

UTAH STATE BULLETIN

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

The *Utah State Bulletin (Bulletin)* is 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. To view rules information, and on-line versions of these publications, visit the division's web site at: <http://www.rules.state.ut.us/>

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NOTICES OF PROPOSED RULES

A state agency may file a PROPOSED RULE when it determines the need for a new rule, a substantive change to an existing rule, or a repeal of an existing rule. Filings received between August 1, 1998, 12:00 a.m., and August 14, 1998, 11:59 p.m., are included in this, the September 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 Rules being repealed are completely struck out.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 October 1, 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 December 30, 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
R152-30
 Utah Personal Introduction Services
 Protection Act

NOTICE OF PROPOSED RULE

(New)

DAR FILE NO.: 21368

FILED: 08/14/1998, 14:54

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Utah Personal Introduction Services Protection Act (the "Act") passed by the 1998 state legislature requires an annual registration of such businesses as defined by the Act. Additionally the posting of a performance bond, certificate of deposit, or letter of credit in the minimum amount of \$50,000 is required. The division has since the Act's passage prepared an application form and forwarded such to members of the industry identified by the division. The division has received substantial feedback as to the difficulty in securing the bond or pledging other adequate security. The proposed rule clarifies the definition of "compensation" and sets forth a formula as to setting bonding amounts.

SUMMARY OF THE RULE OR CHANGE: The proposed rule clarifies the definition of "compensation" received prior to delivery of services as it relates to the requirement of posting a bond or other security. The proposed rule sets forth a formula as to determining bonding amounts.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 13-2-5 and 13-30-101

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: No substantial impact as a filing fee of \$100 established in accordance with Section 63-38-3.2 will cover division clerical processing expenses.

❖LOCAL GOVERNMENTS: No impact to local government as this is a business registration rule and no compliance actions by local government are required.

❖OTHER PERSONS: \$3,000--from an industry analysis by the division there appear to be approximately 30 businesses in the state that meet the statutory definition and would be required to pay the \$100 annual registration fee.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Division analysis and review of the industry shows that there are approximately 30 businesses in the state that meet the statutory definition and would be required to pay the annual \$100 registration fee. Additional costs to specific businesses will vary according to the specific bond amount a business will be required to secure. Premium costs typically vary from 2% to 3% of a bond's face value. For example a \$50,000 bond may carry a \$1,000 to \$1,500 annual premium. The varying degrees of difficulty that potential registrants have faced in securing such bonds having been brought to the division's attention are the genesis of the current proposed rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The costs of administering and enforcing the law and rules will be absorbed into the current budget and with the existing personnel, so there will be no costs to the state budget. The costs to the affected businesses will be the \$100 application and registration processing fee along with the expense of obtaining a bond, if a business decides to obtain a bond rather than furnish a certificate of deposit or letter of credit as security. Due to the limited number of businesses affected by this act and these rules, the overall impact will be minor as will the revenue generated by the application and registration fees--Douglas C. Borba.

THE FULL TEXT OF THIS RULE 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 RULE TO:

Mark E. Kleinfeld at the above address, by phone at (801) 530-6929, by FAX at (801) 530-6001, or by Internet E-mail at mkleinfi@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 10/02/1998; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 09/14/1998, 10:00 a.m., Room 205, Heber M. Wells Bldg., 160 East 300 South, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 10/05/1998

AUTHORIZED BY: Francine A. Giani, Director

R152. Commerce, Consumer Protection.

R152-30. Utah Personal Introduction Services Protection Act.
R152-30-1. Authority.

These rules are promulgated under Section 13-2-5(1) to facilitate the orderly administration of the Utah Personal Introduction Services Protection Act (hereafter, "the Act"), Title 13, Chapter 30.

R152-30-2. Definitions--Clarifications.

(1) The definitions set forth in Section 13-30-102 are incorporated herein.

(2) In addition the following clarification of definition as regards the administration of R152-30 and Chapter 30 of Title 13 is deemed necessary by the division.

(a) As set forth in Section 13-30-102(5), the term "compensation" for the purposes of determining the appropriate monetary amount of the bond, certificate of deposit, or letter of credit to be posted in accordance with Section 13-30-106 means the charge of or receipt of any money or other valuable consideration

prior to full and complete performance of the services the personal introduction service has agreed to perform for the buyer for contracts having an unexpired term exceeding 90 days, as more specifically set forth in R152-30-3.

R152-30-3. Bond, Certificate of Deposit, or Letter of Credit--Sliding Scale--Posting--Recovery Against.

(1) The minimum principal amount of the bond, certificate of deposit, or letter of credit required under Section 13-30-106(2) shall, if compensation is received prior to complete performance of the services contracted for, be based on the number of unexpired contracts in excess of 90 days for personal introduction services to which the personal introduction services is a party, in accordance with the following schedule:

TABLE

Principal Amount of Bond, Certificate of Deposit, or Letter of Credit	Number of Contracts with an Unexpired Term Exceeding 90 Days
\$ 50,000	500 or fewer
75,000	501 to 1,500
100,000	1,501 or more

(2) Any person who is injured through the violation of the Act by a personal introduction service is entitled to recover the value of such losses from the personal introduction service's posted bond, certificate of deposit, or letter of credit.

(3) The division also may recover from the bond, certificate of deposit, or letter of credit of a personal introduction service the amount of any administrative fine it imposes, or the amount of any civil judgments it obtains, against the personal introduction service arising from a violation of the Act.

(4) payment is immediately due and owing to the division when:

(a) the director delivers a signed writing to the personal introduction service and the personal introduction service's surety or issuing institution demanding payment of a specified sum of money; and

(b) the personal introduction service's liability in the amount specified by the director is demonstrated by a certified copy of the division's final order or the civil judgment of any Utah or federal court, which copy shall be attached to the director's demand for payment.

(5) The division may make a demand on a bond, certificate of deposit, or letter of credit either in its own right or as the representative of consumers who have been injured by the personal introduction service's violation of the Act.

(6) Bonds, certificates of deposit, or letters of credit submitted may be executed in any form that the director deems commercially and legally reasonable and consistent with this rule. The division's acceptance of a non-conforming instrument does not result in a waiver of the requirements of this rule.

R152-30-4. Grounds for Denial, Suspension, or Revocation--Procedure.

(1) The director may, in accordance with Title 63, Chapter 46b, Administrative Procedures Act, issue an order to deny an initial or renewal application for registration as per Section 13-30-

112, and suspend or revoke a registration at anytime, if the necessity of such denial, suspension or revocation in the director's opinion is based on facts known by the division or presented to the division showing that an immediate and significant danger to the public health, safety or welfare exists, and if such threat requires immediate action by the director that such denial, suspension or revocation may issue forthwith as an emergency order, subject to the division's compliance with Section 63-46b-20.

KEY: consumer protection, personal services 1998

**13-2-5
13-30-101**



Education, Administration
R277-106
Professional Practices Advisory
Commission Appointment Process

NOTICE OF PROPOSED RULE
(New)

DAR FILE No.: 21342
FILED: 08/06/1998, 13:05
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule fulfills requirements of state law directing the State Board of Education to establish procedures for selecting Professional Practices Commission members.

SUMMARY OF THE RULE OR CHANGE: The rule provides for notification to school districts and educational organizations of Professional Practices Commission vacancies and provides an application and selection process.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53A-6-105

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: No costs or savings because the cost of the entire process includes minimal mailing expenses and the State Superintendent's time.

❖LOCAL GOVERNMENTS: No costs or savings because the cost of the entire process includes minimal mailing expenses and the State Superintendent's time.

❖OTHER PERSONS: No costs or savings because the cost of the entire process includes minimal mailing expenses and the State Superintendent's time.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs due to the enactment of this rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this rule, and I see no fiscal impact on businesses--Scott W. Bean.

THE FULL TEXT OF THIS RULE 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 RULE 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 RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 10/01/1998.

THIS RULE MAY BECOME EFFECTIVE ON: 10/02/1998

AUTHORIZED BY: Carol B. Lear, School Law Specialist

R277. Education, Administration.
R277-106. Professional Practices Advisory Commission Appointment Process.

R277-106-1. Definitions.
A. "UPPAC or Commission" means the Utah Professional Practices Advisory Commission as defined and authorized under Section 53A-7-104 et. seq.

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

C. "Superintendent" means the State Superintendent of Public Instruction.

D. "Nomination petition" means:

(1) written and signed statement by the Superintendent of the school district in which the educator is currently employed, that the Superintendent understands the time commitment of UPPAC members and supports the educator in applying for one three-year term as identified in statute. If the applicant is a superintendent, the chair of the local school board shall provide a statement of support for the educator;

(2) written and signed statement by the educator's building principal that the principal understands the time commitment of UPPAC members and supports the educator in applying for one three-year term. If the applicant is a principal, the applicant shall include a statement of understanding of the time commitment in the personal statement provided by the applicant;

(3) written and signed personal statement by the applicant expressing the applicant's desire to serve as a UPPAC member, a summary of the applicant's professional experience; and

(4) the applicant's vita.

R277-106-2. Authority and Purpose.

A. This rule is adopted pursuant to Utah Constitution Article X, Section 3 which vests general control and supervision of public education in the Board, Section 53A-6-105 which directs the Board to establish procedures for nominating and appointing Commission members, and Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities.

B. The purpose of this rule is to establish nomination and appointment procedures for UPPAC members.

R277-106-3. UPPAC Notification, Nomination and Application Process.

A. The UPPAC Executive Secretary shall notify school districts and education organizations in writing of openings on UPPAC for the upcoming term by May 1 of the year in which the Commission vacancies shall be filled by appointment by the Superintendent.

B. As provided under Section 53A-7-105(1)(b), nomination petitions shall be filed with the Superintendent.

R277-106-4. UPPAC Selection Process.

A. The Superintendent shall provide all complete and properly filed petitions to the UPPAC Executive Secretary for review and the Executive Secretary's recommendation(s) prior to May 20 of the year in which membership on the Commission is sought.

(1) Recommendations shall maintain a representative balance of six teachers and five other educators.

(2) Recommendations shall give consideration to rural/urban, elementary/secondary and geographical balance of Commission members.

B. The Superintendent shall make Commission appointments prior to June 1 of the year in which Commission members shall begin serving.

C. If current Commission members desire to serve for a second term, as provided under Section 53A-7-105(6), the member shall indicate the desire to serve an additional term in writing to the Superintendent prior to May 1 of the year in which the member's term expires.

D. The applications(s) of (a) Commission member(s) seeking reappointment shall be considered for recommendation at the same time that new appointments are considered.

KEY: professional competency, professional practices* 1998

**Art X Sec 3
53A-6-105
53A-1-401(3)**



Education, Administration
R277-437
Student Enrollment Options

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 21343

FILED: 08/06/1998, 13:05

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule was amended to make the "school capacity" definition consistent with other rules defining "school capacity."

SUMMARY OF THE RULE OR CHANGE: The rule changes the school capacity numbers in Subsection R277-437-1(J).

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53A-2-207

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: This amendment does not have a cost or savings impact because the "capacity" definition only allows for students to enter a school by "choice" if enrollment is down. This amendment would never increase the need for teachers or facilities.

❖LOCAL GOVERNMENTS: This amendment does not have a cost or savings impact because the "capacity" definition only allows for students to enter a school by "choice" if enrollment is down. This amendment would never increase the need for teachers or facilities.

❖OTHER PERSONS: This amendment does not have a cost or savings impact because the "capacity" definition only allows for students to enter a school by "choice" if enrollment is down. This amendment would never increase the need for teachers or facilities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs due to the amendment of this rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this rule, and I see no fiscal impact on businesses--Scott W. Bean.

THE FULL TEXT OF THIS RULE 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 RULE 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 RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 10/01/1998.

THIS RULE MAY BECOME EFFECTIVE ON: 10/02/1998

AUTHORIZED BY: Carol B. Lear, School Law Specialist

R277. Education, Administration.

R277-437. Student Enrollment Options.

R277-437-1. Definitions.

A. "Available school or program" means a school or program currently designated under this rule by a district as open to nonresident students.

B. "Average daily membership threshold" means 90% of the maximum capacity of a school.

C. "Core class" means a class specifically required as part of the Core Curriculum established by the Board under R277-700-11.

D. "District of residence" means a student's school district of residence under Section 53A-2-201.

E. "Instructional station" means a classroom, laboratory, shop, study hall, or physical education facility to which a local board of education has assigned a class, teacher or program during a given class period. For example, if two P.E. classes were assigned to meet in the gymnasium simultaneously, the gymnasium would represent two instructional stations.

F. "Nonresident district" means a school district other than the district of residence of the student in question.

G. "Nonresident student" means a student attending or seeking to attend a school other than the school of residence.

H. "Projected average daily membership" means the current year enrollment of a school as of October 1, adjusted for projected growth for the coming school year.

I. "Residual per student expenditure" means the expenditure based on the most recent State Superintendent's Annual Report according to the following formula:

(1) Take total expenditures before interfund transfer for:

(a) maintenance and operation;

(b) tort liability; and

(c) capital projects.

(2) Subtract from the sum of (1), above:

(a) resident district's taxes collected under the Minimum School Program;

(b) state revenue;

(c) federal revenue; and

(d) expenditures for site acquisition or new facility construction (new facility construction includes remodeling that increases building square footage or other major remodeling, if approved by the USOE Director of Finance).

(3) Divide the remainder of (1) and (2) above by the total student membership of the district as reported in the most recent State Superintendent's Annual Report.

J. "School capacity" or "maximum capacity" means the total number of students who could be served in a given school building if each of the building's instructional stations were to serve at least the following number of students:

(1) kindergarten: 10 students per room, per session -- typically two one-half day sessions per day;

(2) grades one through three: 15 students per room;

(3) grades four through six: [~~24~~]20 students per room;

(4) junior high and middle school: [~~27~~]20 students per Core class;

(5) junior high/senior high combinations: [~~25 and one-half~~]20 students per Core class;

(6) senior high: [~~24~~]20 students per Core class;

(7) instructional station capacity for laboratories, physical education facilities, shops, study halls, self-contained special education classrooms, facilities jointly financed by school districts and another community agency for joint use and similar rooms must be calculated individually. Capacity for self-contained special education classrooms shall be based upon students per class as defined by Board and federal special education standards. (The above standards are based upon the UTAH STATE PUBLIC EDUCATION STRATEGIC PLAN, January 1992, page 19; and Section 53A-17a-124.5)

K. "School of residence" means the school which a student would normally attend in the student's district of residence.

L. "Serious infraction of the law or school rules" means any behavior which could, under rules of the nonresident district in which enrollment is sought, subject a student to suspension for more than ten days or expulsion.

M. "UHSAA" means the Utah High School Activities Association.

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

.....

R277-437-5. Transportation.

[A.] A school district may transport its students to schools in other districts under Subsection 53A-2-210(2)(b)(i).

KEY: public education, enrollment options*
~~[June 5, 1997]~~1998

Art X Sec 3
53A-1-401(1)(b)
53A-2-207 through 53A-2-213



Education, Administration
R277-444
Distribution of Funds to Arts and
Sciences Organizations

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21344
FILED: 08/06/1998, 13:05
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule was amended to clarify organizations eligible to receive special arts and sciences funding.

SUMMARY OF THE RULE OR CHANGE: The rule provides that organizations, not individuals, are eligible for funding, that performance hours shall be provided, and provides a realistic evaluation date.

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

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: No cost or savings because the rule clarifies terminology, does not provide for increased costs to anyone, and provides a reporting date.
- ❖ LOCAL GOVERNMENTS: No cost or savings because the rule clarifies terminology, does not provide for increased costs to anyone, and provides a reporting date.
- ❖ OTHER PERSONS: No cost or savings because the rule clarifies terminology, does not provide for increased costs to anyone, and provides a reporting date.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs due to the amendment of this rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this rule, and I see no fiscal impact on businesses--Scott W. Bean.

THE FULL TEXT OF THIS RULE 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 RULE 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 RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 10/01/1998.

THIS RULE MAY BECOME EFFECTIVE ON: 10/02/1998

AUTHORIZED BY: Carol B. Lear, School Law Specialist

R277. Education, Administration.

R277-444. Distribution of Funds to Arts and Sciences Organizations.

.....

R277-444-2. Authority and Purpose.

A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of the public school system under the Board and by Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities.

B. The purpose of this rule is to provide criteria for the distribution of funds appropriated by the Utah Legislature to enhance the Core Curriculum through school visits by professional arts and science groups in the community [~~consistent with the provisions of Chapter 322, Laws of Utah 1995, "Arts and Science Subsidies."~~].

R277-444-3. Eligibility of Organizations.

~~[A. Only organizations are eligible for funding. Individuals are not eligible.~~

[B]A. Only non-profit organizations are eligible. Individuals are not eligible. Evidence of non-profit status shall be provided if requested by USOE staff.

[E]B. Only organizations that have existed for at least three years with proven or demonstrated excellence in their discipline are eligible for funding. Evidence of excellence may be based upon:

- (1) a peer review;
- (2) proven fiscal responsibility; or

(3) receipt of national grant awards (e.g. National Endowment for the Arts, National Endowment for the Humanities, National Science Foundation)

[B]C. Organizations shall receive funding only if they have the demonstrated ability to share their discipline(s) creatively and effectively in educational settings.

[E]D. First consideration shall be given to Utah-based organizations.

E. Only organizations that provide direct professional artistic or scientific services to schools shall be eligible for funding under this rule.

.....

R277-444-5. Accountability.

A. Organizations may be visited by USOE staff prior to funding or at school presentations during the funding cycle to evaluate the effectiveness and preparation of the organization.

B. Organizations that receive arts/science funding shall submit an annual evaluation report by ~~June 30~~ September 1 of the fiscal year in which the award was made.

C. The year-end report shall include:

(1) a budget expenditure report using a form provided by the USOE;

(2) a narrative description of all ~~activities and presentations~~ services provided by the organization;

(3) copies of any and all materials developed, as requested;

(4) record of the dates and places of all services rendered, ~~and~~ the number of instruction/performance hours per [service] district, number of artist hours provided, and the number of students and teachers served ~~[as well as follow-up services and dates provided]~~; and

(5) ~~effectiveness report detailing evidence~~ examples of individual and overall program impact on school science or art programs or curricula.

D. The USOE may require additional evaluation or audit procedures from the grant recipient to demonstrate use of funds consistent with the law and Board rules.

.....

KEY: arts, science, curricula
[October 16, 1995]1998

Art X Sec 3
53A-1-401(3)



Education, Administration
R277-452
Procedures for Filing Comprehensive
Capital Outlay Plan

NOTICE OF PROPOSED RULE

(New)

DAR FILE NO.: 21345

FILED: 08/06/1998, 13:05

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is needed because a section of the Utah Code was inadvertently repealed. The State Board of Education wants to continue to maintain information from local school boards about their comprehensive capital outlay plans.

SUMMARY OF THE RULE OR CHANGE: This rule requires a local board of education to file a comprehensive capital outlay plan with the State Board of Education once every five years and also when the local board of education modifies its plan. The rule also provides for appeal procedures.

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

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: No cost or savings to school districts to file a plan, and no costs or savings to any other entity because the only requirement of the rule is the filing of a plan with the State Board of Education.

❖LOCAL GOVERNMENTS: No cost or savings to school districts to file a plan, and no costs or savings to any other entity because the only requirement of the rule is the filing of a plan with the State Board of Education.

❖OTHER PERSONS: No cost or savings to school districts to file a plan, and no costs or savings to any other entity because the only requirement of the rule is the filing of a plan with the State Board of Education.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs due to the enactment of this rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this rule, and I see no fiscal impact on businesses--Scott W. Bean.

THE FULL TEXT OF THIS RULE 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 RULE 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 RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 10/01/1998.

THIS RULE MAY BECOME EFFECTIVE ON: 10/02/1998

AUTHORIZED BY: Carol B. Lear, School Law Specialist

R277. Education, Administration.

R277-452. Procedures for Filing Comprehensive Capital Outlay Plan.

R277-452-1. Definitions.

- A. "Board" means the Utah State Board of Education.
- B. "USOE" means the Utah State Office of Education.
- C. "Comprehensive Capital Outlay Plan" means a plan outlining current school buildings, their location, and their usage, with a description of future school buildings, their location, and their usage.

R277-452-2. 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 education in the Board, and Section 53A-1-401(3) which permits the Board to adopt rules in accordance with its responsibilities.
- B. The purpose of this rule is to outline the procedures to be followed by local boards in submitting a comprehensive capital outlay plan to the Board.

R277-452-3. Submission of Plan.

- A. A local board of education shall file a comprehensive capital outlay plan with the Board once every five years. It shall also file a revised plan each time changes are adopted by the local board.
- B. Review of plan by USOE
 - (1) Upon receipt of a plan, the State Superintendent of Public Instruction shall notify the district submitting the plan of the plans acceptance, rejection, or need for modification.
 - (2) The notice shall:
 - (a) be given within 60 days of receipt of the plan;
 - (b) include reasons for rejection or need for modification; and
 - (c) advise the local board of the process to appeal the determination.
 - (3) The Board shall approve the plan if it is in accordance with generally accepted projection standards and techniques or unless an exception made by the State Superintendent is justified.
- C. Within a reasonable time following a determination of rejection or need for modification, district and USOE staff shall meet to agree to a plan acceptable to the USOE and the district.

R277-452-4. Appeal Procedures.

- A. A local board receiving notification of rejection or need for modification of its plan, may, after the meeting required under Subsection R277-452-3, make a written request for a hearing with the Board.
- B. The written request shall include:
 - (1) justification for the request, including an explanation of the district and USOE's inability to reach agreement;
 - (2) what part of the plan necessitates reconsideration by the Board; and
 - (3) other relevant facts for reconsideration.
- C. The local board may present its position to the Board orally.

D. The State Superintendent of Public Instruction may make written and oral recommendations to the Board concerning the Board's reconsideration.

E. No later than the first regular meeting of the Board after the appeal hearing, the Board shall make a final determination regarding the plan. The State Superintendent of Public Instruction shall notify the local board of the Board's decision.

F. The decision of the Board is the final administrative determination on the matter.

KEY: educational facilities, educational planning
1998

Art X Sec 3
53A-1-401(3)



Environmental Quality, Environmental
Response and Remediation
R311-201
Underground Storage Tanks:
Certification Programs

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 21360

FILED: 08/14/1998, 14:12

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rules for certification of individuals who perform UST removal, installation, sampling, etc. currently contain many repetitious sections which state the same thing for each certification type. These repetitions are deleted and are replaced by similar wording which applies to all certification types. Some language in the rule deals with requirements for remediation of leaking UST sites, and is not directly associated with the certification program. This language is moved to a new section in R311-204. The changes do not alter the meaning or intent of the rule, but simplify it.

(DAR Note: The proposed amendment to R311-204 is under DAR No. 21361 in this *Bulletin*.)

SUMMARY OF THE RULE OR CHANGE: Repetitious language in the rule is removed to make the rule easier to read and understand. Language dealing with requirements for remediation of leaking underground storage tank (UST) sites is moved to another section in the UST rules because it does not deal directly with the certification program.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-6-105, 19-6-402, and 19-6-403

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: None--the changes only simplify the rule and they do not change the meaning.

❖LOCAL GOVERNMENTS: None--the changes only simplify the rule and they do not change the meaning.

❖OTHER PERSONS: None--the changes only simplify the rule and they do not change the meaning.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The changes only simplify the rule and they do not change the meaning. There is no compliance cost for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no anticipated impact on businesses from the proposed changes. They do not alter the meaning or intent of the rule, but simplify it by removing language which is unnecessary.

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

Environmental Quality
Environmental Response and Remediation
168 North 1950 West
PO Box 144840
Salt Lake City, UT 84114-4840, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Gary Astin at the above address, by phone at (801) 536-4100, by FAX at (801) 359-8853, or by Internet E-mail at gastin@deq.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 10/01/1998; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 09/29/1998, 2:00 p.m., Room 101, Department of Environmental Quality, 168 North 1950 West, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 10/09/1998

AUTHORIZED BY: Brent C. Bradford, Deputy Director

R311. Environmental Quality, Environmental Response and Remediation.

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R311-201-2. Certification Requirement.

(a) Certified UST Consultant. After December 31, 1995, no person shall provide or contract to provide information, opinions, or advice relating to UST release management, abatement, investigation, corrective action, or evaluation for a fee, or in connection with the services for which a fee is charged, without having certification to conduct these activities, except as outlined in Subsections 19-6-402(6)(b)(i), 19-6-402(6)(b)(ii) and R311-201-2(f)4-5(b). The Certified UST Consultant shall be the person directly overseeing UST release-related work. The Certified UST Consultant shall make pertinent project management decisions and be responsible for ensuring that all aspects of UST-related work are performed in an appropriate manner, and all related documentation for work performed submitted to the Executive Secretary shall contain the Certified UST Consultant's signature. After December

31, 1995, any release abatement, investigation, and corrective action work performed by a person who is not certified or who is not working under the direct supervision of a Certified UST Consultant, and is performed for compliance with Utah underground storage tank release-related rules, except as outlined in Subsections 19-6-402(6)(b)(i), 19-6-402(6)(b)(ii) and R311-201-2(f)4-5(b), may be rejected by the Executive Secretary.

(b) UST Inspector. After December 31, 1989, no person shall conduct underground storage tank inspection for determining compliance with Utah underground storage tank rules without having certification to conduct these activities. After December 31, 1989, no owner or operator shall allow any underground storage tank inspections for determining compliance with Utah underground storage tank rules to be conducted on a tank under their ownership or operation unless the person conducting the tank inspection is certified according to Rule R311-201.

(c) UST tester. After December 31, 1989, no person shall conduct UST testing without having certification to conduct such activities. After December 31, 1989, no owner or operator shall allow UST testing to be conducted on an UST under their ownership or operation unless the person conducting the UST testing is certified according to Rule R311-201. Certification by the Executive Secretary[-] under this Rule[-] shall apply only to the specific UST testing equipment and procedures for which the UST tester has been successfully trained by the manufacturer of the equipment or training determined by the Executive Secretary to be equivalent to the manufacturer training.

(d) Groundwater and soil sampler. After December 31, 1989, no person shall conduct groundwater or soil sampling for determining levels of contamination which may have occurred from regulated underground storage tanks without having certification to conduct these activities. After December 31, 1989, no owner or operator shall allow any groundwater or soil sampling for determining levels of contamination which may have occurred from regulated underground storage tanks to be conducted on a tank under their ownership or operation unless the person conducting the groundwater or soil sampling is certified according to Rule R311-201.

(e) UST Installer. After January 1, 1991, no person shall install an underground storage tank without having certification or the on-site supervision of an individual having certification to conduct these activities. After January 1, 1991, no owner or operator shall allow the installation of an underground storage tank to be conducted on a tank under their ownership or operation unless the person installing the tank is certified according to Rule R311-201.

(f) UST Remover. After January 1, 1991, no person shall remove an underground storage tank without having certification or the on-site supervision of an individual having certification to conduct these activities. After January 1, 1991, no owner or operator shall allow the removal of an underground storage tank to be conducted on a tank under their ownership or operation unless the person conducting the tank removal is certified according to Rule R311-201. ~~An UST Remover can overexcavate and properly dispose of 50 cubic yards of contaminated soil per facility, or another volume approved by the Executive Secretary, in addition to the minimum amount required for removal of the UST at the time of tank removal. Appropriate confirmation samples must be taken by a certified groundwater and soil sampler in accordance with~~

R311-201 for the purpose of determining the extent and degree of contamination:]

R311-201-3. Application for Certification.

(a) Any individual may apply for certification by paying any applicable fees and by [complying with the following:

—(a) Certified UST Consultant. Any individual may apply for certification by]submitting an application to the Executive Secretary to demonstrate that the applicant

(1) meets applicable eligibility requirements specified in Subsection R311-201-[6(a)]4 and

(2) will maintain the applicable performance standards specified in Subsection R311-201-[7(a)]6 after receiving a certificate.

(b) [UST Inspector. Any individual may apply for certification by submitting an application form to the Executive Secretary to demonstrate that the applicant meets eligibility requirements specified in Subsection R311-201-6(b) and will maintain the standards specified in Subsection R311-201-7(b) after receiving a certificate:

—(c) UST Tester. Any individual may apply for certification by submitting an application form to the Executive Secretary to demonstrate that the applicant meets eligibility requirements specified in Subsection R311-201-6(c) and will maintain the standards specified in Subsection R311-201-7(c) after receiving a certificate:

—(d) Groundwater and soil sampler. Any individual may apply for certification by submitting an application form to the Executive Secretary to demonstrate that the applicant meets eligibility requirements specified in Subsection R311-201-6(d) and will maintain the standards specified in Subsection R311-201-7(d) after receiving a certificate:

—(e) UST Installer. Any individual may apply for certification by submitting an application form to the Executive Secretary to demonstrate that the applicant meets eligibility requirements specified in Subsection R311-201-6(e) and will maintain the standards specified in Subsection R311-201-7(e) after receiving a certificate:

—(f) UST Remover. Any individual may apply for certification by submitting an application form to the Executive Secretary to demonstrate that the applicant meets eligibility requirements specified in Subsection R311-201-6(f) and will maintain the standards specified in Subsection R311-201-7(f) after receiving a certificate:

R311-201-4. Certification:

—(a) Certified UST Consultant:

—(1) Applications Reviewed. Applications submitted under Subsection R311-201-3(a) shall be reviewed by the Executive Secretary for determination of eligibility for certification.]

