KEY: real estate business

[~~August 21, 2002~~2003

Notice of Continuation June 7, 2002

61-2-5.5



Commerce, Real Estate **R162-104** Experience Requirement

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 26595

FILED: 09/02/2003, 09:14

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Utah Appraiser Licensing and Certification Board has decided to liberalize the rules on gaining experience for licensure and certification in the hope that barriers to entry into the appraisal profession will be reduced.

SUMMARY OF THE RULE OR CHANGE: The minimum number of months for accrual of experience for licensure and certification are reduced. It will now be possible to become licensed in 12 months and to become a certified residential appraiser a year after licensure, or a certified general appraiser 18 months after licensure.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 61-2b-6(1)(1)

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** None--The rules that govern how appraisers become licensed and certified do not affect State Government.

❖ **LOCAL GOVERNMENTS:** To the extent that County Assessors hire unlicensed or uncertified persons and train them to become licensed or certified appraisers, this rule change would lessen the cost of training those individuals since a shorter training period would be required before licensure or certification.

❖ **OTHER PERSONS:** For the reason stated in relation to Local Government impacts, it would be less costly to train appraisers because a shorter training period would be required.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be no compliance costs. This rule should reduce the cost of training candidates for entry into the appraisal profession.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule amendment relaxes the licensing requirements for appraisers in order to be more consistent with national standards set by the Appraisal Qualifications Board of the Appraisal Foundation. The amendment will result in reduced costs to license applicants, and does not appear to create any negative fiscal impact to businesses or to the public.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 10/15/2003.

THIS RULE MAY BECOME EFFECTIVE ON: 10/16/2003

AUTHORIZED BY: Klare Bachman, Executive Director

R162. Commerce, Real Estate.

R162-104. Experience Requirement.

R162-104-1. Measuring Experience.

104.1.1 Except for those applicants who qualify under Section 104.17, appraisal experience shall be measured in points according to the Appraisal Experience Points Schedule in Section R162-104-18 of this rule and also in time accrued.

104.1.1.1 Experience for state-licensed applicants shall have been accrued in no fewer than ~~24~~12 months. Experience for the certified residential applicants shall have been accrued in no fewer than ~~30~~24 months ~~[from the date of registration]~~, as required by the AQB. ~~[and e]~~ Experience for the certified general applicants shall have been accrued in no fewer than ~~36~~30 months ~~[from the date of registration or licensure]~~, as required by the AQB.

104.1.1.2 Applicants for the state-licensed category shall submit proof of at least 400 points of experience. Applicants for certified residential shall submit proof of at least 100 additional points accrued after state-licensed status was obtained, for a total of 500 points of experience. ~~[and a]~~ Applicants for certified general shall submit proof of at least 200 additional points accrued after state-licensed status was obtained, for a total of 600 points of experience.

R162-104-2. Maximum Points Per Year.

104.2 ~~[All experience points cannot be earned in one 12-month period.]~~ For applicants for certification, a maximum of ~~[375]~~400 points will be credited for any one 12-month period. For applicants

for licensure, a maximum of ~~[300]~~400 points will be credited for any one 12-month period.

R162-104-5. Compliance with USPAP and Licensing Requirements, USPAP Limited Appraisals.

104.5 No experience credit will be given for appraisals which were performed in violation of Utah law or the law of another jurisdiction, or the administrative rules adopted by the Division and the Board.

104.5.1 No experience credit will be given for appraisals unless the appraisals were done in compliance with USPAP.

104.5.2 In order to qualify as [No] experience credit toward certification [will be given for appraisals if], the additional points for certification required by Section 104.1.1.2 must have been accrued while the applicant was [not registered or] licensed as an appraiser in Utah, or in another state if [registration or] licensure was required in that state, at the time the appraisal was performed.

104.5.3 For the purposes of this rule, limited appraisals are defined as opinions of value performed under, and resulting from, invoking the departure provision of USPAP, but do not include mass appraisals. Limited appraisals shall be granted 50% of the credit awarded an appraisal which is not a limited appraisal. Limited appraisals where only an exterior inspection of the subject property is performed shall be granted 25% of the credit awarded an appraisal which is not a limited appraisal. Not more than 25% of the total experience required for licensure or certification may be earned from limited appraisals.

KEY: real estate appraisal, experience^[2]

~~[June 1, 2000]~~2003

Notice of Continuation March 27, 2002

61-2b-1 through 61-2b-40

Education, Administration

R277-470

Charter Schools

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 26602

FILED: 09/02/2003, 17:22

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended to provide for timeline changes that allow more flexibility for charter school applicants, terminology changes, and changes to the source of funding language.

SUMMARY OF THE RULE OR CHANGE: The amendment includes changes in the timeline for charter school applicants, terminology, and funding.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53A-1a-513

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: There are no anticipated cost or savings to state budget. Funding is provided by a Legislative appropriation.
- ❖ LOCAL GOVERNMENTS: There are no direct cost or savings to local school districts. All charter schools are funded directly from the state.
- ❖ OTHER PERSONS: There are no anticipated cost or savings to other persons. The amendments to the rule concern charter schools only.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. The amendments to the rule concern charter schools only.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this rule, and I see no fiscal impact on businesses. Steven O. Laing

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

EDUCATION
ADMINISTRATION
250 E 500 S
SALT LAKE CITY UT 84111-3272, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Carol Lear at the above address, by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at clear@usoe.k12.ut.us

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 10/15/2003.

THIS RULE MAY BECOME EFFECTIVE ON: 10/16/2003

AUTHORIZED BY: Carol Lear, Coordinator School Law and Legislation

R277. Education, Administration.**R277-470. Charter Schools.****R277-470-1. Definitions.**

- ~~[A. "ADM" means average daily membership.~~
- ~~—B]A. "Board" means the Utah State Board of Education.~~
- ~~[C]B. "Charter schools" means schools acknowledged as charter schools by local boards of education under Section 53A-1a-515 and this rule or by the Board under Section 53A-1a-505. [Charter schools may:~~
- ~~—(1) be created and chartered by a local board, be recognized as a district school, cooperate in providing student services with the local board, and receive state and federal funding through the local board; or~~
- ~~—(2) have a charter granted by a local board and receive state and federal funding directly from the Board; or~~
- ~~—(3) have a charter granted by the Board and receive state and federal funding directly from the Board.]~~

~~[D]C. "Charter school application" means the official chartering document by which a prospective charter school seeks recognition and funding under Section 53A-1a-505. The application includes the basic elements of the charter with the charter school and the chartering board consistent with R277-470-4.~~

~~[E]D. "Founding member" means an individual who has had a significant role in the development of the charter school application.~~

~~[F]E. "Local education agency (LEA)" means a local board of education, combination of school districts, other legally constituted local school authority having administrative control and direction of free public education within the state, or other entities as designated by the Board, and includes any entity with state-wide responsibility for directly operating and maintaining facilities for providing free public education.~~

~~[G]F. "On-going funds" means funds that are appropriated annually with the expectation that the funds shall continue to be appropriated annually.~~

~~[H. "One time funds" means funds that are appropriated with the expectation that they may not be appropriated in subsequent years.~~

~~—I. "Resident district" means a student's school district of residence under Section 53A-2-201.~~

~~—J. "Resident district per student expenditure" means the dollar amount of district revenue spent per pupil as calculated in R277-470-6.~~

~~—K]G. "USOE" means the Utah State Office of Education.~~

~~[L]H. "Weighted Pupil Unit (WPU)" means the unit of measure that is computed in accordance with the Minimum School Program Act for the purpose of distributing revenue on a uniform basis for each pupil.~~

R277-470-2. Authority and Purpose.

A. This rule is authorized under Utah Constitution, Article X, Section 3 which vests general control and supervision over public education in the Board, Section 53A-1a-513~~[(4)(b)(i)]~~ which directs the Board to adopt rules ~~[to provide a funding formula to pay school districts for charter school students]~~ for charter school funding and fund distribution, ~~[Section 53A-1a-513(2)(a) which directs the Board to adopt rules relating to the transportation of students to and from charter schools,]~~ Section 53A-1a-502 which directs the Board to provide a timeline allowing prospective charter schools to seek sponsorship first from local boards and then from the Board, Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities, and 20 U.S.C., Section 8063(3) which directs the Board to submit specific information before charter schools are eligible to receive federal funds.

B. The purpose of this rule is to establish procedures for authorizing and funding charter schools, and to establish a timeline for the application process.

R277-470-3. Charter School Approval Timeline.

A. Applicants desiring to be recognized as charter schools under Section 53A-1a-502 et seq. shall first apply to the local school board of the district in which the charter school shall be located for approval.

B. New Century High Schools as defined under Section 53A-1a-502(1)(a)(ii) shall not be required to apply to a local board of education prior to applying to the Board. New Century High Schools shall only be subject to Board application deadlines.

C. Prospective charter schools may make application to the local school board[:

- ~~— (1) on or before March 1; or
— (2) before July 15.~~

D. Upon receiving a completed application from a prospective charter school, a local board shall have 45 calendar days to provide written acceptance or rejection of the charter school application. A prospective charter school may submit a revised application consistent with Section 53A-1a-515(5)(b) and (c). Charter schools may open only at the beginning of a traditional school year no less than ten months from the date that the charter is granted but no sooner than the following July.

E. If a local board rejects the application of a prospective charter school [~~using the March 1 deadline~~] and the charter school desires Board approval [~~for the school year following application and approval~~], the prospective charter school shall make written application to the Board by [~~April 16~~] July 15.

F. The Board shall accept or reject the charter school application in writing as soon as possible after receipt of the application, but no later than the Board's regularly scheduled [~~June~~] September meeting for applications submitted by the [~~April 16~~] July 15 deadline.

~~— G. If a local board rejects the application of a prospective charter school submitted after March 1 and before the July 15 deadline, the prospective charter school shall make written application to the Board by September 15 if:~~

- ~~— (1) the applicant desires Board sponsorship; and
— (2) its charter identifies a date to begin operation beyond the immediate school semester.~~

~~— H. The Board shall accept or reject the charter school application in writing as soon as possible after receipt of the application, but no later than the Board's regularly scheduled November meeting if the application is submitted by the September 1 deadline.~~

~~— I. Local boards and the Board may take additional time to work with a prospective charter school to help the school meet outlined criteria and allow the school to begin operating in a subsequent school year.]~~

[~~F~~]G. It is the intent of the Board that charter schools seek the support of local boards in the chartering process.

R277-470-4. Applications.

A. The charter school application form shall be approved and provided by the Board.

B. The charter school application shall designate the type of charter granted and the anticipated LEA status of the charter school.

C. A charter school application shall include the following:

- (1) a description of the criteria or contributions or both used by the applicants to designate parents as founding members and a certified list of founding members;
- (2) a description of the methods the applicants shall use to comply with its obligations as an LEA;
- (3) a description of the methods the applicants shall use to notify all eligible students that the charter school is open for enrollment:

(a) A charter school shall provide notice that the school is open for enrollment to parents of potential students for a minimum of 30 days from the date the charter is granted by the Board or for a minimum of 30 days before the first day the school opens for classes.

(b) The charter school shall provide for written notice of rejection or acceptance of a student's application within 30 days after the notice period closes.

(c) The charter school shall follow additional requirements and timelines for student enrollment options consistent with Sections 53A-2-207 and 53A-2-208.

(4) All other information required under 20 U.S.C., Section 8063(3), Section 53A-1a-508(3), and the application, complete with Assurances, submitted to the Board.

R277-470-5. Funding.

A. State Funds: State funding for charter school students shall be paid by the USOE directly to charter schools.

(1) A public school that becomes a charter school shall receive funding on the same basis as it did prior to its conversion to a charter school.

(2) A charter school, chartered by a district, operating in a facility owned by a district, and not paying reasonable rent to that district shall, for funding purposes, be treated as a public school that has converted to a charter school.

(3) Charter schools are not eligible for Necessarily Existent Small Schools funding.

(4) Charter schools shall be considered collectively as a single school district when state program funding is distributed as a base amount to districts. The base amount for charter schools shall then be distributed among the charter schools on a per-pupil or per-WPU basis, depending on the formula.

B. Federal Funds: Charter schools are eligible for federal funding if they meet all applicable federal requirements and comply with relevant federal regulations.

C. [~~Start Up Funds~~] One-Time Funds:

~~— (1) Upon application, the Board may allocate start up funds to eligible charter schools from monies appropriated by the Legislature or received from the federal government for that purpose;~~

~~— (2) Approved charter schools shall be eligible to receive available state or federal start up funds 30 days after the charter application is approved by the local board or the Board.]~~ One-time funds appropriated by the Legislature or received from the federal government shall be distributed to charter schools consistent with state and federal law.

D. Ongoing Funds:

(1) Ongoing funds shall be distributed based on data submitted by charter schools consistent with the format and deadlines required of school districts.

(2) For its first school year, a charter school's state funding shall begin two months prior to the opening date specified in its contract or, funding shall begin in July if its opening date is prior to September 1. No charter school shall receive more than two months of funding prior to opening.

(a) Funding for the first two months of operation shall be based upon projected enrollment figures provided in the charter school's contract.

(b) Following the first two months of operations, funding for schools opening on or prior to September 1 shall be based on enrollment as of October 1. For schools opening after September 1, funding shall be based on actual enrollment as of the first school day of the month following the first full month of operation.

(c) Allocations for the first operating year shall be adjusted for the difference in funding generated by projected and actual enrollments.

(3) For its second and subsequent years of operation, charter schools shall be funded in the same manner as districts (prior year average daily membership plus growth.)

E. Transportation Funds:

- (1) Charter schools are not eligible for to-and-from school transportation funds.
- (2) A charter school that provides transportation to students shall comply with Utah law under Section 41-6-115.
- (3) A school district may provide transportation for charter school students on a space-available basis on approved routes.
 - (a) Districts may not incur increased costs or displace eligible students to transport charter school students.
 - (b) A charter school student shall board and leave the bus only at existing designated stops on approved bus routes or at identified destination schools.
 - (c) A charter school student shall board and leave the bus at the same stop each day.

R277-470-6. [Resident District Per Student Expenditure] Calculation of State Funding for Charter Schools.

A. The ~~[resident district per student expenditure]~~ per pupil amount of state funding allocated to substitute for local property tax revenue shall be calculated as follows:

- (1) Using data found in the most recent State Superintendent's Annual Report, ~~[take the resident district's total expenditures before interfund transfers for]~~ calculate the sum of:
 - (a) school districts' maintenance and operations revenues derived from local property taxes, subtracting revenues from imposing a minimum basic tax rate; [and]
 - (b) school districts' capital projects revenues derived from local property taxes; and [-]
 - (c) school districts' expenditures for interest on debt service.
- (2) ~~[Subtract from the sum of the above (1);]~~ Divide the sum derived from R277-470-6A(1) by the total actual average daily membership of all district schools. If the total state appropriation designated to charter schools to replace local funding is less than the amount determined in R277-470-6A(2), the amount paid to charter schools shall be adjusted on a percentage basis.

- ~~— (a) resident district's taxes collected under the Minimum School Program;~~
- ~~— (b) state revenue;~~
- ~~— (c) federal revenue; and~~
- ~~— (d) expenditures for site acquisition and new facility construction (new facility square footage or other major remodeling, if approved by the USOE.)~~

~~— (3) Divide the difference of (1) and (2) above by the average daily membership of the charter school student's resident district as reported in the most recent State Superintendent's Annual Report.~~

~~B. Charter schools shall submit on a monthly basis, to the USOE and the resident district, a financial report of revenue, expenditures, and student enrollment as requested by the USOE. Within 30 days of receipt of the monthly report by the charter school to the resident district, the resident district shall pay to the charter school an amount equal to 1/2 of the resident district per student expenditure.~~

~~C. The state shall also pay to charter schools the lesser of an amount equal to 1/2 of the resident district per student expenditure or the state average of the district per student expenditure.~~

~~D. The amount paid by the USOE under this section shall be consistent with Section 53A-2-210 and R277-437 as follows:~~

- ~~(1) The state's match of the resident district per student expenditure shall be based upon a charter school's October 1 enrollment or its enrollment after the first full month of its school year.~~

~~— (2) The 1/2 of the previous year's resident district per student expenditure shall determine the current fiscal year's state match of local expenditures.~~

~~— (3) If the total state funding appropriated is less than the amount determined in subsection (2), the amount shall be paid on a percentage of the amount that was determined for each charter school.]~~

KEY: education, charter schools
~~January 15,]2003~~
Art X, Sec 3
53A-1a-513[(1)(b)(i)
53A-1a-513(2)(a)]
53A-1a-502
53A-1-401(3)



Environmental Quality, Drinking Water

R309-600

Drinking Water Source Protection For Ground-Water Sources

NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE NO.: 26585
 FILED: 08/27/2003, 16:02

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Utah Legislature enacted the Professional Geologist Licensing Act (Title 58, Chapter 76, Utah Code Annotated). This amendment will allow the Division of Drinking Water (DDW) to require that professional geologists and engineers stamp and sign any geology work they submit to us for review. We have also identified parts of the public notification and updated source protection plan requirements that need revisions. Some of these revisions decrease the requirements for public water systems (PWSs) and one clarifies a requirement.

SUMMARY OF THE RULE OR CHANGE: Since the Utah Legislature has enacted the Professional Geologist Licensing Act (Title 58, Chapter 76, Utah Code Annotated), this amendment will allow DDW to require that geology work submitted to us be stamped and signed by a licensed geologist or engineer. We are proposing to decrease the requirements PWSs must meet to notify the public regarding certain aspects of their Drinking Water Source Protection (DWSP) Plans. However, since public notification is an Environmental Protection Agency requirement, we have set December 31, 2004, as the deadline for satisfying this requirement. We have added language to clarify that actual copies of documents, which verify implementation of land management strategies, are required to be submitted in the Record Keeping Section of Updated Drinking Water Source Protection Plans. We are also proposing that if PWSs want to renew their volatile organic chemical (VOC) and pesticide waivers, they be addressed in their updated source protection plans. Also, that the VOC and pesticide sample that is collected as part of the application for

susceptibility waivers is collected every six years instead of every five years. (DAR NOTE: The Professional Geologist Licensing Act, Title 58, Chapter 76, was enacted by H.B. 96 which is found at UT L 2002 Ch 218, and was effective May 6, 2002.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-4-104(1)(a)(iv)

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: None--Additional state staff and resources will not be required to implement this amendment.
- ❖ LOCAL GOVERNMENTS: Local governments own and operate some PWSs and they will be affected by this amendment. However, most of the changes actually decrease the requirements of developing DWSP Plans and Updated DWSP Plans. Therefore, we believe there may be some cost but they will be offset by a decrease in other requirements.
- ❖ OTHER PERSONS: The same statement applies to PWSs that are not owned by local governments as applies to ones that are owned by them. Also, since the Division of Occupational and Professional Licensing requires that anyone engaging in the practice of geology before the public be licensed, there is no cost for licensed geologists and engineers to stamp and sign their work.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--Most of the changes actually decrease the requirements of developing DWSP Plans and Updated DWSP Plans. Therefore, we believe there may be some cost but they will be offset by a decrease in other requirements.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: None--The Division of Occupational and Professional Licensing requires that anyone engaging in the practice of geology before the public be licensed. Therefore, the cost for licensed geologists and engineers to stamp and sign their work is a required cost of doing business.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Bob Lowe at the above address, by phone at 801-536-4194, by FAX at 801-536-4211, or by Internet E-mail at blowe@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 10/15/2003.

THIS RULE MAY BECOME EFFECTIVE ON: 11/12/2003

AUTHORIZED BY: Kevin Brown, Director

R309. Environmental Quality, Drinking Water.

R309-600. Drinking Water Source Protection For Ground-Water Sources.

R309-600-3. Implementation.

(1) New Ground-Water Sources - Each PWS shall submit a Preliminary Evaluation Report (PER) in accordance with R309-600-13(2) for each of its new ground-water sources to the Division of Drinking Water (DDW). A PWS shall not begin construction of a new source until ~~DDW~~the Executive Secretary concurs with its PER.

(2) Existing Ground-Water Sources - Each PWS shall submit a Drinking Water Source Protection (DWSP) Plan in accordance with R309-600-7(1) for each of its existing ground-water sources to DDW according to the following schedule. Well fields or groups of springs may be considered to be a single source.

TABLE 1

Population Served By PWS:	Percent Of Sources:	DWSP Plans Due By:
Over 10,000	50% of wells	December 31, 1995
Over 10,000	100% of wells	December 31, 1996
3,300-10,000	100% of wells	December 31, 1997
Less than 3,300	100% of wells	December 31, 1998
Springs and other sources	100%	December 31, 1999

(3) DWSP for existing ground-water sources under the direct influence of surface water shall be accomplished through delineation of both the ground water and surface water contribution areas. The requirements of R309-600-7(1) apply to the ground water portion and the requirements of R309-605 apply to the surface water portion, except that the schedule for submitting these DWSP plans to DDW is based on the schedule in R309-605-3(1).

(4) PWSs shall maintain all land use agreements which were established under previous rules to protect their ground-water sources of drinking water from contamination. ~~Additionally, PWSs shall maintain land ownership and land use agreements established under previous rules with new owners which prohibit these new owners from locating pollution sources within protection zones.~~

R309-600-4. Exceptions.

(1) Exceptions to the requirements of R309-600 or parts thereof may be granted by the Executive Secretary to PWSs if: due to compelling factors (which may include economic factors), a PWS is unable to comply with these requirements, and the granting of an exception will not result in an unreasonable risk to health.

(2) The Executive Secretary may prescribe a schedule by which the PWS must come into compliance with the requirements of R309-600.

R309-600-6. Definitions.

(1) The following terms are defined for the purposes of this rule:

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

(b) "Controls" means the codes, ordinances, rules, and regulations currently in effect to regulate a potential contamination source. "Controls" also means physical controls which may prevent

contaminants from migrating off of a site and into surface or ground water. "Controls" also means negligible quantities of contaminants.

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

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

(e) "DDW" means Division of Drinking Water.

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

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

(h) "Designated person" means the person appointed by a PWS to ensure that the requirements of R309-600 are met.

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

(j) "Executive Secretary" means the individual authorized by the Drinking Water Board to conduct business on its behalf.

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

(l) "Geologist" means a person licensed under the Professional Geologist Licensing Act, 58-76 of the Utah Code, as a "professional geologist" as defined therein.

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

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

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

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

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

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

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

For springs and tunnels, the DWSP management area is all land at elevation equal to or higher than, and within a two-mile radius, of the spring or tunnel collection area. The DWSP management area also includes all land lower in elevation than, and within 100 horizontal feet, of the spring or tunnel collection area. The elevation datum to be used is the point of water collection. Land may also be excluded from the DWSP management area at locations where it is separated from the ground-water source by a surface drainage which is lower in elevation than the spring or tunnel collection area.

(r) "New ground-water source of drinking water" means a public supply ground-water source of drinking water for which plans and specifications are submitted to DDW after July 26, 1993.

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

(t) "PWS" means public water system.

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

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

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

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

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

(iii) "Extremely hazardous substances" means those substances which are identified in the Sec. 302(EHS) column of the "Title III List of Lists: Consolidated List of Chemicals Subject to the Emergency Planning and Community Right-to-Know Act (EPCRA) and Section 112(R) of the Clean Air Act, As Amended," (550B98017). A copy of this document may be obtained from: NCEPI, PO Box 42419,

Cincinnati, OH 45202. Online ordering is also available at <http://www.epa.gov/ncepihom/orderpub.html>.

(w[†]) "Potential contamination source" means any facility or site which employs an activity or procedure which may potentially contaminate ground water. A pollution source is also a potential contamination source.

(x[‡]) "Protected aquifer" means a producing aquifer in which the following conditions are met:

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

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

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

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

(i) the proposed well location shall be within a radius of 150 feet from an existing ground-water supply well, as defined in R309-600-6(1)(j); and

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

(z[‡]) "Time of travel" means the time required for a particle of water to move in the producing aquifer from a specific point to a ground-water source of drinking water.

(aa[‡]) "Unprotected aquifer" means any aquifer that does not meet the definition of a protected aquifer.

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

R309-600-7. DWSP Plans.

(1) Each PWS shall develop, submit, and implement a DWSP Plan for each of its ground-water sources of drinking water.

