UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT
Filed February 2, 1998 5:01 p.m. - February 17, 1998 5:00 p.m.

NUMBER 98-5
March 1, 1998

Kenneth A. Hansen, Director
Nancy L. Lancaster, Editor

The UTAH STATE BULLETIN is the official noticing publication of the executive branch of Utah State Government. The Department of Administrative Services, Division of Administrative Rules produces the Bulletin under authority of Section 63-46a-10, UTAH CODE ANNOTATED 1953.

Inquiries concerning administrative rules or other contents of the BULLETIN may be addressed to the responsible agency or to: Division of Administrative Rules, PO Box 141007, Salt Lake City, Utah 84114-1007, telephone (801) 538-3218, FAX (801) 538-1773.

The BULLETIN and its companion summary, the UTAH STATE DIGEST, are printed and distributed semi-monthly by Legislative Printing. Annual Subscription rates (24 issues) are $150 for the UTAH STATE BULLETIN and $35 for the UTAH STATE DIGEST. Inquiries concerning subscription, billing, or changes of address should be addressed to:

LEGISLATIVE PRINTING
PO BOX 140107
SALT LAKE CITY, UT 84114-0107
(801) 538-1103
FAX (801) 538-1728

ISSN 0882-4738

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DEPARTMENT OF HEALTH
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PUBLIC NOTICE
CHILD CARE LICENSING ADVISORY COMMITTEE
1998 MEETING SCHEDULE

DATE	TIME	CONFERENCE ROOM
April 6, 1998	9:00 a.m.	125
June 1, 1998	9:00 a.m.	125
August 3, 1998	9:00 a.m.	125
October 5, 1998	9:00 a.m.	125
December 7, 1998	9:00 a.m.	125

DEPARTMENT OF HEALTH
HEALTH SYSTEMS IMPROVEMENT, HEALTH FACILITY LICENSURE

PUBLIC NOTICE
HEALTH FACILITY COMMITTEE
1998 MEETING SCHEDULE

DATE	TIME	CONFERENCE ROOM
March 27, 1998	9:00 a.m.	125
May 22, 1998	9:00 a.m.	125
July 31, 1998	9:00 a.m.	114
September 25, 1998	9:00 a.m.	125
November 20, 1998	9:00 a.m.	114

Anyone with a disability requiring accommodation to attend or fully participate in any of these meetings should contact Wendee Pippy at (801) 538-6322 at least one week before the scheduled meeting to request reasonable accommodations. The Department of Health is located at 288 North 1460 West, Salt Lake City, UT 84116.

DEPARTMENT OF ADMINISTRATIVE SERVICES
ARCHIVES AND RECORDS SERVICE

PUBLIC NOTICE
February 20, 1998

The Utah State Archives, Records Analysis Section hereby invites public comment in the records scheduling process. The State Records Committee (consisting of the State Auditor's designee, the Division of State History director, a records manager from the private sector, the Governor or his designee, a citizen member, an elected official representing political subdivisions, and an individual representing the news media) is statutorily mandated to "review and approve retention and disposal of records."

Certain records from state and local government agencies are expected to be presented to the State Records Committee for retention and disposition approval. These retention schedules may be viewed on location in our Research Room or via our web page (http://www.archives.state.ut.us/recmanag/retsched.htm).

Comments from citizens are invited between March 9, 1998, and April 14, 1998. Contact the Utah State Archives at (801) 538-3012 for more information.

DEPARTMENT OF AGRICULTURE AND FOOD
UTAH SOIL CONSERVATION COMMISSION

PUBLIC NOTICE
1998 REVISED MEETING SCHEDULE

Public Notice is hereby given for the balance of 1998 calendar year meeting schedule for the Utah Soil Conservation Commission, hereafter called "Commission", a public agency created pursuant to Title 4, Chapter 18, Utah Code. This Commission is a policy making body helping to bring about sensible development and wise conservation of Utah's soil and water resource on private lands by: assisting Utah's 38 local soil conservation districts to fulfill their purposes; administering the Agriculture Resource Development Loan program; and, by facilitating the coordination of state and federal conservation partnership government agencies and groups who may influence these programs.

Balance of Regular Meetings for 1998 are planned as follows:

Second Meeting: March 12 (Thursday) at 8:00 - 11:00 a.m. in St George City Offices
Third Meeting: May 14 (Thursday) at 1:00 - 4:00 p.m. in Provo*
Fourth Meeting: June 24 (Wednesday) at 1:00 - 4:00 p.m. in Salt Lake City
Fifth Meeting: August 10 (Monday) at 1:00 - 4:00 p.m. in Richfield*
Sixth Meeting: November 4 (Wednesday) at 2:00 - 5:00 p.m. in St George*

* The place for meetings out of Salt Lake City will be determined by the Commission staff and a notice will be published two weeks prior.

Meetings are held either in the Main Conference Room of the Utah Department of Agriculture and Food (UDAF), 350 North Redwood Road, Salt Lake City, or at such other place as the Commission shall designate prior to any such meeting. Additionally, meetings for the briefing of members of the Commission may be held at such place and location as the Commission shall designate prior to any such meeting.

Commission contact: K. N. "Jake" Jacobson, Administrative Officer with the UDAF, 350 N Redwood Road, Salt Lake City, Utah 84116; phone: (801) 538-7171

In compliance with the Americans with Disabilities Act (ADA), individuals needing special accommodations (including auxiliary communicative aids and services) during any of these meetings should notify UDAF's ADA Coordinator, Renee Matsuura, at the above UDAF address, phone: (801) 538-7110 (TDD: (801) 538-7100) at least three working days prior to the meeting.

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 February 2, 1998, 5:01 p.m., and February 17, 1998, 5:00 p.m., are included in this, the March 1, 1998, 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 rules that are 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 March 31, 1998. 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 June 29, 1998, 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 (1996); 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, Consumer Protection
R152-26-10
Fail to Disclose a Material Fact

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 20772
FILED: 02/11/98, 14:09
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: The Division's experiences over the past approximate year as to practices of telemarketers as related by consumers, indicates a need to clarify the definition of "fail to disclose a material fact" as envisioned under Subsection 13-26-11(1)(c). This rule sets forth minimum criteria of what is and is not a "failure to disclose a material fact".

SUMMARY: Division experience gained from consumers' dealings with telemarketers necessitate an amendment of this rule. The proposed rule clarifies what is and is not a "failure to disclose a material fact". The clarification will assist consumers and telemarketers as to setting and understanding the parameters of a telephone solicitation call as well as assisting the Division in enforcing the Telephone Fraud Prevention Act.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Sections 13-2-5 and 13-26-3

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: None.
❖LOCAL GOVERNMENTS: None.
❖OTHER PERSONS: None.
COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

THE FULL TEXT OF THIS FILING MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Commerce
Consumer Protection
Second Floor, Heber M. Wells Building
160 East 300 South
Box 146704
Salt Lake City, UT 84114-6704, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:
Mark E. Kleinfield at the above address, by phone at (801) 530-6929, by FAX at (801) 530-6001, or by Internet E-mail at mklein@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 03/31/98.

THIS FILING MAY BECOME EFFECTIVE ON: 04/06/98

AUTHORIZED BY: Francine A. Giani, Director

R152. Commerce, Consumer Protection.
R152-26. Telephone Fraud Prevention Act.
R152-26-10. Fail to Disclose a Material Fact.

(1) For purposes of Subsection 13-26-11(1)(c),"fail to disclose a material fact necessary to make any statement not misleading" means a telephone solicitor's failure to upon the making of contact with the person who is the object of the telephone solicitation to at a minimum to:

(a) identify himself, including his true given and surnames, telephone number, and complete street address;

(b) identify the business on whose behalf the person is soliciting, including telephone number, and complete street address;

(c) after identifying himself and the business on whose behalf the person is soliciting to identify the purpose of the call; and

(d) if the person who is the object of the telephone solicitation states his request to purchase the goods or services being solicited to completely identify the terms and conditions of financing such purchase.

KEY: consumer protection, telephone
[~~1997~~]1998 **13-26-3**
13-2-5

Commerce, Occupational and Professional Licensing
R156-16a
Optometry Practice Act Rules

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 20778
FILED: 02/17/98, 16:27
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: After Division review and as a result of several rule filings regarding this rule in 1997, it was found that the section regarding the peer review program was inadvertently left out of the rule filing that was made effective in October 1997.
(**DAR Note:** R156-16a was a proposed amendment that is effective as of October 2, 1997. It was published in the September 1, 1997, issue of the *Utah State Bulletin* under DAR No. 19779.)

SUMMARY: This amendment adds a definition for "peer review program". It also adds a section which outlines the criteria for a peer review program (quality assurance program) to be approved by the division in collaboration with the board.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Section 58-16a-101, and Subsections 58-1-106(1) and 58-1-202(1)

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: None.
❖LOCAL GOVERNMENTS: None.
❖OTHER PERSONS: None - Subsections 58-16a-302(1)(g) and 58-16a-303(2)(a) require optometrists to have membership in a peer review organization. This amendment only provides the criteria for quality assurance providers to obtain approval from the division and board.
COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

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

Commerce
Occupational and Professional Licensing
Fourth Floor, Heber M. Wells Building
160 East 300 South
PO Box 146741
Salt Lake City, UT 84114-6741, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:
Karen Reimherr at the above address, by phone at (801) 530-6767, by FAX at (801) 530-6511, or by Internet E-mail at brdopl.kreimher@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 03/31/98.

THIS FILING MAY BECOME EFFECTIVE ON: 04/01/98

AUTHORIZED BY: Diane J. Blake, Assistant Division Director

R156. Commerce, Occupational and Professional Licensing.
R156-16a. Optometry Practice Act Rules.
R156-16a-102. Definitions.

In addition to the definitions in Title 58, Chapters 1 and 16a, as used in Title 58, Chapters 1 and 16a or these rules:

(1) "Direct supervision" means the supervising optometrist or ophthalmologist is physically present and immediately available for face-to-face consultation with the optician providing services.

(2) "General supervision" means the supervising optometrist or ophthalmologist is available for direct oral communication with the optician being supervised either face-to-face or by some other means.

(3) "Peer review program" or "peer review organization" means a quality assurance program approved by the division in collaboration with the board.

R156-16a-302d. Quality Assurance Program.

In accordance with Subsections 58-16a-302(1)(g) and 58-16a-303(2)(a), a quality assurance program must meet the following criteria in order to be approved by the division in collaboration with the board.

(1) The quality assurance program shall consist of a quality assurance provider, quality assurance reviewers, and the subscribing optometrists and shall be under the direction of the quality assurance provider.

(2) The quality assurance provider shall clearly demonstrate that its personnel have such knowledge and expertise in the practice of optometry and quality assurance to permit the quality assurance provider to competently conduct an optometry peer review program.

(3) The quality assurance program must be open to all licensed optometrists.

(4) The quality assurance provider shall submit a written document to the division for prior approval which outlines the quality assurance program in detail, sets forth the standards and audit criteria against which the optometrist will be reviewed, establishes the criteria for selection of those persons who will be accepted to perform quality assurance review, and documents corrective action procedures.

(5) The contract between the quality assurance provider and its subscribing optometrists shall provide that the quality assurance review process be conducted not less frequently than once every three years.

(6) The primary emphasis of the quality assurance program shall be educational.

(7) Any fees charged for participation in the quality assurance program shall be reasonable and necessary and shall be submitted by the quality assurance provider to the division for approval prior to implementation or change.

(8) A quality assurance provider shall provide in its agreement between the provider and subscribing optometrist that:

(a) upon a finding of gross incompetence in the practice of optometry, the provider shall provide its findings to the division for appropriate action;

(b) if the subscribing optometrist fails to substantially comply with a plan of correction determined appropriate by the provider following quality assurance review by the provider, the subscriber will suspend the subscribing optometrist from that provider's quality review program and will report such suspension to the division; and

(c) the provider will make available to the division the results of a quality review upon the proper issuance of a subpoena duces tecum by the division in accordance with the provisions of Title 58, Chapter 1.

(9) The approved quality assurance provider shall submit, upon request, a written report to the division in sufficient detail to assess the progress, effectiveness and outcome of the program. Representatives of the quality assurance provider shall meet with the division and board if requested to address issues, concerns or the previously-mentioned report.

KEY: optometrists, licensing
[~~October 2, 1997~~]1998 **58-16a-101**
Notice of Continuation September 2, 1997 **58-1-106(1)**
58-1-202(1)

◆ ◆

Commerce, Occupational and Professional Licensing

R156-69

Dentist and Dental Hygienist Practice Act Rules

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 20776
FILED: 02/17/98, 11:28
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: The Division has no data to not accept other regional examinations. The existing rule accepts any regional examination for those applying for licensure by endorsement.

SUMMARY: Sections R156-69-302b and R156-69-302c are amended to add that the Northeast Regional Board of Dental Examiners, Inc. (NERB), Southern Regional Testing Agency, Inc. (SRTA) and Central Regional Dental Testing Service, Inc. (CRDTS) examinations will meet the examination requirement for licensure as a dentist and dental hygienist. Deleted practice requirement for dentists and dental hygienists if the applicant has taken a regional examination other than the Western Regional Examining Board (WREB) examination.

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

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: None.
❖LOCAL GOVERNMENTS: None.
❖OTHER PERSONS: Since other regional examinations will now be accepted for licensure, substantial savings will be realized for dentist and dental hygienist applicants for licensure. Savings are realized through less travel expenses to the WREB examination site for the applicant and a patient, who the applicant is required to bring to the WREB examination. Other regional examinations may be given at the dental school where the applicant is attending or at a location that is closer to their home than the WREB examination.
COMPLIANCE COSTS FOR AFFECTED PERSONS: Since other regional examinations will now be accepted for licensure, substantial savings will be realized for dentist and dental hygienist applicants for licensure. Savings are realized through less travel expenses to the WREB examination site for the applicant and a patient, who the applicant is required to bring to the WREB examination. Other regional examinations may be given at the dental school where the applicant is attending or at a location that is closer to their home than the WREB examination.

THE FULL TEXT OF THIS FILING MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Commerce
Occupational and Professional Licensing
Fourth Floor, Heber M. Wells Building
160 East 300 South
PO Box 146741
Salt Lake City, UT 84114-6741, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:
Karen Reimherr at the above address, by phone at (801) 530-6767, by FAX at (801) 530-6511, or by Internet E-mail at brdopl.kreimher@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 03/31/98; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 03/06/98, 9:00 a.m., 160 East 300 South, Room 205, Salt Lake City, UT.

THIS FILING MAY BECOME EFFECTIVE ON: 04/01/98

AUTHORIZED BY: Diane J. Blake, Assistant Division Director

R156. Commerce, Occupational and Professional Licensing.
R156-69. Dentist and Dental Hygienist Practice Act Rules.
R156-69-302b. Qualifications for Licensure - Examination Requirements - Dentist.

In accordance with Subsections 58-69-302(1)(f) and (g), the examination requirements for licensure as a dentist are established as the following:

(1) the Utah Dentist and Dental Hygienist Law Examination with a passing score of at least 75; and

(2)

(a) the WREB examination with a passing [~~grade~~]score as established by the WREB; or

(b) the NERB examination with a passing score as established by the NERB; or

(c) the[~~,~~] SRTA examination with a passing score as established by the SRTA;[~~,~~] or

(d) the CRDTS examination[**s**] with a passing score as established by the CRDTS.[~~if the dentist has successfully and lawfully practiced as a dentist in the United States or as an employee of the armed forces of the United States, the United States Public Health Service, the United States Department of Veterans Affairs, or another federal agency for not less than 6,000 hours within the five years immediately preceding application for licensure in Utah, with a passing score as established by NERB, SRTA, or CRDTS respectively; or~~

~~(e) a state licensing examination if the state examination was taken prior to 1978 and the dentist has successfully and lawfully practiced as a dentist in the United States or as an employee of the armed forces of the United States, the United States Public Health Service, the United States Department of Veterans Affairs, or another federal agency for not less than 6,000 hours within the five years immediately preceding application for licensure in Utah.~~]

R156-69-302c. Qualifications for Licensure - Examination Requirements - Dental Hygienist.

In accordance with Subsections 58-69-302(3)(f) and (g), the examination requirements for licensure as a dental hygienist are established as the following:

(1) the Utah Dentist and Dental Hygienist Law Examination with a passing score of at least 75; and

(2)

(a) the WREB examination with a passing [~~grade~~]score as established by the WREB; or

(b) the NERB examination with a passing score as established by the NERB; or

(c) the[;] SRTA examination with a passing score as established by the SRTA;[;] or

(d) the CRDTS examination[~~s~~] with a passing score as established by the CRDTS.[~~if the dental hygienist has successfully and lawfully practiced as a dental hygienist in the United States or as an employee of the armed forces of the United States, the United States Public Health Service, the United States Department of Veterans Affairs, or another federal agency for not less than 2,000 hours within the two years immediately preceding application for licensure in Utah, with a passing score as established by NERB, SRTA, or CRDTS respectively; or~~

~~(c) a state licensing examination if the state examination was taken prior to 1978 and the dental hygienist has successfully and lawfully practiced as a dental hygienist in the United States or as an employee of the armed forces of the United States, the United States Public Health Service, the United States Department of Veterans Affairs, or another federal agency for not less than 2,000 hours within the two years immediately preceding application for licensure in Utah.~~]

KEY: licensing, dentists, dental hygienists*
[~~May 12, 1997~~]1998 **58-69-101**
58-1-106(1)
58-1-202(1)

Education, Administration
R277-469
Textbook Commission Operating Procedures

NOTICE OF PROPOSED RULE
(New)
DAR FILE NO.: 20779
FILED: 02/17/98, 16:49
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: This rule was written to formalize and streamline the Textbook Commission instructional materials adoption process. It also provides a procedure for the pilot approval of instructional materials.

SUMMARY: This rule provides an approval and a pilot approval process for instructional materials.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Subsection 53A-1-401(3)

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: None.
❖LOCAL GOVERNMENTS: None.
❖OTHER PERSONS: None.
COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

THE FULL TEXT OF THIS FILING MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Education
Administration
250 East 500 South
Salt Lake City, UT 84111, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:
Carol B. 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 FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 03/31/98.

THIS FILING MAY BECOME EFFECTIVE ON: 04/01/98

AUTHORIZED BY: Carol B. Lear, Education Specialist

R277. Education, Administration.
R277-469. Textbook Commission Operating Procedures.
R277-469-1. Definitions.

A. "Pilot program" or "pilot use" means the use by a school or schools on a limited basis of previously unreviewed instructional materials and materials not yet submitted to the Utah State Textbook Commission for formal review, consistent with Section R277-469-10.

B. "Pilot approval" means approval authorized under Section R277-469-10 using the form developed and provided by the USOE Instructional Materials Specialist.

C. "Instructional materials" means systematically arranged text materials, in harmony with the state curriculum framework and courses of study, which may be used by students as principal sources of study and which cover any portion of the course. These materials:

(1) shall be designed for student use;

(2) may be accompanied by or contain teaching guides and study helps;

(3) shall appear on the list of state-adopted instructional materials or be approved for pilot use by the State Textbook Commission.

D. "Core Curriculum" means minimum academic standards provided through courses as established by the Board which shall be completed by all students K-12 as a requisite for graduation from Utah's secondary schools.

E. "Comprehensive materials" means instructional materials that satisfy the Core Curriculum in a specific subject area.

F. "Supportive materials" means instructional materials that satisfy a portion or portions of the Core Curriculum in a specific subject area.

G. "Board" means the Utah State Board of Education.

H. "USOE" means the Utah State Office of Education.

I. "Commission" means the Utah State Textbook Commission.

J. "Previously unreviewed materials" means instructional materials that have neither been approved by the State Textbook Advisory Commission through the formal approval process nor approved as pilot materials under Section R277-469-10.

R277-469-2. Authority and Purpose.

A. This rule is authorized under Utah Constitutional Article X, Section 3 which vests general control and supervision over public education in the Board, by Section 53A-14-101 through 53A-14-106 which directs the Board to appoint a State Textbook Commission and directs the Commission to recommend instructional materials for adoption by the Board, and by Subsection 53A-1-401(3) which allows the Board to make rules in accordance with its responsibilities.

B. The purpose of this rule is to provide definitions, operating procedures and provisions for pilot and limited approvals of instructional materials.

R277-469-3. Use of State Funds for Instructional Materials.

A. Districts may use funds designated for state instructional materials only for materials on the approved instructional materials list or on materials approved under Section R277-469-10 for pilot use.

B. Schools that use any funding source to purchase materials that have not been approved through the formal Commission process or consistent with Section R277-469-10 for pilot use, may have funds withheld to the extent of the actual costs of those materials pursuant to Subsection 53A-1-401(3).

R277-469-4. Textbook Commission Members Terms of Service.

A. Members shall be appointed from categories designated in Subsection 53A-14-102(1).

B. Members shall serve four year staggered terms beginning with the 1998 appointments with the option for reappointment for one additional term.

C. The Commission may establish subcommittees as needed.

R277-469-5. Commission Review of Materials.

A. All materials used in Utah schools shall be reviewed by the Commission consistent with this rule or qualify under the adoption categories of Section R277-469-6.

B. The Commission may review materials in the following subject areas on timelines as determined by the Commission based upon district needs and requests and using forms and procedures provided by the USOE Instructional Materials Specialist:

(1) Bilingual education/English as a second language (Elementary and Secondary),

(2) Character education (Elementary and Secondary),

(3) Driver education (Secondary),

(4) Early childhood education,

(5) Fine arts (Elementary and Secondary),

(6) Foreign language (Elementary and Secondary),

(7) Health education and fitness (Elementary and Secondary),

(8) Information technology (Elementary and Secondary),

(9) Language arts (Elementary and Secondary),

(10) Mathematics (Elementary and Secondary),

(11) Science (Elementary and Secondary),

(12) Social studies (Elementary and Secondary),

(13) Applied technology/vocational subjects,

(14) Technology education, and

(15) Technology and industrial arts.

R277-469-6. Review and Adoption Categories.

A. Materials may be considered for review and categorized under the following:

(1) Comprehensive:

(a) Consistent with Core Curriculum;

(b) Provides comprehensive overview of course content;

(c) Designed for student use;

(d) Accompanied by or includes teaching guides or study aids or both;

(2) Supportive:

(a) Consistent with Core Curriculum;

(b) May not provide comprehensive overview of course;

(c) Used to complement or supplement comprehensive materials.

(3) Limited Adoption:

(a) Not consistent with Core Curriculum;

(b) Narrow or restricted in scope and sequence;

(c) Use of limited-adoption materials by a school or district requires specific USOE approval for the use of those materials prior to purchase. Prior approval process:

(i) District shall submit plan for using limited materials in conjunction with other resources to fulfill Core requirements.

(ii) Plan shall be reviewed by the USOE subject area specialist and Instructional Materials Specialist who shall make recommendations for desired use of materials.

(iii) If, after recommendations and modifications by USOE specialists, the plan is not acceptable, the district may petition the Commission for direct approval of materials.

(4) Teacher Resource:

(a) Materials shall be consistent with Core Curriculum as course resource materials;

(b) If the content of materials originally intended for student use is inconsistent with state law or the Core Curriculum, those materials may only be used by teachers as teacher resource materials;

(c) Materials may be accompanied by or contain teaching guides or study aids or both;

(d) Materials may provide information on only a portion of a course.

(5) Resource materials not evaluated by the Commission--these materials are not designed as organized instructional programs and may include:

(a) Encyclopedias and similar reference books;

(b) Library or trade books;

(c) Audiovisual or manipulative materials which are not parts of an integrated system or program;

(d) Consumable workbooks;

(e) Resource file materials such as learning experiences and evaluation;

(f) Teachers' manuals and teachers' professional materials in specific subject areas.

(6) Materials not recommended: Materials of questionable value to the schools due to:

(a) inaccuracies in content;

(b) misleading connotations;

(c) undesirable presentation of visual or textual material;

(d) content, style, or wording in conflict with expressed Board philosophy; or

(e) the failure of materials to be based on current research or best strategies.

(7) Rejected materials: Materials containing objectionable visual or textual content, unsuitable for use by students or teachers in Utah's public schools, either as text or enrichment materials, as part of prescribed curriculum.

(8) Inappropriate materials: Materials judged by the Commission to be inappropriate for use by students or teachers in the content category under which they were submitted by the publisher.

(9) Incomplete materials: Materials submitted by the publisher which are incomplete or otherwise unsatisfactory for accurate and comprehensive appraisal by the Commission.

B. Specific types of materials, such as dictionaries, may be reviewed and have a limited range of evaluation categories.

C. When the Commission determines that a variety of materials, perhaps submitted separately, constitutes an integral instructional package, the total package or instructional system shall be reviewed and evaluated collectively.

R277-469-7. Criteria for Selection of Instructional Materials.

A. Consistent with Core Curriculum.

B. Provides an objective and balanced viewpoint on issues.

C. Includes enrichment and extension possibilities.

D. Appropriate to varying levels of learning.

E. Authoritative, realistic, factual and accurate.

F. Chronologically or systematically organized or both.

G. Reflective of the pluralistic character and culture of the American people.

H. Free from sexual, ethnic, age, gender or disability stereotyping.

I. Provides accurate representation of diverse ethnic groups.

J. Is of acceptable technical quality.

K. Upon request from the USOE Instructional Materials Specialist or a district, a publisher of instructional materials shall furnish computer diskettes of materials for literary subjects in the American Standard Code for Information Interchange (ASCII) from which Braille versions of all or part of the instructional materials can be produced.

L. USOE monitoring:

(1) The USOE may require a district to provide a report of instructional materials purchases.

(2) The USOE may initiate an informal audit of instructional materials purchases.

R277-469-8. Directives and Procedures for Publishing Companies.

A. The Commission shall not designate any individual, corporation or business as an official instructional materials depository.

B. Publishers desiring to sell adopted materials to Utah schools shall have adopted materials on deposit at an instructional materials distributor in the business of selling instructional materials to schools or districts in Utah.

C. Depository agreements may be made between publishers of materials and local vendors.

D. Revised adopted materials:

(1) If a revised edition of adopted materials retains the original title and authorship, the publisher may request its substitution for the edition currently adopted providing that:

(a) the original contracted price does not change;

(b) the revised edition is compatible with the earlier edition, permitting use of either or both in the same classroom;

(c) a sample copy of the revised edition is provided to the USOE Instructional Materials Specialist for examination purposes.

(2) If Subsection R277-469-8D(1) is not satisfied, a new edition shall be submitted for adoption as new materials.

(3) The Commission shall make the final determination about the substitution of a new edition for an adopted edition with assistance from the state subject area specialist.

E. Publishers Increase in Contract Prices

(1) Publishers may request one increase in contract prices to be effective during either the third or fourth year of the contract for text materials adopted by the Commission.

(2) Price increases shall be limited to the consumer price index (CPI) for the last fiscal year unless cause is shown consistent with designated deadlines and forms provided by the Commission.

R277-469-9. Instructional Materials Appropriate for Review.

A. Text materials: printed volumes, consisting of a text and other components including:

(1) teacher materials;

(2) workbooks;

(3) computer software;

(4) videodiscs; and

(5) other multimedia which constitute organized learning systems.

B. Laserdiscs (or videodiscs): laserdisc-based instructional materials in which the major learning tool consists of a videodisc and includes teacher and student materials.

C. Multimedia: multiple forms of communications media, which may be controlled, coordinated, and integrated by the microcomputer.

D. Software: software-based programs in which the major learning tool consists of a software program which is supplemented by teacher and student materials.

E. Compact discs: a compact disc-based (CD ROM) program in which the major learning tool consists of a compact disc supplemented by teacher and student materials.

F. Materials which shall not be considered for adoption by the Commission:

(1) encyclopedias and other reference books and software;
(2) library or trade books;
(3) audiovisual or other instructional material(s) which are not components of an integrated system or are not a substantial program of study or cannot stand alone as the instructional materials for the classroom; and
(4) consumable workbooks which are not components of an integrated system or program.
G. The Commission's determination of how materials are categorized for review is final.

R277-469-10. Pilot Use of Instructional Materials.
A. Pilot approval for previously unreviewed instructional materials shall be given for no more than:
(1) ten percent of the districts in the state; and
(2) ten percent of the schools in a single district;
B. Publishers shall present a completed pilot application form when applying to the USOE Associate Superintendent for pilot approval.
C. Publishers shall present proof of pilot approval from the USOE Associate Superintendent for Instructional Services to the school or district prior to distribution of materials.
D. The Commission shall not review materials submitted by a publisher who has acted in violation of this rule, R277-469, for a two year period beginning January 1 of the year following the year in which the violation occurred.
E. Samples (defined as one copy or one set of instructional materials) may be given to a school or district upon request for preview purposes only by administrators or teachers.
F. Publishers, in cooperation with districts using the materials, may be required to provide an evaluation of pilot materials based on criteria and using a form provided by the USOE.
G. Pilot materials may only be used for one school year anywhere in the state under pilot approval prior to seeking final approval through the formal Commission process.
H. The USOE may require a report of pilot program materials used in district schools in the past year.
I. Districts or schools or both shall assume the costs of pilot materials not approved for further use by the Commission.
J. Districts shall be responsible to collect instructional materials used in a pilot program following the pilot period. Materials reviewed by the Commission and designated under Subsections R277-469-6A(6)(7)(8) and (9) shall be collected from the pilot schools by the district which sponsored the pilot program and disposed of. The USOE Instructional Materials Specialist shall be notified of this collection and disposal.

KEY: instructional materials
1998 **Art X, Sec 3**
53A-14-101 through 53A-14-106
53A-1-401(3)

Education, Administration
R277-504
Early Childhood, Elementary, Secondary, Special Education (K-12), Communication Disorders, and Special Education (Birth-Age 5) Certification

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 20780
FILED: 02/17/98, 16:49
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: This rule was amended to add a definition of "highest requirements" for purposes of early childhood special education certificates.

SUMMARY: This rule adds a "highest requirements in the state" definition and establishes criteria for the special education certificate and hearing impaired/vision impaired (HI/VI) endorsement.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Subsection 53A-1-402(1)(a)

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: None.
❖LOCAL GOVERNMENTS: None.
❖OTHER PERSONS: None.
COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

THE FULL TEXT OF THIS FILING MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Education
Administration
250 East 500 South
Salt Lake City, UT 84111, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:
Carol B. 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 FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 03/31/98.

THIS FILING MAY BECOME EFFECTIVE ON: 04/01/98

AUTHORIZED BY: Carol B. Lear, Education Specialist

R277. Education, Administration.
R277-504. Early Childhood, Elementary, Secondary, Special Education (K-12), Communication Disorders, and Special Education (Birth-Age 5) Certification.
R277-504-1. Definitions.

A. "Board" means the Utah State Board of Education.

B. "USOE" means Utah State Office of Education.

C. "Basic Certificate" means the initial certificate issued by the Board which permits the holder to be employed in the public school system as an educator.

D. "Standard Certificate" means a certificate issued by the Board after a holder has demonstrated competence under the Basic Certificate.

E. "Endorsement" means a specialty field or area listed on the teaching certificate which indicates the specific qualification of the holder.

F. "Early Childhood Certificate" means Early Childhood Education Certificate: the certificate required for teaching kindergarten and permitting assignment in kindergarten through grade three. It is recommended for those teaching in formal programs below kindergarten level.

G. "Elementary Certificate" means Elementary Teaching Certificate: the certificate required for teaching grades one through eight.

H. "Middle Education Certificate" means Middle Education Teaching Certificate: the certificate required for teaching grades five through nine (valid, but no longer required after April 1, 1989).

I. "Secondary Certificate" means Secondary Teaching Certificate: the certificate required for teaching grades six through twelve. Secondary Certificates carry endorsements for the areas in which the holder is qualified.

J. "Special Education (Birth-Age 5) Certificate" means a certificate required beginning June 30, 1990 for teaching preschool students with handicaps.

K. "Special Education Certificate (K-12)" means Special Education Teaching Certificate: the certificate required for teaching students with handicaps in kindergarten through grade twelve. Special Education Certificates carry endorsements in at least one of the following areas:

(1) Mild/Moderate Endorsement which permits the holder to teach students with mild/moderate learning and behavior problems;

(2) Severe Endorsement which permits the holder to teach students with severe learning and behavior problems;

(3) Hearing Impaired Endorsement which permits the holder to teach students who are deaf or other hearing impaired;

(4) Visually Impaired Endorsement which permits the holder to teach students who are blind or other visually impaired.

L. "Communication Disorders Certificate" means Communication Disorders Specialist Certificate: the certificate required for teaching students with communication disorders in kindergarten through grade twelve. Communication Disorders Certificates carry endorsements in at least one of the following areas:

(1) speech/language pathology;

(2) audiology.

M. "Early intervention credential" is the highest qualified personnel standard established by the Department of Health that persons must meet in able to provide services to infants and toddlers with disabilities age 0-3 in early intervention settings. Establishment of this standard was a collaborative initiative between the Department of Health and the State Office of Education. In order to provide services to infants and toddlers with disabilities age 0-3 in early intervention settings, a person must have an Early Intervention Credential or a Special Education (Birth-Age 5) Certificate.

N. "Highest requirements in the State applicable to a specific profession or discipline" means the highest entry-level academic degree needed for any State-approved or State-recognized certification, licensing, registration, or other comparable requirements that apply to that profession or discipline.

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R277-504-3. Basic Certificate.

A. The basic certificate is issued for four years.

B. During the basic certification period, the preparing institution and the employing school district shall supervise the candidate closely and make special assistance available.

C. An applicant for the Basic Early Childhood, Elementary, Secondary, Special Education (K-12), Communication Disorders, and Special Education (Birth-Age 5) Certificate shall have done all of the following:

(1) graduated with a bachelor's degree from an accredited institution;

(2) completed a Board-approved program for the preparation of early childhood, elementary, secondary, special education (K-12), communication disorder, and special education (birth-age 5) specialists;

(3) demonstrated competence in computer understanding and use; and

(4) been recommended by an institution whose program of preparation is Board-approved.

D. If a teacher who has been issued a Basic Certificate does not teach immediately or has an interruption in service after the first year and more than four years have elapsed, the candidate may request renewal of the Basic Certificate by presenting verification of pending employment and nine quarter hours (six semester hours) of credit taken during the preceding five-year period prior to the application for renewal.

E. If the successful experience from the first to the second year of teaching is greater than five years, the first year of experience will not apply.

F. If an individual does not teach successfully for at least two years while holding the Basic Certificate, the certificate will expire and the teacher will no longer be eligible to teach in Utah. An individual's whose Basic Certificate expires, is eligible to apply for the program anew and proceed through the requirements as outlined.

G. Under no circumstances shall a teacher be permitted to teach for more than four years on the Basic Certificate without qualifying for the Standard Certificate.

H. The Basic Secondary Certificate

(1) A Secondary Teaching Certificate with subject endorsement(s) is valid in grades six through twelve.

(2) The 6-12 certificate requires a major and minor or composite major, but the teacher cannot teach in a self-contained class.

(3) An applicant for the Basic Secondary Certificate shall have completed an approved teaching major and minor or a composite major, consistent with subjects taught in Utah secondary schools. The certificate is endorsed for all subjects in which the applicant has at least a minor or has completed equivalent training.

(a) A teaching major requires not fewer than 45 quarter hours (30 semester hours) of credit in one subject. At least one-half of the hours must be upper division work.

(b) A teaching minor requires not fewer than 24 quarter hours (16 semester hours) of credit in one subject.

(c) A composite major requires not fewer than 69 quarter hours (46 semester hours) of credit distributed in two or more subjects.

I. A Special Education (Birth-Age 5) Basic Certificate:

[~~(1) Applicants completing an approved Special Education (Birth-Age Five) Certification program after June 6, 1997 shall also be recommended for early intervention credentialing.~~

~~(2) This certificate is required for teaching preschool students with disabilities.~~

~~(3) applicants for Special Education (Birth-Age 5) Certificates:~~

~~(a) shall have completed the requirements for an early childhood Basic Certificate; or~~

~~(b) shall have completed a professional core including:~~

~~(i) human growth and development;~~

~~(ii) child and adolescent psychology;~~

~~(iii) learning theory;~~

~~(iv) educational curricula;~~

~~(v) teaching methods;~~

~~(vi) computer literacy skills;~~

~~(vii) field experiences with elementary or secondary students; or~~

~~(c) shall have completed an approved program for teaching students with mild/moderate, severe, visual or hearing handicaps. The Special Education (Birth-Age 5) Certificate is endorsed for any area in which the program has been completed.~~](1) Applicants for the Special Education (Birth-Age 5) Certificate shall have completed a Board-approved program for teaching infants, toddlers, and preschool-age children with disabilities. Applicants completing an approved Special Education (Birth-Age 5) certification program on or before June 1, 1994 shall also be recommended for the Early Intervention Credential by the Utah Department of Health.

(2) Hearing Impaired/Vision Impaired (HI/VI) Endorsements required under this rule shall be issued to meet "the highest requirements in the State applicable to a specific profession or discipline" required by the Individuals with Disabilities Education Act (IDEA), Pub. L. No. 105-17, hereby incorporated by reference.

(a) Special Education (Birth-Age 5) Certificate holders who teach children who are hearing impaired (birth-age 5) or vision impaired (birth-age 5) or both, in self-contained, categorical classrooms shall hold an endorsement for Hearing Impaired (Birth-Age 5) or Vision Impaired (Birth-Age 5) or both.

(b) All professional personnel teaching children with HI/VI in self-contained, categorical settings shall meet the standards in Subsections R277-504I(1) and (2) by June 30, 2003.

(c) Teachers who hold an equivalent certificate from a state other than Utah shall be required to meet the standards referred to in Subsection R277-504I(d) upon receipt of an initial Utah certificate.

(d) All professional personnel teaching preschool-aged children who are HI/VI in self-contained, categorical classrooms as of January 1998, shall be required to complete a Board-approved training program by June 30, 2003, making them eligible for the Birth-Age 5 HI/VI endorsements under this rule.

(e) This training shall be developed based on an analysis of presently-held certificates, endorsements, teaching experiences, and training activities as compared to the requirements of the new standards.

J. Applicants for Special Education (K-12) Certificates shall have completed a Board approved program for teaching students with mild/moderate, severe, hearing, or visual handicaps. The Special Education Certificate (K-12) is endorsed for any area in which the program has been completed. Educators who hold Special Education Certificates may also be issued endorsements in English as a Second Language, Bilingual, and Driver Education, but are restricted to providing those services to special education students only.

K. Applicants for Communication Disorders Certificates:

(1) shall have completed a Board approved program for teaching pupils with communication disorders which includes the master's degree or 55 quarter hours earned after meeting requirements for a bachelor's degree; or

(2) shall have completed a Board approved bachelor's degree program in communication disorders at an accredited institution, including a practicum experience in a school setting, and acquired the competencies necessary for assignment as a communication disorders specialist at job entry level with any limitations noted by the preparing institution.

(a) A certificate issued under Subsection 3(K)(2) is valid for up to five years if the applicant has been admitted to an accredited graduate program at the time the certificate is issued and files with the State Office of Education evidence of completion of at least nine quarter hours (six semester hours) of credit which is applicable to the acquisition of a master's degree or the equivalent in communication disorders each year that the certificate is to remain in effect.

(b) A candidate must have been recommended by an institution whose program of preparation is Board approved.

. . . . . .

KEY: teacher certification, professional education, accreditation

[~~November 20, 1997~~]1998 **Art X Sec 3**

Notice of Continuation 1994 **53A-1-402(1)(a)**

53A-1-401(3)

Education, Administration
R277-514
Suspension and Revocation of Teaching Certificates

NOTICE OF PROPOSED RULE
(Repeal and Reenact)
DAR FILE NO.: 20781
FILED: 02/17/98, 16:49
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: This rule was reenacted to provide a review of the educator discipline process consistent with the law.