—(2) Issuance of Certificate. If the Executive Secretary determines that the applicant meets the applicable eligibility requirements described in Subsection R311-201-[6(a)]4 and meets the standards described in Subsection R311-201-[7(a)]6, the Executive Secretary shall issue to the applicant a certificate.

(c)[3] Certification Period. Certification for all certificate holders except UST inspectors shall be effective for a period of two years from the date of issuance, unless revoked before the expiration date pursuant to Section R311-201-[10]9 or inactivated

pursuant to Section R311-201-8. Inspector certificates shall be effective for a period of one year from the date of issuance. Certificates shall be subject to periodic renewal pursuant to Subsection R311-201-5[(a)].

[—(b) UST Inspector:

—(1) Applications Reviewed. Applications submitted under Subsection R311-201-3(b) shall be reviewed by the Executive Secretary for determination of eligibility for certification:

—(2) Issuance of Certificate. If the Executive Secretary determines that the applicant meets the eligibility requirements described in Subsection R311-201-6(b) and meets the standards described in Subsection R311-201-7(b), he shall issue to the applicant a certificate:

—(3) Certification Period. Certification shall be effective for a period of one year from the date of issuance unless revoked before the expiration date pursuant to Section R311-201-10. Certificates shall be subject to periodic renewal pursuant to Subsection R311-201-5(b):

—(c) UST Tester:

—(1) Applications Reviewed. Applications submitted under Subsection R311-201-3(c) shall be reviewed by the Executive Secretary for determination of eligibility for certification:

—(2) Issuance of Certificate. If the Executive Secretary determines that the applicant meets the eligibility requirements described in Subsection R311-201-6(c) and meets the standards described in Subsection R311-201-7(c), he shall issue to the applicant a certificate:

—(3) Certification Period. Certification shall be effective for a period of two years from the date of issuance unless inactivated before the expiration date pursuant to Section R311-201-9 or revoked before the expiration date pursuant to Section R311-201-10. Certificates shall be subject to periodic renewal pursuant to Subsection R311-201-5(c):

—(d) Groundwater and soil sampler:

—(1) Applications Reviewed. Applications submitted under Subsection R311-201-3(d) shall be reviewed by the Executive Secretary for determination of eligibility for certification:

—(2) Issuance of Certificate. If the Executive Secretary determines that the applicant meets the eligibility requirements described in Subsection R311-201-6(d) and meets the standards described in Subsection R311-201-7(d), he shall issue to the applicant a certificate:

—(3) Certification Period. Certification shall be effective for a period of two years from the date of issuance unless revoked before the expiration date pursuant to Section R311-201-10. Certificates shall be subject to periodic renewal pursuant to Subsection R311-201-5(d):

—(e) UST Installer:

—(1) Applications Reviewed. Applications submitted under Subsection R311-201-3(e) shall be reviewed by the Executive Secretary for determination of eligibility for certification:

—(2) Issuance of Certificate. If the Executive Secretary determines that the applicant meets the eligibility requirements described in Subsection R311-201-6(e) and meets the standards described in Subsection R311-201-7(e), he shall issue to the applicant a certificate:

—(3) Certification Period. Certification shall be effective for a period of two years from the date of issuance unless inactivated before the expiration date pursuant to Section R311-201-9 or

revoked before the expiration date pursuant to Section R311-201-10. Certificates shall be subject to periodic renewal pursuant to Subsection R311-201-5(e).

— (f) UST Remover.

— (1) Applications Reviewed. Applications submitted under Subsection R311-201-3(f) shall be reviewed by the Executive Secretary for determination of eligibility for certification.

— (2) Issuance of Certificate. If the Executive Secretary determines that the applicant meets the eligibility requirements described in Subsection R311-201-6(f) and meets the standards described in Subsection R311-201-7(f), he shall issue to the applicant a certificate.

— (3) Certification Period. Certification shall be effective for a period of two years from the date of issuance unless inactivated before the expiration date pursuant to Section R311-201-9 or revoked before the expiration date pursuant to Section R311-201-10. Certificates shall be subject to periodic renewal pursuant to Subsection R311-201-5(f).

R311-201-5. Renewal.

— (a) Certified UST Consultant.

— (1) Application. A certificate holder may apply for certificate renewal not more than six months prior to the expiration date of the certificate by submitting the following:

— (A) a completed application form to demonstrate that the applicant meets eligibility requirements described in Subsection R311-201-6(a) and meets the standards specified in Subsection R311-201-7(a); and

— (B) any applicable fees.

— (2) Issuance of Certificate. If the Executive Secretary determines that the applicant meets the eligibility requirements described in Subsection R311-201-6(a), and meets the standards described in Subsection R311-201-7(a), the Executive Secretary shall issue a certificate to the applicant.

— (3) Certification Period. Renewed certificates shall be effective for a period of two years from the date of issuance unless revoked before that date pursuant to Section R311-201-10.

— (b) UST Inspector.

— (1) Application. A certificate holder may apply for certificate renewal not more than six months prior to the expiration date of the certificate by submitting the following:

— (A) A completed application form to demonstrate that the applicant meets eligibility requirements specified in Subsections R311-201-6(b)(1) and (b)(2), and meets the standards specified in Section R311-201-7; and

— (B) any applicable fees.

— (2) Issuance of Certificate. If the Executive Secretary determines that the applicant meets the eligibility requirements described in Subsection R311-201-6(b) and meets the standards described in Subsection R311-201-7(b), he shall issue to the applicant a certificate.

— (3) Certification Period. Renewed certificates shall be effective for a period of one year from the date of issuance unless revoked before that date pursuant to Section R311-201-10.

— (c) UST Tester.

— (1) Application. A certificate holder may apply for certificate renewal not more than six months prior to the expiration date of the certificate by submitting the following:

— (A) A completed application form to demonstrate that the applicant meets eligibility requirements specified in Subsections R311-201-6(c)(1), (c)(2), (c)(3), and (c)(4) and meets the standards specified in Subsection R311-201-7(c); and

— (B) any applicable fees.

— (2) Issuance of Certificate. If the Executive Secretary determines that the applicant meets the eligibility requirements described in Subsection R311-201-6(c) and meets the standards described in Subsection R311-201-7(c), he shall issue to the applicant a certificate.

— (3) Certification Period. Renewed certificates shall be effective for a period of two years from the date of issuance unless inactivated pursuant to Section R311-201-9 or revoked before that date pursuant to Section R311-201-10.

— (d) Groundwater and soil sampler.

— (1) Application. A certificate holder may apply for certificate renewal not more than six months prior to the expiration date of the certificate by submitting the following:

— (A) A completed application form to demonstrate that the applicant meets eligibility requirements specified in Subsections R311-201-6(d)(1) and (d)(2), and meets the standards specified in Subsection R311-201-7(d); and

— (B) any applicable fees.

— (2) Issuance of Certificate. If the Executive Secretary determines that the applicant meets the eligibility requirements described in Subsection R311-201-6(d) and meets the standards described in Subsection R311-201-7(d), he shall issue to the applicant a certificate.

— (3) Certification Period. Renewed certificates shall be effective for a period of two years from the date of issuance unless revoked before that date pursuant to Section R311-201-10.

— (e) UST Installer.

— (1) Application. A certificate holder may apply for certificate renewal not more than six months prior to the expiration date of the certificate by submitting the following:

— (A) a completed application form to demonstrate that the applicant meets eligibility requirements specified in Subsections R311-201-6(e)(1), (e)(2), and (e)(4), and meets the standards specified in Subsection R311-201-7(e); and

— (B) any applicable fees.

— (2) Issuance of Certificate. If the Executive Secretary determines that the applicant meets the eligibility requirements described in Subsections R311-201-6(e)(1), (e)(2), and (e)(4) and meets the standards described in Subsection R311-201-7(e), he shall issue to the applicant a certificate.

— (3) Certification Period. Renewed certificates shall be effective for a period of two years from the date of issuance unless inactivated pursuant to Section R311-201-9 or revoked before that date pursuant to Section R311-201-10.

— (f) UST Remover.

— (1) Application. A certificate holder may apply for certificate renewal not more than six months prior to the expiration date of the certificate by submitting the following:

— (A) a completed application form to demonstrate that the applicant meets eligibility requirements specified in Subsections R311-201-6(f)(1), (f)(2), and (f)(4), and meets the standards specified in Subsection R311-201-7(f); and

— (B) any applicable fees.

~~(2) Issuance of Certificate. If the Executive Secretary determines that the applicant meets the eligibility requirements described in Subsections R311-201-6(f)(1), (f)(2), and (f)(4) and meets the standards described in Subsection R311-201-7(f), he shall issue to the applicant a certificate.~~

~~(3) Certification Period. Renewed certificates shall be effective for a period of two years from the date of issuance unless inactivated pursuant to Section R311-201-9 or revoked before that date pursuant to Section R311-201-10.]~~

R311-201-[6]4. Eligibility for Certification.

(a) Certified UST Consultant.

(1) Training. For initial and renewal certification, an applicant must meet Occupational Safety and Health Agency safety training requirements in accordance with 29 CFR 1910.120 and any other applicable safety training, as required by federal and state law, and within a six-month period prior to application must complete an approved training course or equivalent in a program approved by the Executive Secretary to provide training to include the following areas: state and federal statutes, rules and regulations, groundwater and soil sampling, and other applicable and related Department of Environmental Quality policies.

(2) Experience. Each applicant must provide with the application a signed statement or other evidence demonstrating three years, within the past seven years, of appropriately related experience in underground storage tank release abatement, investigation, or corrective action, or an equivalent combination of appropriate education and experience, as determined by the Executive Secretary.

(3) Education. Each applicant must provide with the application college transcripts or other evidence demonstrating the following:

(A) a bachelor's or advanced degree from an accredited college or university with major study in environmental health, engineering, biological, chemical, environmental, or physical science, or a specialized or related scientific field, or equivalent education/experience as determined by the Executive Secretary; or

(B) a professional engineering certificate licensed under Title 58, Chapter 22, of the Professional Engineers and Land Surveyors Licensing Act or equivalent certification as determined by the Executive Secretary.

(4) Examination. Each applicant must successfully pass a certification examination or equivalent administered under the direction of the Executive Secretary. The Executive Secretary shall determine the content of the initial and subsequent examinations, based on the training requirements as outlined in Subsection R311-201-[6]4(a)(1). An individual who successfully passes an examination will be provided with documentation to include with the application.

(b) UST Inspector.

(1) Training. For initial certification, an applicant must have successfully completed an underground storage tank inspector training course or equivalent within the six month period prior to application in a program approved by the Executive Secretary to provide training to include the following areas: corrosion, geology, hydrology, tank handling, tank testing, product piping testing, disposal, safety, sampling methodology, state site inspection protocol, state and federal statutes, rules and regulations. Renewal certification training will be established by the Executive Secretary.

The applicant must provide documentation of training with the application.

(2) Examination. An applicant must successfully pass a certification examination administered under the direction of the Executive Secretary. The Executive Secretary shall determine the content of the initial and subsequent examinations, based on the training requirements as outlined in Subsection R311-201-[6]4(b)(1), and the standards and criteria against which the applicant will be evaluated. An individual who successfully passes an examination will be provided with documentation to include with the application.

(c) UST Tester.

(1) Financial Assurance. An applicant or applicant's employer shall have insurance, surety bonds, liquid company assets or other appropriate kinds of financial assurance which covers UST testing and which, in combination, represent an unencumbered value of the largest UST testing contract performed by the applicant or the applicant's employer, as appropriate, during the previous two years, or \$50,000, whichever is greater. An applicant who uses his employer's financial assurance must also provide evidence of his employer's approval of the certification application.

(2) Training. For initial certification, an applicant must have successfully passed a training course conducted by the manufacturer of the UST testing equipment that he will be using, or a training course determined by the Executive Secretary to be equivalent to the manufacturer training, in the correct use of the necessary equipment, and testing procedures required to operate the UST test system. An applicant for renewal of certification must have successfully passed an appropriate refresher training course conducted by the manufacturer of the UST testing equipment that he will be using, or training as determined by the Executive Secretary to be equivalent to the manufacturer training, in the correct use of the necessary equipment, and testing procedures required to operate the UST test system. For renewal certification, refresher training or equivalent must be completed within one year prior to the expiration date of the certificate. In addition, an applicant must complete underground storage tank testers training within the six month period prior to application in a program approved by the Executive Secretary to provide training to include applicable and related areas of state and federal statutes, rules and regulations. Renewal certification training will be established by the Executive Secretary. The applicant must provide documentation of training with the application.

(3) Performance Standards of Equipment. An applicant shall submit documentation which demonstrates the UST testing equipment used by the applicant meets performance standards of [Rule R311-202;]40 CFR Part 280.40(a)(3), 280.43(c), and 280.44(b) for tank and product piping tightness testing. This documentation shall be obtained through an independent lab, professional engineering firm, or some other independent organization or individual approved by the Executive Secretary. The documentation shall be submitted at the time of application for certification.

(4) Examination. An applicant must successfully pass a certification examination administered under the direction of the Executive Secretary. The Executive Secretary shall determine the content of the initial and subsequent examinations, based on the training requirements as outlined in Subsection R311-201-[6]4(c)(2), and the standards and criteria against which the

applicant will be evaluated. An individual who successfully passes an examination will be provided with documentation to include with the application.

(d) Groundwater and soil sampler.

(1) Training. For initial and renewal certification an applicant shall successfully complete an underground storage tank groundwater and soil sampler training course or equivalent within the six month period prior to application in a program approved by the Executive Secretary to provide training to include the following areas: chain of custody, decontamination, EPA testing methods, groundwater and soil sampling protocol, preservation of samples during transportation, coordination with Utah certified labs, state and federal statutes, rules and regulations. Renewal certification training will be determined by the Executive Secretary. The applicant shall provide documentation of training with the application.

(2) Examination. An applicant must successfully pass a certification examination administered under the direction of the Executive Secretary. The Executive Secretary shall determine the content of the initial and subsequent examinations, based on the training requirements as outlined in Subsection R311-201-[6]4(d)(1), and the standards and criteria against which the applicant will be evaluated. An individual who successfully passes an examination will be provided with documentation to include with the application.

(e) UST Installer.

(1) Financial assurance. An applicant or the applicant's employer shall have insurance, surety bonds, liquid company assets or other appropriate kinds of financial assurance which covers underground storage tank installation and which, in combination, represents an unencumbered value of not less than the largest underground storage tank installation contract performed by the applicant or the applicant's employer, as appropriate, during the previous two years, or \$250,000, whichever is greater. Evidence of financial assurance shall be provided with the application. An applicant who uses his employer's financial assurance must also provide evidence of his employer's approval of the application.

(2) Training. For initial and renewal certification, an applicant must have successfully completed an underground storage tank installer approved training course or equivalent within the six-month period prior to the application in a program approved by the Executive Secretary to provide training to include the following areas: tank installation, preinstallation tank testing, product piping testing, excavation, anchoring, backfilling, secondary containment, leak detection methods, piping, electrical, state and federal statutes, rules and regulations. The applicant must provide documentation of training with the application.

(3) Experience. Each applicant must provide with his application a sworn statement or other evidence that he has actively participated in a minimum of three underground storage tank installations.

(4) Examination. An applicant must successfully pass a certification examination administered under the direction of the Executive Secretary. The Executive Secretary shall determine the content of the initial and subsequent examinations, based on the training requirements as outlined in Subsection R311-201-[6]4(e)(2), and the standards and criteria against which the applicant will be evaluated. An individual who successfully passes

an examination will be provided with documentation to include with the application.

(f) UST Remover.

(1) Financial assurance. An applicant or the applicant's employer shall have insurance, surety bonds, liquid company assets or other appropriate kinds of financial assurance which covers underground storage tank removal and which, in combination, represents an unencumbered value of not less than the largest underground storage tank removal contract performed by the applicant or the applicant's employer, as appropriate, during the previous two years, or \$250,000, whichever is greater. Evidence of financial assurance shall be provided with the application. An applicant who uses his employer's financial assurance must also provide evidence of his employer's approval of the application.

(2) Training. For initial and renewal certification, an applicant must have successfully completed an underground storage tank remover approved training course or equivalent within the six-month period prior to the application in a program approved by the Executive Secretary to provide training to include the following areas: tank removal, tank removal safety practices, state and federal statutes, rules and regulations. The applicant must provide documentation of training with the application.

(3) Experience. Each applicant must provide with his application a sworn statement or other evidence that he has actively participated in a minimum of three underground storage tank removals.

(4) Examination. An applicant must successfully pass a certification examination administered under the direction of the Executive Secretary. The Executive Secretary shall determine the content of the initial and subsequent examinations, based on the training requirements as outlined in Subsection R311-201-[6]4(f)(2), and the standards and criteria against which the applicant will be evaluated. An individual who successfully passes an examination will be provided with documentation to include with the application.

R311-201-5. Renewal.

(a) A certificate holder may apply for certificate renewal not more than six months prior to the expiration date of the certificate by submitting:

(1) a completed application form to demonstrate that the applicant meets the applicable eligibility requirements described in R311-201-4 and meets the applicable performance standards specified in R311-201-6, and

(2) any applicable fees.

(b) If the Executive Secretary determines that the applicant meets the applicable eligibility requirements of R311-201-4 and the applicable performance standards of R311-201-6, the Executive Secretary shall reissue the certificate to the applicant.

(c) Renewal certificates shall be issued for a period equal to the initial certification period, and shall be subject to inactivation under R311-201-8 and revocation under R311-201-9.

R311-201-[7]6. Standards of Performance.

(a) Certified UST Consultant. An individual who provides UST consulting services in the State of Utah:

(1) shall display the certificate upon request;

(2) shall comply with all local, state and federal laws, rules and regulations regarding UST release-related consulting in this state;

(3) shall provide, or shall associate appropriate personnel in order to provide a high level of experience and expertise in release abatement, investigation, or corrective action;

(4) shall perform, or take steps to ensure that work is performed with skill, care, and diligence consistent with a high level of experience and expertise in release abatement, investigation, or corrective action;

(5) shall perform work and submit documentation in a timely manner as determined by the Executive Secretary and in a format established by the Division of Environmental Response and Remediation, as outlined in the most recent Consultant's Day Seminar Handbook;

(6) shall review and certify by signature any documentation submitted to the Executive Secretary in accordance with UST release-related compliance;

(7) shall ensure and certify by signature all pertinent release abatement, investigation, and corrective action work performed under the direct supervision of a Certified UST Consultant;

(8) shall report the discovery of any release caused by or encountered in the course of performing environmental sampling for compliance with Utah underground storage tank rules, or report the results indicating that a release may have occurred, to the local health district, local public safety office and the Executive Secretary within twenty-four hours;

(9) shall not participate in fraudulent, unethical, deceitful or dishonest activity with respect to performance of work for which certification is granted; and,

(10) shall not participate in any other activities regulated under Rule R311-201 without meeting all requirements of that certification program.

(b) UST Inspector. An individual who performs underground storage tank inspecting for the Division of Environmental Response and Remediation:

(1) shall display his certificate upon request;

(2) shall comply with all local, state and federal laws, rules and regulations regarding underground storage tank inspecting in this state;

(3) shall report the discovery of any release caused by or encountered in the course of performing tank inspecting to the local health district, local public safety office and the Executive Secretary within twenty-four hours;

(4) shall conduct inspections of USTs and records to determine compliance with this rule only as authorized by the Executive Secretary.

(5) shall not participate in fraudulent, unethical, deceitful or dishonest activity with respect to any certificate application;

(6) shall not participate in fraudulent, unethical, deceitful or dishonest activity with respect to performance of work for which certification is granted; and,

(7) shall not participate in any other regulated certification program activities without meeting all requirements of that certification program.

(c) UST Tester. An individual who performs UST testing in the State of Utah:

(1) shall display his certificate upon request;

(2) shall comply with all local, state and federal laws, rules and regulations regarding UST testing in this state;

(3) shall perform all work in a manner that there is no release of the contents of the tank;

(4) shall report the discovery of any release caused by or encountered in the course of performing tank testing to the local health district, local public safety office and the Executive Secretary within twenty-four hours;

(5) shall assure that all operations of UST testing which are critical to the integrity of the system and to the protection of the environment shall be supervised by a certified person;

(6) shall not participate in fraudulent, unethical, deceitful or dishonest activity with respect to any certificate application;

(7) shall not participate in fraudulent, unethical, deceitful or dishonest activity with respect to performance of work for which certification is granted where the manner of the activity would increase the possibility of a release or suspected release from an underground storage tank or which would falsify UST testing results of the underground storage tank system;

(8) shall perform work in a manner that the integrity of the underground storage tank system is maintained; and,

(9) shall not participate in any other regulated certification program activities without meeting all requirements of that certification program.

(d) Groundwater and soil sampler. An individual who performs environmental sampling for compliance with Utah underground storage tank rules:

(1) shall display his certificate upon request;

(2) shall comply with all local, state and federal laws, rules and regulations regarding underground storage tank sampling in this state;

(3) shall report the discovery of any release caused by or encountered in the course of performing groundwater or soil sampling or report the results indicating that a release may have occurred to the local health district, local public safety office and the Executive Secretary within twenty-four hours;

(4) shall not participate in fraudulent, unethical, deceitful or dishonest activity with respect to any certificate application;

(5) shall not participate in fraudulent, unethical, deceitful or dishonest activity with respect to performance of work for which certification is granted; and,

(6) shall not participate in any other regulated certification program activities without meeting all requirements of that certification program.

(e) UST Installer. An individual who performs underground storage tank installation in the State of Utah:

(1) shall display his certificate upon request;

(2) shall comply with all local, state and federal laws, rules and regulations regarding underground storage tank installation in this state;

(3) shall perform all work in a manner that there is no release of the contents of the tank;

(4) shall report the discovery of any release caused by or encountered in the course of performing tank installation to the local health district, local public safety office and the Executive Secretary within twenty-four hours;

(5) shall assure that all operations of tank installation which are critical to the integrity of the system and to the protection of the environment which includes preinstallation tank testing, tank site

preparation including anchoring, tank placement, backfilling, cathodic protection installation, service, or repair, vent and product piping assembly, fill tube attachment, installation of tank manholes, pump installation, secondary containment construction, and UST repair shall be supervised by a certified person;

(6) shall not participate in fraudulent, unethical, deceitful or dishonest activity with respect to any certificate application;

(7) shall not participate in fraudulent, unethical, deceitful or dishonest activity with respect to performance of work for which certification is granted where the manner of the activity would increase the possibility of a release from an underground storage tank; and

(8) shall not participate in any other regulated certification program activities without meeting all requirements of that certification program.

(9) shall notify the Executive Secretary 30 days before installing or upgrading an UST.

(f) UST Remover. An individual who performs underground storage tank removal in the State of Utah:

(1) shall display his certificate upon request;

(2) shall comply with all local, state and federal laws and regulations regarding underground storage tank removal in this state;

(3) shall perform all work in a manner that there is no release of the contents of the tank;

(4) shall report the discovery of any release caused by or encountered in the course of performing tank removal to the local health district, local public safety office and the Executive Secretary within twenty-four hours;

(5) shall assure that all operations of tank removal which are critical to safety and to the protection of the environment which includes removal of soil adjacent to the tank, disassembly of pipe, final removal of product and sludges from the tank, cleaning of the tank, purging or inerting of the tank, removal of the tank from the ground, and removal of the tank from the site shall be supervised by a certified person;

(6) shall not proceed to close a regulated UST without an approved closure plan, except as outlined in Subsection R311-204-2(b);

(7) shall not participate in fraudulent, unethical, deceitful or dishonest activity with respect to any certificate application;

(8) shall not participate in fraudulent, unethical, deceitful or dishonest activity with respect to performance of work for which certification is granted where the manner of the activity would increase the possibility of a release from an underground storage tank; and

(9) shall not participate in any other regulated certification program activities without meeting all requirements of that certification program, except as outlined in ~~Rule R311-201-2(f)~~ Subsection R311-204-5(b).

R311-201-[8]7. Denial of Certification and Appeal of Denial.

Any individual whose application or renewal application for certification or certification renewal is denied shall be provided with a written documentation by the Executive Secretary specifying the reason or reasons for denial. An applicant may appeal that determination to the Solid and Hazardous Waste Control Board using the procedures specified in Section 63-46b-1, et seq., and Rule R315-12.

R311-201-[9]8. Inactivation of Certification.

If an applicant was certified based upon his employer's financial assurance, certification is contingent upon the applicant's continued employment by that employer. If the employer loses his financial assurance or the applicant leaves the employer, his certificate shall automatically be deemed inactive and he shall no longer be certified for purposes of this Rule. Inactive certificates may be reactivated by submitting a supplemental application with new financial assurances and payment of any applicable fees. Reactivated certificates shall be effective for the remainder of their original term unless subsequently revoked or inactivated before the end of that term.

R311-201-[10]9. Revocation of Certification.

Upon receipt of evidence that a certificate holder does not meet one or more of the eligibility requirements specified in Section R311-201-[6]4 or does not meet one or more of the performance standards specified in Section R311-201-[7]6, the individual's certification may be revoked by the Executive Secretary. Any appeal proceedings by the individual shall be conducted in accordance with the requirements of Section 63-46b-1, et seq., using informal procedures.

R311-201-[11]0. Reciprocity.

If the Executive Secretary determines that another state's certification program is equivalent to the certification program provided in this rule, the applicant successfully passes the Utah certification examination, and payment of any fees associated with this rule are made, he may issue a Utah certificate. The certificate will be valid until the expiration date of the previous state's certificate or the expiration of the certification period described in Section R311-201-[4]3(c), as appropriate, whichever is first.

KEY: hazardous substances, petroleum, underground storage tanks*

January 13, 1997 1998	19-6-105
Notice of Continuation March 12, 1997	19-6-402
	19-6-403



Environmental Quality, Environmental
Response and Remediation
R311-204
Underground Storage Tanks: Closure

NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE NO.: 21361
FILED: 08/14/1998, 14:12
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The requirement that underground storage tank (UST) removers notify the Executive Secretary at least 72 hours before

performing UST closures is important so the state UST inspectors can inspect the closure. Putting the requirement in rule helps assure that the notice will be given. Two requirements dealing with remediation of contaminated UST sites were previously in the Certification rule, R311-201. These requirements do not directly apply to certification and they are moved to Section R311-204-5 so they can be more easily found in the rule.

(DAR Note: The proposed amendment to R311-201 is under DAR No. 21360 in this *Bulletin*.)

SUMMARY OF THE RULE OR CHANGE: The Executive Secretary has in the past requested that underground storage tank (UST) removers notify him at least 72 hours before performing an UST closure. This policy is being formalized in rule. Section R311-204-5 is created to contain language to require that UST remediation be conducted by a certified UST consultant, and to allow UST removers who are not certified consultants to over excavate some contaminated soil. This language has been in rule elsewhere, and is moved to this new section. References to R311-202, which incorporates the Federal UST regulations (40 CFR 280) by reference, are changed to cite the federal regulations directly, rather than R311-202. This change is made at the request of the Governor's Office of Planning and Budget.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-6-105, 19-6-402, and 19-6-403

ANTICIPATED COST OR SAVINGS TO:

❖**THE STATE BUDGET:** None--the addition of the new section only moves language which has been elsewhere in the rules. The notification requirement only requires a phone call before the closure begins.

❖**LOCAL GOVERNMENTS:** None--the addition of the new section only moves language which has been elsewhere in the rules. The notification requirement only requires a phone call before the closure begins.

❖**OTHER PERSONS:** None--the addition of the new section only moves language which has been elsewhere in the rules. The notification requirement only requires a phone call before the closure begins.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--the addition of the new section only moves language which has been elsewhere in the rules. The notification requirement only requires a phone call before the closure begins.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: These changes should have no fiscal impact on businesses. They only serve to relocate rule wording to a more appropriate location, and formalize a current policy requiring notification by phone call of upcoming UST closures.

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

Environmental Quality
 Environmental Response and Remediation
 168 North 1950 West
 PO Box 144840
 Salt Lake City, UT 84114-4840, or

at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Gary Astin at the above address, by phone at (801) 536-4100, by FAX at (801) 359-8853, or by Internet E-mail at gastin@deq.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 10/01/1998; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 09/29/1998, 2:00 p.m., Room 101, Department of Environmental Quality, 168 North 1950 West, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 10/09/1998

AUTHORIZED BY: Brent C. Bradford, Deputy Director

R311. Environmental Quality, Environmental Response and Remediation.

R311-204. Underground Storage Tanks: Closure and Remediation.

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R311-204-2. Underground Storage Tank Closure Plan.

(a) Owners or operators of all underground storage tanks or any portion thereof which are to be permanently closed or undergo change-in-service shall submit a permanent closure plan to the Executive Secretary of the Utah Solid and Hazardous Waste Control Board. The permanent closure plan shall be submitted by the owner as fulfillment of the 30-day permanent closure notification requirement in accordance with [~~Section R311-202;~~40 CFR 280 Subpart G.

(b) Tanks which are to be removed as part of corrective action as allowed by [~~R311-202;~~40 CFR 280 Subpart G are not required to submit a closure plan but must meet requirements of [~~Section R311-202, Part~~40 CFR 280.66(d) before any removal activity takes place and must submit a corrective action plan as required by [~~Section R311-202, Part~~40 CFR 280.66.