Required Sections for DWSP Plans - DWSP Plans should be developed in accordance with the "Standard Report Format for Existing Wells and Springs." This document may be obtained from DDW. DWSP Plans must include the following seven sections:

(a) DWSP Delineation Report - A DWSP Delineation Report in accordance with R309-600-9(5) is the first section of a DWSP Plan.

(b) Potential Contamination Source Inventory and Assessment of Controls - A Prioritized Inventory of Potential Contamination Sources and an assessment of their controls in accordance with R309-600-10 is the second section of a DWSP Plan.

(c) Management Program to Control Each Preexisting Potential Contamination Source - A Management Program to Control Each Preexisting Potential Contamination Source in accordance with R309-600-11 is the third section of a DWSP Plan.

(d) Management Program to Control or Prohibit Future Potential Contamination Sources - A Plan for Controlling or Prohibiting Future Potential Contamination Sources is the fourth section of a DWSP Plan. This must be in accordance with R309-600-12, consistent with the general provisions of this rule, and implemented to an extent allowed under the PWS's authority and jurisdiction.

(e) Implementation Schedule - Each PWS shall develop a step-by-step implementation schedule which lists each of its proposed land management strategies with an implementation date for each strategy.

(f) Resource Evaluation - Each PWS shall assess the financial and other resources which may be required for it to implement each of its DWSP Plans and determine how these resources may be acquired.

(g) Recordkeeping - Each PWS shall document changes in each of its DWSP Plans as they are continuously updated to show current conditions in the protection zones and management areas. As a DWSP Plan is executed, the PWS shall document any land management strategies that are implemented. These documents may include any of the following: ordinances, codes, permits, memoranda of understanding, public education programs, public notifications, and so forth.

(2) DWSP Plan Administration - DWSP Plans shall be submitted, corrected, retained, implemented, updated, and revised according to the following:

(a) Submitting DWSP Plans - Each PWS shall submit a DWSP Plan to DDW in accordance with the schedule in R309-600-3 for each of its ground-water sources of drinking water.

(b) Correcting Deficiencies - Each PWS shall correct any deficiencies in a disapproved DWSP Plan and resubmit it to DDW within 90 days of the disapproval date.

(c) Retaining DWSP Plans - Each PWS shall retain on its premises a current copy of each of its DWSP Plans.

(d) Implementing DWSP Plans - Each PWS shall begin implementing each of its DWSP Plans in accordance with its schedule in R309-600-7(1)(e), within 180 days after submittal if they are not disapproved by ~~DDW~~ the Executive Secretary.

(e) Updating and Resubmitting DWSP Plans - Each PWS shall update its DWSP Plans as often as necessary to ensure they show current conditions in the DWSP zones and management areas. Updated plans also document the implementation of land management strategies in the recordkeeping section. Actual copies of any ordinances, codes, permits, memoranda of understanding, public education programs, bill stuffers, newsletters, training session agendas, minutes of meetings, memoranda for file, etc. must be submitted with the recordkeeping section of updated plans. DWSP Plans are initially due according to the schedule in R309-600-3. Thereafter, updated DWSP Plans are due every six years from their original due date. This applies even though a PWS may have been granted an extension beyond the original due date.

(f) Revising DWSP Plans - Each PWS shall submit a revised DWSP Plan to DDW within 180 days after the reconstruction or redevelopment of any ground-water source of drinking water which addresses changes in source construction, source development, hydrogeology, delineation, potential contamination sources, and proposed land management strategies.

R309-600-8. DWSP Plan Review.

(1) ~~DDW~~ The Executive Secretary shall review each DWSP Plan submitted by PWSs and "concur," "concur with recommendations," "conditionally concur" or "disapprove" the plan.

(2) ~~DDW~~ The Executive Secretary may "disapprove" DWSP Plans for any of the following reasons:

(a) An inaccurate DWSP Delineation Report, a report that uses a non-applicable delineation method, or a DWSP Plan that is missing this report or any of the information and data required in it (refer to R309-600-9(5));

(b) an inaccurate Prioritized Inventory of Potential Contamination Sources or a DWSP Plan that is missing this report or any of the information required in it (refer to R309-600-10(1));

(c) an inaccurate assessment of current controls (refer to R309-600-10(2));

(d) a missing Management Program to Control Each Preexisting Potential Contamination Source which has been assessed as "not adequately controlled" by the PWS (refer to R309-600-11(1));

(e) a missing Management Program to Control or Prohibit Future Potential Contamination Sources (refer to R309-600-12);

(f) a missing or incomplete Implementation Schedule, Resource Evaluation, Recordkeeping Section, Contingency Plan, or Public Notification Plan (refer to R309-600-7(1)(e)-(g), R309-600-14, and R309-600-15).

(3) ~~[DDW]~~The Executive Secretary may "concur with recommendations" when PWSs propose management programs to control preexisting potential contamination sources or management programs to control or prohibit future potential contamination sources for existing or new drinking water sources which appear inadequate or ineffective.

(4) ~~[DDW]~~The Executive Secretary may "conditionally concur" with a DWSP Plan or PER. The PWS must implement the conditions and report compliance the next time the DWSP Plan is due and submitted to DDW.

R309-600-9. Delineation of Protection Zones and Management Areas.

(1) PWSs shall delineate protection zones or a management area around each of their ground-water sources of drinking water using the Preferred Delineation Procedure or the Optional Two-mile Radius Delineation Procedure. The hydrogeologic method used by PWSs shall produce protection zones or a management area in accordance with the criteria thresholds below. PWSs may also choose to verify protected aquifer conditions to reduce the level of management controls applied in applicable protection areas.

(2) Reports must be prepared by a qualified licensed professional - A submitted report which addresses any of the following sections shall be stamped and signed by a professional geologist or professional engineer:

(a) A Delineation Report for Estimated DWSP Zones produced using the Preferred Delineation Procedure, as explained in R309-600-13(2)(a);

(b) a DWSP Delineation Report produced using the Preferred Delineation Procedure, as explained in R309-600-9(3)(a) and (6)(a);

(c) a report to verify protected aquifer conditions, as explained in R309-600-9(4) and (7);

(d) a report which addresses special conditions, as explained in R309-600-9(5); or

(e) a Hydrogeologic Report to Exclude a Potential Contamination Source, as explained in R309-600-9(6)(b)(ii).

(3[2]) Criteria Thresholds for Ground-water Sources of Drinking Water:

(a) Preferred Delineation Procedure - Four zones are delineated for management purposes:

(i) Zone one is the area within a 100-foot radius from the wellhead or margin of the collection area.

(ii) Zone two is the area within a 250-day ground-water time of travel to the wellhead or margin of the collection area, the boundary of the aquifer(s) which supplies water to the ground-water source, or the ground-water divide, whichever is closer. If the available data indicate a zone of increased ground-water velocity within the producing aquifer(s), then time-of-travel calculations shall be based on this data.

(iii) Zone three (waiver criteria zone) is the area within a 3-year ground-water time of travel to the wellhead or margin of the collection area, the boundary of the aquifer(s) which supplies water to the ground-water source, or the ground-water divide, whichever is closer. If the

available data indicate a zone of increased ground-water velocity within the producing aquifer(s), then time-of-travel calculations shall be based on this data.

(iv) Zone four is the area within a 15-year ground-water time of travel to the wellhead or margin of the collection area, the boundary of the aquifer(s) which supplies water to the ground-water source, or the ground-water divide, whichever is closer. If the available data indicate a zone of increased ground-water velocity within the producing aquifer(s), then time-of-travel calculation shall be based on this data.

(b) Optional Two-mile Radius Delineation Procedure - In place of the Preferred Delineation Procedure, PWSs may choose to use the Optional Two-mile Radius Delineation Procedure to delineate a management area. This procedure is best applied in remote areas where few if any potential contamination sources are located. Refer to R309-600-6(1)(o) for the definition of a management area.

(4[3]) Protected Aquifer Classification - PWSs may choose to verify protected aquifer conditions to reduce the level of management controls for a public-supply well which produces water from a protected aquifer(s) or to meet one of the requirements of a VOC or pesticide susceptibility waiver (R309-600-16(4)). Refer to R309-600-6(1)(v) for the definition of a "protected aquifer."

(5[4]) Special Conditions - Special scientific or engineering studies may be conducted to support a request for an exception (refer to R309-600-4) due to special conditions. These studies must be approved by ~~[DDW]~~the Executive Secretary before the PWS begins the study. Special studies may include confined aquifer conditions, ground-water movement through protective layers, wastewater transport and fate, etc.

(6[5]) DWSP Delineation Report - Each PWS shall submit a DWSP Delineation Report to DDW for each of its ground-water sources using the Preferred Delineation Procedure or the Optional Two-mile Radius Delineation Procedure.

(a) Preferred Delineation Procedure - Delineation reports for protection zones delineated using the Preferred Delineation Procedure shall include the following information and a list of all sources or references for this information:

(i) Geologic Data - A brief description of geologic features and aquifer characteristics observed in the well and area of the potential protection zones. This should include the formal or informal stratigraphic name(s), lithology of the aquifer(s) and confining unit(s), and description of fractures and solution cavities (size, abundance, spacing, orientation) and faults (brief description of location in or near the well, and orientation). Lithologic descriptions can be obtained from surface hand samples or well cuttings; core samples and laboratory analyses are not necessary. Fractures, solution cavities, and faults may be described from surface outcrops or drill logs.

(ii) Well Construction Data - If the source is a well, the report shall include the well drillers log, elevation of the wellhead, borehole radius, casing radius, total depth of the well, depth and length of the screened or perforated interval(s), well screen or perforation type, casing type, method of well construction, type of pump, location of pump in the well, and the maximum projected pumping rate of the well. The maximum pumping rate of the well must be used in the delineation calculations. Averaged pumping rate values shall not be used.

(iii) Spring Construction Data - If the source is a spring or tunnel the report shall include a description or diagram of the collection area and method of ground-water collection.

(iv) Aquifer Data for New Wells - A summary report including the calculated hydraulic conductivity of the aquifer, transmissivity, hydraulic gradient, direction of ground-water flow, estimated effective

porosity, and saturated thickness of the producing aquifer(s). The PWS shall obtain the hydraulic conductivity of the aquifer from a constant-rate aquifer test and provide the data as described in R309-204-6(10)(b). Estimated effective porosity must be between 1% and 30%. Clay layers shall not be included in calculations of aquifer thickness or estimated effective porosity. This report shall include graphs, data, or printouts showing the interpretation of the aquifer test.

(v) **Aquifer Data for Existing Wells** - A summary report including the calculated hydraulic conductivity of the aquifer, transmissivity, hydraulic gradient, direction of ground-water flow, estimated effective porosity, and saturated thickness of the producing aquifer(s). The PWS shall obtain the hydraulic conductivity of the aquifer from a constant-rate aquifer test using the existing pumping equipment. Aquifer tests using observation wells are encouraged, but are not required. If a previously performed aquifer test is available and includes the required data described below, data from that test may be used instead. Estimated effective porosity must be between 1% and 30%. Clay layers shall not be included in calculations of aquifer thickness or estimated effective porosity. This report shall include graphs, data, or printouts showing the interpretation of the aquifer test.

If a constant-rate aquifer test is not practical, then the PWS shall obtain hydraulic conductivity of the aquifer using another appropriate method, such as data from a nearby well in the same aquifer, specific capacity of the well, published hydrogeologic studies of the same aquifer, or local or regional ground-water models. A constant-rate test may not be practical for such reasons as insufficient drawdown in the well, inaccessibility of the well for water-level measurements, or insufficient overflow capacity for the pumped water.

The constant-rate test shall:

(A) Provide for continuous pumping for at least 24 hours or until stabilized drawdown has continued for at least six hours. Stabilized drawdown is achieved when there is less than one foot of change of ground-water level in the well within a six-hour period.

(B) Provide data as described in R309-204-6(10)(b)(v) through (vii).

(vi) **Additional Data for Observation Wells** - If the aquifer test is conducted using observation wells, the report shall include the following information for each observation well: location and surface elevation; total depth; depth and length of the screened or perforated intervals; radius, casing type, screen or perforation type, and method of construction; prepumping ground-water level; the time-drawdown or distance-drawdown data and curve; and the total drawdown.

(vii) **Hydrogeologic Methods and Calculations** - These include the ground-water model or other hydrogeologic method used to delineate the protection zones, all applicable equations, values, and the calculations which determine the delineated boundaries of zones two, three, and four. The hydrogeologic method or ground-water model must be reasonably applicable for the aquifer setting. For wells, the hydrogeologic method or ground-water model must include the effects of drawdown (increased hydraulic gradient near the well) and interference from other wells.

(viii) **Map Showing Boundaries of the DWSP Zones** - A map showing the location of the ground-water source of drinking water and the boundary for each DWSP zone. The base map shall be a 1:24,000-scale (7.5-minute series) topographic map, such as is published by the U.S. Geological Survey. Although zone one (100-foot radius around the well or margin of the collection area) need not be on the map, the complete boundaries for zones two, three, and four must be drawn and labeled. More detailed maps are optional and may be submitted in addition to the map required above.

The PWS shall also include a written description of the distances which define the delineated boundaries of zones two, three, and four. These written descriptions must include the maximum distances upgradient from the well, the maximum distances downgradient from the well, and the maximum widths of each protection zone.

(b) **Optional Two-Mile Radius Delineation Procedure** - Delineation Reports for protection areas delineated using the Optional Two-mile Radius Delineation Procedure shall include the following information:

(i) **Map Showing Boundaries of the DWSP Management Area** - A map showing the location of the ground-water source of drinking water and the DWSP management area boundary. The base map shall be a 1:24,000-scale (7.5-minute series) topographic map, such as is published by the U.S. Geological Survey. Although zone one (100-foot radius around the well or margin of the collection area) need not be on the map, the complete two-mile radius must be drawn and labeled. More detailed maps are optional and may be submitted in addition to the map required above.

(ii) **Hydrogeologic Report to Exclude a Potential Contamination Source** - To exclude a potential contamination source from the inventory which is required in R309-600-10(1), a hydrogeologic report is required which clearly demonstrates that the potential contamination source has no capacity to contaminate the source.

(7) **Protected Aquifer Conditions** - If a PWS chooses to verify protected aquifer conditions, it shall submit the following additional data to DDW for each of its ground-water sources for which the protected aquifer conditions apply. The report must state that the aquifer meets the definition of a protected aquifer based on the following information:

(a) thickness, depth, and lithology of the protective clay layer;

(b) data to indicate the lateral continuity of the protective clay layer over the extent of zone two. This may include such data as correlation of beds in multiple wells, published hydrogeologic studies, stratigraphic studies, potentiometric surface studies, and so forth; and

(c) evidence that the well has been grouted or otherwise sealed from the ground surface to a depth of at least 100 feet and for a thickness of at least 30 feet through the protective clay layer in accordance with R309-600-6(1)(v) R309-204-6(6)(i).

R309-600-10. Potential Contamination Source Inventory and Identification and Assessment of Controls.

(1) **Prioritized Inventory of Potential Contamination Sources** - Each PWS shall list all potential contamination sources within each DWSP zone or management area in priority order and state the basis for this order. This priority ranking shall be according to relative risk to the drinking water source. The name and address of each commercial and industrial potential contamination source is required. Additional information should include the name and phone number of a contact person and a list of the chemical, biological, and/or radiological hazards associated with each potential contamination source. Additionally, each PWS shall identify each potential contamination source as to its location in zone one, two, three, four or in a management area and plot it on the map required in R309-600-9(5)(a)(viii) or R309-600-9(5)(b)(i).

(a) **List of Potential Contamination Sources** - A List of Potential Contamination Sources is found in the "Source Protection User's Guide for Ground-Water Sources." This document may be obtained from DDW. This list may be used by PWSs as a guide to inventorying potential contamination sources within their DWSP zones and management areas.

(b) Refining, Expanding, Updating, and Verifying Potential Contamination Sources - Each PWS shall update its list of potential contamination sources to show current conditions within DWSP zones or management areas. This includes adding potential contamination sources which have moved into DWSP zones or management areas, deleting potential contamination sources which have moved out, improving available data about potential contamination sources, and all other appropriate refinements.

(2) Identification and Assessment of Current Controls - PWSs are not required to plan and implement land management strategies for potential contamination source hazards that are assessed as "adequately controlled." If controls are not identified, the potential contamination source will be considered to be "not adequately controlled." Additionally, if the hazards at a potential contamination source cannot be identified, the potential contamination source must be assessed as "not adequately controlled." Identification and assessment should be limited to one of the following controls for each applicable hazard: regulatory, best management/pollution prevention, physical, or negligible quantity. Each of the following topics for a control must be addressed before identification and assessment will be considered to be complete. Refer to the "Source Protection User's Guide for Ground-Water Sources" for a list of government agencies and the programs they administer to control potential contamination sources. This guide may be obtained from DDW.

(a) Regulatory Controls - Identify the enforcement agency and verify that the hazard is being regulated by them; cite and/or quote applicable references in the regulation, rule or ordinance which pertain to controlling the hazard; explain how the regulatory control prevents ground-water contamination; assess the hazard; and set a date to reassess the hazard.

(b) Best Management/Pollution Prevention Practice Controls - List the specific best management/pollution prevention practices which have been implemented by potential contamination source management to control the hazard and indicate that they are willing to continue the use of these practices; explain how these practices prevent ground-water contamination; assess the hazard; and set a date to reassess the hazard.

(c) Physical Controls - Describe the physical control(s) which have been constructed to control the hazard; explain how these controls prevent contamination; assess the hazard; and set a date to reassess the hazard.

(d) Negligible Quantity Control - Identify the quantity of the hazard that is being used, disposed, stored, manufactured, and/or transported; explain why this amount should be considered a negligible quantity; assess the hazard; and set a date to reassess the hazard.

(3) For the purpose of meeting the requirements of R309-600, ~~DDW~~the Executive Secretary will consider a PWS's assessment that a potential contamination source which is covered by a permit or approval under one of the regulatory programs listed below sufficient to demonstrate that the source is adequately controlled unless otherwise determined by the Executive Secretary. For all other state programs, the PWS's assessment is subject to review by ~~DDW~~the Executive Secretary; as a result, a PWS's DWSP Plan may be disapproved if ~~DDW~~the Executive Secretary does not concur with its assessment(s).

(a) The Utah Ground-Water Quality Protection program established by Section 19-5-104 and R317-6;

(b) closure plans or Part B permits under authority of the Resource Conservation and Recovery Act (RCRA) of 1984 regarding the monitoring and treatment of ground water;

(c) the Utah Pollutant Discharge Elimination System (UPDES) established by Section 19-5-104 and R317-8;

(d) the Underground Storage Tank Program established by Section 19-6-403 and R311-200 through R311-208; and

(e) the Underground Injection Control (UIC) Program for classes I-IV established by Sections 19-5-104 and 40-6-5 and R317-7 and R649-5.

R309-600-13. New Ground-water Sources of Drinking Water.

(1) Prior to constructing a new ground-water source of drinking water, each PWS shall develop a PER which demonstrates whether the source meets the requirements of this section and submit it to DDW. Additionally, engineering information in accordance with R309-204-6(5)(a) or R309-204-7(4) must be submitted to DDW. ~~DDW~~The Executive Secretary will not grant plan approval until both source protection and engineering requirements are met. Construction standards relating to protection zones and management areas (fencing, diversion channels, sewer line construction, and grouting, etc.) are found in R309-204. After the source is constructed a DWSP Plan must be developed, submitted, and implemented accordingly.

(2) Preliminary Evaluation Report for New Sources of Drinking Water - PERs shall cover all four zones or the entire management area. PERs should be developed in accordance with the "Standard Report Format for New Wells and Springs." This document may be obtained from DDW. PWSs shall include the following four sections in each PER:

(a) Delineation Report for Estimated DWSP Zones - The same requirements apply as in R309-600-9(5), except that the hydrogeologic data for the PER must be developed using the best available data which may be obtained from: surrounding wells, published information, or surface geologic mapping. PWSs must use the Preferred Delineation Procedure to delineate protection zones for new wells. The Delineation Report for Estimated DWSP Zones shall be stamped and signed by a professional geologist or professional engineer unless the Optional Two-Mile Radius Delineation Procedure is used for a new spring.

(b) Inventory of Potential Contamination Sources and Identification and Assessment of Controls - The same requirements apply as in R309-600-10(1) and (2). Additionally, the PER must demonstrate that the source meets the following requirements:

(i) Protection Areas Delineated using the Preferred Delineation Procedure in Protected Aquifers - A PWS shall not locate a new ground-water source of drinking water where an uncontrolled potential contamination source or a pollution source exists within zone one.

(ii) Protection Areas Delineated using the Preferred Delineation Procedure in Unprotected Aquifers - A PWS shall not locate a new ground-water source of drinking water where an uncontrolled potential contamination source or an uncontrolled pollution source exists within zone one. Additionally, a new ground-water source of drinking water may not be located where a pollution source exists within zone two unless the pollution source implements design standards which prevent contaminated discharges to ground water.

(iii) Management Areas Delineated using the Optional Two-Mile Radius Delineation Procedure - A PWS shall not locate a new spring where an uncontrolled potential contamination source or a pollution source exists within zone one. Additionally, a new spring may not be located where a pollution source exist within the management area unless: a hydrogeologic report in accordance with R309-600-9(5)(b)(ii) which verifies that it does not impact the spring; or the pollution source implements design standards which prevent contaminated discharges to ground water.

(c) Land Ownership Map - A land ownership map which includes all land within zones one and two or the entire management area. Additionally, include a list which exclusively identifies the land owners

in zones one and two or the management area, the parcel(s) of land which they own, and the zone in which they own land. A land ownership map and list are not required if ordinances are used to protect these areas.

(d) Land Use Agreements, Letters of Intent, or Zoning Ordinances - Land use agreements which meet the requirements of the definition in R309-600-6(1)(n). Zoning ordinances which are already in effect or letters of intent may be substituted for land use agreements; however, they must accomplish the same level of protection that is required in a land use agreement. Letters of intent must be notarized, include the same language that is required in land use agreements, and contain the statement that "the owner agrees to record the land use agreement in the county recorder's office, if the source proves to be an acceptable drinking water source." The PWS shall not introduce a new source into its system until copies of all applicable recorded land use agreements are submitted to DDW.

(3) Sewers Within DWSP Zones and Management Areas - Sewer lines may not be located within zones one and two or a management area unless the criteria identified below are met. If sewer lines are located or planned to be located within zones one and two or a management area, the PER must demonstrate that they comply with this criteria. Sewer lines that comply with ~~this~~ these criteria may be assessed as adequately controlled potential contamination sources.

(a) Zone One - If the conditions specified in R309-600-13(3)(a)(i and ii) below are met, all sewer lines within zone one shall be constructed in accordance with R309-204-6(4) and must be at least 10 feet from the wellhead.

(i) There is at least 5 feet of suitable soil between the bottom of the sewer lines and the top of the maximum seasonal ground-water table or perched water table. (Suitable soils contain adequate sand/silt/clay to act as an effective effluent filter within its depth for the removal of pathogenic organisms and fill the voids between coarse particles such as gravel, cobbles, and angular rock fragments); and

(ii) there is at least 5 feet of suitable soil between the bottom of the sewer line[s] and the top of any bedrock formations or other unsuitable soils. Bedrock formations include formations that have such a low permeability that they prevent the downward passage of effluent. Bedrock formations that have open joints or solution channels, which permit such rapid flow that effluent is not renovated, are also considered unacceptable. ~~(For the purposes of this rule, unsuitable soils or bedrock formations shall include soil or bedrock formations which have such low permeability that they prevent downward passage of effluent, or soil or bedrock formations with open joints or solution channels which permit such rapid flow that effluent is not renovated. This~~ Other unsuitable soils include[s] those with coarse particles such as gravel, cobbles, or angular rock fragments with insufficient soil to fill the voids between the particles. Solid or fractured bedrock such as shale, sandstone, limestone, basalt, or granite are unacceptable. ~~.)~~

(b) Zones One and Two - If the conditions identified in R309-600-13(3)(a)(i and ii) above cannot be met, any sewer lines within zones one and two or a management area shall be constructed in accordance with R309-204-6(4) and must be at least 300 feet from the wellhead or margin of the collection area.