SUMMARY: Many of the former vague definitions were deleted or changed. Many new definitions were added including "party," "recommended disposition," and "serve." The former rule had sections in it including: "grounds for suspension and revocation" that were not authorized in state law. The new rule provides clear Board procedures and appeal procedures for considering the recommendations of the Utah Professional Practices Advisory Commission (UPPAC) regarding educator discipline. The former rule did not explain that the Certification Committee of the Board first reviews UPPAC recommendations. The new rule provides the procedures that the Certification Committee follows. The former rule discusses the appeals process and notice requirements. The new rule provides for "requests for reconsideration" similar to the Utah Administrative Procedures Act and provides for notification procedures.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Subsection 53A-1-401(3)

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: None.
❖LOCAL GOVERNMENTS: None.
❖OTHER PERSONS: None.
COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

THE FULL TEXT OF THIS FILING MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Education
Administration
250 East 500 South
Salt Lake City, UT 84111, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:
Carol B. 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 FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 03/31/98.

THIS FILING MAY BECOME EFFECTIVE ON: 04/01/98

AUTHORIZED BY: Carol B. Lear, Education Specialist

R277. Education, Administration.

[~~**R277-514. Suspension and Revocation of Teaching Certificates.**~~

~~**R277-514-1. Definitions.**~~

~~A. "Board" means the Utah State Board of Education.~~

~~B. "Immoral behavior" means behavior in conflict with generally or traditionally held community standards of morality.~~

~~C. "Sexual misconduct" means any conduct as defined in Section 76-5-401 through 406, 76-5a-2 through 4, 76-9-702 and 702.5 and 76-5-406, U.C.A. 1953.~~

~~D. "Unprofessional" means not characteristic of or befitting a member of the education profession.~~

~~E. "Incompetence" means the lack of ability or fitness to discharge required duties evidenced by a chronic inability to control students, maintain safety in classrooms, or an unwillingness or inability to improve.~~

~~F. "Complaint" means a formal written allegation or charge made against an educator subject to the policies and rules of the Board.~~

~~G. "Educator" means any person who is certificated by the Board to render professional service in the public schools. This includes any person who has applied for a certificate to teach, supervise, or administer any aspect of public education or who has been formally admitted to a teacher preparation program.~~

~~H. "Revocation" means annulling or invalidating a certificate issued under the authority of the Board by official action of the Board.~~

~~I. "Suspension" means invalidating a certificate issued under the authority of the Board for a specified period of time up to two years or until conditions specified for reinstatement have been complied with. This also requires official action by the Board.~~

~~J. "The Utah Professional Practices Commission" (the Commission) means a committee of educators as defined and designated under Sections 53A-7-101 through 107, U.C.A. 1953, and whose authority is defined under Section 53A-7-108 through 113, U.C.A. 1953.~~

~~**R277-514-2. Authority and Purpose.**~~

~~A. This rule is authorized by Article X, Section 3 of the Utah Constitution which vests general control and supervision of public schools in the Board, Section 53A-6-104, U.C.A. 1953, which directs the Board to revoke or suspend certificates for cause, Section 53A-6-104, U.C.A. 1953, which permits the Board to refuse to issue a teaching certificate for a violation of standards of ethical conduct and Section 53A-1-401(3), U.C.A. 1953, which allows the Board to adopt rules in accordance with its responsibilities.~~

~~B. The purpose of this rule is to specify the grounds and procedures by which certificates issued by the Board may be revoked or suspended.~~

~~**R277-514-3. Grounds for Suspension or Revocation.**~~

~~A. Immoral behavior, unprofessional conduct, and professional incompetence are grounds for filing a complaint with the Commission on the issue of certification suspension or~~

~~revocation. The Board and the Commission shall act in accordance with the standards of professional competence developed by the Commission and approved by the Board.~~

~~B. Immoral behavior and unprofessional conduct shall include but not be limited to "sexual misconduct" pursuant to 53A-7-110(1)(b)(c)(d), U.C.A. 1953.~~

~~C. A local superintendent shall notify the Commission of a final administrative or judicial determination of immoral behavior, unprofessional conduct, or professional incompetence made regarding an educator which results in the termination of the educator's contract.~~

~~D. The president of the district board of education shall notify the Commission if the certificate at issue is that of the district superintendent.~~

~~E. The Commission may determine that disciplinary action regarding an educator's certificate is required before, during or after a district termination proceeding or judicial action.~~

~~**R277-514-4. Procedures.**~~

~~A. A complaint may be initiated by an adult party at interest against any educator for alleged immoral, unprofessional, or incompetent conduct.~~

~~B. The complaint shall be directed to the Commission.~~

~~C. Action taken upon a complaint shall be in accordance with procedures adopted by the Commission. The procedures shall ensure due process to the named educator.~~

~~D. The Board shall take or refuse to take action after reviewing the findings and recommendation of the Commission regarding a complaint.~~

~~E. The Board shall issue a written order regarding its action which contains its findings and its disposition of the case.~~

~~F. The Board shall notify the educator of its action.~~

~~**R277-514-5. Appeals Process.**~~

~~A. An individual whose certificate has been revoked, suspended, or refused renewal may request review of the action by submitting a written request to the executive secretary of the Commission at least 30 days prior to the next regularly scheduled meeting.~~

~~B. A special meeting of the Commission may be scheduled to hear an appeals request.~~

~~C. After review, the Commission shall report its findings to the Board.~~

~~D. Based upon review of the Commission's findings, the Board, within a reasonable time, shall issue a written order regarding its findings and disposition of the matter.~~

~~E. The Board shall notify the educator of its decision.~~

~~**R277-514-6. Notice; Employment.**~~

~~A. The State Office of Education shall notify the employing school district, all other Utah school districts, and all other state, territorial, and national certification offices or clearinghouses of the suspension or revocation of a certificate.~~

~~B. The certificate holder shall return a revoked or suspended certificate to the State Office of Education.~~

~~C. A school district shall not employ as a teacher, substitute teacher, or in any professional, nonprofessional or volunteer capacity any individual whose certificate has been revoked or suspended in Utah or in any other state.~~

~~D. Individuals whose certificates have been reinstated may be employed by a school district.~~

~~**KEY: disciplinary actions, professional competency, teacher certification**~~
~~**1992 Art X Sec 3**~~
~~**53A-6-104**~~
~~**53A-1-401(3)**~~
~~**53A-7-101 through 107**~~
~~**53A-7-108 through 113**~~]

R277-514. Board Procedures: Sanctions for Misconduct.

R277-514-1. Definitions.

A. "Allegation of misconduct" means a written or oral report alleging that an educator has engaged in unprofessional, criminal, or incompetent conduct; is unfit for duty; has lost certification in another state due to revocation or suspension, or through voluntary surrender or lapse of a certificate in the face of a claim of misconduct; or has committed some other violation of standards of ethical conduct, performance, or professional competence.

B. "Board" means the Utah State Board of Education.

C. "Certificate" means a teaching or administrative credential, including endorsements, which is issued by a state to signify authorization for the person holding the certificate to provide professional services in the state's public schools.

D. "Certification Committee" means a committee of the Board which reviews issues relating to certification of educators.

E. "Commission" means the Utah Professional Practices Advisory Commission.

F. "Educator" means a person who currently holds a certificate, held a certificate at the time of an alleged offense, is an applicant for a certificate, or is a person in training to obtain a certificate.

G. "Party" means the complainant or the respondent.

H. "Recommended disposition" means a recommendation for resolution of a complaint.

I. "Serve" or "service," as used to refer to the provision of notice to a person, means delivery of a written document or its contents to the person or persons in question. Delivery may be made in person, by mail or by other means reasonably calculated, under all of the circumstances, to apprise the interested person or persons to the extent reasonably practical or practicable of the information contained in the document.

R277-514-2. Authority and Purpose.

A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of public schools in the Board, Section 53A-6-104 relating to withdrawal or denial of certification by the Board for cause, Section 53A-7-113 in which the Board retains the power to issue or revoke certification, hold hearings or take other disciplinary action as warranted, and Subsection 53A-1-401(3) relating to adoption by the Board of rules in accordance with its responsibilities.

B. The purpose of this rule is to specify the procedures under which the Board may take action against an educator's certificate.

R277-514-3. Certification Committee Procedures.

A. Except as provided under Subsection R277-514-4(E), if the Board receives an allegation of misconduct by an educator, the allegation shall be forwarded to the Executive Secretary of the

Professional Practices Advisory Commission for action under R686-100.

B. A case referred to the Board by the Commission shall be assigned to the Certification Committee.

C. The Certification Committee shall review the case file and the recommendation of the Commission. If the Certification Committee finds that there have not been serious procedural errors on the part of the Commission, that the findings and conclusions of the Commission are reasonable and supported by a preponderance of the evidence, and that the recommended disposition presents a reasonable resolution of the case, then the Certification Committee shall approve the Commission's action and forward the case to the full Board for its consideration.

D. If the Certification Committee finds that there is insufficient information in the case file to complete its work, the Certification Committee may direct the parties to appear and present additional evidence or clarification.

E. If the Certification Committee finds that serious procedural errors have occurred which have violated the fundamental fairness of the process, then the Certification Committee shall refer the case back to the Commission to correct the errors.

F. If the Certification Committee determines that the findings or conclusions of the Commission are not supported by a preponderance of the evidence, or that the recommended disposition does not present a reasonable resolution of the case, then the Certification Committee may refer the case back to the Commission for further action or may, in the alternative, prepare its own findings, conclusions, or recommended disposition.

G. If the Certification Committee prepares its own findings, conclusions, or recommendation, then the Certification Committee shall forward its findings, conclusions, or recommendation to the Board together with the file as received from the Commission.

H. The Board shall be officially notified in a timely manner of all final actions taken by the Commission which relate to the certification of individuals.

R277-514-4. Board Procedures.

A. Upon receiving a case from the Certification Committee, the members of the Board shall review the case file, findings, conclusions, and recommended disposition. If the Board finds that there have not been serious procedural errors, that the findings and conclusions are reasonable and supported by a preponderance of the evidence, and that the recommended disposition presents a reasonable resolution of the case, then the Board shall approve the findings and recommended disposition.

B. If the Board finds that serious procedural errors have occurred which have violated the fundamental fairness of the process, then the Board shall refer the case back to the Commission to correct the errors.

C. If the Board determines that the findings or conclusions are not supported by a preponderance of the evidence, or that the recommended disposition does not present a reasonable resolution of the case, then the Board may refer the case back to the Commission for further action or may, in the alternative, prepare other findings, conclusions, or disposition.

D. If the Board finds that there is insufficient information in the case file to complete its work, the Board may direct the parties to appear and present additional evidence or clarification.

E. If the Board finds it advisable to do so, the Board may initiate investigations or hearings regarding the initial or continued certification of an individual and take disciplinary action upon its own volition without referring a given case to the Commission.

F. The Board shall issue a written order regarding its action which contains its findings and conclusions and its disposition of the case, and direct the State Superintendent to serve a copy of the written order upon the parties.

G. All documents used by the Board in reaching its decision, and a copy of the Board's final order, shall be made part of the permanent case file.

R277-514-5. Request for Reconsideration.

A. A party may request the Board to reconsider its action by submitting a written request for reconsideration, including the reasons for the request, to the Executive Secretary of the Board within 30 days after service of the Board's written order.

B. The Board shall review the request. If the Board finds that the request raises issues which cause the Board to question the correctness of its action, then the Board shall refer the case to the Commission or to the Certification Committee for further action.

C. If the Board decides to deny reconsideration, it shall prepare a written order and direct the State Superintendent to serve a copy of the written order upon the parties.

D. The decision of the Board is final.

R277-514-6. Notification Requirements and Procedures.

A. An educator who has reasonable cause to believe that a student may have been physically or sexually abused by a school employee shall immediately report that belief to the school principal, superintendent, or the Commission. A school administrator receiving such a report shall immediately submit the information to the Commission.

B. A local superintendent shall notify the Commission if an educator is found, pursuant to an administrative or judicial action, to be guilty of:

(1) unprofessional conduct or professional incompetence which results in suspension for more than one week or termination, or which otherwise warrants Commission review; or

(2) immoral behavior.

C. Failure to comply with Subsection A or B constitutes unprofessional conduct.

D. The State Office of Education shall notify the educator's employer of any final action taken by the Board; and shall notify all Utah school districts and the NASDTEC Educator Information Clearinghouse whenever a certificate is revoked or suspended, or if an educator has surrendered a certificate or allowed it to lapse in the face of allegations of misconduct rather than accept an opportunity to defend against the allegations.

KEY: disciplinary actions, professional competency, teacher certification

1998 **Art X Sec 3**
53A-6-104
53A-7-113
53A-1-401(3)

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Environmental Quality, Air Quality
R307-1-1
Foreword and Definitions

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 20736
FILED: 02/04/98, 15:34
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: To update the reference used to define terms used in Subsection R307-1-3.7.3.

SUMMARY: The definitions of "Acute," "Carcinogenic," "Chronic Hazardous Air Pollutant," "Threshold Limit Value-Ceiling (TLV-C)" and "Threshold Limit Value-Time Weighted Average (TLV-TWA)" are used in implementation of Subsection R307-1-3.7.3, "Documentation of Ambient Air Impacts for Hazardous Air Pollutants." Each of these terms is defined according to the "Threshold Limit Values for Chemical Substances and Physical Agents - Biological Exposure Indices" published annually by the American Conference of Government Industrial Hygienists. The amendment updates each definition to refer to the 1997 edition.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Section 19-2-104

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: None.
❖LOCAL GOVERNMENTS: The 1997 edition is only slightly different from the 1996 edition, and no changes in cost are anticipated at this time.
❖OTHER PERSONS: The 1997 edition is only slightly different from the 1996 edition, and no changes in cost are anticipated at this time.
COMPLIANCE COSTS FOR AFFECTED PERSONS: The 1997 edition is only slightly different from the 1996 edition, and no changes in cost are anticipated at this time.

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

Environmental Quality
Air Quality
150 North 1950 West
Box 144820
Salt Lake City, UT 84114-4820, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:
Jan Miller at the above address, by phone at (801) 536-4042, by FAX at (801) 536-4099, or by Internet E-mail at jmiller@deq.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 03/31/98.

THIS FILING MAY BECOME EFFECTIVE ON: 04/02/98

AUTHORIZED BY: Ursula K. Trueman, Director

R307. Environmental Quality, Air Quality.
R307-1. Utah Air Conservation Rules.
R307-1-1. Foreword and Definitions.

Chapter 19-2 and the rules adopted by the Air Quality Board constitute the basis for control of air pollution sources in the state. These rules apply and will be enforced throughout the state, and are recommended for adoption in local jurisdictions where environmental specialists are available to cooperate in implementing rule requirements.

National Ambient Air Quality Standards (NAAQS), National Standards of Performance for New Stationary Sources (NSPS), National Prevention of Significant Deterioration of Air Quality (PSD) standards, and the National Emission Standards for Hazardous Air Pollutants (NESHAPS) apply throughout the nation and are legally enforceable in Utah.

Definitions contained in R307-1-1 are applicable to all rules adopted by the Air Quality Board.

"Abrasive Blasting" means the operation of cleaning or preparing a surface by forcibly propelling a stream of abrasive material against the surface.

"Abrasive Blasting Equipment" means any equipment utilized in abrasive blasting operations.

"Abrasives" means any material used in abrasive blasting operations including but not limited to sand, slag, steel shot, garnet or walnut shells.

"Accumulator" means the reservoir of a condensing unit receiving the condensate from the condenser.

"Actual Area of Nonattainment" means an area which is shown by monitored data or modeling actually to exceed the National Ambient Air Quality Standards (Boundaries are established in the Utah State Implementation Plan).

"Actual Emissions" means the actual rate of emissions of a pollutant from a source determined as follows:

1. In general, actual emissions as of a particular date shall equal the average rate, in tons per year, at which the source actually emitted the pollutant during a two-year period which precedes the particular date and which is representative of normal source operations. The Executive Secretary shall allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the source's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

2. The Executive Secretary may presume that source-specific allowable emissions for the source are equivalent to the actual emissions of the source.

3. For any source which has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the source on that date.

"Acute Hazardous Air Pollutant" means any noncarcinogenic hazardous air pollutant for which a threshold limit value - ceiling (TLV-C) has been adopted by the American Conference of Governmental Industrial Hygienists in its "Threshold Limit Values for Chemical Substances and Physical Agents - Biological Exposure Indices, pages [~~13 - 38~~]15 - 40 (199[~~6~~]7)."

"Adverse Impact on Visibility" means for purposes of subsection 3.11 of R307-1-3, visibility impairment which interferes with the management, protection, preservation, or enjoyment of the visitors visual experience of a mandatory Class I area. This determination must be made on a case-by-case basis taking into account the geographic extent, intensity, duration, frequency and time of visibility impairments, and how these factors correlate with (1) times of visitor use of the mandatory Class I area, and (2) the frequency and timing of natural conditions that reduce visibility.

"Air Contaminant" means any particulate matter or any gas, vapor, suspended solid or any combination of them, excluding steam and water vapors (Section 19-2-102(1)).

"Air Contaminant Source" means any and all sources of emission of air contaminants whether privately or publicly owned or operated (Section 19-2-102(2)).

"Air Dried Coating" means coatings which are dried by the use of air or a forced warm air at temperatures up to 90 degrees C (194 degrees F).

"Air Pollution" means the presence in the ambient air of one or more air contaminants in such quantities and duration and under conditions and circumstances, as is or tends to be injurious to human health or welfare, animal or plant life, or property, or would unreasonably interfere with the enjoyment of life or use of property as determined by the standards, rules and regulations adopted by the Air Quality Board (Section 19-2-104).

"Air Quality Related Values" means, as used in analyses under R307-1-3.1.3, Public Notice, those special attributes of a Class I area, assigned by a federal Land Manager, that are adversely affected by air quality.

"Allowable Emissions" means the emission rate of a source calculated using the maximum rated capacity of the source (unless the source is subject to enforceable limits which restrict the operating rate, or hours of operation, or both) and the emission limitation established pursuant to R307-1-3.1.8.

"Ambient Air" means the surrounding or outside air (Section 19-2-102(4)).

"Application Area" means the area where the coating is applied by spraying, dipping, or flow coating techniques.

"Appropriate Authority" means the governing body of any city, town or county.

"Asphalt or Asphalt Cement" means the dark brown to black cementitious material (solid, semisolid, or liquid in consistency) of which the main constituents are bitumens which occur naturally or as a residue of petroleum refining.

"Asphalt Concrete" means a waterproof and durable paving material composed of dried aggregate which is evenly coated with hot asphalt cement.

"Atmosphere" means the air that envelops or surrounds the earth and includes all space outside of buildings, stacks or exterior ducts.

"Authorized Local Authority" means a city, county, city-county or district health department; a city, county or combination fire department; or other local agency duly designated by appropriate authority, with approval of the State Department of Health; and other lawfully adopted ordinances, codes or regulations not in conflict therewith.

"Average Monthly Storage Temperature" means the average daily storage temperature measured over a period of one month.

"Basecoat" means a primary flat wood coating or coloring of panels and normally should completely hide substrate characteristics.

"Baseline Area" means any intrastate area (and every part thereof) designated as attainment or unclassifiable under Section 107(d)(1)(D) or (E) of the federal Clean Air Act in which the major source or major modification establishing the minor source baseline date would construct or would have an air quality impact equal to or greater than 1 ug/m^3 (annual average) of the pollutant for which the minor source baseline date is established.

1. Area redesignations under section 107(d)(1) (D) or (E) of the federal Clean Air Act cannot intersect or be smaller than the area of impact of any major stationary source or major modification which:

(a) Establishes a minor source baseline date; or

(b) Is subject to 40 CFR 52.21 or subsection R307-1-3.6, and would be constructed in the same state as the state proposing the redesignation.

"Baseline Concentration" means that ambient concentration level which exists in the baseline area at the time of the applicable minor source baseline date.

"Baseline Date":

1. Major source baseline date means:

(a) In the case of particulate matter and sulfur dioxide, January 6, 1975, and

(b) In the case of nitrogen dioxide, February 8, 1988.

2. Minor source baseline date means the earliest date after the trigger date on which the first complete application under 40 CFR 52.21 or subsection R307-1-3.6 is submitted by a major source or major modification subject to the requirements of 40 CFR 52.21 or subsection R307-1-3.6. The minor source baseline is the date after which emissions from all new or modified sources consume or expand increment, including emissions from major and minor sources as well as any or all general commercial, residential, industrial, and other growth. The trigger date is:

(a) In the case of particulate matter and sulfur dioxide, August 7, 1977, and

(b) In the case of nitrogen dioxide, February 8, 1988.

"Batch Open Top Vapor Degreasing" means the batch process of cleaning and removing grease and soils from metal surfaces by condensing hot solvent vapor on the colder metal parts.

"Best Available Control Technology (BACT)" means an emission limitation and/or other controls to include design, equipment, work practice, operation standard or combination thereof, based on the maximum degree or reduction of each pollutant subject to regulation under the Clean Air Act and/or the Utah Air Conservation Act emitted from or which results from any emitting installation, which the Air Quality Board, on a case-by-case basis taking into account energy, environmental and economic impacts and other costs, determines is achievable for such installation through application of production processes and available methods, systems and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of each such pollutant. In no event shall applications of BACT

result in emissions of any pollutants which will exceed the emissions allowed by Section 111 or 112 of the Clean Air Act.

"Board" means Air Quality Board. See Section 19-2-102(6)(a).

"Bottom Filling" means the filling of a tank through an inlet at or near the bottom of the tank designed to have the opening covered by the liquid after the pipe normally used to withdraw liquid can no longer withdraw any liquid.

"Breakdown" means any malfunction or procedural error, to include but not limited to any malfunction or procedural error during start-up and shutdown, which will result in the inoperability or sudden loss of performance of the control equipment or process equipment causing emissions in excess of those allowed by approval order or the UACR.

"BTU" means British Thermal Unit, the quantity of heat necessary to raise the temperature of one pound of water one degree Fahrenheit.

"Calibration Drift" means the change in the instrument meter readout over a stated period of time of normal continuous operation when the VOC concentration at the time of measurement is the same known upscale value.

"Capture System" means the equipment (including hoods, ducts, fans, etc.) used to contain, capture, or transport a pollutant to a control device.

"Carbon Adsorption System" means a device containing adsorbent material (e.g., activated carbon, aluminum, silica gel), an inlet and outlet for exhaust gases, and a system for the proper disposal or reuse of all VOC adsorbed.

"Carcinogenic Hazardous Air Pollutant" means any hazardous air pollutant that is classified as a known human carcinogen (A1) or suspected human carcinogen (A2) by the American Conference of Governmental Industrial Hygienists in its "Threshold Limit Values for Chemical Substances and Physical Agents -Biological Exposure Indices, pages [~~13 - 38~~]15 - 40 (199[~~6~~]7)."

"Chronic Hazardous Air Pollutant" means any noncarcinogenic hazardous air pollutant for which a threshold limit value - time weighted average (TLV-TWA) having no threshold limit value - ceiling (TLV-C) has been adopted by the American Conference of Governmental Industrial Hygienists in its "Threshold Limit Values for Chemical Substances and Physical Agents - Biological Exposure Indices, pages [~~13 - 38~~]15 - 40 (199[~~6~~]7)."

"Class II Hard Board Paneling Finish" means finishes which meet the specifications of voluntary product standards PS-9-73 as approved by the American National Standards Institute.

"Clean Air Act" means Federal Clean Air Act as amended in 1990.

"Clear Coat" means a coating which lacks color and opacity.

"Clearing Index" means an indicator of the predicted rate of clearance of ground level pollutants from a given area. This number is calculated by the National Weather Service from daily measurements of temperature lapse rates and wind speeds from ground level to 10,000 feet. The State has been divided into three separate air quality areas for purposes of the clearing index system:

1. Area 1 includes those valleys below 6500 feet above sea level and west of the Wasatch Mountain Range and extending south through the Wasatch and Aquarius Plateaus to the Arizona border. Included are the Salt Lake, Utah, Skull and Escalante Valleys and valleys of the Sevier River Drainage.

2. Area 2 includes those valleys below 6500 feet above sea level and east of the Wasatch Mountain Range. Included are Cache Valley, the Uintah Basin, Castle Valley and valleys of the Green, Colorado, and San Juan Rivers.

3. Area 3 includes all valleys and areas above 6500 feet above sea level.

"Coating" means a protective, functional, or decorative film applied in a thin layer to a surface. This term often applies to paints such as lacquers or enamels, but is also used to refer to films applied to paper, plastics, or foil.

"Coating Application System" means all operations and equipment which applies, conveys, and dries a surface coating, including, but not limited to, spray booths, flow coaters, flash off areas, air dryers and ovens.

"Cold Cleaning" means the batch process of cleaning and removing soils from metal surfaces by spraying, brushing, flushing or immersing while maintaining the solvent below its boiling point.

"Commence" as applied to construction of a major source or major modification means that the owner or operator has all necessary pre-construction approvals or permits and either has:

1. Begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time; or

2. Entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.

"Compliance Schedule" means a schedule of events, by date, which will result in compliance with these regulations.

"Condensor" means any device which removes condensable vapors by a reduction in the temperature of the captured gases.

"Confined Blasting" means any abrasive blasting conducted in an enclosure which significantly restricts air contaminants from being emitted to the ambient atmosphere, including but not limited to shrouds, tanks, drydocks, buildings and structures.

"Construction" means any physical change or change in the method of operation including fabrication, erection, installation, demolition, or modification of a source which would result in a change in actual emissions.

"Control Apparatus" means any device which prevents or controls the emission of any air contaminant directly or indirectly into the outdoor atmosphere.

"Control System" means any number of control devices, including condensors, which are designed and operated to reduce the quantity of VOC emitted to the atmosphere.

"Conveyorized Degreasing" means the continuous process of cleaning and removing greases and soils from metal surfaces by using either cold or vaporized solvents.

"Curtain Coating" means the application of a coating material to a wood substrate by means of a free-falling film of coating.

"Cutback Asphalt" means any asphalt which has been liquified by blending with petroleum solvents (diluents) or, in the case of some slow cure asphalts (road oils), which have been produced directly from the distillation of petroleum.

"Department" means Utah State Department of Environmental Quality. See Section 19-1-103(1).

"Dispersion Technique" means any technique which attempts to affect the concentration of a pollutant in the ambient air by:

1. Using that portion of a stack which exceeds good engineering practice stack height;

2. Varying the rate of emission of a pollutant according to atmospheric conditions or ambient concentrations of that pollutant; or

3. Increasing final exhaust gas plume rise by manipulating source process parameters, exhaust gas parameters, stack parameters, or combining exhaust gases from several existing stacks into one stack; or other selective handling of exhaust gas streams so as to increase the exhaust gas plume rise. The techniques described in this definition do not include:

A. The reheating of a gas stream following the use of a pollution control system, for the purpose of returning the gas to the temperature at which it was originally discharged from the facility generating the gas stream;

B. The merging of exhaust gas streams where:

(1) The source owner or operator demonstrates that the facility was originally designed and constructed with such merged gas streams;

(2) After July 8, 1985, such merging is part of a change in operation at the facility that includes the installation of pollution controls and is accompanied by a net reduction in the allowable emissions of a pollutant. This exclusion from the definition of "dispersion techniques" shall apply only to the emission limitation for the pollutant affected by such change in operation; or

(3) Before July 8, 1985, such merging was part of a change in operation at the facility that included the installation emissions control equipment or was carried out for sound economic or engineering reasons. Where there was an increase in the emission limitation or, in the event that no emission limitation was in existence prior to the merging, an increase in the quantity of pollutants actually emitted prior to the merging, the Air Quality Board shall presume that merging was significantly motivated by an intent to gain emissions credit for greater dispersion. Absent a demonstration by the source owner or operator that merging was not significantly motivated by such intent, the Air Quality Board shall deny credit for the effects of such merging in calculating the allowable emissions for the source;

C. Smoke management in agricultural or silvicultural prescribed burning programs;

D. Episodic restrictions on residential wood-burning and open burning; or

E. Techniques under 1.49.3 which increase final exhaust gas plume rise where the resulting allowable emissions of sulfur dioxide from the facility do not exceed 5,000 tons per year.

"Dry Cleaning Facility" means a facility engaged in the cleaning of fabrics in an essentially nonaqueous solvent by means of one or more washes in solvent, extraction of excess solvent by spinning, drying, and tumbling in an airstream. The facility includes but is not limited to any washer, dryer, filter and purification systems, waste disposal systems, holding tanks, pumps, and attendant piping and valves.

"Emission" means the act of discharge into the atmosphere of an air contaminant or an effluent which contains or may contain an air contaminant; or the effluent so discharged into the atmosphere.

"Emissions Information" means, with reference to any source operation, equipment or control apparatus:

1. Information necessary to determine the identity, amount, frequency, concentration, or other characteristics related to air quality of any air contaminant which has been emitted by the source operation, equipment, or control apparatus;

2. Information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of any air contaminant which, under an applicable standard or limitation, the source operation was authorized to emit (including, to the extent necessary for such purposes, a description of the manner or rate of operation of the source operation), or any combination of the foregoing; and

3. A general description of the location and/or nature of the source operation to the extent necessary to identify the source operation and to distinguish it from other source operations (including, to the extent necessary for such purposes, a description of the device, installation, or operation constituting the source operation).

"Emission Limitation" means a requirement established by the Board or the Administrator, EPA, which limits the quantity, rate or concentration of emission of air pollutants on a continuous emission reduction including any requirement relating to the operation or maintenance of a source to assure continuous emission reduction (Section 302(k), Clean Air Act).

"Emulsified Asphalt" means asphalt emulsions produced by combining asphalt with water that contains an emulsifying agent.

"Enforceable" means all limitations and conditions which are enforceable by the Administrator, including those requirements developed pursuant to 40 CFR Parts 60 and 61, requirements within the State Implementation Plan (including all sections within R307-1), any permit requirements established pursuant to 40 CFR 52.21 or section 3.1 of R307-1-3.

"EPA" means Environmental Protection Agency.

"Excessive Concentration" is defined for the purpose of determining good engineering practice stack height under 1.71.3 and means:

1. for sources seeking credit for stack height exceeding that established under 1.71.2, a maximum ground-level concentration due to emissions from a stack due in whole or in part to downwash, wakes, and eddy effects produced by nearby structures or nearby terrain features which individually is at least 40 percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects and which contributes to a total concentration due to emissions from all sources that is greater than an ambient air quality standard. For sources subject to the prevention of significant deterioration program (subsection 3.6 of R307-1-3), an excessive concentration alternatively means a maximum ground-level concentration due to emissions from a stack due in whole or in part to downwash, wakes, or eddy effects produced by nearby structures or nearby terrain features which individually is at least 40 percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects and greater than a prevention of significant deterioration increment. The allowable emission rate to be used in making demonstrations under subsection 3.8 of R307-1-3 shall be prescribed by the state approval order or the federal new source performance standard that is applicable to the source category, whichever is more stringent, unless the owner or operator demonstrates that this emission rate is infeasible. Where such demonstrations are approved by the Executive Secretary, an alternative emission rate shall be established in consultation with the source owner or operator. The allowable emission rate to be

used in making demonstrations under subsection 3.8 of R307-1-3 for sources for which no federal new source performance standard or state approval order has been issued shall be established by the Executive Secretary in consultation with the source owner or operator.

2. for sources seeking credit after October 11, 1983, for increases in existing stack heights up to the heights established under 1.71.2 either,

A. a maximum ground-level concentration due in whole or part to downwash, wakes or eddy affects as provided in 1.55.1, except that the emission rate specified by any applicable State implementation plan (or, in the absence of such a limit, the actual emission rate) shall be used, or

B. the actual presence of a local nuisance caused by the existing stack, as determined by the authority administering the State implementation plan.

3. for sources seeking credit after January 12, 1983, for a stack height determined under 1.71.2 where the Executive Secretary requires the use of a field study or fluid model to verify GEP stack height, for sources seeking stack height credit after November 9, 1984, based on the aerodynamic influence of cooling towers, and for sources seeking stack height credit after December 31, 1970, based on the aerodynamic influence of structures not adequately represented by the equations in 1.71.2, a maximum ground-level concentration due in whole or in part to downwash, wakes, or eddy effects that is at least 40 percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects.

"Executive Director" means the Executive Director of the Utah Department of Environmental Quality. See Section 19-1-103(2).

"Executive Secretary" means the Executive Secretary of the Board.

"Existing Installation" means an installation, construction of which began prior to the effective date of any regulation having application to it.

"Exterior Single Coat" means the same as topcoat but is applied directly to the metal substrate omitting the primer application.

"Extreme Performance Coatings" means coatings designed for harsh exposure or extreme environmental conditions.

"Fabric Coating" means the coating or saturation of a textile substrate with a knife, roll or rotogravure coater to impart characteristics that are not initially present, such as strength, stability, water or acid repellency, or appearance.

"Facility" means machinery, equipment, structures of any part or accessories thereof, installed or acquired for the primary purpose of controlling or disposing of air pollution. It does not include an air conditioner, fan or other similar device for the comfort of personnel.

"Filler" means a type of coating used to fill pores, voids, and cracks in wood to provide a smooth surface. It can also be used to accentuate the grain of natural hardwood veneers.

"Fireplace" means all devices both masonry or factory built units (free standing fireplaces) with a hearth, fire chamber or similarly prepared device connected to a chimney which provides the operator with little control of combustion air, leaving its fire chamber fully or at least partially open to the room. Fireplaces include those devices with circulating systems, heat exchangers, or draft reducing doors with a net thermal efficiency of no greater than twenty percent and are used for aesthetic purposes.

"Flat Wood Coating" means the surface coating of any flat wood products.

"Flexographic Printing" means the application of works, designs, and pictures to substrate by means of a roll printing technique in which the pattern to be applied is raised above the printing roll and the image carrier is made of rubber or other elastomeric materials.

"Freeboard Ratio" means the freeboard height divided by the width of the degreaser.

"Fugitive Dust" means particulate, composed of soil and/or industrial particulates such as ash, coal, minerals, etc., which becomes airborne because of wind or mechanical disturbance of surfaces. Natural sources of dust and fugitive emissions are not fugitive dust within the meaning of this definition.

"Fugitive Emissions" means emissions from an installation or facility which are neither passed through an air cleaning device nor vented through a stack or could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

"Garbage" means all putrescible animal and vegetable matter resulting from the handling, preparation, cooking and consumption of food, including wastes attendant thereto.

"Gasoline" means any petroleum distillate, used as a fuel for internal combustion engines, having a Reid vapor pressure of 4 pounds or greater.

"Good Engineering Practice (GEP) Stack Height" means the greater of:

1. Sixty-five (65) meters, measured from the ground-level elevation at the base of the stack;

2. Where H_g=good engineering practice stack height measured from the ground-level elevation at the base of the stack; H=height of nearby structure(s) measured from the ground-level elevation at the base of the stack; L=lesser dimension (height or projected width) of nearby structure(s), and provided that the Executive Secretary may require the use of a field study or fluid model to verify GEP stack height for the source:

A. for stacks in existence on January 12, 1979, and for which the owner or operator had obtained all required air quality permits or approvals, $H_g = 2.5L$ provided the owner or operator produces evidence that this equation was actually relied on in establishing an emission limitation;

B. for all other stacks, $H_g = H+1.5L$; or

3. The height demonstrated by a fluid model or a field study approved by the Executive secretary, which ensures that the emissions from the stack do not result in excessive concentrations of air contaminants as a result of atmospheric downwash, wakes, or eddy effects created by the source itself, nearby structures or nearby terrain features.

"Groove Coat" means a flat wood coating which covers grooves cut into the panel to assure that the grooves are compatible with the final surface color.

"Hardwood Plywood" means plywood whose surface layer is a veneer of hardwood.

"Hazardous Air Pollutant (HAP)" means any pollutant listed by the EPA as a hazardous air pollutant in conformance with Section 112(b) of the Clean Air Act. A list of these pollutants is available at the Division of Air Quality.

"Heavy Fuel Oil" means a petroleum product or similar material with a boiling range higher than that of diesel fuel.

"Hot Well" means the reservoir of a condensing unit receiving the warm condensate consisting primarily of water from the condenser.

"Household Waste" means any solid or liquid material normally generated by the family in a residence in the course of ordinary day-to-day living, including but not limited to garbage, paper products, rags, leaves and garden trash.

"Hydroblasting" means any abrasive blasting using high pressure liquid as the propelling force.

"Incinerator" means a combustion apparatus designed for high temperature operation in which solid, semisolid, liquid, or gaseous combustible wastes are ignited and burned efficiently and from which the solid and gaseous residues contain little or no combustible material.

"Indirect Source" means a building, structure or installation which attracts or may attract mobile source activity that results in emission of a pollutant for which there is a national standard.

"Ink" means a flat wood coating used to put a decorative design on printed panels. It can also produce special appearances on natural hardwood plywood.

"Installation" means a discrete process with identifiable emissions which may be part of a larger industrial plant. Pollution equipment shall not be considered a separate installation or installations.

"Interior Single Coat" means a single film of coating applied to internal parts of large appliances that are not normally visible to the user.

"Knife Coating" means the application of a coating material to a substrate by means of drawing the substrate beneath a blade that spreads the coating evenly over the width of the substrate.

"Large Appliances" means doors, cases, lids, panels, and interior support parts of residential and commercial washers, dryers, ranges, refrigerators, freezers, water heaters, dishwashers, trash compactors, air conditioners, and other similar products.

"Lowest Achievable Emission Rate (LAER)", as defined in Section 173(2), Clean Air Act, means for any source, that rate of emissions which reflects:

1. The most stringent emission limitation which is contained in the implementation plan of any state for such class or category of source, unless the owner or operator of the proposed source demonstrates that such limitations are not achievable, or

2. The most stringent emission limitation which is achieved in practice by such class or category of source, whichever is more stringent.

In no event shall the application of this term permit a proposed new source to emit any pollutant in excess of the amount allowable under applicable new source standards of performance.

"Low Organic Solvent Coating" means coatings which contain less organic solvents than the conventional coatings used by industry. Low organic solvent coatings include water-borne, higher-solids, electrodeposition, and powder coatings.

"LPG" means liquified petroleum gas such as propane or butane.

"Magnet Wire Coating" means the process of applying coating of electrical insulating varnish or enamel to aluminum or copper wire for use in electrical machinery.

"Major Modification" means any physical change in or change in the method of operation of a major source that would result in a significant net emissions increase of any pollutant. A net emissions increase that is significant for volatile organic compounds shall be considered significant for ozone. Within Salt Lake and Davis Counties or any nonattainment area for ozone, a net emissions increase that is significant for nitrogen oxides shall be considered significant for ozone. Within areas of nonattainment for PM10, a significant net emission increase for any PM10 precursor is also a significant net emission increase for PM10. A physical change or change in the method of operation shall not include:

1. routine maintenance, repair and replacement;

2. use of an alternative fuel or raw material by reason of an order under section 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974, or by reason of a natural gas curtailment plan pursuant to the Federal Power Act;

3. use of an alternative fuel by reason of an order or rule under section 125 of the federal Clean Air Act;

4. use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste;

5. use of an alternative fuel or raw material by a source:

A. which the source was capable of accommodating before January 6, 1975, unless such change would be prohibited under any enforceable permit condition; or

B. which the source is otherwise approved to use;

6. an increase in the hours of operation or in the production rate unless such change would be prohibited under any enforceable permit condition;

7. any change in ownership at a source.

"Major Source" means, to the extent provided by the federal Clean Air Act as applicable to these rules:

1. any stationary source of air pollutants which emits, or has the potential to emit, one hundred tons per year or more of any pollutant subject to regulation under the Clean Air Act; or

A. any source located in a nonattainment area for carbon monoxide which emits, or has the potential to emit, carbon monoxide in the amounts outlined in Section 187 of the federal Clean Air Act with respect to the severity of the nonattainment area as outlined in Section 187 of the federal Clean Air Act; or

B. any source located in Salt Lake or Davis Counties or in a nonattainment area for ozone which emits, or has the potential to emit, VOC or nitrogen oxides in the amounts outlined in Section 182 of the federal Clean Air Act with respect to the severity of the nonattainment area as outlined in Section 182 of the federal Clean Air Act; or

C. any source located in a nonattainment area for PM10 which emits, or has the potential to emit, PM10 or any PM10 precursor in the amounts outlined in Section 189 of the federal Clean Air Act with respect to the severity of the nonattainment area as outlined in Section 189 of the federal Clean Air Act.