(c) The plan must address applicable issues involved with permanent closure or change-in-service which includes: tank disposal handling and final disposal site, product removal, sludge disposal, vapor purging or inerting, removing or securing or capping product piping, removing vent lines or securing vent lines open, tank cleaning, environmental sampling, contaminated soil and water management, in-place tank disposal or tank removal, transportation of tank, permanent disposal and other disposal activities which may affect human health, human safety or the environment.

(d) No underground storage tank shall be permanently closed or undergo change-in-service prior to the owner's receiving final approval of the submitted permanent tank closure plan by the Executive Secretary, except as outlined in Section R311-204-2(b). Closure plan approval shall be effective for a period of one year. If the underground storage tank [~~is~~has not been permanently closed or undergone change in service as proposed within one year following approval from the Executive Secretary, the plan must be

re-submitted for approval, unless otherwise approved by the Executive Secretary.

(e) Permanent closure plans shall be prepared using approved forms according to guidance furnished by the Executive Secretary.

(f) Approved permanent closure plans shall be on site during the entire closure activity. It is the responsibility of the owner or operator to assure that the approved closure plan and approval letter are on site during all closure activities.

(g) Any deviations or modifications to an approved closure plan must be approved by the Executive Secretary prior to implementation, and submitted in writing to the Executive Secretary.

(h) ~~[Any UST release management, abatement, investigation, corrective action or evaluation activities for a fee, or in connection with services for which a fee is charged, must be performed under the supervision of a Certified UST Consultant, except as outlined in Section 19-6-402(6)(b)(i) and 19-6-402(6)(b)(ii), and Rule R311-201-2 (f).]The Executive Secretary shall be notified at least 72 hours prior to the start of closure activities.~~

.....

R311-204-5. Remediation.

(a) Any UST release management, abatement, investigation, corrective action or evaluation activities for a fee, or in connection with services for which a fee is charged, must be performed under the supervision of a Certified UST Consultant, except as outlined in sections 19-6-402(6)(b)(i), 19-6-402(6)(b)(ii), and R311-204-5 (b).

(b) A certified UST Remover may overexcavate and properly dispose of up to 50 cubic yards of contaminated soil per facility, or another volume approved by the Executive Secretary, in addition to the minimum amount required for removal of the UST at the time of tank removal. This overexcavation may be performed without the approval of a certified UST Consultant. Appropriate confirmation samples must be taken by a certified groundwater and soil sampler in accordance with R311-201 for the purpose of determining the extent and degree of contamination.

KEY: hazardous substances, petroleum, underground storage tanks*

~~[June 16, 1996]~~1998 19-6-105
Notice of Continuation March 12, 1997 19-6-402
19-6-403



Environmental Quality, Environmental
Response and Remediation
R311-205
Underground Storage Tanks: Site
Assessment Protocol

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 21362

FILED: 08/14/1998, 14:12

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The changes are proposed to help ensure that soil and groundwater sampling at underground storage tank (UST) sites is performed properly, and to ensure that the laboratory analysis on those samples is performed properly and with the best and least expensive acceptable methods. An additional proposed change removes a requirement which has been found to be unnecessary and impractical.

SUMMARY OF THE RULE OR CHANGE: The requirement that samples for in-place underground storage tank (UST) closures be taken before submittal of the closure plan was instituted so tank owners and operators could determine whether any contamination was present before filling a tank with sand or concrete. In reality, most in-place closures occur because removing the tank would threaten a building foundation or because removing the tank is impractical or impossible. Whether the site is contaminated usually does not alter the decision to close the tank in place. The proposed change removes the requirement and replaces it with a more generic statement that sampling for all UST closures be performed after the closure plan is approved and the tank is emptied and cleaned. The change allowing the Executive Secretary to require additional environmental or quality assurance samples will help ensure that representative sampling occurs by providing the necessary quality control data. The duplicate and split samples help ensure that the lab is able to produce results with variances within an acceptable range with two samples from the same location. New laboratory analysis methods are approved or promulgated by the United States Environmental Protection Agency (EPA) on a regular basis. The proposed changes will allow labs to use the most current methods when analyzing samples. Some new methods have been devised due to the unavailability of Freon, which is used in some of the analytical methods. Naphthalene is also added as a constituent to analyze for when assessing contamination from gasoline. Minimum detection limits reported by laboratories may vary due to the degree of contamination of a given sample. Reporting limits may be so high that the analytical results may indicate that no contamination exists when in reality some contamination does exist. Requiring that the reporting limits be set below state-established cleanup levels will ensure that contamination is detected when it is present. References to R311-202, which incorporates the Federal UST regulations (40 CFR 280) by reference, are changed to cite the federal regulations directly, rather than R311-202. This change is made at the request of the Governor's Office of Planning and Budget.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-6-205 and 19-6-413

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: The costs and savings reported under "Other persons" would apply to the state as an owner or operator of underground storage tanks contracting for sampling to be performed.

❖LOCAL GOVERNMENTS: The costs and savings reported under "Other persons" would apply to a local government as an owner or operator of underground storage tanks contracting for sampling to be performed.

❖OTHER PERSONS: Costs and savings apply to underground storage tank owners and operators who have sampling performed for UST closures or remediation of contaminated UST sites. Savings are: 1) removing the requirement for sampling before in-place closures results in savings of up to \$300 to \$400 per sampling event because the contractor will not be required to make one trip to the site to sample, and another at the time of closure. The entire job can be done at one time; and 2) allowing newly-approved laboratory analytical methods results in a savings of up to \$200 to \$300 per sample analysis. Costs are the requirement for additional samples for quality assurance would result in a cost of approximately \$200 per extra sample taken. The cost includes obtaining, transporting, and analyzing the sample. The addition of naphthalene to the analysis for contamination from gasoline and the change in minimum detection limit requirement have no cost or savings impact. They involve only a change in reporting by the laboratory, not any additional cost or change in procedures by the lab.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The costs of additional sampling, approximately \$200 per sample, would apply when duplicate samples are requested.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The requirement for duplicate sampling for quality assurance purposes is important to help protect human health and the environment by assuring that the level of contamination at underground tank sites is determined correctly. The cost impact on a tank owner, when this sampling is performed, is believed to be acceptable and can in reality allow some sites to be closed at a lower cost under risk-based corrective action.

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

Environmental Quality
Environmental Response and Remediation
168 North 1950 West
PO Box 144840
Salt Lake City, UT 84114-4840, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Mark Crim at the above address, by phone at (801) 536-4100, by FAX at (801) 359-8853, or by Internet E-mail at mcrim@deq.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 10/01/1998; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 09/29/1998, 2:00 p.m., Room 101,

Department of Environmental Quality, 168 North 1950 West, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 10/09/1998

AUTHORIZED BY: Brent C. Bradford, Deputy Director

R311. Environmental Quality, Environmental Response and Remediation.

R311-205. Underground Storage Tanks: Site Assessment Protocol.

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R311-205-2. Site Assessment Protocol.

(a) General Requirements.

(1) For all locations that have underground storage tanks regulated by ~~[Section R311-202]~~40 CFR 280, and require a site assessment pursuant to 40 CFR 280, Subparts E, F, or G, owners or operators shall perform or commission to be performed a site assessment according to the protocol outlined in Section R311-205 or equivalent, as approved by the Executive Secretary. This protocol is a minimum requirement which does not prohibit the collecting of additional samples when needed and is intended to support and supplement requirements of 40 CFR 280, Parts 280.52 and 280.72. Additional environmental samples must be collected when contamination is found, suspected, or as requested by the Executive Secretary. Samples shall be collected in a manner that will detect a release from any portion of the UST. Groundwater samples shall be collected in accordance with the "EPA RCRA Ground-water Monitoring Technical Enforcement Guidance Document" (OSWER Directive 9950.1), 1986. Surface water samples shall be collected in accordance with protocol established in the "Utah Water Quality Monitoring Manual", 1986, or in "EPA Test Methods for Evaluating Solid Waste", SW-846, Vol. 2 Field Manual, Section 9.31-9.79. Soil samples shall be collected in accordance with the "EPA Description and Sampling of Contaminated Soils, A Field Pocket Guide", 1991.

(2) Owners and operators must document and report to the Executive Secretary sample types, sample locations and depths, field and sampling measurement methods, the nature of the stored substance, the type of backfill and native soil, the depth to groundwater, and other factors appropriate for identifying the presence, the source area and the degree and extent of subsurface contamination. This documentation and reporting is required for UST closures pursuant to 40 CFR 280, Subpart G, and for any abatement, investigation or assessment, monitoring, remediation or corrective action activities performed to fulfill release response and remediation requirements of 40 CFR 280, Subparts E and F.

(3) Owners and operators must comply with site assessment protocols, documentation and reporting requirements stipulated in Sections R311-205-~~[5]~~2(a)(1) and (2) and with the testing and site check requirements in R311-205-2(c) when applying to participate in the Petroleum Storage Tank Trust Fund Program following a period of lapse or non-participation in the Fund. This site assessment, documentation and reporting is required for sites re-applying for fund participation pursuant to Section 19-6-428(3)(a).

(4) The owner or operator shall report the discovery of any release or suspected release to the Executive Secretary within twenty-four hours.

(5) All environmental samples shall be collected by a certified groundwater and soil sampler who meets the requirements of Section R311-201.

(6) All environmental samples must be analyzed within the time frame allowed, in accordance with Table 4.1 of the "EPA RCRA Ground-water Monitoring Technical Enforcement Guidance Document" (OSWER Directive 9950.1), by a Utah Certified Environmental Laboratory approved by the Executive Secretary. Soil samples must be corrected for moisture, if necessary, with percent moisture reported to accurately represent the level of contamination.

~~(7) [Owners or operators shall perform or commission to be performed a site assessment prior to an in-place closure of an underground storage tank system. Environmental samples shall be taken after the system is emptied and cleaned and according to the protocol outlined in Section R311-205. Sampling documentation shall be submitted with a closure plan to the Executive Secretary. Environmental samples shall be taken within 6 months, or as approved by the Executive Secretary, prior to submitting the closure plan.]~~ Environmental samples for UST permanent closure or change in service shall be collected according to the protocol outlined in R311-205-2(b), after the UST system is emptied and cleaned and the closure plan has been approved.

(8) Environmental confirmation samples are required following overexcavation of soils. Confirmation samples shall be taken at locations and depths sufficient to detect the presence, extent and degree of a release from any portion of the UST in accordance with 40 CFR 280, Subparts E, F and G. Additional confirmation samples may be required as determined by the Executive Secretary.

(9) Other types of environmental or quality assurance samples may be required as determined by the Executive Secretary.

(b) Site Assessment for UST Closure.

(1) When UST testing is required, the owner or operator shall test the underground storage tanks and product piping for tightness according to standards established in 40 CFR 280, Subpart D. If the test indicates a release has occurred from the tank or product piping, then the tank or product piping shall be closed in compliance with 40 CFR 280, Subpart G, and R311-204, or repaired, or replaced. Tanks and product piping which are repaired or replaced shall be retested to demonstrate that the tanks or product piping are no longer releasing product. Owners or operators shall begin release investigation and confirmation steps in accordance with 40 CFR 280, Subpart E upon suspecting a release, and release response and corrective action in accordance with 40 CFR 280, Subpart F upon confirming a release.

(2) Tank excavation.

(A) In-place evaluations. For facilities undergoing in-place evaluations with one tank, a minimum of two soil samples, one from each end of the tank, shall be collected in native soils, below the tank backfill material, and as close as technically feasible to each end of the tank. Any other samples required by Section R311-205-2(a)(1) must also be collected. For facilities undergoing in-place evaluations with two or more tanks adjacent to one another, a minimum of four soil samples shall be collected in native soils, below the tank backfill material, one at each corner of the tank area,

and as close to the tank ends as is technically feasible. Any other samples required by Section R311-205-2(a)(1) must also be collected. Soil samples shall be collected from a depth of zero to two feet below the tank backfill and native soil interface. If groundwater is contacted in the process of collecting the soil samples, then a minimum of one groundwater sample and one soil sample, collected from the unsaturated zone immediately above the capillary fringe, shall be collected at each end of the tank area. Groundwater samples shall be collected using proper surface water collection techniques or from a properly installed groundwater monitoring well as established by the Executive Secretary. All environmental samples shall be analyzed using methodologies outlined in Section R311-205-2(d). One soil sample shall be collected at the same depth as indicated for environmental samples to determine native soil type. Techniques of the Unified Soil Classification such as a sieve analysis or laboratory classification may be used to satisfy requirements of determining soil type.

(B) Closure by removal evaluations. For facilities which have excavation zones with one tank, a minimum of two soil samples, one from each end of the tank, shall be collected in native soils, below the tank backfill material, and as close as technically feasible to each end of the tank. Any other samples required by Section R311-205-2(a)(1) must also be collected. For facilities which have excavation zones with two or more tanks adjacent to one another, a minimum of four soil samples shall be collected in native soils, below the tank backfill material, one at each corner of the tank excavation, and as close to the tank ends as is technically feasible. Any other samples required by Section R311-205-2(a)(1) must also be collected. Soil samples shall be collected from a depth of zero to two feet below the tank backfill and native soil interface. If groundwater is contacted in the process of collecting the soil samples, then a minimum of one groundwater sample and one soil sample, collected from the unsaturated zone immediately above the capillary fringe, shall be collected at each end of the tank excavation. Groundwater samples shall be collected using proper surface water collection techniques or from a properly installed groundwater monitoring well as established by the Executive Secretary. All environmental samples shall be analyzed using methodologies outlined in Section R311-205-2(d). One soil sample shall be collected at the same depth as indicated for environmental samples to determine native soil type. Techniques of the Unified Soil Classification such as a sieve analysis or laboratory classification may be used to satisfy requirements of determining soil type.

(3) Dispenser islands.

(A) In-place evaluations. Environmental samples shall be collected at locations as close to where the piping enters the dispenser islands as is possible. An environmental sample shall be collected at each dispenser island in a location as to never allow more than 25 linear feet of piping in a single excavation to go unsampled. Any other samples required by Section R311-205-2(a)(1) must also be collected. Soil samples shall be collected from a depth of zero to two feet beneath the product piping backfill material and native soil interface or as close to the product piping as is technically feasible in native soils. If groundwater is contacted in the process of collecting the soil samples, then a minimum of one groundwater sample and one soil sample, collected from the unsaturated zone immediately above the capillary fringe, shall be collected. Groundwater samples shall be collected using proper

surface water collection techniques or from a properly installed groundwater monitoring well as established by the Executive Secretary. All environmental samples shall be analyzed using methodologies outlined in Section R311-205-2(d). One soil sample shall be collected at the same depth as indicated for environmental samples to determine native soil type. Techniques of the Unified Soil Classification such as a sieve analysis or laboratory classification may be used to satisfy requirements of determining soil type.

(B) Closure by removal evaluations. Environmental samples shall be collected at locations as close to where the piping enters the dispenser islands as is possible. An environmental sample shall be collected at each dispenser island in a location as to never allow more than 25 linear feet of piping in a single excavation to go unsampled. Any other samples required by Section R311-205-2(a)(1) must also be collected. Soil samples shall be collected from a depth of zero to two feet beneath the product piping backfill material and native soil interface or as close to the product piping as is technically feasible in native soils. If groundwater is contacted in the process of collecting the soil samples, then a minimum of one groundwater sample and one soil sample, collected from the unsaturated zone immediately above the capillary fringe, shall be collected. Groundwater samples shall be collected using proper surface water collection techniques or from a properly installed groundwater monitoring well as established by the Executive Secretary. All environmental samples shall be analyzed using methodologies outlined in Section R311-205-2(d). One soil sample shall be collected at the same depth as indicated for environmental samples to determine native soil type. Techniques of the Unified Soil Classification such as a sieve analysis or laboratory classification may be used to satisfy requirements of determining soil type.

(4) Product piping.

(A) In-place evaluations. One product piping soil sample shall be collected at each piping excavation in an area where leaking is most likely to occur such as joints, connections and fittings, and at intervals to never allow more than 50 linear feet of piping in a single excavation to go unsampled. Any other samples required by Section R311-205-2(a)(1) must also be collected. Soil samples shall be collected from a depth of zero to two feet beneath the product piping backfill material and native soil interface or as close to the product piping as is technically feasible in native soil. If groundwater is contacted in the process of collecting the soil samples, then a minimum of one groundwater sample and one soil sample, collected from the unsaturated zone immediately above the capillary fringe, shall be collected. Groundwater samples shall be collected using proper surface water collection techniques or from a properly installed groundwater monitoring well as established by the Executive Secretary. All environmental samples shall be analyzed using methodologies outlined in Section R311-205-2(d). One soil sample shall be collected at the same depth as indicated for environmental samples to determine native soil type. Techniques of the Unified Soil Classification such as a sieve analysis or laboratory classification may be used to satisfy requirements of determining soil type.

(B) Closure by removal evaluations. One product piping soil sample shall be collected at each piping excavation in an area where leaking is most likely to occur such as joints, connections and fittings, and at intervals to never allow more than 50 linear feet of

piping in a single excavation to go unsampled. Any other samples as required by Section R311-205-2(a)(1) must also be collected. Soil samples shall be collected from a depth of zero to two feet beneath the product piping backfill material and native soil interface or as close to the product piping as is technically feasible in native soils. If groundwater is contacted in the process of collecting the soil samples, then a minimum of one groundwater sample and one soil sample, collected from the unsaturated zone immediately above the capillary fringe, shall be collected. Groundwater samples shall be collected using proper surface water collection techniques or from a properly installed groundwater monitoring well as established by the Executive Secretary. All environmental samples shall be analyzed using methodologies outlined in Section R311-205-2(d). One soil sample shall be collected at the same depth as indicated for environmental samples to determine native soil type. Techniques of the Unified Soil Classification such as a sieve analysis or laboratory classification may be used to satisfy requirements of determining soil type.

(c) Testing and Site Check Requirements for Re-applying to Participate in the Petroleum Storage Tank Trust Fund Program following a Period on Non-participation or Applying for Reinstatement in the Fund Program following a Period of Lapse.

(1) Owners or operators of sites wishing to re-apply for participation in the Petroleum Storage Tank Trust Fund Program following a period of lapse or non-participation, must perform a tank tightness test and site check pursuant to Section 19-6-428(3)(a). The tank tightness test and site check must be consistent with requirements for testing and site assessment as defined under 40 CFR 280, Subparts D and E.

(A) The owner or operator shall test the underground storage tanks and product piping for tightness according to standards established in 40 CFR 280, Subpart D. If the test indicates a release has occurred from the tank or product piping, then the tank or product piping shall be closed in compliance with 40 CFR 280, Subpart G, and R311-204, or repaired, or replaced. Tanks and product piping which are repaired or replaced shall be retested to demonstrate that the tanks or product piping are no longer releasing product. Owners or operators shall begin release investigation and confirmation steps in accordance with 40 CFR 280, Subpart E upon suspecting a release, and release response and corrective action in accordance with 40 CFR 280, Subpart F upon confirming a release.

(B) A site check, consistent with the site assessment standards defined in 40 CFR 280, Subpart E, must be performed.

(i) The owner shall develop or commission to have developed a site check plan outlining the intended sampling program. The Executive Secretary must review and approve the site check plan prior to its implementation. At a minimum, the site check must evaluate soils around and beneath all elements of the underground storage tank systems, including tanks, piping and dispensers, for potential evidence of contamination from petroleum releases. A sufficient number of soil samples shall be collected to be representative of soil conditions around the underground storage tank systems, and to assure, within practical limitations, that contamination is discovered, if present. In addition to soil samples, groundwater samples must be collected when groundwater is encountered during the process of soil sampling. Soil and groundwater sampling protocols, documentation and reporting requirements must conform to 40 CFR 280, Subparts E and F.

(ii) The site check must meet the provisions for minimum sampling requirements for USTs, dispensers and piping as defined for in-place closures in Sections R311-205-2(b)(2)(A), R311-205-2(b)(3)(A), and R311-205-2(b)(4)(A), respectively. Additional sampling may be required by the Executive Secretary based on review of the site check plan and site specific conditions.

(2) All technical services for tank tightness testing and site checks provided under Section R311-205-2(c) must be performed by appropriately qualified and certified individuals as defined in Section R311-201-2.

(d) Laboratory Analyses.

~~(1) Environmental samples which have been collected to determine levels of contamination by gasoline shall be analyzed for total petroleum hydrocarbons (TPH) using the appropriate 8015 modified method as determined by the Executive Secretary, and for Benzene, Toluene, Ethylbenzene, and Xylenes (BTEX), and for methyl tertiary butyl ether (MTBE), using the appropriate methods as determined by the Executive Secretary. Other laboratory methods to determine specific constituents may be required as determined by the Executive Secretary.~~

~~(2) Environmental samples which have been collected to determine levels of contamination by diesel fuel shall be analyzed for total petroleum hydrocarbons using the appropriate 8015 modified method as determined by the Executive Secretary, and for Benzene, Toluene, Ethylbenzene, and Xylenes and Naphthalene (BTEXN) using the appropriate methods as determined by the Executive Secretary. Other laboratory methods to determine specific constituents may be required as determined by the Executive Secretary.~~

~~(3) Environmental samples which have been collected to determine levels of contamination by used oil shall be analyzed using EPA method 413.1 or 418.1 or an equivalent method as determined by the Executive Secretary, and for Benzene, Toluene, Ethylbenzene, Xylenes, Naphthalene (BTEXN), methyl tertiary butyl ether (MTBE), and halogenated organic compounds using the appropriate methods as determined by the Executive Secretary. Other laboratory methods to determine specific constituents may be required as determined by the Executive Secretary.~~

~~(4) Environmental samples which have been collected to determine levels of contamination by new oil shall be analyzed using EPA method 413.1 or 418.1 or an equivalent method as determined by the Executive Secretary. Other laboratory methods to determine specific constituents may be required as determined by the Executive Secretary.~~

~~(5) Environmental samples which have been collected to determine levels of contamination from underground storage tanks which contain substances other than or in addition to petroleum shall use appropriate EPA methods as determined and approved by the Executive Secretary.~~

(1) Environmental samples which have been collected to determine levels of contamination from underground storage tanks shall be analyzed using appropriate laboratory methods as referenced in the most current version of the Utah Division of Environmental Response and Remediation "Subsurface Investigation Report Guide" Table of Analytical Methods for Sampling, the "Utah Underground Storage Tank Closure Plan" site assessment protocol or as determined by the Executive Secretary.

(2) Environmental samples which have been collected to determine levels of contamination by gasoline shall be analyzed for total petroleum hydrocarbons (TPH), benzene, toluene, ethylbenzene, and xylenes and naphthalene (BTEXN), and for methyl tertiary butyl ether (MTBE).

(3) Environmental samples which have been collected to determine levels of contamination by diesel fuel shall be analyzed for total petroleum hydrocarbons (TPH), benzene, toluene, ethylbenzene, xylenes and naphthalene (BTEXN).

(4) Environmental samples which have been collected to determine levels of contamination by used oil shall be analyzed for oil and grease (O and G) or total recoverable petroleum hydrocarbons (TRPH), benzene, toluene, ethylbenzene, xylenes, naphthalene (BTEXN), methyl tertiary butyl ether (MTBE), and halogenated organic compounds.

(5) Environmental samples which have been collected to determine levels of contamination by new oil shall be analyzed for oil and grease (O and G) or total recoverable petroleum hydrocarbons (TRPH).

(6) Environmental samples which have been collected to determine levels of contamination from underground storage tanks which contain substances other than or in addition to petroleum shall be analyzed for appropriate constituents as determined by the Executive Secretary.

~~(6) All laboratory sample results must be returned to the certified groundwater and soil sampler. Environmental samples shall be collected and transported under chain of custody according to EPA methods as approved by the Executive Secretary.~~

(8) Minimum detection levels (MDLs) used by laboratories analyzing samples taken under this rule must be below recommended cleanup levels for the contaminated media under study. Also, environmental samples should be analyzed with the least possible dilution in order to meet the MDLs in accordance with applicable rules. If more than one determinative analysis is performed on any given environmental sample, all analytical results for the multiple analyses must be reported, including the dilution factors used.

(e) Recordkeeping.

(1) The certified groundwater and soil sampler shall record the approximate depth below grade and location of each and every sample collected to within one foot.

(2) A copy of the site plat, analytical laboratory results, chain of custody forms, and the closure notice as outlined in Section R311-204-4 shall be submitted to the Executive Secretary within 90 days after tank closure.

(3) Upon confirming a release, a site assessment report, an updated site plat, additional analytical laboratory results, chain of custody and any other applicable documentation required by 40 CFR 280, Subparts E and F, following any abatement, investigation or assessment, monitoring, remediation or corrective action activities, shall be submitted to the Executive Secretary within the specified time frames as outlined in compliance schedules.

KEY: hazardous substances, petroleum, underground storage tank*

[September 4, 1997]1998

19-6-205

Notice of Continuation March 12, 1997

19-6-413



Environmental Quality, Environmental Response and Remediation
R311-206
Underground Storage Tanks: Financial Assurance Mechanisms

NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE NO.: 21363
FILED: 08/14/1998, 14:12
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Language dealing with collection of the Petroleum Storage Tank (PST) Fund fee for new tanks and collection of the environmental assurance fee are modified or removed due to legislative changes to the Underground Storage Tank (UST) Act. Other changes are made to correct incorrect citations and remove references to rule subsections which no longer exist.

SUMMARY OF THE RULE OR CHANGE: 1998 changes to the Underground Storage Tank (UST) Act specify that if a newly-installed UST is a replacement for a previously-existing tank, the Petroleum Storage Tank (PST) Fund fee paid for the current fiscal year for the old tank can be applied to the new tank. The proposed rule change allows for this situation, in accordance with the Act. Legislative changes to the UST Act also change the method of collection of the environmental assurance fee beginning July 1, 1998. The language which deals with collection of this fee is removed because the fee is now collected by the Tax Commission rather than the Division of Environmental Response and Remediation (DERR). Language is retained which will allow the DERR to audit UST owner and operator delivery records for fiscal year 1998, if needed. Several incorrect or unnecessary citations are corrected or removed. References to R311-202, which incorporates the Federal UST regulations (40 CFR 280) by reference, are changed to cite the federal regulations directly, rather than R311-202. This change is made at the request of the Governor's Office of Planning and Budget.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-6-105

ANTICIPATED COST OR SAVINGS TO:

- THE STATE BUDGET: None--the costs and savings are brought about by changes in the Underground Storage Tank Act, not by the proposed rule changes.
LOCAL GOVERNMENTS: None--the costs and savings are brought about by changes in the Underground Storage Tank Act, not by the proposed rule changes.
OTHER PERSONS: None--the costs and savings are brought about by changes in the Underground Storage Tank Act, not by the proposed rule changes.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--the rule changes implement changes in the UST Act. Costs or savings are due to changes in the UST Act, not because of the rules.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The principal impact is a savings in the yearly Petroleum Storage Tank Fund fee when a tank owner or operator installs new USTs which are replacements for other USTs. The \$250 fee for any new tank now is not applicable in a replacement situation. This savings is actually mandated by the UST Act, and the proposed rule change only implements the change in the Act.

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

Environmental Quality
Environmental Response and Remediation
168 North 1950 West
PO Box 144840
Salt Lake City, UT 84114-4840, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO: Gary Astin at the above address, by phone at (801) 536-4100, by FAX at (801) 359-8853, or by Internet E-mail at gastin@deq.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 10/01/1998; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 09/29/1998, 2:00 p.m., Room 101, Department of Environmental Quality, 168 North 1950 West, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 10/09/1998

AUTHORIZED BY: Brent C. Bradford, Deputy Director

R311. Environmental Quality, Environmental Response and Remediation.
R311-206. Underground Storage Tanks: Financial Assurance Mechanisms.

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R311-206-4. Requirements for Environmental Assurance Program participants.

- (a) To meet the requirements of Section 19-6-411(1)(a)(ii) and Section 19-6-411(1)(b)(ii) the owner or operator shall submit:
(1) A letter to the Executive Secretary stating that the facility is not engaged in petroleum production, refining, or marketing, and
(2) Evidence, each fiscal year, of average annual throughput less than 10,000 gallons per month based on current inventory records.
(b) In accordance with 19-6-411(1)(c), the annual facility throughput rate, if reported, shall be reported to the Executive Secretary as a specific number of gallons, based on the throughput for the previous calendar year.

(c) In accordance with 19-6-411(~~(6)~~)(~~d~~), when a petroleum storage tank is initially registered with the Executive Secretary, ~~[the]any~~ Petroleum Storage Tank fee for that ~~tank for the current~~ fiscal year shall be due when the tank is brought into use, as a requirement for receiving a Certificate of Compliance.

(d) ~~In accordance with 19-6-411(6), t~~[F]he Executive Secretary may waive all or part of the fees required to be paid on or before May 5, 1997 under Section 19-6-411 if no fuel has been dispensed from the tank on or after July 1, 1991 and if the tank has been properly closed according to R311-204 and R311-205, or in other circumstances as approved by the Executive Secretary.

(e) In accordance with Section 19-6-411, if an installation company receives its initial permit after the beginning of the fiscal year, the annual fee must be paid for the entire year.