(4) Use waivers for the VOC and pesticide parameter groups may be issued if the inventory of potential contamination sources indicates that the chemicals within these parameter groups are not used, disposed, stored, transported, or manufactured within zones one, two, and three or the management area.

(5) Replacement Wells - A PER is not required for proposed wells, if the PWS receives written notification from ~~DDW~~ the Executive Secretary that the well is classified as a replacement well.

The PWS must submit a letter requesting that the well be classified as a replacement well and include documentation to show that the conditions required in R309-600-6(1)(w) are met. If a proposed well is classified as a replacement well, the PWS is still required to submit and obtain written approval for all other information as required in:

(a) DWSP Plan for New Sources of Drinking Water (refer to R309-600-13(6), and

(b) the Outline of Well Approval Process (refer to R309-204-6(5)).

(6) DWSP Plan for New Sources of Drinking Water - The PWS shall submit a DWSP Plan in accordance with R309-600-7(1) for any new ground-water source of drinking water within one year after the date of ~~DDW's~~ the Executive Secretary's concurrence letter for the PER. In developing this DWSP Plan, PWSs shall refine the information in the PER by applying any new, as-constructed characteristics of the source (i.e., pumping rate, aquifer test, etc.).

R309-600-15. Public Notification.

~~[(1) Public Notification Plan - Each PWS shall append a Public Notification Plan to its next DWSP plan that is submitted to DDW in accordance with the schedules in R309-600-3(2), R309-600-3(3), R309-600-7(2)(e), and R309-600-13(6). This includes plans that are submitted late or have been granted extensions. This Public Notification Appendix shall specify a schedule and method(s) to notify the PWS's customers and consumers of the general conclusions of their DWSP planning and shall generally address all of its ground-water sources of drinking water.~~

~~[(2) Public Notifications - The first public notification shall be included in the Recordkeeping Section of the plan which is submitted in accordance with R309-600-15(1). This public notification must be released to the public within 30 days of the plan being submitted, whether or not the plan has been reviewed by DDW, or it must be contained in the PWS's next Consumer Confidence Report. Consumer Confidence Reports are released to the public annually by July 31st of the current year. All other public notifications shall be in accordance with the Public Notification Plan schedule and method(s) required in R309-600-15(1) and be included in the Recordkeeping Section of the designated plan.] A PWSs consumers must be notified that its DWSP plans are available for their review. This notification must be released to the public by December 31, 2003. Public notifications shall address all of the PWS's [ground-water] sources and include [a discussion of] the following:~~

~~[(a) The general geologic and physical setting of the sources;~~

~~[(b)] [the] A discussion of the general types of potential contamination sources within the protection zones;~~

~~[(c)] an [suseptibility] analysis that rates the system's susceptibility to contamination as low, medium, or high; and~~

~~[(d)] a statement that the system's complete DWSP plans are available to the public upon request. [addresses the following:~~

~~[(i) the geologic characteristics of the aquifer(s) (protected, unprotected, unknown);~~

~~[(ii) the integrity of the grout seal of the well(s) or the impervious seal over the spring collection area(s);~~

~~[(iii) a general assessment of the potential contamination sources as to whether they are controlled or uncontrolled; and~~

~~[(iv) a summary statement of how susceptible the PWSs wells and springs are to contamination from the highest ranking potential contamination sources on their prioritized list; and~~

~~[(v) a summary of the land management strategies that are being implemented to manage existing and future potential contamination source hazards.]~~

Examples of means of notifying the public and examples of public notification material are discussed in the "Source Protection User's Guide for Ground-Water Sources" which may be obtained from DDW. ~~Additionally, the public must be notified that complete DWSP plans are available to them upon request.~~

R309-600-16. Monitoring Reduction Waivers.

(1) Three types of monitoring waivers are available to PWSs. They are: a) reliably and consistently, b) use, and c) susceptibility. The criteria for establishing a reliably and consistently waiver is set forth in R309-104. The criteria for use and susceptibility waivers follow[s].

(2) If a source's DWSP plan is due according to the schedule in R309-600-3, and is not submitted to DDW, its use and susceptibility waivers for the VOC and pesticide parameter groups (refer to R309-104-4.3.1 e and f; and R309-104-4.3.2 h and i) will expire unless an exception (refer to R309-600-4) for a new due date has been granted. Additionally, current use and susceptibility waivers for the VOC, pesticide and unregulated parameter groups will expire upon review of a DWSP plan, if these waivers are not addressed in the plan. Monitoring reduction waivers must be renewed every six years at the time the PWSs Updated DWSP Plans are due and be addressed therein.

(3) Use Waivers - If the chemicals within the VOC and/or pesticide parameter group(s) (refer to R309-103 table 103-3 and 103-2) have not been used, disposed, stored, transported, or manufactured within the past five years within zones one, two, and three, the source may be eligible for a use waiver. To qualify for a VOC and/or pesticide use waiver, a PWS must complete the following two steps:

(a) List the chemicals which are used, disposed, stored, transported, and manufactured at each potential contamination source within zones one, two, and three where the use of the chemicals within the VOC and pesticide parameter groups are likely; and

(b) submit a dated statement which is signed by the system's designated person that none of the VOCs and pesticides within these respective parameter groups have been used, disposed, stored, transported, or manufactured within the past five years within zones one, two, and three.

(4) Susceptibility Waivers - If a source does not qualify for use waivers, and if reliably and consistently waivers have not been issued, it may be eligible for susceptibility waivers. Susceptibility waivers tolerate the use, disposal, storage, transport, and manufacture of chemicals within zones one, two, and three as long as the PWS can demonstrate that the source is not susceptible to contamination from them. To qualify for a VOC and/or pesticide susceptibility waiver, a PWS must complete the following steps:

(a) Submit the monitoring results of at least one applicable sample from the VOC and/or pesticide parameter group(s) that has been taken within the past ~~six~~^{five} years. A non-detectable analysis for each chemical within the parameter group(s) is required;

(b) submit a dated statement from the designated person verifying that the PWS is confident that a susceptibility waiver for the VOC and/or pesticide parameter group(s) will not threaten public health; and

(c) verify that the source is developed in a protected aquifer, as defined in R309-600-6(1)(v), and have a public education program which addresses proper use and disposal practices for pesticides and VOCs which is described in the management sections of the DWSP plan.

(5) Special Waiver Conditions - Special scientific or engineering studies or best management practices may be developed to support a request for an exception to paragraph R309-600-16(4)(c) due to special conditions. These studies must be approved by ~~DDW~~^{the Executive}

Secretary before the PWS begins the study. Special waiver condition studies may include:

(a) geology and construction/grout seal of the well to demonstrate geologic protection;

(b) memoranda of agreement which addresses best management practices for VOCs and/or pesticides with industrial, agricultural, and commercial facilities which use, store, transport, manufacture, or dispose of the chemicals within these parameter groups;

(c) public education programs which address best management practices for VOCs and/or pesticides;

(d) contaminant quantities;

(e) affected land area; and/or

(f) fate and transport studies of the VOCs and/or pesticides which are listed as hazards at the PCSs within zones one, two, and three, and any other conditions which may be identified by the PWS and approved by ~~DDW~~^{the Executive Secretary}.

KEY: drinking water, environmental health

~~June 12, 2000~~²⁰⁰³

Notice of Continuation May 15, 2002

19-4-104(1)(a)(iv)



Environmental Quality, Water Quality **R317-1-4** Utilization and Isolation of Domestic Wastewater Treatment Works Effluent

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 26579

FILED: 08/25/2003, 10:59

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The proposed change clarifies the requirements proponents must meet in exploring the water rights implications with the State Engineer, for any proposed wastewater reuse project.

SUMMARY OF THE RULE OR CHANGE: Subsection R317-1-4(4.2)(B) is changed to reflect that the evidence required for a proponent to implement a water reuse project is changed from having to show an actual right for the specific proposed application, to an indication, from the State Engineer, that he agrees the underlying rights for the original use of the water are consistent with the new proposed rights.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-5-104(1)(f)

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** The proposed change is a minor procedural clarification and will not result in any significant costs or savings to the state budget.

❖ **LOCAL GOVERNMENTS:** The compliance costs for local government may be reduced slightly since the new rule may slightly reduce the costs of preparing an application for a water reuse project.

❖ OTHER PERSONS: The compliance costs for other persons may be reduced slightly since the new rule may slightly reduce the costs of preparing an application for a water reuse project.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The compliance costs for affected persons may be reduced slightly since the new rule may slightly reduce the costs of preparing an application for a water reuse project.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed changes in this rule may reduce the compliance costs to the proponent of a project by possibly reducing the work required to produce an application for a water reuse project.

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

ENVIRONMENTAL QUALITY
WATER QUALITY
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Dave Wham at the above address, by phone at 801-538-6052, by FAX at 801-538-6016, or by Internet E-mail at dwham@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 10/15/2003.

THIS RULE MAY BECOME EFFECTIVE ON: 10/20/2003

AUTHORIZED BY: Don Ostler, Director

R317. Environmental Quality, Water Quality.

R317-1. Definitions and General Requirements.

R317-1-4. Utilization and Isolation of Domestic Wastewater Treatment Works Effluent.

4.1 Untreated Domestic Wastewater. Untreated domestic wastewater or effluent not meeting secondary treatment standards as defined by these regulations shall be isolated from all public contact until suitably treated. Land disposal or land treatment of such wastewater or effluent may be accomplished by use of an approved total containment lagoon as defined in R317-3 or by such other treatment approved by the Board as being feasible and equally protective of human health and the environment.

4.2 Submittal of Reuse Project Plan. If a person intends to reuse or provide for the reuse of treated domestic wastewater directly for any purpose, except on the treatment plant site as described in R317-1-4.6, a Reuse Project Plan must be submitted to the Division of Water Quality. A copy of the plan must also be submitted to the local health department. Any needed construction of wastewater treatment and delivery systems would also be covered by a construction permit as required in section R317-1-2.2 of this rule. The plan must contain the following information. At least

items A and B should be provided before construction begins. All items must be provided before any water deliveries are made.

A. A description of the source, quantity, quality, and use of the treated wastewater to be delivered, the location of the reuse site, and how the requirements of this rule would be met.

B. ~~[A description of the water rights for the use of the treated effluent. This will include evidence that the State Engineer has been notified and has agreed that the treatment entity has the right to use the water for the intended use.]~~Evidence that the State Engineer has agreed that the proposed reuse project planned water use is consistent with the water rights for the sources of water comprising the flows to the treatment plant which will be used in the reuse project.

C. An operation and management plan to include:

1. A copy of the contract with the user, if other than the treatment entity.

2. A labeling and separation plan for the prevention of cross connections between reclaimed water distribution lines and potable water lines. Guidance for distribution systems is available from the Division of Water Quality.

3. Schedules for routine maintenance.

4. A contingency plan for system failure or upsets.

D. If the water will be delivered to another entity for distribution and use, a copy of the contract covering how the requirements of this rule will be met.

4.3 Use of Treated Domestic Wastewater Effluent Where Human Exposure is Likely (Type I)

A. Uses Allowed

1. Residential irrigation, including landscape irrigation at individual houses.

2. Urban uses, which includes non-residential landscape irrigation, golf course irrigation, toilet flushing, fire protection, and other uses with similar potential for human exposure.

3. Irrigation of food crops where the applied reclaimed water is likely to have direct contact with the edible part. Type I water is required for all spray irrigation of food crops.

4. Irrigation of pasture for milking animals.

5. Impoundments of wastewater where direct human contact is likely to occur.

6. All Type II uses listed in 4.4.A below.

B. Required Treatment Processes

1. Secondary treatment process, which may include activated sludge, trickling filters, rotating biological contactors, oxidation ditches, and stabilization ponds. The secondary treatment process should produce effluent in which both the BOD and total suspended solids concentrations do not exceed 25 mg/l as a monthly mean.

2. Filtration, which includes passing the wastewater through filter media such as sand and/or anthracite or approved membrane processes.

3. Disinfection to destroy, inactivate, or remove pathogenic microorganisms by chemical, physical, or biological means. Disinfection may be accomplished by chlorination, ozonation, or other chemical disinfectants, UV radiation, membrane processes, or other approved processes.

C. Water Quality Limits. The quality of effluent before use must meet the following standards. Testing methods and procedures shall be performed according to Standards Methods for Examination of Water and Wastewater, eighteenth edition, 1992, or as otherwise approved by the Executive Secretary.

1. The monthly arithmetic mean of BOD shall not exceed 10 mg/l as determined by daily composite sampling. Composite

samples shall be comprised of at least six flow proportionate samples taken over a 24-hour period.

2. The daily arithmetic mean turbidity shall not exceed 2 NTU, and turbidity shall not exceed 5 NTU at any time. Turbidity shall be measured continuously. The turbidity standard shall be met prior to disinfection. If the turbidity standard cannot be met, but it can be demonstrated to the satisfaction of the Executive Secretary that there exists a consistent correlation between turbidity and the total suspended solids, then an alternate turbidity standard may be established. This will allow continuous turbidity monitoring for quality control while maintaining the intent of the turbidity standard, which is to have 5 mg/l total suspended solids or less to assure adequate disinfection.

3. The weekly median fecal coliform concentration shall be none detected, as determined from daily grab samples, and no sample shall exceed 14 organisms/100 ml.

4. The total residual chlorine shall be measured continuously and shall at no time be less than 1.0 mg/l after 30 minutes contact time at peak flow. If an alternative disinfection process is used, it must be demonstrated to the satisfaction of the Executive Secretary that the alternative process is comparable to that achieved by chlorination with a 1 mg/l residual after 30 minutes contact time. If the effectiveness cannot be related to chlorination, then the effectiveness of the alternative disinfection process must be demonstrated by testing for pathogen destruction as determined by the Executive Secretary. A 1 mg/l total chlorine residual is required after disinfection and before the reclaimed water goes into the distribution system.

5. The pH as determined by daily grab samples or continuous monitoring shall be between 6 and 9.

D. Other Requirements

1. An alternative disposal option or diversion to storage must be automatically activated if turbidity exceeds or chlorine residual drops below the instantaneous required value for more than 5 minutes. 2. Any irrigation must be at least 50 feet from any potable water well. Impoundments of reclaimed water, if not sealed, must be at least 500 feet from any potable water well.

3. Requirements for ground water discharge permits, if required, shall be determined in accordance with R317-6.

4. For residential landscape irrigation at individual homes, additional quality control restrictions may be required by the Executive Secretary. Proposals for such uses should also be submitted to the local health authority to determine any conditions they may require.

4.4 Use of Treated Domestic Wastewater Effluent Where Human Exposure is Unlikely (Type II)

A. Uses Allowed

1. Irrigation of sod farms, silviculture, limited access highway rights of way, and other areas where human access is restricted or unlikely to occur.

2. Irrigation of food crops where the applied reclaimed water is not likely to have direct contact with the edible part, whether the food will be processed or not (spray irrigation not allowed).

3. Irrigation of animal feed crops other than pasture used for milking animals.

4. Impoundments of wastewater where direct human contact is not allowed or is unlikely to occur.

5. Cooling water. Use for cooling towers which produce aerosols in populated areas may have special restrictions imposed.

6. Soil compaction or dust control in construction areas.

B. Required Treatment Processes

1. Secondary treatment process, which may include activated sludge, trickling filters, rotating biological contactors, oxidation ditches, and stabilization ponds. Secondary treatment should produce effluent in which both the BOD and total suspended solids do not exceed 25 mg/l as a monthly mean.

2. Disinfection to destroy, inactivate, or remove pathogenic microorganisms by chemical, physical, or biological means. Disinfection may be accomplished by chlorination, ozonation, or other chemical disinfectants, UV radiation, membrane processes, or other approved processes.

C. Water Quality Limits. The quality of effluent before use must meet the following standards. Testing methods and procedures shall be performed according to Standards Methods for Examination of Water and Wastewater, eighteenth edition, 1992, or as otherwise approved by the Executive Secretary.

1. The monthly arithmetic mean of BOD shall not exceed 25 mg/l as determined by weekly composite sampling. Composite samples shall be comprised of at least six flow proportionate samples taken over a 24-hour period.

2. The monthly arithmetic mean total suspended solids concentration shall not exceed 25 mg/l as determined by daily composite sampling. The weekly mean total suspended solids concentration shall not exceed 35 mg/l.

3. The weekly median fecal coliform concentration shall not exceed 200 organisms/100 ml, as determined from daily grab samples, and no sample shall exceed 800 organisms/100 ml.

4. The pH as determined by daily grab samples or continuous monitoring shall be between 6 and 9.

5. At the discretion of the Executive Secretary, the sampling frequency to determine compliance with water quality limits for effluent from lagoon systems used to irrigate agricultural crops, may be reduced to monthly grab sampling for BOD, and weekly grab sampling for fecal coliform, TSS and pH.

D. Other Requirements

1. An alternative disposal option or diversion to storage must be available in case quality requirements are not met.

2. Any irrigation must be at least 300 feet from any potable water well. Spray irrigation must be at least 300 feet from areas intended for public access. This distance may be reduced or increased by the Executive Secretary, based on the type of spray irrigation equipment used and other factors. Impoundments of reclaimed water, if not sealed, must be at least 500 feet from any potable water well.

3. Requirements for ground water discharge permits, if required, shall be determined in accordance with R317-6.

4. Public access to effluent storage and irrigation or disposal sites shall be restricted by a stock-tight fence or other comparable means which shall be posted and controlled to exclude the public.

4.5 Records. Records of volume and quality of treated wastewater delivered for reuse shall be maintained and submitted monthly in accordance with R317-1-2.7. If monthly operating reports are already being submitted to the Division of Water Quality, the data on water delivered for reuse may be submitted on the same form.

4.6 Use of Secondary Effluent at Plant Site. Secondary effluent may be used at the treatment plant site in the following manner provided there is no cross-connection with a potable water system:

A. Chlorinator injector water for wastewater chlorination facilities, provided all pipes and outlets carrying the effluent are suitably labeled.

B. Water for hosing down wastewater clarifiers, filters and related units, provided all pipes and outlets carrying the effluent are suitably labeled.

C. Irrigation of landscaped areas around the treatment plant from which the public is excluded.

4.7 Other Uses of Effluents. Proposed uses of effluents not identified above, including industrial uses, shall be considered for approval by the Board based on a case-specific analysis of human health and environmental concerns.

4.8 Reclaimed Water Distribution Systems. Where reclaimed water is to be provided by pressure pipeline, unless contained in surface pipes wholly on private property and for agricultural purposes, the following requirements will apply. The requirements will apply to all new systems constructed after May 4, 1998, and it is recommended that the accessible portions of existing reclaimed water distribution systems be retrofitted to comply with these rules. Requirements for secondary irrigation systems proposed for conversion from use of non-reclaimed water to use with reclaimed water will be considered on an individual basis considering protection of public health and the environment. Any person or agency that is constructing all or part of the distribution system must obtain a construction permit from the Division of Water Quality prior to beginning construction.

A. Distribution Lines

1. Minimum Separation.

a. Horizontal Separation. Reclaimed water main distribution lines parallel to potable (culinary) water lines shall be installed at least ten feet horizontally from the potable water lines. Reclaimed water main distribution lines parallel to sanitary sewer lines shall be installed at least ten feet horizontally from the sanitary sewer line if the sanitary sewer line is located above the reclaimed water main and three feet horizontally from the sanitary sewer line if the sanitary sewer line is located below the reclaimed water main.

b. Vertical Separation. At crossings of reclaimed water main distribution lines with potable water lines and sanitary sewer lines the order of the lines from lowest in elevation to highest should be; sanitary sewer line, reclaimed water line, and potable water line. A minimum 18 inches vertical separation between these utilities shall be provided as measured from outside of pipe to outside of pipe. The crossings shall be arranged so that the reclaimed water line joints will be equidistant and as far as possible from the water line joints and the sewer line joints. If the reclaimed water line must cross above the potable water line, the vertical separation shall be a minimum 18 inches and the reclaimed water line shall be encased in a continuous pipe sleeve to a distance on each side of the crossing equal to the depth of the potable water line from the ground surface. If the reclaimed water line must cross below the sanitary sewer line, the vertical separation shall be a minimum 18 inches and the reclaimed water line shall be encased in a continuous pipe sleeve to a distance on each side of the crossing equal to the depth of the reclaimed water line from the ground surface.

c. Special Provisions. Where the horizontal and/or vertical separation as required above cannot be maintained, special construction requirements shall be provided in accordance with requirements in R317-3 for protection of potable water lines. Existing pressure lines carrying reclaimed water shall not be required to meet these requirements.

2. Depth of Installation. To provide protection of the installed pipeline, reclaimed water lines should be installed with a minimum depth of bury of three feet.

3. Reclaimed Water Pipe Identification.

a. General. All new buried pipe, including service lines, valves, and other appurtenances, shall be colored purple, Pantone 522 or equivalent. If fading or discoloration of the purple pipe is experienced during construction, identification tape is recommended. Locating wire along the pipe is also recommended.

b. Identification Tape. If identification tape is installed along with the purple pipe, it shall be prepared with white or black printing on a purple field, color Pantone 512 or equivalent, having the words, "Caution: Reclaimed Water-- Do Not Drink". The overall width of the tape shall be at least three inches. Identification tape shall be installed 12 inches above the transmission pipe longitudinally and shall be centered.

4. Conversion of existing water lines. Existing water lines that are being converted to use with reclaimed water shall first be accurately located and comply with leak test standards in accordance with AWWA Standard C-600 and in coordination with regulatory agencies. The pipeline must be physically disconnected from any potable water lines and brought into compliance with current State cross connection rules and requirements (R309-102-5), and must meet minimum separation requirements in section 4.8.A.1 of this rule above. If the existing lines meet approval of the water supplier and the Division, the lines shall be approved for reclaimed water distribution. If regulatory compliance of the system (accurate location and verification of no cross connections) cannot be verified with record drawings, televising, or otherwise, the lines shall be uncovered, inspected, and identified prior to use. All accessible portions of the system must be retrofitted to meet the requirements of this rule.

5. Valve Boxes and Other Surface Identification. All valve covers shall be of non-interchangeable shape with potable water covers, and shall have an inscription cast on the top surface stating "Reclaimed Water". Valve boxes shall meet AWWA standards. All above ground facilities shall be consistently color coded (purple, Pantone 512) and marked to differentiate reclaimed water facilities from potable water facilities.

6. Blow-off Assemblies. If either an in-line type or end-of-line type blow-off or drain assembly is installed in the system, the Division of Water Quality shall be consulted on acceptable discharge or runoff locations.

B. Storage. If storage or impoundment of reclaimed water is provided, the following requirements apply:

1. Fencing. For Type I effluent, no fencing is required by this rule, but may be required by local laws or ordinances. For Type II effluent, see R317-1-4.4.D.4 above.

2. Identification. All storage facilities shall be identified by signs prepared according to the requirements of Section 4.8.D.6 below. Signs shall be posted on the surrounding fence at minimum 500 foot intervals and at the entrance of each facility. If there is no fence, signs shall be located as a minimum on each side of the facility or at minimum 250 foot intervals or at all accessible points.

C. Pumping Facilities.

1. Marking. All exposed and above ground piping, fittings, pumps, valves, etc., shall be painted purple, Pantone 512. In addition, all piping shall be identified using an accepted means of labeling reading "Caution: Reclaimed Water - Do Not Drink." In a fenced pump station area, signs shall be posted on the fence on all sides.

2. Sealing Water. Any potable water used as seal water for reclaimed water pumps seals shall be protected from backflow with a reduced pressure principle device.

D. Other Requirements.

1. Backflow Protection. In no case shall a connection be made between the potable and reclaimed water system. If it is necessary to put potable water into the reclaimed distribution system, an approved air gap must be provided to protect the potable water system. A reduced pressure principle device may be used only when approved by the Division of Water Quality, the local health department, and the potable water supplier.

2. Drinking Fountains. Drinking fountains and other public facilities shall be placed out of any spray irrigation area in which reclaimed water is used, or shall be otherwise protected from contact with the reclaimed water. Exterior drinking fountains and other public facilities shall be shown and called out on the construction plans. If no exterior drinking fountains, picnic tables, food establishments, or other public facilities are present in the design area, then it shall be specifically stated on the plans that none are to exist.

3. Hose Bibs. Hose bibs on reclaimed water systems in public areas and at individual residences shall be prohibited. In public, non-residential areas, replacement of hose bibs with quick couplers is recommended.