2. any physical change that would occur at a source not qualifying under subpart 1 as a major source, if the change would constitute a major source by itself;

3. the fugitive emissions and fugitive dust of a stationary source shall not be included in determining for any of the purposes of this section whether it is a major stationary source, unless the source belongs to one of the following categories of stationary sources:

(a) Coal cleaning plants (with thermal dryers);
(b) Kraft pulp mills;
(c) Portland cement plants;
(d) Primary zinc smelters;
(e) Iron and steel mills;
(f) Primary aluminum or reduction plants;
(g) Primary copper smelters;
(h) Municipal incinerators capable of charging more than 250 tons of refuse per day;
(i) Hydrofluoric, sulfuric, or nitric acid plants;
(j) Petroleum refineries;
(k) Lime plants;
(l) Phosphate rock processing plants;
(m) Coke oven batteries;
(n) Sulfur recovery plants;
(o) Carbon black plants (furnace process);
(p) Primary lead smelters;
(q) Fuel conversion plants;
(r) Sintering plants;
(s) Secondary metal production plants;
(t) Chemical process plants;
(u) Fossil-fuel boilers (or combination thereof) totaling more than 250 million British Thermal Units per hour heat input;
(v) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
(w) Taconite ore processing plants;
(x) Glass fiber processing plants;
(y) Charcoal production plants;
(z) Fossil fuel-fired steam electric plants of more than 250 million British Thermal Units per hour heat input;
(aa) Any other stationary source category which, as of August 7, 1980, is being regulated under section 111 or 112 of the federal Clean Air Act.

"Major Source" means, for the purposes of Subsection R307-1-3.6:

1. any of the following sources of air pollutants which emits, or has the potential to emit, 100 tons per year or more of any pollutant subject to regulation under the Clean Air Act: Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input, coal cleaning plants (with thermal dryers), kraft pulp mills, portland cement plants, primary zinc smelters, iron and steel mill plants, primary aluminum ore reduction plants, primary copper smelters, municipal incinerators capable of charging more than 250 tons of refuse per day, hydrofluoric, sulfuric, and nitric acid plants, petroleum refineries, lime plants, phosphate rock processing plants, coke oven batteries, sulfur recovery plants, carbon black plants (furnace process), primary lead smelters, fuel conversion plants, sintering plants, secondary metal production plants, chemical process plants, fossil fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input, petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels, taconite ore processing plants, glass fiber processing plants, and charcoal production plants;

2. any other source which emits, or has the potential to emit, 250 tons per year or more of any air pollutant; or

3. a source which does not otherwise qualify as a major source as defined in this paragraph, but which is physically changed, which change itself would constitute a major source.

4. a source which is major for volatile organic compounds is major for ozone.

5. The fugitive emissions and fugitive dust of a stationary source shall not be included in determining for any of the purposes of this section whether it is a major stationary source, unless the source belongs to one of the following categories of stationary sources:

(a) Coal cleaning plants (with thermal dryers);
(b) Kraft pulp mills;
(c) Portland cement plants;
(d) Primary zinc smelters;
(e) Iron and steel mills;
(f) Primary aluminum ore reduction plants;
(g) Primary copper smelters;
(h) Municipal incinerators capable of charging more than 250 tons of refuse per day;
(i) Hydrofluoric, sulfuric, or nitric acid plants;
(j) Petroleum refineries;
(k) Lime plants;
(l) Phosphate rock processing plants;
(m) Coke oven batteries;
(n) Sulfur recovery plants;
(o) Carbon black plants (furnace process);
(p) Primary lead smelters;
(q) Fuel conversion plants;
(r) Sintering plants;
(s) Secondary metal production plants;
(t) Chemical process plants;
(u) Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;
(v) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
(w) Taconite ore processing plants;
(x) Glass fiber processing plants;
(y) Charcoal production plants;
(z) Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input;
(aa) Any other stationary source category which, as of August 7, 1980, is being regulated under section 111 or 112 of the Federal Clean Air Act.

"Metal Furniture Coating" means the surface coating of any furniture made of metal or any metal part which will be assembled with other metal, wood fabric, plastic, or glass parts to form a furniture piece.

"Modification" means any planned change in a source which results in a potential increase of emission.

"Multiple Nozzles" means a group of two or more nozzles being used for abrasive cleaning of the same surface in such close proximity that their separate plumes are indistinguishable.

"National Ambient Air Quality Standards (NAAQS)" means the allowable concentrations of air pollutants in the ambient air specified by the Federal Government (Title 40, Code of Federal Regulations, Part 50).

"Natural Finish Hardwood Plywood Panels" means panels whose original grain pattern is enhanced by essentially transparent finishes frequently supplemented by fillers and toners.

"Nearby" as used in subpart 2 of the definition "Good Engineering Practice (GEP) Stack Height" is defined for a specific structure or terrain feature and

1. for the purpose of applying the formulae provided in subpart 1 of the definition "Good Engineering Practice (GEP) Stack Height", means that distance up to five times the lesser of the height or the width dimension of a structure, but not to be greater than 1/2 mile, and

2. for conducting demonstrations using subpart 3 of the definition "Good Engineering Practice (GEP) Stack Height", means not greater than 1/2 mile, except that the portion of terrain feature may be considered to be nearby which falls within a distance of up to 10 times the maximum height of the feature, not to exceed 2 miles if such a feature achieves a height 1/2 mile from the stack that is at least 40 percent of the GEP stack height determined by the formulae provided in subpart 2.B of the definition "Good Engineering Practice (GEP) Stack Height" of this part or 26 meters, whichever is greater, as measured from the ground-level elevation at the base of the stack. The height of the structure or terrain feature is measured from the ground-level elevation at the base from the stack.

"Net Emissions Increase" means the amount by which the sum of the following exceeds zero:

1. any increase in actual emissions from a particular physical change or change in method of operation at a source; and

2. any other increases and decreases in actual emissions at the source that are contemporaneous with the particular change and are otherwise creditable. For purposes of determining a "net emissions increase":

A. An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs between the date five years before construction on the particular change commences; and the date that the increase from the particular change occurs.

B. An increase or decrease in actual emissions is creditable only if it has not been relied on in issuing a prior approval for the source which approval is in effect when the increase in actual emissions for the particular change occurs.

C. An increase or decrease in actual emission of sulfur dioxide, nitrogen oxides or particulate matter which occurs before an applicable minor source baseline date is creditable only if it is required to be considered in calculating the amount of maximum allowable increases remaining available. With respect to particulate matter, only PM10 emissions will be used to evaluate this increase or decrease.

D. An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.

E. A decrease in actual emissions is creditable only to the extent that:

(1) The old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions;

(2) It is enforceable at and after the time that actual construction on the particular change begins; and

(3) It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.

(4) It has not been relied on in issuing any permit under Section R307-1-3.1 nor has it been relied on in demonstrating attainment or reasonable further progress.

F. An increase that results from a physical change at a source occurs when the emissions unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed 180 days.

"New Installation" means an installation, construction of which began after the effective date of any regulation having application to it.

"Nonattainment Area" means for any pollutant, "an area which is shown by monitored data or which is calculated by air quality modeling (or other methods determined by the Administrator, EPA to be reliable) to exceed any National Ambient Air Quality Standard for such pollutant" (Section 171, Clean Air Act). Such term includes any area designated as nonattainment under Section 107, Clean Air Act.

"Offset" means an amount of emission reduction, by a source, greater than the emission limitation imposed on such source by these regulations and/or the State Implementation Plan.

"Opacity" means the capacity to obstruct the transmission of light, expressed as percent.

"Open Burning" means any burning of combustible materials resulting in emission of products of combustion into ambient air without passage through a chimney or stack.

"Open Top Vapor Degreaser" means the batch process of cleaning and removing soils from metal surfaces by condensing low solvent vapor on the colder metal parts.

"Owner or Operator" means any person who owns, leases, controls, operates or supervises a facility, an emission source, or air pollution control equipment.

"PSD" Area means an area designated as attainment or unclassifiable under section 107(d)(1)(D) or (E) of the federal Clean Air Act.

"Packaging Rotogravure Printing" means rotogravure printing upon paper, paper board, metal foil, plastic film, and other substrates, which are, in subsequent operations, formed into packaging products and labels.

"Paper Coating" means uniform distribution of coatings put on paper and pressure sensitive tapes regardless of substrate. Related web coating processes on plastic film and decorative coatings on metal foil are included in this definition. Paper coating covers saturation operations as well as coating operations. (Saturation means dipping the web into a bath).

"Particle Board" means a manufactured board made of individual particles which have been coated with a binder and formed into flat sheets by pressure.

"PM10 Particulate Matter" means particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured by an EPA reference or equivalent method.

"PM10 Precursor" means any chemical compound or substance which, after it has been emitted into the atmosphere, undergoes chemical or physical changes that convert it into particulate matter, specifically PM10. It includes sulfur dioxide and nitrogen oxides.

"Part 70 Source" means any source subject to the permitting requirements of R307-15.

"Patch Mix" means a mixture of an asphalt binder and aggregate in which cutback or emulsified asphalts are used either as sprayed liquid or as a binder.

"Peak Ozone Season" means June 1 through August 31, inclusive.

"Penetrating Prime Coat" means an application of low-viscosity liquid asphalt to an absorbent surface in order to prepare it for paving with asphaltic concrete.

"Person" means an individual, trust, firm, estate, company, corporation, partnership, association, state, state or federal agency or entity, municipality, commission, or political subdivision of a state. (Subsection 19-2-103(4)).

"Petroleum Refinery Complex" means any source or installation engaged in producing gasoline, aromatics, kerosene, distillate fuel oils, residual fuel oils, lubricants, asphalt, or other products through distillation of petroleum or through redistillation, cracking, rearrangement, or reforming of unfinished petroleum derivatives.

"Potential to Emit" means the maximum capacity of a source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed shall be treated as part of its design if the limitation or the effect it would have on emissions is enforceable. Secondary emissions do not count in determining the potential to emit of a stationary source.

"Pressure Head Coating" means the application of a coating material to a wood substrate by means of a pressure head coater where coating material is metered into a pressure head and forced through a calibrated slit between two knives.

"Prime Coat" means the first film of coating applied in a two-coat operation.

"Primer" means a flat wood coating used to protect the wood from moisture and to provide a good surface for further coating applications.

"Printed Interior Panels" means panels whose grain or natural surface is obscured by fillers or basecoats upon which a simulated grain or decorative pattern is printed.

"Process Drain" means any drain used in a refinery complex on equipment which processes, transfers a volatile organic compound or mixture of volatile organic compounds.

"Process Level" means the operation of a source, specific to the kind or type of fuel, input material, or mode of operation.

"Process Rate" means the quantity per unit of time of any raw material or process intermediate consumed, or product generated, through the use of any equipment, source operation, or control apparatus. For a stationary internal combustion unit or any other fuel burning equipment, this term may be expressed as the quantity of fuel burned per unit of time.

"Process Unit Turnaround" means the procedure of shutting a refinery unit down after a run to do necessary maintenance and repair work and putting the unit back in operation.

"Production Equipment Exhaust System" means a device for collecting and directing out of the work area VOC fugitive emissions from reactor openings, centrifuge openings, and other vessel openings for the purpose of protecting employees from excessive VOC exposure.

"Publication of Rotogravure Printing" means rotogravure printing upon paper which is subsequently formed into books, magazines, catalogues, brochures, directories, newspaper supplements, and other types of printed materials.

"Reactor" means any vat or vessel, which may be jacketed to permit temperature control, designed to contain chemical reactions.

"Reasonable Further Progress" means annual incremental reductions in emission of an air pollutant which are sufficient to provide for attainment of the NAAQS by the date identified in the State Implementation Plan.

"Refuse" means solid wastes, such as garbage and trash.

"Residence" means a dwelling in which people live, including all ancillary buildings.

"Residential Solid Fuel Burning" device means any residential burning device except a fireplace connected to a chimney that burns solid fuel and is capable of, and intended for use as a space heater, domestic water heater, or indoor cooking appliance, and has an air-to-fuel ratio less than 35-to-1 as determined by the test procedures prescribed in 40 CFR 60.534. It must also have a useable firebox volume of less than 20 cubic feet, a minimum burn rate less than 5 kg/hr as determined by test procedures prescribed in 40 CFR 60.534, and weigh less than 800 kg. Appliances that are described as prefabricated fireplaces and are designed to accommodate doors or other accessories that would create the air starved operating conditions of a residential solid fuel burning device shall be considered as such. Fireplaces are not included in this definition for solid fuel burning devices.

"Roll Coating" means the application of a coating material to a substrate by means of hard rubber or steel rolls.

"Roll Printing" means the application of words, designs and pictures to a substrate usually by means of a series of hard rubber or steel rolls each with only partial coverage.

"Rotogravure Coating" means the application of a uniform layer of material across the entire width of the web to substrate by means of a roll coating technique in which the pattern to be applied is etched on the coating roll. The coating material is picked up in these recessed areas and is transferred to the substrate.

"Rotogravure Printing" means the application of words, designs, and pictures to a substrate by means of a roll printing technique which involves a recessed image area in the form of cells.

"Salvage Operation" means any business, trade or industry engaged in whole or in part in salvaging or reclaiming any product or material, including but not limited to metals, chemicals, shipping containers or drums.

"Sealer" means a type of coating used to seal off substances in the wood which may affect subsequent finishes as well as protect the wood from moisture.

"Secondary Emissions" means emissions which would occur as a result of the construction or operation of a major source or major modification, but do not come from the major source or major modification itself.

Secondary emissions must be specific, well defined, quantifiable, and impact the same general area as the source or modification which causes the secondary emissions. Secondary emissions include emissions from any off-site support facility which would not be constructed or increase its emissions except as a result of the construction or operation of the major source or major modification. Secondary emissions do not include any emissions which come directly from a mobile source such as emissions from the tailpipe of a motor vehicle, from a train, or from a vessel.

Fugitive emissions and fugitive dust from the source or modification are not considered secondary emissions.

"Separation Operation" means any process that separates a mixture of compounds and solvents into two or more components.

Specific mechanisms include extraction, centrifugation, filtration, and crystallization.

"Significant" means:

1. In reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

Carbon monoxide: 100 ton per year (tpy)

Nitrogen oxides: 40 tpy

Sulfur dioxide: 40 tpy

PM10 Particulate matter: 15 tpy

Particulate matter: 25 tpy

Ozone: 40 tpy of volatile organic compounds

Lead: 0.6 tpy

2. For purposes of Section R307-1-3.6 it shall also additionally mean for:

a. A rate of emissions that would equal or exceed any of the following rates:

Asbestos: 0.007 tpy

Beryllium: 0.0004 tpy

Mercury: 0.1 tpy

Vinyl Chloride: 1 tpy

Fluorides: 3 tpy

Sulfuric acid mist: 7 tpy

Hydrogen Sulfide: 10 tpy

Total reduced sulfur (including H2S): 10 tpy

Reduced sulfur compounds (including H2S): 10 tpy

b. In reference to a net emissions increase or the potential of a source to emit a pollutant subject to regulation under the Clean Air Act not listed in 1 and 2 above, any emission rate.

c. Notwithstanding the rates listed in 1 and 2 above, any emissions rate or any net emissions increase associated with a major source or major modification, which would construct within 10 kilometers of a Class I area, and have an impact on such area equal to or greater than 1 ug/cubic meter, (24-hour average).

"Single Coat" means a single film of coating applied directly to the metal substrate omitting the primer application.

"Sole Source of Heat " means the residential solid fuel burning device is the only available source of heat for the entire residence, except for small portable heaters.

"Solid Fuel" means wood, coal, and other similar organic material or combination of these materials.

"Solvent" means organic materials which are liquid at standard conditions (Standard Temperature and Pressure) and which are used as dissolvers, viscosity reducers, or cleaning agents.

"Solvent Metal Cleaning" means the process of cleaning soils from metal surfaces by cold cleaning, open top vapor degreasers, or conveyorized degreasing.

"Source" means any structure, building, facility, or installation which emits or may emit any air pollutant subject to regulation under the Clean Air Act and which is located on one or more continuous or adjacent properties and which is under the control of the same person or persons under common control. A building, structure, facility, or installation means all of the pollutant-emitting activities which belong to the same industrial grouping. Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same "Major Group" (i.e. which have the same two-digit code) as described in the Standard Industrial Classification Manual, 1972, as amended by the 1977 Supplement (US Government Printing Office stock numbers 4101-0065 and 003-005-00176-0, respectively).

"Specialty Printing Operations" means all gravure and flexographic operations which print a design or image, excluding publication gravure and packaging gravure printing. Specialty printing operations include, among other things, printing on paper cups and plates, patterned gift wrap, wallpaper, and floor coverings.

"Stack" means any point in a source designed to emit solids, liquids, or gases into the air, including a pipe or duct but not including flares.

"Stack in Existence" means that the owner or operator had

1. begun, or caused to begin, a continuous program of physical on-site construction of the stack, or

2. entered into binding agreements or contractual obligations, which could not be canceled or modified without substantial loss to the owner or operator, to undertake a program of construction of the stack to be completed in a reasonable time.

"Stain" means a nonprotective flat wood coating which colors the wood surface without obscuring the grain.

"Standards of Performance for New Stationary Sources" means the Federally established requirements for performance and record keeping (Title 40 Code of Federal Regulations, Part 60).

"State" means Utah State.

"Submerged Fill Pipe" means any fill pipe with a discharge opening which is entirely submerged when the liquid level is 6 inches above the bottom of the tank and the pipe normally used to withdraw liquid from the tank can no longer withdraw any liquid.

"Synthesized Pharmaceutical Manufacturing" means the manufacture of pharmaceutical products by chemical synthesis.

"Temporary" means not more than 180 calendar days.

"Threshold Limit Value - Ceiling (TLV-C)" means the airborne concentration of a substance which may not be exceeded, as adopted by the American Conference of Governmental Industrial Hygienists in its "Threshold Limit Values for Chemical Substances and Physical Agents - Biological Exposure Indices (199[~~6~~]7), pages [~~13 - 38~~]15 - 40."

"Threshold Limit Value - Time Weighted Average (TLV-TWA)" means the time-weighted airborne concentration of a substance adopted by the American Conference of Governmental Industrial Hygienists in its "Threshold Limit Values for Chemical Substances and Physical Agents - Biological Exposure Indices (199[~~6~~]7), pages [~~13 - 38~~]15 - 40."

"Tile Board" means paneling that has a colored waterproof surface coating.

"Total Suspended Particulate (TSP)" means minute separate particles of matter, collected by high volume sampler.

"Toxic Screening Level" means an ambient concentration of an air contaminant equal to a threshold limit value - ceiling (TLV- C) or threshold limit value -time weighted average (TLV-TWA) divided by a safety factor.

"Trash" means solids not considered to be highly flammable or explosive including, but not limited to clothing, rags, leather, plastic, rubber, floor coverings, excelsior, tree leaves, yard trimmings and other similar materials.

"Unconfined Blasting" means any abrasive blasting which is not confined blasting as defined above.

"Vacuum Producing System" means any reciprocating, rotary, or centrifugal blower or compressor, or any jet ejector or device that

takes suction from a pressure below atmospheric and discharges against atmospheric pressure.

"Vertically Restricted Emissions Release" means the release of an air contaminant through a stack or opening whose flow is directed in a downward or horizontal direction due to the alignment of the opening or a physical obstruction placed beyond the opening, or at a height which is less than 1.3 times the height of an adjacent building or structure, as measured from ground level.

"Vertically Unrestricted Emissions Release" means the release of an air contaminant through a stack or opening whose flow is directed upward without any physical obstruction placed beyond the opening, and at a height which is at least 1.3 times the height of an adjacent building or structure, as measured from ground level.

"Vinyl Coating" means applying a decorative or protective top coat, or printing on vinyl coated fabric or vinyl sheets.

"Volatile Organic Compound (VOC)" as defined in 40 CFR Subsection 51.100(s)(1), as amended on March 8, 1996, and published at 61 Fed. Reg. 4588 (February 7, 1996), is hereby adopted and incorporated by reference.

"Waste" means all solid, liquid or gaseous material, including, but not limited to, garbage, trash, household refuse, construction or demolition debris, or other refuse including that resulting from the prosecution of any business, trade or industry.

"Waxy, Heavy Pour Crude Oil" means a crude oil with a pour point of 50 degrees F or higher as determined by the American Society for Testing and Materials Standard D97-66, "Test for pourpoint of petroleum oils."

"Wet Abrasive Blasting" means any abrasive blasting using compressed air as the propelling force and sufficient water to minimize the plume.

"Zero Drift" means the change in the instrument meter readout over a stated period of time of normal continuous operation when the VOC concentration at the time of measurement is zero.

KEY: air pollution, motor vehicles, major sources*
[~~1997~~]1998 **19-2-104**
19-2-109
19-2-124

Environmental Quality, Air Quality
R307-8
Oxygenated Gasoline Program

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 20771
FILED: 02/10/98, 17:27
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: The purpose of this amendment is to clarify intent and make the rule easier to understand.

SUMMARY: The changes are clarifications and are not substantial changes in regulation of the industry or the consuming public. The most substantive changes are: In Section R307-8-7.3, reduce the number of working days from 30 to 15 when information on the registration form must be updated; in Section R307-8-7.3, add a requirement to notify the executive secretary before changing from one oxygenate to another. The original rule did not anticipate a change in mid-season, or using a combination of oxygenates together. The compliance test is different depending on the oxygenate used, and a supplier could be found out of compliance if the enforcement officer does not know which oxygenate to test for; in Section R307-8-8, require specifying the characteristics of each oxygenate in a blend. Again, the original rule did not anticipate that multiple oxygenates would be used; in Sections R307-8-3.4 and 5, clarify the oxygen content limits for gasoline blends under the "substantially similar" and "waiver" provisions of the Clean Air Act, 42 U.S.C. 7545(f)(1) and (4); and in Section R307-8-8.1.E, add a requirement that carriers, distributors, resellers, terminal operators and oxygenate blenders keep a copy of the transfer document. There are nonsubstantive changes in capitalization, numbering and spelling.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Section 19-2-104
FEDERAL MANDATE FOR THIS FILING: 42 U.S.C. 7545

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: None.
❖LOCAL GOVERNMENTS: None.
❖OTHER PERSONS: Very small cost to notify the state before changing oxygenate.
COMPLIANCE COSTS FOR AFFECTED PERSONS: Very small cost to notify the state before changing oxygenate.

THE FULL TEXT OF THIS FILING MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Environmental Quality
Air Quality
150 North 1950 West
Box 144820
Salt Lake City, UT 84114-4820, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:
Jan Miller at the above address, by phone at (801) 536-4042, by FAX at (801) 536-4099, or by Internet E-mail at jmiller@deq.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 03/31/98; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 03/24/98, 1:30 p.m., Department of Environmental Quality, Room 101, 168 North 1950 West, Salt Lake City, UT, and on 03/16/98 at 7:00 p.m. in the Provo City Council Chambers, 351 West Center Street in Provo, UT.

THIS FILING MAY BECOME EFFECTIVE ON: 04/02/98

AUTHORIZED BY: Ursula K. Trueman, Director

R307. Environmental Quality, Air Quality.
R307-8. Oxygenated Gasoline Program.
R307-8-1. Definitions.

The following definitions apply only to Rule R307-8.

"Averaging period" is the control period and means the period of time over which all gasoline sold or dispensed for use in a control area by any control area responsible party or blender control area responsible party must comply with the average oxygen content standard.

"Blender control area responsible party ([~~B~~]blender CAR)" means a person who owns oxygenated gasoline which is sold or dispensed from a control area oxygenate blending installation.

"Blending Allowance" means the amount of oxygen a gasoline blend is allowed above its upper oxygen content limit. Any gasoline blended under the provisions of 42 U.S.C. 7545(f)(1) addressing substantially similar fuels are permitted a blending allowance of 0.2% oxygen by weight. Blending allowances are not given to gasoline blends granted a waiver by the Administrator under 42 U.S.C. 7545(f)(4).

"Carrier" means any person who transports, stores or causes the transportation or storage of gasoline at any point in the gasoline distribution network, without taking title to or otherwise having ownership of the gasoline, and without altering the quality or quantity of the gasoline.

"Control area" means a geographic area in which only gasoline under the oxygenated gasoline program may be sold or dispensed during the control period[~~, with boundaries determined in accordance with Section 211(m) of the Clean Air Act~~].

"Control area oxygenate blending installation" means any installation or truck at which oxygenate is added to gasoline or gasoline blendstock which is intended for use in any control area, and at which the quality or quantity of the gasoline or gasoline blendstock is not otherwise altered, except through the addition of deposit-control additives.

"Control area responsible party (CAR)" means a person who owns oxygenated gasoline which is sold or dispensed from a control area terminal.

"Control area terminal" means either a terminal which is capable of receiving gasoline in bulk, i.e., by pipeline, marine vessel or barge, [~~and/~~]or a terminal at which gasoline is altered either in quantity or quality, excluding the addition of deposit control additives, or both. Gasoline which is intended for use in any control area is sold or dispensed into trucks at these control area terminals.

"Control period" means November 1 through the last day of February, during which time only oxygenated gasoline may be sold and dispensed in any control area.

"Destination" means:

A. for all control periods prior to the trigger date:

(1) the Provo[~~/~~]-Orem Metropolitan Statistical Area (MSA), all of Utah County or

(2) anywhere except Utah County; and

B. for all control periods subsequent to the trigger date:

(1) Utah County, the Provo[~~/~~]-Orem Metropolitan Statistical Area,

(2) Weber County, or

(3) anywhere except Utah County and Weber County.

"Distributor" means any person who transports or stores or causes the transportation or storage of gasoline at any point between any gasoline refiner's installation and any retail outlet or wholesale purchaser-consumer's installation. [~~A distributor that alters the oxygen content of the gasoline which is intended for use in any control area is a Blender CAR.~~]A distributor is a blender CAR if the distributor alters the oxygen content of gasoline intended for use in any control area through the addition of one or more oxygenates, or lowers its oxygen content below the minimum oxygen content specified in Section R307-8-6.

"Gasoline" means any fuel sold for use in motor vehicles and motor vehicle engines, and commonly or commercially known or sold as gasoline.

"Gasoline blendstock" means a hydrocarbon material which by itself does not meet specifications for finished gasoline, but which can be blended with other components, including oxygenates, to produce a blended gasoline fully meeting the American Society for Testing and Materials (ASTM) or state specifications.

"Non-oxygenated gasoline" means any gasoline which does not meet the definition of oxygenated gasoline.[

~~"Gasoline blendstock" means a hydrocarbon material which by itself does not meet specifications for finished gasoline, but which can be blended with other components, including oxygenates, to produce a blended gasoline fully meeting the American Society for Testing and Materials (ASTM) and/or state specifications.~~]

"Oxygen content of gasoline blends" means percentage of oxygen by weight contained in a gasoline blend, based upon [~~its percentage of oxygenate by volume~~]the percent by volume of each type of oxygenate contained in the gasoline blend, excluding denaturants and other non-oxygen-containing compounds. All measurements shall be adjusted to 60 degrees Fahrenheit.

"Oxygenate" means any substance, which when added to gasoline, increases the amount of oxygen in that gasoline blend. Lawful use of any combination of these substances requires that they be [~~"S~~]substantially [~~S~~]similar[~~"~~] as provided for under [~~Section 211(f)(1) of the Clean Air Act~~]42 U.S.C. 7545(f)(1), or be permitted under a waiver granted by the Administrator of the Environmental Protection Agency under the authority of [~~Section 211(f)(4) of the Clean Air Act~~]42 U.S.C. 7545(f)(4).

"Oxygenate blender" means a person who owns, leases, operates, controls, or supervises a control area oxygenate blending installation.

"Oxygenated gasoline" means any gasoline[~~,~~] which contains at least 2.0% oxygen by weight, or 2.6%[~~, if triggered as specified in R307-8-3.1.C,~~] oxygen by weight if the average oxygen content standard is 3.1%, that was produced through the addition of [~~an oxygenate~~]one or more oxygenates to a gasoline and has been included in the oxygenated gasoline program accounting by a control area responsible party or blender control area responsible party and which is intended to be sold or dispensed for use in any control area. Notwithstanding the foregoing, if the Board determines that the requirement of 2.0% oxygen by weight, or 2.6% oxygen by weight[~~if triggered as specified in R307-8-3.1.C~~] if the average oxygen content standard is 3.1%, [~~oxygen requirement~~]will prevent or interfere with attainment of the PM_{10} National Ambient

Air Quality Standard and the State requests and is granted a waiver from the Administrator of the Environmental Protection Agency under [~~Section 211 of the Clean Air Act~~]42 U.S.C. 7545, the waiver amount granted by the Administrator of the Environmental Protection Agency[~~,~~] shall apply. Oxygenated gasoline containing lead is required to conform to the same waiver conditions or [~~"~~]substantially similar[~~"~~] ruling as unleaded gasoline as described in the definition of oxygenate.

"Refiner" means any person who owns, leases, operates, controls, or supervises a refinery which produces gasoline for use in a control area during the applicable control period.

"Refinery" means a plant at which gasoline is produced.

"Reseller" means any person who purchases gasoline and resells or transfers it to a retailer or a wholesale purchaser-consumer.

"Retail outlet" means any establishment at which gasoline is sold or offered for sale to the ultimate consumer for use in motor vehicles.

"Retailer" means any person who owns, leases, operates, controls, or supervises a retail outlet.

"Terminal" means an installation at which gasoline is sold, or dispensed into trucks for transportation to retail outlets or wholesale purchaser-consumer [~~facilities~~]installations.

"Trigger date" means the date on which is triggered the Contingency Action Level specified in Section IX.C.8.h of the [~~S~~]state [~~I~~]implementation [~~P~~]plan.

"Wholesale purchaser-consumer" means any organization that:

A. is an ultimate consumer of gasoline;

B. purchases or obtains gasoline from a supplier for use in motor vehicles; and

C. receives delivery of that product into a storage tank of at least 550-gallon capacity substantially under the control of that organization.

"Working day" means Monday through Friday, excluding observed federal and Utah state holidays.

R307-8-2. Applicability and Control Period Start Dates.

1. Unless waived under authority of [~~Section 211(m)(3) of the Clean Air Act~~]42 U.S.C. 7545(m)(3) by the Administrator of the Environmental Protection Agency, Rule R307-8 is applicable in Utah and Weber Counties.

2. The first control period for areas for which Rule R307-8 is applicable begins:

A. November 1, 1992, for the entire Provo-Orem Metropolitan Statistical Area which includes all of Utah County; and

B. November 1 following the trigger date for Weber County.

R307-8-3. Average Oxygen Content Standard.

1. All gasoline sold or dispensed during the control period, for use in each control area, by each CAR or [~~B~~]blender CAR as defined in Section R307-8-1, shall be blended for each averaging period to contain an average oxygen content of not less than 2.7% oxygen by weight, except that:

A. if the Board determines that the 2.7% oxygen by weight requirement will prevent or interfere with attainment of the PM_{10} National Ambient Air Quality Standards and the State requests and is granted a waiver from the Administrator of the Environmental Protection Agency under [~~Section 211 of the Clean Air Act~~]42 U.S.C. 7545, the waiver amount granted by the Administrator of the Environmental Protection Agency, shall apply;

B. if the enhanced inspection and maintenance program specified in Section IX, Part C.6.j(2)(b) of the [~~S~~]state [~~I~~]implementation [~~P~~]plan is not implemented by January 1, 1996 (or if an equivalent automotive improvement program is not implemented that results in emissions factors equal to or less than the emission factors in Table IX.C.23 of the [~~S~~]state [~~I~~]implementation [~~P~~]plan), all gasoline sold or dispensed during the control period beginning November 1, 1996, and subsequent control periods, for use in the Provo[~~/~~]-Orem MSA, by each CAR or [~~B~~]blender CAR as defined in Section R307-8-1, shall be blended to contain an average oxygen content of not less than 3.1% by weight until the next full control period following one year after the implementation of an enhanced inspection and maintenance program with mobile source emission factors equal to or less than every emission factor in the matrix in Table IX.C.23 of the [~~S~~]state [~~I~~]implementation [~~P~~]plan and the enhanced inspection and maintenance performance standards of 40 CFR 51.351 or until the next full control period following implementation of a program that would result in emission factors equal to or less than the mobile source emission factors in the matrix contained in Table IX.C.23 of the [~~S~~]state [~~I~~]implementation [~~P~~]plan;

C. if triggered as a contingency measure, as specified in Section IX, Part C.6.f of the [~~S~~]state [~~I~~]implementation [~~P~~]plan, all gasoline sold or dispensed during the control period for use in the Provo[~~/~~]-Orem MSA, by each CAR or [~~B~~]blender CAR as defined in Section R307-8-1, shall be blended to contain an average oxygen content of not less than 3.1% by weight until it is shown to be unnecessary in the maintenance demonstration required by the Clean Air Act or until it is replaced with other control measures in a [~~S~~]state [~~I~~]implementation [~~P~~]plan revision that demonstrates attainment [~~with~~]of the National Ambient Air Quality Standard.

2. The averaging period[~~,~~] over which all gasoline sold or dispensed in the control area is to be averaged[~~,~~] shall be equal to the control period.

3. All gasoline, both leaded and unleaded, shall be blended in compliance with 40 CFR Part 79 (1991) - Registration of Fuels and Fuel Additives and 40 CFR Part 80 (1991) - Regulation of Fuels and Fuel Additives.

4. [~~Any oxygenated gasoline blended under a "Substantially Similar" ruling as provided for under Section 211(f)(1) of the Clean Air Act will be permitted to have an oxygen content of up to 2.9% oxygen by weight for blending tolerance purposes. This blending allowance does not apply to oxygenates waived to oxygen levels above 2.7% oxygen by weight under the authority of Section 211(f)(4) of the Clean Air Act.~~]Any gasoline blended under 42 U.S.C. 7545(f)(1) dealing with substantially similar fuels must be blended in compliance with the criteria specified in the substantially similar ruling.[

~~5.~~] Any extra volume of oxygenate or o[~~O~~]xygenates added to gasoline blended under a [~~"S~~]substantially [~~S~~]similar[~~"~~] ruling as provided for under [~~Section 211(f)(1) of the Clean Air Act~~]42 U.S.C. 7545(f)(1) in excess of [~~2.7% oxygen by weight~~]the criteria specified in 42 U.S.C. 7545(f)(1) may not be included in the compliance calculations specified in Subsections R307-8-5.2 and 5.3.

5. Any gasoline blended under a waiver granted by the Environmental Protection Agency under the provisions of 42

U.S.C. 7545(f)(4) must be blended in compliance with the criteria specified in the appropriate waiver. Gasoline blends waived to oxygen content above 2.7% oxygen by weight are not permitted a blending allowance for blending tolerance purposes. Any extra volume of oxygenate in excess of the criteria specified in the appropriate waiver may not be included in the compliance calculations specified in Subsection R307-8-5.2 or Subsection R307-8-5.3.

6. Oxygen content shall be determined in accordance with Section R307-8-4.

R307-8-4. Sampling, Testing, and Oxygen Content Calculations.

1. For the purpose of determining compliance with the requirements of Rule R307-8, the oxygen content of gasoline shall be determined by one or both of the two following methods.

A. Volumetric Method. Oxygen content may be calculated by the volumetric method specified in the Environmental Protection Agency Guidelines for Oxygenated Gasoline Credit Programs under Section 211(m) of the Clean Air Act as Amended - Supplementary Information - Oxygen Content Conversions, published in the Federal Register on October 20, 1992.

B. Chemical Analysis Method.

(1) Use the sampling methodologies detailed in 40 CFR Part 80 (1993), Appendix D, to obtain a representative sample of the gasoline to be tested;

(2) Determine the oxygenate content of the sample by use of:

(a) the test method specified in ASTM Designation D4815-93, Testing Procedures--Method--ASTM Standard Test Method for Determination of C1 to C4 Alcohols and MTBE in Gasoline by Gas Chromatography,

(b) the test method specified in Appendix C of Environmental Protection Agency Guidelines for Oxygenated Gasoline Credit Programs under Section 211(m) of the Clean Air Act as Amended - Test Procedure Test for the Determination of Oxygenates in Gasoline as published in the Federal Register on October 20, 1992, or

(c) an alternative test method approved by the executive secretary.

(3). Calculate the oxygen content of the gasoline sampled by multiplying the mass concentration of each oxygenate in the gasoline sampled by the oxygen molecular weight contribution of the oxygenate set forth in Subsection R307-8-4.3.

2. All volume measurements required in Section R307-8-4 shall be adjusted to 60 degrees Fahrenheit.

3. For the purposes of Rule R307-8, the oxygen molecular weight contributions and specific gravities of oxygenates currently approved for use in the United States by the U.S. Environmental Protection Agency are the following:

TABLE 1

Specific Gravity and Weight Percent Oxygen of Common Oxygenates

oxygenate	weight fraction oxygen	specific gravity at 60 degrees F
ethyl alcohol	0.3473	0.7939
normal propyl alcohol	0.2662	0.8080
isopropyl alcohol	0.2662	0.7899
normal butyl alcohol	0.2158	0.8137
isobutyl alcohol	0.2158	0.8058
secondary butyl alcohol	0.2158	0.8114
tertiary butyl alcohol	0.2158	0.7922
methyl tertiary-butyl ether (MTBE)	0.1815	0.7460
tertiary amyl methyl ether (TAME)	0.1566	0.7752
ethyl tertiary-butyl ether (ETBE)	0.1566	0.7452

4. Sampling, testing, and oxygen content calculation records shall be maintained for not less than two years after the end of each control period for which the information is required.

5. Every refiner must determine the oxygen content of all gasoline produced for use in a control area by use of the methodology specified in Subsection R307-8-4.1. Documentation shall include the percent oxygen by weight, [~~the~~]each type of oxygenate, the purity of [~~the~~]each oxygenate, and the percent oxygenate by volume for each oxygenate. If a CAR or blender CAR alters the oxygen content of a gasoline intended for use within a control area during a control period, the CAR or blender CAR must determine the oxygen content of the gasoline by use of the methodology specified in Subsection R307-8-4.1.

R307-8-5. Alternative Compliance Options.

1. Each CAR or [~~B~~]blender CAR shall comply with the standard specified in Section R307-8-3 by means of the method set forth in either Subsection R307-8-5.2 or Subsection R307-8-5.3 and shall specify which option will be used at the time of the registration required under Section R307-8-7.

2. Compliance calculation on average basis.

A. [~~To determine compliance with the standard specified in Section R307-8-3, the CAR or blender CAR shall,~~]The CAR or blender CAR shall determine compliance with the standard specified in Section R307-8-3 for each averaging period and for each control area by:

(1) Calculat[~~e~~]ing the total volume of gasoline labeled as oxygenated that is sold or dispensed, not including volume dispensed or sold to another CAR or [~~B~~]blender CAR, for use in the control area which is the sum of:

(a) the volume of each separate batch or truckload of [~~oxygenated~~]gasoline labeled as oxygenated that is sold or dispensed;

(b) minus the volume of each separate batch or truckload of [~~oxygenated~~]gasoline labeled as oxygenated that is sold or dispensed for use in a different control area;

(c) minus the volume of each separate batch or truckload of [~~oxygenated~~]gasoline labeled as oxygenated that is sold or dispensed for use in any non-control area.

(2) Calculat[~~e~~]ing the required total oxygen credit units. Multiply the total volume in gallons of [~~oxygenated~~]gasoline labeled as oxygenated that is sold or dispensed for use in the control area, as determined by Subsection R307-8-5.2.A(1), by the oxygen content standard specified in Subsection R307-8-3.1.