(f) Auditing of UST facility throughput records for fiscal year 1998. ~~Pursuant to 19-6-410.5, owners and operators who elect to participate in the environmental assurance program shall remit the greater of 1/2 cent per gallon on all petroleum delivered to any participating tank or an annual fee of \$250 per tank.~~

~~(1) The 1/2 cent per gallon fee shall be due to the Executive Secretary by the 20th day of each month. The payment amount shall be calculated based on the total of the previous month's deliveries for each participating tank.~~

~~(2) The \$250 annual fee shall be due each fiscal year on August 20.~~

~~(3) Owners and operators having more than one facility may aggregate throughput reports and pay the monthly assurance fee with one check, but must indicate on the check and on the report the number of tanks and the facility identification numbers to which payment should be applied. The multiple facility owner or operator with tanks subject to the annual \$250 fee under 19-6-410.5(3)(a)(ii), must identify those tanks by facility number in the aggregated throughput reports.~~

~~(A) The owner or operator is responsible to maintain accurate inventory records during the fiscal year.~~

~~(B) If at any time the tank throughput exceeds fifty thousand gallons for the fiscal year, the owner or operator shall remit monthly the 1/2 cent per gallon fee on the excess throughput for the remainder of the fiscal year.~~

~~(4) If the fee assessed under R311-206-4(f) is not paid on or before the due date, the department may impose a late penalty of \$60 for each facility for which the fee is overdue.~~

~~(A) The fee and the late penalty accrue interest at 12 per cent per annum.~~

~~(B) If the fee, the late penalty, and all accrued interest are not received by the department within 60 days of the due date, the eligibility of the owner or operator to receive payments for claims against the fund lapses.~~

~~(C) In order for the owner or operator to reinstate eligibility to receive payments for claims against the fund, the owner or operator shall meet the requirements of Subsection 19-6-428(3).~~

~~(D) If an aggregated report or payment made pursuant to Subpart (f)(3) of this rule is late, every single facility included in the aggregated report or payment shall be treated as late and subject to the penalty, interest and eligibility provisions of Subpart (f)(4) of this rule.~~

~~(5) The first assurance fee payment for new participating tanks shall be remitted by the 20th day of the next month after receiving product.~~

~~(6) Processing of the assurance fee payments may be accomplished by any method approved by the Executive Secretary.~~
~~(7) Non-receipt or loss of a payment remittance advice is not a defense for non-payment of the assurance fee.]~~

~~(8)1) Owners and operators shall retain for seven years the monthly tank throughput records of the facility for the months of July 1997 through June 1998[seven years]. Tank throughput records shall include all financial and product documentation for receipts, dispositions and inventories.~~

~~(9)2) The executive secretary may audit or order an audit, by an independent auditor, of records which support the amount of throughput, for each tank at a participant's facility.~~

~~(A) Records shall be made available at the Department for inspection within 30 calendar days after receiving notice from the Executive Secretary.~~

~~(B) Audits may be determined by random selection or for particular reasons, including suspicion or discovery of inaccuracies in throughput reports, aggregating throughput reports, having a release, or filing a claim.~~

~~(C) Auditing tank throughput may be accomplished by any method approved by the Executive Secretary.~~

~~(D) All costs of an independent audit shall be paid by the owner or operator.~~

~~(g) Owners or operators eligible for coverage by the Fund shall demonstrate financial assurance for the difference between coverage provided by the Fund and coverage amounts required by 40 CFR 280 Subpart H[requirements]. If the owner or operator chooses self insurance as the mechanism for demonstrating financial assurance for the difference, the owner or operator must document a tangible net worth of \$10,000 upon request and to the satisfaction of the Executive Secretary. An owner or operator may also select and document another mechanism specified in 40 CFR 280.94 to demonstrate financial assurance for the difference. The processing fee requirement referenced in R311-206-5(b) is not applicable because the administrative cost is covered by the PST fund fee. However, the Executive Secretary may require the owner or operator to submit an independent audit to demonstrate net worth for self insurance. ~~[and t]~~The owner or operator shall bear the expense for ~~[that]the audit~~. The criteria for an audit ~~[is]are~~ the same as set forth in ~~[subpart]Subsection R311-206-4(f)(9)2[above]~~.~~

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R311-206-7. Revocation and Lapsing of Certificates.

(a) The Executive Secretary shall revoke certificates of compliance or registration if he determines that any owner or operator has willfully submitted a fraudulent application or is not in compliance with any requirement pertaining to the certificate.

(b) Any petroleum storage tank owner or operator who has had a certificate of compliance revoked under Section 19-6-414 or Section R311-206-7(a) may have the certificate reissued by the Executive Secretary after the owner or operator demonstrates compliance with Section 19-6-412-2, Section 19-6-428(3), and Section R311-206-3.

(c) Any petroleum storage tank owner or operator who has had a certificate of compliance lapse under Section 19-6-408(5)(c) may have the certificate reissued by the Executive Secretary after the owner or operator demonstrates compliance with Section 19-6-412(2) and Section R311-206-3.

(d) Any petroleum storage tank owner or operator who has had eligibility to receive payments for claims against the fund lapse under Section 19-6-411(3)(c)(ii) ~~or Section R311-206-4(f)(1)(C)~~ shall meet the requirements of Subsection 19-6-428(3) and pay all fees, interest, and penalties due to reinstate eligibility.

(e) Upon permanent closure of a tank which is covered by the Fund, the eligibility to make a claim against the Fund shall terminate as specified in Section R311-207-2. Permanently closed tanks are not eligible to be reissued a certificate of compliance.

(f) In accordance with Section 19-6-414, the Executive Secretary may revoke a certificate of compliance for the owner's or operator's failure to comply with ~~[Rule R311-202]~~ 40 CFR 280, which requires release reporting, abatement, investigation, corrective action, or other measures to bring the release site under control.

R311-206-8. Proof of Certification.

(a) A valid certificate of compliance shall be at each tank facility. Where this is not possible, other methods may be approved by the Executive Secretary.

(b) In accordance with Subsection 19-6-411([8]7), a tag or other means of identification shall be issued to each petroleum storage tank or underground storage tank which has demonstrated current compliance with Section 19-6-412 and Section R311-206-3 or Section R311-206-6. The tag or other means of identification shall be issued annually and shall be displayed for view of the person delivering or placing petroleum product into an underground storage tank for which the tag was issued.

(c) A tank shall not be issued a tag or other means of identification if the owner or operator has not satisfied the requirements of Section 19-6-412. An owner or operator shall not allow a tag to be displayed on a tank for which the Certificate of Compliance has been revoked or has lapsed, or on a tank for which the eligibility to receive payment for claims against the fund has lapsed unless the owner or operator has demonstrated compliance with financial assurance requirements.

R311-206-9. Removing Participating Tanks from the Environmental Assurance Program.

(a) At any time after May 1, 1997, owners and operators of petroleum storage tanks who have voluntarily elected to participate in the Environmental Assurance Program may cease participation in the program and be exempted from the requirements described in Section R311-206-4 by:

(1) permanently closing tanks as outlined in 40 CFR 280, subpart G, Section R311-204, and Section R311-205, or

(2) meeting the following requirements:

(i) demonstrating compliance with R311-206-5, and,

(ii) notifying the Executive Secretary at least 60 days before the date of cessation in the program, and specifying the date of cessation.

(b) The fund will not give pro-rata refunds. ~~[The 1/2 cent per gallon environmental assurance fee shall be paid for each month up to and including the month that participation in the program ends.]~~

(c) For tanks being removed voluntarily from the program, the date of cessation in the program shall be the date on which coverage under the program ends. Subsequent claims for payments from the fund must be made in accordance with Section 19-6-424 and Section R311-207-~~[3]~~2.

(d) Owners and operators who voluntarily remove participating tanks from the program shall comply with the requirements of 19-6-428(3) before any subsequent participation in the program.

KEY: hazardous substances, petroleum, underground storage tanks*

~~[September 4, 1997]~~1998

19-6-105

Notice of Continuation March 12, 1997



Environmental Quality, Environmental
Response and Remediation
R311-207
Accessing the Petroleum Storage Tank
Trust Fund for Leaking Petroleum
Storage Tanks

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 21364

FILED: 08/14/1998, 14:12

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The changes are proposed to reduce the reporting requirements of consultants, simplify and shorten the rule, and allow for payment of third-party claims from the Petroleum Storage Tank (PST) Fund more quickly.

SUMMARY OF THE RULE OR CHANGE: Currently, consultants performing underground storage tank (UST) remediation must submit a Statement of Qualifications (SOQ) and proof of insurance with each work plan submitted. The proposed change will require that these be submitted annually, rather than with each work plan. The "Consultant Personnel and Qualifications and Task Descriptions" table is removed from the rule text and incorporated by reference, to allow easier formatting of the rules and reduce rule length. Currently, payment of third party claims on the fund may be delayed if the final cost of the site remediation is not yet known. The proposed change allows the Executive Secretary to use site cleanup budget projections to determine if funds will be available, and pay third party claims based on those projections. References to R311-202, which incorporates the Federal UST regulations (40 CFR 280) by reference, are changed to cite the federal regulations directly, rather than R311-202. This change is made at the request of the Governor's Office of Planning and Budget.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-6-105 and 19-6-419

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: Consultant Personnel Qualifications and Task Descriptions table, May 1998.

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: Minor savings in reducing the published length of the rule.

❖LOCAL GOVERNMENTS: None--the changes would not affect local governments because they do not act as consultants and file SOQs. The proposed changes result in a potential cost or savings only for certified consultants.

❖OTHER PERSONS: Savings to consultants due to decreased reporting requirements: one hour Project Manager at \$74 per hour, plus one hour clerical at \$32 per hour results in a cost of \$106 per SOQ submittal. On average, eight fewer submittals per year results in a savings of approximately \$850 per year.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--the proposed changes would result in cost reductions to remediation consultants of up to approximately \$850 per year due to decreased reporting requirements.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The current rule requires that a Statement of Qualifications be submitted by the environmental consultant with each work plan. Work plans must be pre-approved for the costs to be reimbursable by the Petroleum Storage Tank Fund. Consultants doing work reimbursable by the fund average nine work plan submittals per year. This rule change will substantially reduce the consultants' reporting requirements.

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

Environmental Quality
Environmental Response and Remediation
168 North 1950 West
PO Box 144840
Salt Lake City, UT 84114-4840, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Randy Taylor at the above address, by phone at (801) 536-4100, by FAX at (801) 359-8853, or by Internet E-mail at rtaylor@deq.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 10/01/1998; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 09/29/1998, 2:00 p.m., Room 101, Department of Environmental Quality, 168 North 1950 West, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 10/09/1998

AUTHORIZED BY: Brent C. Bradford, Deputy Director

R311. Environmental Quality, Environmental Response and Remediation.

R311-207. Accessing the Petroleum Storage Tank Trust Fund for Leaking Petroleum Storage Tanks.

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R311-207-3. Criteria for Payment of Claims Against the Petroleum Storage Tank Trust Fund.

(a) Upon making a claim for coverage under the fund, and after receiving notice from the Executive Secretary that they are eligible to claim against the fund, the owner or operator shall respond to the compliance schedule issued by the Executive Secretary with work plans. The work plans may address three phases of the compliance schedule as determined by the Executive Secretary:

- (1) tasks required to bring the site under control;
- (2) tasks required to determine the extent and degree of the release; and
- (3) tasks required to remediate the site until the Executive Secretary is satisfied that remediation has achieved the clean up goals as described in Section R311-211 or until further remediation is not feasible as determined by the Executive Secretary.

(b) The work plan shall include a budget for the work. The budget may be in the form of a contractor's bid. The budget shall include proposed costs in an itemized format as described in Section R311-207-4(a).

(c) The proposed consultant must have an approved Statement of Qualification. The Statement of Qualification[work plan] shall include information about the qualifications of all proposed consultants or other persons [that]who will be performing investigation or corrective action activities concurrently with the work plans. The submission shall include information required by the Statement of Qualification form prepared by the Executive Secretary, and at least three letters of reference from entities that have retained the services of the consultant. This Statement of Qualification must be updated annually and shall be approved, by the Executive Secretary, for a period of one year. Letters of reference are not required to be resubmitted annually. The information submitted shall demonstrate that the following standards have been met:

- (1) The proposed consultant shall be of good character and reputation regarding such matters as control of costs, quality of work, ability to meet deadlines, and technical competence;
- (2) ~~[Key personnel have a bachelor's or advanced degree from an accredited college or university in a related scientific field; (3)]~~After December 31, 1995, key personnel must hold certification as a Certified UST Consultant;
- (~~1~~3) Key personnel have at least 3 years, within the past 5, of relevant experience, or an equivalent combination of appropriate education and experience, as determined by the Executive Secretary; and
- (~~5~~4) Personnel must have completed Occupational Safety and Health Agency-approved safety training and any other applicable safety training, as required by federal and state law.

(5) The consultant must carry the following insurance:

~~(A) Commercial General Liability Insurance or Comprehensive General Liability Insurance, including coverage for premises and operation, explosion, collapse and underground hazards, products and completed operations, contractual, personal injury and death, and catastrophic, with limits of \$1,000,000 minimum per occurrence, \$2,000,000 minimum general aggregate, and \$2,000,000 minimum products or completed operations aggregate;~~

~~(B) Comprehensive Automobile Liability Insurance, with limits of \$1,000,000 minimum and \$2,000,000 aggregate; and~~

~~(C) Workers' Compensation and Employers' Liability Insurance, as required by applicable state law.~~

(d) The work plan shall include information about the responsible party's contract with any proposed consultant or other person performing remedial action concurrently with the work plans. That information shall demonstrate that the following requirements have been met, as determined by the Executive Secretary:

(1) The contract shall be with the consultant, and shall specify the key personnel, for which qualifications are submitted under R311-207-3(c);

(2) The contract shall require a 100 percent payment bond through a United States Treasury-listed bonding company, or other equivalent assurance;

(3) The consultant shall have no cause of action against the state for payment;

(4) The contract will specify a subcontracting method consistent with the requirements of R311-207;

(5) The contract shall require, and include documentation that the consultant carries the ~~[following] insurance[-]~~ specified in R311-207-3(c)(5).

~~[(A) Commercial General Liability Insurance or Comprehensive General Liability Insurance, including coverage for premises and operation, explosion, collapse and underground hazards, products and completed operations, contractual, personal injury and death (including employees), and catastrophic, with limits of \$1,000,000 minimum per occurrence, \$2,000,000 minimum general aggregate, and \$2,000,000 minimum products or completed operations aggregate;~~

~~(B) Comprehensive Automobile Liability Insurance, with limits of \$1,000,000 minimum and \$2,000,000 aggregate; and~~

~~(C) Workers' Compensation and Employers' Liability Insurance, as required by applicable state law.]~~

(6) Payment under the contract shall be limited to amounts that are customary, legitimate, and reasonable;

(7) The contract shall include a provision indicating that the State of Utah is not a party to the contract, unless the State of Utah is a responsible party; and

(8) Any other requirements specified by the Executive Secretary.

(e) The work plan shall include any additional information required by ~~[R311-202]~~ 40 CFR 280.

(f) The Executive Secretary may waive specific requirements of Section R311-207 if he determines there is good cause for a waiver, and that public health and the environment will be protected. The Executive Secretary may also consider, in determining whether to grant a waiver, the extent to which the financial soundness of the fund will be affected.

(g) Once the responsible party's share of eligible costs has been spent in accordance with Section 19-6-419, the Executive Secretary shall review and approve or disapprove work plans and the corrective action plan and all associated budgets. For costs to be covered by the fund, the Executive Secretary must approve all work plans, corrective action plans, and associated budgets before a responsible party initiates any work, except as allowed by Sections 19-6-420(3)(b) and 19-6-420(6).

(h) The request for final reimbursement from the fund must be received by the Executive Secretary within one year from the date of the "No Further Action" letter issued by the Executive Secretary or reimbursement shall be denied. If a release is re-opened as provided for in the "No Further Action" letter, payments from the fund may be resumed when approved by the Executive Secretary.

R311-207-7. Consultant Labor Codes, Titles, Duties and Fee Schedules.

(a) This rule incorporates by reference the Consultant Personnel Qualifications and Task Descriptions table, dated May 1998, and consisting of standardized personnel qualification categories and task descriptions to be used for PST Fund-reimbursable activities. Consultants must assign to one of the categories listed in the ~~[following]~~ table, any service time for an individual that is billed to a responsible party and for which reimbursement is claimed, unless the duties of the individual are so unusual that they do not closely approximate any of the ~~[following]~~ listed categories. By submitting a proposed fee for a category, the consultant warrants that they have on staff individuals that meet the described education, skills and experience.

[
_____ TABLE

_____ PERSONNEL/QUALIFICATIONS AND TASK DESCRIPTION

Personnel and Qualifications (Code)	Task Description
PRINCIPAL (P100)	
Administrative and/or professional head of organization with authority and responsibility for conceiving and executing plans and functions of the organization and directing a professional staff. Normally has financial interest in the company as partial owner, investor, or stockholder. Charges a very limited number of hours per site, as in review of the project documents as a Principal. Principal should almost never bill field work at this rate.	Expert Testimony, Legal Strategies, Depositions, Review most complex sites, New technology innovations.

SENIOR ENGINEER/GEOLOGIST/HYDROGEOLOGIST (P101) (P4)	
Typically requires advanced degree, professional registration (if appropriate), and 10 or more years of experience in technical and/or managerial roles. Serves as senior technical leader for environmental remediation projects of medium to large scope and/or complexity and has developed	Project oversight, Project Management, Aquifer characterization, Review of technical reports, Review work plans, Review PST claims, Review remedial action plans.

substantial expertise in the field of practice. May supervise or direct the work activities of lower level engineers and technicians. Will perform very limited field work. Duties typically include reviewing reports, developing strategies, and attending client and/or agency meetings. Responsible for approving designs, reports, plans, and specifications before submittal to clients or regulatory agency. If significantly involved in a highly technical project, should have substantial technical expertise directly related to the project.

PROJECT ENGINEER/GEOLOGIST/HYDROGEOLOGIST (P102) (P3)

Typically requires a degree in engineering, geology, hydrogeology, or related science, professional registration (if appropriate), and has 6 to 10 years relevant work experience. Under general direction prepares environmental programs, plans and specifications for site remediation activities. Is responsible for gathering field data and is competent at data analysis. Has responsibility for managing entire projects. Identifies and develops approaches and prepares plans to remedy contamination problems using various techniques, serves as on-site technical expert on projects. Analyzes and interprets data, prepares sections of site assessment reports, may do hydrological site characterizations, supervise hydraulic tests, etc.

STAFF ENGINEER/GEOLOGIST/HYDROGEOLOGIST (P103) (P2)

Typically requires a degree in engineering, geology, hydrogeology, or related science, and 3 to 8 years relevant work experience. Works under close supervision to perform specific routine tasks related to environmental remediation system design, or general geological and field tasks. Gathers basic technical information, and provides technical support for hydrogeological on site projects. Responsibilities may include installing monitor wells, aiding in geological mapping and basic geological analysis.

FIELD ENGINEER/GEOLOGIST/HYDROGEOLOGIST (P104) (P1)

Entry level position requiring a degree in engineering, geology, hydrogeology, or related science and 0 to 3 year experience. Works under close supervision to perform routine field tasks related to projects; work involves installing monitor wells, aiding in geological mapping, writing field notes, and basic geological analysis.

Access agreements.
Monitoring activities.
Supervise over excavation activities.

ENVIRONMENTAL SCIENTIST (P105)

Typically requires a degree in biology, chemistry, microbiology, or related environmental science and to 6 years of related experience or an advanced degree and 2 years related experience. Performs assignments related to site assessments and bioremediation projects, risk analysis methodologies and analytical data reduction.

LAND SURVEYOR, REGISTERED (P106)

Typically requires a bachelors degree in engineering or associate degree in surveying. Registered in Utah as a land surveyor. Supervises one or more field survey crews. Acts as party chief when required. Responsible for completeness and accuracy of all survey work.

INDUSTRIAL HYGIENIST (P107)

Typically requires a degree in Industrial Hygiene, Toxicology or a related health science and 1 to 3 years related experience. Ensures compliance of field service operations with OSHA safety standards and public health concerns. Work performed would need to be clearly defined and directly related to remediation in order to be reimbursable.

TECHNICIAN I (P108) (T1)

Typically requires a high school diploma and 0 to 2 years relevant work experience. Entry level position, under close supervision. Performs routine labor tasks related to on-site installation, maintenance and repair of machinery and equipment. Assists with routine tasks such as soil and groundwater sampling, bailing wells, records test data and may prepare simple charts or graphs.

TECHNICIAN II (P109) (T2)

Typically requires a high school diploma and 2 to 6 years of relevant work experience. Certified soil and groundwater sampler. Performs assignments that are normally standardized; operates testing or processing equipment of moderate complexity; may construct components or subassemblies of prototype models; extracts and processes test data; soil and groundwater sampling, bailing wells. Performs routine labor tasks related to on-site installation, maintenance and repair of machinery and equipment. Works under appropriate supervision.

TECHNICIAN III (P110) (T3)

Typically requires a high school diploma, certified or licensed trades person or an associated degree and 6 or more years related experience. Certified soil and groundwater sampler. Performs non-routine and complex assignments; performs experiments or tests which may require non-standard procedures and complex instrumentation; records, computes and analyzes test data; prepares test reports. Responsible for general on-site supervision of installation, maintenance, and repair of machinery and equipment, and sampling activities. Maintain documentation of record logs pertaining to monitoring and maintenance of machinery and equipment. Works under appropriate supervision.

DRAFTER I (P111)

Typically requires an associate degree and 1 to 4 years experience. Performs entry to mid-level drafting such as edits to existing drawings using CAD and/or board.

DRAFTER II (P112)

Typically requires an associate degree and 4 to 8 years experience or 2 years of college and 2 years of experience. Requires advanced drafting skills such as CAD operations.

CONSTRUCTION FOREMAN I (P113)

Typically requires a high school diploma and 3 to 5 years experience. May be a certified UST remover or installer.

CONSTRUCTION FOREMAN II (P114)

Typically requires an associate degree, 5 to 8 years experience and a contractors license. Certified UST remover or installer. Work includes on-site supervision and job foreman, oversees construction activities such as equipment installation and repairs. Must be present on-site during all critical activities. Ensures compliance of field service operations with OSHA safety standards.

EQUIPMENT OPERATOR I (P115)

Requires 0 to 3 years experience. Operates light equipment. Works under appropriate supervision. Operates light equipment.

EQUIPMENT OPERATOR II (P116)

Typically requires high school diploma. Requires 2 to 4 years experience. Operates light to heavy equipment, such as backhoe, loaders, etc. Works under appropriate supervision.

EQUIPMENT OPERATOR III (P117)

Typically requires high school diploma. Requires 3 to 5 years experience. Works under appropriate supervision. Certified to operate heavy equipment, if applicable. Supervises manual laborers working under him/her. Makes field decisions concerning construction finish and final improvements.

LABORER I (P118)

Entry level. Works under direct supervision. Performs manual labor such as hand digging with shovels, etc.

LABORER II (P119)

Requires 1 to 3 years experience. Works under direct supervision. Performs manual labor and may operate company owned or rented equipment. Helps maintain equipment and machinery.

LABORER III (P120)

Requires 2 to 4 years experience. Works under direct supervision. Performs manual labor and may operate company owned or rented equipment. Helps maintain equipment and machinery. May assist in supervising Laborers I and II.

PST CLAIMS SPECIALIST (P121)

Typically has accounting experience. Familiar with PST Fund rules for eligible costs and required documentation. Compiles invoices and backup information. Completes required forms. Contact person with BERR for claims questions.

DATA/WORD PROCESSOR (P122)

Operates computer for word processing, spreadsheets, statistical typing, correspondence, report generation, etc.

CLERICAL (P123)

General office work, typing and filing.

(b) A consultant may file with the Executive Secretary, and amend once a year in January (absent unusual circumstances), the hourly fees at which it bills clients in Utah for the service of its personnel as described in (a). The Executive Secretary shall calculate new allowable reimbursement rates once a year. Consultant fees, reimbursement rate schedules and amendments must be maintained in confidence by and accessible only to the staff of the Executive Secretary, as the consultant's expectation of privacy is reasonable and outweighs the merits of public disclosure. The calculated maximum allowable reimbursement rates must be maintained in confidence by and accessible only to the staff of the Executive Secretary

(c) When fee schedules, from companies who have performed work reimbursed by the Fund, have been filed in a number sufficient for meaningful statistical analysis, the Executive Secretary shall compute a range of allowable reimbursement rates for each code listed in (a), the maximum of each range shall be the mean fee for each code plus one standard deviation (rounded up to the nearest whole dollar) unless modified as provided for in R311-207-7(e). The Executive Secretary shall then notify each filing firm whether its fees exceed the range of allowable reimbursement rates, and if so, by how much. The amount by which a consultant's fee for a particular code exceeds the allowable reimbursement rate will be presumed unreasonable and will not be reimbursed by the Fund.

(d) The Executive Secretary may approve a range of reimbursement rates for a particular category when proposed by a consultant. However, the maximum of this range shall not exceed the maximum reimbursement rate as calculated in R311-207-7(c). When a range is proposed, the average of the range will be used for the calculations in R311-207-7(c).

(e) If a consultants fees exceed the maximum of the range in not more than three categories but are lower in the other categories, the average of the maximum reimbursement rates as calculated in R311-207-7(c) for the categories for which that consultant provides services will be calculated. If the average of the consultant's fees is lower than this average, the Executive Secretary may approve all of the fees as proposed.

(f) The Executive Secretary may request a detailed explanation of fee structures when a submitted fee appears to vary significantly from those submitted by other consultants for the same code. The Executive Secretary reserves the right not to use fees that significantly vary from similar fees submitted by other consultants, fees from consultants who have not submitted claims for reimbursement, fees from consultants who have not submitted proper documentation for claim reimbursement, fees from consultants that do not currently have key personnel holding valid certification as a Certified UST Consultant and other fees not deemed acceptable by the Executive Secretary.

(g) A consultant not filing its schedule of fees must submit its invoices for services formatted in accordance with R311-207-7(a) [of this rule]. Any fees which exceed the range of allowable reimbursement rates will be presumed unreasonable.

(h) A responsible party or consultant may overcome the presumption that a fee is unreasonable by presenting clear and concise evidence to the Executive Secretary that their fees are reasonable and customary. Excessive overhead factors will not meet this test.

(i) The Executive Secretary may determine the amount of fund monies that will be reimbursed to an owner operator for commonly performed tasks when there are a sufficient number of actual costs histories for a specific task to allow a statistically meaningful analysis. The procedure for determining the amount of fund monies that will be reimbursed for a particular task will be similar to that in R311-207-7(c). Public comment will be taken before proposed tasks reimbursement rates are adopted.

R311-207-8. Third Party Claims Apportionment.

To prioritize payments from the Petroleum Storage Tank Fund as required by Subsection 19-6-419(5)(a), yet promptly authorize the payment of third party claims prior to a determination that corrective action has been properly performed and completed, the

Executive Secretary may utilize budget projections to allocate coverage available for the payment of third party claims. The Executive Secretary may amend budget projections as frequently as he deems appropriate. Costs among third party claimants shall be apportioned after the responsible party has agreed to the settlement and the state risk manager has approved the settlement. Apportionment and priority shall be based upon the order in which an approved and agreed upon claim is received by the Executive Secretary.

KEY: financial responsibility*, petroleum, underground storage tanks

[July 14, 1997]1998 19-6-105
Notice of Continuation March 12, 1997 19-6-419



Environmental Quality, Environmental Response and Remediation
R311-209
State Cleanup Appropriation

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 21365

FILED: 08/14/1998, 14:12

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The changes are made to reflect statutory changes in the Underground Storage Tank (UST) Act made by the 1998 legislature.

SUMMARY OF THE RULE OR CHANGE: The 1998 Utah Legislature, under H.B. 113, created the Petroleum Storage Tank Cleanup Fund as a means to investigate or clean up underground storage tank (UST) release sites. The fund is to be used in the same manner as the State Cleanup Appropriation, so it is necessary to add references to the Petroleum Storage Tank Cleanup Fund in the rule.

(DAR Note: H.B. 113 is found at 1998 Utah Laws 255, and was effective July 1, 1998.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-6-105 and 19-6-409

ANTICIPATED COST OR SAVINGS TO:

❖**THE STATE BUDGET:** None--the changes only add references to the new cleanup fund in rule.

❖**LOCAL GOVERNMENTS:** None--the changes only add references to the new cleanup fund in rule.

❖**OTHER PERSONS:** None--the changes only add references to the new cleanup fund in rule.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--the changes only add references to the new cleanup fund in rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no anticipated impact on businesses from the proposed change. The Petroleum Storage Tank Cleanup Fund was created by the 1998 legislature. The change does not alter the meaning or intent of the rule, but adds references to the cleanup fund in the rule which currently spells out the criteria for using the State Cleanup Appropriation.

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

Environmental Quality
 Environmental Response and Remediation
 168 North 1950 West
 PO Box 144840
 Salt Lake City, UT 84114-4840, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 Mark Crim at the above address, by phone at (801) 536-4100, by FAX at (801) 359-8853, or by Internet E-mail at mcrim@deq.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 10/01/1998; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 09/29/1998, 2:00 p.m., Room 101, Department of Environmental Quality, 168 North 1950 West, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 10/09/1998

AUTHORIZED BY: Brent C. Bradford, Deputy Director

R311. Environmental Quality, Environmental Response and Remediation.

R311-209. Petroleum Storage Tank Cleanup Fund and State Cleanup Appropriation.

R311-209-1. Definitions.

Definitions are found in Section R311-200.

R311-209-2. Use of the State Cleanup Appropriation.