4. Equipment and Facilities. Any equipment or facilities such as tanks, temporary piping or valves, and portable pumps which have been or may be used with reclaimed water, and could be interchangeably used with potable water or sewage, shall be cleaned and disinfected before or after use as appropriate. This disinfection and cleaning shall ensure the protection of the public health in the event of any subsequent use.

5. Warning Labels. Warning labels shall be installed on designated facilities such as, but not limited to, controller panels and washdown or blow-off hydrants on water trucks, and temporary construction services. The labels shall indicate the system contains reclaimed water that is unsafe to drink.

6. Warning signs. Where reclaimed water is stored or impounded, or used for irrigation in public areas, warning signs shall be installed and contain, as a minimum, 1/2 inch purple letters (Pantone 512) on a white or other high contrast background notifying the public that the water is unsafe to drink. Signs may also have a purple background with white or other high contrast lettering. Warning signs and labels shall read, "Warning: Reclaimed Water - Do Not Drink". The signs shall include the international symbol for Do Not Drink.

KEY: water pollution, waste disposal, industrial waste, effluent standards
~~January 30, 2003~~
 Notice of Continuation October 7, 2002
 19-5



**Health, Health Care Financing,
 Coverage and Reimbursement Policy
 R414-1-6
 Services Available**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 26591

FILED: 08/28/2003, 16:15

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rulemaking modifies how Intermediate Care Facilities for the Mentally Retarded (ICF/MR) clients move out of institutions and into Home and Community Based Services. The Portability Project will eliminate open enrollment in favor of a limited enrollment as appropriations are available. Thus, those in need of ICF/MR services will find more beds available while at the same time assuring funding for the Home and Community Based Waiver.

SUMMARY OF THE RULE OR CHANGE: The open enrollment period for the Home and Community Based waiver will be replaced by a Portability Project that will require appropriation from the State Legislature. Authorization from the State Legislature will allow a certain number of eligible individuals to participate in the waiver for a specified time period.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 26-18-3, 26-1-5, and 26-18-2.1

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The cost to the Department of Health is zero. This rule change will not have a direct cost for the Department of Human Services. However, the approximate cost to serve a client in the community is \$50,000 per year. Under this rule, a client does not move to the Home and community Based Waiver until the legislature appropriates the funds for that purpose.

❖ LOCAL GOVERNMENTS: There will be no cost or savings to local government because no local funds are used in this program.

❖ OTHER PERSONS: There will be no aggregate anticipated cost to other persons because only state and federal dollars are used in this program. Providers of services to these clients will benefit when legislative appropriations fund new placements.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule change creates no compliance costs for affected persons. The change from open enrollment to portability tied to legislative appropriations is the only amendment.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rulemaking is necessary to move clients out of ICFs/MR and into Home and Community Based Services. The Portability Project will eliminate open enrollment in favor of a limited enrollment as appropriations are available. The rule will not have a direct impact on businesses. A favorable impact will occur as new appropriations are made by the Legislature. Rod L. Betit

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

HEALTH
HEALTH CARE FINANCING,
COVERAGE AND REIMBURSEMENT POLICY
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Ross Martin or Craig Devashrayee at the above address, by phone at 801-538-6592 or 801-538-6641, by FAX at 801-538-6099 or 801-538-6099, or by Internet E-mail at rmartin@utah.gov or cdevashrayee@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 10/15/2003.

THIS RULE MAY BECOME EFFECTIVE ON: 10/16/2003

AUTHORIZED BY: Rod L. Betit, Executive Director

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

R414-1. Utah Medicaid Program.

R414-1-6. Services Available.

(1) Medical or hospital services available under the Medical Assistance Program are generally limited by federal guidelines as set forth under Title XIX of the federal Social Security Act and Title 42 of the Code of Federal Regulations (CFR).

(2) The following services provided in the State Plan are available to both the categorically needy and medically needy:

(a) inpatient hospital services, with the exception of those services provided in an institution for mental diseases;

(i) ~~The Department shall conduct an annual open enrollment period for~~ A Medicaid recipient[s] residing in an Intermediate Care Facility[es] for the Mentally Retarded (ICF/MR) may at any time apply for enrollment to the Medicaid 1915c [to allow each person the opportunity, on a yearly basis, to move to Medicaid] Home and Community-Based Waiver[covered services and supports that the Department has deemed appropriate for the identified needs of the individual] for individuals with developmental disabilities or mental retardation through the application process established in the federally approved waiver implementation plan. ICF/MR resident applications are processed consistent with all waiver applications.

(ii) The Department, through an ICF/MR Portability Project established in rule, will make the Medicaid 1915c Home and Community-Based Waiver for Individuals with Developmental Disabilities or Mental Retardation available to Medicaid recipients who have resided for 12 or more continuous months in a Medicaid certified ICF/MR. The Department will make the ICF/MR Portability Project available to eligible individuals during a specified time period up to the number of individuals authorized for the project by the Utah Legislature through appropriation for that time period[shall designate a three month open enrollment period each fiscal year. The Department relocates individuals whom it determines to be eligible through the open enrollment process at the

~~time appropriate services and supports are available, and the Department has completed the required Home and Community-Based Services Waiver procedures].~~

(b) outpatient hospital services and rural health clinic services;

(c) other laboratory and x-ray services;

(d) skilled nursing facility services, other than services in an institution for mental diseases, for individuals 21 years of age or older;

(e) early and periodic screening and diagnoses of individuals under 21 years of age, and treatment of conditions found, are provided in accordance with federal requirements;

(f) family planning services and supplies for individuals of child-bearing age;

(g) physician's services, whether furnished in the office, the patient's home, a hospital, a skilled nursing facility, or elsewhere;

(h) podiatrist's services;

(i) optometrist's services;

(j) psychologist's services;

(k) interpreter's services;

(l) home health services:

(i) intermittent or part-time nursing services provided by a home health agency;

(ii) home health aide services by a home health agency; and

(iii) medical supplies, equipment, and appliances suitable for use in the home;

(m) private duty nursing services for children under age 21;

(n) clinic services;

(o) dental services;

(p) physical therapy and related services;

(q) services for individuals with speech, hearing, and language disorders furnished by or under the supervision of a speech pathologist or audiologist;

(r) prescribed drugs, dentures, and prosthetic devices and eyeglasses prescribed by a physician skilled in diseases of the eye or by an optometrist;

(s) other diagnostic, screening, preventive, and rehabilitative services other than those provided elsewhere in the State Plan;

(t) services for individuals age 65 or older in institutions for mental diseases:

(i) inpatient hospital services for individuals age 65 or older in institutions for mental diseases;

(ii) skilled nursing services for individuals age 65 or older in institutions for mental diseases; and

(iii) intermediate care facility services for individuals age 65 or older in institutions for mental diseases;

(u) intermediate care facility services, other than services in an institution for mental diseases. These services are for individuals determined, in accordance with section 1902(a)(31)(A) of the Social Security Act, to be in need of this care, including those services furnished in a public institution for the mentally retarded or for individuals with related conditions;

(v) inpatient psychiatric facility services for individuals under 22 years of age;

(w) nurse-midwife services;

(x) family or pediatric nurse practitioner services;

(y) hospice care in accordance with section 1905(o) of the Social Security Act;

(z) case management services in accordance with section 1905(a)(19) or section 1915(g) of the Social Security Act;

(aa) extended services to pregnant women, pregnancy-related services, postpartum services for 60 days, and additional services for any other medical conditions that may complicate pregnancy;

(bb) ambulatory prenatal care for pregnant women furnished during a presumptive eligibility period by a qualified provider in accordance with section 1920 of the Social Security Act; and

(cc) other medical care and other types of remedial care recognized under state law, specified by the Secretary of the United States Department of Health and Human Services, pursuant to 42 CFR 440.60 and 440.170, including:

(i) medical or remedial services provided by licensed practitioners, other than physician's services, within the scope of practice as defined by state law;

(ii) transportation services;

(iii) skilled nursing facility services for patients under 21 years of age;

(iv) emergency hospital services; and

(v) personal care services in the recipient's home, prescribed in a plan of treatment and provided by a qualified person, under the supervision of a registered nurse.

(dd) other medical care, medical supplies, and medical equipment not otherwise a Medicaid service if the Division determines that it meets both of the following criteria:

(i) it is medically necessary and more appropriate than any Medicaid covered service; and

(ii) it is more cost effective than any Medicaid covered service.

KEY: Medicaid

2003

Notice of Continuation April 30, 2002

26-1-5

26-18-1



**Human Services, Child and Family
Services
R512-25
Child Protective Services Notification
and Due Process**

NOTICE OF PROPOSED RULE

(Repeal)

DAR FILE NO.: 26600

FILED: 09/02/2003, 15:10

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The due process rights of individuals suspected of child abuse and neglect are now addressed in a Juvenile Court hearing or through a hearing before an administrative law judge pursuant to Section 78-3a-320.

SUMMARY OF THE RULE OR CHANGE: Rule R512-25 should be repealed because due process rights of those suspected of child abuse or neglect are now addressed by Section 78-3a-320. The rule is repealed in its entirety.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 78-3a-320

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** Cost or savings should be neutral. The same amount of staff time will be needed to afford individuals due process in Juvenile court and administrative hearings.

❖ **LOCAL GOVERNMENTS:** Local governments may be affected if law enforcement officers are asked to testify at a Juvenile court or administrative hearing.

❖ **OTHER PERSONS:** Only individuals directly involved in a Juvenile Court or administrative hearing are affected. With the repeal of this rule, there will probably be more individuals who will elect to retain an attorney since these cases will now be heard in Juvenile Court rather than an administrative review. Individuals may incur the cost of legal counsel to represent them in Juvenile Court or at an administrative hearing. Legal costs may vary according to the fee charged by the attorney and the complexity of the case before the Juvenile Court or administrative hearing.

COMPLIANCE COSTS FOR AFFECTED PERSONS: With the repeal of this rule, there will probably be more individuals who will elect to retain an attorney since these cases will now be heard in Juvenile Court rather than an administrative review. Individuals may incur the cost of legal counsel to represent them in Juvenile Court or at an administrative hearing. Legal costs may vary according to the fee charged by the attorney and the complexity of the case before the Juvenile Court or administrative hearing. Individuals may incur the cost of legal counsel to represent them in Juvenile Court or at an administrative hearing. Legal costs may vary according to the fee charged by the attorney and the complexity of the case before the Juvenile Court or administrative hearing.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Only individuals are affected, there should be no impact on businesses.

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

HUMAN SERVICES
CHILD AND FAMILY SERVICES
Room 225
120 N 200 W
SALT LAKE CITY UT 84103-1500, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Steven Bradford at the above address, by phone at 801-538-8210, by FAX at 801-538-3993, or by Internet E-mail at sbradford@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 10/15/2003.

THIS RULE MAY BECOME EFFECTIVE ON: 10/16/2003

AUTHORIZED BY: Richard Anderson, Director

R512. Human Services, Child and Family Services.

~~R512-25. Child Protective Services Notification and Due Process.~~
~~R512-25-1. Scope.~~

~~— A. The Division of Child and Family Services shall act in accordance with Section 62A-4a-409, and investigate all reports of child abuse, neglect, or dependency. Each investigation shall determine the validity of the report and make a substantiated or unsubstantiated finding. This rule establishes an appeal for individuals who disagree with a Division substantiated finding of abuse, neglect or dependency in accordance with Federal law, 42 United States Code, Section 5106a.~~

~~R512-25-2. Definitions.~~

~~— In addition to terms defined in Section 62A-4a-101,~~

~~— A. Division means the Division of Child and Family Services within the Department of Human Services.~~

~~— B. Substantiated finding means an official finding at the completion of an investigation that there is a reasonable basis to conclude that child abuse, neglect, or dependency occurred.~~

~~— C. Dependency means a condition of a child who is homeless or without proper care, or is forced or obligated to be supported by a person other than the parent or guardian.~~

~~R512-25-3. Notice of Agency Action.~~

~~— A. A Notice of Agency Action shall be sent in accordance with Section 63-46b-3 to the person identified in the a substantiated finding as responsible for child abuse, neglect or dependency.~~

~~R512-25-4. Challenge of Substantiated Finding.~~

~~— A. A person may make a request to challenge a substantiated finding within 30 days of:~~

~~— 1. a notice having been received pursuant to R512-25-3 of this rule;~~

~~— 2. a finding by a court of competent jurisdiction based upon the same underlying facts that:~~

~~— a. child abuse or neglect or dependency did not occur; or~~

~~— b. the person was not responsible for the child abuse or neglect or dependency that did occur, or that was alleged.~~

~~— 3. criminal charges were dismissed or a verdict of not guilty based on the same underlying facts.~~

~~— B. The 30-day requirement of R512-25-3 shall be extended for good cause shown that compliance was virtually impossible or unreasonably burdensome.~~

~~— C. The Division may approve or deny a request to change the substantiated finding.~~

~~— D. If the Division denies the request to change the substantiation or fails to act within 30 days after receiving a request submitted under R512-25-4, the Office of Administrative Hearings within the Department of Human Services shall schedule an adjudicative proceeding pursuant to Section 63-46b.~~

~~R512-25-5. Conduct and Outcome of Hearing.~~

~~— A. In an adjudicative proceeding held pursuant to R512-25-4(D), the Division shall prove by a preponderance of evidence that there is a reasonable basis to conclude that:~~

~~— 1. child abuse or neglect occurred;~~

~~— 2. the person was substantially responsible for the abuse or neglect that occurred.~~

~~— B. The administrative hearing officer may make a determination based solely upon the statement of the child.~~

~~— C. If more than one substantiated finding is adjudicated during a single adjudicative proceeding, each substantiated finding shall be adjudicated independently.~~

~~— D. If the person's challenge is successful at the adjudicative proceeding, the Division will change the designation substantiated finding to an unsubstantiated finding in agency records.~~

~~R512-25-6. Denial of or Stay of Adjudicative Proceeding.~~

~~— A. A person may not make a request to challenge a substantiated finding under R512-25-4 if, at any time, a court of competent jurisdiction has made a determination based on the same underlying facts that:~~

~~— 1. the child abuse or neglect occurred; and~~

~~— 2. the person was substantially responsible for the abuse or neglect that occurred.~~

~~— B. An adjudicative proceeding held pursuant to R512-25-4 may be stayed during the time a judicial action is pending.~~

~~KEY: child welfare, child abuse~~

~~January 21, 1999~~

~~42 USC 5106(a)~~

~~62A-4a-106~~

~~62A-4a-116~~

~~62A-4a-116.5~~

~~63-46b-3]~~



Human Services, Child and Family
 Services
R512-31-5
 Foster Parent Conflict Resolution
 Procedure

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 26578

FILED: 08/19/2003, 12:27

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule must be amended to reflect the removal of the Consumer Hearing Panel. Passage of H.B. 5005, Repeal of Unfunded Consumer Hearing Panel, sponsored by Rep. Matt Throckmorton during the Fifth Special Session repealed the Consumer Hearing Panel from statute. (DAR NOTE: H.B. 5005 is found at UT L 2002, 5th Spec. Sess., Ch 6, and was effective July 23, 2002.)

SUMMARY OF THE RULE OR CHANGE: This amendment removes the Consumer Hearing Panel from Section R512-31-5.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 62A-4a-102 and 62A-4a-207

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: Any savings to the state budget was recognized during the 2002 General Session when funding to the Consumer Hearing Panel was cut. There is no further anticipated fiscal impact.
- ❖ LOCAL GOVERNMENTS: There is no cost to local government, this rule does not affect local government.
- ❖ OTHER PERSONS: Because of the legislative action prompting this amendment, complainants to the Office of the Child Protection Ombudsman who are not satisfied with the findings of that office will no longer be able to appeal to the Consumer Hearing Panel. They may incur the cost of retaining their own counsel to represent them at an administrative hearing.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Because of the legislative action prompting this amendment, complainants to the Office of the Child Protection Ombudsman who are not satisfied with the findings of that office will no longer be able to appeal to the Consumer Hearing Panel. They may incur the cost of retaining their own counsel to represent them at an administrative hearing.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no anticipated fiscal impact on businesses.

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

HUMAN SERVICES
 CHILD AND FAMILY SERVICES
 Room 225
 120 N 200 W
 SALT LAKE CITY UT 84103-1500, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 Vanessa Thompson at the above address, by phone at 801-538-9877, by FAX at 801-538-4016, or by Internet E-mail at vthompson@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 10/15/2003.

THIS RULE MAY BECOME EFFECTIVE ON: 10/16/2003

AUTHORIZED BY: Robin Arnold-Williams, Executive Director

**R512. Human Services, Child and Family Services.
 R512-31. Foster Parent Due Process.
 R512-31-5. Foster Parent Conflict Resolution Procedure.**

A. The Foster Parent Conflict Resolution Procedure consists of the following:

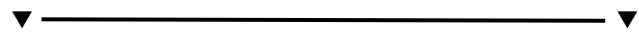
1. A foster parent must first attempt to resolve a conflict with the Division informally through discussion with the caseworker or supervisor. If a conflict is not resolved through informal discussion, an agency conference may be requested by the foster parent.
2. The foster parent shall have the opportunity to provide written and oral comments to the Division in an agency conference

chaired by the regional director or designee. The agency conference shall include the foster parent, foster care caseworker and the caseworker's supervisor, and may include other individuals at the request of the foster parent or caseworker.

3. If the foster parent is not satisfied with the results of the agency conference with the Division and a foster child is to be removed from the foster home, an administrative hearing shall be held through the Department of Human Services, Office of Administrative Hearings. The Office of Administrative Hearings shall serve as the neutral fact finder required by Subsection 62A-4a-206(2)(b)(ii).[

~~4. If the foster parent conflict is based upon an issue other than removal of a child, and the conflict is not satisfactorily resolved by an agency conference with the Division, the foster parent may address the concern with the Office of the Child Protection Ombudsman and the Consumer Hearing Panel in accordance with R512-70 and R512-75.]~~

KEY: child welfare, foster care, due process
~~[April 1, 1998]~~2003
 Notice of Continuation December 13, 2002
 62A-4a-105
 62A-4a-206
 63-46b-3
 62A-4a-101
 78-3a-315



**Human Services, Recovery Services
 R527-210-1
 Reduction for Extended Visitation**

NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE No.: 26577
 FILED: 08/19/2003, 11:56

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Subsection 30-3-32(3)(c) now provides a definition for the term "extended parent-time," so the definition in Section R527-210-1 is being deleted. In addition, Section 78-45-7.11 was amended (May 5, 2003) to incorporate specific reduction in support procedures for all extended parent-time situations except one, when the child is a recipient of financial public assistance, so the second paragraph of Section R527-210-1 is also being deleted.

SUMMARY OF THE RULE OR CHANGE: The first and second paragraphs of Section R527-210-1 are being deleted. They are obsolete because these issues are now addressed by the Utah Code. In addition, the reference to "visitation" is being replaced with the current statute terminology of "parent-time."

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 30-3-32 and 78-45-7.11

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There are no costs or savings associated with this rule change. The purpose of the rule change is to remove paragraphs made obsolete by recent statute changes. The Office of Recovery Services/Child Support Services (ORS/CSS) will be carrying out the requirements and procedures described in Section 78-45-7.11 as written. Costs, if any, involved with the extended parent-time reduction process would be due to the underlying statute's requirements; however, the statute was passed with no fiscal note attached.

❖ LOCAL GOVERNMENTS: None--Administrative rules of the Office of Recovery Services do not apply to local governments.

❖ OTHER PERSONS: There are no costs or savings associated with this change in rule. This rule change is to remove paragraphs made obsolete due to changes in Utah Code Annotated. The Office of Recovery Services/Child Support Services (ORS/CSS) will be carrying out the requirements and procedures described in Section 78-45-7.11 as written. Costs, if any, involved with the extended parent-time reduction process are due to the underlying statute's requirements; however, the statute was passed with no fiscal note attached.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--Costs to affected persons, if any, would be due to the underlying statute, Section 78-45-7.11, which ORS/CSS will be implementing exactly as written. There are no additional costs due to changing this rule to remove language made obsolete by current statute.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Changes to Section R527-210-1 reflect updates to current statute and will not have a fiscal impact on businesses.

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

HUMAN SERVICES
RECOVERY SERVICES
515 E 100 S
SALT LAKE CITY UT 84102-4211, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Liesa Corbridge at the above address, by phone at 801-536-8986, by FAX at 801-536-8833, or by Internet E-mail at lcorbri2@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 10/15/2003.

THIS RULE MAY BECOME EFFECTIVE ON: 10/16/2003

AUTHORIZED BY: Emma Chacon, Director

R527. Human Services, Recovery Services.**R527-210. Guidelines for Setting Child Support Awards.****R527-210-1. Reduction for Extended ~~Visitation~~ Parent-time.**

1. ~~[Extended visitation is defined as the time period during which the child is with the noncustodial parent for at least 25 of any 30 consecutive days. Normal visitation and holiday visits to the custodial parent shall not be considered an interruption of the consecutive day requirement.~~

~~2. If the child support order provides that the base child support award will be reduced for each child for extended visitation and extended visitation is exercised, the office shall reduce the support obligation accordingly.~~

~~3. If the support order does not specifically provide that the base child support award will be reduced for extended ~~visitation~~ parent-time and the child is a recipient of financial public assistance, the Office of Recovery Services/Child Support Services (ORS/CSS) shall not reduce the support obligation.~~

KEY: child support

~~[June 19, 2002]~~2003

Notice of Continuation January 26, 1999

62A-11-304.2

78-45-7.11

78-45-7.20

78-45-7.21

Human Services, Recovery Services

R527-255

Change of Circumstances

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 26587

FILED: 08/28/2003, 13:19

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The proposed change eliminates agent discretion in determining "temporary" circumstances by defining temporary as less than 12 months. The change also requires the custodial and noncustodial parent to provide the evidence of a change in circumstances.

SUMMARY OF THE RULE OR CHANGE: The rule changes: remove the office's discretion in determining if an adjustment should be made to a child support order if the change in circumstances is between 6 and 12 months. Temporary change is now defined as a change in circumstance that is or projected to be less than 12 month and long term or permanent as 12 months or more. The custodial and noncustodial parent's are now required to provide the evidence of a change in circumstance.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 78-45-7 through 78-45-7.21, 62A-11-320.5, and 62A-11-320.6

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The state budget will be reduced by the cost of obtaining evidence to support a change in circumstance. There will be no effect on state budget due to the change in the definition of temporary because the Office will reallocate staff to handle changes in the volume of reviews.

❖ LOCAL GOVERNMENTS: Administrative rules of the Office of Recovery Service do not apply to local government. Therefore, there is no impact to local government.

❖ OTHER PERSONS: This change may increase the cost to a parent seeking a modification of an order when the change in circumstances is between 6 and 12 months. The office will not review these orders for modification but the parent may seek private counsel.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There may be a minimal cost to custodial or non-custodial parents when they obtain evidence to support the change in circumstances. For example, a physician may charge a nominal fee to copy and release medical records.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: These changes will make no change to the fiscal impact on businesses.

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

HUMAN SERVICES
RECOVERY SERVICES
515 E 100 S
SALT LAKE CITY UT 84102-4211, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Kristen Lowe at the above address, by phone at 801-536-0347, by FAX at 801-536-8833, or by Internet E-mail at klowe@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 10/15/2003.

THIS RULE MAY BECOME EFFECTIVE ON: 10/16/2003

AUTHORIZED BY: Emma Chacon, Director

R527. Human Services, Recovery Services.**R527-255. Substantial Change in Circumstances.****R527-255-1. Substantial Change in Circumstances.**

1. A parent who requests a less than three year review of a support order based on an alleged substantial change in circumstances, must provide documentation of the alleged change at his/her own expense within 30 days of the date of that parent's request. If the requesting parent does not provide documentation of the alleged change within 30 days, the review may be terminated.

[+]2. If the change in circumstances is projected to be temporary, defined as less than [6]12 months in [prospective

duration, the [~~current support order shall not be modified~~]office shall not initiate proceedings to adjust the award.[

— 2. If the change in circumstances is more extended, defined as 6 to 12 months in prospective duration, the office has the discretion to determine whether the change is minimal such that the original order should not be adjusted, or significant enough to justify initiating proceedings to adjust the award pursuant to Sections 78-45-7.2 through 78-45-7.21.]