(3) Calculat[~~e~~]ing the actual total oxygen credit units generated. The actual total oxygen credit units generated is the sum of the volume of each batch or truckload of [~~oxygenated~~]gasoline labeled as oxygenated that was sold or dispensed for use in the control area[~~,~~] as determined by Subsection R307-8-5.2.A(1), multiplied by the actual oxygen content by weight percent associated with each batch or truckload. If a batch or truckload of gasoline is blended under the substantially similar provisions of 42 U.S.C. 7545(f)(1) or under a waiver granted by the Environmental Protection Agency under the provisions of 42 U.S.C. 7545(f)(4), any extra volume of oxygenate in excess of the substantially similar

criteria including the blending tolerance of 0.2% oxygen by weight, or in excess of the appropriate waiver, cannot be included in the calculation of oxygen credit units.

(4) Calculat[~~e~~]ing the adjusted actual total oxygen credit units. The adjusted actual total oxygen content units is the sum of the actual total oxygen credit units generated, as determined by Subsection R307-8-5.2.A(3);

(a) plus the total oxygen credit units purchased,[~~or~~] acquired through trade and received; and

(b) minus the total oxygen credit units sold,[~~or~~] given away and provided through trade.

(5) Compar[~~e~~]ing the adjusted actual total oxygen credit units with the required total oxygen credit units. If the adjusted actual total content oxygen credit units is greater than or equal to the required total oxygen credit units, then the standard in Section R307-8-3 is met. If the adjusted actual total oxygen credit units is less than the required total oxygen credit units, then the purchase of oxygen credit units is required in order to achieve compliance.

(6) In transferring oxygen credit units, the transferor shall provide the transferee with information as to how the credits were calculated, including the volume and oxygen content by weight percent of the gasoline associated with the credits.

B. To determine the oxygen credit units associated with each batch or truck load of oxygenated gasoline sold or dispensed into the control area, use the running weighted oxygen content (RWOC) of the tank from which and at the time the batch or truckload was received (see Subsection R307-8-5.2.C below). In the case of batches or truckloads of gasoline to which oxygenate was added outside of the terminal storage tank from which it was received, use the weighted average of the RWOC and the oxygen content added as a result of the volume of the additional oxygenate added.

C. Running weighted oxygen content. The RWOC accounts for the volume and oxygen content of all gasoline, including transfers to or from another CAR or [~~B~~]blender CAR, which enters or leaves a terminal storage tank, and the oxygen contribution of all oxygenates which are added to the tank. The RWOC must be calculated each time gasoline enters or leaves the tank or whenever oxygenates are added to the tank. The RWOC is calculated weighing the following:

(1) the volume and oxygen content by weight percent of the gasoline in the storage tank at the beginning of the averaging period;

(2) the volume and oxygen content by weight percent of gasoline entering the storage tank;

(3) the volume and oxygen content by weight percent of gasoline leaving the storage tank; and

(4) the volume, type, purity and oxygen content by weight percent of the oxygenates added to the storage tank.

D. Credit transfers. Credits may be used in the compliance calculation in Subsection R307-8-5.2.A[~~-~~](1), provided that:

(1) the credits are generated in the same control area as they are used, i.e., no credits may be transferred between nonattainment areas;

(2) the credits are generated in the same averaging period as they are used;

(3) the ownership of credits is transferred only between CARs or [~~B~~]blender CARs registered under the averaging compliance option specified in Section R307-8-7;

(4) the credit transfer agreement is made no later than 30 working days, as defined in Section R307-8-1, after the final day of the averaging period in which the credits are generated; and

(5) the credits are properly created.

E. Improperly created credits.

(1) No party may transfer any credits to the extent such a transfer would result in the transferor having a negative credit balance at the conclusion of the averaging period for which the credits were transferred. Any credits transferred in violation of this paragraph are improperly created credits.

(2) Improperly created credits may not be used, regardless of a credit transferee's good faith belief that the transferee was receiving valid credits.

3. Compliance calculation on a per gallon basis. Each gallon of gasoline sold or dispensed by a CAR or [~~B~~]blender CAR for use within each control area during the averaging period as defined in S[~~ubs~~]ection R307-8-1 shall have an oxygen content of at least the average oxygen content standard specified in Subsection R307-8-3.1. The maximum oxygen content which may be used to calculate compliance is the average oxygen content standard specified in Section R307-8-3. In addition, the CAR or [~~B~~]blender CAR is prohibited from selling, trading or providing oxygen credits based on gasoline for which compliance is calculated under this alternative per-gallon method.

R307-8-6. Minimum Oxygen Content.

1. Any gasoline which is sold or dispensed by a CAR, [~~B~~]blender CAR, carrier, distributor, or reseller for use within a control area, as defined in S[~~ubs~~]ection R307-8-1, during the control period, shall contain not less than 2.0% oxygen by weight, or 2.6% [~~if triggered as specified in R307-8-3.1.C,~~]oxygen by weight [~~percent~~]if the average oxygen content standard is 3.1%, unless it is sold or dispensed to another registered CAR or [~~B~~]blender CAR. This requirement shall begin five working days, as defined in Section R307-8-1, before the applicable control period and shall apply until the end of that period.

2. This requirement shall apply to all parties downstream of the CAR or [~~B~~]blender CAR unless the gasoline will be sold or dispensed to another CAR or blender CAR. Any gasoline which is offered for sale, sold or dispensed to an ultimate consumer within a control area during a control period, as defined in S[~~ubs~~]ection R307-8-1, shall not contain less than 2.0% oxygen by weight, or 2.6%[~~if triggered as specified in R307-8-3.1.C,~~] oxygen by weight if the average oxygen content standard is 3.1%. This requirement shall apply during the entire applicable control period.

3. Every refiner must determine the oxygen content of all gasoline produced by use of the methodologies [~~as~~]described in Section R307-8-4. This determination shall include the oxygen content by weight percent, [~~the~~]each type of oxygenate, and percent oxygenate by volume for each type of oxygenate.

4. Any gasoline sold or dispensed by a CAR or blender CAR for use within a control area and for which compliance is demonstrated using the method specified in Subsection R307-8-5.3 shall contain not less than the average oxygen content standard specified in Subsection R307-8-3.1, unless the gasoline is sold or dispensed to another registered CAR or blender CAR.

R307-8-7. Registration.

1. All persons who sell or dispense gasoline directly or indirectly to persons who sell or dispense to ultimate consumers in a control area during a control period, including CARs, [~~B~~]blender CARs, carriers, resellers, and distributors, shall petition the executive secretary for registration not less than one calendar month in advance of such sales or transfers of gasoline into the control area during the control period.

2. This petition for registration shall be on forms prescribed by the executive secretary and shall include the following information:

A. the name and business address of the CAR, [~~B~~]blender CAR, carrier, reseller, or distributor;

B. in the case of a CAR, the address and physical location of each of the control area terminals from which the CAR operates;

C. in the case of a [~~B~~]blender CAR, the address and physical location of each control area oxygenate blending installation which is owned, leased, operated, or controlled, or supervised by a [~~B~~]blender CAR;[~~ and~~]

D. in the case of a carrier, distributor, or reseller, the names and addresses of retailers they supply;

[~~D~~]E. the address and physical location where documents which are required to be retained by Rule R307-8 shall be kept; and

F. in the case of a CAR or blender CAR, the compliance option chosen under provisions of Section R307-8-5 and a list of oxygenates which will be used.

3. If the registration information previously supplied by a registered party under the provisions of Subsections R307-8-7.A through E becomes incomplete or inaccurate, that party shall submit updated registration information to the executive secretary within [~~30~~]15 working days as defined in Section R307-8-1. If the information required under Subsection R307-8-7.F is to change, the updated registration information must be submitted to the executive secretary before the change is made.

4. No person shall participate in the oxygenated gasoline program as a CAR, [~~B~~]blender CAR, carrier, reseller, or distributor until such person has been notified by the executive secretary that such person has been registered as a CAR[~~ or B~~], blender CAR, carrier, reseller, or distributor. Registration shall be valid for the time period specified by the executive secretary. The executive secretary shall issue each CAR, [~~B~~]blender CAR, carrier, reseller, or distributor a unique identification number within [~~30 working days~~]one calendar month[~~ as defined in R307-8-1,~~] of the petition for registration.

R307-8-8. Recordkeeping and Reporting.

1. Records. All parties in the gasoline distribution network, as described below, shall maintain records containing compliance information enumerated or described below. These records shall be retained by the regulated parties for a period of two years after the end of each control period for which the information is required.

A. Refiners. Refiners shall, for each separate quantity of gasoline produced or imported for use in a control area during a control period, maintain records containing the following information:

(1) results of the tests utilized to determine the types of oxygenates and percent by volume;

(2) percent oxygenate content by volume of each oxygenate;

(3) oxygen content by weight percent;

(4) purity of each oxygenate;

(5) total volume of gasoline; and

([~~5~~]6) the name and address of the party to whom each separate quantity of oxygenated gasoline was sold or transferred.

B. Control area terminal operators. Persons who own, lease, operate or control gasoline terminals which serve control areas, or any truck- or terminal-lessee who subleases any portion of a leased tank or terminal to other persons, shall maintain a copy of the transfer document for each batch or truckload of gasoline received, purchased, sold or dispensed, and shall maintain records containing the following information:

(1) the owner of each batch of gasoline handled by each regulated installation if known, or the storage customer of record;

(2) volume of each batch or truckload of gasoline going into or out of the terminal;

(3) for all batches or truckloads of gasoline leaving the terminal, the RWOC of the batch or truckload;

(4) for each oxygenate, the type of oxygenate, purity if available, and percent[~~age~~] oxygenate by volume[~~ if available~~];

(5) oxygen content by weight percent of all batches or truckloads received at the terminal;

(6) destination, as defined in Section R307-8-1, of each tank truck sale or batch of gasoline as declared by the purchaser of the gasoline;

(7) the name and address of the party to whom the gasoline was sold or transferred and the date of the sale or transfer, and

(8) the results of the tests for oxygenates, if performed, of each sale or transfer, and who performed the tests.

C. CARs and [~~B~~]blender CARs. Each CAR[~~ and Blender CAR~~] must maintain records containing the information listed in Subsection R307-8-8.1.B[~~,~~]. Each CAR and blender CAR must maintain a copy of the transfer document for each shipment of gasoline received, purchased, sold or dispensed, as well as the records containing[~~ plus~~] the following information:

(1) CAR or [~~B~~]blender CAR identification number;

(2) the name and address of the person from whom each shipment of gasoline was received, and the date when it was received;

(3) data on each shipment of gasoline received, including:

(a) the volume of each shipment;

(b) type of oxygenate or oxygenates, and percentage by volume; and

(c) oxygen content by weight percent;

(4) the volume of each receipt of bulk oxygenates;

(5) the name and address of the parties from whom bulk oxygenate was received;

(6) the date and destination, as defined in Section R307-8-1, of each sale of gasoline;

(7) data on each shipment of gasoline sold or dispensed including:

(a) the volume of each shipment;

(b) type of each oxygenate, and percent[~~age~~] by volume for each oxygenate, and

(c) oxygen content by weight percent;

(8) documentation of the results of all tests done regarding the oxygen content of gasoline;

(9) the names, addresses and CAR or [~~B~~]blender CAR identification numbers of the parties to whom any gasoline was sold or dispensed, and the dates of these transactions; and

(10) in the case of CARs or [~~B~~]blender CARs that elect to comply with the average oxygen content standard specified in Section R307-8-3[~~;~~] by means of the compliance option specified in Subsection R307-8-5.2[~~;~~] must also maintain records containing the following information:

(a) records supporting and demonstrating compliance with the averaging standard specified in Section R307-8-3; and

(b) for any credits bought, sold, traded, or transferred, the dates of the transactions, the names, addresses and CAR or [~~B~~]blender CAR identification numbers of the CARs and [~~B~~]blender CARs involved in the individual transactions, and the amount of credits[~~ (oxygen content by weight percent and volume of gasoline)~~] transferred. Any credits transferred must be accompanied by a demonstration of how those credits were calculated. Adequate documentation that both parties have agreed to all credit transfers within 30 working days, as defined in Section R307-8-1, following the close of the averaging period must be included[~~;~~].

D. Retailers and wholesale purchaser-consumers within a control area must maintain the following records:

(1) the names, addresses and CAR[~~ or B~~], blender CAR, carrier, distributor, or reseller identification numbers of the parties from whom all shipments of gasoline were purchased or received, and the dates when they were received and for each shipment of gasoline bought, sold or transported:

(a) the transfer document as specified in Subsection R307-8-8.3 and

(b) a copy of each contract for delivery of oxygenated gasoline and

(2) data on every shipment of gasoline bought, sold or transported, including:

(a) volume of each shipment;

(b) for each oxygenate, the type[~~ of oxygenate~~], percent [~~oxygenate~~]by volume and purity (if available);

(c) oxygen content by weight percent; and

(d) destination, as defined in Section R307-8-1, of each sale or shipment of gasoline; and

(3) the name and telephone number of the person responsible for maintaining the records and the address where the records are located, if the location of the records is different from the station or outlet location.

E. Carriers, distributors, resellers, terminal operators, and oxygenate blenders must keep a copy of the transfer document for each truckload or shipment of gasoline received, obtained, purchased, sold or dispensed.

2. Reports.

A. Each CAR [~~and~~]or [~~B~~]blender CAR that elects to comply with the average oxygen content standard specified in Section R307-8-3 by the compliance option specified in Subsection R307-8-5.2 shall submit a report to the executive secretary for each control period for each control area as defined in Section R307-8-1 reflecting the compliance information detailed in Subsection R307-8-5.2.

B. Each CAR [~~and~~]or [~~B~~]blender CAR that elects to comply with the average oxygen content standard specified in Section R307-8-3 shall submit a report to the executive secretary for each control period for each control area as defined in Section R307-8-1 reflecting the compliance information detailed in Subsection R307-8-5.3, including the volume of oxygenated gasoline sold or dispensed into each control area during the control period.

C. The report is due 30 working days, as defined in Section R307-8-1, after the last day of the control period for which the information is required. The report shall be filed using forms provided by the executive secretary.

3. Transfer documents. Each time that physical custody or title of gasoline destined for a control area changes hands other than when gasoline is sold or dispensed for use in motor vehicles at a retail outlet or wholesale purchaser-consumer installation, the transferor shall provide to the transferee, in addition to, or as part of, normal bills of lading, invoices, etc., a document containing information regarding that shipment. This document shall accompany every shipment of gasoline to a control area after it has been dispensed by a terminal, or the information shall be included in the normal paperwork which accompanies every shipment of gasoline. The information shall legibly and conspicuously contain the following information:

A. the date of the transfer;

B. the name, address, and CAR, [~~B~~]blender CAR, carrier, distributor, or reseller identification number, if applicable, of the transferor;

C. the name, address, and CAR, [~~B~~]blender CAR, carrier, distributor, or reseller identification number, if applicable, of the transferee;

D. the volume of gasoline which is being transferred;

E. identification of the gasoline as [~~non-~~]oxygenated or[~~-~~], if non-oxygenated, with a statement labeling it as "Non-oxygenated gasoline, not for sale to ultimate consumer in a control area during a control period";

F. the location of the gasoline at the time of the transfer;

G. type of each oxygenate and percentage [~~oxygenate~~]by volume for each oxygenate;

H. oxygen content by weight percent; and

I. for gasoline which is in the gasoline distribution network between the refinery or import installation and the [~~covered~~]control area terminal, for each oxygenate used, the type of oxygenate, its purity[~~;~~] and percentage by volume and the oxygen content by weight percent.

R307-8-9. Prohibited Activities.

1. During the control period, no refiner, oxygenate blender, CAR, blender CAR, control area terminal operator, carrier, distributor or reseller may manufacturer, sell, offer for sale, dispense, supply, offer for supply, store, transport, or cause the transport of:

A. gasoline which contains less than 2.0% oxygen by weight, or 2.6% oxygen by weight [~~if triggered as specified in R307-8-3.1.C,~~]if the average oxygen content standard is 3.1% oxygen[~~ by weight~~], for use during the control period, in a control area unless clearly marked documents accompany the gasoline labeling it as "Non-oxygenated gasoline, not for sale to ultimate consumer in a control area during a control period"; or

B. gasoline represented as oxygenated which has an oxygen content which is improperly stated in the documents which accompany such gasoline.

2. No retailer or wholesale purchaser-consumer may dispense, offer for sale, sell or store, for use during the control period,

gasoline which contains less than 2.0% oxygen by weight, or 2.6% [~~if triggered as specified in R307-8-3.1.C,~~]oxygen by weight if the average oxygen content standard is 3.1% [~~oxygen by weight~~] in a control area.

3. No person may operate as a CAR or [~~B~~]blender CAR or hold themselves out as such unless they have been properly registered by the executive secretary. No CAR or [~~B~~]blender CAR may offer for sale or store, sell, or dispense gasoline, to any person not registered as a CAR[~~;~~] or [~~B~~]blender CAR for use in a control area, unless:

A. the average oxygen content of the gasoline during the averaging period meets the standard established in Section R307-8-3; and

B. the gasoline contains at least 2.0% oxygen by weight, or 2.6% oxygen by weight [~~if triggered as specified in R307-8-3.1.C,~~]if the average oxygen content standard is 3.1% [~~oxygen by weight~~]on a per-gallon basis.

4. For terminals which sell or dispense gasoline intended for use in a control area during a control period, the terminal owner or operator may not accept gasoline into the terminal unless:

A. transfer documentation containing the information specified in Subsection R307-8-8.3 accompanies the gasoline and

B. the terminal owner or operator conducts a quality assurance program to verify the accuracy of this information.

5. No person may sell or dispense non-oxygenated gasoline for use in any control area during the control period, unless:

A. the non-oxygenated gasoline is segregated from oxygenated gasoline;

B. clearly marked documents accompany the non-oxygenated gasoline [~~marking~~]labeling it as "non-oxygenated gasoline, not for sale to ultimate consumer in a control area during a control period."[~~;~~] and

C. the non-oxygenated gasoline is in fact not sold or dispensed to ultimate consumers[~~;~~] during the control period[~~;~~] in the control area.

6. No named person may fail to comply with the recordkeeping and reporting requirements contained in Section R307-8-8.

7. No person may sell, dispense or transfer oxygenated gasoline, except for use by the ultimate consumer at a retail outlet or wholesale purchaser-consumer installation, without transfer documents which accurately contain the information required by Subsection R307-8-8.3.

8. Liability for violations of the prohibited activities.

A. Where the gasoline contained in any storage tank at any installation owned, leased, operated, controlled or supervised by any retailer, wholesale purchaser-consumer, distributor, reseller, carrier, refiner, or oxygenate blender is found in violation of the prohibitions described in Subsection R307-8-9.1.A or Subsection R307-8-9.2, the following persons shall be in violation:

(1) the retailer, wholesale purchaser-consumer, distributor, reseller, carrier, refiner, or oxygenate blender who owns, leases, operates, controls or supervises the installation where the violation is found; and

(2) each oxygenate blender, distributor, reseller, and carrier who, downstream of the control area terminal, sold, offered for sale, dispensed, supplied, offered for supply, stored, transported, or caused the transportation of any gasoline which is in the storage tank containing gasoline found to be in violation.

B. Where the gasoline contained in any storage tank at any installation owned, leased, operated, controlled or supervised by any retailer, wholesale purchaser-consumer, distributor, reseller, carrier, refiner, or oxygenate blender is found in violation of the prohibitions described in Subsection R307-8-9.1.B or Subsection R307-8-9.2, the following persons shall be in violation:

(1) the retailer, wholesale purchaser-consumer, distributor, reseller, carrier, refiner, or oxygenate blender who owns, leases, operates, controls or supervises the installation where the violation is found; and

(2) each refiner, oxygenate blender, distributor, reseller, and carrier who manufactured, imported, sold, offered for sale, dispensed, supplied, offered for supply, stored, transported, or caused the transportation of any gasoline which is in the storage tank containing gasoline found to be in violation.

9. Defenses for prohibited activities.

A. In any case in which a refiner, oxygenate blender, distributor, reseller or carrier would be in violation under Subsection R307-8-9.1, that person shall not be in violation if they can demonstrate that they meet all of the following:

(1) that the violation was not caused by the regulated party or its employee or agent;

(2) that refiner, oxygenate blender, distributor, reseller or carrier possesses documents which should accompany the gasoline, which contain the information required by Section R307-8-8; and

(3) that refiner, oxygenate blender, distributor, reseller or carrier conducts a quality assurance sampling and testing program as described in Subsection R307-8-9.10.

B. In any case in which a retailer or wholesale purchaser-consumer would be in violation under Subsection R307-8-9.2, the retailer or wholesale purchaser-consumer shall not be in violation if it can demonstrate that they meet all of the following:

(1) that the violation was not caused by the regulated party or its employee or agent; and

(2) that the retailer or wholesale purchaser-consumer possess documents which should accompany the gasoline, which contain the information required by Section R307-8-8.

C. Where a violation is found at an installation which is operating under the corporate, trade or brand name of a refiner, that refiner must show, in addition to the defense elements required by Subsection R307-8-9.9.A, that the violation was caused by any of the following:

(1) an act in violation of law (other than the Clean Air Act or Rule R307-8), or an act of sabotage or vandalism, or

(2) the action of a reseller, distributor, oxygenate blender, carrier, or a retailer, or wholesale purchaser-consumer which is supplied by any of the persons listed in Subsection R307-8-9.9.A, in violation of a contractual undertaking imposed by the refiner designed to prevent such action, and despite periodic sampling and testing by the refiner to ensure compliance with such contractual obligation; or

(3) the action of any carrier or other distributor not subject to a contract with the refiner but engaged by the refiner for transportation of gasoline, despite specification or inspection of procedures and equipment by the refiner or periodic sampling and testing which are reasonably calculated to prevent such action.

D. In Section R307-8-9, the term "was caused" means that the party must demonstrate by specific showings or by direct evidence, that the violation was caused or must have been caused by another.

10. Quality Assurance Program. In order to demonstrate an acceptable quality assurance program, a party must conduct periodic sampling and testing to determine if the oxygenated gasoline has oxygen content which is consistent with the product transfer documentation.

R307-8-10. Reserved.

R307-8-11. Labeling of Pumps.

1. Any person selling or dispensing oxygenated gasoline pursuant to Rule R307-8 is required to label the fuel dispensing system with one of the following notices.

A. "The gasoline dispensed from this pump is oxygenated and will reduce carbon monoxide pollution from motor vehicles. This fuel contains up to (specify maximum percent by volume) (specific oxygenate or specific combination of oxygenates in concentrations of at least one percent)."

B. "The gasoline dispensed from this pump is oxygenated and will reduce carbon monoxide pollution from motor vehicles. This fuel contains up to (specify maximum percent by volume) (specific oxygenate or combination of oxygenates present in concentrations of at least one percent) from November 1 through February 29."

2. The label letters shall be [~~in~~]block letters of no less than 20-point type, at least 1/16 inch stroke (width of type), and of a color that contrasts with the label background color. The label letters that specify maximum percent oxygenate by volume and that disclose the specific oxygenate shall be at least 1/2 inch in height, 1/16 inch stroke (width of type).

3. The label must be affixed to the upper one-half of the vertical surface of the pump on each side with gallonage and dollar amount meters from which gasoline can be dispensed and must be clearly readable to the public.

4. The retailer or wholesale purchaser-consumer shall be responsible for compliance with Section R307-8-11.

R307-8-12. Inspections.

Inspections of registered parties, control area retailers, refineries, control area terminals, oxygenate blenders and control area wholesale purchaser-consumers may include the following:

1. physical sampling, testing, and calculation of oxygen content of the gasoline as specified in Section R307-8-4;

2. review of documentation relating to the oxygenated gasoline program, including but not limited to records specified in Section R307-8-8; and

3. in the case of control area retailers and wholesale purchaser-consumers, verification that gasoline dispensing pumps are labeled in accordance with Section R307-8-11.

. . . . . .

KEY: air pollution control, motor vehicles, gasoline, petroleum
[~~October 10, 1996~~]1998 19-2-101
Notice of Continuation June 9, 1997 19-2-104

Environmental Quality, Air Quality
R307-10-2
Part 63 Sources

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 20737
FILED: 02/04/98, 15:37
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: Incorporate by reference 40 CFR 63, Subpart B.

SUMMARY: As required under 40 CFR 63, Subpart B, if the Environmental Protection Agency (EPA) fails to issue a Maximum Achievable Control Technology (MACT) standard within 18 months after its target date, the state would have to make a case-by-case determination of the MACT and put appropriate limitations into the source's Operating Permit. So far, EPA has not missed any of its deadlines for this program. In addition, the state would be required to develop a MACT if a facility proposes: 1) to construct a major new source of hazardous air pollutants, or 2) to construct or reconstruct a major hazardous air pollutant process or production unit at an existing facility if the new or reconstructed source is not already covered by an existing MACT standard. As part of gaining approval of the state's Operating Permit program, the state committed to incorporate 40 CFR 63, Subpart B.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Section 19-2-104
FEDERAL MANDATE FOR THIS FILING: 42 U.S.C. 7412(g) and (j) and 40 CFR 63, Subpart B

THIS FILING INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 40 CFR 63, Subpart B

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: Will be covered by Operating Permit fees.
❖LOCAL GOVERNMENTS: None.
❖OTHER PERSONS: No different from federal implementation of the program.
COMPLIANCE COSTS FOR AFFECTED PERSONS: No different from federal implementation of the program.

THE FULL TEXT OF THIS FILING MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Environmental Quality
Air Quality
150 North 1950 West
Box 144820
Salt Lake City, UT 84114-4820, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:
Jan Miller at the above address, by phone at (801) 536-4042, by FAX at (801) 536-4099, or by Internet E-mail at jmiller@deq.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 03/31/98.

THIS FILING MAY BECOME EFFECTIVE ON: 04/02/98

AUTHORIZED BY: Ursula K. Trueman, Director

R307. Environmental Quality, Air Quality.
R307-10. National Emission Standards for Hazardous Air Pollutants.
R307-10-2. Part 63 Sources.

The provisions listed below of 40 CFR Part 63, National Emission Standards for Hazardous Air Pollutants for Source Categories, effective as of January 1, [~~1997~~]1998, are incorporated into these rules by reference. References in 40 CFR Part 63 to "the Administrator" shall refer to the Executive Secretary, unless by federal law the authority is specific to the Administrator and cannot be delegated.

(a) 40 CFR Part 63, Subpart A, General Provisions.

(b) 40 CFR Part 63, Subpart B, Requirements for Control Technology Determinations for Major Sources in Accordance with 42 U.S.C. 7412(g) and (j).

[~~(b)~~](c) 40 CFR Part 63, Subpart F, National Emission Standards for Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry.

[~~(c)~~](d) 40 CFR Part 63, Subpart G, National Emission Standards for Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry for Process Vents, Storage Vessels, Transfer Operations, and Wastewater.

[~~(d)~~](e) 40 CFR Part 63, Subpart H, National Emission Standards for Organic Hazardous Air Pollutants for Equipment Leaks.

[~~(e)~~](f) 40 CFR Part 63, Subpart I, National Emission Standards for Organic Hazardous Air Pollutants for Certain Processes Subject to the Negotiated Regulation for Equipment Leaks.

[~~(f)~~](g) 40 CFR Part 63, Subpart L, National Emission Standards for Coke Oven Batteries.

[~~(g)~~](h) 40 CFR Part 63, Subpart M, National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities.

[~~(h)~~](i) 40 CFR Part 63, Subpart N, National Emission Standards for Chromium Emissions From Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks.

[~~(i)~~](j) 40 CFR Part 63, Subpart O, National Emission Standards for Hazardous Air Pollutants for Ethylene Oxide Commercial Sterilization and Fumigation Operations.

[~~(j)~~](k) 40 CFR Part 63, Subpart Q, National Emission Standards for Hazardous Air Pollutants for Industrial Process Cooling Towers.

[~~(k)~~](l) 40 CFR Part 63, Subpart R, National Emission Standards for Gasoline Distribution Facilities (Bulk Gasoline Terminals and Pipeline Breakout Stations).

[~~(l)~~](m) 40 CFR Part 63, Subpart T, National Emission Standards for Halogenated Solvent Cleaning.

[~~(m)~~](n) 40 CFR Part 63, Subpart CC, National Emission Standards for Hazardous Air Pollutants from Petroleum Refineries.

[~~(n)~~](o) 40 CFR Part 63, Subpart DD, National Emission Standards for Hazardous Air Pollutants from Off-Site Waste and Recovery Operations.

[~~(o)~~](p) 40 CFR Part 63, Subpart EE, National Emission Standards for Magnetic Tape Manufacturing Operations.

[~~(p)~~](q) 40 CFR Part 63, Subpart GG, National Emission Standards for Aerospace Manufacturing and Rework Facilities.

[~~(q)~~](r) 40 CFR Part 63, Subpart JJ, National Emission Standards for Wood Furniture Manufacturing Operations.

[~~(r)~~](s) 40 CFR Part 63, Subpart KK, National Emission Standards for the Printing and Publishing Industry.

[~~(s)~~](t) 40 CFR Part 63, Subpart OO, National Emission Standards for Tanks - Level 1.

[~~(t)~~](u) 40 CFR Part 63, Subpart PP, National Emission Standards for Containers.

[~~(u)~~](v) 40 CFR Part 63, Subpart QQ, National Emission Standards for Surface Impoundments.

[~~(v)~~](w) 40 CFR Part 63, Subpart RR, National Emission Standards for Individual Drain Systems.

[~~(w)~~](x) 40 CFR Part 63, Subpart VV, National Emission Standards for Oil-Water Separators and Organic-Water Separators.

KEY: air pollution, hazardous air pollutants*, MACTs*
199[~~7~~]8 **19-2-104**

Health, Health Care Financing, Coverage and Reimbursement Policy

R414-13X

Section V of All Medicaid Provider Manuals: "Provider Compliance"

NOTICE OF PROPOSED RULE
(Repeal)
DAR FILE NO.: 20763
FILED: 02/09/98, 14:00
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: The information contained in this rule appears in the Medicaid Provider Manual and in Rule R414-1, making the rule redundant.

SUMMARY: This rule is repealed in its entirety.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Section 26-1-5

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: None.
❖LOCAL GOVERNMENTS: None.
❖OTHER PERSONS: None.
COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

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

Health
Health Care Financing,
Coverage and Reimbursement Policy
Cannon Health Building
288 North 1460 West
Box 142906
Salt Lake City, UT 84114-2906, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:
Robert Stewart at the above address, by phone at (801) 538-6404, by FAX at (801) 538-6099, or by Internet E-mail at rstewart@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 03/31/98.

THIS FILING MAY BECOME EFFECTIVE ON: 04/01/98

AUTHORIZED BY: Rod L. Betit, Executive Director

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

[~~**R414-13x. Section V of all Medicaid Provider Manuals: "Provider Compliance".**~~

~~**R414-13x-1.**~~

~~Section V of each Medicaid Provider Manual (by category of provider) will contain provider compliance requirements. This section pertains to requirements which must be met in order for a provider to participate in the Medicaid program.~~

~~1. GENERAL INFORMATION~~

~~After a Provider has been enrolled as a Medicaid Provider (by completing the Medicaid Provider application and signing the provider agreement) the Medicaid Provider's manual is issued. This section pertains to the requirements for participation in the Medicaid program.~~

~~a. Administrative Review/Fair Hearing~~

~~A Provider may request an agency conference or formal hearing if dissatisfied with any decision made by the Division of Health Care Financing. A formal hearing before the Department of Health may be requested within 30 days of the date of the agency action.~~

~~The request for the agency conference and/or formal hearing must be in writing and forwarded to:~~

~~Utah State Department of Health~~
~~Division of Health Care Financing~~
~~P.O. Box 16580~~
~~Salt Lake City, Utah 84116-0580~~

~~The agency will not be required to grant a hearing if the sole issue is a Federal or State law requiring an automatic change.~~

~~b. Title XIX~~

~~While enrolled as a Title XIX Provider, the Provider must comply with the provisions of Title XIX of the Social Security Act and all applicable State and Federal regulations and standards listed in this section.~~

~~c. Title VI~~

~~Civil Rights Act of 1964 (42 USC 2000e). The Provider must comply with this act, which prohibits discrimination against any employee or applicant for employment on the basis of race, religion, color, or national origin; and further, requires compliance with Executive Order No. 11246, which prohibits discrimination on the basis of sex. The Provider must also abide by the requirements of Section 504 of the Rehabilitation Act of 1963, which prohibits discrimination on the basis of a handicap.~~

~~d. Recovery of Payments for Non-Covered Services~~

~~When a service is determined:~~

~~- not to be a benefit of the Medicaid Program, or~~

~~- not in compliance with State or Federal policies and regulations,~~

~~a refund of the overpayment must be made to Medicaid within 30 days of written notification.~~

~~An appeal of this determination may be initiated by a written request to:~~

~~Director, Facility Review (for Long Term Care Services)~~
~~or Bureau of Managed Health Care (for all other services).~~
~~Division of Health Care Financing~~
~~P. O. Box 16580~~
~~Salt Lake City, UT 84116-0580~~

~~Appeals must be filed within 30 days of written notification.~~

~~e. Discrimination~~

~~When providing medical assistance under programs administered by the Utah State Department of Health, you must agree to provide services in accordance with Title VI of the Civil Rights Act (as well as other federal provisions) which prohibit discrimination based upon race, age, color, sex, creed, handicap, or national origin.~~

~~NOTE: Restrictions to individual patient care, based upon the limits placed upon provider practice by specialty, and because of medically related determinations made within the scope of practice, do not constitute violation of the Civil Rights Act provisions. (Reference 03/16/82 letter from John A. Isham, Associate Regional Administrator, Region VIII Health Care Financing Administration).~~

~~f. Freedom of Choice~~

~~A Federal requirement in the Title XIX (Medicaid) program requires eligible recipients to have freedom of choice in selection of a physician, pharmacy, hospital, and other medical Providers. However, there may be physicians, pharmacies, or other sources of medical treatment who are NOT Providers for the Medicaid program. In that case, clients must seek treatment from Medicaid Providers.~~

~~g. Billing For Medical Services~~

~~The Provider must provide and bill only for services that were medically indicated and necessary for the patient and were personally rendered by him/her or were rendered incident to his/her professional service by his/her employee under immediate personal supervision, except as otherwise expressly permitted by Medicaid~~

regulations (this does not apply to pharmacy, medical supplies, or medical transportation providers).

The Provider will bill for all such services rendered on the forms provided by the Division of Health Care Financing in accordance with policy developed and approved by the Division. The charge will not exceed the usual and customary rate billed to the general public (including individual patient accounts or third party payor accounts).

h. Billings to Patients Are Prohibited

Except as provided in the last paragraph of this section, no claim for payment will be made at any time by a provider to a Title XIX recipient accepted by that provider as a Medicaid patient for any Title XIX covered services. When a provider accepts a Medicaid recipient as a patient he/she must look solely to the Division of Health Care Financing for reimbursement.

Medicaid Providers must follow the policy and procedures concerning, but not limited to: Medical services covered; medical service limitations; medical services not covered; prior authorizations; claim submission; reimbursement; and provider compliance, as set forth in Medicaid provider manuals, "Medical Information Bulletins" and provider letters. If a Medicaid Provider does not follow the policy and procedures found in the printed material mentioned above, said providers cannot seek payment from clients for medical services rendered when not reimbursed by the Medicaid agency.

A client may in certain circumstances be billed by the provider for non-covered services such as more expensive eye glass frames, hearing aids, etc. However, the client must be advised prior to receiving a non-covered service, that it is not covered by Medicaid, and that the client will be personally responsible for making payment. The Division of Health Care Financing will reimburse the covered portion and the client may be billed for the portion not covered. However, there must be an agreement in writing between the provider and the client regarding the provider billing the client. Without that written agreement, the provider must not bill the client regardless of whether or not the provider chooses to bill the Division of Health Care Financing. The client's ID card cannot be "held" by the provider as guarantee of payment by the client.

2. RECORD KEEPING AND DISCLOSURE

a. Every Provider is required:

To maintain, for a minimum of five years, all records necessary to document and disclose fully the extent of all services provided to Medicaid recipients and billed, charged, or reported to the State under Utah's Title XIX program;

To promptly disclose or furnish, upon request, all information regarding any payment claimed for providing Medicaid services and any other information or records necessary to ascertain, disclose, or substantiate all actual income received or expenses incurred in providing such health care services or services of the same nature or during the same period as services provided in Title XIX to recipients, as the State and its designees, the Fraud Control Unit, or the Secretary of the United States Department of Health and Human Services may request. In addition, the disclosure requirements specified in 42 CFR, Part 455, Subpart B must be complied with where applicable (except for individual practitioners or groups of practitioners). A copy of these requirements will be furnished upon request; and

To allow for reasonable inspection and audit of financial or patient records for non-Title XIX recipients to the extent necessary to verify usual and customary expenses and charges.

The State will furnish reimbursement to the provider upon request for the cost of making copies of records in compliance with Subsection B, at a rate not to exceed 10 cents per copy when there are 20 or more pages to be copied.

In accordance with UTAH ARCHIVES AND RECORDS INFORMATION PRACTICES ACT Sec. 63-2-61 et seq., UCA (1953), any information gained from recipient records will be classified as confidential and will be protected pursuant to the guidelines established by law in order to protect the privacy rights of the recipients.

Request for access to or inspection of documents and records must be promptly and reasonably complied with, and free access to a provider's records and facility at reasonable times and places must be granted to the agents of the State. Providers must not obstruct any audit or investigation including the relevant questioning of employees of provider.

Where services, for which the Medicaid program provided reimbursement cannot be verified by adequate records as having been furnished, or where a provider unreasonably refuses to provide or grant access to records as described above, any payments received by the provider for such undocumented services will be promptly refunded to the State, or the State may elect to deduct an equal amount from future reimbursements.

Repeated refusal to provide or grant access to the records as described above will result in the termination of the existing Medicaid provider agreement.

b. Disclosure of Information

Title XIX is part of the Federal Social Security Act. Records and information acquired in the administration of any part of the Social Security Act are confidential and may be disclosed only under the conditions prescribed in rules and regulations of the Department of Health and Human Services, or on the express authorization of the Secretary of the Department of Health and Human Services. A Provider may disclose records or information acquired under the Medicaid program only when the record or information is to be used in connection with a claim, or for utilization of Medicaid benefits. This disclosure may be necessary for the proper performance of the duties of an officer or employee of: (1) The Division of Health Care Financing, or (2) Any public or private agency organization authorized under an agreement with the Utah State Department of Health, to meet the requirements of the Medicaid program or for conducting a duly authorized legal proceeding. Any request for records disclosure by the recipient must be cleared by the Medicaid Information Unit of the Division of Health Care Financing (DHCF).

3. PROVIDER AGREEMENT

a. Every individual practitioner must personally execute a Provider agreement as the contractor (provider) with respect to his furnishing any medical services. This agreement provides in part that an individual practitioner may be held personally accountable for all medical services billed under his/her provider number.

The following provisions shall be a part of every Provider Agreement, whether or not they are included verbatim or specifically incorporated by reference:

The provider agrees to comply with all laws, rules, and regulations governing the Medical Assistance Program.

The provider agrees that the submittal of any claim by or on behalf of the Provider shall constitute a certification (whether or not such certification is reproduced on the claim form) that:

1) the medical services for which payment is claimed were furnished in accordance with the requirements in this Section of the manual;

2) the medical services for which payment is claimed were actually furnished to the person identified as the recipient at the time and in the manner stated;

3) the payment claimed does not exceed the provider's usual and customary charges (or the maximum amount negotiated under applicable regulations of the Division of Health Care Financing); and

4) the information submitted in, with, or in support of the claim is true, accurate, and complete. The Division of Health Care Financing may terminate any provider from further participation in the Title XIX program if the provider shall fail or cease to satisfy all applicable criteria for eligibility as a Medicaid Provider as explained in provider manuals.

b. Ineligibility of Provider

The Department may refuse to grant provider privileges to anyone who has been convicted of a criminal offense relating to that person's involvement in any program established under Title XVIII, XIX, or XX of the Social Security Act, or of a crime of such nature that, in the judgment of the Department, the participation of such Provider would compromise the integrity of the Medical Assistance Program.