The Executive Secretary shall authorize action or expenditure of money from the Petroleum Storage Tank Cleanup Fund and the State Cleanup Appropriation, as authorized by Sections 19-6-405.7, 19-6-409(5) and 19-6-424.5(9) respectively, when:

- (a) The release is from a regulated UST,
- (b) The owner or operator is not fully covered by the Petroleum Storage Tank Trust Fund,
- (c) The release is a direct or potential threat to human health or the environment, and
- (d) The owner or operator is unknown, unable, or unwilling to bring the site under control or remediate the site to achieve the clean-up goals as described in Section R311-211, or
- (e) Other relevant factors are evident as determined by the Executive Secretary.

R311-209-3. Criteria for Allocating Petroleum Storage Tank Cleanup Funds and the State Cleanup Appropriations.

When determining priorities for authorizing action or expenditures from the Petroleum Storage Tank Cleanup Fund [~~surplus~~] and the State Cleanup Appropriation, the Executive Secretary shall give due emphasis to releases that present a threat to the public health or the environment on a case-by case basis using the following criteria:

- (a) The immediate or direct threat to public health or the environment,
- (b) The potential threat to public health or the environment,
- (c) The economic consideration and cost effectiveness of the action, and
- (d) The technology available, or
- (e) Other relevant factors as determined by the Executive Secretary.

KEY: petroleum, underground storage tanks*

~~1994~~1998

19-6-105

Notice of Continuation March 12, 1997

19-6-409



Environmental Quality, Environmental Response and Remediation

R311-210

Administrative Procedures for Underground Storage Tank Act Adjudicative Proceedings

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 21366

FILED: 08/14/1998, 14:12

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The proposed change will help individuals who petition the Board for agency action clarify their request so the issues can be addressed more efficiently.

SUMMARY OF THE RULE OR CHANGE: In Section R311-210-4, Section 63-46b-3 of the Utah Administrative Procedures Act (UAPA) provides that a request for agency action must contain certain statements in order to understand the reasons a person seeks agency action. Some of the regulated community have expressed confusion or have displayed a lack of understanding on how to comply with Section 63-46b-3. The result is that requests for agency action often fail to set forth or make clear the issues that the requesting party wishes to adjudicate before the Board. The

proposed change outlines basic requirements to assist requesting parties to satisfy Section 63-46b-3. These will help requesting parties set forth relevant clear issues for the Board to adjudicate. This will alleviate needless delay and waste of resources in responding to and trying to clarify ambiguous issues in a proceeding.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-6-105, 19-6-403, and 63-46b-3

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: It is anticipated that this rule change will save the state budget approximately \$2,000 per fiscal year in not having to seek clarification of deficient requests for agency action.

❖LOCAL GOVERNMENTS: This rule change will have no impact on local government, as it is anticipated that no local government will utilize this rule change. This rule is to provide guidance to persons who lack expertise in drafting a request for agency action. Local governments already possess such expertise.

❖OTHER PERSONS: It is anticipated this rule will save the class of persons seeking agency action without the aid of legal counsel approximately \$1,500 in cost from not having to duplicate their efforts of providing the agency with supplemental information due to a deficient request for agency action.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule creates no additional costs beyond what is already required for a person requesting agency action in accordance with the Utah Administrative Procedures Act, Section 63-46b-3.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule change will have no negative fiscal impact on businesses. The rule is only applicable to a business if a business wishes to request agency action. In the past, when a business requested agency action without the use of legal counsel, such requests often did not meet the requirements of the Utah Administrative Procedures Act. The result was the business had to submit an additional pleading so its request for agency action would be legally sufficient. This rule change will provide guidance so businesses wishing to request agency action without the aid of legal counsel will file a legally sufficient request the first time, thus saving the business the additional expense of supplemental pleadings.

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

Environmental Quality
Environmental Response and Remediation
168 North 1950 West
PO Box 144840
Salt Lake City, UT 84114-4840, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

David McKnight at the above address, by phone at (801) 536-4100, by FAX at (801) 359-8853, or by Internet E-mail at dmcknigh@deq.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 10/01/1998; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 09/29/1998, 2:00 p.m., Room 101, Department of Environmental Quality, 168 North 1950 West, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 10/09/1998

AUTHORIZED BY: Brent C. Bradford, Deputy Director

R311. Environmental Quality, Environmental Response and Remediation.

R311-210. Administrative Procedures for Underground Storage Tank Act Adjudicative Proceedings.

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R311-210-4. Contesting a UAPA-exempt Order or Notice of Violation Issued by the Executive Secretary.

(a) The validity of any UAPA-exempt order or notice of violation issued by the Executive Secretary may be contested by filing a request for agency action. A request for agency action to contest a UAPA-exempt order or notice of violation and all subsequent proceedings acting on such a request are governed by the UAPA as provided in Subsection 63-46b-1(2)(k).

(b)(1) Except as provided in subparagraph (c)(1), the validity of a UAPA-exempt order or notice of violation may be contested by filing a request for agency action, as specified in Section 63-46b-3 of the UAPA, with the Board at the Solid and Hazardous Waste Control Board, Division of Environmental Response and Remediation, 168 North 1950 West, 1st Floor, PO Box 144840, Salt Lake City, Utah 84114-4840.

(2) The petitioner's request for agency action shall clearly express the reasons, facts and legal authority which forms the basis for contesting the order or notice of violation. The petitioner shall refer specifically to each numbered fact and violation arrived at in the order or notice of violation and with correspondingly numbered paragraphs shall admit or with appropriate explanation deny or dispute each fact and violation arrived at in the order or notice of violation. If the petitioner has other claims or defenses, the petitioner with reasons, facts and legal authority shall in short plain terms assert such claims or defenses.

(c)(1) A UAPA-exempt notice revoking a certificate of compliance under Section 19-6-414 may be contested by filing a request for agency action with the Executive Director of the Department of Environmental Quality at the Department of Environmental Quality, Office of the Executive Director, 168 North 1950 West, 2nd Floor, PO Box 144810, Salt Lake City, Utah 84114-4810.

(2) The petitioner's request for agency action with the Executive Director shall conform with Section 63-46b-3 of the UAPA and the above subparagraph (b)(2).

(d) Any request for agency action must be received for filing within thirty (30) days of the date the Executive Secretary issues the order or notice of violation.

(e) Notice of the time and place of any scheduled hearing for a request for agency action shall be given as provided in Section 63-46b-3(d) of UAPA. If a hearing has not been scheduled, the response shall give notice of the time and place of a pre-hearing conference to appropriately schedule a hearing. Notice of the time and place of a hearing shall be provided promptly after the hearing is scheduled.

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KEY: petroleum, underground storage tanks*
~~February 3, 1997~~1998 **19-6-105**
Notice of Continuation March 12, 1997 **19-6-40[8]3**

**Environmental Quality, Environmental
Response and Remediation
R311-212
Administration of the Petroleum
Storage Tank Loan Fund**

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21367
FILED: 08/14/1998, 14:12
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The proposed change allows for loan application periods longer than the 30 days now specified, to allow more flexibility in the program and make the loan funds more accessible.

SUMMARY OF THE RULE OR CHANGE: The Loan Fund rule was originally written with the assumption that there would be more applicants than money available. Loan application periods were set at 30 days so all applications could be received at one time and prioritized, so the applicants who met the statutory criteria would be put higher on the priority list. After several application periods, it has become apparent that the 30-day limit on the length of the application periods is not needed. The references to 30-day application periods are removed, so the Executive Secretary may declare an application period of any appropriate length, to allow more individuals to apply and make the loan funds more accessible.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-6-105 and 19-6-408

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: For each application period that is not required, due to longer periods being held, savings of approximately \$3,000 for preparation and mailing of information to underground storage tank owners and operators.

❖LOCAL GOVERNMENTS: Savings noted under "Other persons" could be realized by a local government who applied for and received a loan through the Petroleum Storage Tank (PST) Loan program.

❖OTHER PERSONS: If more applicants could apply for loans due to longer application periods, more loans could be made, and successful loan applicants could realize savings of up to approximately \$10,000 in interest over the life of a 10 year loan, from receiving a loan at a 3% interest rate, rather than a loan through another lender at a higher interest rate.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--the proposed change only changes the length of time of the loan application periods.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed changes do not have any direct fiscal impact on businesses. The change could, however, result in savings in interest costs to tank owners who apply for and receive loans at lower interest rates through the department's program.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Environmental Quality
Environmental Response and Remediation
168 North 1950 West
PO Box 144840
Salt Lake City, UT 84114-4840, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Gary Astin at the above address, by phone at (801) 536-4100, by FAX at (801) 359-8853, or by Internet E-mail at gastin@deq.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 10/01/1998; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 09/29/1998, 2:00 p.m., Room 101, Department of Environmental Quality, 168 North 1950 West, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 10/09/1998

AUTHORIZED BY: Brent C. Bradford, Deputy Director

R311. Environmental Quality, Environmental Response and Remediation.

R311-212. Administration of the Petroleum Storage Tank Loan Fund.

R311-212-1. Definitions.

Definitions are found in Section R311-200.

R311-212-2. Loan Application Submittal.

(a) Application for a loan shall be made on forms incorporated in Section R311-212-10, in accordance with Subsection 19-6-405.3(7). Loan eligibility applications shall be accepted during ~~30-day~~ application periods designated by the Executive Secretary. To receive a loan the applicant shall complete the following steps:

(1) Submit and receive approval from the Executive Secretary of a loan eligibility application; and

(2) Submit and receive approval from the Executive Secretary of a financial application.

(b) ~~[Loan eligibility applications shall be accepted during 30-day application periods designated by the Executive Secretary following each legislative appropriation of funds.]~~ As long as loan funds are available at least one application period shall be designated each fiscal year. Additional funds available through repayment of existing loans shall be loaned according to priorities from the most recent application period.

(c) ~~[Valid]~~ Loan eligibility applications received during an ~~[30-day]~~ application period shall be prioritized before review according to R311-212-4. Applications must be received by the Executive Secretary by 5:00 p.m. on the last day of a given ~~[30-day]~~ application period.

(d) Loan eligibility applications received outside the ~~[30-day]~~ application period shall be invalid.

R311-212-3. Loan Eligibility Application Review.

(a) The Executive Secretary shall review the eligibility application to determine if the applicant meets the criteria stated in Subsections 19-6-405.3(3), 19-6-405.3(4), 19-6-405.3(5) and 19-6-405.3(6).

(b) To meet the eligibility requirements of 19-6-405.3(4) the applicant must, for all facilities for which the applicant requests a loan, demonstrate current compliance with all state and federal UST laws, rules and regulations, including compliance with all requirements for remediation of facilities with leaking underground storage tanks, or must be able to achieve compliance with the loan proceeds.

(c) To meet the eligibility requirements of 19-6-405.3(4) the applicant must meet the following for all facilities owned or operated by the applicant for which the applicant does not request a loan:

(1) The applicant has demonstrated current compliance with all state and federal UST laws, rules and regulations, including compliance with all requirements for remediation of facilities with leaking underground storage tanks;

(2) All regulated underground petroleum storage tanks owned by the applicant have met the requirements of Section 19-6-412(2) ~~[for coverage under the petroleum storage tank fund]~~ and have a current certificate of compliance;

(3) The applicant has paid all underground storage tank registration fees, interest and penalties which have been assessed; and

(4) The applicant has paid all applicable petroleum storage tank fees, interest and penalties which have been assessed.

(d) To meet the requirements of Section 19-6-405.3(3), the loan request must be for the purpose of:

(1) Upgrading or replacing existing petroleum USTs to meet requirements of 40 CFR 280.21;

(2) Installing a leak detection monitoring system; or

(3) Permanently closing USTs. If an applicant requests a loan for closing USTs which will be replaced by above-ground storage tanks, the loan, if approved, will be only for closing the USTs. The security pledged by the applicant for a loan to replace USTs with above-ground storage tanks shall be subject to the limitations in R311-212-6.

(e) The Executive Secretary shall notify the applicant in writing of the status of the loan eligibility application. If the loan eligibility application is approved, the applicant may submit a financial application.

R311-212-4. Prioritization of Loan Eligibility Applications.

(a) ~~When determined by the Executive Secretary to be necessary, a~~ ~~[A]~~ all applications received during a designated application period shall be prioritized by total points assigned. Ten points shall be given for each item that applies to the applicant or the facility for which the loan is requested:

(1) The applicant has less than \$1,000,000 annual gross income and fewer than five full-time employee equivalents and is not owned or operated by any person not meeting the income and employee criteria.

(2) The applicant's income is derived solely from operations at UST facilities.

(3) The applicant owns or operates no more than two facilities.

(4) The facility is located in a U.S. Census Bureau population unit containing fewer than 5,000 people.

(5) There are no more than three operating retail outlets selling motor fuel within 15 miles road distance in all directions.

(6) Loan proceeds will be used solely for replacing or upgrading USTs.

(7) All USTs at the facility are greater than 15 years old.

(b) One point shall be given for each road mile of distance from the facility to the nearest operating retail outlet selling motor fuel, to a maximum of 30 points.

(c) Applications which receive the same number of points shall be sub-prioritized according to the date postmarked or the date delivered to the Executive Secretary by any other method.

(d) Applications shall remain in priority order regardless of availability of funds until a new ~~[30-day]~~ application period is declared. When a new ~~[30-day]~~ application period begins, priority order of eligibility applications which have not been reviewed terminates. An applicant whose eligibility application has not been reviewed or an applicant whose eligibility application has not been approved because the applicant has not satisfied the requirements of Subsections 19-6-405.3(3) through (6), loses eligibility to apply for a loan and must submit a new eligibility application ~~[and be reprioritized]~~ in the subsequent period to be considered for a loan in that period.

R311-212-5. Financial Application Review.

(a) The applicant shall file a financial application with the Executive Secretary within 60 days after the Executive Secretary mails written notice of approval of the applicant's loan eligibility application. The completed application with supporting documents shall contain all information required by the financial application. If the financial application is not received by the Executive Secretary within 60 days, the applicant's eligibility application approval ~~[and opportunity to apply for a loan during the current application period]~~ shall be forfeited.

(b) All costs incurred in processing the financial application including appraisals, title reports, or UCC-1 releases shall be the responsibility of and paid for by the applicant. The Executive Secretary may require payment of costs in advance. The Executive Secretary shall not reimburse costs which have been expended, even if the loan fails to close, regardless of the reason.

(c) Financial applications shall be reviewed in the order in which they are received. The approval of the financial application shall be based on information provided by the applicant, and:

- (1) review of any and all records and documents on file;
- (2) verification of any and all information provided by the applicant;
- (3) review of credit worthiness and security pledged; and
- (4) review of a site construction work plan.

(d) The Executive Secretary shall notify the applicant in writing of the status of the application when the review is complete.

(e) The applicant must close the loan within 30 days after the Executive Secretary mails the loan documents for the applicant's signature. If the applicant fails to close the loan within this time period, the approval is forfeited and the applicant must wait until the next application period. Any subsequent application must start with an eligibility application. An exception to the 30 day period may be granted by the Executive Secretary if the closing is delayed due to circumstances beyond the applicant's control.

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R311-212-9. Recovering on Defaulted Loans.

(a) Loans may be considered in default when two consecutive payments are past due by 30 days or more, when the applicant's ability to receive payments for claims against the fund lapses, or if the certificate of compliance lapses or is revoked. Lapsing under section R311-206-~~4(C)~~7(e) shall not be considered as grounds for default for USTs which are permanently closed.

(b) The Executive Secretary may declare the full amount of the defaulted loan, penalty, and interest immediately due.

(c) The Executive Secretary need not give notice of default prior to declaring the full amount due and payable.

(d) The borrower shall be liable for attorney's fees and collection costs for defaulted loans whether incurred before or after court action.

.....

KEY: hazardous substances, petroleum, underground storage tanks
~~[January 13, 1997]~~1998 19-6-405.3
Notice of Continuation March 12, 1997



Human Services, Recovery Services
R527-201
Medical Support Services

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21352
FILED: 08/12/1998, 09:08
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Changes are needed in this rule: 1) to update terms--"office" is replaced with "ORS/CSS," "AFDC" is replaced with "IV-A," and "Non-AFDC" is replace with "Non-IV-A"; 2) to simplify terms--"health, hospital, and dental care" is simplified to "medical"; 3) to reduce excess text--eliminating "the state initiates an action to establish paternity" and adding the word "final" to "support order" in a previous subsection to indicate inclusion of paternity actions and orders; 4) to delete text describing that which is adequately addressed in statute--text in Section R527-201-5 and Section R527-201-7 dealing with Section 78-45-7.15; 5) to eliminate references to outdated processes such as the initiation of a proceeding to obtain a new administrative order when a judicial order which can be modified to include an insurance provision already exists, and the issuance of a notice of agency action to the obligated parent rather than a notice to enroll directly to that parent's employer as now mandated under Section 62A-11-326.1; 6) to make minor clarifications of meaning and grammatical corrections; and 7) to update the edition of the incorporated reference.

SUMMARY OF THE RULE OR CHANGE: Because medical support services cannot be provided to a IV-D non-Medicaid applicant unless child support services are also provided, the words "in conjunction with child support services" have been added to Section R527-201-3. When a notice is served on an obligated party regarding a legal proceeding to determine whether that party should be required to obtain medical insurance for his/her children, the result is a final order. Because an action to establish paternity includes such notice and results in a final order, Subsection R527-201-5(1)(c) has been deleted and the word "final" has been added to Subsection R527-201-5(1)(a). Because Section 78-45-7.15 specifies that the support order shall require each parent to share equally all uninsured medical expenses that are actually paid, Subsection R527-201-5(2) which describes an alternative arrangement for non-IV-A cases has been deleted. Subsection R527-201-5(3), which has been renumbered Subsection R527-201-5(2), has been revised to address only judicial support order modifications because Section R527-232-1, which it references, does not deal with administrative orders, and all administrative orders now contain medical support provisions. Section R527-201-6 has been revised to make it clear that the Office of Recovery Services/Child Support Services (ORS/CSS) or the courts make the determination of insurance premium "reasonable cost" on a case-by-case basis when assigning responsibility for maintaining insurance coverage in a legal proceeding. Subsection R527-201-7(1) has been deleted, Subsections R527-201-7(1)(a) and R527-201-7(1)(b) have been renumbered R527-201-7(1) and R527-201-7(2) respectively, a new Subsection R527-201-7(3) has been added, and Subsection R527-201-7(2) has been renumbered Subsection R527-201-7(4). This section, as revised, allows ORS/CSS to reduce the amount of ordered child support credit (without seeking modification) when the premium amount decreases

after the effective date of the order. It also allows ORS/CSS to give child support credit for the child(ren)'s portion of the insurance premium when the order or underlying worksheet is silent regarding credit for insurance premiums and insurance coverage has been verified. The new Subsection R527-201-7(3) addresses the child support credit or offset ORS/CSS is required to give when the support order does not include an insurance provision and a parent voluntarily enrolls the child(ren) in an insurance plan. It provides for a child support credit of half the children's portion of the insurance premium in IV-A cases, and a credit or offset (depending on which parent pays the premium) in Non-IV-A cases when the parents agree to share the insurance cost equally. If the parents cannot agree to share the cost equally, the order must be modified to include an insurance provision before credit or offset can be given. The requirement that ORS/CSS petition a tribunal to determine the appropriate division of uninsured pregnancy and confinement expenses between the parents in an action to establish a medical judgment in IV-A and Medicaid paternity and separation cases has been deleted from Subsection R527-201-8(1)(b). It has been replaced with the new Subsection R527-201-8(3) which specifies that one half of the uninsured costs shall be charged to the non-custodial parent (in IV-A and Non-IV-A cases) when establishing a judgment for pregnancy and confinement costs. The procedure in Subsection R527-201-9(2)(b) for enforcing medical insurance enrollment of an obligated parent's child(ren) with his/her employer or union has been revised. Because Subsection 62A-11-326.1(2) specifies that an order with an insurance provision is a "qualified medical support order," the former requirement to conduct an adjudicative proceeding to obtain a separate enrollment order is obsolete. The amended rule will, therefore, eliminate the need to issue a notice of agency action regarding insurance enrollment to the obligated parent and will allow ORS/CSS to serve the obligated parent's employer directly with a notice to enroll provided a support order with an insurance provision exists. Changes have been made to Section R527-201-10 which clarify that for an obligated parent who received Medicaid at the time a medical debt was incurred or, in paternity cases, where the father's income was taken into consideration for determining the household's eligibility for Medicaid, ORS/CSS will not enforce payment of the obligated parent's share of the medical debt or expenses that would have otherwise been his/her responsibility under the medical support provision in the order. These changes have been made to remove any doubt that the medical support provision in an order continues to be in effect even though medical expenses for a particular period of time are uncollectible.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 63-46b-1 et seq., 62A-11-326.1, 62A-11-326.2, 62A-11-326.3, and 78-45-7.15

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 45 CFR 303.30 and 45 CFR 303.31, October 1, 1995 ed.

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: Of the various changes proposed in R527-201, only the change in Section R527-201-9 represents a significant change in ORS/CSS procedures and practices. It will effectively eliminate all costs involved with the establishment and implementation of insurance enrollment orders. On average, this will save the state \$5,000 per month or approximately \$60,000 per year.

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

❖OTHER PERSONS: Parents who are already under order to provide medical insurance coverage for their children and fail to provide that coverage will no longer have to bear the additional costs associated with participation in an adjudicative proceeding to enforce coverage. The savings to these individuals as a group is estimated at \$3,000 per month or \$36,000 per year.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed changes in this rule do not create additional compliance costs for affected persons. The legal requirement that a parent who is obligated to maintain insurance coverage for his/her children take action to enroll them in a medical insurance plan if available at a reasonable cost, remains in effect. Also unchanged is the legal requirement that orders specify that both parents share equally the cost of uninsured medical costs (including uninsured pregnancy and confinement costs). Granting a child support credit or offset for half of the children's portion of the premium, or the amount specified in the order, to the parent who pays the insurance premium has been the practice of ORS/CSS and is unaffected by these rule changes. Because enforcement of the obligation to maintain medical insurance is streamlined by the changes in this rule, the cost to affected persons is actually reduced, as noted in the cost or savings impact under "Other persons."

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed change in this rule eliminating the legal step of obtaining an enrollment order before issuing a notice to enroll to the employer will not only ensure that children receive the insurance coverage they are entitled to sooner, but will also save employers and insurance companies time in dealing with inquiries from custodial parents and related issues concerning coverage and claims prior to enrollment. This should result in cost savings to these businesses over time.

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

Human Services
Recovery Services
Fourteenth Floor, Eaton/Kenway Bldg.
515 East 100 South
PO Box 45011
Salt Lake City, UT 84145-0011, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Wayne Braithwaite at the above address, by phone at (801) 536-8986, by FAX at (801) 536-8509, or by Internet E-mail at hsdadmin.hsorsslc.wbraithw@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 10/01/1998.

THIS RULE MAY BECOME EFFECTIVE ON: 10/02/1998

AUTHORIZED BY: Emma Chacon, Director

R527. Human Services, Recovery Services.**R527-201. Medical Support Services.****R527-201-1. Federal Requirements.**

The Office of Recovery Services/Child Support Services, (ORS/CSS), adopts the federal regulations as published in 45 CFR 303.30 and 303.31, October 1, [~~1994~~]1995 ed., which are hereby incorporated by reference.

R527-201-2. Limitation of Services.

~~[The Bureau of Child Support, referred to as bureau,]~~ORS/CSS shall not:

1. pursue establishment of specific amounts for ongoing medical support,
2. initiate an action to obtain a judgment for uninsured medical expenses, except pregnancy and confinement costs, or
3. collect and disburse premium payments to insurance companies.

R527-201-3. Medical Support Services in Non-~~[AFDC]~~IV-A Cases.

Medical Support Services shall be provided in conjunction with child support services to applicants who are not receiving Medicaid ~~[with]~~upon the consent of the applicant.

R527-201-4. Cooperation Requirements for Non-~~[AFDC]~~IV-A Medicaid Recipients.

1. 42 CFR 433.145 and 433.147 require Non-~~[AFDC]~~IV-A Medicaid recipients to assign their rights to medical support to the state as a condition of eligibility and to cooperate with ~~[the office]~~ORS/CSS to establish and enforce medical support unless the ~~[AFDC]~~IV-A or Medicaid agency determines that the individual has good cause for refusing to cooperate.

2. ~~[The office]~~ORS/CSS shall provide child and spousal support services; however, a Non-~~[AFDC]~~IV-A Medicaid recipient may decline child and spousal support services if paternity is not an issue and there is an order for the non-custodial parent to provide medical support.

R527-201-5. Securing a Medical Support Provision in the Support Order.

1. Notice to the potentially obligated parent: The notice to the potentially obligated parent shall include a provision that an administrative or judicial proceeding will occur in order to determine whether that parent should be ordered to purchase and maintain appropriate ~~[health, hospital, and dental care]~~medical

insurance for his children. This notification shall be provided when ~~[any]~~either of the following conditions ~~[are]~~is met:

- a. the state initiates an action to establish a final support order or to adjust an existing child support order; or
- b. the state joins a divorce or modification action initiated by either the custodial or the non-custodial parent~~[;]~~.

~~[c. the state initiates an action to establish paternity.]~~

~~2. Pursuant to Section 78-45-7.15, the support order shall require both parents to share all other reasonable and necessary uninsured medical and dental expenses in a ratio to be determined by the appropriate court or administrative agency. Administrative orders established by the office in AFDC cases shall assign an equal share of the uninsured medical expenses to each parent. Administrative orders established by the office in Non-AFDC cases shall assign an equal share of the uninsured medical expenses to each parent unless the parties agree to a different ratio.~~

~~3]2. If a judicial support order does not include a medical support provision, [the office]ORS/CSS shall determine whether the case meets the criteria listed in R527-232-1 to modify an order to include a medical support provision. If the case meets the criteria [the office]ORS/CSS shall[:~~

~~a. commence an adjudicative proceeding to obtain a new administrative order which includes a medical support provision if the only order in the case is an administrative order which does not contain a medical support provision; or~~

~~b.] commence judicial action to modify the order to include a medical support provision[if the judicial order does not contain a medical support provision].~~

R527-201-6. Reasonable Cost of Insurance Premiums.

a. Federal regulations generally presume that any employment-related or other group coverage available to the obligated parent is reasonable in cost. However, ~~[the office]~~ORS/CSS or the courts may determine ~~[through]what reasonable cost means for a particular case in an adjudicative or judicial proceeding [in some circumstances what reasonable cost means]~~that assigns responsibility for maintaining insurance coverage.

b. If the combined total of current child support, spousal support, and the obligated parent's insurance premium exceeds the amount allowed under the Consumer Credit Protection Act, ~~[the office]~~ORS/CSS shall enforce only the child and spousal support and shall not require that the obligated parent maintain medical insurance unless ~~[the office]~~ORS/CSS determines that it would be in the best interest of the child to make medical insurance coverage a priority.

R527-201-7. Credit for Premium Payments and Effect of Changes to the Premium Amount Subsequent to the Order.

~~[1. Pursuant to Section 78-45-7.15 each parent may receive credit for the amount of the children's portion of the medical or dental health insurance premium paid by that parent against the total support award:~~

~~a]1. If the order or underlying worksheet [gave]gives credit [for]of a specific amount for the children's portion of the premium and the amount of the premium decreases, [the office]ORS/CSS may reduce the amount of the credit [the obligated parent receives]without seeking a modification of the order.~~

[b]2. If the order or underlying worksheet does not mention a specific credit for insurance premiums, [the office]ORS/CSS shall give credit for the child(ren)'s portion of the insurance premium when the insurance coverage is verified.

3. When a support order does not include a medical insurance provision, and a parent voluntarily enrolls the child(ren) in an insurance plan:

a. in Non-IV-A cases, if the parents agree to share equally the cost of the insurance, ORS/CSS shall give credit or offset the other parent's share of the expense. If the parents disagree, the order must be modified to include an insurance provision before the credit or the offset shall be given.

b. in IV-A cases, ORS/CSS shall give credit for 50% of the child(ren)'s portion of the insurance premium.

[2]4. ~~[The office]~~ORS/CSS shall notify both parents in writing whenever the credit is changed.

R527-201-8. Establishing Costs for Pregnancy and Confinement.

1. When establishing a judgment for medical costs for pregnancy and confinement in ~~[AFDC]IV-A~~ and Non-~~[AFDC]IV-A~~ Medicaid paternity and separation cases, ~~[the office]~~ORS/CSS shall:

— a. ~~research the exact pregnancy and confinement costs which have accumulated to date[, and~~

— b. ~~petition the court or administrative authority to determine the ratio of the expenses to be shared by the parents].~~

2. When establishing a judgment for medical costs for pregnancy and confinement in Non-~~[AFDC]IV-A~~ Non-Medicaid Cases, ~~[the office]~~ORS/CSS shall consult with the mother to determine the amount of the uninsured pregnancy and confinement expenses.

3. When establishing any judgment for medical costs for pregnancy and confinement, one half of the uninsured pregnancy and confinement costs shall be charged to the non-custodial parent.

R527-201-9. Enforcement of Obligation to Maintain Medical and Dental Insurance.

1. In Non-~~[AFDC]IV-A~~ cases in which the applicant requests medical support enforcement and in ~~[AFDC]IV-A~~ and Non-~~[AFDC]IV-A~~ Medicaid cases, appropriate steps shall be taken to ensure compliance with orders which require the obligated parent to maintain insurance. Obligated parents shall demonstrate compliance by providing ORS/CSS with policy numbers and the insurance provider name for the dependent children for whom the medical support is ordered.