3. If the change in circumstances is projected to be long term or permanent, defined as [~~over~~]12 months or more in [prospective]duration, the office shall initiate proceedings to adjust the award pursuant to Sections 78-45-7.2 through 78-45-7.21.

KEY: child support

~~[August 15, 1997]~~2003

Notice of Continuation September 11, 2002

78-45-7 through 78-45-7.21

62A-11-320.5

62A-11-320.6

▼ ————— ▼

Insurance, Administration

R590-209

Court Ordered Health Insurance Coverage for Dependents

NOTICE OF PROPOSED RULE

(Repeal)

DAR FILE NO.: 26599

FILED: 09/02/2003, 14:54

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being repealed due to an industry petition to repeal based on the industry's belief that the rule was not congruent with the state law upon which it was based.

SUMMARY OF THE RULE OR CHANGE: The repeal of this rule will withdraw the minimum standards and general provisions for "out-of-area-dependent" coverage. The rule is repealed in its entirety.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 31A-2-201 and 31A-22-610.5

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: Those insurers that have filed forms to comply with this rule who wish to return to the way it was prior to the rule, will need to refile those forms. We do not have a count of the companies that will need to refile. This will create little additional work for the department and no cost savings that will affect the general fund.

❖ LOCAL GOVERNMENTS: This rule will not affect local government since the rule applies only to the licensees of the department.

❖ OTHER PERSONS: As a result of the repeal of this rule persons affected by the rule may bear more of the cost of health care for out-of-area dependents.

COMPLIANCE COSTS FOR AFFECTED PERSONS: As a result of the repeal of this rule persons affected by the rule may bear more of the cost of health care for out-of-area dependents.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be no impact on employers purchasing health insurance. Health insurers may incur minor costs to reprint forms.

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

**INSURANCE
ADMINISTRATION**
Room 3110 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY UT 84114-1201, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jilene Whitby at the above address, by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at jwhitby@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 10/16/2003

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 10/07/2003 at 9:00 AM, State Office Building, Room 3112, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 10/17/2003

AUTHORIZED BY: Jilene Whitby, Information Specialist

R590. Insurance, Administration.

~~**[R590-209. Court Ordered Health Insurance Coverage for Dependents.**~~

~~**R590-209-1. Authority.**~~

~~— This rule is promulgated pursuant to Subsections 31A-2-201(1) and 31A-2-201(3)(a) in which the insurance commissioner is empowered to administer and enforce this title and to make rules to implement the provisions of this title. The authority to set minimum standards by rule is pursuant to Subsections 31A-22-610.5(4)(iv), 31A-22-610.5(5), 31A-22-610.5(6), 31A-22-610.5(7) and 31A-22-610.5(9).~~

~~**R590-209-2. Purpose and Scope.**~~

~~— The purpose of this rule is to establish minimum standards for insurers providing accident and health coverage when a court or administrative order requires the responsible parent to provide health insurance for dependents.~~

~~**R590-209-3. Definitions.**~~

~~— The following definition shall be used for purposes of this rule:
— "Out of area dependent" means a child who does not reside with the parent who is responsible for providing health insurance coverage required by a court or administrative order and does not reside in the insurer's service area.~~

~~**R590-209-4. Minimum Standards and General Provisions.**~~

~~— (1) When there is a court or administrative order requiring a parent to provide health insurance to an out of area dependent, as described in Subsection 31A-22-610(5), the insurer covering the responsible parent shall provide coverage consistent with the following minimum standards:~~

~~— (a) enrollment in the responsible parent's health insurance coverage will be as if the out-of-area dependent child resided within the service area;~~

~~— (b) health insurance coverage will be provided by the insurer to the out-of-area dependent child that is equivalent to health insurance coverage within the responsible parent's service area;~~

~~— (c) the out of area health insurance coverage may be provided by a health maintenance organization, a preferred provider organization, indemnity program, or fee for service arrangement, regardless of the initial family coverage plan;~~

~~— (d) an unmarried out of area dependent is eligible for coverage until the age stated in the court or administrative order or age 26 if the court or administrative order is silent;~~

~~— (e) health insurance coverage may not be restricted to emergency or urgent care only; and~~

~~— (f) the restrictions under Section 31A-8-408 do not apply to a health maintenance organization that provides coverage under this rule.~~

~~— (2) The insurer's policy form will clearly state that the amount paid for a covered service to a provider for an out of area dependent will be at a benefit level not less than a contracted in area provider benefit.~~

~~**R590-209-5. Penalties.**~~

~~— Violations of this rule are subject to the penalties provided for in Section 31A-2-308.~~

~~**R590-209-6. Compliance Date.**~~

~~— The commissioner will begin enforcing the provisions of this rule 45 days from the rules effective date.~~

~~**R590-209-7. Severability.**~~

~~— If any provision or clause of this rule or its application to any person or situation is held invalid, such validity shall not affect any other provision or application, and to this end the provisions of this rule are declared to be severable.~~

~~**KEY: insurance, health**~~

~~**August 5, 2002**~~

~~**31A-2-201**~~

~~**31A-22-610.5]**~~



Tax Commission, Auditing

R865-13G-16

Aviation Fuel Tax Refund or Credit
Pursuant to Utah Code Ann. Section

59-13-404

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 26601

FILED: 09/02/2003, 15:39

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Section 59-13-404 provides the commission rulemaking authority to administer the credit or refund for fuel tax paid on gallons of aviation fuel purchased at Salt Lake International Airport.

SUMMARY OF THE RULE OR CHANGE: This proposed rule indicates that for purposes of determining whether the credit or refund for fuel tax paid on gallons of aviation fuel purchased at Salt Lake International Airport is claimed on a timely basis, "tax year" shall mean calendar year.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 59-13-404

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: None--The proposed rule mirrors agency practice.
- ❖ LOCAL GOVERNMENTS: None--The proposed rule mirrors agency practice.
- ❖ OTHER PERSONS: None--The proposed rule mirrors agency practice.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--The proposed rule mirrors agency practice.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be no fiscal impact on businesses since the amendment follows current practice.

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

TAX COMMISSION
AUDITING
210 N 1950 W
SALT LAKE CITY UT 84134, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Cheryl Lee at the above address, by phone at 801-297-3900, by FAX at 801-297-3919, or by Internet E-mail at clee@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 10/15/2003.

THIS RULE MAY BECOME EFFECTIVE ON: 10/16/2003

AUTHORIZED BY: Pam Hendrickson, Commissioner

R865. Tax Commission, Auditing.

R865-13G. Motor Fuel Tax.

R865-13G-16. Aviation Fuel Tax Refund or Credit Pursuant to Utah Code Ann. Section 59-13-404.

For purposes of administering the aviation fuel tax refund or credit for aviation fuel tax paid on gallons of aviation fuel purchased at Salt Lake International Airport, "tax year" means calendar year.

KEY: taxation, motor fuel, gasoline, environment

October 16, 2001

Notice of Continuation April 3, 2002

59-13-404



Tax Commission, Auditing

R865-19S-113

Sales Tax Obligations of Jeep, Snowmobile, and Boat Tour Operators, River Runners, Outfitters, and Other Sellers Providing Similar Services Pursuant to Utah Code Ann. Sections 59-12-103 and 59-12-107

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 26598

FILED: 09/02/2003, 14:33

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The State's ability to tax these services under Section 59-12-103 is limited by a U.S. Supreme Court ruling, Oklahoma Tax Commission v. Jefferson Lines, Inc., 514 U.S. 175 (1995). That case provides that transportation services are taxable in a state if the services originate or terminate in the state and if payment occurs within the state.

SUMMARY OF THE RULE OR CHANGE: The proposed rule indicates that services provided by jeep, snowmobile, and boat tour operators, river runners, outfitters, and other sellers providing similar services are required to collect and remit sales tax on their services if the service originates or terminates in the state, and payment occurs in the state. In addition, the proposed rule indicates when payment occurs in the state, and provides a rebuttable presumption that payment occurs in the state.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 59-12-103 and 59-12-107

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: Potential insignificant decrease. While the proposed rule generally reflects current Tax Commission practice, it also contains two slight changes to practice to bring the state's practice into complete alignment with the Jefferson Lines case. The first change is that the service may not be taxed if it neither originates nor terminates within the state. The second change defines when payment occurs in the state on a narrower basis than the current practice. Sellers collecting taxes in these two instances would no longer collect taxes under the proposed rule. Potential losses would be insignificant.

❖ LOCAL GOVERNMENTS: Potential insignificant decrease. While the proposed rule generally reflects current Tax Commission practice, it also contains two slight changes to practice to bring the state's practice into complete alignment with the Jefferson Lines case. The first change is that the service may not be taxed if it neither originates nor terminates within the state. The second change defines when payment occurs in the state on a narrower basis than the current practice. Sellers collecting taxes in these two instances would no longer collect taxes under the proposed rule. Potential losses would be insignificant.

❖ OTHER PERSONS: Overall, a potential insignificant decrease to purchasers of these services - if the seller was collecting tax but is no longer required to do so.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--Providers of these services may or may not be required to collect tax based on where the services and the payment for those services occurred.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be no fiscal impact on businesses. Some companies who have collected and remitted sales tax in the past will no longer collect and remit on certain transactions.

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

TAX COMMISSION
AUDITING
210 N 1950 W
SALT LAKE CITY UT 84134, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Cheryl Lee at the above address, by phone at 801-297-3900, by FAX at 801-297-3919, or by Internet E-mail at clee@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 10/15/2003.

THIS RULE MAY BECOME EFFECTIVE ON: 10/16/2003

AUTHORIZED BY: Pam Hendrickson, Commissioner

R865. Tax Commission, Auditing.**R865-19S. Sales and Use Tax.****R865-19S-113. Sales Tax Obligations of Jeep, Snowmobile, and Boat Tour Operators, River Runners, Outfitters, and Other Sellers Providing Similar Services Pursuant to Utah Code Ann. Sections 59-12-103 and 59-12-107.**

A. The provisions of this rule apply to jeep, snowmobile, and boat tour operators, river runners, outfitters, and other sellers providing similar services.

B. If payment for a service provided by a seller described in A. occurs in Utah and the service originates or terminates in Utah, the seller shall collect Utah sales and use tax on the entire amount of the transaction.

C. If payment for a service provided by a seller described in A. occurs outside Utah and the entire service occurs in Utah, the seller shall collect Utah sales and use tax on the entire amount of the transaction.

D. If payment for a service provided by a seller described in A. occurs outside Utah and the service originates or terminates outside Utah, the seller is not required to collect Utah sales and use tax on the transaction.

E. Payment occurs in Utah if the purchaser:

1. while at a business location of the seller in the state, presents payment to the seller; or

2. does not meet the criteria under E.1. and is billed for the service at an address within the state.

F. For purposes of this rule, there is a rebuttable presumption that payment for a service provided by a seller described in A. occurs in Utah.

KEY: charities, tax exemptions, religious activities, sales tax May 17, 2002

Notice of Continuation April 5, 2002

59-12-103

59-12-107

End of the Notices of Proposed Rules Section

NOTICES OF CHANGES IN PROPOSED RULES

After an agency has published a PROPOSED RULE in the *Utah State Bulletin*, it may receive public comment that requires the PROPOSED RULE to be altered before it goes into effect. A CHANGE IN PROPOSED RULE allows an agency to respond to comments it receives.

As with a PROPOSED RULE, a CHANGE IN PROPOSED RULE is preceded by a RULE ANALYSIS. This analysis provides summary information about the CHANGE IN PROPOSED RULE including the name of a contact person, anticipated cost impact of the rule, and legal cross-references.

Following the RULE ANALYSIS, the text of the CHANGE IN PROPOSED RULE is usually printed. The text shows only those changes made since the PROPOSED RULE was published in an earlier edition of the *Utah State Bulletin*. Additions made to the rule appear underlined (e.g., example). Deletions made to the rule appear struck out with brackets surrounding them (e.g., [example]). A row of dots in the text (· · · · ·) indicates that unaffected text was removed to conserve space. If a CHANGE IN PROPOSED RULE is too long to print, the Division of Administrative Rules will include only the RULE ANALYSIS. A copy of rules that are too long to print is available from the agency or from the Division of Administrative Rules.

While a CHANGE IN PROPOSED RULE does not have a formal comment period, there is a 30-day waiting period during which interested parties may submit comments. The 30-day waiting period for CHANGES IN PROPOSED RULES published in this issue of the *Utah State Bulletin* ends October 15, 2003. At its option, the agency may hold public hearings.

From the end of the waiting period through January 13, 2004, 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.

Environmental Quality, Water Quality
R317-2
Standards of Quality for Waters of the
State

NOTICE OF CHANGE IN PROPOSED RULE

DAR File No.: 26242
 Filed: 08/27/2003, 11:15

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The proposed changes are made as a result of comments received during the public notice period of the rule. Commenters were concerned that the waiver provision in the proposed rule eliminated the need for an antidegradation review on too many projects. Also, there were typographical and clerical errors that needed correction.

SUMMARY OF THE RULE OR CHANGE: We made semantic changes in the antidegradation policy by eliminating the waiver provision for a required antidegradation review. In its place the wording calls for a Level I review to determine if a further, more exhaustive review (Level II) is required. The change insures that antidegradation reviews are conducted on all appropriate projects statewide. There are also corrections made to some formulas that were typographical in nature. Several stream segments with their classifications were added which were inadvertently removed during the original rulemaking action. (DAR NOTE: This change in proposed rule has been filed to make additional changes to a proposed amendment that was published in the May 15, 2003, issue of the Utah State Bulletin, on page 27. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the change in proposed rule and the proposed amendment together to understand all of the changes that will be enforceable should the agency make this rule effective.)

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

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** None--The proposed changes are technical in nature and are not anticipated to result in a cost or saving to the state budget.
- ❖ **LOCAL GOVERNMENTS:** None--The proposed changes are technical in nature and are not anticipated to result in costs or savings to local government beyond those identified in the original rule filing.
- ❖ **OTHER PERSONS:** None--The proposed changes are technical in nature and are not anticipated to result in costs or savings to other persons beyond those identified in the original rule filing.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--The proposed changes are technical in nature and are not

anticipated to result in changes to the compliance costs identified in the original rule filing.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed changes are being made in response to comments received during the public notice period for the rule. The proposed changes are technical in nature and are not anticipated to result in additional fiscal impacts to businesses beyond those identified in the original rule filing.

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

ENVIRONMENTAL QUALITY
WATER QUALITY
CANNON HEALTH BLDG
 288 N 1460 W
 SALT LAKE CITY UT 84116-3231, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Dave Wham at the above address, by phone at 801-538-6052, by FAX at 801-538-6016, or by Internet E-mail at dwham@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 10/15/2003.

THIS RULE MAY BECOME EFFECTIVE ON: 10/20/2003

AUTHORIZED BY: Don Ostler, Director

R317. Environmental Quality, Water Quality.
R317-2. Standards of Quality for Waters of the State.
R317-2-3. Antidegradation Policy.

3.1 Maintenance of Water Quality

Waters whose existing quality is better than the established standards for the designated uses will be maintained at high quality unless it is determined by the Board, after appropriate intergovernmental coordination and public participation in concert with the Utah continuing planning process, allowing lower water quality is necessary to accommodate important economic or social development in the area in which the waters are located. However, existing instream water uses shall be maintained and protected. No water quality degradation is allowable which would interfere with or become injurious to existing instream water uses.

In those cases where potential water quality impairment associated with a thermal discharge is involved, the antidegradation policy and implementing method shall be consistent with Section 316 of the Federal Clean Water Act.

3.2 High Quality Waters - Category 1

Waters of high quality which have been determined by the Board to be of exceptional recreational or ecological significance or have been determined to be a State or National resource requiring protection, shall be maintained at existing high quality through designation, by the Board after public hearing, as High Quality Waters - Category 1. New point source discharges of wastewater, treated or otherwise, are prohibited in such segments after the

effective date of designation. Protection of such segments from pathogens in diffuse, underground sources is covered in R317-5 and R317-7 and the Regulations for Individual Wastewater Disposal Systems (R317-501 through R317-515). Other diffuse sources (nonpoint sources) of wastes shall be controlled to the extent feasible through implementation of best management practices or regulatory programs.

Projects such as, but not limited to, construction of dams or roads will be considered where pollution will result only during the actual construction activity, and where best management practices will be employed to minimize pollution effects.

Waters of the state designated as High Quality Waters - Category 1 are listed in R317-2-12.1.

3.3 High Quality Waters - Category 2

High Quality Waters - Category 2 are designated surface water segments which are treated as High Quality Waters - Category 1 except that a point source discharge may be permitted provided that the discharge does not degrade existing water quality. Waters of the state designated as High Quality Waters - Category 2 are listed in R317-2-12.2.

3.4 For all other waters of the state, point source discharges are allowed and degradation may occur, pursuant to the conditions and review procedures outlined below[-]:

a. Activities [~~Potentially~~] Subject to Antidegradation Review (ADR)

1. For all State waters, antidegradation reviews will be conducted [~~as appropriate~~] for proposed federally regulated activities, such as those under Clean Water Act Sections 401 (FERC and other Federal actions), 402 (UPDES permits), and 404 (Army Corps of Engineers permits). The Executive Secretary may conduct an ADR on other projects with the potential for major impact on the quality of waters of the state. The review will determine whether the proposed activity complies with the applicable antidegrad[e]ation requirements for the particular receiving waters that may be affected.

2. For High Quality Category 1 and High Quality Category 2 waters, reviews shall be consistent with the requirement established in Sections 3.2 and 3.3, respectively.

For State waters that do not have a High Quality Category 1 or High Quality Category 2 designation, reviews shall be consistent with the procedures identified in Section 3.4 a.-3.4 b.

The antidegradation review consists of two parts. An antidegradation Level I review [~~The first step of the process~~] will be to determine if the proposed activity [~~does not~~] requires an antidegradation Level II review as described in Section 3.4 b. below. If so, [~~no~~] further review will be required.

b. An Anti-degradation Level II review is not required where any of the following conditions apply:

1. Water quality will not be lowered by the proposed activity (e.g., a UPDES permit is being renewed and the proposed effluent concentration value and pollutant loading is equal to or less than the existing effluent concentrations value and pollutant loading).

2. Discharge limits are established in an approved TMDL that is consistent with the current water quality standards for the receiving water (e.g., where TMDLs are established, changes in effluent limits that are consistent with the existing load allocation would not [~~trigger~~] trigger an anti-degradation review), or

3. Water quality impacts will be temporary and related only to sediment or turbidity and fish spawning will not be impaired, or

4. The discharge is to a water quality limited water, and assimilative capacity is essentially allocated to existing discharges.

5. The water quality effects of the proposed activity are expected to be temporary and limited. As general guidance, CWA Section 402 general permits, CWA Section 404 nationwide and general permits, or activities of short duration, will be deemed to have a temporary and limited effect on water quality where there is a reasonable factual basis to support such a conclusion. [~~The 404 nationwide and general permits, or activities of short duration, will be deemed to have a temporary and limited effect on water quality where there is a reasonable factual basis to support such a conclusion.~~]The 404 nationwide permits decision will be made at the time of permit issuance, as part of the Division's water quality certification under DWA Section 401. Where it is determined that the category of activities will result in temporary and limited effects, subsequent individual activities authorized under such permits will not be subject to further antidegradation review. Factors to be considered in determining whether water quality effects will be temporary and limited may include the following:

(a) Length of time during which water quality [~~benefits to the segment (e.g., dredging of contaminated sediments)] will be lowered.~~

(b) Percent change in ambient concentrations of pollutants of concern

(c) Pollutants affected

(d) Likelihood for long-term water quality benefits to the segment (e.g., dredging of contaminated sediments)

(e) Potential for any residual long-term influences on existing uses.

6. The affected waters are classified as 3C, 3D (and not 3A or 3B), or 3E waters, or are classified only as Class 4.

7. The affected waters are considered to be poor quality fisheries as indicated by Utah Division of Wildlife Resource (UDWR) Classes IV, V, and VI with the exception of those waters which add a letter (P, R, N, B, X, or C) to the numerical rating and those which have a "unique rating".

8. The water body is listed on the current 303(d) list for the parameters of concern.

9. Existing water quality for the parameters of concern does not satisfy applicable numeric and narrative water quality criteria.

10. Water quality impacts are expected to be minor. For example: (a) for discharge permit renewals, if the increase in project loading over the prior permit is less than 20%; or

(b) if the increase in pollutant loading to the stream is less than 20% over existing background.

11. The volume of the discharge is small as compared to the flow of the receiving stream. In general, this would be considered where the ratio of the average stream flow to the [~~discharged~~]discharged flow is expected to be greater than 100:1, the ratio of the 7Q10 (7 day-10 year) low flow to the discharge flow is expected to be greater than 25:1, and where the increase in concentration of the pollutants in the stream at 7Q10 at low flow is expected to be less than 10%, or based upon other site specific criteria.

[~~For waiver criteria that~~]Both Level I and Level II reviews [~~apply~~]will be conducted on a parameter-by-parameter basis[-]. [~~a~~]A decision to [~~waive~~]move to a Level II [~~the~~]review for one parameter [~~will~~]may not [~~eliminate the~~]require a Level II review [~~requirements~~]for other parameters that will be affected by the proposed activity. [~~Even if one or more of the above conditions apply, an~~]An antidegradation review may be required by the Executive Secretary if the receiving water is a drinking water source, if the receiving water has a special value for recreation or fisheries, if an existing use

may be impaired, or based on other site-specific factors as appropriate.

c. Anti-degradation Review Process

For all activities requiring a Level II review, ~~described in Section R317-2-3.4 a. above, and which require a review the following ADR procedure will be conducted. If appropriate,~~ the Division will notify affected agencies and the public with regards to the requested proposed ~~activity~~ activity and discussions with stakeholders may be held. In the case of Section 402 discharge permits, if it is determined that a discharge will be allowed, the Division of Water Quality will develop any needed UPDES permits for public notice following the normal permit issuance process.

The ADR will cover the following ~~requirements~~ requirements or determinations:

1. Will all Statutory and regulatory requirements be met?

The Executive Secretary will review to determine that there will be achieved all statutory and regulatory requirements for all new and existing point sources and all required cost-effective and reasonable best management practices for nonpoint source control in the area of the ~~discharge~~ discharge. If point sources exist in the area that have not achieved all statutory and regulatory requirements, the Executive Secretary will consider whether schedules of compliance or other plans have been established when evaluating ~~s~~ whether compliance has been assured. Generally, the "area of the discharge" will be determined based on the parameters of concern associated with the proposed activity and the portion of the receiving water that would be affected.

2. Are there any reasonable less-degrading alternatives?

There will be an evaluation of whether there are any reasonable non-degrading or less degrading alternatives for the proposed activity. This question will be addressed by the Division based on information provided by the project proponent. Control alternatives for a proposed activity will be evaluated in an effort to avoid or minimize degradation of the receiving water. Alternatives to be considered, evaluated, and implemented to the extent feasible, could include pollutant trading, water conservation, water recycling and reuse, land application, total containment, etc.

For proposed UPDES permitted discharges, the following list of alternatives should be considered, evaluated and implemented to the extent feasible:

- (a) innovative or alternative treatment options
- (b) more effective treatment options or higher treatment levels
- (c) connection to other wastewater treatment facilities
- (d) process changes or product or raw material substitution
- (e) seasonal or controlled discharge options to minimize discharging during critical water quality periods
- (f) seasonal or controlled discharge options to minimize discharging during critical water quality periods
- (g) pollutant trading
- (h) water conservation
- (i) water recycle and reuse
- (j) alternative ~~discharge~~ discharge locations or alternative receiving waters
- (k) land application
- (l) total containment
- (m) improved operation and maintenance of existing treatment systems
- (n) other appropriate alternatives

An option more costly than the cheapest alternative may have to be implemented if a substantial benefit to the stream can be realized. Alternatives would generally be considered feasible where

costs are no more than 20% higher than the cost of the discharging alternative, and (for POTWs) where the projected per connection service fees are not greater than 1.4% of MAGHI (median adjusted gross household income), the current affordability criterion now being used by the Water Quality Board in the wastewater revolving loan program. Alternatives within these cost ranges should be carefully considered by the discharger. Where State financing is appropriate, a financial assistance package may be influenced by this evaluation, i.e., a less polluting alternative may receive a more favorable funding arrangement in order to make it a more financially attractive alternative.