4. QUALITY ASSURANCE

In order for the state to meet Title XIX requirements, certain procedures are required. The State is responsible to monitor all programs with respect to medical need, extent and appropriateness of care, and program effectiveness. These procedures include, but are not limited to:

(a) Audit Procedures

(b) On-Site Reviews

(c) Quality Assurance

(d) Utilization Review

5. MEDICAL STANDARDS

a. A Provider must furnish or prescribe medical services to the recipient only when, and to the extent that, it is medically necessary. A service is "medically necessary" if it is (1) reasonably calculated to prevent, diagnose, or cure conditions in the recipient that endanger life, cause suffering or pain, cause physical deformity or malfunction, or threaten to cause a handicap, and (2) there is no other equally effective course of treatment available or suitable for the recipient requesting the service which is more conservative or substantially less costly. Medical services shall be of a quality that meets professionally recognized standards of health care, and shall be substantiated by records including evidence of such medical necessity and quality. Those records shall be made available to the Department upon request.

b. Determination of Compliance with Medical Standards

A provider's failure to comply with medical standards may be determined by peer review. Initial determinations as to whether or not a provider has failed to comply with medical standards, will be made by Division of Health Care Financing employees or consultants. If the determination has been made by the Division of Health Care Financing that noncompliance exists, the Division of Health Care Financing will notify the provider of the failure to comply in writing pursuant to the notice provisions of the Division of Health Care Financing ADMINISTRATIVE HEARING PROCEDURES Section 2.

Either the Division of Health Care Financing or the provider may request to have formal peer review of the Department's determination.

A written request by either the Division of Health Care Financing or provider for formal review must be made within 30 days following the date of the original notice to the provider of the Division of Health Care Financing determination that noncompliance had occurred. The written request from the provider must be submitted by him/her to:

Division of Health Care Financing

Bureau of Program Review

ATTN: PEER REVIEW

P. O. Box 16580

Salt Lake City, Utah 84116-0580

This written request will be submitted to the appropriate Professional Society requesting that their Peer Review Committee conduct a formal peer review of the Division of Health Care Financing determination.

The informal hearing requirements of Sec. 26-23-2-(1) UCA, (1953) are satisfied by the professional peer review process.

If either the Division of Health Care Financing or the provider is dissatisfied with the results of the formal peer review they may request a formal hearing before the Department of Health pursuant to Sec. 23-32-2, UCA (1953) by complying with the formal hearing procedures set forth in the Division of Health Care Financing ADMINISTRATIVE HEARING PROCEDURES.

In situations of violations of compliance of professionally recognized medical standards, identified by peer review, the Division of Health Care Financing may pursue any legal sanction for recovery of overpayments.

Should Federal Financial Participation (the amount the federal government contributes to provider reimbursement) be disallowed on reimbursements made to the provider, the provider will reimburse to the State the total amount that the State paid for the services disallowed (including Federal audit, quality assurance review, or prior authorization requirements) only if the provider was at fault.

KEY: medicaid

1987 26-1-5

Notice of Continuation 1992]

Health, Health Care Financing, Coverage and Reimbursement Policy

R414-28

Record Keeping and Disclosure for Medicaid Providers

NOTICE OF PROPOSED RULE

(Repeal)
DAR FILE NO.: 20765
FILED: 02/09/98, 14:00
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: The information contained in this rule appears in the Medicaid Provider Manual, making the rule redundant.

SUMMARY: This rule is repealed in its entirety.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Section 26-1-5

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: None.
❖LOCAL GOVERNMENTS: None.
❖OTHER PERSONS: None.
COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

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

Health
Health Care Financing,
Coverage and Reimbursement Policy
Cannon Health Building
288 North 1460 West
Box 142906
Salt Lake City, UT 84114-2906, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:
Urla Jeane Maxfield at the above address, by phone at (801) 538-9144, by FAX at (801) 538-6099, or by Internet E-mail at umaxfiel@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 03/31/98.

THIS FILING MAY BECOME EFFECTIVE ON: 04/01/98

AUTHORIZED BY: Rod L. Betit, Executive Director

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

[~~**R414-28. Record Keeping and Disclosure for Medicaid Providers.**~~

~~**R414-28-1.**~~

~~1. As a condition of participation in the Medicaid program and receipt of Medicaid funds every provider is required:~~

~~(a) To maintain for a minimum of five years all records necessary to document and disclose fully the extent of all services provided to Medicaid recipients and billed, charged, or reported to the State under Utah's Title XIX program;~~

~~(b) To promptly disclose or furnish upon request all information regarding any payment claimed for providing Medicaid services and any other information or records necessary to ascertain, disclose, or substantiate all actual income received or expenses incurred in providing such health care services or services of the same nature or during the same period as services provided in Title XIX to recipients, as the State and its designees, the fraud control unit, or the Secretary of the United States Department of Health and Human Services may request;~~

~~(c) To allow for reasonable inspection and audit of financial or patient medical records for non-Title XIX recipients to the extent necessary to verify usual and customary expenses and charges.~~

~~2. In accordance with Archives and Records and Information Practices Act, 63-2-61 (13) et seq., U.C.A. (1953), any information gained from patient records (which are confidential) will be classified as Confidential and will be protected pursuant to the guidelines established by law in order to protect the privacy rights of the patients.~~

~~3. Request for access to or inspection of documents and records must be promptly and reasonably complied with, and access to a provider's records and facility at reasonable times and places must be granted to the agents of the State. Providers must not obstruct any audit or investigation, including the relevant questioning of employees of provider.~~

~~4. Where services, for which the Medicaid program provided reimbursement, cannot be verified by adequate records as having been furnished, or where a provider unreasonably refuses to provide or grant access to records as described above, any payments received by the provider for such undocumented services will be promptly refunded to the State, or the State may elect to deduct an equal amount from future reimbursements.~~

~~5. Repeated willful or unreasonable refusal to provide or grant access to the records as described above will result in the termination of the existing Medicaid provider agreement or other legal action.~~

~~**KEY: medicaid**~~
~~**1987** **26-1-5**~~
~~**Notice of Continuation 1992**~~**]**

Health, Health Data Analysis
R428-13
Health Data Authority. Audit and Reporting of HMO Performance Measures

NOTICE OF PROPOSED RULE
(New)
DAR FILE NO.: 20731
FILED: 02/03/98, 16:41
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: The Health Data Committee expands its data collection to Health Maintenance Organizations (HMOs) for performance measurement, beginning with enrollee satisfaction surveys in 1996 (completed) and 1997 (to begin in June) . The Health Plan Employer Data and Information Set (HEDIS) audit will serve as the pilot project to guide the ongoing collection and reporting of HEDIS measures. This rule will guide the ongoing data reporting requirements including data suppliers, selected measures, submittal schedule and exemptions, extensions, and waivers.

SUMMARY: Defines "Health Maintenance Organization (HMO)," "performance measures," "Health Plan Employer Data and Information Set (HEDIS) data," "data audit," "data submittal schedule," and "exemptions," and notifies HMOs and health plans of office's intent to collect data.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Title 26, Chapter 33a

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: The Department of Health will incur costs within existing appropriations related to monitoring compliance to reporting and data quality standards, processing, analyzing, validating and disseminating data.
❖LOCAL GOVERNMENTS: None.
❖OTHER PERSONS: HMOs and health plans will incur costs to generate measures and documentation of their information systems, to contract with the National Committee for Quality Assurance's (NCQA's) certified auditors, and to allocate personnel resources to accommodate requests for information by the auditor. The contract with auditors will cost approximately $25,000 per HMO. The cost of personnel resources and compiling HEDIS data depends on HMO's information system and structure and will vary by provider, as such an accurate measurement of the costs is not possible.
COMPLIANCE COSTS FOR AFFECTED PERSONS: Costs to HMOs and health plans would be incurred to generate measures and documentation of their information systems, to contract with NCQA's certified auditors, and to allocate personnel resources to accommodate requests for information by the auditor.

THE FULL TEXT OF THIS FILING MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Health
Health Data Analysis
Cannon Health Building
288 North 1460 West
Box 144004
Salt Lake City, UT 84114-4004, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:
Denise Love at the above address, by phone at (801) 538-6689, by FAX at (801) 538-9916, or by Internet E-mail at dlove@doh.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 03/31/98.

THIS FILING MAY BECOME EFFECTIVE ON: 04/01/98

AUTHORIZED BY: Rod Betit, Executive Director

R428. Health, Health Data Analysis.
R428-13. Health Data Authority. Audit and Reporting of HMO Performance Measures.
R428-13-1. Legal Authority.

This rule is promulgated under authority granted by Title 26, Chapter 33a, Utah Code, and in accordance with the Utah Health Care Performance Measurement Plan.

R428-13-2. Purpose.

This rule establishes a performance measurement data collection and reporting system for health maintenance organizations (HMOs) licensed in the State of Utah and certain health plans.

R428-13-3. Definitions.

These definitions apply to rule R428-13:

(1) "Office" as defined in R428-2-3A.

(2) "Health Maintenance Organization (HMO)" means any person or entity operating in Utah which is licensed under Title 31A, Chapter 8, Utah Code.

(3) "Health plan" means any insurer under a contract with the Utah Department of Health to serve Medicaid clients under Title XIX and Title XXI of the Social Security Act.

(4) "Utah Health Care Performance Measurement Plan" means the plan for data collection and public reporting of health-related measures, adopted by the Utah Health Data Committee to establish a statewide health performance reporting system.

(5) "NCQA" means the National Committee for Quality Assurance, a not-for-profit organization committed to evaluating and reporting on the quality of managed care plans.

(6) "Performance Measure" means the quantitative, numerical measure of an aspect of the HMO or health plan, or its membership in part or in its entirety, or qualitative, descriptive information on the HMO in its entirety as described in HEDIS.

(7) "HEDIS" means the Health Plan Employer Data and Information Set, a set of standardized performance measures developed by the NCQA.

(8) "HEDIS data" means the complete set of HEDIS measures calculated by HMOs and health plans according to NCQA specifications.

(9) "Audited HEDIS data" means HEDIS data verified by an NCQA certified audit agency.

(10) "Committee" means Utah Health Data Committee established under the Utah Health Data Authority Act, Title 26, Chapter 33a, Utah Code.

(11) "Covered period" means the calendar year on which the data used for calculation of HEDIS measures are based.

(12) "Submission year" means the year immediately following the covered period.

R428-13-4. Submission of performance measures.

(1) Each HMO and health plan shall compile and submit HEDIS data to the Office according to this rule.

(2) By August 1 of 1998 and every August 1 thereafter, all HMOs and health plans shall submit to the Office audited HEDIS data for the preceeding calendar year.

(3) Each HMO and health plan shall contract with an independent audit agency certified by the NCQA to verify the HEDIS data prior to the HMO's or health plan's submitting it to the Office.

(4) By June 1 of each submission year, each HMO and health plan shall submit to the Office a letter identifying the independent audit agency it contracts with to verify its HEDIS data.

(5) The auditor shall follow the guidelines and procedures contained in NCQA's "HEDIS Compliance Audit Standards and Guidelines" in effect on November 15 of the covered period.

(6) Each HMO and health plan shall cause its contracted audit agency to submit a copy of the audit agency's report by August 1 of the submission year to the Office.

(7) Each HMO and health plan shall cause its contracted audit agency to submit a copy of the audit agency's final report by October 15 of the submission year to the Office. The final report shall incorporate the HMO's or health plan's comments.

R428-13-5. Release of Performance Measures.

(1) The Health Data Committee shall follow NCQA's "HEDIS Compliance Audit Standards and Guidelines" to determine the HEDIS Data Set that the Office may include in reports for public release for public use.

(2) The Office shall give HMOs and health plans 35 days to review any report which identifies it by name. The identified HMO or health plan may submit comments and alternative interpretations to the Office.

R428-13-6. Exemptions.

(1) An HMO or health plan that cannot meet the reporting requirements of this rule may request an exemption by June 1 of each submission year by submitting to the Office a written request for an exemption, accompanied by all documentation necessary to establish the HMO's or health plan's inability to report. The exemption request shall be signed by the chief executive officer of the HMO or health plan who shall certify that all information contained in the request is true and correct. An HMO or health plan may request an exemption if the HMO or health plan did not operate in Utah for the reporting year, if the number of covered lives is too low for HEDIS standards, or for other similarly prohibitive circumstances beyond the HMO's or health plan's control.

(2) The Office may request additional information from the HMO and health plan relevant to the exemption or extension request. If the committee denies the exemption, the HMO or health plan may resubmit the request to the Office if it has additional information or analysis bearing on the request.

R428-13-7. Penalties.

Any person who violates any provision of this rule may be assessed a penalty not to exceed the sum of $5,000 or be punished for violation of a class B misdemeanor for the first violation, and for any subsequent similar violation within two years for violation of a class A misdemeanor.

KEY: health, health planning, health policy
1998 26-33a

◆ ◆

Public Safety, Highway Patrol
R714-500
Chemical Analysis Standards and Training

NOTICE OF PROPOSED RULE
(Repeal and Reenact)
DAR FILE NO.: 20775
FILED: 02/17/98, 09:45
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: When Rule R714-500 was last revised, it allowed for the phasing out and eventual removal of the Intoxilyzer 4011 series from the Commissioner's approved list. This repeal and reenact: (a) removes any mention of the Intoxilyzer 4011 series; (b) aligns training requirements with current law enabling Intoxilyzer 5000 operators who are not category 1 peace officers to be certified; (c) allows for additional methods to check certification of the Intoxilyzer 5000; and (d) clarifies terms.

SUMMARY: The differences between the rule being repealed (the old rule) and the new rule are as follows: The old rule required technicians to use a simulator solution with a known alcohol concentration and to analyze the headspace to perform monthly certification checks. The new rule, at Subsection R714-500-4(B)(3), allows technicians to use compressed inert gas and alcohol mixture in a pressurized cylinder to perform monthly certification checks. The old rule made several references to the Intoxilyzer 4011 series instruments. The new rule removes any reference to the Intoxilyzer 4011 series since that instrument was deleted from the Commissioner's approved instrument list in July 1996. The old rule required several hours of training to be

certified as an intoxilyzer operator. Through enabling legislation that allows operators who are not peace officers to be certified, the new rule, at Subsection R714-500-6(C)(1), allows for the training to be adapted to the operator who will be certified and allows the training to fit the job requirements of the operator, thereby accommodating operators who are port of entry personnel, corrections officers, etc. The old rule provided for the recertification of operators only through an eight hour recertification class. The new rule, at Subsection R714-500-6(D), allows operator recertification to be accomplished using a computer compact disc interactive program. The new rule also clarifies terms used in the rule.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Subsection 41-6-44.3(1)

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: The change in the certification process to allow for the use of a pressurized gas and alcohol cylinder to certify the Intoxilyzer 5000 may involve the following costs: a simulator cost of $460, and pressurized tank costs of $300 each for nine technicians. The Intoxilyzer 4011 series instrument costs approximately $4000, while the Intoxilyzer 5000 series instrument costs approximately $5,600. All Intoxilyzer 4011 series instruments have already been removed and are no longer being used. When new instruments are purchased, the Intoxilyzer 5000 is the instrument being purchased. A cost savings will occur in connection with the basic intoxilyzer class as a result of the reduction in required training hours (from three days to one day) for technicians and program supervisor. Additional cost savings will occur by using the computer compact disc program for recertification training. The initial cost of having the intoxilyzer recertification program written and developed is approximately $2,000.
❖LOCAL GOVERNMENTS: A cost savings will occur with the basic intoxilyzer class as a result of the reduction in required training hours (from three days to one day) and with recertification training by using the computer compact disc program.
❖OTHER PERSONS: None.
COMPLIANCE COSTS FOR AFFECTED PERSONS: The use of a computer with compact disc capability will result in a cost savings to local police agencies in connection with recertification training. In order to realize those cost savings, local police agencies may choose to purchase such a computer. On the other hand, because the department will continue to offer recertification classes as a means of recertifying operators, the purchase of such a computer is not mandatory.

THE FULL TEXT OF THIS FILING MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Public Safety
Highway Patrol
First Floor, Calvin L. Rampton Building
4501 South 2700 West
Box 141775
Salt Lake City, UT 84114-1775, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:
J. Francis Valerga at the above address, by phone at (801) 965-4062, by FAX at (801) 965-4608, or by Internet E-mail at psdomain.psmain.jfvalerg@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 03/31/98.

THIS FILING MAY BECOME EFFECTIVE ON: 04/01/98

AUTHORIZED BY: J. Francis Valerga, Special Counsel

R714. Public Safety, Highway Patrol.
R714-500. Chemical Analysis Standards and Training.
[~~**R714-500-1. Short Title.**~~
~~A. The short title of this rule shall be "Rule for Chemical Analysis Standards and Training."~~

~~**R714-500-2. Department Activity.**~~
~~A. The Commissioner of the Department of Public Safety and his representatives, hereinafter "Department" are authorized by Section 41-6-44.3 UCA to establish standards for the administration and interpretation of chemical analysis of a person's breath, including standards of training.~~

~~**R714-500-3. Purpose of Rule.**~~
~~A. It is the purpose of this rule to set forth:~~
~~(1) Procedures whereby the Department may certify:~~
~~(a) Breath alcohol testing instruments;~~
~~(b) Breath alcohol testing programs;~~
~~(c) Breath alcohol testing operators;~~
~~(d) Breath alcohol testing technicians; and~~
~~(e) Breath alcohol testing program supervisors.~~
~~(2) Adjudicative procedure concerning:~~
~~(a) Application for and denial, suspension or revocation of the aforementioned certifications;~~
~~(b) Appeal of initial department action concerning the aforementioned certifications; and~~
~~(c) Declaratory orders.~~

~~**R714-500-4. Application for Certification.**~~
~~A. Application for any certification herein shall be made on forms provided by the Department in accordance with Section 63-46b-3 UCA.~~

~~**R714-500-5. Instrument Certification.**~~
~~A. All breath alcohol testing instruments, hereinafter "instrument", to be used for evidentiary purposes must be certified by brand and/or model by the Department.~~
~~(1) The Department will establish and maintain a list of certified instruments by brand and/or model for use in the state. The list is incorporated into R714-500 by this reference.~~
~~(2) If application is made for certification of an instrument by brand and/or model not on the approved list, the Department shall examine and evaluate the instrument to determine if it meets the criteria for certification.~~

B. In order to be certified each brand and/or model of breath testing instrument must meet the following criteria.

(1) Breath alcohol analysis shall be accomplished through the principle of infra-red energy absorption, or any other accepted scientific principle.

(2) Breath specimen collected for analysis shall be essentially alveolar and/or end expiratory in composition according to the analysis method utilized.

(3) The instrument shall analyze a reference sample, such as headspace gas from a mixture of water and a known weight or volume of ethanol held at a constant temperature, the result of which must agree with the reference sample predicted value within plus or minus .005 or 5% whichever is greater or such limits as set by the Department.

(4) The specificity of the procedure shall be adequate and appropriate for the reasonable analysis of breath specimen for the determination of alcohol concentration in law enforcement. The instrument functions to be checked shall include, but not necessarily be limited to the following:

1. Intoxilyzer 4011 series.

(a) electrical power.

(b) operating temperature.

(c) internal purge.

(d) zero set.

(e) printer deactivation.

(f) fixed absorption calibration (if so equipped).

(g) known reference samples.

(h) reads in grams of alcohol per 210 liters of breath.

2. Intoxilyzer 5000 series.

(a) electrical power.

(b) operating temperature.

(c) internal purge.

(d) internal calibration.

(e) diagnostic.

(f) invalid test.

(g) known reference samples.

(h) reads in grams of alcohol per 210 liters of breath.

(5) Any other tests deemed necessary by the Department to correctly and adequately evaluate the instrument, to give reasonably correct results in routine breath alcohol testing and be practical and reliable for law enforcement purposes.

C. Upon proof of compliance with Paragraph B of this section an instrument may be certified by brand and/or model and placed on the list of certified instruments.

(1) Inclusion on the Department's list of certified instruments will verify that the instrument by brand and/or model meets the criteria listed in Paragraph B of this section.

(2) The Department may suspend or revoke the certification of a brand and/or model of instrument and remove it from the list of certified instruments for cause.

D. The Breath Alcohol Testing Program Supervisor shall determine if the individual instrument by serial number is the same brand and/or model that is shown on states in Paragraph B of this section.

E. After certification if it is determined by the Department that a specific instrument is unreliable and/or unserviceable, it will be removed from service and, certification may be withdrawn.

F. It is the intent of this rule that only certified breath alcohol testing technicians when required, shall provide expert testimony concerning the certification and all other aspects of the breath alcohol testing instruments under his/her supervision.

R714-500-6. Program Certification.

A. All breath alcohol testing techniques, methods, and programs, hereinafter "program", must be certified by the Department.

B. Prior to initiating a program, an agency or laboratory shall submit an application to the Department for certification. The application shall show the brand and/or model of the instrument to be used and contain a resume' of the Program to be followed. An on-site inspection shall be made by the Department to determine compliance with all applicable provisions in this rule.

C. Certification of a program may be denied, suspended, or revoked by the Department if, based on information obtained by the Department, Breath Alcohol Testing Program Supervisor or Breath Alcohol Testing Technician, the agency or laboratory fails to meet the criteria as outlined by the Department.

D. All programs, in order to be certified, shall meet but not be limited to the following criteria:

(1) The results of tests to determine the concentration of alcohol on a person's breath shall be expressed as equivalent grams of alcohol per two hundred and ten (210) liters of breath. The results of such tests shall be entered in a permanent record book for Department use.

(2) Written checklists, outlining the method of properly performing breath tests shall be available at each location where tests are given. Test record cards used in conjunction with breath testing shall be available at each location where tests are given. Both the checklist and test record card, after completion of a test should be retained by the operator.

(3) The instruments shall be certified on a routine basis, not to exceed forty (40) days, by a certified breath alcohol testing technician depending on location of instruments and area of responsibility.

(4) Calibration tests to certify the instruments shall be performed by a certified breath alcohol testing technician using Programs as outlined in this rule, or those recommended by the manufacturer of the instruments.

1. Intoxilyzer 4011 series.

(a) electrical power.

(b) operating temperature.

(c) internal purge.

(d) zero set.

(e) printer deactivation.

(f) fixed absorption calibration (if so equipped).

(g) known reference samples.

(h) reads in grams of alcohol per 210 liters of breath.

2. Intoxilyzer 5000 series.

(a) electrical power.

(b) operating temperature.

(c) internal purge.

(d) internal calibration.

(e) diagnostic.

(f) invalid test.

(g) known reference samples.

(h) reads in grams of alcohol per 210 liters of breath.

(5) Results of tests for calibration shall be kept in a permanent record book retained by the Certified Breath Testing Alcohol

Technician. A report of each calibration test shall be recorded on the approved form and sent to the Breath Alcohol Testing Program Supervisor.

(6) All analytical results shall be expressed in terminology established by state statute and reported to two decimal places for a 4011 series intoxilyzer, and to three decimal places for a 5000 series intoxilyzer. (For example, a result of 0.237g/210L shall be reported as 0.23 on a 4011 series intoxilyzer, or 0.237g/210L shall be reported as 0.237 on a 5000 series intoxilyzer, or as stated by the Department.

(7) The instrument must be operated by either a certified operator or technician.

R714-500-7. Operator Certification.

A. All breath alcohol testing operators, hereinafter "operators", must be certified by the Department.

B. All training for initial and renewal certification will be conducted by certified Breath Alcohol Testing Program Supervisor and/or certified Breath Alcohol Testing Technician.

C. Initial Certification

(1) In order to apply for certification as an operator of a breath alcohol testing instrument, an applicant must successfully complete a course of instruction approved by the Department, which must include as a minimum the following:

a. One hour of instruction on alcohol and traffic safety.

b. Three hours of instruction on the effects of alcohol in the human body.

c. Three hours of instruction on the operational principles of breath testing.

d. Two hours of instruction on the Uniform Alcohol Influence Report Form.

e. Two hours of instruction on testifying in court.

f. Four hours of instruction on the legal aspects of chemical testing, driving under the influence, case law and other alcohol related laws.

g. Four hours of instruction on detection of the drinking driver.

h. Four hours of laboratory participation (performing simulated tests on the instruments and testing actual subjects.)

i. One hour for examination and critique of course.

(2) After successful completion of the initial certification course a certificate will be issued with an expiration date affixed.

D. Renewal Certification

(1) The Operator is required to renew certification prior to its expiration date. The minimum requirement for renewal of operator certification will be:

a. Two hours of instruction on the effects of alcohol in the human body.

b. Two hours of instruction on the operational principles of breath testing.

c. One hour of instruction on the Alcohol Influence Report Form and testimony of arresting officer.

d. Two hours of instruction on the legal aspects of chemical testing and detecting the drinking driver.

e. One hour for examination and critique of course.

(2) Any operator who allows his/her certification to expire one year or longer must retake and successfully complete the initial certification course as outlined in R714-500-7, Paragraph C.

R714-500-8. Technician Certification.

A. All breath alcohol testing technicians, hereinafter "technicians", must be certified by the Department.

B. The minimum qualification for certification as a technician are:

(1) Satisfactory completion of the operator's initial certification course and/or renewal certification course.

(2) Satisfactory completion of the Breath Alcohol testing Supervisor's course offered by Indiana University, or an equivalent course of instruction, as approved by the Breath Alcohol Testing Program Supervisor.

(3) Satisfactory completion of a breath alcohol testing instruments manufacturer's maintenance/repair technicians course for the instruments in use in the State of Utah or is qualified by nature of his/her employment or training to maintain and/or repair the instruments in use in the State of Utah.

(4) Maintain technician's status through a minimum of eight (8) hours training each calendar year. This training must be directly related to the breath alcohol testing program, and must be approved by the Breath Testing Program Supervisor.

(5) Any technician who fails to meet the requirements of R714-500-8 Paragraph B, Sub Paragraph (4) must renew his/her certification by meeting the minimum requirements as outlined in R714-500-8, Paragraph B Sub-paragraph (1), (2) and (3).

R714-500-9. Supervisor Certification.

A. The Breath Alcohol Testing Program Supervisor, hereinafter "supervisor", will be required to meet the minimum certification standards set forth in Section R714-500-8. Certification should be within one (1) year after initial appointment or other time as stated by the Department.

R714-500-10. Previously Certified Personnel.

A. This rule shall not be construed as invalidating the certification of personnel previously certified as operators under programs existing prior to the promulgation of this rule. Such personnel shall be deemed certified, provided they meet the training requirements as outlined in R714-500-7 Paragraph D.

B. This rule shall not be construed as invalidating the certification of personnel previously certified as technician under programs existing prior to the promulgation of this revised rule. Such personnel shall be deemed certified, providing they meet the training requirements as outlined in R714-500-8 Paragraph B Sub-paragraph (4).

R714-500-11. Revocation or Suspension of Certification.

A. The Department may, on the recommendation of a Supervisor, revoke or suspend the certification of any operator or technician:

(1) Who fails to comply with or meet any of the criteria required in this rule.

(2) Who has falsely or deceitfully obtained certification.

(3) For other good cause.

R714-500-12. Adjudicative Proceedings.

A. Purpose of section. It is the purpose of this section to set forth adjudicative proceedings in compliance with chapter 63-46b UCA.

~~B. Designation. All adjudicative proceedings performed by the department shall proceed informally as set forth herein and as authorized by sections 63-46b-4 and 63-46b-5 UCA.~~

~~C. Denial, suspension or revocation. A party who is denied certification or whose certification is suspended or revoked, will be told by the department the reasons for denial, suspension, or revocation.~~

~~D. Appeal of denial, suspension, or revocation. A party who is denied certification or whose certification is suspended or revoked may appeal to an individual designated by the department on a form provided by the department in accordance with section 63-46b-3 UCA. The appeal must be filed within ten days after receiving notice of the department action.~~

~~E. No hearing will be granted to the party. The individual selected by the department will merely review the appeal and issue a written decision to the party within ten days after receiving the appeal.~~

~~**KEY: traffic regulations**~~
~~**1990 41-6-44**~~
~~**Notice of Continuation December 1, 1995 63-46b**~~]

R714-500-1. Purpose.

A. It is the purpose of this rule to set forth:

(1) Procedures whereby the Department may certify:

(a) Breath alcohol testing instruments;

(b) Breath alcohol testing programs;

(c) Breath alcohol testing operators;

(d) Breath alcohol testing technicians; and

(e) Breath alcohol testing program supervisors.

(2) Adjudicative procedure concerning:

(a) Application for and denial, suspension or revocation of the aforementioned certifications; and

(b) Appeal of initial Department action concerning the aforementioned certifications.

R714-500-2. Authority.

A. This rule is authorized by Subsection 41-6-44.3(1) which requires the commissioner of the Department of Public Safety, hereinafter "Department", to establish standards for the administration and interpretation of chemical analysis of a person's breath, including standards of training.

R714-500-3. Application for Certification.

A. Application for any certification herein shall be made on forms provided by the Department in accordance with Section 63-46b-3.

R714-500-4. Instrument Certification.

A. All breath alcohol testing instruments to be used for evidentiary purposes must be certified by brand and/or model by the Department.

(1) The Department will establish and maintain a list of certified instruments by brand and/or model for use in the state. The list is incorporated into this rule by this reference.

(2) If application is made for certification of an instrument by brand and/or model not on the approved list, the Department shall examine and evaluate the instrument to determine if it meets the criteria for certification.

B. In order to be certified each brand and/or model of breath testing instrument must meet the following criteria.

(1) Breath alcohol analysis shall be accomplished through the principle of infra-red energy absorption, or any other accepted scientific principle.

(2) Breath specimen collected for analysis shall be essentially alveolar and/or end expiratory in composition according to the analysis method utilized.

(3) The instrument shall analyze a reference sample, such as headspace gas from a mixture of water and a known weight or volume of ethanol, held at a constant temperature, or a compressed inert gas and alcohol mixture in a pressurized cylinder, such as, but not limited to NALCO, the result of which must agree with the reference sample predicted value within plus or minus .005 or 5% whichever is greater or such limits as set by the Department.

(4) The specificity of the procedure shall be adequate and appropriate for the reasonable analysis of breath specimen for the determination of alcohol concentration in law enforcement. The instrument functions to be checked shall include, but not necessarily be limited to the following:

(a) electrical power.

(b) operating temperature.

(c) internal purge.

(d) internal calibration.

(e) diagnostic.

(f) invalid test.

(g) known reference samples.

(h) reads in grams of alcohol per 210 liters of breath.

(5) Any other tests deemed necessary by the Department to correctly and adequately evaluate the instrument, to give reasonably correct results in routine breath alcohol testing and be practical and reliable for law enforcement purposes.

C. Upon proof of compliance with paragraph B of this section an instrument may be certified by brand and/or model and placed on the list of certified instruments. The Department's certified instrument to be used for evidentiary purposes is the Intoxilizer 5000 manufactured by C.M.I. Inc., said intoxilizer being referred to hereinafter as "Intoxilyzer 5000".

(1) Inclusion on the Department's list of certified instruments will verify that the instrument by brand and/or model meets the criteria listed in paragraph B of this section.

(2) The Department may suspend or revoke the certification of a brand and/or model of instrument and remove it from the list of certified instruments for cause.

D. The breath alcohol testing program supervisor, hereinafter "program supervisor", shall determine if the individual instrument, by serial number, is the same brand and/or model that is shown on the commissioner's approved list and meets the criteria for certification as stated in paragraph B of this section.

E. After certification if it is determined by the Department that a specific instrument is unreliable and/or unserviceable, it will be removed from service and certification may be withdrawn.

F. It is the intent of this rule that, when required, only certified breath alcohol testing technicians, hereinafter "technicians", shall provide expert testimony concerning the certification and all other aspects of the Intoxilyzer 5000 under his/her supervision.

R714-500-5. Program Certification.

A. All breath alcohol testing techniques, methods, and programs, hereinafter "program", must be certified by the Department.

B. Prior to initiating a program, an agency or laboratory shall submit an application to the Department for certification. The application shall show the brand and/or model of the instrument to be used and contain a resume of the program to be followed. An on-site inspection shall be made by the Department to determine compliance with all applicable provisions in this rule.

C. Certification of a program may be denied, suspended, or revoked by the Department if the agency or laboratory fails to meet the criteria as outlined by the Department.

D. All programs, in order to be certified, shall meet but not be limited to the following criteria:

(1) The results of tests to determine the concentration of alcohol on a person's breath shall be expressed as equivalent grams of alcohol per two hundred and ten (210) liters of breath. The results of such tests shall be entered in a permanent record book for Department use.

(2) Printed checklists, outlining the method of properly performing breath tests shall be available at each location where tests are given. Test record cards used in conjunction with breath testing shall be available at each location where tests are given. Both the checklist and test record card, after completion of a test should be retained by the operator.

(3) The instruments shall be certified on a routine basis, not to exceed forty (40) days, by a technician depending on location of instruments and area of responsibility.

(4) Certification tests to certify the Intoxilyzer 5000 shall be performed by a technician using programs as outlined in this rule, or those recommended by the manufacturer of the Intoxilyzer 5000:

(a) electrical power.

(b) operating temperature.

(c) internal purge.

(d) internal calibration.

(e) diagnostic.

(f) invalid test.

(g) known reference samples.

(h) reads in grams of alcohol per 210 liters of breath.

(5) Results of tests for certification shall be kept in a permanent record book retained by the technician. A report of the certification procedure shall be recorded on the approved form (affidavit) and sent to the program supervisor.

(6) All analytical results on a subject test shall be expressed in terminology established by state statute and reported to three decimal places for an Intoxilyzer 5000. For example, a result of 0.237g/210L shall be reported as 0.237 on an Intoxilyzer 5000, or as stated by the Department.

(7) The instrument must be operated by either a certified operator or technician.

R714-500-6. Operator Certification.

A. All breath alcohol testing operators, hereinafter "operators", must be certified by the Department.

B. All training for initial and renewal certification will be conducted by a program supervisor and/or technician.

C. Initial Certification

(1) In order to apply for certification as an operator of an Intoxilyzer 5000, an applicant must successfully complete a course of instruction approved by the Department, which must include as a minimum the following:

a. One hour of instruction on the effects of alcohol in the human body.

b. Two hours of instruction on the operational principles of breath testing.

c. One hour of instruction on the D.U.I. Summons and Citation/D.U.I. Report Form.

d.One and one half hours of instruction on the legal aspects of chemical testing, driving under the influence, case law and other alcohol related laws.

e. One and one half hours of laboratory participation performing simulated tests on the instruments, including demonstrations under the supervision of a class instructor.

f. One hour for examination and critique of course.

(2) After successful completion of the initial certification course a certificate will be issued that will be valid for two years.

D. Renewal Certification

(1) The operator is required to renew certification prior to its expiration date. The minimum requirement for renewal of operator certification will be:

a. Two hours of instruction on the effects of alcohol in the human body.

b. Two hours of instruction on the operational principles of breath testing.

c. One hour of instruction on the D.U.I. Summons and Citation/D.U.I. Report Form and testimony of arresting officer.

d. Two hours of instruction on the legal aspects of chemical testing and detecting the drinking driver.

e. One hour for examination and critique of course.

f. Or the operator must successfully complete the Compact Disc Computer program including successful completion of exam. Results of exams must be forwarded to program supervisor and a certification certificate will be issued.

(2) Any operator who allows his/her certification to expire one year or longer must retake and successfully complete the initial certification course as outlined in paragraph C of this section.

R714-500-7. Technician Certification.

A. All technicians, must be certified by the Department.

B. The minimum qualifications for certification as a technician are:

(1) Satisfactory completion of the operator's initial certification course and/or renewal certification course.

(2) Satisfactory completion of the Breath Alcohol Testing Supervisor's course offered by Indiana University, or an equivalent course of instruction, as approved by the program supervisor.

(3) Satisfactory completion of the manufacturer's maintenance/repair technician course for the Intoxilyzer 5000.

(4) Maintain technician's status through a minimum of eight (8) hours training each calendar year. This training must be directly related to the breath alcohol testing program, and must be approved by the program supervisor.

(5) Any technician who fails to meet the requirements of paragraph B, sub-paragraph (4) of this section and allows his/her certification to expire for more than one year, must renew his/her

certification by meeting the minimum requirements as outlined in paragraph B, sub-paragraphs (1), (2), and (3) of this section.

R714-500-8. Program Supervisor Certification.

A. The program supervisor will be required to meet the minimum certification standards set forth in section 7 of this rule. Certification should be within one (1) year after initial appointment or other time as stated by the Department.

R714-500-9. Previously Certified Personnel.

A. This rule shall not be construed as invalidating the certification of personnel previously certified as operators under programs existing prior to the promulgation of this rule. Such personnel shall be deemed certified, provided they meet the training requirements as outlined in section 6, paragraph D of this rule.

B. This rule shall not be construed as invalidating the certification of personnel previously certified as a technician under programs existing prior to the promulgation of this rule. Such personnel shall be deemed certified, provided they meet the training requirements in section 7, paragraph B, sub-paragraph (4) of this rule.

R714-500-10. Revocation or Suspension of Certification.

A. The Department may, on the recommendation of the program supervisor, revoke or suspend the certification of any operator or technician:

(1) Who fails to comply with or meet any of the criteria required in this rule.

(2) Who falsely or deceitfully obtained certification.

(3) Who fails to show proficiency in proper operation of the Intoxilyzer 5000.

(4) For other good cause.

R714-500-11. Adjudicative Proceedings.

A. Purpose of section. It is the purpose of this section to set forth adjudicative proceedings in compliance with Title 63 Chapter 46b.

B. Designation. All adjudicative proceedings performed by the department shall proceed informally as set forth herein and as authorized by Sections 63-46b-4 and 63-46b-5.

C. Denial, suspension or revocation. A party who is denied certification or whose certification is suspended or revoked, will be told by the Department the reasons for denial, suspension, or revocation.

D. Appeal of denial, suspension, or revocation. A party who is denied certification or whose certification is suspended or revoked may appeal to an individual designated by the Department on a form provided by the Department in accordance with Section 63-46b-3. The appeal must be filed within ten days after receiving notice of the Department action.

E. No hearing will be granted to the party. The individual selected by the Department will merely review the appeal and issue a written decision to the party within ten days after receiving the appeal.

KEY: alcohol, intoxilyzer, breath testing, operator certification
1998 **41-6-44.3**
63-46b

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Transportation, Operations, Traffic and Safety

R920-5-6

On Premise School Bus Loading Zones

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 20730
FILED: 02/03/98, 15:13
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: This filing is in compliance with S.B. 56, 1997 Utah Legislature.
(**DAR Note:** S.B. 56 is found at 1997 Utah Laws 350, and was effective May 5, 1997.)

SUMMARY: This rule establishes standards for the placement and identification of on premise school bus loading zones. Each school district is required to establish safe school bus loading zones and identify them with signs and paint the adjacent curb.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Section 41-6-103.5

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: None.
❖LOCAL GOVERNMENTS: None.
❖OTHER PERSONS: Virtually all school districts will be affected with costs ranging up to $300 per school.
COMPLIANCE COSTS FOR AFFECTED PERSONS: School Districts are responsible to install and maintain signs and curb markings at each affected school. Cost may range from $300 or more per school if required to physically modify bus zone location. Only schools which bus students are affected.

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

Transportation
Operations, Traffic and Safety
Calvin Rampton Complex
4501 South 2700 West
Box 143200
Salt Lake City, UT 84114-3200, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:
E. Fred Lewis at the above address, by phone at (801) 965-4285, by FAX at (801) 965-3845, or by Internet E-mail at srcOfs02.sdavis@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 03/31/98.