2. In Non-~~[AFDC]IV-A~~ cases in which the applicant requests medical support enforcement and in ~~[AFDC]IV-A~~ and Non-~~[AFDC]IV-A~~ Medicaid cases, if an obligated parent has been ordered to maintain medical insurance and insurance is available through an employer or other group insurance plans at a reasonable cost, and the obligated parent fails to obtain such insurance, ~~[the office]~~ORS/CSS shall enforce the requirement that the obligated parent maintain medical insurance coverage. ~~[The office]~~ORS/CSS shall determine the appropriate enforcement remedy. Remedies may include:

a. notifying the obligated parent to obtain the insurance as ordered and that the obligated parent may be held responsible for uninsured medical expenses;

b. issuing a notice ~~[of agency action]~~to enroll pursuant to Section 62A-11-326.1 to the ~~[obligated parent which may result in the office issuing a notice to the]~~obligated parent's employer or union to enroll the children in a medical insurance plan. If ~~[the office]~~ORS/CSS issues ~~[an order]~~a notice to enroll the children in a medical insurance plan, the obligated parent shall be required to notify ~~[the office]~~ORS/CSS within 10 days of the date the children are enrolled in an insurance program, or within 10 days of any change in insurance coverage, and of the policy name, policy number, and the names of those insured.

R527-201-10. Obligated Parent Receiving Medicaid.

1. If an obligated parent is receiving Medicaid or was receiving Medicaid at the time the medical debt was incurred, ~~[the office]~~ORS/CSS shall not enforce payment of the medical debt regardless of medical support provisions in the order.

2. In an unestablished paternity case, if the father's income was taken into consideration when determining the household's eligibility for Medicaid, ~~[the office]~~ORS/CSS shall not enforce payment of medical expenses regardless of the medical support provisions in the order, but shall enforce the health insurance provision.

KEY: child support, health insurance, medicaid
~~[February 6, 1996]~~1998 63-46b-1 et seq.
Notice of Continuation March 20, 1997 62A-11-326.1
62A-11-326.2
62A-11-326.3
78-45-7.15

Judicial Conduct Commission,
Administration
R595-1-5
Preliminary Investigations

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 21370

FILED: 08/14/1998, 16:45

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This amendment is necessary because: (1) a "verified statement" is no longer required under the Commission's definition of "complaint"; and (2) the 1996 amendment to Subsection 78-7-30(6) of the Utah Code requires that the complainant(s) be notified when the Commission dismisses a complaint. The proposed amendment makes the language of Section R595-1-5 consistent with Subsection 78-7-30(6) of the Utah Code.

SUMMARY OF THE RULE OR CHANGE: This amendment is necessary because: (1) a "verified statement" is no longer required under the Commission's definition of "complaint"; and (2) the 1996 amendment to Subsection 78-7-30(6) of the

Utah Code requires that the complainant(s) be notified when the Commission dismisses a complaint.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Art. VIII, Sec. 13; and Section 78-7-30

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: None--this amendment conforms the language of Section R595-1-5 to Subsection 78-7-30(6) of the Utah Code.

❖LOCAL GOVERNMENTS: None--Judicial Conduct Commission issues are not addressed by local government because they are a state administrative agency.

❖OTHER PERSONS: None--this amendment conforms the language of Section R595-1-5 to Subsection 78-7-30(6) of the Utah Code.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--this amendment conforms the language of Section R595-1-5 to Subsection 78-7-30(6) of the Utah Code.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Judicial Conduct Commission issues focus on disciplinary procedures with regard to the state's judges. There will be no impact on any type of business.

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

Judicial Conduct Commission
Administration
Suite 104, Law and Justice Center
645 South 200 East
Salt Lake City, UT 84111, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Steven H. Stewart at the above address, by phone at (801) 533-3200, by FAX at (801) 533-3208, or by Internet E-mail at There is not an E-mail address available..

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 10/01/1998.

THIS RULE MAY BECOME EFFECTIVE ON: 10/02/1998

AUTHORIZED BY: Steven H. Stewart, Executive Director

R595. Judicial Conduct Commission, Administration.

R595-1. Rules of Procedure.

R595-1-5. Preliminary Investigations.

(a) The Commission, upon receiving a complaint not obviously unfounded or frivolous, alleging facts indicating that a judge has engaged in willful misconduct in office, willful and persistent failure to perform the Judge's duties, conduct prejudicial to the administration of justice that brings the judicial office into disrepute, or that the judge has a disability that seriously interferes with the performance of the judge's duties, shall make a preliminary investigation to determine whether formal proceedings should be instituted and hearing held.

(b) The judge shall be notified of the investigation, the nature of the charge, and the name of the person making the ~~verified statement,~~ complaint, and shall be afforded reasonable opportunity in the course of the preliminary investigation to ~~present such matters as the judge may choose~~ respond to the complaint. Such notice shall be given by prepaid registered or certified mail addressed to the judge at the address listed in the directory published by the Administrative Office of the Courts, or by personal service.

If the preliminary investigation does not disclose reasonable cause to institute formal proceedings, the judge shall be so notified. Engaging in activity to determine whether a complaint is unfounded or frivolous or whether it alleges sufficient facts indicating a violation of the statutes governing judicial conduct is not a "preliminary investigation" within the purview of this rule. ~~Upon a majority vote of a quorum of the Commission, the dismissal of a complaint against a judge or justice may be disclosed without the consent of said judge or justice to the person(s) who filed such complaint.~~ The dismissal of a complaint or allegation against a judge or justice shall be disclosed without the consent of the judge or justice to the person who filed the complaint or allegation.

KEY: judges, judicial ethics, proceedings, sanctions

~~February 20,~~ 1998

78-7-30(6)

Judicial Conduct Commission, Administration **R595-1-9**

Issuance of Private Reprimand and Dismissal of Complaint With Admonition

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 21353

FILED: 08/12/1998, 12:00

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The current language of Section R595-1-9 restricts the Commission's authority to impose informal discipline to dismissing a complaint with an admonition or issuing a private reprimand. Section R595-1-9 presently provides that the complainant will be notified if a private reprimand is issued or if a complaint is dismissed with an admonition. However, neither the nature of the private reprimand or admonition nor details of the investigation leading to them are disclosed to the complainant. Use of the word "private" in Section R595-1-9 is problematic because it suggests that no one but the judge and the Commission will know that a reprimand was issued. In the past, judges have criticized the Commission for not maintaining strict confidentiality in connection with private reprimands and dismissals with

admonition. The proposed amendment to Section R595-1-9 provides for a number of "informal" rather than "private" disciplinary procedures and should enable the Commission to deal more effectively with judicial-disciplinary problems in an informal way. A significant element of the amendment is that an accused judge must "accept" informal discipline. If a judge refuses to accept informal discipline, the Commission can commence a "formal" proceeding to resolve allegations of judicial misconduct.

SUMMARY OF THE RULE OR CHANGE: The proposed amendment to Section R595-1-9 provides for a number of "informal" rather than "private" disciplinary procedures and should enable the Commission to deal more effectively with judicial disciplinary problems in an informal way.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Art. VIII, Sec. 13, and Section 78-7-30

ANTICIPATED COST OR SAVINGS TO:

- ❖THE STATE BUDGET: None--this amendment provides for "informal" rather than "private" disciplinary procedures and will not affect the budget in any way.
 - ❖LOCAL GOVERNMENTS: None--Judicial Conduct Commission issues are not addressed by local government because they are a state administrative agency.
 - ❖OTHER PERSONS: None--this amendment provides for "informal" rather than "private" disciplinary procedures.
- COMPLIANCE COSTS FOR AFFECTED PERSONS: None--this amendment provides for "informal" rather than "private" disciplinary procedures.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Judicial Conduct Commission issues focus on disciplinary procedures with regard to the state's judges. There will be no impact on any type of business.

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

Judicial Conduct Commission
Administration
Suite 104, Law and Justice Center
645 South 200 East
Salt Lake City, UT 84111, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Steven H. Stewart at the above address, by phone at (801) 533-3200, by FAX at (801) 533-3208, or by Internet E-mail at There is not an E-mail address available..

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 10/01/1998.

THIS RULE MAY BECOME EFFECTIVE ON: 10/02/1998

AUTHORIZED BY: Steven H. Stewart, Executive Director

R595. Judicial Conduct Commission, Administration.

R595-1. Rules of Procedure.

R595-1-9. [Issuance of Private Reprimand and Dismissal of Complaint With Admonition.]Informal Resolution of Complaints.

~~[(a) Private Reprimand. At any time prior to a formal hearing being conducted, the Commission, with the written consent of the judge against whom a complaint is pending, may issue a private reprimand to the judge in lieu of proceeding with the formal hearing. The consent of the judge complained against shall include a statement that information concerning the private reprimand may be disclosed to the Judicial Council. The judge shall also consent that the complainant will be informed that a private reprimand was issued. However, neither the details of the investigation leading to the private reprimand nor the exact nature of the reprimand will be disclosed to the complainant.~~

~~—(b) Dismissal With Admonition. The Commission may dismiss a complaint with an admonition to the judge. The complainant will be informed that a dismissal with admonition was issued. However, neither the details of the investigation leading to the dismissal with admonition nor the exact nature of the admonition will be disclosed to the complainant. A dismissal with an admonition is not an "order" within the purview of Article VIII, Section 13 of the Utah Constitution or Section 78-7-30(4) of the Utah Code.]At any time after the institution of a preliminary investigation, the Commission may, with the written consent of the judge, informally:~~

(1) Reprimand a judge for conduct that is unacceptable under one of the grounds for judicial discipline that does not merit formal proceedings;

(2) Admonish a judge that the judge's conduct appears improper even though it does not warrant a reprimand [meets minimum standards of judicial conduct] and warn the judge of ethical responsibilities imposed by statute and the Code of Judicial Conduct and the need to avoid such conduct or inappropriate practices in the future;

(3) Direct professional counseling and assistance for a judge, including a medical examination, and monitor the judge's subsequent behavior;

(4) Impose conditions on a judge's conduct or instruct a judge to make specific changes in particular matters of conduct;

(5) Resolve a complaint by any other appropriate means consistent with these rules.

If a judge accepts informal [discipline] resolution of a complaint, the Commission shall notify the complainant(s) of that fact, unless the Commission finds that notification is not in the interest of justice, and may, in its sole discretion, notify the complainants concerning the nature of the [discipline] resolution.

**KEY: judges, judicial ethics, proceedings, sanctions 78-7-27
[February 20,]1998 78-7-30**



**Public Safety, Law Enforcement and
Technical Services, Criminal
Identification
R722-2
Adjudicative Proceedings**

NOTICE OF PROPOSED RULE

(Repeal and reenact)
DAR FILE NO.: 21346
FILED: 08/10/1998, 10:00
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Subsections 53-5-214(8)(a) and 53-5-214(8)(b) require the Commissioner of Public Safety to establish procedures to allow individuals to review their criminal history record and challenge the completeness and accuracy of that record. This rule establishes those procedures.

SUMMARY OF THE RULE OR CHANGE: The only substantive provision in the repealed rule that is eliminated from the enacted rule is the provision requiring a person who is applying by mail to work through a local law enforcement agency in the application process. The following new substantive provisions appear only in the enacted rule: (1) the provision explaining that an applicant must establish proof of identity through a government issued identification form; and (2) the provision explaining that appropriate documentation is needed in order for a person to meet his burden of proof that his criminal record is incomplete or inaccurate. These two requirements were always part of the process, but were not spelled out in the repealed rule.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 53-5-214(8)

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: This rule will have no fiscal impact on the state because the minor changes in the rule were actually put into practice by the Bureau of Criminal Identification (BCI) several years ago and will not change BCI's operating procedures.

❖LOCAL GOVERNMENTS: This rule will have no fiscal impact on local government because the rule does not apply to local government.

❖OTHER PERSONS: This rule will have no fiscal impact on other persons because members of the public who apply to review their criminal history record information already have some form of government issued photo I.D. and have always been required to show appropriate documentation when challenging their record.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule will have no compliance costs for affected persons, i.e., persons

applying to review and/or challenge their criminal history record information because such persons already have some form of government issued photo I.D. and have always been required to show appropriate documentation when challenging their record.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Commissioner Dearden has concluded that this rule will have no fiscal impact on businesses because it does not apply to businesses.

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

Public Safety
Law Enforcement and Technical Services,
Criminal Identification
First Floor, Calvin L. Rampton Complex
4501 South 2700 West
Box 14280
Salt Lake City, UT 84114-8230, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

J. Francis Valerga at the above address, by phone at (801) 965-4463, 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 RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 10/01/1998.

THIS RULE MAY BECOME EFFECTIVE ON: 10/02/1998

AUTHORIZED BY: Richard A. Greenwood, Superintendent

R722. Public Safety, Law Enforcement and Technical Services, Criminal Identification.**~~R722-2. Adjudicative Proceedings:~~****~~R722-2-1. Short Title:~~**

~~—The short title of this rule shall be Bureau of Criminal Identification, Rule for Adjudicative Proceedings.~~

~~R722-2-2. Bureau Authority:~~

~~—As authorized by Chapter 77-26 U.C.A., the Bureau of Criminal Identification, hereinafter referred to as "BCI", maintains criminal history information on individuals. Said information is compiled on a document hereinafter referred to as a "rap sheet".~~

~~R722-2-3. Purpose of Rule:~~

~~—It is the purpose of this rule to set forth the procedures as authorized by Section 77-26-16 (7) U.C.A. whereby a person may review his/her own rap sheet, challenge the completeness and accuracy of the rap sheet, and amend any information on the rap sheet found to be inaccurate or incomplete.~~

~~R722-2-4. Intent of Rule:~~

~~—It is the intent of this rule to comply with Chapter 63-46b U.C.A.~~

R722-2-5. Designations:

All adjudicative proceedings performed by the agency shall proceed informally as set forth in this rule and as authorized by Sections 63-46b-5 U.C.A.

R722-2-6. Application in General:

Application to review a rap sheet may be made in person or by mail:

R722-2-7. Application in Person:

If application is made in person, the process shall be as follows:

- A. The person will fill out an application form provided by BCI.
- B. The person will pay a \$10.00 processing fee.
- C. The Person will be fingerprinted.
- D. If BCI has a rap sheet on the person, the rap sheet will be given to the person.

R722-2-8. Application by Mail:

If application is made by mail, the process shall be as follows:

- A. The person will request from BCI the right to review his/her rap sheet and at the same time, select a law enforcement agency through which the application by mail process can proceed. The purpose of proceeding through a law enforcement agency is to guarantee the privacy and security required for the dissemination of a rap sheet.
- B. The balance of the application process will be the same as the application in person process described above, with the exception that the person must work through the law enforcement agency he/she has selected.

R722-2-9. Challenge:

The person may challenge the completeness and accuracy of the rap sheet by filling out a challenge form provided by BCI. No hearing, review or reconsideration shall be granted. The burden of showing that the rap sheet is incomplete or inaccurate is on the person making the challenge.

R722-2-10. Amendment:

If BCI determines that the person has met the burden of showing that the rap sheet is inaccurate or incomplete, BCI will amend the rap sheet.

KEY: administrative procedure, enforcement (administrative) 1988 63-46b-1 et seq. Notice of Continuation 1993 77-26-1 et seq.]

R722-2. Review and Challenge of Criminal Record.

R722-2-1. Purpose.

Subsection 53-5-214(8)(a) requires the Commissioner of Public Safety to establish procedures to allow an individual to review his criminal history record information. Subsection 53-5-214(8)(b) requires the Commissioner to establish procedures to allow an individual to challenge the completeness and accuracy of his criminal history record information as contained in the department's computerized criminal history files. The purpose of this rule is to establish those procedures.

R722-2-2. Authority.

This rule is authorized by Sections 53-5-214 and 63-46a-3.

R722-2-3. Review.

An individual may review the department's criminal history record information about him, by contacting the Bureau of Criminal Identification (BCI) and:

- (a) filling out an application provided by BCI;
- (b) providing a set of fingerprints;
- (c) providing a copy of a government issued photo i.d.; and
- (d) filling out and signing a criminal history waiver form provided by BCI; and
- (e) paying a \$10 processing fee.

R722-2-4. Application by Mail.

(a) Individuals who are unable to apply in person may obtain an application from BCI, be fingerprinted at a local law enforcement agency, and then mail the completed application, fingerprints, signed waiver, and \$10 processing fee to BCI at Box 14280, Salt Lake City, Utah 84114-8280.

(b) The local law enforcement agency verifies the identity of the individual by checking a government issued photo i.d. at the time of fingerprinting and signs the application form.

R722-2-5. Challenge.

(a) An individual may challenge the completeness and accuracy of his criminal history record information by filling out a challenge form provided by BCI. The submittal of a challenge form will be handled as an informal adjudicative proceeding in accordance with Section 63-46(b)-5. If the department denies the challenge, no further hearing, review, or reconsideration shall be granted. The individual making the challenge will be required to prove to the satisfaction of BCI through the use of appropriate documentation that the department's criminal history record information is incomplete or inaccurate.

(b) If BCI is satisfied that the individual has sufficiently documented that his criminal history record information is incomplete or inaccurate, BCI will amend the individual's files accordingly.

(c) An individual who is dissatisfied with the decision made by BCI regarding the completeness or accuracy of the department's criminal history record information on him, may appeal the decision to district court in accordance with Section 63-46(b)-5.

KEY: criminal records 1998

53-5-214(8)



Tax Commission, Motor Vehicle

R873-22M-11

Copies of Registration Cards Pursuant to Utah Code Ann. Section 41-1a-214

NOTICE OF PROPOSED RULE

(Amendment)
 DAR FILE NO.: 21355
 FILED: 08/13/1998, 14:05
 RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Section 41-1a-214 requires that the registration card be carried at all times in the vehicle to which it was issued.

SUMMARY OF THE RULE OR CHANGE: This proposed amendment allows intrastate commercial vehicles to carry a copy of the registration card, instead of the original. This language was inadvertently deleted in an earlier amendment to the rule.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 41-1a-214

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: The amendment reflects the Tax Commission's current practice. Since the earlier deletion of this language was inadvertent, we had not realized the change. Once we realized that the language had changed, we continued the practice, but began the rulemaking process to re-insert the language.

❖LOCAL GOVERNMENTS: The amendment reflects the Tax Commission's current practice. Since the earlier deletion of this language was inadvertent, we had not realized the change. Once we realized that the language had changed, we continued the practice, but began the rulemaking process to re-insert the language.

❖OTHER PERSONS: The amendment reflects the Tax Commission's current practice. Since the earlier deletion of this language was inadvertent, we had not realized the change. Once we realized that the language had changed, we continued the practice, but began the rulemaking process to re-insert the language.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs since the rule reflects current practice.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be no fiscal impact because the rule reflects current practice.

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

Tax Commission
 Motor Vehicle
 Tax Commission Building
 210 North 1950 West
 Salt Lake City, UT 84134, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Pam Hendrickson at the above address, by phone at (801) 297-3902, by FAX at (801) 297-3919, or by Internet E-mail at phendric@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 10/01/1998.

THIS RULE MAY BECOME EFFECTIVE ON: 10/02/1998

AUTHORIZED BY: Pam Hendrickson, Commissioner

R873. Tax Commission, Motor Vehicle.

R873-22M. Motor Vehicle.

R873-22M-11. Copies of Registration Cards Pursuant to Utah Code Ann. Section 41-1a-214.

A. In lieu of an original registration card, a copy of a registration card may be carried in an intrastate commercial vehicle or a vehicle owned or leased by this state or any of its political subdivisions. Both the front and back of the registration card must be copied.

KEY: taxation

~~[October 21, 1997]~~1998

41-1a-214

Notice of Continuation May 8, 1997



Tax Commission, Motor Vehicle

R873-22M-40

Age of Vehicle for Purposes of Safety Inspection Pursuant to Utah Code Ann. Section 53-8-205

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 21356

FILED: 08/13/1998, 14:05

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Section 53-8-205 provides that the frequency of the safety inspection shall be determined based on the age of the vehicle.

SUMMARY OF THE RULE OR CHANGE: This proposed amendment indicates how to calculate the age of a vehicle for purposes of determining in which years a vehicle is required to pass a safety inspection.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53-8-205

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: All costs were considered in 1998 H.B. 14.

❖LOCAL GOVERNMENTS: All costs were considered in 1998 H.B. 14.

❖OTHER PERSONS: All costs were considered in 1998 H.B. 14.

(DAR Note: H.B. 14 is found at 1998 Utah Laws 238, and will be effective January 1, 1999.)
COMPLIANCE COSTS FOR AFFECTED PERSONS: There don't appear to be any compliance costs as a result of this amendment. Any costs in updating forms would have been considered in the passing of H.B. 14.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The fiscal impact on businesses would be a saving on the inspection fee for owners of vehicles less than five years old and a loss of fees to the inspection station for those same vehicles, both of which were considered in the passage of H.B. 14.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Tax Commission
Motor Vehicle
Tax Commission Building
210 North 1950 West
Salt Lake City, UT 84134, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Pam Hendrickson at the above address, by phone at (801) 297-3902, by FAX at (801) 297-3919, or by Internet E-mail at phendric@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 10/01/1998.

THIS RULE MAY BECOME EFFECTIVE ON: 10/02/1998

AUTHORIZED BY: Pam Hendrickson, Commissioner

R873. Tax Commission, Motor Vehicle.
R873-22M. Motor Vehicle.
R873-22M-40. Age of Vehicle for Purposes of Safety Inspection Pursuant to Utah Code Ann. Section 53-8-205.

A. The age of a vehicle, for purposes of determining the frequency of the safety inspection required under Section 53-8-205, shall be determined by subtracting the vehicle model year from the current calendar year.

KEY: taxation
[October 21, 1997]1998
Notice of Continuation May 8, 1997

53-8-205



Tax Commission, Property Tax
R884-24P-33
1998 Personal Property Valuation Guides and Schedules Pursuant to Utah Code Ann. Section 59-2-301

NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE NO.: 21357
FILED: 08/13/1998, 14:05
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Section 59-2-301 requires the counties to assess all property not assessed by the commission.

SUMMARY OF THE RULE OR CHANGE: This amendment updates personal property percent good schedules for 1999.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 59-2-301

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: The amount of savings or cost to state government is undetermined. The state receives tax revenue for assessing and collecting and for the uniform school fund based on increased or decreased personal property value. Without knowing the acquisitions and deletions of personal property during 1998, any increase or decrease in 1999 tax revenue, even with no percent good schedule changes, could not be determined. The proposed personal property schedules in Section R884-24P-33 are raised, lowered, or remain the same for 1999, based on the type and age of the property. Five schedules remain the same. Eight schedules change by one percentage point, five schedules by two percentage points, two schedules by three percentage points, and one each by four and five percentage points. Since some schedules are increased and some decreased, it is not possible to determine the change in state revenue without knowing the 1999 property mix compared to the 1998 historical totals. There was a major change to Class 22 with the addition of the "flat fee" payment for cars and light trucks. This legislation was designed to be revenue neutral, so it is anticipated that the change to this schedule will have little effect on state revenue. Schedule 19, "Mobile Homes," was deleted entirely. Assessors will value mobile homes more as real property, but the impact on value (and ultimately tax revenue) cannot be determined until the 1999 values have been assessed by the local assessors. In the aggregate for all personal property schedules, it is anticipated that the change in the annual tax rate will have a larger impact on revenue than will the schedule changes due to this amendment to Section R884-24P-33.

❖LOCAL GOVERNMENTS: The amount of savings or cost to local government is undetermined. Local governmental entities receive tax revenue based on increased or decreased personal property value. Without knowing the acquisitions and deletions of personal property during 1998, any increase or decrease in 1999 tax revenue, even with no percent good schedule changes, could not be determined. The proposed personal property schedules in Section R884-24P-33 are raised, lowered, or remain the same for 1999, based on the type and age of the property. Five schedules remain the same. Eight schedules change by one percentage point, five schedules by two percentage points, two schedules by three percentage points, and one each by

four and five percentage points. Since some schedules are increased and some decreased, it is not possible to determine the change in state revenue without knowing the 1999 property mix compared to the 1998 historical totals. There was a major change to Class 22 with the addition of the "flat fee" payment for cars and light trucks. This legislation was designed to be revenue neutral, so it is anticipated that the change to this schedule will have little effect to local government. Schedule 19, "Mobile Homes," was deleted entirely. Assessors will value mobile homes more as real property, but the impact on value (and ultimately tax revenue) cannot be determined until the 1999 values have been assessed by the local assessors. In the aggregate for all personal property schedules, it is anticipated that the change in the annual tax rate will have a larger impact on revenue than will the schedule changes due to this amendment to Section R884-24P-33.

❖OTHER PERSONS: In the aggregate, the amount of savings or cost to individuals and businesses is undetermined. Affected persons pay taxes based on increased or decreased personal property value. Without knowing the acquisitions and deletions of personal property during 1998, any increase or decrease in 1999 tax revenue, even with no percent good schedule changes, could not be determined. The proposed personal property schedules in Section R884-24P-33 are raised, lowered, or remain the same for 1999, based on the type and age of the property. Five schedules remain the same. Eight schedules change by one percentage point, five schedules by two percentage points, two schedules by three percentage points, and one each by four and five percentage points. Since some schedules are increased and some decreased, it is not possible to determine the change to affected persons without knowing the 1999 property mix compared to the 1998 historical totals. There was a major change to Class 22 with the addition of the "flat fee" payment for cars and light trucks. This legislation was designed to be revenue neutral in total, but it will have an effect on individual vehicle owners, depending on the age of vehicles, the fee paid in 1998, and how many vehicles are purchased in 1999.

Schedule 19, "Mobile Homes," was deleted entirely. Assessors will value mobile homes more as real property, but the impact on value (and ultimately tax payments by mobile home owners) cannot be determined until the 1999 values have been assessed by the local assessors. In the aggregate for all personal property schedules, it is anticipated that the change in the annual tax rate will have a larger impact on revenue than will the schedule changes due to this amendment to Section R884-24P-33.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Local business owners and property tax practitioners will once again be required to be aware of new percent good figures as personal property taxes are assessed and billed. However, this is no different than previous years and therefore the compliance cost in completing the assessment process will not change. The change in taxes charged for these businesses depends entirely on the mix of property since some percent good schedules are increasing and others decreasing. For example, a property owner of heavy duty trucks may see a slight decrease in taxes (depending on the change in the property tax rate) since the 1999 proposed schedule is lower between 0% and 3%, depending on the year of the vehicle.

On the other hand, the owner of a motor home rental business could see an increase in property taxes (depending on the change in the property tax rate) since the 1999 proposed schedule is higher between 0% and 5%.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: As indicated in the previous cost statements, the fiscal impact to businesses will vary depending on the type of business and property mix. In the aggregate, the fiscal impact, though estimated to be minimal, cannot be determined without first knowing the total acquisitions and deletions of personal property during 1998, even if no percent good schedules were changed for 1999.

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

Tax Commission
Property Tax
Tax Commission Building
210 North 1950 West
Salt Lake City, UT 84134, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Pam Hendrickson at the above address, by phone at (801) 297-3902, by FAX at (801) 297-3919, or by Internet E-mail at phendric@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 10/01/1998.

THIS RULE MAY BECOME EFFECTIVE ON: 10/02/1998

AUTHORIZED BY: Pam Hendrickson, Commissioner

R884. Tax Commission, Property Tax.

R884-24P. Property Tax.

R884-24P-33. [1998]1999 Personal Property Valuation Guides and Schedules Pursuant to Utah Code Ann. Section 59-2-301.

A. Definitions.

1. "Acquisition cost" means all costs required to put an item into service, including purchase price, freight and shipping costs; installation, engineering, erection or assembly costs; and excise and sales taxes.

a) Indirect costs such as debugging, licensing fees and permits, insurance or security are not included in the acquisition cost.

b) Acquisition cost may correspond to the cost new for new property, or cost used for used property.

2. "Actual cost" includes the value of components necessary to complete the vehicle, such as tanks, mixers, special containers, passenger compartments, special axles, installation, engineering, erection, or assembly costs.

a) Actual cost does not include sales or excise taxes, maintenance contracts, registration and license fees, dealer charges, tire tax, freight, or shipping costs.

3. "Cost new" means the manufacturer's suggested retail price or the actual cost of the property when purchased new. For

property purchased used the cost new may be estimated by the taxing authority.

4. "Percent good" means an estimate of value, expressed as a percentage, based on a property's acquisition cost or cost new, adjusted for depreciation and appreciation of all kinds.

a) The percent good factor is applied against the acquisition cost or the cost new to derive taxable value for the property.

b) Percent good schedules are derived from an analysis of the Internal Revenue Service Class Life, the Marshall and Swift Cost index, [~~and Manufactured Housing Section of the Marshall Valuation Service,~~] and vehicle valuation guides such as NADA.

B. Each year the Property Tax Division shall update and publish percent good schedules for use in computing personal property valuation.

1. Proposed schedules shall be transmitted to county assessors and interested parties for comment before adoption.

2. A public comment period will be scheduled each year and a public hearing will be scheduled if requested by ten or more interested parties or at the discretion of the Commission.

3. County assessors may deviate from the schedules when warranted by specific conditions affecting an item of personal property. When a deviation will affect an entire class or type of personal property, a written report, substantiating the changes with verifiable data, must be presented to the Commission. Alternative schedules may not be used without prior written approval of the Commission.