It must also be recognized in relationship to evaluating options that would avoid or reduce discharges to the stream, that in some situations it may be more beneficial to leave the water in the stream for instream flow purposes than to remove the discharge to the stream.

~~4.3.~~ Special Procedures for 404 Permits.

~~For 404 permitted activities, all appropriate alternatives to avoid and minimize degradation should be evaluated. Activities involving a discharge of dredged or fill materials that are considered to have more than minor adverse effects on the aquatic environment are regulated by individual CWA Section 404 permits. The decision-making process relative to the 404 permitting program is contained in the 404(b)(1) guidelines, the Corps of Engineers. (40 CFR Part 230). Prior to issuing a permit under the 404(b)(1) guidelines, the Corps of Engineers:~~

(a) makes a determination that the proposed activity discharges are unavoidable (i.e., necessary);

(b) examines alternatives to the proposed activity and authorize only the least damaging practicable alternative; and

(c) requires mitigation for all impacts associated with the activity. A ~~404(b)(1)~~ 404(b)(1) finding document is produced as a result of this procedure and is the basis for the permit decision. Public participation is provided for in the process. Because the 404(b)(1) guidelines contains an alternatives analysis, the executive secretary will not require development of a separate alternatives analysis for the anti-degradation review. The division will use the analysis in the 404(b)(1) finding document in completing its anti-degradation review and 401 certification.

4. Does the proposed activity have economic and social importance?

Although it is recognized that any activity resulting in a discharge to surface waters will have positive and negative aspects, information must be submitted by the applicant that any discharge or increased discharge will be of economic or social importance in the area.

The factors addressed in such a demonstration may include, but are not limited to, the following:

(a) employment (i.e., increasing, maintaining, or avoiding a reduction in employment);

(b) increased production;

(c) improved community tax base;

(d) housing;

(e) correction of an environmental or public health problem; and

(f) other information that may be necessary to determine the social and economic importance of the proposed surface water discharge.

5. The applicant may submit a proposal to mitigate any adverse environmental effects of the proposed activity (e.g., instream habitat

improvement, bank stabilization). Such mitigation plans should describe the proposed mitigation measures and the costs of such mitigation. Mitigation plans will not have any effect on effluent limits or conditions included in a permit (except possibly where a previously completed mitigation project has resulted in an improvement in background water quality that affects a water quality-based limit). Such mitigation plans will be developed and implemented by the applicant as a means to further minimize the environmental effects of the proposed activity and to increase its socio-economic importance. An effective mitigation plan may, in some cases, allow the Executive Secretary to authorize proposed activities that would otherwise not be authorized.

6. Will water quality standards be violated by the discharge?

Proposed activities that will affect the quality of waters of the state will be allowed only where the proposed activity will not violate water quality standards.

7. Will existing uses be maintained and protected?

Proposed activities can only be allowed if "existing uses" will be maintained and protected. No UPDES permit will be allowed which will permit numeric water quality standards to be exceeded in a receiving water outside the mixing zone. In the case of nonpoint pollution sources, the non-regulatory Section 319 program now in place will address these sources through application of best management practices to ensure that numeric water quality standards are not exceeded.

8. If a situation is found where there is an existing use which is a higher use (i.e., more stringent protection requirements) than that current designated use, the Division will apply the water quality standards and anti-degradation policy to protect the existing use. Narrative criteria may be used as a basis to protect existing uses for parameters where numeric criteria have not been adopted. Procedures to change the stream use designation to recognize the existing use as the designated use would be initiated.

d. Special Procedures for Drinking Water Sources

An Antidegradation Review may be required by the Executive Secretary for discharges to waters with a Class 1C drinking water use assigned, irrespective of whether any of the conditions in Section 3.4 b. applies. Factors to be considered may include the volume of the discharge compared to the flow of the receiving stream, or where the pollutants discharged may have potentially adverse impact on the drinking water supply.

Depending upon the locations of the discharge and its proximity to downstream drinking water diversions, additional treatment or more stringent effluent limits or additional monitoring, beyond that which may otherwise be required to meet minimum technology standards or in stream water quality standards, may be required by the Executive Secretary in order to adequately protect public health and the environment. Such additional treatment may include additional disinfection, suspended solids removal to make the disinfection process more effective, removal of any specific contaminants for which drinking water maximum contaminant levels (MCLs) ~~exists~~ exists, and/or nutrient removal to reduce the organic content of raw water used ~~[of such monitoring, more stringent treatment may then be required.]~~ as a source for domestic water systems.

Additional monitoring may include analyses for viruses, giardia, cryptosporidium, other pathogenic organisms, and/or any contaminant for which drinking water MCLs exist. Depending on the results of such monitoring, more stringent treatment may then be required.

The additional treatment/effluent limits/monitoring which may be required will be determined by the Executive Secretary after consultation with the Division of Drinking Water and the downstream drinking water users.

e. Public Notice

The public will be provided notice and an opportunity to comment on the conclusions of all completed antidegradation reviews. Where possible, public notice on the antidegradation review conclusions will be combined with the public notice on the proposed permitting action. ~~[For]~~In the case of UPDES permits, public notice will be provided through the normal permitting process, as all draft permits are public noticed for 30 days, and public comment solicited, before being issued as a final permit. The Statement of Basis for the draft UPDES permit will contain information on how the ADR was addressed~~[Where waivers are granted from the review requirements, the basis for the waiver will be documented and noticed for public comment.]~~ including results of the Level I and Level II reviews. In the case of Section 404 permits from the Corps of Engineers, the Division of Water Quality will develop any needed 401 Certifications and the public notice will be published in conjunction with the US Corps of Engineers public notice procedures. Other permits requiring a Level II review will receive a separate public notice according to the normal State public notice procedures.

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R317-2-13. Classification of Waters of the State (see R317-2-6).

13.1 Upper Colorado River Basin
a. Colorado River Drainage

TABLE

Paria River and tributaries, from state line to headwaters	2B	3C	4
All tributaries to Lake Powell, except as listed below	2B	3B	4
Escalante River and tributaries, from Lake Powell to confluence with Boulder Creek	2B	3C	4
Escalante River and tributaries, from confluence with Boulder Creek, including Boulder Creek, to headwaters	2B	3A	4
Dirty Devil River and tributaries, from Lake Powell to Fremont River	2B	3C	4
Deer Creek and tributaries, from confluence with Boulder Creek to headwaters	2B	3A	4
Fremont River and tributaries, from confluence with Muddy Creek to Capitol Reef National Park, except as listed below	1C	2B	3C
Pleasant Creek and tributaries, from confluence with Fremont River to East boundary of Capitol Reef National Park	2B	3C	4
Pleasant Creek and tributaries, from East boundary of Capitol Reef National Park to headwaters	1C	2B	3A
Fremont River and tributaries, through Capitol Reef National Park to headwaters	1C	2B	3A
	1C	2B	3A
			4

Muddy Creek and tributaries, from confluence with Fremont River to Highway U-10 crossing, except as listed below		2B	3C	4	San Rafael River and tributaries, from confluence with Green River to confluence with Ferron Creek		2B	3C	4
Quitcupah Creek and Tributaries, from Highway U-10 crossing to headwaters		2B	3A	4	Ferron Creek and tributaries, from confluence with San Rafael River to Millsite Reservoir		2B	3C	4
Ivie Creek and tributaries, from Highway U-10 to headwaters		2B	3A	4	Ferron Creek and tributaries, from Millsite Reservoir to headwaters	1C	2B	3A	4
Muddy Creek and tributaries, from Highway U-10 crossing to headwaters	1C	2B	3A	4	Huntington Creek and tributaries, from confluence with Cottonwood Creek to Highway U-10 crossing		2B	3C	4
<u>San Juan River and Tributaries, from Lake Powell to state line except</u>	1C	2B	3B	4	Huntington Creek and tributaries, from Highway U-10 crossing to headwaters	1C	2B	3A	4
<u>As listed below:</u>	1C	2B	3B	4	Cottonwood Creek and tributaries, from confluence with Huntington Creek to Highway U-57 crossing		2B	3C	4
Johnson Creek and tributaries, from confluence with Recapture Creek to headwaters	1C	2B	3A	4	Cottonwood Creek and tributaries, from Highway U-57 crossing to headwaters	1C	2B	3A	4
Verdure Creek and tributaries, from Highway US-191 crossing		2B	3A	4	Cottonwood Canal, Emery County	1C	2B		3E 4
North Creek and tributaries, from confluence with Montezuma Creek to headwaters	1C	2B	3A	4	Price River and tributaries, from confluence with Green River to Carbon Canal		2B	3C	4
South Creek and tributaries, from confluence with Montezuma Creek to headwaters	1C	2B	3A	4	Diversion at Price City Golf Course		2B	3C	4
Spring Creek and tributaries, from confluence with Vega Creek to headwaters		2B	3A	4	Except as listed below				
Montezuma Creek and tributaries, from U.S. Highway 191 to headwaters	1C	2B	3A	4	Grassy Trail Creek and tributaries, from Grassy Trail Creek Reservoir to headwaters	1C	2B	3A	4
Colorado River and tributaries, from Lake Powell to state line except as listed below	1C	2B	3B	4	Price River and tributaries, from Carbon Canal Diversion at Price City Golf Course to Price City Water Treatment Plant intake.		2B	3A	4
Indian Creek and tributaries, through Newspaper Rock State Park to headwaters	1C	2B	3A	4	Price River and tributaries, from Price				
Kane Canyon Creek and tributaries, from confluence with Colorado River to headwaters		2B		3C 4	City Water Treatment Plant intake to headwaters	1C	2B	3A	4
Mill Creek and tributaries, from confluence with Colorado River to headwaters	1C	2B	3A	4	Range Creek and tributaries, from confluence with Green River to Range Creek Ranch		2B	3A	4
Dolores River and tributaries, from confluence with Colorado River to state line		2B		3C 4	Range Creek and tributaries, from Range Creek Ranch to headwaters	1C	2B	3A	4
Roc Creek and tributaries, from confluence with Dolores River to headwaters		2B	3A	4	Rock Creek and tributaries, from confluence with Green River to headwaters		2B	3A	4
LaSal Creek and tributaries, from state line to headwaters		2B	3A	4	Nine Mile Creek and tributaries, from confluence with Green River to headwaters		2B	3A	4
Lion Canyon Creek and tributaries, from state line to headwaters		2B	3A	4	Pariette Draw and tributaries, from confluence with Green River to headwaters		2B	3B 3D	4
Little Dolores River and tributaries, from confluence with Colorado River to state line		2B		3C 4	Willow Creek and tributaries (Uintah County), from confluence with Green River to headwaters		2B	3A	4
Bitter Creek and tributaries, from confluence with Colorado River to headwaters		2B		3C 4	White River and tributaries, from confluence with Green River to state line, except as listed below		2B	3B	4
					Bitter Creek and Tributaries from White River to Headwaters		2B	3A	4
					Duchesne River and tributaries, from confluence with Green River to Myton Water Treatment Plant intake, except as listed below		2B	3B	4
					<u>Uinta River and tributaries, from confluence with Duchesne River to Highway US-40 crossing</u>		2B	3B	4

b. Green River Drainage

TABLE

Green River and tributaries, from confluence with Colorado River to state line except as listed below:	1C	2B	3B	4
Thompson Creek and tributaries from Interstate Highway 70 to headwaters		2B	3C	4

<u>Uinta River and tributaries, From Highway US-4- crossing to headwaters</u>	2B 3A	4
<u>Power House Canal from Confluence with Uinta River to headwaters</u>	2B 3A	4
<u>Whiterocks River and Canal, From Tridell Water Treatment Plant to Headwaters</u>	1C 2B 3A	4
Duchesne River and tributaries, from Myton Water Treatment Plant intake to headwaters	1C 2B 3A	4
Lake Fork River and tributaries, from confluence with Duchesne River to headwaters	1C 2B 3A	4
Lake Fork Canal from Dry Gulch Canal Diversion to Moon Lake	1C 2B 3E 4	
Dry Gulch Canal, from Myton Water Treatment Plant to Lake Fork Canal	1C 2B 3E 4	
Ashley Creek and tributaries, from confluence with Green River to Steinaker diversion	2B 3B	4
Ashley Creek and tributaries, from Steinaker diversion to headwaters	1C 2B 3A	4
Big Brush Creek and tributaries, from confluence with Green River to Tyzack (Red Fleet) Dam	2B 3B	4
Big Brush Creek and tributaries, from Tyzack (Red Fleet) Dam to headwaters	1C 2B 3A	4
Jones Hole Creek and tributaries, from confluence with Green River to headwaters	2B 3A	
Diamond Gulch Creek and tributaries, from confluence with Green River to headwaters	2B 3A	4
Pot Creek and tributaries, from Crouse Reservoir to headwaters	2B 3A	4
Green River and tributaries, from Utah-Colorado state line to Flaming Gorge Dam except as listed below:	2B 3A	4
Sears Creek and tributaries, Daggett County	2B 3A	
Tolivers Creek and tributaries, Daggett County	2B 3A	
Red Creek and tributaries, from confluence with Green River to state line	2B 3C	4
Jackson Creek and tributaries, Daggett County	2B 3A	
Davenport Creek and tributaries, Daggett County	2B 3A	
Goslin Creek and tributaries, Daggett County	2B 3A	
Gorge Creek and tributaries, Daggett County	2B 3A	
Beaver Creek and tributaries, Daggett County	2B 3A	
O-Wi-Yu-Kuts Creek and tributaries, County	2B 3A	
Tributaries to Flaming Gorge Reservoir, except as listed below	2B 3A	4
Birch Spring Draw and tributaries, from Flaming Gorge Reservoir to headwaters	2B 3C	4

Spring Creek and tributaries, from Flaming Gorge Reservoir to headwaters	2B 3A
All Tributaries of Flaming Gorge Reservoir from Utah-Wyoming state line to headwaters	2B 3A 4

13.2 Lower Colorado River Basin

b. Kanab Creek Drainage

TABLE

Kanab Creek and tributaries, from state line to irrigation diversion at confluence with Reservoir Canyon	2B 3C	4
Kanab Creek and tributaries, from irrigation diversion at confluence with Reservoir Canyon to headwaters	2B 3A	4
Johnson Wash and tributaries, from state line to confluence with Red Wash Skutumpah Canyon	2B 3C	4
Johnson Wash and tributaries, from confluence with Red Wash Skutumpah Canyon to headwaters	2B 3A	4

13.5 Utah Lake-Jordan River Basin

a. Jordan River Drainage

TABLE

Jordan River, from Farmington Bay to North Temple Street, Salt Lake City	2B 3B * 3D	4
Jordan River, from North Temple Street in Salt Lake City to confluence with Little Cottonwood Creek	2B 3B *	4
Surplus Canal from Great Salt Lake to the diversion from the Jordan River	2B 3B * 3D	4
Jordan River from confluence with Little Cottonwood Creek to Narrows Diversion	2B 3A	4
Jordan River, from Narrows Diversion to Utah Lake	1C 2B 3B	4
City Creek, from Memory Park in Salt Lake City to City Creek Water Treatment Plant	2B 3A	
City Creek, from City Creek Water Treatment Plant to headwaters	1C 2B 3A	
Red Butte Creek and tributaries, from Red Butte Reservoir to headwaters	1C 2B 3A	
<u>Emigration Creek and tributaries, from Foothill Boulevard in Salt Lake City to headwaters</u>	2B 3A	
<u>Parley's Creek and tributaries, from 1300 East in Salt Lake City to Mountain Dell Reservoir to headwaters</u>	1C 2B 3A	
<u>Parley's Creek and tributaries, from Mountain Dell Reservoir to headwaters</u>	1C 2B 3A	
Mill Creek (Salt Lake County) from confluence with Jordan River to Interstate Highway 15	2B 3C	4

Mill Creek (Salt Lake County) and tributaries from Interstate Highway 15 to headwaters	2B 3A	4	
Big Cottonwood Creek and tributaries, from confluence with Jordan River to Big Cottonwood Water Treatment Plant	2B 3A	4	
Big Cottonwood Creek and tributaries, from Big Cottonwood Water Treatment Plant to headwaters	1C 2B 3A		
Deaf Smith Canyon Creek and tributaries	1C 2B 3A	4	
Little Cottonwood Creek and tributaries, from confluence with Jordan River to Metropolitan Water Treatment Plant	2B 3A	4	
Little Cottonwood Creek and tributaries, from Metropolitan Water Treatment Plant to headwaters	1C 2B 3A		
Bell Canyon Creek and tributaries, from lower Bell's Canyon reservoir to headwaters	1C 2B 3A		
Little Willow Creek and tributaries, from Draper Irrigation Company diversion to headwaters	1C 2B 3A		
Big Willow Creek and tributaries, from Draper Irrigation Company diversion to headwaters	1C 2B 3A		
South Fork of Dry Creek and tributaries, from Draper Irrigation Company diversion to headwaters	1C 2B 3A		
All permanent streams on east slope of Oquirrh Mountains (Coon, Barney's, Bingham, Butterfield, and Rose Creeks)	2B	3D	4
Kersey Creek from confluence of C-7 Ditch to headwaters	2B	3D	

* Site specific criteria for total ammonia and dissolved oxygen. See Table 2.14.5.

b. Provo River Drainage

TABLE

Provo River and tributaries, from Utah Lake to Murdock diversion	2B 3A	4	
Provo River and tributaries, from Murdock Diversion to headwaters, <u>except as listed below</u>	1C 2B 3A	4	
Upper Falls drainage above Provo City diversion	1C 2B 3A		
Bridal Veil Falls drainage above Provo City diversion	1C 2B 3A		
Lost Creek and tributaries above Provo City diversion	1C 2B 3A		

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13.7 Great Salt Lake Basin

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b. Farmington Bay Drainage

TABLE

Corbett Creek and tributaries, from Highway to headwaters	2B 3A	4	
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Kays Creek and tributaries, from Farmington Bay to U.S. National Forest boundary	2B	3B	4
North Fork Kays Creek and tributaries, from U.S. National Forest boundary to headwaters	2B 3A		4
Middle Fork Kays Creek and tributaries, from U.S. National Forest boundary to headwaters	1C 2B 3A		4
South Fork Kays Creek and tributaries, from U.S. National Forest boundary to headwaters	1C 2B 3A		4
Snow Creek and tributaries	2B	3C	4
Holmes Creek and tributaries, from Farmington Bay to U.S. National Forest boundary	2B	3B	4
Holmes Creek and tributaries, from U.S. National Forest boundary to headwaters	1C 2B 3A		4
Baer Creek and tributaries, from Farmington Bay to Interstate Highway 15	2B	3C	4
Baer Creek and tributaries, from Interstate Highway 15 to Highway US-89	2B	3B	4
Baer Creek and tributaries, from Highway US-89 to headwaters	1C 2B 3A		4
Shepard Creek and tributaries, from U.S. National Forest boundary to headwaters	1C 2B 3A		4
Farmington Creek and tributaries, from Farmington Bay Waterfowl Management Area to U.S. National Forest boundary	2B	3B	4
Farmington Creek and tributaries, from U.S. National Forest boundary to headwaters	1C 2B 3A		4
Rudd Creek and tributaries, from Davis aqueduct to headwaters	2B 3A		4
Steed Creek and tributaries, from U.S. National Forest boundary to headwaters	1C 2B 3A		4
Davis Creek and tributaries, from Highway US-89 to headwaters	2B 3A		4
Lone Pine Creek and tributaries, from Highway US-89 to headwaters	2B 3A		4
Ricks Creek and tributaries, from Highway I-15 to headwaters	1C 2B 3A		4
Barnard Creek and tributaries, from Highway US-89 to headwaters	2B 3A		4
Parrish Creek and tributaries, from Davis Aqueduct to headwaters	2B 3A		4
Deuel Creek and tributaries, (Centerville Canyon) from Davis Aqueduct to headwaters	2B 3A		4
Stone Creek and tributaries, from Farmington Bay Waterfowl Management Area to U.S. National Forest boundary	2B 3A		4
Stone Creek and tributaries, from U.S. National Forest boundary to headwaters	1C 2B 3A		4
Barton Creek and tributaries, from U.S. National Forest boundary to headwaters	2B 3A		4
Mill Creek (Davis County) and tributaries, from confluence with State Canal to U.S. National Forest boundary	2B	3B	4
Mill Creek (Davis County) and tributaries, from U.S. National Forest boundary to headwaters	1C 2B 3A		4
North Canyon Creek and tributaries, from U.S. National Forest boundary to headwaters	2B 3A		4
Howard Slough	2B	3C	4

Hooper Slough		2B	3C	4
Willard Slough		2B	3C	4
Willard Creek to Headwaters	1C	2B	3A	4
Chicken Creek to Headwaters	1C	2B	3A	4
Cold Water Creek to Headwaters	1C	2B	3A	4
One House Creek to Headwaters	1C	2B	3A	4
Garner Creek to Headwaters	1C	2B	3A	4

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R317-2-14. Numeric Criteria.

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TABLE 2.14.2
NUMERIC CRITERIA FOR AQUATIC WILDLIFE

Parameter	Aquatic Wildlife			
	3A	3B	3C	3D
PHYSICAL				
Total Dissolved Gases	(1)	(1)		
Minimum Dissolved Oxygen (MG/L) (2)				
30 Day Average	6.5	5.5	5.0	5.0
7 Day Average	9.5/5.0	6.0/4.0		
1 Day Average	8.0/4.0	5.0/3.0	3.0	3.0
Max. Temperature(C)(3)	20	27	27	
Max. Temperature Change (C)(3)	2	4	4	
pH (Range)	6.5-9.0	6.5-9.0	6.5-9.0	6.5-9.0
Turbidity Increase (NTU)	10	10	15	15
METALS (4) (DISSOLVED, UG/L)(5)				
Aluminum				
4 Day Average (6)	87	87	87	87
1 Hour Average	750	750	750	750
Arsenic (Trivalent)				
4 Day Average	150	150	150	150
1 Hour Average	340	340	340	340
Cadmium (7)				
4 Day Average	0.25	0.25	0.25	0.25
1 Hour Average	2.0	2.0	2.0	2.0
Chromium (Hexavalent)				
4 Day Average	11	11	11	11
1 Hour Average	16	16	16	16
Chromium (Trivalent) (7)				
4 Day Average	74	74	74	74
1 Hour Average	570	570	570	570
Copper (7)				
4 Day Average	9	9	9	9
1 Hour Average	13	13	13	13
Cyanide (Free)				
4 Day Average	5.2	5.2	5.2	
1 Hour Average	22	22	22	22
Iron (Maximum)	1000	1000	1000	1000
Lead (7)				
4 Day Average	2.5	2.5	2.5	2.5
1 Hour Average	65	65	65	65
Mercury				
4 Day Average	0.012	0.012	0.012	0.012
1 Hour Average	2.4	2.4	2.4	2.4
Nickel (7)				
4 Day Average	52	52	52	52
1 Hour Average	470	470	470	470
Selenium				
4 Day Average	4.6	4.6	4.6	4.6
1 Hour Average	18.4	18.4	18.4	18.4
Silver				
1 Hour Average (7)	1.6	1.6	1.6	1.6
Zinc [(4)] (7)				

4 Day Average	120	120	120	120
1 Hour Average	120	120	120	120
INORGANICS (MG/L) (4)				
Total Ammonia as N (9)				
30 Day Average	(9a)	(9a)		
1 Hour Average	(9b)	(9b)	(9b)	(9b)
Chlorine (Total Residual)				
4 Day Average	0.011	0.011	0.011	
1 Hour Average	0.019	0.019	0.019	(7)
Hydrogen Sulfide (13) (Undissociated, Max. UG/L)				
	2.0	2.0	2.0	2.0
Phenol (Maximum)				
	0.01	0.01	0.01	0.01
RADIOLOGICAL (MAXIMUM pCi/L)				
Gross Alpha (10) ORGANICS (UG/L) (4)				
Aldrin				
1 Hour Average	1.5	1.5	1.5	1.5
Chlordane				
4 Day Average	0.0043	0.0043	0.0043	0.0043
1 Hour Average	1.2	1.2	1.2	1.2
4,4' -DDT				
4 Day Average	0.0010	0.0010	0.0010	0.0010
1 [Day] Hour Average	0.55	0.55	0.55	0.55
Dieldrin				
4 Day Average	0.056	0.056	0.056	0.056
1 Hour Average	0.24	0.24	0.24	0.24
Alpha-Endosulfan				
4 Day Average	0.056	0.056	0.056	0.056
1 Hour Average	0.11	0.11	0.11	0.11
beta-Endosulfan				
4 Day Average	0.056	0.056	0.056	0.056
1 Day Average	0.11	0.11	0.11	0.11
Endrin				
4 Day Average	0.036	0.036	0.036	0.036
1 Hour Average	0.086	0.086	0.086	0.086
Heptachlor				
4 Day Average	0.0038	0.0038	0.0038	0.0038
1 Hour Average	0.26	0.26	0.26	0.26
Heptachlor epoxide				
4 Day Average	0.0038	0.0038	0.0038	0.0038
1 [Day] Hour Average	0.26	0.26	0.26	0.26
Hexachlorocyclohexane (Lindane)				
4 Day Average	0.08	0.08	0.08	0.08
1 Hour Average	1.0	1.0	1.0	1.0
Methoxychlor (Maximum)				
	0.03	0.03	0.03	0.03
Mirex (Maximum)				
	0.001	0.001	0.001	0.001
Parathion				
4 Day Average	0.013	0.013	0.013	0.013
1 Hour Average	0.066	0.066	0.066	0.066
PCB's				
4 Day Average	0.014	0.014	0.014	0.014
1 Hour Average	2.0	2.0	2.0	2.0
Pentachlorophenol (11)				
4 Day Average	15	15	15	15
1 [Day] Hour Average	19	19	19	19
Toxaphene				
4 Day Average	0.0002	0.0002	0.0002	0.0002
1 Hour Average	0.73	0.73	0.73	0.73
POLLUTION INDICATORS (11)				
Gross Beta (pCi/L)				
	50	50	50	50
BOD (MG/L)				
	5	5	5	5
Nitrate as N (MG/L)				
	4	4	4	
Total Phosphorus as P (MG/L) (12)				
		0.05	0.05	

FOOTNOTES:

- (1) Not to exceed 110% of saturation.
- (2) These limits are not applicable to lower water levels in deep impoundments. First number in column is for when early life stages are present, second number is for when all other life stages present.