THIS FILING MAY BECOME EFFECTIVE ON: 04/01/98

AUTHORIZED BY: Sterling C. Davis, Engineer for Traffic and Safety

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R920. Transportation, Operations, Traffic and Safety.
R920-5. Manual and Specifications on School Crossing Zones. Supplemental to Part VII of the Manual on Uniform Traffic Control Devices.
R920-5-6. On Premise School Bus Loading Zones.

A. Authority and Purpose.

(1) This rule is enacted as required by Section 41-6-103.5.

(2) The purpose of this rule is to define standards for the establishment of school bus loading zones located on school grounds.

B. Responsibility.

It shall be the responsibility of each School District, at schools where busing of students occurs, to place school-bus loading zones. These zones shall be identified with signs, and curb markings, and shown on the school zone routing plan.

C. Parameters.

(1) New school construction shall comply with the following parameters:

Unless it can be demonstrated that there are unusual conditions, existing schools shall also comply with the following parameters:

(a) Bus Loading Zones shall be separate from private vehicle drop off areas;

(b) Bus Loading Zones shall be located so that students are not required to cross roadways or parking lot areas to access the school building;

(c) The location of a bus loading zone shall not require a bus to be backed-up in reverse-gear;

(d) The bus loading zone shall have a width of at least 12 feet minimum.

(2) The school bus loading zone shall be identified by posting standard signs at the beginning and end of the zone and approximately every 50 feet within the zone.

(a) The signs shall conform with standard signs as are as shown in the "Manual and Specifications on School Crossing Zones", Appendix D, as published by the Utah Department of Transportation.

(b) Where bus loading zones are placed, the roadway's curb face and top shall be painted yellow-green to identify it as a bus loading zone area.

KEY: pedestrians, traffic control, traffic safety, traffic signs
[~~February 28, 1997~~]1998 41-6-20(2)

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Workforce Services, Employment Development

R986-301

Medicaid General Provisions

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 20769
FILED: 02/10/98, 15:15
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: The reason for the filing is to add to the list of medical programs administered by the Department of Health, the Qualified Medicare Beneficiaries, the Specified Low-Income Medicare Beneficiaries Program, and the Qualifying Individuals Program. It also adds the Qualifying Individuals Program to the list of definitions.

SUMMARY: This amendment adds the Qualified Medicare Beneficiaries, the Specified Low-Income Medicare Beneficiaries Program, and the Qualifying Individuals Program to the list of programs administered by the Department of Health. It also adds the Qualifying Individuals Program to the list of definitions.

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

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: None.
❖LOCAL GOVERNMENTS: None.
❖OTHER PERSONS: None.
COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

THE FULL TEXT OF THIS FILING MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Workforce Services
Employment Development
Fifth Floor
140 East 300 South
PO Box 45245
Salt Lake City, UT 84145-0249, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:
Shawn Potter at the above address, by phone at (801) 531-3783, by FAX at (801) 531-3785, or by Internet E-mail at spotter@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 03/31/98.

THIS FILING MAY BECOME EFFECTIVE ON: 04/01/98

AUTHORIZED BY: Robert C. Gross, Executive Director

R986. Workforce Services, Employment Development.
R986-301. Medicaid General Provisions.
R986-301-101. Authority.

1. The department requires compliance with Section 26-18-3.

2. The legal authority to administer the medical programs listed below has been transferred by the Department of Health to the Department of Workforce Services in accordance with Utah Code (U.C.) Subsection 26-18-3(3). The Department of Health is responsible for the administration of these programs.

3. Medical programs:

a. Aged Medicaid (AM);

b. Blind Medicaid (BM);

c. Disabled Medicaid (DM);

d. Family Medicaid (FM);

e. Child Medicaid (CM);

f. Title IV-E Foster Care Medicaid (FC);

g. Medicaid for Pregnant Women (PG);

h. Prenatal Medicaid (PN);

i. Newborn Medicaid (NB);

j. Transitional Medicaid (TR);

k. Refugee Medicaid (RM);

l. Utah Medical Assistance Program (UMAP)[~~.~~];

m. Qualified Medicare Beneficiary Program (QMB);

n. Specified Low-Income Medicare Beneficiary Program (SLMB);

o. Qualifying Individuals Programs (QI) of which there are two eligibility groups, Group 1 (QI-1) and Group 2 (QI-2).

R986-301-103. Definitions.

The following definitions apply:

1. "Applicant" means any person requesting assistance under any of the programs discussed.

2. "Assistance" means medical assistance under any of the programs discussed.

3. "Department" means the Department of Workforce Services.

4. "Director" or "designee" means the director or designee of the Division of Employment Development.

5. "Local" office means the local office of the Department of Workforce Services.

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

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

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

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

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

11. "QMB" means Qualified Medicare Beneficiary.

12. "SLMB" means Specified Low-Income Medicare Beneficiary.

13. "Reportable change" means any change in circumstances which could affect a client's eligibility for Medicaid.

a. Some examples of reportable changes include:

i. change in the source of income;

ii. change of more than $25 in gross income;

iii. changes in household size;

iv. changes in residence;

v. gain of a vehicle;

vi. change in resources;

vii. change of more than $25 in total allowable deductions;

viii. changes in marital status, deprivation, or living arrangements.

14. "Resident of a medical institution" means a single client who is a resident of a medical institution from the month after entry into a medical institution until the month prior to discharge from the institution. Death in a medical institution is not considered a discharge from the institution and does not change the client's status as a resident of the medical institution. Married clients are residents of an institution in the month of entry into the institution and in the month they leave the institution.

15. "Spenddown" means an amount of income in excess of the allowable income standard that must be paid in cash to the department or incurred through the medical services not paid by Medicaid.

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

17. "QI" means the Qualifying Individuals program.

KEY: client rights*, human services
[~~October 2, 1995~~]April 1, 1998 **26-18**

Workforce Services, Employment Development
R986-304
Income and Budgeting

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 20739
FILED: 02/04/98, 17:03
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: The Balanced Budget Act of 1997, Pub. L. No. 105-33, added a provision which excludes payments made pursuant to class settlement in the case of Susan Walker v. Bayer Corporation, et al., 96-C-5024 (N.D. Ill.), from being counted as income for Medicaid eligibility. These changes also: modify the counting of certain Veteran's Administration payments, change the earned income deduction for institutionalized individuals, exempts from income the reimbursement of a portion of Medicare premiums made to individuals eligible for the Qualifying Individuals-Group 2 coverage when made by the State Medicaid Agency, adds the income standard limits for the Qualifying Individuals coverage groups, modifies the language for the Specified Low-Income Medicare Beneficiary Program (SLMB) coverage group to clarify that the income must be less than 120 % of poverty, and makes a number of technical and nonsubstantive changes.

SUMMARY: This rule change exempts from income, payments pursuant to a class settlement made to individuals with hemophilia who became infected with HIV from the blood products they received from various drug companies. Veteran's Administration (VA) payments for Aid and Attendance, or for Unusual Medical Expenses will no longer be counted as income when made to an institutionalized person or a person eligible for home and community based waiver services. Also, Aid and Attendance payments made to a person eligible for Aged, Blind, or Disabled categories of Medicaid will not count as income. The earned income disregard for an institutionalized person under A, B, or D Medicaid will be increased to $125. Individuals who qualify for coverage as a Qualifying Individual-Group 2 will receive a reimbursement payment from the State Medicaid Agency for a portion of their Medicare premium. This reimbursement will not count as income.
(**DAR Note:** A corresponding 120-day (emergency) rule that is effective as of 02/12/98 is under DAR No. 20738 in this *Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Title 26, Chapter 18
FEDERAL MANDATE FOR THIS FILING: Pub. L. No. 105-33, Section 4735, 42 CFR 435.725(a), 435.726(c). 435.733(a), 435.735(c), and 435.832(a).

THIS FILING INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: Pub. L. No. 105-33, Section 4735

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: Cost to the state is difficult to estimate because the VA has reduced many of its payments to institutionalized individuals. In past years, though, the Department of Health has collected around $10,000 to $12,000 from Aid and Attendance payments made to institutionalized individuals. With an estimated cost of $10,000, Utah's share would be about $2,500.
❖LOCAL GOVERNMENTS: None.
❖OTHER PERSONS: Institutionalized persons receiving VA payments could retain additional income to pay for special medical needs. The dollar amount per person would vary.
COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

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

Workforce Services
Employment Development
Fifth Floor
140 East 300 South
PO Box 45245
Salt Lake City, UT 84145-0249, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:
Shawn Potter at the above address, by phone at (801) 531-3783, by FAX at (801) 531-3785, or by Internet E-mail at spotter@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 03/31/98.

THIS FILING MAY BECOME EFFECTIVE ON: 04/01/98

AUTHORIZED BY: Robert C. Gross, Exceutive Director

R986. Workforce Services, Employment Development.
R986-304. Income and Budgeting.
R986-304-401. A, B and D Medicaid and A, B and D Institutional Medicaid Unearned Income Provisions.

1. The department adopts 42 CFR 435.725 through 435.845, 1994 ed., and 20 CFR 416.1102, 416.1103, 416.1120 through 416.1148, 416.1151, and 416.1163 through 416.1166, 1994 ed., which are incorporated by reference. The department adopts Pub. L. No. 105-33(4735) which is incorporated by reference.

2. The following definitions apply:

a. An "in-kind support donor" means an individual who provides food or shelter without receiving full market value compensation in return.

b. "Presumed maximum value" means the allowed maximum amount an individual is charged for the receipt of food and shelter. This amount shall not exceed 1/3 of the SSI payment plus $20.

c. "Benefit month" means a month in which an individual is eligible for Medicaid.

3. Current department practices:

a. Only the portion of a VA check to which the client is legally entitled [~~to~~]is countable income. For A, B, and D Medicaid, QMB, [~~and~~]SLMB, and QI, VA payments which are based on need, and aid and attendance payments do not count as income. The portion of a VA payment which is made because of unusual medical expenses is countable income. For instiututional and waiver recipients VA payments for aid and attendance and unusual medical expenses do not count as income; other income based on need is countable income.

b. The value of special circumstance items is not countable income if the items are paid for by donors.

c. Death benefits are not countable income if the money is spent on the deceased person's burial or last illness.

d. For A, B and D Medicaid two-thirds of child support received per month is countable unearned income. It does not matter if the payments are voluntary or court-ordered. It does not matter if the child support is received in cash, in property, in payment of obligations or in-kind.

e. For A, B and D Institutional Medicaid all child support received shall be counted as unearned income. It does not matter if the payments are voluntary or court-ordered. It does not matter if the child support is received in cash, in property, in payment of obligations or in-kind.

f. The interest earned from a sales contract on either or both the lump sum and installment payments is countable unearned income when it is received or made available to the client.

g. If the client and spouse do not live with an in-kind support donor, in-kind support and maintenance is the value or the presumed maximum value, whichever is less, of food or shelter

received. If the client and spouse live with an in-kind support donor and do not pay a prorated share of household operating expenses, in-kind support and maintenance is the prorated share of household operating expenses, or the presumed maximum value, whichever is less.

h. SSA reimbursements of Medicare premiums are not countable income.

i. Reimabursemets of a portion of Medicare premiums made by the state Medicaid agency to an individual eligible for QI-Group 2 coverage are not countable income.

[~~i~~]j. Payments under a contract, retroactive payments from SSI and SSA reimbursements of Medicare premiums are not considered lump sum payments.

[~~j~~]k. Expenses relating to the fulfillment of a plan to achieve self-support are not allowed as deductions from earned income.

[~~k~~]l. Educational loans, grants, and scholarships guaranteed by the U.S. Department of Education are not countable income if the recipient is an undergraduate. Income from service learning programs is not countable income if the recipient is an undergraduate. Deductions are allowed from countable educational income if receipt of the income depends on school attendance and if the client pays the expense. Allowable deductions include:

i. tuition;

ii. fees;

iii. books;

iv. equipment;

v. special clothing needed for classes;

vi. travel to and from school at a rate of $0.21 a mile, unless the grant identifies a larger amount;

vii. child care necessary for school attendance.

4. The following provisions apply only to A, B and D Medicaid:

a. The income of a spouse is not considered in determining Medicaid eligibility of a person who receives SSI. SSI recipients who meet all other Medicaid eligibility factors are eligible for Medicaid without spending down.

b. If both spouses are eligible for A, B, or D Medicaid or QMB, SLMB, or QI assistance, the income of both spouses is combined to determine eligibility. After allowable deductions, the income is compared to the income level (BMS) for a household of two.

c. If any parent in the home receives SSI, the income of neither parent is considered to determine a child's eligibility for B or D Medicaid.

d. Payments for providing foster care to a child are countable income. The portion of the payment that represents a reimbursement for the expenses related to providing foster care is not countable income.

R986-304-402. Family Medicaid and Institutional Family Medicaid Unearned Income Provisions.

1. The department adopts 42 CFR 435.725 through 435.845, 1994 ed., and 45 CFR 233.20(a)(1), 233.20(a)(3)(iv), 233.20(a)(3)(v), 233.20(a)(3)(xii), 233.20 (4)(ii), 233.20(a)(6)(v)(B), and 233.51, 1992 ed., which are incorporated by reference. The department adopts Pub. L. No. 105-33 (4735) which is incorporated by reference.

2. The following definitions apply to this section:

a. A "a bona fide loan" is a loan which has been contracted in good faith without fraud or deceit and genuinely endorsed in writing for repayment.

b. "Unearned income" means cash received for which the individual performs no service.

c. "Quarter" means any three month period that includes January through March, April through June, July through September or October through December.

3. Current department practices:

a. Bona fide loans are not countable income.

b. Support and maintenance assistance is not countable income.

c. The value of food stamp assistance is not countable income.

d. SSI and State Supplemental Payments are income for children receiving Child Medicaid.

e. $30 is deducted from rental income if that income is consistent with community standards. Additional deductions are allowed if the client can prove greater expenses. The following expenses in excess of $30 may be allowed:

i. taxes and attorney fees needed to make the income available;

ii. upkeep and repair costs necessary to maintain the current value of the property. This includes utility costs.

iii. only the interest can be deducted on a loan or mortgage made for upkeep or repair;

iv. if meals are provided to a boarder, the value of a one-person food stamp allotment.

f. Cash gifts for special occasions that do not exceed $30 per quarter per person in the assistance unit are not countable income. A cash gift may be divided equally among all members of the assistance unit.

g. Deferred income is countable income when it is received by the client if receipt can be reasonably anticipated.

h. The value of special circumstance items is not countable income if the items are paid for by donors.

i. Home energy assistance is not countable income.

j. All money received from an insurance settlement for destroyed exempt property is counted unless the income is used to purchase replacement property. If income received exceeds the money needed to replace the property, the difference is countable income.

k. SSA reimbursements of Medicare premiums are not countable income.

l. Payments from trust funds are countable income if the payments are not available on demand.

m. AFDC, General Assistance, and Refugee Cash Assistance is not countable income.

n. Only the portion of a Veteran's Administration check to which the client is legally entitled to is countable income.

o. When the entitlement amount of a check differs from the payment amount, the entitlement amount is countable income unless the deduction is involuntary.

p. Deposits to joint checking or savings accounts are countable income, even if the deposits are made by a non-household member. Clients who dispute ownership of deposits to joint checking or savings accounts will be given an opportunity to prove that the deposits do not represent income to them. Funds that are successfully disputed are not countable income.

q. The income of an alien's sponsor is not countable income.

r. Educational loans, grants, and scholarships guaranteed by the U.S. Department of Education are not countable income if the recipient is an undergraduate. Income from service learning programs is not countable income if the recipient is an undergraduate. Deductions are allowed from countable educational income if receipt of the income depends on school attendance and the client pays the expense. Allowable deductions include:

i. tuition;

ii. fees;

iii. books;

iv. equipment;

v. special clothing needed for classes;

vi. travel to and from school, at a rate of $0.21 a mile, unless the grant identifies a larger amount;

vii. child care necessary for school attendance.

s. The interest earned from a sales contract on either or both the lump sum and installment payments is countable unearned income when it is received or made available to the client.

R986-304-403. A, B and D Medicaid and A, B and D Institutional Medicaid Earned Income Provisions.

1. The department adopts 42 CFR 435.725 through 435.845, 1994 ed., and 20 CFR 416.1110 through 416.1112, 1991 ed., which are incorporated by reference. The department adopts Subsection 1612(b)(4)(A) and (B) of the Compilation of the Social Security Laws, 1991 ed., U.S. Government Printing Office, Washington, D.C., which is incorporated by reference.

2. Current department practices:

a. The department shall allow SSI recipients, who have a plan for achieving self support approved by the Social Security Administration, to set aside income that allows them to purchase work-related equipment or meet self support goals. This income is excluded.

b. For A, B and D Medicaid, earned income used to compute a needs-based grant is not countable.

c. For A, B and D Institutional Medicaid, [~~$90~~]$125 shall be deducted from earned income before contribution towards cost of care is determined.

d. For A, B and D Institutional Medicaid impairment-related work expenses are allowed as an earned income deduction.

e. Capital gains are included in the gross income from self-employment. The cost of doing business is deducted from the gross income to determine the countable net income from self-employment. However, no deductions are allowed for the following business expenses:

i. transportation to and from work;

ii. payments on the principal for business resources;

iii. net losses from previous periods;

iv. taxes;

v. money set aside for retirement;

vi. work-related personal expenses;

vii. depreciation.

• • • • • • • • • • •

R986-304-405. A, B and D Medicaid and Family Medicaid Income Deductions.

1. The department adopts 42 CFR 435.831, 1994 ed., which is incorporated by reference.

2. Current department practices:

a. Health[~~ and accident~~] insurance premiums providing coverage for anyone in the family or the BMS are allowed as deductions in the month of payment. The entire payment is allowed as a deduction and is not prorated. Health[~~ and accident~~] insurance premiums are not allowed as a deduction for determining eligibility for the aged and disabled poverty level Medicaid group, QMB, SLMB, or QI coverage.

b. Medicare premiums are not allowed as deductions if the state will reimburse the client.

c. Medical expenses are allowed as deductions only if the expenses meet all of the following conditions:

i. The medical service was received by the client, client's spouse, parent of an unemancipated client or unemancipated sibling of an unemancipated client, a deceased spouse or a deceased dependent child.

ii. The medical bill will not be paid by Medicaid or a third party.

iii. The medical bill remains unpaid or was paid during the month of application or at anytime in the 3 months immediately preceding the month of application. The date the medical service was provided on an unpaid expense does not matter.

d. A medical expense is not allowed as a deduction more than once.

e. A medical expense allowed as a deduction must be for a medically necessary service. The Department of Health is responsible for deciding if services are not medically necessary.

f. QMB, [~~and~~]SLMB, and QI clients are ineligible for assistance if countable income exceeds the income limit.

g. Prenatal and Newborn Medicaid clients are ineligible for assistance if countable income exceeds the income limit.

h. As a condition of eligibility, clients must certify on Form 1049B that medical expenses in the benefit month are expected to exceed the spenddown amount. The client must do this when spenddown starts, at each review, and when the client chooses a different spenddown option. If medical expenses are less than or equal to the spenddown, the client is not eligible for that month.

i. Pre-paid medical expenses are not allowed as deductions.

j. The department elects not to set limits on the amount of medical expenses that can be deducted.

k. Clients may choose to meet their spenddown obligation by incurring medical expenses or by paying a corresponding amount to the local office.

l. Medical costs are not allowable deductions for determining QMB, [~~or~~]SLMB, or QI eligibility.

m. Medical costs are not allowed as deductions for determining eligibility for the poverty level group of A and D Medicaid. No spenddown is allowed to meet the income limit for the poverty level group of A and D Medicaid.

n. For A, B and D Medicaid institutional costs are allowed as deductions if the services are medically necessary. The Department

of Health is responsible for deciding if services for institutional care are not medically necessary.

o. No one is required to pay a spenddown of less than $1.

p. Medicaid covered medical costs incurred in a current benefit month cannot be used to meet spenddown when the client is enrolled in an HMO. Bills for mental health services incurred in a benefit month cannot be used to meet spenddown when the client will be eligible for Medicaid and lives in a county which has a single mental health provider under contract with Medicaid to provide services to all Medicaid clients who live in that county. Bills for mental health services received in a retroactive or application month that the client has fully-paid during that time can be used to meet spenddown as long as the services were not provided by the mental health provider in the client's county of residence which is under contract with Medicaid to provide services to all Medicaid clients.

R986-304-406. A, B, and D Institutional Medicaid and Family Institutional Medicaid Income Deductions.

1. The department adopts 42 CFR 435.725, 1994 ed., which is incorporated by reference. The department adopts Subsection 1902(r)(1)(i) of the Compilation of the Social Security Laws, 1991 ed., U.S. Government Printing Office, Washington, D.C., which is incorporated by reference.

2. The following definitions apply to this section:

a. "Family member" means a son, daughter, parent, or sibling of the client or the client's spouse who lives with the spouse.

b. "Dependent" means earning less than $2,000 a year, not being claimed as a dependent by any other individual, and receiving more than half of ones annual support from the client or the client's spouse.

3. Current department practices:

a. Health[~~ and accident~~] insurance premiums providing coverage for anyone in the family are allowed as a deduction in the month due. The payment shall not be pro-rated.

i. For institutionalized clients, the department shall allow health[~~ and accident~~] insurance premiums only for the institutionalized client and only if paid with the institutionalized client's funds.

ii. The department will allow the portion of a combined premium, attributable to the institutionalized client, as a deduction if the combined premium includes a spouse and is paid from the funds of the institutionalized client.

b. Medicare premiums are not allowed as deductions if the state will reimburse the client.

c. Medical expenses are allowed as deductions only if the expenses meet all of the following conditions:

i. the medical service was received by the client;

ii. the unpaid medical bill will not be paid by Medicaid or a third party;

iii. the paid medical bill can be allowed only in the month paid. No portion of any paid bill can be allowed after the month of payment.

d. A medical expense is not allowed as a deduction more than once.

e. A medical expense allowed as a deduction must be for a medically necessary service. The Department of Health is responsible for deciding if services are not medically necessary.

f. Pre-paid medical expenses are not allowed as deductions.

g. The department elects not to set limits on the amount of medical expenses that can be deducted.

h. Institutionalized clients are to contribute all countable income remaining after allowable deductions to the institution as their contribution to the cost of their care.

i. The personal needs allowance is $45.

j. An Individual receiving assistance under the terms of a Home and Community-Based Services Waiver is eligible to receive a deduction for a non-institutionalized spouse and dependent minor child as if that individual were institutionalized.

k. A deduction for a spouse or dependent family member is allowed only if the institutionalized or waiver client contributes money to the spouse or dependent family member.

l. The minimum monthly maintenance needs allowance is the difference between the total gross income of the spouse at home and an amount equal to 150% of the federal poverty limit for a household of two. An amount is also allowed for the excess shelter costs of the spouse at home. The excess shelter cost is the amount of the actual shelter expenses, plus a utility allowance, minus 30% of the above mentioned federal poverty limit. The total deduction for a spouse cannot exceed the established amount unless the client has a court order requiring a greater deduction.

m. Income received by the spouse or dependent family member is counted in calculating the deduction if that type of income is countable to determine Medicaid eligibility. Needs-based income and state supplemental payments are not counted in calculating the deduction. Tribal income is counted.

n. If the income of a spouse or dependent family member is not reported, no deduction shall be allowed for the spouse or dependent family member.

o. The family allowance for each family member of an institutionalized client is not to exceed one third of the amount by which the minimum monthly maintenance allowance exceeds the monthly income of that family member.

p. A client is not given Medicaid coverage if medical costs are not at least equal to the contribution required towards the cost of care.

q. The standard utility allowance for households with heating costs is $150. For households without heating costs, actual utility costs are used. The maximum allowance for a telephone bill is $20. Clients are not required to verify utility costs more than once in a certification period.

r. Medicaid covered medical costs incurred in a current benefit month cannot be used to meet spenddown when the client is enrolled in an HMO. Bills for mental health services incurred in a benefit month cannot be used to meet spenddown when the client will be eligible for Medicaid and lives in a county which has a single mental health provider under contract with Medicaid to provide services to all Medicaid clients who live in that county. Bills for mental health services received in a retroactive or application month that the client has fully-paid during that time can be used to meet spenddown as long as the services were not provided by the mental health provider in the client's county of residence which is under contract with Medicaid to provide services to all Medicaid clients.

R986-304-407. Budgeting.

1. The department adopts 42 CFR 435.601 1994 ed., which is incorporated by reference. The department adopts 45 CFR 233.31 and 233.33, 1991 ed., which are incorporated by reference.

2. The following definitions apply:

a. "Best estimate" means that income is calculated on a best guess of household income, deductions and size during the upcoming certification period.

b. "Prospective eligibility" means that eligibility is determined each month for the immediately following month based on a best estimate of income.

c. "Prospective budgeting" is the calculation of income and determining benefit level based on the best estimate of income.

d. "Income averaging" means using a history of past income and averaging it over a determined period of time that is representative of future income.

e. "Income anticipating" means using current facts regarding rate of pay and number of working hours to anticipate future monthly income.

f. "Income annualizing" means taking past income over a long period of time and calculating a monthly amount based on it. Self employed households or seasonal workers may have their income annualized.

g. "Factoring" means that a monthly amount will be determined to take into account the months of pay where an individual receives a fifth paycheck when paid weekly or a third paycheck when paid every other week. Weekly income will be factored by multiplying the weekly amount by 4.3 to obtain a monthly amount. Income paid every other week will be factored by 2.15 to obtain a monthly amount.

h. "Reportable income changes" are those that cause income to change by more than $25.

3. Current department practices:

a. Prospective budgeting shall be done on a monthly basis.

b. A best estimate of income based on the best available information is an accurate reflection of client income in that month.

c. The best estimate of income to be received or made available to the client in a month shall be used to determine eligibility and spenddown.

d. Methods of determining the best estimate are income averaging, income anticipating, and income annualizing.

e. Income:

i. For QMB, SLMB, QI, and A, B, D, and Institutional Medicaid income will be counted as it is received. Income that is received weekly or every other week will not be factored.

ii. For Family Medicaid programs, income that is received weekly or every other week will be factored.

f. Lump sums are income in the month received. Any amount of a lump sum remaining after the end of the month of receipt is a resource. Lump sum payments can be earned or unearned income.

g. Income paid out under a contract is prorated to determine the countable income for each month. Only the prorated amount is used to determine spenddown or eligibility for a month. If the income is received in fewer months than the contract covers, the income is prorated over the period of the contract. If received in more months than the contract covers, the income is prorated over the period of time in which the money is received.

h. Farm and self-employment income is prorated to determine the monthly countable income. If farm income or self-employment income is received less often than monthly, the income is prorated over the number of months in which it was earned.

i. Student income received other than monthly is prorated to determine the monthly countable income. This is done by dividing the total amount by the number of calendar months classes are in session.

j. Income from Indian trust accounts not exempt by federal law is prorated to determine the monthly countable income. This is done by dividing the total amount by the number of months it covers.

k. Eligibility for retroactive assistance is based on the income received in the month for which retroactive coverage is sought.

R986-304-408. Income Standards.

1. The department adopts Section 1905 of the Compilation of the Social Security Laws, 1993 ed., U.S. Government Printing Office, Washington, D.C., which is incorporated by reference.

2. Current department practices:

a. To qualify for[~~The~~] the QMB program, income [~~standard is~~]must be equal to or less than 100% of the federal non-farm poverty level.

b. To qualify for[~~The~~] the SLMB program, income [~~standard is~~]must exceed the QMB limit and be less than 120% of the Federal non-farm poverty level.

c. To qualify for the QI-Group 1 program, income must exceed the SLMB limit and be less than 135% of the Federal non-farm poverty level.

d. To qualify for the QI-Group 2 program, income must exceed the QI-Group 1 limit and be less than 175% of the Federal non-farm poverty level.

[~~c~~]e. The Aged and Disabled poverty level group income standard is 100% of the federal non-farm poverty level. If an Aged or Disabled person's income exceeds this amount the current Medicaid Income Standards (BMS) apply.

[~~d~~]f. The current Medicaid income standards (BMS) are as follows:

TABLE

Household Size	Medicaid Income Standard (BMS)
1	372
2	456
3	568
4	664
5	756
6	833
7	872
8	913
9	956
10	996
11	1,037
12	1,078
13	1,120
14	1,160
15	1,202
16	1,244
17	1,284
18	1,328

R986-304-409. A, B and D Medicaid, QMB, [~~and~~]SLMB, and QI Filing Unit.

1. The department adopts 42 CFR 435.601 and 435.602, 1994 ed., which are incorporated by reference. The department adopts

Subsection 1905(p) of the Compilation of the Social Security Laws, 1993 ed., U.S. Government Printing Office, Washington, D.C., which is incorporated by reference.

2. The basic maintenance standard (BMS) is the income limit used to determine eligibility. The BMS for A, B and D Medicaid includes all of the following individuals:

a. the client;

b. a spouse who lives in the same home, if the spouse is eligible for A, B, or D Medicaid[~~;~~].

[~~c. a spouse who has been separated from the client for less than 6 months, if the spouse receives SSI or a state supplemental payment;~~]

3. The BMS for a QMB, [~~or~~]SLMB, or QI case includes all of the following individuals:

a. the client;

b. a spouse living in the same home who receives Part A Medicare[~~;~~].

[~~c. a spouse who has been separated from the client for less than 6 months if the spouse receives SSI or a state supplemental payment.~~]

4. Eligibility and spenddown A, B and D Medicaid are based on the income of the following individuals:

a. the client;

b. parents living with the minor client;

c. a spouse

5. No spenddown is allowed for QMB, [~~or~~]SLMB, or QI programs.

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KEY: financial disclosure, income, budgeting
[~~August 1, 1996~~]1998 **26-18-1 et seq.**

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Workforce Services, Employment Development

R986-305

Resources

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 20770
FILED: 02/10/98, 15:15
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: To add the Qualifying Individuals (QI) groups to the resource provision for Qualified Medicare Beneficiary (QMB) and Specified Low-Income Medicare Beneficiary Program (SLMB) groups, and to make a technical amendment to a resource provision.

SUMMARY: The resource provisions for a person eligible for either of the Qualifying Individuals coverage groups is the same as the resource provisions for Qualified Medicare Beneficiary (QMB) and Specified Low-Income Medicare Beneficiary Program (SLMB), $4000 for an individual and $6000 for a couple. A technical correction was made to the provision for an Supplemental Security Income (SSI) recipient who has a plan to achieve self support. The word "income" was used instead of the word "resource." The rule was intended to say that "resources" set aside as part of an approved plan to achieve self-support are exempt from the resource rules for Medicaid. These resources might include accumulated income, but use of the word "income" made it unclear that the funds were not counted as a resource.

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

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: None.
❖LOCAL GOVERNMENTS: None.
❖OTHER PERSONS: None.
COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

THE FULL TEXT OF THIS FILING MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Workforce Services
Employment Development
Fifth Floor
140 East 300 South
PO Box 45245
Salt Lake City, UT 84145-0249, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:
Shawn Potter at the above address, by phone at (801) 531-3783, by FAX at (801) 531-3785, or by Internet E-mail at spotter@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 03/31/98.

THIS FILING MAY BECOME EFFECTIVE ON: 04/01/98

AUTHORIZED BY: Robert C. Gross, Executive Director

R986. Workforce Services, Employment Development.
R986-305. Resources.
R986-305-501. A, B and D Medicaid and A, B and D Institutional Medicaid Resource Provisions.

1. The department adopts 42 CFR 435.735, 435.840 through 435.845, 1994 ed., and 20 CFR 416.1201 through 416.1202 and 416.1204 through 416.1266, 1994 ed., which are incorporated by reference. The department adopts Subsections 1613(a)(4) and 1902(k) of the Compilation of the Social Security Laws, 1991 ed., U.S. Government Printing Office, Washington, D.C., which is incorporated by reference. The department requires compliance with Pub[~~lic Law~~]. L. No. 98-64(2).

2. The following definitions apply:

a. "Burial plot" means a burial space and any item related to repositories used for the remains of any deceased member of the

household. This includes caskets, concrete vaults, urns, crypts, grave markers and the cost of opening and closing a grave site.

b. "Household goods" means household furniture, furnishings, and equipment which are commonly found in or about a house and are used in connection with the operation, maintenance, and occupancy of the home.

c. "Personal effects" means clothing, jewelry, items of personal care, one wedding ring, one engagement ring and any equipment on which a person's physical condition depends.

3. Current department practices:

a. A resource is available when the client owns it or has the legal right to sell or dispose of the resource for the client's own benefit.

b. The resource limit is $2000 for a one person household, $3000 for a two member household and $25 for each additional household member.

c. Medicaid eligibility is based on all available resources owned by the client. Eligibility cannot be granted based upon the client's intent to or action of disposing of non-liquid resources.

d. Any resource or the interest from a resource, which is held within the rules of the Uniform Gift to Minors Act is not countable. Any money from the resource which is given to the child as unearned income is countable.

e. The resources of a ward which are controlled by a legal guardian are counted as the ward's resources.

f. Lump sum payments received on a sales contract for the sale of an exempt home are not counted if the entire proceeds are committed to replacement of the property sold within 30 days and the purchase is completed within 90 days. If more than 90 days is needed to complete the actual purchase, the director may grant one extension. Proceeds is defined as all payments made on the principal of the contract. Proceeds does not include interest earned on the principal.

g. If a resource is potentially available, but a legal impediment to making it available exists, it is not a countable resource until it can be made available. The applicant or recipient must take appropriate steps to make the resource available unless one of the following conditions exist:

i. Reasonable action would not be successful in making the resource available.

ii. The probable cost of making the resource available exceeds its value.

h. Water rights attached to the home and the lot on which the home sits are exempt providing it is the client's principal place of residence.

i. For an institutionalized individual, a home or life estate is not considered an exempt resource. Therefore, a home which is transferred to a trust becomes a countable resource or constitutes a transfer of a resource. A home or life estate so transferred could continue to be excluded under the provisions of Section 1924 of the Compilation of the Social Security Laws, 1993 ed., U.S. Government Printing Office, Washington D.C. as amended by OBRA '93.

j. For A, B and D Medicaid the department shall not count up to $6,000 of equity value of non-business property used to produce goods or services essential to home use daily activities.

k. For A, B and D Institutional Medicaid where the resources are determined to exceed the limits for Medicaid, eligibility shall not be given conditioned upon disposition of resources as described in 20 CFR 416.1240, 1991 ed.

l. A previously unreported resource may be retroactively designated for burial and thereby exempted effective the first day of the month in which it was designated for burial or intended for burial. However, it cannot be exempted retroactively prior to November 1982 or earlier than 2 years prior to the date of application. Such resources shall be treated as funds set aside for burial.

m. One vehicle is exempt if it is used at least four times per calendar year to obtain necessary medical treatment.

n. The department shall allow SSI recipients, who have a plan for achieving self support approved by the Social Security Administration, to set aside [~~income~~]resources that allow[~~s~~] them to purchase work-related equipment or meet self support goals. [~~This income is~~]These resources are excluded.

o. An irrevocable burial trust is not counted as a resource. However, if the owner is institutionalized or on home and community based waiver Medicaid, the value of the trust, which exceeds $7000, is considered a transferred resource.

p. Life estates.

i. For non-institutional Medicaid life estates shall be counted as resources only when a market exists for the sale of the life estate as established by knowledgeable sources.

ii. For Institutional Medicaid, life estates are countable resources even if no market exists for the sale of the life estate.

iii. The client may dispute the value of the life estate by verifying the property value to be less than the established value or by submitting proof based on the age and life expectancy of the life estate owner that the value of the life estate is lower. The value of a life estate shall be based upon the age of the client and the current market value of the property.

iv. Life estate table:

A. The following table lists the life estate figure corresponding to the client's age. This figure is used to establish the value of a life estate:

TABLE

Age	Life Estate Figure
0	.97188
1	.98988
2	.99017
3	.99008
4	.98981
5	.98938
6	.98884
7	.98822
8	.98748
9	.98663
10	.98565
11	.98453
12	.98329
13	.98198
14	.98066
15	.97937
16	.97815
17	.97700
18	.97590
19	.97480
20	.97365
21	.97245
22	.97120
23	.96986

24	.96841
25	.96678
26	.96495
27	.96290
28	.96062
29	.95813
30	.95543
31	.95254
32	.94942
33	.94608
34	.94250
35	.93868
36	.93460
37	.93026
38	.92567
39	.92083
40	.91571
41	.91030
42	.90457
43	.89855
44	.89221
45	.88558
46	.87863
47	.87137
48	.86374
49	.85578
50	.84743
51	.83674
52	.82969
53	.82028
54	.81054
55	.80046
56	.79006
57	.77931
58	.76822
59	.75675
60	.74491
61	.73267
62	.72002
63	.70696
64	.69352
65	.67970
66	.66551
67	.65098
68	.63610
69	.62086
70	.60522
71	.58914
72	.57261
73	.55571
74	.53862
75	.52149
76	.50441
77	.48742
78	.47049
79	.45357
80	.43659
81	.41967
82	.40295
83	.38642
84	.36998
85	.35359
86	.33764
87	.32262
88	.30859
89	.29526
90	.28221
91	.26955
92	.25771
93	.24692
94	.23728
95	.22887
96	.22181
97	.21550
98	.21000
99	.20486
100	.19975
101	.19532
102	.19054
103	.18437
104	.17856
105	.16962
106	.15488
107	.13409
108	.10068
109	.04545

R986-305-508. QMB, [~~and~~]SLMB, and QI Resource Provisions.

1. The department adopts Subsection 1905(p) of the Compilation of the Social Security Laws, 1993 ed., U.S. Government Printing Office, Washington, D.C., which is incorporated by reference.

2. The resource limit is the same for all medically needy individuals.

3. The QMB, [~~and~~]SLMB, and QI resource limit is $4,000 for an individual and $6,000 for a couple.

KEY: trusts, resources*
[~~September 1, 1995~~]April 1, 1998 **26-18**

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Workforce Services, Employment Development

R986-306

Program Benefits

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 20777
FILED: 02/17/98, 12:45
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: This amendment is being filed to add the Qualifying Individuals (QI) groups to the sections explaining what benefits are provided, and the effective date of eligibility for Qualifying Individuals.

SUMMARY: This amendment adds language explaining what benefits are provided to a Qualifying Individual (QI) and that benefits will be provided in the form of a check to a Qualifying Individual in Group 2. It also explains that eligibility can begin three months before the application month for a Qualifying Individual, but not before January 1, 1998. It also explains that benefits will continue through the calendar so long as a person continues to meet the eligibility criteria; and that receipt of benefits in one calendar year does not entitle a person to receipt of such benefits in any succeeding calendar year. It also makes a technical correction to a citation. This filing simply further explains the benefits of the QI program that was put in place by an earlier rule change to R986-303.

(**DAR Note:** R986-303 was a proposed amendment that is effective as of 02/03/98. It was published in the January 1, 1998, issue of the *Utah State Bulletin* under DAR No. 20319.)

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

THIS FILING INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: Pub. L. No. 105-33, Section 4732, enacted August 5, 1997

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: This rule change has no cost or savings impact. The rule change to R986-303 contained a cost impact statement (see the DAR Note under the summary).
❖LOCAL GOVERNMENTS: None.
❖OTHER PERSONS: None.
COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

THE FULL TEXT OF THIS FILING MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Workforce Services
Employment Development
Fifth Floor
140 East 300 South
PO Box 45245, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:
Shawn Potter at the above address, by phone at (801) 531-3783, by FAX at (801) 531-3785, or by Internet E-mail at spotter@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 03/31/98.

THIS FILING MAY BECOME EFFECTIVE ON: 04/01/98

AUTHORIZED BY: Robert C. Gross, Executive Director

R986. Workforce Services, Employment Development.
R986-306. Program Benefits.
R986-306-602. QMB, [~~and~~]SLMB, and QI Benefits.

1. The department adopts Subsection 1905(p) of the Compilation of the Social Security Laws, 1993 ed., U.S. Government Printing Office, Washington, D.C., which is incorporated by reference. The department adopts Pub. L. No. 105-33 (4732) which is incorporated by reference.