4. The assessor and the Commission may rely on other publications listing costs new or market values when valuing motor vehicles not found in the source guide recommended by the Commission.

C. Other taxable personal property that is not included in the listed classes includes:

1. Supplies on hand as of January 1 at 12:00 noon, including office supplies, shipping supplies, maintenance supplies, replacement parts, lubricating oils, fuel and consumable items not held for sale in the ordinary course of business. Supplies are assessed at total cost, including freight-in.

2. Equipment leased or rented from inventory is subject to ad valorem tax. Refer to the appropriate property class schedule to determine taxable value.

3. Property held for rent or lease is taxable, and is not exempt as inventory. For entities primarily engaged in rent-to-own, inventory on hand at January 1 is exempt and property out on rent-to-own contracts is taxable.

D. Personal property valuation schedules may not be appealed to, or amended by, county boards of equalization.

E. All taxable personal property is classified by expected economic life as follows:

1. Class 1 - Short Life Property. Property in this class has a typical life of more than one year and less than four years. It is fungible in that it is difficult to determine the age of an item retired from service.

a) Examples of property in the class include:

- (1) barricades/warning signs;
- (2) library materials;
- (3) patterns, jigs and dies;
- (4) pots, pans, and utensils;
- (5) canned computer software;
- (6) hotel linen;

(7) wood and pallets; and

(8) video tapes.

b) With the exception of video tapes, taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

c) Video tapes are valued at \$15.00 per tape for the first year and \$3.00 per tape thereafter.

TABLE 1

Year of Acquisition	Percent Good of Acquisition Cost
[97]98	70%
[96]97	40%
[95]96 and prior	10%

2. Class 2 - Computer Dependent Machinery.

a) Machinery shall be classified as computer dependent machinery if all of the following conditions are met:

(1) The equipment is sold as a single unit. If the invoice(s) break out the computer separately from the machine, the computer must be valued as Class 12 property and the machine as Class 8 property.

(2) The machine cannot operate without the computer and the computer cannot perform functions outside the machine.

(3) The machine can perform multiple functions and is controlled by a programmable central processing unit.

(4) The total cost of the machine and computer combined is depreciated as a unit for income tax purposes.

(5) The capabilities of the machine cannot be expanded by substituting a more complex computer for the original.

b) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 2

Year of Acquisition	Percent Good of Acquisition Cost
[97]98	87%
[96]97	[71%]72%
[95]96	[61%]60%
[94]95	[54%]53%
[93]94	46%
[92]93	37%
[91]92	27%
[90]91 and prior	17%

3. Class 3 - Short Life Trade Fixtures. Property in this class generally consists of electronic types of equipment and includes property subject to rapid functional and economic obsolescence or severe wear and tear.

a) Examples of property in this class include:

- (1) office machines;
- (2) alarm systems;
- (3) shopping carts;
- (4) ATM machines;
- (5) small equipment rentals;
- (6) property subject to a rent-to-own agreement;
- (7) telephone equipment and systems;
- (8) music systems;
- (9) vending machines; and
- (10) video game machines.

b) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 3

Year of Acquisition	Percent Good of Acquisition Cost
[97]98	83%
[96]97	67%
[95]96	[52%]51%
[94]95	[36%]35%
[93]94 and prior	18%

4. Class 4 - Service Equipment. Class 4 property is used by service industries and is subject to a high degree of functional obsolescence.

a) Examples of property in this class include:

- (1) service station equipment;
- (2) car wash equipment;
- (3) bulk and holding tanks;
- (4) tire and wheel service equipment;
- (5) dry cleaning machines;
- (6) mechanical and electrical signs;
- (7) clothes washers and dryers;
- (8) tanks; and
- (9) pumps.

b) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 4

Year of Acquisition	Percent Good of Acquisition Cost
[97]98	88%
[96]97	[70%]79%
[95]96	[69%]68%
[94]95	[59%]58%
[93]94	[49%]48%
[92]93	37%
[91]92	25%
[90]91 and prior	13%

5. Class 5 - Long Life Trade Fixtures. Class 5 property is subject to functional obsolescence in the form of style changes.

a) Examples of property in this class include:

- (1) furniture;
- (2) bars and sinks;
- (3) booths, tables and chairs;
- (4) beauty and barber shop fixtures;
- (5) cabinets and shelves;
- (6) displays, cases and racks;
- (7) office furniture;
- (8) theater seats; and
- (9) water slides.

b) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 5

Year of Acquisition	Percent Good of Acquisition Cost
[97]98	[89%]90%
[96]97	81%
[95]96	72%
[94]95	[64%]63%
[93]94	[55%]54%
[92]93	45%
[91]92	34%
[90]91	23%
[89]90 and prior	12%

6. Class 6 - Heavy and Medium Duty Trucks.

a) Examples of property in this class include:

- (1) heavy duty trucks; and
- (2) medium duty trucks.

b) Taxable value is calculated by applying the percent good factor against the actual cost of the property when purchased new or 75 percent of the manufacturer's suggested retail price. The taxable value for vehicles purchased used will be determined by applying the percent good factor to the value determined by the assessing authority. For state assessed vehicles, the value of attached equipment will be included in the total vehicle valuation.

c) The [+998]1999 percent good applies to [+998]1999 models purchased in [+997]1998.

d) Trucks weighing two tons or more have a minimum value of \$1,750 and a minimum tax of \$26.25.

TABLE 6

Year of Model	Percent Good of Cost New
[98]99	90%
[97]98	[71%]68%
[96]97	[66%]63%
[95]96	[61%]58%
[94]95	[56%]53%
[93]94	[51%]49%
[92]93	[46%]44%
[91]92	[41%]39%
[90]91	[36%]34%
[89]90	[31%]30%
[88]89	[26%]25%
[87]88	[21%]20%
[86]87	[16%]15%
[85]86 and prior	10%

7. Class 7 - Medical and Dental Equipment. Class 7 property is subject to a high degree of technological development by the health industry.

a) Examples of property in this class include:

- (1) medical and dental equipment and instruments;
- (2) exam tables and chairs;
- (3) high-tech hospital equipment;
- (4) microscopes; and
- (5) optical equipment.

b) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 7

Year of Acquisition	Percent Good of Acquisition Cost
[97]98	91%
[96]97	84%
[95]96	[78%] 77%
[94]95	[71%] 70%
[93]94	64%
[92]93	56%
[91]92	47%
[90]91	38%
[89]90	29%
[88]89	[21%] 20%
[87]88 and prior	[11%] 10%

8. Class 8 - Machinery and Equipment. Property in this class is subject to considerable functional and economic obsolescence created by competition as technologically advanced and more efficient equipment becomes available.

a) Examples of property in this class include:

- (1) manufacturing machinery;
- (2) amusement rides;
- (3) bakery equipment;
- (4) distillery equipment;
- (5) refrigeration equipment;
- (6) nonpetroleum drill rigs;
- (7) machine shop equipment;
- (8) ~~incinerators~~ processing equipment;
- (9) leased farm equipment;
- (10) mining equipment;
- (11) ski lift machinery;
- (12) printing equipment; and
- (13) bottling or cannery equipment.

b) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 8

Year of Acquisition	Percent Good of Acquisition Cost
[97]98	91%
[96]97	84%
[95]96	[78%] 77%
[94]95	[71%] 70%
[93]94	64%
[92]93	56%
[91]92	47%
[90]91	38%
[89]90	29%
[88]89	[21%] 20%
[87]88 and prior	[11%] 10%

9. Class 9 - Off-Highway[~~Recreational~~] Vehicles.

a) Examples of property in this class include:

- (1) dirt and trail motorcycles;
- (2) all terrain vehicles;
- (3) golf carts; and
- (4) snowmobiles.

b) Taxable value is calculated by applying the percent good factor against the cost new or suggested list price from the January-April NADA Motorcycle/Snowmobile/ATV Appraisal Guide.

c) The [1998]1999 percent good applies to [1998]1999 models purchased in [1997]1998.

d) Off-Highway[~~Recreational~~] Vehicles have a minimum value of \$500 and a minimum tax of \$7.50.

TABLE 9

Year of Model	Percent Good of Cost New
[98]99	90%
[97]98	[58%] 61%
[96]97	[55%] 58%
[95]96	[52%] 55%
[94]95	[49%] 52%
[93]94	[46%] 49%
[92]93	[43%] 45%
[91]92	[40%] 42%
[90]91	[37%] 39%
[89]90	[34%] 36%
[88]89	[31%] 33%
[87]88	[28%] 30%
[86]87	[25%] 27%
[85]86 and prior	[22%] 23%

10. Class 10 - Railroad Cars. The Class 10 schedule was developed to value the property of railroad car companies. Functional and economic obsolescence is recognized in the developing technology of the shipping industry. Heavy wear and tear is also a factor in valuing this class of property.

a) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 10

Year of Acquisition	Percent Good of Acquisition Cost
[97]98	93%
[96]97	[87%] 88%
[95]96	[83%] 82%
[94]95	[78%] 77%
[93]94	73%
[92]93	67%
[91]92	60%
[90]91	53%
[89]90	[47%] 46%
[88]89	[41%] 40%
[87]88	[34%] 33%
[86]87	26%
[85]86	18%
[84]85 and prior	10%

11. Class 11 - Street Motorcycles.

a) Examples of property in this class include:

- (1) street motorcycles;
- (2) scooters; and
- (3) mopeds.

b) Taxable value is calculated by applying the percent good factor against the original cost new or the suggested list price from the January-April edition of the NADA Motorcycle/Snowmobile/ATV Appraisal Guide.

c) The [1998]1999 percent good applies to [1998]1999 models purchased in [1997]1998.

d) Street motorcycles have a minimum value of \$500 and a minimum tax of \$7.50.

TABLE 11

Year of Model	Percent Good of Cost New
[98]99	90%
[97]98	[71%]72%
[96]97	[68%]69%
[95]96	[66%]67%
[94]95	[63%]64%
[93]94	[60%]61%
[92]93	[57%]59%
[91]92	[55%]56%
[90]91	[52%]53%
[89]90	[49%]50%
[88]89	[46%]48%
[87]88	[44%]45%
[86]87	[41%]42%
[85]86	[38%]40%
[84]85	[35%]37%
[83]84	[33%]34%
[82]83 and prior	[30%]31%

12. Class 12 - Computer Hardware.

a) Examples of property in this class include:

- (1) data processing equipment;
- (2) personal computers;
- (3) main frame computers;
- (4) computer equipment peripherals; and
- (5) cad/cam systems.

b) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 12

Year of Model	Percent Good of Acquisition Cost
[97]98	85%
[96]97	57%
[95]96	36%
[94]95	23%
[93]94	14%
[92]93 and prior	9%

13. Class 13 - Heavy Equipment.

a) Examples of property in this class include:

- (1) construction equipment;
- (2) excavation equipment;
- (3) loaders;
- (4) batch plants;
- (5) snow cats; and
- (6) power sweepers.

b) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

c) [1998]1999 model equipment purchased in [1997]1998 is valued at 100 percent of acquisition cost.

TABLE 13

Year of Acquisition	Percent Good of Acquisition Cost
[97]98	[66%]64%
[96]97	[62%]61%
[95]96	[59%]57%

[94]95	[55%]54%
[93]94	[52%]51%
[92]93	48%
[91]92	[45%]44%
[90]91	41%
[89]90	38%
[88]89	35%
[87]88	31%
[86]87	28%
[85]86	[24%]25%
[84]85 and prior	[21%]22%

14. Class 14 - Motor Homes.

a) Taxable value is calculated by applying the percent good against the cost new derived from the January-April edition of the NADA Recreational Vehicle Appraisal Guide.

b) The [1998]1999 percent good applies to [1998]1999 models purchased in [1997]1998.

TABLE 14

Year of Model	Percent Good of Cost New
[98]99	90%
[97]98	[67%]72%
[96]97	[64%]69%
[95]96	[61%]65%
[94]95	[57%]62%
[93]94	[54%]58%
[92]93	[51%]54%
[91]92	[48%]51%
[90]91	[44%]47%
[89]90	[41%]44%
[88]89	[38%]40%
[87]88	[35%]37%
[86]87	[31%]33%
[85]86	[28%]30%
[84]85	[25%]26%
[83]84	22%
[82]83 and prior	[18%]19%

15. Class 15 - Semiconductor Manufacturing Equipment. Class 15 applies only to equipment used in the production of semiconductor products.

a) Examples of property in this class include:

- (1) crystal growing equipment;
- (2) die assembly equipment;
- (3) wire bonding equipment;
- (4) encapsulation equipment;
- (5) semiconductor test equipment;
- (6) clean room equipment;
- (7) chemical and gas systems related to semiconductor manufacturing;
- (8) deionized water systems;
- (9) electrical systems; and
- (10) photo mask and wafer manufacturing dedicated to semiconductor production.

b) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 15

Year of Acquisition	Percent Good of Acquisition Cost
[97] 98	74%
[96] 97	54%
[95] 96	38%
[94] 95	24%
[93] 94 and prior	10%

16. Class 16 - Long-Life Property. Class 16 property has a long physical life with little obsolescence.

a) Examples of property in this class include:

- (1) billboards;
- (2) sign towers;
- (3) radio towers;
- (4) ski lift and tram towers;
- (5) non-farm grain elevators; and
- (6) bulk storage tanks.

b) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 16

Year of Acquisition	Percent Good of Acquisition Cost
[97] 98	[94%] 95%
[96] 97	91%
[95] 96	[88%] 87%
[94] 95	[86%] 84%
[93] 94	82%
[92] 93	78%
[91] 92	[73%] 74%
[90] 91	68%
[89] 90	64%
[88] 89	[62%] 60%
[87] 88	[58%] 57%
[86] 87	52%
[85] 86	[46%] 47%
[84] 85	40%
[83] 84	34%
[82] 83	28%
[81] 82	[22%] 21%
[80] 81	[16%] 15%
[79] 80 and prior	[9%] 8%

17. Class 17 - Boats.

a) Examples of property in this class include:

- (1) boats;
- (2) boat motors; and
- (3) personal watercraft.

b) Taxable value is calculated by applying the percent good factor against the original cost new or the F.O.B. or P.O.E. price from the ABOS Marine Blue Book.

c) The [1998]1999 percent good applies to [1998]1999 models purchased in [1997]1998.

d) Boats have a minimum value of \$500 and a minimum tax of \$7.50.

TABLE 17

Year of Model	Percent Good of Cost New
[98] 99	90%
[97] 98	[68%] 69%
[96] 97	[66%] 67%
[95] 96	64%
[94] 95	[61%] 62%
[93] 94	[59%] 60%
[92] 93	[56%] 57%
[91] 92	[54%] 55%
[90] 91	[52%] 53%
[89] 90	[49%] 50%
[88] 89	[47%] 48%
[87] 88	[45%] 46%
[86] 87	[42%] 43%
[85] 86	[40%] 41%
[84] 85	[37%] 39%
[83] 84	[35%] 36%
[82] 83	[33%] 34%
[81] 82	[30%] 31%
[80] 81	[28%] 29%
[79] 80	[26%] 27%
[78] 79 and prior	[23%] 24%

18. Class 18 - Travel Trailers/Truck Campers.

a) Examples of property in this class include:

- (1) travel trailers;
- (2) truck campers; and
- (3) tent trailers.

b) Taxable value is calculated by applying the percent good factor against the original cost new or, for travel trailers, from the January-April edition of the NADA Recreational Vehicle Appraisal Guide.

c) The [1998]1999 percent good applies to [1998]1999 models purchased in [1997]1998.

d) Trailers and truck campers have a minimum value of \$500 and a minimum tax of \$7.50.

TABLE 18

Year of Model	Percent Good of Cost New
[98] 99	90%
[97] 98	[71%] 69%
[96] 97	[67%] 66%
[95] 96	[64%] 63%
[94] 95	[60%] 59%
[93] 94	[57%] 56%
[92] 93	[53%] 52%
[91] 92	[50%] 49%
[90] 91	[47%] 45%
[89] 90	[43%] 42%
[88] 89	[40%] 39%
[87] 88	[36%] 35%
[86] 87	[33%] 32%
[85] 86	[29%] 28%
[84] 85	[26%] 25%
[83] 84	[22%] 21%
[82] 83 and prior	[19%] 18%

~~19. Class 19 - Mobile Homes.~~

~~a) This class includes mobile homes assessed as personal property.~~

b) This schedule must be used in conjunction with the Personal Property Mobile Home Valuation Guide published by the Property Tax Division.

c) At the option of the county assessor, mobile homes may be valued applying the same methodology and schedules used in the valuation of mobile homes classified as real property.

TABLE 19

Year of Manufacture	Percent Good of Replacement Cost New
97	97%
96	94%
95	91%
94	88%
93	85%
92	82%
91	78%
90	75%
89	71%
88	68%
87	64%
86	60%
85	56%
84	52%
83	48%
82	45%
81	41%
80	37%
79	33%
78	29%
77	26%
76	24%
75	23%
74	21%
73 and prior	20%

] 20. Class 20 - Petroleum and Natural Gas Exploration and Production Equipment. Class 20 property is subject to significant functional and economic obsolescence due to the volatile nature of the petroleum industry.

- a) Examples of property in this class include:
 - (1) oil and gas exploration equipment;
 - (2) distillation equipment;
 - (3) wellhead assemblies;
 - (4) holding and storage facilities;
 - (5) drill rigs;
 - (6) reinjection equipment;
 - (7) metering devices;
 - (8) cracking equipment;
 - (9) well-site generators, transformers, and power lines;
 - (10) equipment sheds;
 - (11) pumps;
 - (12) radio telemetry units; and
 - (13) support and control equipment.
- b) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 20

Year of Acquisition	Percent Good of Acquisition Cost
97]98	92%
96]97	87%
95]96	81%

94]95	76%
93]94	70%
92]93	63%
91]92	56%
90]91	48%
89]90	41%
88]89	34%
87]88	27%
86]87	18%
85]86 and prior	9%

21. Class 21 - Commercial and Utility Trailers.

a) Examples of property in this class include:

- (1) commercial trailers;
- (2) utility trailers;
- (3) cargo utility trailers;
- (4) boat trailers;
- (5) converter gears;
- (6) horse and stock trailers; and
- (7) all trailers not included in Class 18.

b) Taxable value is calculated by applying the percent good factor against the cost new of the property. For state assessed vehicles, the value of attached equipment will be included in the total vehicle valuation.

c) The 1998]1999 percent good applies to 1998]1999 models purchased in 1997]1998.

d) Commercial and utility trailers have a minimum value of \$500 and a minimum tax of \$7.50.

TABLE 21

Year of Model	Percent Good of Cost New
98]99	95%
97]98	75%
96]97	71%
95]96	67%
94]95	63%
93]94	60%
92]93	56%
91]92	52%
90]91	48%
89]90	44%
88]89	40%
87]88	36%
86]87	32%
85]86	28%
84]85	24%
83]84	20%
82]83 and prior	16%

22. Class 22 - Passenger Cars, Light Trucks/Utility Vehicles, and Vans.

a) Class 22 vehicles fall within four subcategories: domestic passenger cars, foreign passenger cars, light trucks, including utility vehicles, and vans.

b) Taxable value is calculated by applying the percent good factor against the manufacturer's suggested retail price in the January NADA book. For state assessed vehicles, the value of attached equipment will be included in the total vehicle valuation.

c) The 1998 percent good applies to 1998 models purchased in 1997.

d) A 20% reduction in value is applied to vehicles with a "rebuilt/restored" designation on the title and registration.

c) A residual value of \$500 and a minimum tax of \$7.50 applies to cars and light trucks over 18 years old, after all adjustments.

TABLE 22

Percent of M.S.R.P.

Model Year	Domestic	Foreign	Trucks/Utility	Vans
98	88%	92%	98%	80%
97	76%	79%	85%	80%
96	66%	71%	79%	72%
95	57%	63%	75%	65%
94	50%	57%	66%	60%
93	42%	51%	60%	53%
92	35%	43%	52%	40%
91	29%	35%	46%	40%
90	21%	26%	38%	36%
89	17%	23%	35%	30%
88	14%	20%	27%	26%
87	12%	18%	24%	21%
86	9%	14%	23%	16%
85	7%	12%	18%	13%
84	6%	9%	17%	10%
83	5%	8%	15%	9%
82	4%	7%	13%	8%
81	3%	6%	12%	7%
80	2%	5%	10%	6%
79 and older	\$500 Recommended Residual Value			

23. Class 23 - Aircraft Not Listed in the Bluebook Price Digest Subject to the Uniform Tax.

a) Examples of property in this class include:

- (1) kit-built aircraft;
- (2) experimental aircraft;
- (3) gliders;
- (4) hot air balloons; and
- (5) any other aircraft requiring FAA registration.

b) Aircraft subject to the uniform tax, but not listed in the Aircraft Bluebook Price Digest, are valued by applying the percent good factor against the acquisition cost of the aircraft.

c) Aircraft requiring Federal Aviation Agency registration and kept in Utah must be registered with the Motor Vehicle Division of the Tax Commission.

TABLE 23

Year of Acquisition	Percent Good of Acquisition Cost
[97]98	75%
[96]97	71%
[95]96	67%
[94]95	63%
[93]94	59%
[92]93	55%
[91]92	51%
[90]91	47%
[89]90	43%
[88]89	39%
[87]88	35%
[86]87 and prior	31%

24. Class 24 - Leasehold Improvements.

a) This class includes short life leasehold improvements to real property installed by a tenant, including:

- (1) walls and partitions;
- (2) plumbing and roughed-in fixtures;

- (3) floor coverings other than carpet;
- (4) store fronts;
- (5) decoration;
- (6) wiring;
- (7) suspended or acoustical ceilings;
- (8) heating and cooling systems; and
- (9) iron or millwork trim.

b) Taxable value is calculated by applying the percent good factor against the cost of acquisition, including installation.

c) The Class 3 schedule is used to value short life leasehold improvements.

TABLE 24

Year of Installation	Percent of Installation Cost
[97]98	94%
[96]97	88%
[95]96	82%
[94]95	77%
[93]94	71%
[92]93	65%
[91]92	59%
[90]91	54%
[89]90	48%
[88]89	42%
[87]88	36%
[86]87 and prior	30%

F. The provision of this rule shall be implemented and become binding on taxpayers beginning January 1, [1998]1999.

KEY: taxation, personal property, property tax, appraisal
[December 23, 1997]1998 **59-2-301**
Notice of Continuation May 8, 1997



Transportation, Operations, Traffic and Safety

R920-50

Tramway Operations Safety Rules

NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE No.: 21347
 FILED: 08/11/1998, 07:26
 RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule was revised to streamline registration procedures and require "As Built" drawings.

SUMMARY OF THE RULE OR CHANGE: Owners will be required to verify that inspections are in compliance with rules and this revised rule will also require the manufacturer to submit certifications before final inspection and testing on new or modified tramways.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 63-11-37 through 63-11-53 and 64-46b-0.5, and Subsection 63-49-8(5)(c)

ANTICIPATED COST OR SAVINGS TO:

- ❖THE STATE BUDGET: \$850--\$50 per ski area (17 ski areas).
 - ❖LOCAL GOVERNMENTS: None--local government is not involved.
 - ❖OTHER PERSONS: \$5,950--\$350 per ski area (17 ski areas).
- COMPLIANCE COSTS FOR AFFECTED PERSONS: Ski lift manufacturers and area operators will not experience a major difference in compliance costs in registering new lifts but manufacturers will be required to have all work completed and certified before the agency will schedule an acceptance inspection and test. This proposed amendment will prevent tests from being canceled and rescheduled because of lack of preparation and readiness.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed changes in registering existing ski lifts will substantially reduce the amount of time that area operators are now required to spend on preparing applications for registration. The proposed changes in registering new or modified ski lifts will enable acceptance inspections and tests to be completed on time and without unnecessary delays. The net result will be positive for both private businesses (area operators) and government agency.

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

Transportation
Operations, Traffic and Safety
Third Floor, Calvin Rampton Building
4501 South 2700 West
Salt Lake City, UT 84119, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Sterling C. Davis at the above address, by phone at (801) 965-4273, by FAX at (801) 965-3845, or by Internet E-mail at src0fs02.sdavis@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 10/01/1998.

THIS RULE MAY BECOME EFFECTIVE ON: 10/02/1998

AUTHORIZED BY: Sterling C. Davis, P.E., Engineer for Traffic and Safety

R920. Transportation, Operations, Traffic and Safety.

R920-50. Tramway Operations Safety Rules.

R920-50-1. Utah Tramway Rules for Passenger Tramways.

A. Introduction

These rules are issued pursuant to Utah Code Annotated, Section 63-11-46 to implement the Passenger Tramway Safety Act, Utah Code Ann., Sections 63-11-37 et seq.

B. Governing Standard

1. The governing standard in Utah is the standard entitled "ANSI B-77.1, 1992", published by the American National Standards Institute, 1430 Broadway, New York, New York 10018, and approved by ANSI on December 2, 1992 and as modified by rule of the Committee. Adoption of this standard is authorized by Section 63-11-37.

2. The Utah Passenger Tramway Safety Committee reserves the right to modify, add, or delete provisions included in the Governing Standard.

C. Classification of Tramways and Applicable Standards

1. Section 1.2.4.1 of the Governing Standard is modified by the following requirements:

a. Existing installations need not comply with the new or revised requirements of the Governing Standard and these rules, except as set forth in R920-50-1.D.1.b;

b. Existing tramways, when removed and reinstalled, shall be classified as new installations (see R920-50-1-C.2);

c. Tramway modifications shall meet the requirements of R920-50-2.F and R920-50-8.

2. Section 1.2.4.2 of the Governing Standard is modified by the following requirement: New installations and those with design review completed by the Committee after the effective date of the Governing Standard, shall comply with the new or revised requirements of the Governing Standard and with these rules.

D. Inspections of Tramways

1. The annual general inspection requirements stated in ANSI B77.1, 2.3.4.1, 3.3.4.1, 4.3.4.1, 5.3.4.1 and 6.3.4.1, are replaced by the following requirements:

a. An annual general or pre-operational inspection of each passenger tramway shall be made by a Tramway Inspector prior to approval of any application for licensure. An operational inspection of each passenger tramway may be made by a Tramway Inspector at least once a year during the high-use season. For each passenger tramway inspected, items found either deficient or in noncompliance shall be noted. A report signed by the Tramway Inspector listing items found either deficient or in noncompliance shall be filed with the owner. The owner shall correct all deficiencies and noncompliance items listed in the Tramway Inspector's report or request an exception from the Governing Standard and applicable Utah Tramway Operations Safety Rules. In addition to the annual general, pre-operational, and operational inspections, the Committee may order other inspections in accordance with Section 63-11-47;

b. All installations shall comply with the new or revised requirements of the Governing Standard and these rules in the following areas, on or before the effective date of each paragraph, as set forth below:

1. Requirements for auxiliary drives, as set forth in ANSI B77.1, 2.1.2.1.1, 3.1.2.1.1, 4.1.2.1.1. These requirements shall be effective November 1, 1994;

2. Requirements for electronic speed-regulated drives, as set forth in ANSI B77.1, 2.2.1.8.2, 3.2.1.8.2, 4.2.1.8.2, 5.2.1.8.2, 6.2.1.8.2. These requirements shall be effective November 1, 1994;

3. Requirement for rope position monitoring, as set forth in ANSI B77.1, 3.1.3.3.2, paragraph 6. This requirement shall be effective November 1, 1994;

4. Requirement for fire detection system as set forth in R920-50-1.E. This requirement shall be effective November 1, 1995;

5. Requirements for friction type brakes as set forth in ANSI B77.1, 2.1.2.5, 3.1.2.5, 4.1.2.5, 5.1.2.5, 6.1.2.5. These requirements shall be effective November 1, 1995.

c. Grips, clips, hangars, chairs, carriages and cabins shall be tested according to ANSI B77.1, X.3.4.3, except as modified in this subsection c.

1. Testing personnel shall be qualified in accordance with ASNT Recommended Practice No. SNT-TC-1A-1992. Testing agency shall provide certification of qualification of personnel performing testing.

2. Testing agency inspector shall certify to the owner or area operator that the passenger tramway components tested [was]were non-destructively tested in accordance with current acceptance criteria established by the designer or manufacturer, or in case the designer or manufacturer is no longer in business, by a Qualified Engineer;

3. Sampling size and method of obtaining the sample shall comply with X.3.4.3 of the Governing Standard;

4. Rejection rate and retest procedures shall comply with current acceptance criteria established by the designer or manufacturer, or in case the designer or manufacturer is no longer in business, by a Qualified Engineer;

5. Types of inspections to be performed and the procedures to be used shall comply with current acceptance criteria established by the designer or manufacturer, or in case the designer or manufacturer is no longer in business, by a Qualified Engineer;

6. Criteria for acceptance/rejection of samples shall comply with current acceptance criteria established by the designer or manufacturer, or in case the designer or manufacturer is no longer in business, by a Qualified Engineer.

d. Wire rope inspection shall be performed according to Section 7.4.1 of the Governing Standard and shall be performed by a competent inspector defined by the Governing Standard and who is approved by the Committee. The wire rope inspector shall certify to the owner or area operator whether the wire rope in its present condition meets requirements for continued operation.

e. All installations shall comply with the Operation and Maintenance requirements of the Governing Standard. These requirements are stated in ANSI B77.1, 2.3, 3.3, 4.3, 5.3, 6.3, and 7.4.