(3) The temperature standard shall be at background where it can be shown that natural or un-alterable conditions prevent its attainment. In such cases rulemaking will be undertaken to modify the standard accordingly.

Site Specific Standards for Temperature
Ken's Lake: From June 1st - September 20th, 27 degrees C.

(4) Where criteria are listed as 4-day average and 1-hour average concentrations, these concentrations should not be exceeded more often than once every three years on the average.

(5) The dissolved metals method involves filtration of the sample in the field, acidification of the sample in the field, no digestion process in the laboratory, and analysis by atomic absorption spectrophotometry or inductively coupled plasma (ICP).

(6) The criterion for aluminum will be implemented as follows: Where the pH is equal to or greater than 7.0 and the hardness is equal to or greater than 50 ppm as CaCO₃ in the receiving water after mixing, the 87 ug/l chronic criterion (expressed as total recoverable) will not apply, and aluminum will be regulated based on compliance with the 750 ug/l acute aluminum criterion (expressed as total recoverable).

(7) Hardness dependent criteria. 100 mg/l used. Conversion factors for ratio of total recoverable metals to dissolved metals must also be applied. In waters with a hardness greater than 400 mg/l as CaCO₃, calculations will assume a hardness of 400 mg/l as CaCO₃. See Table 2.14.3 for complete equations for hardness and conversion factors.

(8) Reserved

(9) The following equations are used to calculate Ammonia criteria concentrations:

(9a) The thirty-day average concentration of total ammonia nitrogen (in mg/l as N) does not exceed, more than once every three years on the average, the chronic criterion calculated using the following equations.

Fish Early Life Stages are Present:
mg/l as N (Chronic) = $((0.0577/1+10^{7.688-pH}) + (2.487/1+10^{PH-7.688}))$
* MIN (2.85, $1.45*10^{0.028*(25-1)}$)

Fish Early Life Stages are Absent:
mg/l as N (Chronic) = $((0.05[5]77/1+10^{7.688-pH}) + (2.487/1+10^{PH-7.688}))$
* $1.45*10^{0.028*(25-MAX(1-7))}$

(9b) The one-hour average concentration of total ammonia nitrogen (in mg/l as N) does not exceed, more than once every three years on the average the acute criterion calculated using the following equations.

Class 3A:
mg/l as N (Acute) = $(0.275/(1+10^{7.204-pH})) + (39.0/1+10^{PH7.204})$

Class 3B, 3C, 3D:
mg/l as N (Acute) = $0.411/(1+10^{7.204-pH}) + (58.4/(1+10^{PH-7.204}))$

In addition, the highest four-day average within the 30-day period should not exceed 2.5 times the chronic criterion. The "Fish Early Life Stages are Present" 30-day average total ammonia criterion will be applied by default unless it is determined by the Division, on a site-specific basis, that it is appropriate to apply the "Fish Early Life Stages are Absent" 30-day average criterion for all or some portion of the year. At a minimum, the "Fish Early Life Stages are Present" criterion will apply from the beginning of spawning through the end of the early life stages. Early life stages include the pre-hatch embryonic stage, the post-hatch free embryo or yolk-sac fry stage, and the larval stage for the species of fish expected to occur at the site. The division will consult with the Division of Wildlife Resources in making such determinations. The Division will maintain information regarding the waterbodies and time periods where application of the "Early Life Stages are Absent" criterion is determined to be appropriate.

(10) Investigation should be conducted to develop more information where these levels are exceeded.

(11) pH dependent criteria. pH 7.8 used in table. See Table 2.14.4 for equation.

(12) Total Phosphorus as P (mg/l) indicator for lakes and reservoirs shall be 0.025.

(13) Formula to convert dissolved sulfide to un-dissociated hydrogen sulfide is:

$$H_2S = \text{Dissolved Sulfide} * e^{(1.92 + pH) + 12.85}$$

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TABLE
30-DAY AVERAGE (CHRONIC) CONCENTRATION OF
TOTAL AMMONIA AS N (MG/L)

pH	Fish Early Life Stages Present									
	Temperature, C									
	0	14	16	18	20	22	24	26	28	30
6.5	6.67	6.67	6.06	5.33	4.68	4.12	3.62	3.18	2.80	2.46
6.6	6.57	6.57	5.97	5.25	4.61	4.05	3.56	3.13	2.75	2.42
6.7	6.44	6.44	5.86	5.15	4.52	3.98	3.50	3.07	2.70	2.37
6.8	6.29	6.29	5.6[6]22	5.03	4.42	3.89	3.42	3.00	2.64	2.32
6.9	6.12	6.12	5.56	4.89	4.30	3.78	3.32	2.92	2.57	2.25
7.0	5.91	5.91	5.37	4.72	4.15	3.65	3.21	2.82	2.48	2.18
7.1	5.67	5.67	5.15	4.53	3.98	3.50	3.08	2.70	2.38	2.09
7.2	5.39	5.39	4.90	4.4[4]31	3.78	3.33	2.92	2.57	2.26	1.99
7.3	5.0[3]8	5.08	4.61	4.06	3.57	3.13	2.76	2.42	2.13	1.87
7.4	4.73	4.73	4.30	3.78	3.32	2.92	2.57	2.26	1.98	1.74
7.5	4.36	4.36	3.97	3.49	3.06	2.69	2.37	2.08	1.83	1.61
7.6	3.98	3.98	3.61	3.18	2.79	2.45	2.16	1.90	1.67	1.47
7.7	3.58	3.58	3.25	2.86	2.51	2.21	1.94	1.71	1.50	1.32
7.8	3.18	3.18	2.89	2.54	2.23	1.96	1.73	1.52	1.33	1.17
7.9	2.80	2.80	2.54	2.24	1.96	1.73	1.52	1.33	1.17	1.03
8.0	2.43	2.43	2.21	1.94	1.71	1.50	1.32	1.16	1.02	0.90
8.1	2.10	2.10	1.91	1.68	1.47	1.29	1.14	1.00	0.88	0.7[3]Z
8.2	1.79	1.79	1.63	1.43	1.26	1.11	0.97	0.86	0.75	0.66
8.3	1.52	1.52	1.39	1.22	1.07	0.94	0.83	0.73	0.64	0.56
8.4	1.29	1.29	1.17	1.03	0.91	0.80	0.70	0.62	0.54	0.48
8.5	1.09	1.09	0.99	0.87	0.77[7]6	0.67	0.59	0.52	0.46	0.40
8.6	0.92	0.92	0.84	0.74[4]3	0.65	0.57	0.50	0.44	0.39	0.34
8.7	0.78	0.78	0.71	0.62	0.55	0.48	0.42	0.37	0.33	0.29
8.8	0.66	0.66	0.60	0.53	0.46	0.41	0.36	0.32	0.28	0.24
8.9	0.57[7]6	0.57[7]6	0.51	0.45	0.40	0.35	0.31	0.27	0.24	0.21
9.0	0.49	0.49	0.44	0.40[40]39	0.34	0.30	0.26	0.23	0.20	0.18

TABLE
30-DAY AVERAGE (CHRONIC) CONCENTRATION OF
TOTAL AMMONIA AS N (MG/L)

pH	Fish Early Life Stages [Present] Absent									
	Temperature, C									
	0-7	8	10	11	12	13	14	16		
6.5	10.8	10.1	9.51	8.92	8.36	7.84	7.36	6.89	6.06	
6.6	10.7	10.1	9.37	8.79	8.24	7.72	7.24	6.36		
6.7	10.5	9.99	9.20	8.62	8.08	7.58	7.11	6.66	5.86	
6.8	10.2	9.81	8.98	8.42	7.90	7.40	6.94	6.51	5.72	
6.9	9.93	9.31	8.73	8.19	7.68	7.20	6.75	6.33	5.56	
7.0	9.60	9.00	8.43	7.91	7.41	6.95	6.52	6.11	5.37	
7.1	9.20	8.63	8.09	7.58	7.11	6.67	6.25	5.86	5.15	
7.2	8.75	8.20	7.69	7.21	6.76	6.34	5.94	5.57	4.90	
7.3	8.24	7.73	7.25	6.79	6.37	5.97	5.60	5.25	4.61	
7.4	7.69	7.21	6.76	6.33	5.94	5.57	5.22	4.89	4.30	
7.5	7.09	6.64	6.23	5.84	5.48	5.13	4.81	4.51	3.97	
7.6	6.46	6.05	5.67	5.32	4.99	4.68	4.38	4.11	3.61	
7.7	5.81	5.45	5.11	4.79	4.49	4.21	3.95	3.70	3.25	
7.8	5.17	4.84	4.54	4.26	3.99	3.74	3.51	3.29	2.89	
7.9	4.54	4.26	3.99	3.74	3.51	3.29	3.09	2.89	2.54	
8.0	3.95	3.70	3.47	3.26	3.05	2.86	2.68	2.52	2.21	
8.1	3.41	3.19	2.99	2.81	2.63	2.47	2.31	2.17	1.91	
8.2	2.91	2.73	2.56	2.40	2.25	2.11	1.98	1.85	1.63	
8.3	2.47	2.32	2.18	2.04	1.91	1.79	1.68	1.58	1.39	
8.4	2.09	1.96	1.84	1.73	1.62	1.52	1.42	1.33	1.17	
8.5	1.77	1.66	1.55	1.46	1.37	1.28	1.20	1.13	0.990	
8.6	1.49	1.40	1.31	1.23	1.15	1.08	1.01	0.951	0.836	
8.7	1.26	1.18	1.11	1.04	0.976	0.915	0.858	0.805	0.707	
8.8	1.07	1.01	0.944	0.885	0.829	0.778	0.729	0.684	0.601	
8.9	0.917	0.860	0.806	0.758	0.709	0.664	0.623	0.584	0.513	
9.0	0.790	0.740	0.694	0.651	0.610	0.572	0.536	0.503	0.442	
pH	18	20	22	24	26	28	30			
6.5	5.33	4.68	4.12	3.62	3.18	2.80	2.46			
6.6	5.25	4.61	4.05	3.56	3.13	2.75	2.42			
6.7	5.15	4.52	3.98	3.50	3.07	2.70	2.37			

6.8	5.03	4.42	3.89	3.42	3.00	2.64	2.32	1,1,2-Trichloroethane	0.59 B	16 B
6.9	4.89	4.30	3.78	3.32	2.92	2.57	2.25	Trichloroethylene	2.5 B	30 B
7.0	4.72	4.15	3.65	3.21	2.82	2.48	2.18	Vinyl Chloride	2.0 B	530 B
7.1	4.53	3.98	3.50	3.08	2.70	2.38	2.09	2-Chlorophenol	81	150
7.2	4.41	3.78	3.33	2.92	2.57	2.26	1.99	2,4-Dichlorophenol	77	290
7.3	4.06	3.57	3.13	2.76	2.42	2.13	1.87	2,4-Dimethylphenol	380	850
7.4	3.78	3.32	2.92	2.57	2.26	1.98	1.74	2-Methyl-4,6-Dinitrophenol	13.0	280
7.5	3.49	3.06	2.69	2.37	2.08	1.83	1.61	2,4-Dinitrophenol	69	5,300
7.6	3.18	2.79	2.45	2.16	1.90	1.67	1.47	2-Nitrophenol		
7.7	2.86	2.51	2.21	1.94	1.71	1.50	1.32	4-Nitrophenol		
7.8	2.54	2.23	1.96	1.73	1.52	1.33	1.17	3-Methyl-4-Chlorophenol		
7.9	2.24	1.96	1.73	1.52	1.33	1.17	1.03	Penetachlorophenol	0.27 B	3.0 B
8.0	0.94	1.71	1.50	1.32	1.16	1.02	0.897	Phenol	21,000	1,700,000
8.1	0.68	1.47	1.29	1.14	1.00	0.879	0.733	2,4,6-Trichlorophenol	1.4 B	2.4 B
8.2	0.43	1.26	1.11	0.073	0.855	0.752	0.661	Acenaphthene	670	990
8.3	0.22	1.07	0.941	0.827	0.727	0.639	0.562	Acenaphthylene		
8.4	0.03	0.906	0.796	0.700	0.615	0.541	0.475	Anthracene	8,300	40,000
8.5	0.870	0.765	0.672	0.591	0.520	0.457	0.401	Benzidine	0.000086 B	0.00020 B
8.6	0.735	0.646	0.568	0.499	0.439	0.396	0.339	BenzoaAnthracene	0.0038 B	0.018 B
8.7	0.622	0.547	0.480	0.422	0.371	0.326	0.287	BenzoaPyrene	0.0038 B	0.018 B
8.8	0.528	0.464	0.408	0.359	0.315	0.277	0.244	BenzobFluoranthene	0.0038 B	0.018 B
8.9	0.451	0.397	0.349	0.306	0.269	0.237	0.208	BenzoghiPerylene		
9.0	0.389	0.342	0.300	0.264	0.232	0.204	0.179	BenzokFluoranthene	0.0038 B	0.018 B

TABLE 2.14.6
LIST OF HUMAN HEALTH CRITERIA (CONSUMPTION)

Chemical	Parameter		Water and Organism Organism Only (ug/L) Class 3A,3B,3C,3D	Organism Only (ug/L) Class 3A,3B,3C,3D		
	(ug/L)	Class 1C				
Antimony	5.6	Class 1C	640			
Arsenic	A		A			
Beryllium	C		C			
Cadmium	C		C			
Chromium III	C		C			
Chromium VI	C		C			
Copper	1,300					
Lead	C		C			
Mercury	A		A			
Nickel	610		4,600			
Selenium	A		4,200			
Silver						
Thallium	1.7		6.3			
Zinc	7,400		26,000			
Cyanide	700		220,000			
Asbestos	7 million Fibers/L					
2,3,7,8-TCDD Dioxin	5.0 E -9 B		5.1 E-9 B			
Acrolein	190		290			
Acrylonitrile	0.051 B		0.25 B			
Benzene	2.2 B		51 B			
Bromoform	4.3 B		140 B			
Carbon Tetrachloride	0.23 B [1-6 B]		1.6 B			
Chlorobenzene	680		21,000			
Chlorodibromomethane	0.40 B		13 B			
Chloroethane						
2-Chloroethylvinyl Ether						
Chloroform	5.7 B		470 B			
Dichlorobromomethane	0.55 B		17 B			
1,1-Dichloroethane						
1,2-Dichloroethane	0.38 B		37 B			
1,1-Dichloroethylene	0.057 B		3.2 B			
1,2-Dichloropropane	0.50 B		15 B			
1,3-Dichloropropene	10		1,700			
Ethylbenzene	3,100		29,000			
Methyl Bromide	47		1,500			
Methyl Chloride	F		F			
Methylene Chloride	4.6 B		590 B			
1,1,2,2-Tetrachloroethane	0.17 B		4.0 B			
Tetrachloroethylene	0.69 B		3.3 B			
Toluene	6,800		200,000			
1,2 -Trans-Dichloroethylene	700		140,000			
1,1,1-Trichloroethane	F		F			
1,1,2-Trichloroethane					0.59 B	16 B
Trichloroethylene					2.5 B	30 B
Vinyl Chloride					2.0 B	530 B
2-Chlorophenol					81	150
2,4-Dichlorophenol					77	290
2,4-Dimethylphenol					380	850
2-Methyl-4,6-Dinitrophenol					13.0	280
2,4-Dinitrophenol					69	5,300
2-Nitrophenol						
4-Nitrophenol						
3-Methyl-4-Chlorophenol						
Penetachlorophenol	0.27 B					3.0 B
Phenol	21,000					1,700,000
2,4,6-Trichlorophenol	1.4 B					2.4 B
Acenaphthene	670					990
Acenaphthylene						
Anthracene	8,300					40,000
Benzidine	0.000086 B					0.00020 B
BenzoaAnthracene	0.0038 B					0.018 B
BenzoaPyrene	0.0038 B					0.018 B
BenzobFluoranthene	0.0038 B					0.018 B
BenzoghiPerylene						
BenzokFluoranthene	0.0038 B					0.018 B
Bis2-ChloroethoxyMethane						
Bis2-ChloroethylEther	0.030 B					0.53 B
Bis2-ChloroisopropylEther	1,400					65,000
Bis2-EthylhexylPhthalate	1.2 B					2.2 B
4-Bromophenyl Phenyl Ether						
Butylbenzyl Phthalate	1,500					1,900
2-Chloronaphthalene	1,000					1,600
4-Chlorophenyl Phenyl Ether						
Chrysene	0.0038 B					0.018 B
Dibenzoa, hAnthracene	0.0038 B					0.018 B
1,2-Dichlorobenzene	2,700					17,000
1,3-Dichlorobenzene	320					960
1,4-Dichlorobenzene	400					2,600
3,3-Dichlorobenzidine	0.021 B					0.028 B
Diethyl Phthalate	17,000					44,000
Dimethyl Phthalate	270,000					1,100,000
Di-n-Butyl Phthalate	2,000					4,500
2,4-Dinitrotoluene	0.11 B					3.4 B
2,6-Dinitrotoluene						
Di-n-Octyl Phthalate						
1,2-Diphenylhydrazine	0.036 B					0.20 B
Fluoranthene	140 130					140
Fluorene	1,100					5,300
Hexachlorobenzene	0.00028 B					0.00029 B
Hexachlorobutenedine	0.44 B					18 B
Hexachloroethane	1.4 B					3.3 B
Hexachlorocyclopentadiene	240					17,000
Ideno 1,2,3-cdPyrene	0.0038 B					0.010 B
Isophorone	35 B					960 B
Naphthalene						
Nitrobenzene	17					690
N-Nitrosodimethylamine	0.00069 B					3.0 B
N-Nitrosodi-n-Propylamine	0.005 B					0.51 B
N-Nitrosodiphenylamine	3.3 B					6.0 B
Phenanthrene						
Pyrene	830					4,000
1,2,4-Trichlorobenzene	260					940
Aldrin	0.000049 B					0.000050 B
alpha-BHC	0.0026 B					0.0049 B
beta-BHC	0.0091 B					0.017 B
gamma-BHC (Lindane)	0.019 B					0.063 B
delta-BHC						
Chlordane	0.00080 B					0.00081 B
4,4-DDT	0.00022 B					0.00022 B
4,4-DDE	0.00022 B					0.00022 B
4,4-DDD	0.00031 B					0.00031 B
Dieldrin	0.000052 B					0.000054 B
alpha-Endosulfan	62					89
beta-Endosulfan	62					89
Endosulfan Sulfate	62					89
Endrin	0.76					0.81
Endrin Aldehyde	0.29					0.30
Heptachlor	0.000079 B					0.000079 B
Heptachlor Epoxide	0.000039 B					0.000039 B

Polychlorinated Biphenyls	0.000064 B,D	0.000064 B,D
PCB's	0.00028 B	0.00028 B
Toxaphene	<u>0.00028 B</u>	<u>0.00028 B</u>

Footnotes:

- A. See Table 2.14.2
- B. Based on carcinogenicity of 10-6 risk.
- C. EPA has not calculated a human criterion for this contaminant. However, permit authorities should address this contaminant in NPDES permit actions using the State's existing narrative criteria for toxics
- D. This standard applies to total PCBs.

KEY: water pollution, water quality standards
2003
Notice of Continuation October 7, 2002
19-5



**Human Services, Services for People
with Disabilities**
R539-1-5
Graduated Fee Schedule

NOTICE OF CHANGE IN PROPOSED RULE

DAR File No.: 26439
 Filed: 09/02/2003, 20:13

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This change in proposed rule clarifies exceptions where fees would not be assessed.

SUMMARY OF THE RULE OR CHANGE: Persons who do not participate in Medicaid Waiver due to financial eligibility cannot opt to pay the fee in lieu of the spenddown. If the Person's annual allocation is already at the State match rate, they will not be assessed a fee. If the Person fails to pay the fee for six months, the Division may reduce the Person's annual allocation to recover the amount due. If a Person can show good cause, the Division Director may grant exceptions on a case-by-case basis. (DAR NOTE: This change in proposed rule has been filed to make additional changes to a proposed amendment that was published in the July 15, 2003, issue of the Utah State Bulletin, on page 30. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the change in proposed rule and the proposed amendment together to understand all of the changes that will be enforceable should the agency make this rule effective.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 62a-5-105

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: These are new requirements that are being enacted in the rule, so we are unsure of the actual costs. We estimate the first addition to this rule to be a savings. If the Person chooses to participate in the Medicaid Waiver the increase to their annual allocation would be federal

monies. If they choose not to participate in the Medicaid Waiver then their annual allocation will be reduced to the state match rate and we may realize a savings. The second addition will be cost neutral due to no adjustments in budgets and no fees. For the third addition, any loss realized by Person's failing to pay assessed fees may be recovered through a person's annual allocation.

❖ LOCAL GOVERNMENTS: No local government funding is used in any of these activities, therefore, it is expected that there is no cost to local governments.

❖ OTHER PERSONS: Persons who do not participate in a Medicaid Waiver due to financial eligibility will have their funding reduced to the State match rate.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Cost will be to those persons who must choose to pay a Medicaid spenddown or choose not to participate in a Medicaid Waiver. These Persons will have their funding reduced to the state match rate.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Providers may loose funding if a Person chooses not to participate in a Medicaid Waiver. The Person's funding will be reduced to the state match rate.

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

HUMAN SERVICES
 SERVICES FOR PEOPLE WITH DISABILITIES
 Room 411
 120 N 200 W
 SALT LAKE CITY UT 84103-1500, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 Meredith Mannebach at the above address, by phone at 801-538-4197, by FAX at 801-538-4279, or by Internet E-mail at mmannebach@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 10/15/2003.

THIS RULE MAY BECOME EFFECTIVE ON: 10/16/2003

AUTHORIZED BY: Robin Arnold-Williams, Executive Director

R539. Human Services, Services for People with Disabilities.

R539-1. Eligibility.

R539-1-5. Graduated Fee Schedule.

(1) Pursuant to Utah Code 62[a]A-5-105 the Division establishes a graduated fee schedule for use in assessing fees to individuals. The graduated fee schedule shall be applied to Persons who do not meet the Medicaid ~~financial~~ eligibility requirements listed in the Developmental Disabilities/ Mental Retardation Waiver, the Traumatic Brain Injury Waiver or the Physical Disabilities Waiver. Family size and gross income shall be used to determine the fee. This rule does not apply to Persons who qualify for Medicaid

waiver funding but who choose to have funding reduced to the state match per R539-1-2 rather than participate in the Medicaid Waiver.