2. The department elects not to cover premiums for enrollment with any health insurance plans except for Medicare.

3. Benefits covered by the Qualifying Individuals-Group 2 program will be received in the form of a refund check to the individual selected for coverage.

R986-306-603. QMB and SLMB Date of Entitlement.

The department adopts Subsection 1902[~~(c)~~](e)(8) of the Compilation of the Social Security Laws, [~~1993~~]1995 ed., U.S. Government Printing Office, Washington, D.C., which is incorporated by reference.

R986-306-604. Effective Date of Eligibility.

1. The department adopts 42 CFR 435.914, 1991 ed., which is incorporated by reference.

2. Current department practices:

a. Eligibility shall begin no earlier than the third month before the month of application.

b. Eligibility shall begin on the first day of the month if the individual was eligible any time during that month.

c. UMAP eligibility shall begin on the first day of the month prior to the month of application provided eligibility exists.

d. There is no provision for retroactive QMB assistance.

e. Institutional Medicaid shall begin on the date that the Department of Health receives verification of nursing home admission from the nursing home. Coverage does not begin earlier than the third month prior to the month of application.

f. Eligibility under a Home and Community Based Services waiver shall begin on the first day of the month in which the client meets the level-of-care criteria and home and community based services begin. Coverage does not begin earlier than the third month prior to the month of application.

g. Eligibility for benefits as a Qualifying Individual can begin no more than three months prior to the month of application, and in no case before January 1, 1998. An individual selected to receive QI benefits in a month of the year is entitled to receive such assistance for the remainder of the calendar year if the individual continues to be a qualifying individual. Receipt of benefits as a qualifying individual in one calendar year does not entitle the individual to continued assistance in any succeeding year.

KEY: program benefits
[~~April 1, 1997~~]April 1, 1998 **26-18**

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Workforce Services, Employment Development
R986-307
Eligibility Determination and Redetermination

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 20774
FILED: 02/17/98, 08:04
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: The reason for this change is to add language about the length of the eligibility period for Qualifying Individuals and to make other nonsubstantive technical changes.

SUMMARY: This proposed rule change defines that for a person who is selected to receive benefits as a Qualifying Individual (QI), the benefits will continue through the end of the calendar in which the person is selected, as long as the person continues to meet eligibility criteria. It also adds the QI program to the list of programs in the rule saying which application forms can be used to apply for medical assistance. It also makes a correction to the name of the Division of Family Services to the Division of Child and Family Services.

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

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: None.
❖LOCAL GOVERNMENTS: None.
❖OTHER PERSONS: None.
COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

THE FULL TEXT OF THIS FILING MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Workforce Services
Employment Development
Fifth Floor
140 East 300 South
PO Box 45245
Salt Lake City, UT 84145-0249, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:
Shawn Potter at the above address, by phone at (801) 531-3783, by FAX at (801) 531-3785, or by Internet E-mail at spotter@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 03/31/98.

THIS FILING MAY BECOME EFFECTIVE ON: 04/01/98

AUTHORIZED BY: Robert C. Gross, Executive Director

R986. Workforce Services, Employment Development.
R986-307. Eligibility Determination and Redetermination.
R986-307-701. Application.

1. The department adopts 42 CFR 435.907 and 435.908, 1991 ed., which are incorporated by reference.

2. Current department practices:

a. Department form 61A, or 61M or form 61FC are accepted as application forms for Medicaid, UMAP, QMB, [~~and~~]SLMB, or QI assistance.

b. If the applicant cannot write, the applicant must make their mark on the application form and have at least one witness to the signature.

c. The date of application shall be the day the signed application form is received by the local office.

d. When a legal guardian or power of attorney has been appointed, or there is a payee for the individual, all forms and other documents shall be made in the name of both the individual and the individual's representative.

e. When the Division of Child and Family Services (DCFS) has custody of a child and the child is placed in foster care, DCFS shall complete the application and forward it to the local office.

f. An authorized representative may apply for the client if unusual circumstances or death prevent an individual from appearing in person. The applicant must sign the application form if possible.

g. If there is no responsible person available as a representative, the director or designee shall evaluate the circumstances to determine the need for a home visit.

h. A worker shall reinstate a medical case without requiring a new application if the case was closed in error. The worker shall not require a new application when the case was closed for failure to complete a review or comply with a request for verification if the client complies before the effective date of the case closure.

R986-307-703. Eligibility Period.

1. The department adopts 42 CFR 435.916 and 435.919, 1991 ed., which are incorporated by reference.

2. Current department practices:

a. The first month of eligibility shall be the first month for which assistance is approved.

b. The last month of eligibility shall be the recertification month.

c. Recertification shall be at least once every 12 months.

d. Workers may require recertification whenever necessary to ensure continued eligibility.

e. Recertification forms shall be given to clients the month before recertification is due.

f. Recertification forms are due by the first working day of the recertification month.

g. Notice of eligibility shall be issued by the end of the recertification month, provided the client completes the recertification process and is eligible for continued assistance.

h. For individuals selected for coverage under the Qualifying Individuals program, eligibility extends through the end of the calendar year if the individual continues to meet eligibility criteria.

KEY: public assistance programs, eligibility
[~~July 1, 1995~~]April 1, 1998 **26-18**

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End of the Proposed Rules Section

NOTICES OF
120-DAY (EMERGENCY) RULES

An agency may file a 120-DAY (EMERGENCY) RULE when it finds that the regular rulemaking procedures would:

(a) cause an imminent peril to the public health, safety, or welfare;
(b) cause an imminent budget reduction because of budget restraints or federal requirements; or
(c) place the agency in violation of federal or state law (UTAH CODE Subsection 63-46a-7(1) (1996)).

As with a PROPOSED RULE, a 120-DAY RULE is preceded by a RULE ANALYSIS. This analysis provides summary information about the 120-DAY RULE including the name of a contact person, justification for filing a 120-DAY RULE, anticipated cost impact of the rule, and legal cross-references. A row of dots in the text (• • • • •) indicates that unaffected text was removed to conserve space.

A 120-DAY RULE is effective at the moment the Division of Administrative Rules receives the filing, or on a later date designated by the agency. A 120-DAY RULE is effective for 120 days or until it is superseded by a permanent rule.

Because 120-DAY RULES are effective immediately, the law does not require a public comment period. However, when an agency files a 120-DAY RULE, it usually files a PROPOSED RULE at the same time, to make the requirements permanent. Comment may be made on the proposed rule.

Emergency or 120-DAY RULES are governed by UTAH CODE Section 63-46a-7 (1996); and UTAH ADMINISTRATIVE CODE Section R15-4-8.

Workforce Services, Employment Development
R986-304
Income and Budgeting

NOTICE OF 120-DAY (EMERGENCY) RULE
DAR FILE NO.: 20738
FILED: 02/04/98, 17:03
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: The Balanced Budget Act of 1997, Pub. L. No. 105-33, added a provision which excludes payments made pursuant to class settlement in the case of Susan Walker v. Bayer Corporation, et al., 96-C-5024 (N.D. Ill.), from being counted as income for Medicaid eligibility.

SUMMARY: This rule change exempts from income, payments pursuant to a class settlement made to individuals with hemophilia who became infected with HIV from the blood products they received from various drug companies.
(**DAR Note:** An initial 120-day (emergency) rule that was effective as of 10/15/97 was published in the November 1, 1997, issue of the *Utah State Bulletin.* This second 120-day (emergency) rule is effective as of the day that the first one lapsed, which was on February 12, 1998. A corresponding proposed amendment is under DAR No. 20739 in this *Bulletin.*)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Title 26, Chapter 18
FEDERAL MANDATE FOR THIS FILING: Pub. L. No. 105-33, Section 4735

THIS FILING INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: Pub. L. 105-33, Section 4735

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: None.
❖LOCAL GOVERNMENTS: None.
❖OTHER PERSONS: None.
COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

EMERGENCY FILING JUSTIFICATION: REGULAR RULEMAKING PROCEDURES WOULD place the agency in violation of federal or state law.

Public Law requires states to immediately exempt payments from countable income made to Medicaid recipients under the class settlement in the case of Susan Walker v. Bayer Corporation, et al., 96-C-5024 (N.D. Ill.)

THE FULL TEXT OF THIS FILING MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Workforce Services
Employment Development
Fifth Floor
300 South 140 East
Box 143001
Salt Lake City, UT 84114, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:
Shawn Potter at the above address, by phone at (801) 531-3783, by FAX at (801) 531-3785, or by Internet E-mail at spotter@email.state.ut.us.

THIS FILING IS EFFECTIVE ON: 02/12/98

AUTHORIZED BY: Robert C. Gross, Executive Director

R986. Workforce Services, Employment Development.
R986-304. Income and Budgeting.
R986-304-401. A, B and D Medicaid and A, B and D Institutional Medicaid Unearned Income Provisions.

1. The department adopts 42 CFR 435.725 through 435.845, 1994 ed., and 20 CFR 416.1102, 416.1103, 416.1120 through 416.1148, 416.1151, and 416.1163 through 416.1166, 1994 ed., which are incorporated by reference. The department adopts Pub. L. No. 105-33(4735) which is incorporated by reference.

2. The following definitions apply:

a. An "in-kind support donor" means an individual who provides food or shelter without receiving full market value compensation in return.

b. "Presumed maximum value" means the allowed maximum amount an individual is charged for the receipt of food and shelter. This amount shall not exceed 1/3 of the SSI payment plus $20.

c. "Benefit month" means a month in which an individual is eligible for Medicaid.

3. Current department practices:

a. Only the portion of a VA check to which the client is legally entitled to is countable income. For A, B, and D Medicaid, QMB and SLMB, VA payments which are based on need do not count as income. The portion of a VA payment which is made because of unusual medical expenses is countable income.

b. The value of special circumstance items is not countable income if the items are paid for by donors.

c. Death benefits are not countable income if the money is spent on the deceased person's burial or last illness.

d. For A, B and D Medicaid two-thirds of child support received per month is countable unearned income. It does not matter if the payments are voluntary or court-ordered. It does not matter if the child support is received in cash, in property, in payment of obligations or in-kind.

e. For A, B and D Institutional Medicaid all child support received shall be counted as unearned income. It does not matter if the payments are voluntary or court-ordered. It does not matter if the child support is received in cash, in property, in payment of obligations or in-kind.

f. The interest earned from a sales contract on either or both the lump sum and installment payments is countable unearned income when it is received or made available to the client.

g. If the client and spouse do not live with an in-kind support donor, in-kind support and maintenance is the value or the presumed maximum value, whichever is less, of food or shelter received. If the client and spouse live with an in-kind support donor and do not pay a prorated share of household operating expenses, in-kind support and maintenance is the prorated share of household operating expenses, or the presumed maximum value, whichever is less.

h. SSA reimbursements of Medicare premiums are not countable income.

i. Payments under a contract, retroactive payments from SSI and SSA reimbursements of Medicare premiums are not considered lump sum payments.

j. Expenses relating to the fulfillment of a plan to achieve self-support are not allowed as deductions from earned income.

k. Educational loans, grants, and scholarships guaranteed by the U.S. Department of Education are not countable income if the recipient is an undergraduate. Income from service learning programs is not countable income if the recipient is an undergraduate. Deductions are allowed from countable educational income if receipt of the income depends on school attendance and if the client pays the expense. Allowable deductions include:

i. tuition;

ii. fees;

iii. books;

iv. equipment;

v. special clothing needed for classes;

vi. travel to and from school at a rate of $0.21 a mile, unless the grant identifies a larger amount;

vii. child care necessary for school attendance.

4. The following provisions apply only to A, B and D Medicaid:

a. The income of a spouse is not considered in determining Medicaid eligibility of a person who receives SSI. SSI recipients who meet all other Medicaid eligibility factors are eligible for Medicaid without spending down.

b. If both spouses are eligible for A, B, or D Medicaid or QMB assistance, the income of both spouses is combined to determine eligibility. After allowable deductions, the income is compared to the income level (BMS) for a household of two.

c. If any parent in the home receives SSI, the income of neither parent is considered to determine a child's eligibility for B or D Medicaid.

d. Payments for providing foster care to a child are countable income. The portion of the payment that represents a reimbursement for the expenses related to providing foster care is not countable income.

R986-304-402. Family Medicaid and Institutional Family Medicaid Unearned Income Provisions.

1. The department adopts 42 CFR 435.725 through 435.845, 1994 ed., and 45 CFR 233.20(a)(1), 233.20(a)(3)(iv), 233.20(a)(3)(v), 233.20(a)(3)(xii), 233.20 (4)(ii), 233.20(a)(6)(v)(B), and 233.51, 1992 ed., which are incorporated by reference. The department adopts Pub. L. No. 105-33(4735) which is incorporated by reference.

2. The following definitions apply to this section:

a. A "a bona fide loan" is a loan which has been contracted in good faith without fraud or deceit and genuinely endorsed in writing for repayment.

b. "Unearned income" means cash received for which the individual performs no service.

c. "Quarter" means any three month period that includes January through March, April through June, July through September or October through December.

3. Current department practices:

a. Bona fide loans are not countable income.

b. Support and maintenance assistance is not countable income.

c. The value of food stamp assistance is not countable income.

d. SSI and State Supplemental Payments are income for children receiving Child Medicaid.

e. $30 is deducted from rental income if that income is consistent with community standards. Additional deductions are allowed if the client can prove greater expenses. The following expenses in excess of $30 may be allowed:

i. taxes and attorney fees needed to make the income available;

ii. upkeep and repair costs necessary to maintain the current value of the property. This includes utility costs.

iii. only the interest can be deducted on a loan or mortgage made for upkeep or repair;

iv. if meals are provided to a boarder, the value of a one-person food stamp allotment.

f. Cash gifts for special occasions that do not exceed $30 per quarter per person in the assistance unit are not countable income. A cash gift may be divided equally among all members of the assistance unit.

g. Deferred income is countable income when it is received by the client if receipt can be reasonably anticipated.

h. The value of special circumstance items is not countable income if the items are paid for by donors.

i. Home energy assistance is not countable income.

j. All money received from an insurance settlement for destroyed exempt property is counted unless the income is used to purchase replacement property. If income received exceeds the money needed to replace the property, the difference is countable income.

k. SSA reimbursements of Medicare premiums are not countable income.

l. Payments from trust funds are countable income if the payments are not available on demand.

m. AFDC, General Assistance, and Refugee Cash Assistance is not countable income.

n. Only the portion of a Veteran's Administration check to which the client is legally entitled to is countable income.

o. When the entitlement amount of a check differs from the payment amount, the entitlement amount is countable income unless the deduction is involuntary.

p. Deposits to joint checking or savings accounts are countable income, even if the deposits are made by a non-household member. Clients who dispute ownership of deposits to joint checking or savings accounts will be given an opportunity to prove that the deposits do not represent income to them. Funds that are successfully disputed are not countable income.

q. The income of an alien's sponsor is not countable income.

r. Educational loans, grants, and scholarships guaranteed by the U.S. Department of Education are not countable income if the recipient is an undergraduate. Income from service learning programs is not countable income if the recipient is an undergraduate. Deductions are allowed from countable educational income if receipt of the income depends on school attendance and the client pays the expense. Allowable deductions include:

i. tuition;

ii. fees;

iii. books;

iv. equipment;

v. special clothing needed for classes;

vi. travel to and from school, at a rate of $0.21 a mile, unless the grant identifies a larger amount;

vii. child care necessary for school attendance.

s. The interest earned from a sales contract on either or both the lump sum and installment payments is countable unearned income when it is received or made available to the client.

KEY: financial disclosure, income, budgeting
[~~October 8, 1996~~]February 12, 1998 26-18-1 et seq.

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Workforce Services, Employment Development

R986-309-901

UMAP General Eligibility Requirements

NOTICE OF 120-DAY (EMERGENCY) RULE
DAR FILE NO.: 20732
FILED: 02/03/98, 16:51
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: To implement changes to the alien status eligibility criteria passed by the Balanced Budget Act of 1997.

SUMMARY: This rule incorporates changes made by the Balanced Budget Act of 1997 which added Cuban/Haitian entrants and Amerasian immigrants as aliens who can receive Medicaid without being subject to the five-year bar from the date of entry. The law extends eligibility to qualified aliens who are the unremarried spouse of a veteran. The definition of veteran is being expanded to include Hmong and Highland Lao veterans who fought for the U.S. during the Vietnam conflict which allows these individuals to receive certain welfare benefits including Medicaid. Also, this law adds a provision that American Indians born in Canada are considered Lawful Permanent Residents, but are not subject to the five-year bar from receiving Medicaid benefits which applies to other Lawful Permanent Residents.
(**DAR Note:** An initial 120-day (emergency) rule that was effective as of 10/15/97 was published in the November 1, 1997, issue of the *Utah State Bulletin.* This second 120-day (emergency) rule is effective as of the day that the first one lapsed, which was on February 12, 1998.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Title 26, Chapter 18
FEDERAL MANDATE FOR THIS FILING: The Balanced Budget Act of 1997, Pub. L. No. 105-33

THIS FILING INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: The Balanced Budget Act of 1997, Pub. L. No.

105-33, Sections 5302(c)(2) and (3), 5306(d), 5563, 5571, 5307(a), and 5566

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: None.
❖LOCAL GOVERNMENTS: None.
❖OTHER PERSONS: None.
COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

EMERGENCY FILING JUSTIFICATION: REGULAR RULEMAKING PROCEDURES WOULD place the agency in violation of federal or state law.

The Balanced Budget Act of 1997 requires that states apply these changes as if they had been part of Pub. L. No. 104-193, effective August 22, 1996.

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

Workforce Services
Employment Development
Fifth Floor
140 East 300 South
PO Box 45245
Salt Lake City, UT 84145-0249, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:
Shawn Potter at the above address, by phone at (801) 531-3783, by FAX at (801) 531-3785, or by Internet E-mail at spotter@email.state.ut.us.

THIS FILING IS EFFECTIVE ON: 02/12/98

AUTHORIZED BY: Robert C. Gross, Executive Director

R986. Workforce Services, Employment Development.
R986-309. Utah Medical Assistance Program (UMAP).
R986-309-901. UMAP General Eligibility Requirements.

1. The department requires compliance with Section 26-18-10. The department adopts Pub. L. No. 104-193 (412), (431), and (435), which is incorporated by reference as amended by Pub. L. No. 105-33(5302)(c)(2) and (3), (5306)(d), (5563) and (5571). The department adopts Pub. L. No. 105-33 (5307)(a), and (5566).

2. The following definitions apply to this section:

a. "Unearned income" means cash received by an individual for which the individual performs no service.

b. "Full-time" employment means an average of 100 or more hours of work per month or an average of 23 hours per week.

c. A "bona fide" loan means a loan which has been contracted in good faith without fraud or deceit and genuinely endorsed in writing for repayment.

d. "Disregard" means a portion of income that is not counted.

3. Conditions of eligibility for UMAP:

a. Medical need is not a requirement for UMAP eligibility.

b. An individual ineligible for Medicaid because of resources is not eligible for UMAP assistance.

c. Individuals ineligible for Medicaid because they will not spenddown or because their medical expense is less than the spenddown, are not eligible for UMAP assistance.

4. Citizenship requirements for UMAP:

a. Temporary entrants into the U.S. and those who have no registration card are not eligible for UMAP assistance. To be eligible for UMAP, the individual must be one of the following:

i. U.S. born or a naturalized citizen;

ii. An American Indian born in Canada to whom the provisions of section 289 of the Immigration and Nationality Act apply, or who is a member of an Indian tribe (as defined in section 4(e) of the Indian Self-determination and Education Assistance Act;

iii. Residents from Freely Associated States;

[~~ii~~]iv. A qualified alien, as defined in Pub. L. No. 104-193 (431), as amended by Pub. L. No. 105-33(5302)(c)(3), (5562), and (5571) who was admitted into the United States prior to August 22, 1996.

[~~iii~~]v. A qualified alien, newly admitted into the United States on or after August 22, 1996, is not eligible for UMAP services for five years from the person's date of entry into the United States, unless the person is:

A. A refugee admitted under section 207 of the Immigration and Nationality Act;

B. An individual granted asylum under section 208 of the Immigration and Nationality Act;

C. An individual whose deportation has been withheld under section 243(h) of the Immigration and Nationality Act, (as in effect immediately before the effective date of section 307 of division C of Pub. L. No. 104-208) or section 241(b)(3) of such Act (as amended by section 305(a) of division C of Pub. L. No. 104-208);

D. A Cuban and Haitian entrant as defined in section 501(e) of the Refugee Education Assistance Act of 1980;

E. An Amerasian immigrant pursuant to section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (as contained in section 101(e) of Pub. L. No. 100-202 and amended by the 9th proviso under MIGRATION AND REFUGEE ASSISTANCE in title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, m 1989, Pub. L. No. 100-461, as amended);

[~~D~~]F. An honorably discharged veteran from the Armed Forces of the United States, [~~or~~]the spouse of a United States veteran, or the unremarried spouse of a deceased United States veteran;

[~~E~~]G. An individual on active duty in the Armed Forces of the United States or the spouse of such an individual[~~.~~];

H. A Hmong or Highland Lao veteran who fought on behalf of the Armed Forces of the United States during the Vietnam conflict who has been lawfully admitted to the United States for permanent residence is considered a veteran for the purpose of determining eligibility.

5. Residence requirements for UMAP:

a. To be eligible for UMAP assistance, an individual must be a Utah resident. To be considered a Utah resident, a person must meet one of the following guidelines:

i. The client must live in Utah for 30 days prior to the need for medical services.

ii. The client must show intent to reside in the state permanently. If a client shows intent to reside in the State permanently, eligibility can begin no earlier than the date the client entered the state.

b. Any person who is a resident of a prison, jail or halfway house is not eligible for UMAP assistance. A person may qualify

in the month in which he enters or leaves a prison, jail or halfway house. The program will not pay for services while the person is in custody. It does not matter if the condition was pre-existing. No payment will be made for any medical problems which arise during the commission of a crime or during an arrest.

6. All recipients of General Financial Assistance (GA) are eligible for UMAP assistance.

7. Income eligibility calculation for UMAP:

a. Eligibility for UMAP is based on a best estimate of income as follows:

i. The department shall budget income and determine the best estimate in the same manner as Medicaid in R986-304-407.

ii. The department shall count all income received except:

A. a bona fide loan of money which must be repaid;

B. rental subsidies;

C. trust funds that are not available on demand;

D. GA, AFDC, or Refugee Cash Assistance (RCA) grants;

E. HEAT assistance;

F. attendant care received by a handicapped person from the Division of Services to the Handicapped if the money is used to pay for attendant care, and the person providing the care is not included in the household's basic maintenance standard (BMS);

G. insurance settlements for destroyed property, if the income is actually used to replace the property. If the insurance settlement is more than the replacement cost of the new property, the difference is counted as income.

H. unearned income in-kind.

I. special payments to American Indians.

iii. The following deductions are allowed:

A. payments for a health or accident insurance policy;

B. federal taxes are determined by multiplying the number of exemptions by $162.50, subtracting that amount from the wages, and comparing the remainder to the appropriate tax tables for a single or married person. Tax computation is as follows:

TABLE

Single Person Including Head of Household.

Wages	Income Tax		
<$ 89	$ 0		
89 - $1,575	0	plus 15% of Excess Over $	89
1,576 - 3,683	223.13	plus 28% of Excess Over	1,576
3,684 - 8,461	831.46	plus 33% of Excess Over	3,684
8,462 +	2,390.03	plus 28% of Excess Over	8,462

Married Person Including Head of Household.

Wages	Income Tax		
<$ 255	$ 0		
255 - $ 2,733	0	plus 15% of Excess Over $	255
2,734 - 6,246	371.88	plus 28% of Excess Over	2,734
6,247 - 15,422	1,355.38	plus 33% of Excess Over	6,247
15,423 +	4,383.40	plus 28% of Excess Over	15,423

C. state taxes, as determined by multiplying the federal tax by .45;

D. FICA. If the client is self-employed, this is determined by multiplying monthly earnings by .1503. If the client is not self-employed, this is determined by multiplying monthly earnings by .0765.

iii. Compare the figure derived from the above calculation to the BMS for the household size. This figure is called countable income. Persons with countable income above the BMS may spenddown to the BMS level, if the spenddown amount is $50.00 or less. The Department will not collect a spenddown for amounts of less than $1.00.

iv. The UMAP income standard is as follows:

TABLE

Household Size	UMAP Income Standard (BMS)
1	337
2	413
3	516
4	602
5	686
6	756
7	792
8	829
9	868
10	904
11	941
12	978
13	1016
14	1053
15	1090
16	1128

8. When an individual's check amount differs from the entitlement amount, the check amount is used to determine income eligibility only if the reduction is involuntary.

9. Self-employment income:

a. Income from self-employment is counted. Deductions are allowed for the cost of doing business. Allowable deductions include:

i. labor;

ii. stock;

iii. raw materials;

iv. seed and fertilizer;

v. taxes and interest paid for income-producing property;

vi. insurance premiums;

vii. transportation costs only if the person must move from place to place in the course of business.

b. Deductions for income-producing property include:

i. property taxes;

ii. insurance;

iii. incidental repairs;

iv. advertising;

v. landscaping;

vi. utilities.

c. The cost of an addition or increase in value of the rental property is not allowed as a deduction.

10. UMAP budgeting methods:

a. Income shall be budgeted prospectively. Information provided by the client is used to determine the amount of income the client expects to receive during the eligibility period.

b. Farm and self-employment income is prorated over the number of months in which the money was earned if the income is received less often than monthly. The prorated amount is counted for the same number of months in which the money was earned. The month in which the money was received is counted as the first month, even if the money is not actually earned in that month.

c. Student grants and scholarships are prorated over the number of months the grants or scholarships are intended to cover. The first month it is intended to cover is the first budget month. If

it is received after the first month it is intended to cover, the client is not liable for an understated liability based on receipt of this income.

d. Deferred income counts when it is available if it is not deferred by choice. If it is deferred by choice, it is counted for the months it could have been received.

e. Only student income and farm or self-employment income are prorated.

f. Lump sum payments can be earned or unearned income. Lump sums are income in the month received. An overpayment may exist for the month of receipt. Any amount remaining will count as a resource for the month following the month of receipt.

11. Retroactive coverage begins no earlier than the first day of the month prior to the month of application. Coverage begins no later than the first day of the month in which an individual is determined eligible.

12. The income of all individuals included in the BMS is used to determine eligibility.

13. Individuals included in the UMAP BMS:

a. A legally married spouse is included in the BMS if the couple lives together or they have not been separated more than six months. The spouse is not included if the couple is legally separated.

b. An unmarried person of the opposite sex who lives with the client is included in the BMS if the client is emancipated and the couple present themselves to the community as husband and wife.

c. Unemancipated children living with the client are included in the BMS if the client is emancipated. This includes natural, adopted, or stepchildren. Unborn children are not included in the BMS.

d. Parents living with the client are included in the BMS if the client is unemancipated. This includes natural, adopted or stepparents.

e. Unemancipated children of the client's parents are included in the BMS if they live with the parents and the client is unemancipated.

14. The client must report any change which may affect eligibility within ten days of the day the client learns of the change. Clients must report income from a new source within ten calendar days of the date the client receives money from that new source.

15. UMAP resource requirements:

a. The resource limit is $500 for a BMS of one and $750 for a BMS of two or more.

b. Countable resources include anything of value that is available to the person. When a person is part owner of property, the property is a resource only if the person has a legal right to sell the property. Only the equity value of the resource is counted.

c. If the resource limit is met at any time in the month, it is met for the entire month.

d. The following resources are exempt and are not counted to determine eligibility:

i. one home, including a mobile home;

ii. the lot upon which the home stands if the home is occupied by the client. If the lot on which the home stands exceeds the average size of residential lots in the community where it is, the equity value of the property that is larger than an average size lot is a resource;

iii. water rights attached to the home or lot occupied by the client;

iv. Contents of the home worth less than $1000 that are essential to daily living;

v. one vehicle;

vi. an irrevocable burial trust;

vii. one burial plot or space for any member of the client's immediate family;

viii. funds from a student loan, grant, or scholarship are exempt until the month following the end of the period the loan, grant, or scholarship is intended to cover;

ix. a life estate which serves as the primary residence of the client;

x. Lump sum insurance payments for destroyed property if the available money is used within ninety days to replace the destroyed property. All other lump sums are a resource in the month following the month of receipt.

e. The resources of everyone in the BMS are counted to determine eligibility.

f. Individuals are not sanctioned for transferring resources unless the transfer was made to become eligible for UMAP. If property is transferred in order to meet resource limitations, the person is ineligible for the month the transfer is made, and for the next five months. If the client regains the transferred resource and uses the resource to meet normal expenses, the sanction will be removed.

16. The UMAP clinic in Utah, Weber, Morgan, and Salt Lake Counties shall determine what services they will cover. The worker in all other counties shall determine what services they will cover.

17. Cooperation in collecting third party liability information is an eligibility requirement for UMAP assistance.

KEY: UMAP
February 1, 1997 **26-18**

◆ ◆

End of the 120-Day Rules Section

FIVE-YEAR REVIEW NOTICES 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 CONTINUATION; or amend the rule by filing a PROPOSED RULE and by filing a NOTICE OF CONTINUATION. By filing a NOTICE OF CONTINUATION, the agency indicates that the rule is still necessary.

NOTICES OF CONTINUATION 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 OF CONTINUATION are effective when filed.

Five-Year Review NOTICES OF CONTINUATION are governed by UTAH CODE Section 63-46a-9 (1996).

Health, Health Care Financing, Coverage and Reimbursement Policy
R414-12
Medical Supplies Durable Medical Equipment--Prosthetics

FIVE-YEAR REVIEW NOTICE OF CONTINUATION

DAR FILE NO.: 20762
FILED: 02/09/98, 14:00
RECEIVED BY: NL

NOTICE AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 26-18-2.1 creates the Division, which shall be responsible for implementing, organizing, and maintaining the Medicaid program and the Utah Medical Assistance Program. Section 26-1-5 notes that the Department shall have the power to adopt, amend, or rescind rules necessary to carry out the provisions of this title.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Review by Division and Bureaus recommends continuation of this rule. No other comments received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule must be continued because it establishes guidelines for providing medically necessary care to low income clients. The rule establishes the right to the service as well as limitations on the service. No opposing comments were received.

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

Health
Health Care Financing,
Coverage and Reimbursement Policy
Cannon Health Building
288 North 1460 West
Box 142906
Salt Lake City, UT 84114-2906, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:
RaeDell Ashley at the above address, by phone at (801) 538-6495, by FAX at (801) 538-6099, or Internet E-mail at rashley@email.state.ut.us.

AUTHORIZED BY: Rod L. Betit, Executive Director

EFFECTIVE: 02/09/98

Health, Health Care Financing, Coverage and Reimbursement Policy
R414-26
Implementation and Maintenance of the Health Care Financing Administration Common Procedure Coding System (HCPCS)

FIVE-YEAR REVIEW NOTICE OF CONTINUATION

DAR FILE NO.: 20764
FILED: 02/09/98, 14:00
RECEIVED BY: NL

NOTICE AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 26-18-2.1 creates the Division, which shall be responsible for implementing, organizing, and maintaining the Medicaid program. Section 26-1-5 notes that the Department shall have the power to adopt, amend, or rescind rules necessary to carry out the provisions of this title.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Review by Division and Bureaus recommends continuation of this rule. No other comments received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule must be continued because it establishes and defines Medicaid policy regarding the use of proper coding by providers in submitting claims for reimbursement, as well as limitations on the amount, duration, or scope of services No opposing comments were received.

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

Health
Health Care Financing,
Coverage and Reimbursement Policy
Cannon Health Building
288 North 1460 West
Box 142906
Salt Lake City, UT 84114-2906, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:
Urla Jeane Maxfield at the above address, by phone at (801) 538-9144, by FAX at (801) 538-6099, or Internet E-mail at umaxfiel@email.state.ut.us.

AUTHORIZED BY: Rod L. Betit, Executive Director

EFFECTIVE: 02/09/98

Health, Health Care Financing, Coverage and Reimbursement Policy

R414-27

Medicare Nursing Facility Certification

FIVE-YEAR REVIEW NOTICE OF CONTINUATION
DAR FILE NO.: 20735
FILED: 02/04/98, 14:15
RECEIVED BY: NL

NOTICE AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 26-18-2.1 creates the Division, which is responsible for implementing, organizing, and maintaining the Medicaid program. Section 26-1-5 notes that the Department shall have the power to adopt, amend, or rescind rules necessary to carry out the provisions of this title.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Review by Division and Bureaus recommends continuation of this rule. No other comments received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule must be continued because it establishes the requirements of nursing facilities for participation in both the Medicare and Medicaid programs, and results in a savings for Medicaid by Medicare paying its share of funds. No opposing comments were received.

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

Health
Health Care Financing,
Coverage and Reimbursement Policy
Cannon Health Building
288 North 1460 West
Box 142906
Salt Lake City, UT 84114-2906, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:
Ann E. Lee at the above address, by phone at (801) 538-6583, by FAX at (801) 538-6024, or Internet E-mail at alee@email.state.ut.us.

AUTHORIZED BY: Rod L. Betit, Executive Director

EFFECTIVE: 02/04/98

Health, Health Care Financing, Coverage and Reimbursement Policy

R414-31x

Hospital Utilization Review

FIVE-YEAR REVIEW NOTICE OF CONTINUATION
DAR FILE NO.: 20766
FILED: 02/09/98, 14:00
RECEIVED BY: NL

NOTICE AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 26-18-2.1 creates the Division, which shall be responsible for implementing, organizing, and maintaining the Medicaid program. Section 26-1-5 notes that the Department shall have the power to adopt, amend, or rescind rules necessary to carry out the provisions of this title.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Review by Division and Bureaus recommends continuation of this rule. No other comments received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule must be continued because it defines and establishes Medicaid policy regarding review of the use of hospitalization by providers and clients, and gives the Agency the authority to determine the appropriateness and medical necessity of hospital care and treatment.. No opposing comments were received.

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

Health
Health Care Financing,
Coverage and Reimbursement Policy
Cannon Health Building
288 North 1460 West
Box 142906
Salt Lake City, UT 84114-2906, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:
Urla Jeane Maxfield at the above address, by phone at (801) 538-9144, by FAX at (801) 538-6099, or Internet E-mail at umaxfiel@email.state.ut.us.

AUTHORIZED BY: Rod L. Betit, Executive Director

EFFECTIVE: 02/09/98

Health, Health Care Financing, Coverage and Reimbursement Policy
R414-32
Hospital Record-keeping Policy

FIVE-YEAR REVIEW NOTICE OF CONTINUATION
DAR FILE NO.: 20767
FILED: 02/09/98, 14:00
RECEIVED BY: NL

NOTICE AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 26-18-2.1 creates the Division, which shall be responsible for implementing, organizing, and maintaining the Medicaid program. Section 26-1-5 notes that the Department shall have the power to adopt, amend, or rescind rules necessary to carry out the provisions of this title.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Review by Division and Bureaus recommends continuation of this rule. No other comments received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule must be continued because it defines and establishes that providers must submit documentary evidence that services were authorized and provided. No opposing comments were received.

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

Health
Health Care Financing,
Coverage and Reimbursement Policy
Cannon Health Building
288 North 1460 West
Box 142906
Salt Lake City, UT 84114-2906, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:
Urla Jeane Maxfield at the above address, by phone at (801) 538-9144, by FAX at (801) 538-6099, or Internet E-mail at umaxfiel@email.state.ut.us.

AUTHORIZED BY: Rod L. Betit, Executive Director

EFFECTIVE: 02/09/98

Health, Health Systems Improvement, Community Health Nursing
R425-1
Nurse Education Financial Assistance

FIVE-YEAR REVIEW NOTICE OF CONTINUATION
DAR FILE NO.: 20768
FILED: 02/10/98, 10:39
RECEIVED BY: NL

NOTICE AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 26, Chapter 9d, the Nurse Financial Assistance Act, authorizes the Utah Department of Health to provide loan repayment grants to nurses in exchange for their agreement to work in nursing shortage areas in Utah, and scholarships to nursing students in exchange for their agreement to work in needed nursing specialties in Utah. This authority allows the Department to address the continuing problem of nursing shortages, and needed nursing specialties in Utah.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments were received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is required by Title 26, Chapter 9d, the Nurse Financial Assistance Act. Without this authority, the Department could not address the problem of nursing shortages, and needed nursing specialties in Utah. The agency agrees with the need to continue the rule, and will submit substantive amendments as approved by the Nurse Financial Assistance Committee.

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

Health
Health Systems Improvement,
Community Health Nursing
Cannon Health Building
288 North 1460 West
Box 142851
Salt Lake City, UT 84114-2851, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:
Don Beckwith at the above address, by phone at (801) 538-6818, by FAX at (801) 538-7053, or Internet E-mail at hlhsi.dbeckwit@email.state.ut.us.

AUTHORIZED BY: Rod Betit, Executive Director

EFFECTIVE: 02/10/98

Workforce Services, Employment Development
R986-221
Demonstration Programs

FIVE-YEAR REVIEW NOTICE OF CONTINUATION

DAR FILE NO.: 20742
FILED: 02/06/98, 10:35
RECEIVED BY: NL

NOTICE AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized by Section 35A-3-301 et seq. Utah's Family Employment Program (FEP) program, is based on the Aid to Families with Dependent Children (AFDC) Program which was enacted under Title IV-A and Title IV-D of the Social Security Act and regulated under 45 CFR 200 through 499. The AFDC program was further modified as a Demonstration Project, authorized under Section 1115 of the Social Security Act by the Department of Health and Human Services, called the Single Parent Employment Demonstration Program (SPED). As a result of the Personal Responsibility and Work Opportunity Act of 1996 (PRWORA), states were given the authority to administer financial assistance programs through block grants as authorized under the Temporary Assistance for Needy Families (TANF) program. In the meantime, the 1996 Utah Legislature enacted the Employment Assistance to Utah Families (EAUF), subsequently renamed FEP. Utah continues to operate the FEP based on the Federal regulations as indicated or as otherwise modified by state statue.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule must be continued because it establishes the eligibility requirements for the Family Employment Program (FEP). The Department must adhere to the regulations under Title IV-A and Title IV-D of the Social Security Act, 45 CFR, the Terms and Conditions of the Single Parent Demonstration Project (SPED) 1115 Demo Project, the provisions of the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) and the Temporary Assistance for Needy Families (TANF) block grant and as otherwise required by statue. The Department believes that the FEP Program continues to provide a critical supportive service that provides eligible low income households with subsistence while they work towards becoming self-sufficient through employment focused activities.

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

Workforce Services
Employment Development
Fifth Floor
140 East 300 South
PO Box 45245
Salt Lake City, UT 84145-0249, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:
Shawn Potter at the above address, by phone at (801) 531-3783, by FAX at (801) 538-3785, or Internet E-mail at spotter@email.state.ut.us.

AUTHORIZED BY: Robert C. Gross, Executive Director

EFFECTIVE: 02/06/98

Workforce Services, Employment Development
R986-301
Medicaid General Provisions

FIVE-YEAR REVIEW NOTICE OF CONTINUATION
DAR FILE NO.: 20743
FILED: 02/06/98, 10:35
RECEIVED BY: NL

NOTICE AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized by Title 26, Chapter 18, and pertains to the Medicaid program as enacted by Section XIX of the Social Security Act, 42 U.S.C. 1396-1396, and as regulated in 42 CFR 435 which the Department has incorporated as indicated. Under the Act and 42 CFR 435, states are required to administer the Medicaid program as outlined unless otherwise authorized by the United States Department of Health and Human Services.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule must be continued because it establishes the eligibility requirements for the Medicaid program. The Department must adhere to Section XIX of the Social Security Act and to 42 CFR 435 regulations as cited unless otherwise amended or regulated. The Department believes that the Medicaid program continues to be a viable program for assisting low-income families and individuals and granting access to necessary and critical medical services in Utah.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Workforce Services
Employment Development
Fifth Floor
140 East 300 South
PO Box 45245
Salt Lake City, UT 84145-0249, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:
Shawn Potter at the above address, by phone at (801) 531-3783, by FAX at (801) 531-3785, or Internet E-mail at spotter@email.state.ut.us.