(a) ~~Non-Waiver~~ Persons who do not participate in a Medicaid Waiver who do not meet Waiver level of care must apply for a Medicaid Card within 30 days of ~~the effective date~~ receiving notice of this rule. ~~Non-Waiver~~ Persons who do not participate in a Medicaid Waiver who meet Waiver level of care must apply for determination of financial eligibility using Form 927 within 30 days of ~~the effective date~~ receiving notice of this rule. ~~Non-Waiver~~ Persons who do not participate in a Medicaid Waiver shall provide the ~~s~~Support ~~e~~Coordinator or Nurse Coordinator with the financial determination letter within 10 days of the receipt of such documentation. ~~Non-Waiver~~ Persons who do not participate in a Medicaid Waiver and who fail to comply with these requirements shall have funding reduced to the state match rate.

(b) Persons who do not participate in a Medicaid Waiver due to financial eligibility, must be reduced to the state match rate.

(~~b~~)c ~~Non-Waiver~~ Persons who do not participate in a Medicaid Waiver must report all cash assets (stocks, bonds, certified deposits, savings, checking and trust amounts), annual income and number of family members living together using Division Form 2-1G. The ~~Person / family~~ Form 2-1G shall ~~submit a new form~~ be reviewed at the time of the annual planning meeting ~~, if there has been a change in income or assets~~. The Person / family shall return Form 2-1G to the support coordinator prior to delivery of new services. Persons / families currently receiving services will have 60 days to return a completed and signed Form 2-1G. Persons / families who complete the Division fee Determination Form shall be assessed a fee no more than 3% of their income. If the form is not received within 60 days, the Person will have funding reduced to the state match rate.

(~~e~~)d Cash assets, income and number of family members will be used to calculate available income (using the formula: ~~[+]~~(assets + income~~[+]~~) / by the total number of family members = available income). Available income will be used to determine the fee percent (0 percent to 3 percent). The annual fee amount will be calculated by multiplying available income by the fee percent. ~~Non-Waiver~~ ~~p~~ Persons who do not participate in a Medicaid Waiver who have

available incomes below 300 percent of the poverty level will not be assessed a fee. Persons with available incomes between 300 ~~percent~~ and 399 percent of poverty will be assessed a 1 percent fee, ~~those~~ Persons with available incomes between 400 ~~percent~~ and 499 percent of poverty will be assessed a 2 percent fee and those with available income over 500 percent of poverty will be assessed a 3 percent fee.

(~~f~~)e No fee shall be assessed for a ~~Non-Waiver p~~ Person who does not participate in a Medicaid Waiver and who receives funding for less than 31 percent of the assessed need. A multiplier shall be applied to the fee of ~~Non-Waiver~~ Persons who do not participate in a Medicaid Waiver and who receive ~~ing at least~~ 31 ~~percent but less than~~ to 100% percent of the assessed need.

(f) If a Person's annual allocation is at the state match rate, they will not be assessed a fee.

(~~f~~)g Only one fee will be assessed per family, regardless of the number of children in the family receiving services. ~~Non-waiver~~ ~~p~~ Persons who do not participate in a Medicaid Waiver under the age of 18 shall be assessed a fee based upon parent income. ~~Non-waiver~~ ~~p~~ Persons who do not participate in a Medicaid Waiver over the age of 18 shall be assessed a fee based upon individual income and assets.

(~~e~~)h If the Person is assessed a fee the Person shall pay the Division of Services for People with Disabilities or designee 1/12th of the annual fee by the end of each month.

(i) If the Person fails to pay the fee for six months, the Division may reduce the Person's annual allocation to recover the amount due. If a Person can show good cause, the Division Director may grant exceptions on a case-by-case basis.

KEY: disabled persons, social services

2003

Notice of Continuation December 18, 2002

62A-5-103

62A-5-105



End of the Notices of Changes in Proposed Rules Section

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the responsible agency is required to review the rule. This review is designed to remove obsolete rules from the *Utah Administrative Code*.

Upon reviewing a rule, an agency may: repeal the rule by filing a PROPOSED RULE; continue the rule as it is by filing a NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (NOTICE); or amend the rule by filing a PROPOSED RULE and by filing a NOTICE. By filing a NOTICE, the agency indicates that the rule is still necessary.

NOTICES are not followed by the rule text. The rule text that is being continued may be found in the most recent edition of the *Utah Administrative Code*. The rule text may also be inspected at the agency or the Division of Administrative Rules. NOTICES are effective when filed. NOTICES are governed by *Utah Code* Section 63-46a-9 (1998).

Education, Administration
R277-460
Distribution of Substance Abuse
Prevention Account

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 26593
FILED: 08/29/2003, 11:49

**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: Section 53A-13-102 directs the State Board of Education to adopt rules providing for instruction on the harmful effects of controlled substances, and Section 63-63a-5 provides for funds from the Substance Abuse Prevention Account to be allocated to the Utah State Office of Education to provide for training, programs, and instruction.

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: The law continues to require instruction on the harmful effects of controlled substances, and continues to provide funding for training, programs and instruction. Therefore, this rule should be continued.

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

EDUCATION
ADMINISTRATION
250 E 500 S
SALT LAKE CITY UT 84111-3272, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Carol Lear at the above address, by phone at 801-538-7835,
by FAX at 801-538-7768, or by Internet E-mail at
clear@usoe.k12.ut.us

AUTHORIZED BY: Carol Lear, Coordinator School Law and
Legislation

EFFECTIVE: 08/29/2003



Financial Institutions, Administration
R331-20

Designation of Adjudicative
Proceedings as Informal

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 26582
FILED: 08/27/2003, 12:27

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 63-46b-4 authorizes the agency to designate categories of adjudicative proceedings. The rule states that all proceedings which are subject to the requirements of the Utah Administrative Procedures Act are designated as informal proceedings.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No supporting or opposing written comments have been received by the agency concerning this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The agency has determined that: (a) the use of the informal procedures does not violate

any procedural requirement imposed by law; (b) the rights of the parties to the proceedings will be reasonably protected by the informal procedures; (c) the agency's administrative efficiency will be enhanced by the designation; and (d) the cost of formal adjudicative proceedings outweighs the potential benefits to the public of a formal adjudicative proceeding. Therefore, the rule should be continued.

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

FINANCIAL INSTITUTIONS
ADMINISTRATION
Room 201
324 S STATE ST
SALT LAKE CITY UT 84111-2393, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Paul Allred at the above address, by phone at 801-538-8854, by FAX at 801-538-8894, or by Internet E-mail at PALLRED@utah.gov

AUTHORIZED BY: Edward Leary, Commissioner

EFFECTIVE: 08/27/2003

Financial Institutions, Administration
R331-21

Rule Governing Establishment of and
Participation in Collective Investment
Funds by Trust Companies

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 26583
FILED: 08/27/2003, 12:29

**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 7-5-13 authorizes establishment of collective investment funds for persons permitted to engage in the trust business.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No supporting or opposing written comments have been received by the agency concerning this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule authorizes the establishment of and participation in collective investment funds by trust companies subject to the jurisdiction of the Department. There is presently one trust company that must

still comply with this rule. Therefore, the rule should be continued.

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

FINANCIAL INSTITUTIONS
ADMINISTRATION
Room 201
324 S STATE ST
SALT LAKE CITY UT 84111-2393, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Paul Allred at the above address, by phone at 801-538-8854, by FAX at 801-538-8894, or by Internet E-mail at PALLRED@utah.gov

AUTHORIZED BY: Edward Leary, Commissioner

EFFECTIVE: 08/27/2003

Financial Institutions, Administration
R331-24
Accounting for Accrued Uncollected
Income by Banks and Industrial Loan
Corporations

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 26584
FILED: 08/27/2003, 12:31

**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: Subsection 7-1-301(14) authorizes the commissioner to require financial institutions to keep books and records of the transactions and accounts of the institutions' true pecuniary condition. These requirements must be consistent with generally accepted accounting principles for financial institutions. The rule establishes some specific accounting requirements for accrued uncollected income.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No supporting or opposing written comments have received by the agency concerning this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule establishes accounting requirements for accrued uncollected income to ensure accurate accounting of the income of banks and

industrial loan corporations. Therefore, the rule should be continued.

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

FINANCIAL INSTITUTIONS
ADMINISTRATION
Room 201
324 S STATE ST
SALT LAKE CITY UT 84111-2393, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Paul Allred at the above address, by phone at 801-538-8854, by FAX at 801-538-8894, or by Internet E-mail at PALLRED@utah.gov

AUTHORIZED BY: Edward Leary, Commissioner

EFFECTIVE: 08/27/2003



Insurance, Administration
R590-186
Bail Bond Surety Business

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 26592
FILED: 08/29/2003, 11:06

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 31A-35-104 requires the commissioner to adopt by rule specific licensure and certification guidelines and standards of conduct for the bail bond business. These standards can be found in Sections R590-186-4, -5, -6, and -9 of the rule. Subsection 31A-35-301(1) authorizes the commissioner to write rules to administer Chapter 35 of Title 31A. The entire rule does this. Subsections 31A-35-401(1)(c) and (2) allow the commissioner to set rules regarding the licensure of companies and individuals and allow him to ask for additional information other than that on the application. This is done in Sections R590-186-4, 5 and 6. Subsection 31A-35-406(1)(b) allows for the establishment of an annual date for the renewal of bail bond company licenses. The rule sets this date in Subsection R590-186-5(A).

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 received written comments during a rule change initially proposed July 16, 2001. One comment received August 23, 2001, provided a revised definition for "Members of their immediate families." Another comment was received November 13, 2001, requesting wording in the rule to disallow for a bail bondsman

or agency to conduct business in a jail when they are related to a jailer or peace officer in the same county. A third comment received January 31, 2002, asked that Section R590-186-8 be added back into the rule as another avenue in resolving basic responsibilities of bonding agencies.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is needed to provide uniform guidelines for the licensure of bail bond producers and agencies. The rule also is needed to provide guidelines for the Board and the department to follow in the investigation of unprofessional conduct of bail bond licensees.

These standards allow for fair and nondiscriminatory treatment of licensees. Therefore, the rule should be continued.

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

INSURANCE
ADMINISTRATION
Room 3110 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY UT 84114-1201, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jilene Whitby at the above address, by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at jwhitby@utah.gov

AUTHORIZED BY: Jilene Whitby, Information Specialist

EFFECTIVE: 08/29/2003



Insurance, Administration
R590-187
**Assessment of Title Insurance
Agencies and Title Insurers for Costs
Related to Regulation of Title Insurance**

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 26597
FILED: 09/02/2003, 13:31

**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 31A-23-315 was the section that authorized the commissioner to establish the amount of costs and expenses assessed by the department to title agencies and insurers. The new citation set by the 2003 Legislature is Section 31A-23a-415. The citation is being corrected in this rule through the rulemaking process now. Section 3 of the rule describes the costs and expenses to be

covered by the assessment. (DAR NOTE: The amendment to Rule R590-187 referred to was published in the July 15, 2003, issue under DAR No. 26423.)

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 past five years and the current rulemaking process involving this rule, the department has received no written comments from the industry 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: The department feels this rule is necessary to provide funding for a market conduct investigator and should be continued. Until the title industry is able to police themselves a market conduct investigator is needed to regulate the actions of this industry and make sure they are in compliance with the law.

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

INSURANCE
ADMINISTRATION
Room 3110 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY UT 84114-1201, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jilene Whitby at the above address, by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at jwhitby@utah.gov

AUTHORIZED BY: Jilene Whitby, Information Specialist

EFFECTIVE: 09/02/2003



End of the Five-Year Notices of Review and Statements of Continuation Section

NOTICES OF FIVE-YEAR REVIEW EXTENSIONS

Rulewriting agencies are required by law to review each of their administrative rules within five years of the date of the rule's original enactment or the date of last review (*Utah Code* Section 63-46a-9 (1996)). If the agency finds that it will not meet the deadline for review of the rule (the five-year anniversary date), it may file an extension with the Division of Administrative Rules. The extension permits the agency to file the review up to 120 days beyond the anniversary date.

Agencies have filed extensions for the rules listed below. The "Extended Due Date" is 120 days after the anniversary date. The five-year review extension is governed by *Utah Code* Subsection 63-46a-9(4) and (5) (1996).

Human Services

Child and Family Services

No. 26596 (filed 09/02/2003 at 10:43 a.m.): R512-25. Child Protective Services Notification and Due Process.

Enacted or Last Five-Year Review: 09/15/98 (No. 21336, NEW, filed 07/29/98 at 5:24 p.m., published 08/15/98)

Extended Due Date: 01/13/2004

Recovery Services

No. 26586 (filed 08/28/2003 at 9:11 a.m.): R527-301. Non-IV-D Income Withholding.

Enacted or Last Five-Year Review: 09/04/98 (No. 21427, 5YR, filed 09/04/98 at 11:54 a.m., published 10/01/98)

Extended Due Date: 01/01/2004

End of the Notices of Five-Year Review Extensions 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

Health Systems Improvement, Emergency Medical Services

No. 26350 (AMD): R426-11. Definitions and Quality Assurance Reviews.

Published: July 1, 2003

Effective: August 22, 2003

Commerce

Occupational and Professional Licensing

No. 26193 (CPR): R156-63. Security Personnel Licensing Act Rules.

Published: July 15, 2003

Effective: August 18, 2003

Real Estate

No. 26342 (AMD): R162-104-17. Special Circumstances.

Published: July 1, 2003

Effective: August 27, 2003

No. 26427 (AMD): R162-106-7. Sales and Listing History.

Published: July 15, 2003

Effective: August 27, 2003

Environmental Quality

Radiation Control

No. 26379 (AMD): R313-15-208. Dose to an Embryo/Fetus.

Published: July 1, 2003

Effective: August 8, 2003

Health

Epidemiology and Laboratory Services, Epidemiology

No. 26294 (AMD): R386-702. Communicable Disease Rule.

Published: June 15, 2003

Effective: August 22, 2003

Public Safety

Driver License

No. 26287 (CPR): R708-2. Commercial Driver Training Schools.

Published: July 15, 2003

Effective: August 18, 2003

No. 26288 (CPR): R708-37. Certification of Licensed Instructors of Commercial Driver Training School to Administer Driving Skills Tests.

Published: July 15, 2003

Effective: August 18, 2003

Transportation

Operations, Traffic and Safety

No. 26296 (AMD): R920-50. Ropeway Operation Safety Rules.

Published: June 15, 2003

Effective: August 18, 2003

Workforce Services

Administration

No. 26411 (REP): R982-401. JTPA Fiscal Procedures.

Published: July 15, 2003

Effective: August 28, 2003

No. 26412 (REP): R982-501. JTPA Procurement/Property Management Procedures.

Published: July 15, 2003

Effective: August 28, 2003

Workforce Information and Payment Services

No. 26413 (REP): R994-600. Dislocated Workers.

Published: July 15, 2003

Effective: August 28, 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 September 2, 2003, the effective dates of which are no later than September 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	5YR = Five-Year Review
EXD = Expired	

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
Administrative Services					
<u>Administration</u>					
R13-1	Public Petitions for Declaratory Orders	26614	5YR	09/10/2003	Not Printed
<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

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CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R23-7	Utah State Building Board Policy Statement Master Planning	25770	REP	02/04/2003	2003-1/5
R23-7	Utah State Building Board Policy Statement Master Planning (5YR EXTENSION)	25984	NSC	02/04/2003	Not Printed
R23-8	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	2003-8/44
R23-14	Management of Roofs on State Buildings	26115	NEW	05/16/2003	2003-8/7
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	2003-10/146
R25-6	Relocation Reimbursement	26205	NSC	06/01/2003	Not Printed
R25-7	Travel-Related Reimbursements for State Employees	26203	5YR	05/01/2003	2003-10/146
R25-7	Travel-Related Reimbursements for State Employees	26204	AMD	07/01/2003	2003-10/4
<u>Fleet Operations</u>					
R27-3	Vehicle Use Standards	25879	AMD	05/15/2003	2003-2/5
R27-7	Safety and Loss Prevention of State Vehicles	26191	AMD	07/08/2003	2003-10/6
<u>Purchasing and General Services</u>					
R33-2-102	Authority to Make Small Purchases	26136	AMD	05/27/2003	2003-8/8
R33-3	Source Selection and Contract Formation	26138	AMD	05/27/2003	2003-8/9
R33-5	Construction and Architect - Engineer Selection	26139	AMD	05/27/2003	2003-8/15
Agriculture and Food					
<u>Administration</u>					
R51-5	Grazing Advisory Boards	26515	5YR	07/30/2003	2003-/16
<u>Marketing and Conservation</u>					
R65-2	Utah Cherry Marketing Order	26383	5YR	06/13/2003	2003-13/62
R65-5	Utah Red Tart and Sour Cherry Marketing Order	26386	5YR	06/13/2003	2003-13/62
R65-7	Horse Racing	26083	AMD	06/09/2003	2003-7/5
<u>Plant Industry</u>					
R68-5	Grain Inspection	26385	5YR	06/13/2003	2003-13/63
R68-9	Utah Noxious Weed Act	26387	5YR	06/13/2003	2003-13/63
R68-14	Quarantine Pertaining to Gypsy Moth - Lymantria Dispar	26388	5YR	06/13/2003	2003-13/64
R68-16	Quarantine Pertaining to Pine Shoot Beetle, Tomicus piniperda	26389	5YR	06/13/2003	2003-13/64
R68-17	Quarantine Pertaining to Necrotic Strain of the Potato Virus Y	26390	5YR	06/13/2003	2003-13/65

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
Alcoholic Beverage Control					
<u>Administration</u>					
R81-1	Scope, Definitions, and General Provisions	26322	AMD	08/01/2003	2003-12/4
R81-1-17	Advertising	25886	AMD	02/26/2003	2003-2/5
R81-3	Package Agencies	26323	AMD	08/01/2003	2003-12/16
R81-4A	Restaurants	26324	AMD	08/01/2003	2003-12/18
R81-4B	Airport Lounges	26325	AMD	08/01/2003	2003-12/20
R81-4C	Limited Restaurant Licenses	26326	NEW	08/01/2003	2003-12/21
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R671-201	Original Parole Grant Hearing Schedule and Notice	26120	AMD	05/16/2003	2003-8/39
R671-202	Notification of Hearings	25350	AMD	02/12/2003	2002-20/104
R671-207	Mentally Ill and Deteriorated Offender Custody Transfer	25725	NSC	01/01/2003	Not Printed
R671-308	Offender Hearing Assistance	25394	AMD	02/12/2003	2002-20/110
R671-311	Special Attention Hearings and Reviews	25398	AMD	02/12/2003	2002-20/112
R671-403	Restitution	26050	5YR	02/18/2003	2003-6/18
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R686-100	Professional Practices Advisory Commission, Rules of Procedure: Complaints and Hearings	26032	5YR	02/07/2003	2003-5/41
R686-101	Alcohol Related Offenses	26568	5YR	08/15/2003	2003-17/90
R686-102	Drug Related Offenses	26569	5YR	08/15/2003	2003-17/90
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R708-2	Commercial Driver Training Schools	26287	AMD	08/18/2003	2003-11/53
R708-2	Commercial Driver Training Schools	26287	CPR	08/18/2003	2003-/14
R708-37	Certification of Licensed Instructors of Commercial Driver Training School to Administer Driving Skills Tests	26288	CPR	08/18/2003	2003-/14
R708-37	Certification of Licensed Instructors of Commercial Driver Training Schools to Administer Driving Skills Tests	26288	AMD	08/18/2003	2003-11/62
R708-39	Physical and Mental Fitness Testing	25645	NEW	01/24/2003	2002-23/97
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R710-4	Buildings Under the Jurisdiction of the State Fire Prevention Board	26006	AMD	03/18/2003	2003-4/28
R710-5	Automatic Fire Sprinkler System Inspecting and Testing	26491	NEW	09/03/2003	2003-15/55
R710-6	Liquefied Petroleum Gas Rules	26281	AMD	07/02/2003	2003-11/65
R710-7	Concerns Servicing Automatic Fire Suppression Systems	25961	AMD	03/06/2003	2003-3/36
R710-7	Concerns Servicing Automatic Fire Suppression Systems	26001	AMD	03/18/2003	2003-4/32
R710-8-3	Day Care Rules	26269	AMD	07/02/2003	2003-11/68
R710-9	Rules Pursuant to the Utah Fire Prevention Law	26003	AMD	03/18/2003	2003-4/38
R710-9	Rules Pursuant to the Utah Fire Prevention Law	26289	AMD	07/02/2003	2003-11/69
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R714-159	Vehicle Safety Inspection Apprenticeship Program Guidelines	26119	NEW	06/26/2003	2003-8/40
R714-220	Standards for Motorcycle Protective Headgear	26121	R&R	06/26/2003	2003-8/41
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R722-300	Concealed Firearm Permit Rule	25999	5YR	01/28/2003	2003-4/59
R722-300	Concealed Firearm Permit Rule (5YR EXTENSION)	25683	NSC	01/28/2003	Not Printed

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R728-411	Guidelines Regarding Administrative Action Taken Against Individuals Functioning as Peace Officers without Peace Officer Certification or Powers	26067	5YR	03/04/2003	2003-7/91
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R728-502	Procedure for POST Instructor Certification (EXPIRED RULE)	26445	NSC	07/03/2003	Not Printed
R728-504	Regional Training (EXPIRED RULE)	26446	NSC	07/03/2003	Not Printed
R728-504	Regional Training (5YR EXTENSION)	26070	NSC	07/03/2003	Not Printed
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R746-240	Telecommunication Service Rules	26421	5YR	06/25/2003	2003-14/97
R746-330	Rules for Water and Sewer Utilities Operating in Utah	26081	5YR	03/10/2003	2003-7/92
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R746-342	Rule on One-Way Paging	26145	5YR	04/02/2003	2003-9/137
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R746-347	Extended Area Service (EAS)	25578	NEW	03/10/2003	2002-22/44
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R765-254	Secure Area Hearing Rooms	25906	NEW	05/29/2003	2003-3/42
R765-555	Providing Facilities, Goods and Services in Competition with Private Enterprise	26141	5YR	04/02/2003	2003-9/138
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R765-605	Utah Centennial Opportunity Program for Education	26432	5YR	06/30/2003	2003-14/99
R765-606	Utah Leveraging Educational Assistance Partnership Program	26156	NEW	06/30/2003	2003-9/116
R765-607	Utah Higher Education Tuition Assistance Program	26443	5YR	07/03/2003	2003-15/83
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R765-660	Utah State Student Incentive Grant Program	26134	5YR	04/01/2003	2003-8/44
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R865-9I-28	Petition For Redetermination of Tax Commission Action On Claim For Refund Pursuant to Utah Code Ann. Section 59-10-533	25826	AMD	03/11/2003	2003-1/42
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R865-9I-39	Subtraction from Federal Taxable Income for a Handicapped Child or Adult Pursuant to Utah Code Ann. Section 59-10-114	26078	AMD	06/10/2003	2003-7/61
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R986-700-703	Client Rights and Responsibilities	26042	AMD	04/01/2003	2003-5/23
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R986-700-710	Income and Asset Limits for ES CC	25572	AMD	01/01/2003	2002-22/52
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ABBREVIATIONS

AMD = Amendment
 CPR = Change in proposed rule
 EMR = Emergency rule (120 day)
 NEW = New rule
 EXD = Expired
 NSC = Nonsubstantive rule change
 REP = Repeal
 R&R = Repeal and reenact
 5YR = Five-Year Review

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	26176	R850-3	AMD	06/03/2003	2003-9/122
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	26354	R307-102	5YR	06/11/2003	2003-13/67
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	25761	R307-110-10	NSC	01/01/2003	Not Printed
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	26546	R307-406	5YR	08/11/2003	2003-17/88
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	25713	R765-660	NSC	04/01/2003	Not Printed
	26085	R765-685	AMD	05/20/2003	2003-7/55
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	26539	R746-345	5YR	08/08/2003	2003-17/91
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	26413	R994-600	REP	08/28/2003	2003-14/50
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