AUTHORIZED BY: Robert C. Gross, Executive Director

EFFECTIVE: 02/06/98

Workforce Services, Employment Development
R986-302
Eligibility Requirements

FIVE-YEAR REVIEW NOTICE OF CONTINUATION
DAR FILE NO.: 20744
FILED: 02/06/98, 10:35
RECEIVED BY: NL

NOTICE AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized by Title 26, Chapter 18, and pertains to the Medicaid program as enacted by Section XIX of the Social Security Act, 42 U.S.C. 1396-1396, and as regulated in 42 CFR 435 which the Department has incorporated as indicated. Under the Act and 42 CFR 435, states are required to administer the Medicaid program as outlined unless otherwise authorized by the United States Department of Health and Human Services.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule must be continued because it establishes the eligibility requirements for the Medicaid program. The Department must adhere to Section XIX of the Social Security Act and to 42 CFR 435 regulations as cited unless otherwise amended or regulated. The Department believes that the Medicaid program continues to be a viable program for assisting low-income families and individuals and granting access to necessary and critical medical services in Utah.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Workforce Services
Employment Development
Fifth Floor
140 East 300 South

PO Box 45245
Salt Lake City, UT 84145-0249, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:
Shawn Potter at the above address, by phone at (801) 531-3783, by FAX at (801) 531-3785, or Internet E-mail at spotter@email.state.ut.us.

AUTHORIZED BY: Robert C. Gross, Executive Director

EFFECTIVE: 02/06/98

Workforce Services, Employment Development

R986-303

Coverage Groups

FIVE-YEAR REVIEW NOTICE OF CONTINUATION
DAR FILE NO.: 20745
FILED: 02/06/98, 10:35
RECEIVED BY: NL

NOTICE AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized by Title 26, Chapter 18, and pertains to the Medicaid program as enacted by Section XIX of the Social Security Act, 42 U.S.C. 1396-1396, and as regulated in 42 CFR 435 which the Department has incorporated as indicated. Under the Act and 42 CFR 435, states are required to administer the Medicaid program as outlined unless otherwise authorized by the United States Department of Health and Human Services.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule must be continued because it establishes the eligibility requirements for the Medicaid program. The Department must adhere to Section XIX of the Social Security Act and to 42 CFR 435 regulations as cited unless otherwise amended or regulated. The Department believes that the Medicaid program continues to be a viable program for assisting low-income families and individuals and granting access to necessary and critical medical services in Utah.

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

Workforce Services
Employment Development
Fifth Floor
140 East 300 South
PO Box 45245
Salt Lake City, UT 84145-0249, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:
Shawn Potter at the above address, by phone at (801) 531-3783, by FAX at (801) 531-3785, or Internet E-mail at spotter@email.state.ut.us.

AUTHORIZED BY: Robert C. Gross, Executive Director

EFFECTIVE: 02/06/98

Workforce Services, Employment Development

R986-304

Income and Budgeting

FIVE-YEAR REVIEW NOTICE OF CONTINUATION
DAR FILE NO.: 20746
FILED: 02/06/98, 10:35
RECEIVED BY: NL

NOTICE AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized by Section 26-18-1 et seq., and pertains to the Medicaid program as enacted by Section XIX of the Social Security Act, 42 U.S.C. 1396-1396, and as regulated in 42 CFR 435 which the Department has incorporated as indicated. Under the Act and 42 CFR 435, states are required to administer the Medicaid program as outlined unless otherwise authorized by the United States Department of Health and Human Services.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule must be continued because it establishes the eligibility requirements for the Medicaid program. The Department must adhere to Section XIX of the Social Security Act and to 42 CFR 435 regulations as cited unless otherwise amended or regulated. The Department believes that the Medicaid program continues to be a viable program for assisting low-income families and individuals and granting access to necessary and critical medical services in Utah.

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

Workforce Services
Employment Development
Fifth Floor
140 East 300 South
PO Box 45245
Salt Lake City, UT 84145-0249, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:
Shawn Potter at the above address, by phone at (801) 531-3783, by FAX at (801) 531-3785, or Internet E-mail at spotter@email.state.ut.us.

AUTHORIZED BY: Robert C. Gross, Executive Director

EFFECTIVE: 02/06/98

Workforce Services, Employment Development
R986-305
Resources

FIVE-YEAR REVIEW NOTICE OF CONTINUATION
DAR FILE NO.: 20747
FILED: 02/06/98, 10:35
RECEIVED BY: NL

NOTICE AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized by Title 26, Chapter 18, and pertains to the Medicaid program as enacted by Section XIX of the Social Security Act, 42 U.S.C. 1396-1396, and as regulated in 42 CFR 435 which the Department has incorporated as indicated. Under the Act and 42 CFR 435, states are required to administer the Medicaid program as outlined unless otherwise authorized by the United States Department of Health and Human Services.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule must be continued because it establishes the eligibility requirements for the Medicaid program. The Department must adhere to Section XIX of the Social Security Act and to 42 CFR 435 regulations as cited unless otherwise amended or regulated. The Department believes that the Medicaid program continues to be a viable program for assisting low-income families and individuals and granting access to necessary and critical medical services in Utah.

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

Workforce Services
Employment Development
Fifth Floor
140 East 300 South
PO Box 45245
Salt Lake City, UT 84145-0249, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:
Shawn Potter at the above address, by phone at (801) 531-3783, by FAX at (801) 531-3785, or Internet E-mail at spotter@email.state.ut.us.

AUTHORIZED BY: Robert C. Gross, Executive Director

EFFECTIVE: 02/06/98

Workforce Services, Employment Development
R986-306
Program Benefits

FIVE-YEAR REVIEW NOTICE OF CONTINUATION
DAR FILE NO.: 20748
FILED: 02/06/98, 10:35
RECEIVED BY: NL

NOTICE AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized by Title 26, Chapter 18, and pertains to the Medicaid program as enacted by Section XIX of the Social Security Act, 42 U.S.C. 1396-1396, and as regulated in 42 CFR 435 which the Department has incorporated as indicated. Under the Act and 42 CFR 435, states are required to administer the Medicaid program as outlined unless otherwise authorized by the Unites States Department of Health and Human Services.

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AUTHORIZED BY: Robert C. Gross, Executive Director

EFFECTIVE: 02/06/98

Workforce Services, Employment Development
R986-307
Eligibility Determination and Redetermination

FIVE-YEAR REVIEW NOTICE OF CONTINUATION
DAR FILE NO.: 20749
FILED: 02/06/98, 10:35
RECEIVED BY: NL

NOTICE AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized by Title 26, Chapter 18, and pertains to the Medicaid program as enacted by Section XIX of the Social Security Act, 42 U.S.C. 1396-1396, and as regulated in 42 CFR 435 which the Department has incorporated as indicated. Under the Act and 42 CFR 435, states are required to administer the Medicaid program as outlined unless otherwise authorized by the United States Department of Health and Human Services.

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AUTHORIZED BY: Robert C. Gross, Executive Director

EFFECTIVE: 02/06/98

Workforce Services, Employment Development
R986-308
Record Management

FIVE-YEAR REVIEW NOTICE OF CONTINUATION
DAR FILE NO.: 20750
FILED: 02/06/98, 10:35
RECEIVED BY: NL

NOTICE AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule pertains to the Medicaid program as enacted by Section XIX of the Social Security Act, 42 U.S.C. 1396-1396, and as regulated in 42 CFR 435 and authorized by Title 26, Chapter 18, which the Department has incorporated as indicated. Under the Act and 42 CFR 435, states are required to administer the Medicaid program as outlined unless otherwise authorized by the United States Department of Health and Human Services.

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AUTHORIZED BY: Robert C. Gross, Executive Director

EFFECTIVE: 02/06/98

Workforce Services, Employment Development

R986-309

Utah Medical Assistance Program (UMAP)

FIVE-YEAR REVIEW NOTICE OF CONTINUATION
DAR FILE NO.: 20751
FILED: 02/06/98, 10:35
RECEIVED BY: NL

NOTICE AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized by Title 26, Chapter 18, and pertains to the Medicaid program as enacted by Section XIX of the Social Security Act, 42 U.S.C. 1396-1396, and as regulated in 42 CFR 435 which the Department has incorporated as indicated. Under the Act and 42 CFR 435, states are required to administer the Medicaid program as outlined unless otherwise authorized by the United States Department of Health and Human Services.

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AUTHORIZED BY: Robert C. Gross, Executive Director

EFFECTIVE: 02/06/98

Workforce Services, Employment Development

R986-310

Demonstration Programs

FIVE-YEAR REVIEW NOTICE OF CONTINUATION
DAR FILE NO.: 20752
FILED: 02/06/98, 10:35
RECEIVED BY: NL

NOTICE AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized by Title 26, Chapter 18, and pertains to the Medicaid program as enacted by Section XIX of the Social Security Act, 42 U.S.C. 1396-1396, and as regulated in 42 CFR 435 which the Department has incorporated as indicated. Under the Act and 42 CFR 435, states are required to administer the Medicaid program as outlined

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Shawn Potter at the above address, by phone at (801) 531-3783, by FAX at (801) 531-3785, or Internet E-mail at spotter@email.state.ut.us.

AUTHORIZED BY: Robert C. Gross, Executive Director

EFFECTIVE: 02/06/98

Workforce Services, Employment Development

R986-421

Demonstration Programs

FIVE-YEAR REVIEW NOTICE OF CONTINUATION

DAR FILE NO.: 20753
FILED: 02/06/98, 10:35
RECEIVED BY: NL

NOTICE AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized by Section 35A-3-103, and pertains to the Food Stamp program as enacted by the Food Stamp Act of 1977, as regulated in 7 CFR 271 and 282, and Subsection 17(b) of the Act as provided in Single Parent Employment Demonstration Project (SPED) which the Department has incorporated as indicated. Under the Act and 7 CFR 271 and 282, states are required to administer the Food Stamp program as outlined unless otherwise authorized by the United States Department of Agriculture.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule must be continued because it establishes the eligibility requirements for the Food Stamp program. The Department must adhere to the Food Stamp Act, the 7 CFR 271 and 282 regulations, and the terms and conditions of the Single Parent Demonstration Program (SPED) as cited unless otherwise amended or regulated. The Department believes that the Food Stamp program continues to be a viable program for supplementing the food purchasing power of Utah's low-income individuals and families.

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

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AUTHORIZED BY: Robert C. Gross, Executive Director

EFFECTIVE: 02/06/98

Workforce Services, Employment Development

R986-701

Child Care Assistance General Provisions

FIVE-YEAR REVIEW NOTICE OF CONTINUATION

DAR FILE NO.: 20754
FILED: 02/06/98, 10:35
RECEIVED BY: NL

NOTICE AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized by Section 35A-3-103, and pertains to the Child Care program as enacted under Title IV-A of the Social Security Act, CFR 45 200 through 499, and 45 CFR 98 (Child Care and Development Block Grant), and as amended by the Personal Responsibility and Work Opportunity Act of 1996 (PRWORA).

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

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AUTHORIZED BY: Robert C. Gross, Executive Director

EFFECTIVE: 02/06/98

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Workforce Services, Employment Development

R986-702

Conditions of Eligibility and Client Payment Amount

FIVE-YEAR REVIEW NOTICE OF CONTINUATION

DAR FILE NO.: 20755
FILED: 02/06/98, 10:35
RECEIVED BY: NL

NOTICE AND STATEMENT OF CONTINUATION

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AUTHORIZED BY: Robert C. Gross, Executive Director

EFFECTIVE: 02/06/98

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Workforce Services, Employment Development

R986-703

Child Care Programs

FIVE-YEAR REVIEW NOTICE OF CONTINUATION

DAR FILE NO.: 20756
FILED: 02/06/98, 10:35
RECEIVED BY: NL

NOTICE AND STATEMENT OF CONTINUATION

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AUTHORIZED BY: Robert C. Gross, Executive Director

EFFECTIVE: 02/06/98

Workforce Services, Employment Development

R986-704

Income Rules and Eligibility Calculations

FIVE-YEAR REVIEW NOTICE OF CONTINUATION

DAR FILE NO.: 20757
FILED: 02/06/98, 10:35
RECEIVED BY: NL

NOTICE AND STATEMENT OF CONTINUATION

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AUTHORIZED BY: Robert C. Gross, Executive Director

EFFECTIVE: 02/06/98

Workforce Services, Employment Development
R986-705
Resources

FIVE-YEAR REVIEW NOTICE OF CONTINUATION
DAR FILE NO.: 20758
FILED: 02/06/98, 10:35
RECEIVED BY: NL

NOTICE AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized by Section 35A-3-103, and pertains to the Child Care program as enacted under Title IV-A of the Social Security Act, 45 CFR 200 through 499, and 45 CFR 98 (Child Care and Development Block Grant), and as amended by the Personal Responsibility and Work Opportunity Act of 1996 (PRWORA).

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AUTHORIZED BY: Robert C. Gross, Executive Director

EFFECTIVE: 02/06/98

Workforce Services, Employment Development
R986-706
Provider Payment and Contracting

FIVE-YEAR REVIEW NOTICE OF CONTINUATION
DAR FILE NO.: 20759
FILED: 02/06/98, 10:35
RECEIVED BY: NL

NOTICE AND STATEMENT OF CONTINUATION

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AUTHORIZED BY: Robert C. Gross, Executive Director

EFFECTIVE: 02/06/98

Workforce Services, Employment Development

R986-707

Eligibility

FIVE-YEAR REVIEW NOTICE OF CONTINUATION
DAR FILE NO.: 20760
FILED: 02/06/98, 10:35
RECEIVED BY: NL

NOTICE AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized by Section 35A-3-103, and pertains to the Child Care program as enacted under Title IV-A of the Social Security Act, 45 CFR 200 through 499, and 45 CFR 98 (Child Care and Development Block Grant), and as amended by the Personal Responsibility and Work Opportunity Act of 1996 (PRWORA).

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AUTHORIZED BY: Robert C. Gross, Executive Director

EFFECTIVE: 02/06/98

End of the Five-Year Review Section

NOTICES OF EXPIRED RULES

Rulewriting agencies are required by law to review each of their administrative rules within five years of the date of the rule's original enactment or the date of last review (UTAH CODE Section 63-46a-9 (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 (Division). However, if the agency fails to file either the review or the extension by the five-year anniversary date of the rule, the rule expires. Upon expiration of the rule, the Division is required to remove the rule from the *Utah Administrative Code*. The agency may no longer enforce the rule, and it must follow regular rulemaking procedures to replace the rule if necessary.

The rules listed below were *not* reviewed in accordance with Section 63-46a-9 (1996). These rules have expired and have been removed from the *Utah Administrative Code*.

The expiration of administrative rules for failure to comply with the five-year review requirement is governed by UTAH CODE Subsection 63-46a-9(8) (1996).

Environmental Quality

Drinking Water

No. 20789: R309-105. Quantity Requirements.
Enacted: 07/01/87 (No. 8845, Filed 05/05/87 at 5:00 p.m., Published 05/15/87)
Five-Year Review: 02/01/93 (No. 14048, Filed 12/30/92 at 5:00 p.m., Published 02/01/93)
Expired: 02/01/98

(**DAR Note:** This rule was is the repeal process, see DAR No. 20289 in the December 15, 1997, issue of the *Utah State Bulletin*, but expired because the repeal has not been made effective.)

End of the Expired Rules 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

Commerce

Occupational and Professional Licensing

No. 20200 (CPR): R156-3a. Architect Licensing Act Rules.
Published: January 15, 1998
Effective: February 18, 1998

No. 20581 (AMD): R156-60b. Marriage and Family Therapist Licensing Act Rules.
Published: January 15, 1998
Effective: February 18, 1998

Environmental Quality

Air Quality

No. 20219 (AMD): R307-1-3. Control of Installations.
Published: December 1, 1997
Effective: February 5, 1998

Solid and Hazardous Waste

No. 20382 (AMD): R315-1. Utah Hazardous Waste Definitions and References.
Published: January 1, 1998
Effective: February 20, 1998

No. 20383 (AMD): R315-2. General Requirements - Identification and Listing of Hazardous Waste.
Published: January 1, 1998
Effective: February 20, 1998

No. 20384 (AMD): R315-3. Application and Plan Approval Procedures for Hazardous Waste Treatment, Storage, and Disposal Facilities.
Published: January 1, 1998
Effective: February 20, 1998

No. 20385 (AMD): R315-4. Hazardous Waste Manifest.
Published: January 1, 1998
Effective: February 20, 1998

No. 20538 (AMD): R315-6-7. Transfer Facility Requirements.
Published: January 15, 1998
Effective: February 20, 1998

No. 20386 (AMD): R315-7. Interim Status Requirements for Hazardous Waste Treatment, Storage, and Disposal Facilities.
Published: January 1, 1998
Effective: February 20, 1998

No. 20387 (AMD): R315-8. Standards for Owners and Operators of Hazardous Waste Treatment, Storage and Disposal Facilities.
Published: January 1, 1998
Effective: February 20, 1998

No. 20388 (AMD): R315-13. Land Disposal Restrictions.
Published: January 1, 1998
Effective: February 20, 1998

No. 20389 (AMD): R315-14-7. Hazardous Waste Burned in Boilers and Industrial Furnaces.
Published: January 1, 1998
Effective: February 20, 1998

No. 20390 (AMD): R315-16. Standards for Universal Waste Management.
Published: January 1, 1998
Effective: February 20, 1998

No. 20391 (AMD): R315-50. Appendices.
Published: January 1, 1998
Effective: February 20, 1998

Health

Health Care Financing, Coverage and Reimbursement Policy

No. 20542 (REP): R414-3X. Restriction on Use of CPR-4 Psychiatric Codes.
Published: January 15, 1998
Effective: February 20, 1998

No. 20612 (REP): R414-10X. Pharmacy Policy.
Published: January 15, 1998
Effective: February 20, 1998

No. 20613 (REP): R414-25X. Policy Concerning the Time Frame in Which Medicaid Claims Must be Submitted for Payment.
Published: January 15, 1998
Effective: February 20, 1998

Health Systems Improvement, Child Care Licensing
No. 20266 (NEW): R430-5. Child Care Facility, General Construction.
Published: December 15, 1997
Effective: February 5, 1998

No. 20269 (NEW): R430-100. Child Care Facilities.
Published: December 15, 1997
Effective: February 5, 1998

Laboratory Services, Laboratory Improvement
No. 20521 (R&R): R444-14. Rules for the Certification of Environmental Laboratories.
Published: January 1, 1998
Effective: February 19, 1998

Human Services
Recovery Services
No. 20522 (NEW): R527-39. Applicant/Recipient Cooperation.
Published: January 1, 1998
Effective: February 5, 1998

No. 20523 (NEW): R527-430. Administrative Notice of Lien-Levy Procedures.
Published: January 1, 1998
Effective: February 5, 1998

No. 20520 (AMD): R527-550. Assessment.
Published: January 1, 1998
Effective: February 11, 1998

No. 20518 (AMD): R527-928. Lost Checks.
Published: January 1, 1998
Effective: February 17, 1998

Judicial Conduct Commission
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No. 20527 (AMD): R595-1-10. Hearing.
Published: January 15, 1998
Effective: February 20, 1998

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Water Resources
No. 20597 (AMD): R653-3. Selecting Private Consultants.
Published: January 15, 1998
Effective: February 18, 1998

No. 20593 (AMD): R653-5. Cloud Seeding.
Published: January 15, 1998
Effective: February 18, 1998

No. 20554 (AMD): R653-7. Administrative Procedures for Informal Proceedings.
Published: January 15, 1998
Effective: February 18, 1998

Pardons (Board of)
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No. 20425 (AMD): R671-101. Rules.
Published: January 1, 1998
Effective: February 18, 1998

No. 20427 (AMD): R671-102. Americans with Disabilities Act Complaint Procedure Rule.
Published: January 1, 1998
Effective: February 18, 1998

No. 20429 (AMD): R671-201. Original Parole Grant Hearing Schedule and Notice.
Published: January 1, 1998
Effective: February 18, 1998

No. 20431 (AMD): R671-202. Notification of Hearings.
Published: January 1, 1998
Effective: February 18, 1998

No. 20433 (AMD): R671-203. Victim Input and Notification.
Published: January 1, 1998
Effective: February 18, 1998

No. 20435 (AMD): R671-204. Pending Charges.
Published: January 1, 1998
Effective: February 18, 1998

No. 20486 (AMD): R671-205. Credit for Time Served.
Published: January 1, 1998
Effective: February 18, 1998

No. 20437 (AMD): R671-206. Competency of Offenders.
Published: January 1, 1998
Effective: February 18, 1998

No. 20439 (AMD): R671-207. Mentally-Ill Offender Custody Transfer.
Published: January 1, 1998
Effective: February 18, 1998

No. 20441 (AMD): R671-208. Confidentiality of Psychological Evaluations and Alienist Reports.
Published: January 1, 1998
Effective: February 18, 1998

No. 20443 (AMD): R671-301. Personal Appearance.
Published: January 1, 1998
Effective: February 18, 1998

No. 20445 (AMD): R671-302. News Media and Public Access to Hearings.
Published: January 1, 1998
Effective: February 18, 1998

No. 20447 (AMD): R671-303. Offender Access to Information.
Published: January 1, 1998
Effective: February 18, 1998

No. 20449 (AMD): R671-304. Hearing Record.
Published: January 1, 1998
Effective: February 18, 1998

No. 20487 (AMD): R671-305. Notification of Board Decision.
Published: January 1, 1998
Effective: February 18, 1998

No. 20451 (AMD): R671-307. Foreign Nationals and Offenders With Detainers.
Published: January 1, 1998
Effective: February 18, 1998

No. 20453 (AMD): R671-308. Offender Hearing Assistance.
Published: January 1, 1998
Effective: February 18, 1998

No. 20455 (AMD): R671-309. Impartial Hearings.
Published: January 1, 1998
Effective: February 18, 1998

No. 20457 (AMD): R671-310. Rescission Hearings.
Published: January 1, 1998
Effective: February 18, 1998

No. 20459 (AMD): R671-311. Special Attention Hearings and Reviews.
Published: January 1, 1998
Effective: February 18, 1998

No. 20489 (AMD): R671-312. Commutation Hearings for Death Penalty Cases.
Published: January 1, 1998
Effective: February 18, 1998

No. 20461 (AMD): R671-315. Pardons.
Published: January 1, 1998
Effective: February 18, 1998

No. 20463 (AMD): R671-316. Redetermination.
Published: January 1, 1998
Effective: February 18, 1998

No. 20465 (AMD): R671-317. Interim Decisions.
Published: January 1, 1998
Effective: February 18, 1998

No. 20469 (AMD): R671-402. Special Conditions of Parole.
Published: January 1, 1998
Effective: February 18, 1998

No. 20490 (AMD): R671-403. Restitution.
Published: January 1, 1998
Effective: February 18, 1998

No. 20471 (AMD): R671-405. Parole Termination.
Published: January 1, 1998
Effective: February 18, 1998

No. 20473 (AMD): R671-501. Warrants of Arrest.
Published: January 1, 1998
Effective: February 18, 1998

No. 20484 (REP): R671-502. Evidence for Issuance of Warrants.
Published: January 1, 1998
Effective: February 18, 1998

No. 20475 (AMD): R671-503. Prerevocation Hearings.
Published: January 1, 1998
Effective: February 18, 1998

No. 20477 (AMD): R671-504. Timeliness of Parole Revocation Hearings.
Published: January 1, 1998
Effective: February 18, 1998

No. 20479 (AMD): R671-505. Parole Revocation Hearings.
Published: January 1, 1998
Effective: February 18, 1998

No. 20485 (REP): R671-506. Alternatives to Re-Incarceration of Parolees.
Published: January 1, 1998
Effective: February 18, 1998

No. 20481 (AMD): R671-507. Restarting the Parole Period.
Published: January 1, 1998
Effective: February 18, 1998

No. 20483 (AMD): R671-508. Evidentiary Hearings.
Published: January 1, 1998
Effective: February 18, 1998

Professional Practices Advisory Commission
Administration
No. 20524 (NEW): R686-100. Professional Practices Advisory Commission, Rules of Procedure: Complaints and Hearings.
Published: January 1, 1998
Effective: February 9, 1998

Public Safety
Driver License
No. 20335 (REP): R708-1. Rehabilitation of Alcohol and Drug Problem Drivers.
Published: January 1, 1998
Effective: February 10, 1998

End of the Rule Effective Dates Section

RULES INDEX
BY AGENCY (CODE NUMBER)
AND
BY KEYWORD (SUBJECT)

The *Rules Index* is a cumulative index that reflects all changes to Utah's administrative rules from January 2, 1998, to the present (current as of February 22, 1998). 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).

NOTE: A copy of the indexes is available for public inspection at the Division of Administrative Rules. The indexes may also be obtained by calling UtahBBS, the State of Utah's Bulletin Board System, at (801) 538-3383, or toll-free within Utah at (800) 882-4638. (**Please note:** the toll-free number to access the bulletin board will be disconnected as of March 15, 1998.) A computer, a modem, and a communications software package are required to access UtahBBS. Set communications software to 8 data bits, no parity, and 1 stop bit. The indexes are located under the "Administrative Rules Conference" (conference 9), in the "Indexes--Current" option (7).

UtahBBS may also be accessed over the Internet with a telnet client (the client must support download capabilities if downloading information is desired), or with a World Wide Web client (such as Mosaic or Netscape). The telnet address is bbs.state.ut.us; the web address is http://web.state.ut.us/its/bbs.htm.

RULES INDEX - BY AGENCY (CODE NUMBER)

ABBREVIATIONS

AMD = Amendment
CPR = Change in proposed rule
EMR = Emergency rule (120 day)
NEW = New rule
5YR = Five-Year Review
EXD = Expired
NSC = Nonsubstantive rule change
REP = Repeal
R&R = Repeal and reenact
* = Text too long to print in *Bulletin*, or repealed text not printed in *Bulletin*

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R156-3a	Architect Licensing Act Rules	20200	CPR	02/18/98	98-2/79
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R156-54	Radiology Technologist and Radiology Practical Technician Licensing Act Rules	20173	CPR	02/03/98	98-1/199
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R277-518	Vocational-Technical Certificates	20658	5YR	01/14/98	98-3/90
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R277-722	Withholding Payments and Commodities in the CACFP	20672	5YR	01/14/98	98-3/96
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R315-3	Application and Plan Approval Procedures for Hazardous Waste Treatment, Storage, and Disposal Facilities	20384	AMD	02/20/98	98-1/27
R315-4	Hazardous Waste Manifest	20385	AMD	02/20/98	98-1/35
R315-6-7	Transfer Facility Requirements	20538	AMD	02/20/98	98-2/24
R315-7	Interim Status Requirements for Hazardous Waste Treatment, Storage, and Disposal Facilities	20386	AMD	02/20/98	98-1/36
R315-8	Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities	20387	AMD	02/20/98	98-1/38
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R315-14-7	Hazardous Waste Burned in Boilers and Industrial Furnaces	20389	AMD	02/20/98	98-1/40
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R315-301-2	Definitions	19876	CPR	01/05/98	97-23/111
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R414-17	Policy on Use of Oxygen Concentrators	20212	REP	01/13/98	97-23/82
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R510-110	Policy Regarding Contractual Involvements of Area Agencies on Aging for Private Eldercare and Case Management Services	20642	5YR	01/08/98	98-3/102

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R527-39	Applicant/Recipient Cooperation	20522	NEW	02/05/98	98-1/67
R527-430	Administrative Notice of Lien-Levy Procedures	20523	NEW	02/05/98	98-1/68
R527-550	Assessment	20520	AMD	02/11/98	98-1/70
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R653-7	Administrative Procedures for Informal Proceedings	20554	AMD	02/18/98	98-2/63
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R657-38	Dedicated Hunter Program	20244	AMD	01/15/98	97-24/105
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R671-301	Personal Appearance	20443	AMD	02/18/98	98-1/79
R671-302	News Media and Public Access to Hearings	20445	AMD	02/18/98	98-1/80
R671-303	Offender Access to Information	20447	AMD	02/18/98	98-1/82
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RULES INDEX - BY KEYWORD (SUBJECT)

ABBREVIATIONS

AMD = Amendment
CPR = Change in proposed rule
EMR = Emergency rule (120 day)
NEW = New rule
5YR = Five-Year Review
EXD = Expired
NSC = Nonsubstantive rule change
REP = Repeal
R&R = Repeal and reenact
* = Text too long to print in *Bulletin*, or repealed text not printed in *Bulletin*

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GRIEVANCE PROCEDURES					
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	20383	R315-2	AMD	02/20/98	98-1/17
	20384	R315-3	AMD	02/20/98	98-1/27
	20385	R315-4	AMD	02/20/98	98-1/35
	20538	R315-6-7	AMD	02/20/98	98-2/24
	20386	R315-7	AMD	02/20/98	98-1/36
	20387	R315-8	AMD	02/20/98	98-1/38
	20388	R315-13	AMD	02/20/98	98-1/39
	20389	R315-14-7	AMD	02/20/98	98-1/40
	20390	R315-16	AMD	02/20/98	98-1/40
	20391	R315-50	AMD	02/20/98	98-1/50
HEALTH FACILITIES					
Health, Health Systems Improvement, Health Facility Licensure	20685	R432-151	5YR	01/20/98	98-4/134
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Professional Practices Advisory Commission, Administration	20524	R686-100	NEW	02/09/98	98-1/99
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HUMAN SERVICES					
Workforce Services, Employment Development	20743	R986-301	5YR	02/06/98	98-5/70
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	20224	R986-302	AMD	01/02/98	97-23/97
	20744	R986-302	5YR	02/06/98	98-5/70
	20745	R986-303	5YR	02/06/98	98-5/71
	20319	R986-303-301	AMD	02/03/98	98-1/116
	20746	R986-304	5YR	02/06/98	98-5/71
	20738	R986-304	EMR	02/12/98	98-5/60
	20752	R986-310	5YR	02/06/98	98-5/74
	20207	R986-414	AMD	01/02/98	97-23/99
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	20757	R986-704	5YR	02/06/98	98-5/77
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	20431	R671-202	AMD	02/18/98	98-1/74
	20435	R671-204	AMD	02/18/98	98-1/76
	20441	R671-208	AMD	02/18/98	98-1/79
	20443	R671-301	AMD	02/18/98	98-1/79
	20447	R671-303	AMD	02/18/98	98-1/82
	20453	R671-308	AMD	02/18/98	98-1/84
	20455	R671-309	AMD	02/18/98	98-1/85
	20457	R671-310	AMD	02/18/98	98-1/86
	20459	R671-311	AMD	02/18/98	98-1/87
	20463	R671-316	AMD	02/18/98	98-1/90
	20465	R671-317	AMD	02/18/98	98-1/91
INMATES' RIGHTS					
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Judicial Conduct Commission, Administration	20527	R595-1-10	AMD	02/20/98	98-2/57
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Education, Administration	20667	R277-709	5YR	01/14/98	98-3/94
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Administrative Services, Facilities Construction and Management	20710	R23-21	5YR	01/28/98	98-4/132
LEGAL AID					
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	20173	R156-54	CPR	02/03/98	98-1/199
	20701	R156-59	5YR	01/27/98	98-4/134
	20581	R156-60b	AMD	02/18/98	98-2/18
	20359	R156-60c	AMD	02/03/98	98-1/6
	20273	R156-60d	AMD	01/15/98	97-24/16
	20342	R156-61	AMD	02/03/98	98-1/10
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Human Services, Aging and Adult Services	20634	R510-100	5YR	01/08/98	98-3/98
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	20202	R307-1-1	AMD	01/08/98	97-23/10
	20219	R307-1-3	AMD	02/05/98	97-23/20
	20740	R307-1-3	NSC	02/05/98	Not Printed
MARRIAGE AND FAMILY THERAPISTS					
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	20648	R414-4X	5YR	01/12/98	98-3/97
	20612	R414-10X	REP	02/20/98	98-2/26
	20762	R414-12	5YR	02/09/98	98-5/66
	20232	R414-15	AMD	01/13/98	97-23/80
	20212	R414-17	REP	01/13/98	97-23/82
	20653	R414-22	5YR	01/13/98	98-3/97
	20345	R414-24	REP	02/04/98	98-1/51
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	20764	R414-26	5YR	02/09/98	98-5/66
	20735	R414-27	5YR	02/04/98	98-5/67
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Human Services, Aging and Adult Services	20641	R510-109	5YR	01/08/98	98-3/102
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Human Services, Aging and Adult Services	20637	R510-103	5YR	01/08/98	98-3/100
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Human Services, Aging and Adult Services	20643	R510-200	5YR	01/08/98	98-3/103
OVERSIZE/OVERWEIGHT TRUCKS					
Transportation, Motor Carrier, Ports of Entry	20646	R912-4	5YR	01/12/98	98-3/104
PARDONS					
Pardons (Board of), Administration	20425	R671-101	AMD	02/18/98	98-1/72
	20461	R671-315	AMD	02/18/98	98-1/89
PAROLE					
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	20431	R671-202	AMD	02/18/98	98-1/74
	20435	R671-204	AMD	02/18/98	98-1/76
	20486	R671-205	AMD	02/18/98	98-1/76
	20441	R671-208	AMD	02/18/98	98-1/79
	20443	R671-301	AMD	02/18/98	98-1/79
	20447	R671-303	AMD	02/18/98	98-1/82
	20451	R671-307	AMD	02/18/98	98-1/84
	20453	R671-308	AMD	02/18/98	98-1/84
	20455	R671-309	AMD	02/18/98	98-1/85
	20457	R671-310	AMD	02/18/98	98-1/86
	20459	R671-311	AMD	02/18/98	98-1/87
	20463	R671-316	AMD	02/18/98	98-1/90
	20465	R671-317	AMD	02/18/98	98-1/91
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	20479	R671-505	AMD	02/18/98	98-1/96
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	20481	R671-507	AMD	02/18/98	98-1/98
	20483	R671-508	AMD	02/18/98	98-1/98
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PERMITS					
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Human Services, Aging and Adult Services	20641	R510-109	5YR	01/08/98	98-3/102
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Pardons (Board of), Administration	20486	R671-205	AMD	02/18/98	98-1/76
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Corrections, Administration	20160	R251-107	AMD	01/15/98	97-22/16
	20196	R251-703	AMD	01/15/98	97-23/6
	20198	R251-707	AMD	01/15/98	97-23/8
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Human Services, Recovery Services	20240	R527-5	AMD	01/05/98	97-23/83
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PROFESSIONAL COMPETENCY					
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PROGRAM TYPE					
Workforce Services, Employment Development	20756	R986-703	5YR	02/06/98	98-5/77
PROVIDER PAYMENT					
Workforce Services, Employment Development	20759	R986-706	5YR	02/06/98	98-5/78
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Pardons (Board of), Administration	20441	R671-208	AMD	02/18/98	98-1/79
PSYCHOLOGISTS					
Commerce, Occupational and Professional Licensing	20342	R156-61	AMD	02/03/98	98-1/10
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	20750	R986-308	5YR	02/06/98	98-5/73
PUBLIC BUILDINGS					
Administrative Services, Facilities Construction and Management	20704	R23-6	5YR	01/28/98	98-4/129
	20705	R23-7	5YR	01/28/98	98-4/129
	20706	R23-8	5YR	01/28/98	98-4/130
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Education, Administration	20669	R277-716	5YR	01/14/98	98-3/94
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	20238	R313-32	AMD	01/23/98	97-23/65
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Environmental Quality, Radiation Control	20237	R313-25	AMD	01/23/98	97-23/62
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Commerce, Occupational and Professional Licensing	20173	R156-54	AMD	see CPR	97-22/12
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	20173	R156-54	CPR	02/03/98	98/1/199
RADIOPHARMACEUTICAL					
Environmental Quality, Radiation Control	20238	R313-32	AMD	01/23/98	97-23/65
RECORDS					
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Natural Resources, Wildlife Resources	20244	R657-38	AMD	01/15/98	97-24/105
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Commerce, Occupational and Professional Licensing	20697	R156-40	5YR	01/27/98	98-4/133
REHABILITATION					
Public Safety, Driver License	20335	R708-1	REP	02/10/98	98-1/107
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Education, Administration	20662	R277-610	5YR	01/14/98	98-3/91
RESOURCES					
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	20747	R986-305	5YR	02/06/98	98-5/72
	20758	R986-705	5YR	02/06/98	98-5/78
RESTITUTION					
Pardons (Board of), Administration	20490	R671-403	AMD	02/18/98	98-1/92
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Human Services, Aging and Adult Services	20640	R510-108	5YR	01/08/98	98-3/100
SAFETY REGULATION					
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Education, Administration	20657	R277-516	5YR	01/14/98	98-3/89
SCHOOL TRANSPORTATION					
Education, Administration	20659	R277-600	5YR	01/14/98	98-3/90
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Human Services, Aging and Adult Services	20636	R510-102	5YR	01/08/98	98-3/99
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Environmental Quality, Air Quality	20099	R307-2-12	AMD	01/08/98	97-21/14
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Workforce Services, Employment Development	20206	R986-412	AMD	01/02/98	97-23/98
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	19876	R315-301-2	CPR	01/05/98	97-23/111
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Administrative Services, Facilities Construction and Management	20709	R23-11	5YR	01/28/98	98-4/131
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Administrative Services, Facilities Construction and Management	20705	R23-7	5YR	01/28/98	98-4/129
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Administrative Services, Facilities Construction and Management	20705	R23-7	5YR	01/28/98	98-4/129
STUDENT COMPETENCY					
Education, Administration	20666	R277-702	5YR	01/14/98	98-3/93
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Education, Administration	20670	R277-718	5YR	01/14/98	98-3/95
STUDENTS					
Education, Administration	20667	R277-709	5YR	01/14/98	98-3/94
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Tax Commission, Property Tax	20177	R884-24P-7	AMD	01/06/98	97-22/75
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Education, Administration	20658	R277-518	5YR	01/14/98	98-3/90
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TRANSPORTATION SAFETY					
Transportation, Motor Carrier	20276	R909-1	AMD	01/15/98	97-24/111
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Transportation, Motor Carrier	20276	R909-1	AMD	01/15/98	97-24/111
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	20747	R986-305	5YR	02/06/98	98-5/72
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Workforce Services, Employment Development	20751	R986-309	5YR	02/06/98	98-5/74
	20732	R986-309-901	EMR	02/12/98	98-5/62
VICTIMS OF CRIMES					
Pardons (Board of), Administration	20433	R671-203	AMD	02/18/98	98-1/75
VOCATIONAL EDUCATION					
Education, Administration	20658	R277-518	5YR	01/14/98	98-3/90
WARRANTS					
Pardons (Board of), Administration	20473	R671-501	AMD	02/18/98	98-1/93
	20484	R671-502	REP	02/18/98	98-1/94
WASTE DISPOSAL					
Environmental Quality, Solid and Hazardous Waste	19876	R315-301-2	AMD	see CPR	97-19/23
	19876	R315-301-2	CPR	01/05/98	97-23/111
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Public Service Commission, Administration	20626	R746-331	EMR	01/05/98	98-3/87
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Natural Resources, Water Resources	20593	R653-5	AMD	02/18/98	98-2/60
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Natural Resources, Water Resources	20593	R653-5	AMD	02/18/98	98-2/60
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Human Services, Recovery Services	20647	R527-3	5YR	01/12/98	98-3/104
WILDLIFE					
Natural Resources, Wildlife Resources	20241	R657-3	AMD	01/15/98	97-24/95
	20243	R657-37	AMD	01/15/98	97-24/104
	20244	R657-38	AMD	01/15/98	97-24/105
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Human Services, Recovery Services	20520	R527-550	AMD	02/11/98	98-1/70

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