E. Fire Detection

All machine rooms that are in an enclosed structure located adjacent to the rope of the tramway (vaulted) shall have a fire detection system installed in accordance with the National Fire Alarm Code. This system shall initiate a visual and audible alarm monitored at the drive terminal operator station.

R920-50-2. Definition of Terms.

A. "Annual general inspection" means an inspection to verify preservation of original design integrity and to determine that components and systems of the passenger tramway are in proper working order and in accordance with Committee rules.

B. "Committee" means the Passenger Tramway Safety Committee as outlined in Section 63-11-39.

C. "Detachable grip[~~chair~~] lift" means [an aerial lift] a tramway system on which carriers circulate around the system alternately [attach]attaching to and [detach]detaching from a moving haul rope(s). The [chair lift]system may be monocable or bicable.

D. "Incident inspection" means an inspection of a passenger tramway incident made by an approved Tramway Inspector at the request of the Committee.

E. "Modification" means any change as defined in the Governing Standard, ANSI B77.1 Standard 1.2.4.3 and the replacement of a tramway component by one that alters the certified design or construction provided by the passenger tramway manufacturer or designer.

F. "Operational inspection" means an inspection of a passenger tramway made by a Tramway Inspector to determine compliance with the operation and maintenance requirements of the Governing Standard and with Committee rules.

G. "Operating personnel" means persons employed by the operator for the purpose of supervising the operation, or engaged in servicing, checking, inspecting or maintaining the machinery or structures of a tramway and when specifically on duty for such purpose on that tramway.

H. "Passenger" means any person riding a tramway, other than "operating personnel".

I. "Passenger tramway" is defined in Section 63-11-38.

J. "Passenger Tramway Incident" means:

1. Any structural, mechanical, or electrical malfunction or failure of a passenger tramway component that results in bodily injury to any person on, or inside the load or unload zone of, a passenger tramway;

2. Any deropement regardless of whether or not the passenger tramway is evacuated;

3. Any evacuation of the passenger tramway other than by prime mover or auxiliary power unit, regardless of cause;

4. Any fire involving a passenger tramway component or adjacent structure;

5. Any structural, mechanical, or electrical malfunction or failure of a passenger tramway component that results in a loss of control of the passenger tramway as defined in the Governing Standard, ANSI B77.1 Standard X.2.1.7.2;

6. Any wire rope damage which exceeds the requirement in the Governing Standard, ANSI B77.1 Standard 7.4.1.1; or

7. Any structural, mechanical, or electrical malfunction or failure of a passenger tramway component that has the apparent potential for causing bodily injury to any person, including but not limited to, the following;

a. Terminal Structure

b. Bullwheel

c. Brake System

d. Tower Structure

e. Sheave, Axle, or Sheave Assembly

f. Carrier

g. Grip.

K. "Pre-operational inspection" means an inspection made by a Tramway Inspector prior to the operation of any new or modified passenger tramway requiring an Acceptance Inspection and Test.

L. "Qualified engineer" means, notwithstanding any different definition in the ANSI B77.1 Standard, any engineer who is licensed to practice engineering in the state of Utah and who has been approved by the Committee.

M. "Responsible charge" means effective control and direction of projects of the type discussed in these rules.

N. "Tramway inspector" means an engineer licensed to practice engineering in the state of Utah, independent of the tramway owner, and approved by the Committee to inspect passenger tramways.

R920-50-3. Registration of Tramways.

A. General

1. Purpose - In order to ensure that all passenger tramways conform with the requirements set forth by the Passenger Tramway Act and these rules, all passenger tramways operating in the state of Utah shall be registered annually with the committee, and no passenger tramway shall be operated for passengers without a valid certificate of registration;

2. Term - Passenger tramways shall be registered annually starting November 1st of each year, and each registration expires on October 31st next following date of issue;

3. New tramways - Any passenger tramway which shall be opened for the first time for passenger operation shall, during its first calendar year of operation, be construed to be a new tramway for purposes stated in these rules;

4. Existing tramways - Any passenger tramway which shall have been operated for passengers in excess of one calendar year, shall be construed to be an existing tramway for purposes stated in these rules;

5. Relocated tramways - Any passenger tramway moved to a new location shall be construed to be a new tramway for purposes stipulated in these rules, with the exception that trolleys expressly designed to be portable, shall not be considered new tramways when moved to different locations but remaining under the jurisdiction of the same operator;

6. Identification number - For each tramway, upon receipt of the first application for a certificate of registration, the committee shall assign an identification number to the tramway, which shall remain as a permanent identification number for the life of the tramway; all correspondence with the committee pertaining to any tramway shall refer to the identification number assigned to that tramway;

7. All tramway operators shall be covered by a liability insurance of a minimum of \$300,000;

8. Submittal of application for registration of tramways - All applications for registration of new or existing tramways shall be submitted in accordance with requirements of these rules and shall be made in writing and addressed to:

Utah Department of Transportation
Passenger Tramway Safety Committee
Division of Safety
4501 South 2700 West
Salt Lake City, Utah 84119-5998[-];

9. "As Built" drawings for each passenger tramway shall be submitted as soon as possible and within 60 days of final Acceptance Test and Inspection.

B. Attachments

In addition to supporting documents indicated in R920-50-4 or R920-50-7, each application is to include as attachments:

1. Certificate of insurance
2. Annual registration fee.

R920-50-4. Registration of New Tramways.

A. Application for Certification of Registration

Prior to the operation of any new passenger tramway, the operator shall apply to the Committee for a Certificate of Registration in such form as the Committee shall designate.

B. The Application ~~[shall] must~~ include the name, address and telephone number of operator of the tramway, ~~[name of tramway supervisor;] and~~ operator's designation of the tramway~~[-; the uphill or downhill capability, summer use, overhauling in reverse or forward direction, and loading limitations]~~. The application ~~and certifications [shall] must~~ be ~~[-submitted]~~ in accordance with R920-50-3.A and ~~[shall be accompanied by the following information and support documents] submitted as follows:~~

1. A Pre-Operational Inspection Report ~~[shall] must~~ be submitted by an approved Tramway Inspector, and ~~[shall contain] must include~~ the name and address of the Inspector and date of his or her inspection.

2. Any Request for Exception from Standards for Passenger Tramway shall be submitted in accordance with R920-50-10. Any known items that require a Request for Exception from Standards for Passenger Tramway ~~[shall] must~~ be submitted to the Committee before work begins.

3. A Certification of Tramway Design for New or Modified Passenger Tramway, ~~[shall] must~~ be submitted. The Qualified Engineer in responsible charge of the design shall certify to the Committee on the top drawing of the design drawing packet that the design, plans and specifications conform to the Utah Passenger Tramway Safety Act, the Governing Standard and the Utah Tramway Operations Safety Rules. This Certification ~~[shall] must~~ be submitted ~~[before work begins] prior to the performance of the Acceptance Inspection and Test~~ and ~~[shall] must state [contain]~~ the following:

~~[a. Name, Utah license number and seal of the Qualified Engineer.~~

~~— b. Name, address and telephone number of operator of the tramway, name of tramway supervisor, operator's designation of the tramway and location of tramway.~~

~~— c. Manufacturer and type of tramway and brief description of operating system.~~

~~— d. Basic design data including slope length, vertical rise, type of prime mover, type of auxiliary power unit, design speed, line gauge and intermediate stations.~~

~~— e. One complete set of calculations, drawings and specifications prepared for the design, fabrication and installation of the tramway, with an index of the data submitted. Each sheet of this set shall bear the seal of registration of the Qualified Engineer.~~

~~— f. Certifying statement signed by the Qualified Engineer, to read as follows: "I hereby certify that the design for this tramway or tramway modification is in complete compliance with the Utah Passenger Tramway Safety Act, Governing Standard and the Utah Tramway Operations Safety Rules and I accept responsibility for the engineering designs, calculations, drawings, and specifications for this tramway or tramway modification." This statement shall be placed on the top drawing of the drawing packet and signed and sealed by the Qualified Engineer. Each additional sheet of this drawing packet shall be sealed by the Qualified Engineer. Any variation from the design drawings shall be noted in the drawings and approved by the Qualified Design Engineer.~~

~~[4. A Certification of Compliance for Passenger Tramways shall be submitted and contain name, address and telephone number of operator of the tramway, name of tramway supervisor, operator's designation of the tramway, name and Utah license number of Tramway Inspector, date of inspection and date submitted. This Certification shall include the following statement, dated and signed by the owner or area operator: "I certify that the deficiencies under the B77.1 Standard and the Utah Tramway Operations Safety Rules noted in the inspection report have been corrected and that at the time of the inspection all visible and audible features of this tramway were found to be satisfactory except as noted. The structural condition of the towers and terminals was examined and no apparent defects were observed. The deficiencies have been corrected with the exception of those listed in the Request for Exception from Standards for Passenger Tramways. The Request for Exception from Standards for Passenger Tramways meets the requirements of R920-50-10."]~~ 4. A Certification of Compliance for Passenger Tramways shall be made on the Application for Certificate of Registration for New or Modified Tramways. This Certification shall include the following statement, signed and dated by the tramway owner or area operator: "I certify that the reports, requests and certificates attached hereto were provided and signed by the persons required by law to provide them, and the deficiencies noted in the pre-operational inspection report have been corrected with the exception of those listed in the Request for Exception from Standards for Passenger Tramway."

~~5. The Annual Registration Fee [listed on the Application shall be submitted]~~ must be submitted in accordance with R920-50-11-A.

6. A Certification of Fabrication and Materials for Passenger Tramways ~~[shall]~~ must be submitted by a Qualified Engineer of the manufacturing concern or concerns directly responsible for the supply of equipment for this tramway. This Certification must be submitted prior to the performance of the Acceptance Inspection and Test. This Certification ~~[shall]~~ must include the following information:

a. Name, address and telephone number of operator of the tramway, name of tramway supervisor, operator's designation of the tramway.

b. Name and address of manufacturing concern, and name, seal and Utah license number of the qualified engineer making certification.

c. A certifying statement signed by the ~~[e]~~ [q] Qualified ~~[e]~~ [q] Engineer, to read as follows: "I hereby certify that all components, all fabrication procedures and all material used in the production of the equipment for this tramway, or tramway modification, conform with the Utah Passenger Tramway Safety Act, Governing Standard, the Utah Tramway Operations Safety Rules and the drawings and specifications issued for this tramway or tramway modification by the Qualified Design Engineer."

~~[— d. Rope test certificates for the ropes furnished for the tramway, as stated in the Governing Standard:~~

~~— e. A test certificate attesting that the gripping devices for this tramway conform with the Governing Standard.]~~

7. A Certification of Construction for Passenger Tramways ~~[shall]~~ must be submitted by a Qualified Engineer directly responsible for the construction for the tramway. This Certification must be submitted prior to the performance of the Acceptance

Inspection and Test. This Certification shall include the following information:

a. Name, address and telephone number of operator of the tramway, name of tramway supervisor, operator's designation of the tramway identification number, as assigned by the committee for the tramway;

b. Name, Utah license number and seal of the Qualified Engineer making the certification.

c. A certifying statement signed by the Qualified Engineer, to read as follows: "I hereby certify that all footings and other concrete structures, field assembly, excavations, placement of reinforcing steel and anchoring components, quality of concrete and placement of concrete were carried out in accordance with plans and specifications, so that the design bearing value will be attained, as specified by the drawings and specifications issued for this tramway or tramway modification by the Qualified Design Engineer."

8. A final Acceptance Test report ~~[shall]~~ must be submitted to the Committee. A copy of the acceptance test procedure proposed and submitted by the designer or manufacturer [to be used for testing shall] must be provided to the Committee for review at least fourteen (14) days before acceptance testing begins. Acceptance inspection and tests will be scheduled by the Committee or Committee's representative as the acceptance test procedures are received. The owner or area operator shall notify the Committee in writing before the scheduled date that the passenger tramway has been operated in accordance with the Governing Standard, section X.1.1.11.2.

9. A Certification of "As-Built" Profile for Passenger Tramways ~~[shall]~~ must be submitted by a Land Surveyor or Civil Engineer licensed in the state of Utah. This Certification must be submitted prior to the performance of the Acceptance Inspection and Test. [A certifying statement] and shall be signed by the Civil Engineer or Land Surveyor, ~~[to]~~ and shall read as follows: "I hereby certify that the attached "as-built" profile of the herein-identified tramway is as represented on the attached profile drawing and that the completed tramway conforms to the profile as identified in the plans and specifications prepared by the Qualified Design Engineer."

10. A Utah Passenger Tramway Safety Committee Lift Data Form ~~[shall]~~ must be submitted along with other requested supporting documents. This form must be submitted prior to the performance of the Acceptance Inspection and Test.

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R920-50-7. Registration of Existing Tramways.

~~[A. Before November 1st, of each year, every operator of an Existing Passenger Tramway who intends to operate the tramway during the ensuing 12-month period, shall apply to the Committee for a Certificate of Registration. In the event a new operator is assigned, the operator shall notify the Committee of such action and shall apply for a Certificate of Registration:~~

~~— B. The Application shall include the name, address and telephone number of operator of the tramway, name of tramway supervisor, operator's designation of the tramway, tramway identification number as assigned by the Committee, the uphill or downhill capability, summer use, overhauling in reverse or forward direction, and loading limitations. The Application shall be submitted in accordance with R920-50-3.A and shall be~~

accompanied by the following supporting information and documents:

— 1. An Annual General Inspection Report shall be submitted by an approved Tramway Inspector, and shall contain the name and address of the Inspector and date of his or her inspection:

— 2. Any Request for Exception from Standards for Passenger Tramways shall be submitted in accordance with R920-50-10:

— 3. A Certification of Wire Rope Inspection For Passenger Tramways shall be submitted in accordance with R920-50-1.D.1.d. This Certification of Wire Rope Inspection for Passenger Tramway shall include name, address and telephone number of operator of the tramway, name of tramway supervisor, operator's designation of the tramway, tramway identification number as assigned by the Committee, description of wire rope that includes manufacturer, year new, previous use, year installed on lift, cumulative hours, rope specifications, splice information, operating condition, type of termination and any modification or service performed on termination. The Certification shall also include a current copy of the wire rope inspector's certifying statement contained in the inspection report:

— 4. A Certification of Compliance for Passenger Tramways shall be submitted and contain name, address and telephone number of operator of the tramway, name of tramway supervisor, operator's designation of the tramway, tramway identification number as assigned by the Committee, name and Utah license number of Tramway Inspector, date of inspection and date submitted. This Certification shall include the following statement, dated and signed by the tramway owner or area operator: "I certify that the deficiencies under the B77.1 Standard and the Utah Tramway Operations Safety Rules noted in the inspection report have been corrected and that at the time of the inspection all visible and audible features of this tramway were found to be satisfactory except as noted. The structural condition of the towers and terminals was examined and no apparent defects were observed. The deficiencies have been corrected with the exception of those listed in the Request for Exception from Standards for Passenger Tramways. The Request for Exception from Standards for Passenger Tramways meets the requirements of R920-50-10."

— 5. A Certification of Nondestructive Testing Inspection for Passenger Tramways shall be submitted and shall contain name, address and telephone number of operator of the tramway, name of tramway supervisor, operator's designation of the tramway, tramway identification number as assigned by the Committee, parts tested, sampling methods used, description of defects, notification of defects and name, title, level, agency and address of inspector. This Certification shall include the following statement, dated and signed by the inspector: "I hereby certify to the owner or area operator that the passenger tramway components indicated above were tested in accordance with current acceptance criteria established by the designer or manufacturer or in case the designer or manufacturer is no longer in business, by a Qualified Engineer."

— 6. The Annual Registration Fee listed on the Application shall be submitted in accordance with R920-50-11.A.]A. Before November 1st, of each year, every operator of an Existing Passenger Tramway who intends to operate the tramway during the ensuing 12-month period shall apply to the Committee, in such form as the Committee shall designate, for a Certificate of Registration. In the event a new operator is assigned, the operator shall notify the

Committee of such action and shall apply for a Certificate of Registration.

B. The Application shall include the following:

1. An Annual General Inspection Report by an approved Tramway Inspector, including the name and address of the Inspector and date of inspection.

2. Approved Request for Exception from Standards for Passenger Tramways which meets the requirements of R920-50-10, if applicable.

3. A Certification of Compliance for Passenger Tramways shall be made on the Application for Certificate of Registration for Existing Tramways. This Certification shall include the following statement, dated and signed by the tramway owner or area operator: "I certify that the reports, requests and certificates attached hereto were provided and signed by the persons required by law to provide them, and the deficiencies noted in the annual general inspection report have been corrected with the exception of those listed in the Request for Exception from Standards for Passenger Tramway."

4. The Annual Registration Fee in accordance with R920-50-11.A.

R920-50-8. Modifications.

If a modification, as defined in R920-50-2(E) has been made to an existing tramway, the data as required by R920-50-7[(A)] shall also be accompanied by a design certification, fabrication and materials certification, and a construction certification, and also a survey profile certification if applicable, submitted by a qualified engineer to cover the modification. Depending on the nature and extent of the modification, the Committee, or the Committee's appointed representative, may require an Acceptance Inspection and Test.

R920-50-9. Certificate of Registration.

If the application for certificate of registration and documentation required by R920-50-7[(A)] and R920-50-8, if applicable, attest that the existing tramway complies with the governing standard and these rules, the committee, if satisfied with facts stated in the application, shall issue a certificate of registration to the owner.

R920-50-10. Exception.

A. In the event that the tramway does not conform with the requirements set forth in R920-50-1-C, the [committee]Committee may issue a certificate of registration with an exception. Two types of exceptions may be granted after a Request for Exception from Standards is submitted. The first type is an Annual Exception. It continues indefinitely, but this type of exception must be reviewed annually by the Committee. This type of exception is subject to cancellation at any time pursuant to a determination by the committee that a change is necessary. The second type of exception is a Limited Exception. This type of exception is granted only for a fixed time period to be determined by the Committee. The nature of the exception shall be stated in the Request for Exception from Standards. The Committee shall, as expeditiously as possible, and within thirty (30) days of receipt of a Request for Exception from Standards, notify the owner or area operator in writing of its action on the Request.

B. The Request for Exception from Standards shall include the following information:

- 1. Reasons for requesting an exception from requirements set forth in R920-50-1-C.
- 2. Specification of the ways in which the tramway does not conform to requirements set forth in R920-50-1-C.
- 3. Procedures, with estimated time and cost, which would be required to bring the tramway into conformance with the requirements set forth in R920-50-1-C.

C. Except as required in R920-50-10-F, the Committee shall issue a certification of registration with an exception if the operator satisfies the requirements stated in R920-50-10-B and also supplies the following for new or existing tramways:

New tramways - A design certification by a qualified engineer attesting that the tramway is so designed and equipped that its devices or methods provide features that are comparable in performance and safety to those that meet requirements set forth in R920-50-1-C;

Existing tramways - A design certification by a qualified engineer attesting that the tramway is so designed and equipped that its devices or methods provide features that are comparable in performance and safety to those that meet requirements set forth in R920-50-1-C and a statement of the operator certifying that the tramway has been operated safely and without any passenger tramway incident, as defined in R920-50-2-J-1 or -7, related to the feature for which the exception is requested, for any period of time the tramway has been operated up to 2 years prior to the date of the Request for Exception from Standards.

D. In exceptional circumstances, the Committee may issue a certificate of registration with an exception even if the operator does not satisfy the requirements defined in R920-50-10-C if the Committee determines that the tramway is so designed and equipped that its devices or methods provide features that are comparable in performance and safety to those that meet requirements set forth in R920-50-1-C.

E. The issuance of a certificate of registration with an annual exception shall not bind the committee to issue such a certificate for the tramway involved in subsequent years, nor to issue such a certificate for another tramway of same or similar design.

F. In special cases where doubt exists as to the safety of a tramway, the committee may require a special inspection to ascertain that the tramway is so designed and equipped that its devices or methods provide features that are comparable in performance and safety to those that meet requirements set forth in R920-50-1-C.

R920-50-11. Fees.

A. In accordance with the requirements of Section 63-11-44 and these rules, each Application for a Certificate of Registration shall be accompanied by the applicable fee fixed by the Committee and approved by the Legislature:

- 1. Two-car or Multicar Aerial Passenger Tramway (101 HP or over) - \$440.00 each
- 2. Two-car or Multicar Aerial Passenger Tramway (100 HP or under) - \$220.00 each
- 3. Chair lift (Double) - \$140.00 each
- 4. Chair lift (Triple) - \$165.00 each
- 5. Chair lift (Quad) - \$195.00 each
- 6. Chair lift (Detachable) - \$440.00 each

- 7. Rope Tow, J-bar, T-bar, or platter pull - \$55.00 each

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**KEY: transportation safety, tramways*, passenger tramway*, tramway permits*
[November 15, 1997]1998 63-11-37 through 63-11-53
63-46b-1 et seq.
63-49-8(5)(c)**



End of the Notices of Proposed Rules Section

NOTICES OF CHANGES IN PROPOSED RULES

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

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

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

While a CHANGE IN PROPOSED RULE does not have a formal comment period, there is a 30-day waiting period during which interested parties may submit comments. The 30-day waiting period for CHANGES IN PROPOSED RULES published in this issue of the *Utah State Bulletin* ends October 1, 1998. At its option, the agency may hold public hearings.

From the end of the waiting period through December 30, 1998, the agency may notify the Division of Administrative Rules that it wants to make the CHANGE IN PROPOSED RULE effective. When an agency submits a NOTICE OF EFFECTIVE DATE for a CHANGE IN PROPOSED RULE, the PROPOSED RULE as amended by the CHANGE IN PROPOSED RULE becomes the effective rule. The agency sets the effective date. The date may be no fewer than 30 days nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file another CHANGE IN PROPOSED RULE in response to additional comments received. If the Division of Administrative Rules does not receive a NOTICE OF EFFECTIVE DATE or another CHANGE IN PROPOSED RULE, the CHANGE IN PROPOSED RULE filing, along with its associated PROPOSED RULE, lapses and the agency must start the process over.

CHANGES IN PROPOSED RULES are governed by *Utah Code* Section 63-46a-6 (1996); and *Utah Administrative Code* Rule R15-2, and Sections R15-4-3, R15-4-5, R15-4-7, and R15-4-9.

The Changes in Proposed Rules Begin on the Following Page.

Human Resource Management,
Administration
R477-7
Compensation

NOTICE OF CHANGE IN PROPOSED RULE

DAR FILE NO.: 21305
FILED: 08/14/1998, 10:43
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This change in proposed rule corrects an error in the filing (DAR No. 21305) that was published in the August 15, 1998, Utah State Bulletin.

SUMMARY OF THE RULE OR CHANGE: Subsection R477-7-4(3)(a) is amended to be consistent with the filing which changed the definition of the term promotion and adjusted similar language in the rule governing voluntary reassignment in R477-7-4(6). These changes were necessary in order to be more consistent with code. In addition, new language is a much needed clarification on the treatment of longevity employees when they are promoted or reclassified.

(DAR Note: The original proposed amendment upon which this change in proposed rule is based was published in the August 15, 1998, issue of the Utah State Bulletin.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 67-19-6, 67-19-12, 67-19-15.6, and 67-19-15.7

ANTICIPATED COST OR SAVINGS TO:

THE STATE BUDGET: These amendments reflect changes in the state classification system. But, these changes will have no effect on operating procedures or business practices of state departments nor will they result in more employees receiving promotions and pay increases.

LOCAL GOVERNMENTS: There is no cost impact on local government, the Department of Human Resource Management (DHRM) rules only affect executive agencies of state government.

OTHER PERSONS: There is no cost impact for any other person, DHRM rules only affect executive agencies of state government.

COMPLIANCE COSTS FOR AFFECTED PERSONS: DHRM rules only impact executive agencies of state government.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Rules published by DHRM have no direct affect on businesses or any entity outside state government. DHRM has authority to write rules only to the extent allowed by the "Utah Personnel Management Act", Title 67, Chapter 19. Section 67-19-15 limits the provisions of career service and these rules only apply to employees of the executive branch of state government. There may be a very slight, indirect effect if there is a cost incurred by an agency and if that agency

passes these on to businesses with increases in fees. This rule change will not increase agency costs and will thus have no affect on businesses.

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

Human Resource Management
Administration
2120 State Office Building
PO Box 141531
Salt Lake City, UT 84114-1531, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Conroy Whipple at the above address, by phone at (801) 538-3067, by FAX at (801) 538-3081, or by Internet E-mail at pedhrm.cwhipple@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 10/01/1998.

THIS RULE MAY BECOME EFFECTIVE ON: 10/02/1998

AUTHORIZED BY: Conroy R. Whipple, Legislation and Planning Coordinator

R477. Human Resource Management, Administration.
R477-7. Compensation.

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R477-7-4. Salary.

(1) Merit increases - The following are applicable if merits are authorized and funded by the legislature:

(a) Employees who receive a successful or higher rating on their performance evaluations and who have been in a paid status by the state for at least six months shall receive a maximum merit increase of one salary step on the first pay period in July.

(b) Employees designated as schedule AJ are not eligible for a salary step increase. Merit increases for employees in schedule AL, AM, or AS are not mandatory unless they are receiving benefits, and the increase is approved in agency policy.

(2) Highest Level Performer

(a) Employees designated by the agency as a highest level performer consistent with subsection R477-10(2) shall receive, as determined by the agency head, either:

(i) a salary step increase, or;

(ii) a bonus; or

(iii) administrative leave; or

(iv) other appropriate recognition as determined by the agency.

(b) Employees on a longevity step are not eligible for a salary step increase but may receive a bonus, administrative leave or other appropriate recognition as determined by the agency.

(3) Promotions and Reclassifications

(a) Employees promoted or reclassified to a position with a salary range exceeding the employee's current salary range maximum by [two or] one to three salary steps shall receive a salary

increase of a minimum of one salary step and a maximum of four salary steps. Employees who are promoted or reclassified to a position with a salary range exceeding the employee's current salary range maximum by four salary steps or more shall receive a salary increase of a minimum of two salary steps and a maximum of four salary steps. ~~Employees may not be placed higher than the highest salary step or lower than the beginning salary step in the new salary range.~~

(i) Employees, with the exception of those in longevity, may not be placed higher than the highest salary step or lower than the beginning salary step in the new salary range.

(ii) Employees in longevity shall be governed by R477-7-4(4)(e).

(b) To be eligible for a promotion, an employee shall:

(i) meet the job requirements/skills specified in the job description and position specific criteria as determined by the agency for the position unless the promotion is to a career service exempt position;

(ii) have received a successful or higher performance rating within the 12 month period preceding the promotion;

(iii) not be currently in a period of constant review;

(iv) have successfully completed a period of constant review during the past twelve months, if applicable.

(c) Employees who have their positions reclassified to a job with a lower salary range shall retain their current salary unless this salary exceeds the maximum of the new salary range. In this case, longevity rule R477-7-4(d) is in effect.

(4) Longevity

(a) An employee shall receive a longevity increase of 2.75 percent when:

(i) They have been in state service for eight years or more. They may accrue years of service in more than one agency, and such service is not required to be continuous.

(ii) They have been at the maximum salary step in the current salary range for at least one year and received a performance appraisal rating of successful or higher within the 12 month period preceding the longevity increase.

(b) Employees on a longevity step shall be eligible for the same across-the-board pay plan adjustments authorized for all other employee pay plans.

(c) Employees on a longevity step shall only be eligible for additional step increases every three years. To be eligible, employees must receive a performance appraisal rating of successful or higher within the 12 month period preceding the longevity increase.

(d) Employees on a longevity step who are involuntarily reassigned or reclassified to a lower salary range, shall retain their salary.

(e) Employees on a longevity step who are promoted or reclassified to a higher salary range shall only receive an increase if their current salary step is less than the highest salary step of their new range.

(f) Agency heads or time-limited exempt employees identified in R477-5-12 are not eligible for the longevity program.

(5) Administrative Adjustment

(a) Employees who have had their position allocated by DHRM from one job to another job or salary range for administrative purposes, shall not receive an adjustment in salary.

(6) Voluntary Reassignment

(a) Employees who voluntarily accept a position with a salary range maximum one to three salary steps lower than their current position shall be placed at the salary step within the new salary range corresponding to a salary decrease of one salary step.

(b) Employees who voluntarily accept a position with a salary range maximum four salary steps or more lower than their current salary range, shall be placed at the salary step within the new salary range corresponding to a salary decrease of two salary steps.

(c) Employees who voluntarily accept a position in a lower salary range, shall not receive a new salary lower than the lowest salary step, or higher than the highest salary step of the new salary range.

(7) Transfer

Employees who transfer from one position to another position with the same salary range may not be offered salary increases effective the same date as the transfer.

(8) Demotions

Employees demoted consistent with R477-11-2 shall receive a salary reduction of one or more salary steps as determined by the agency head or designee. The agency head or designee may move an employee to a position with a lower salary range concurrent with the salary reduction.

(9) Payroll actions

Payroll actions shall be effective on the first day of a payroll period closest to the salary action, with the exception of new hires, rehires, and terminations.

(10) Productivity step adjustment

Agency management may establish policies to reward employees who assume additional workloads that eliminate a position for at least one year with a salary increase of up to four salary steps. Employees at the top salary step of their salary range or in longevity shall be given a one time lump sum bonus award of 2.75% of their annual salary.

(a) To implement this program, agencies shall apply the following criteria:

(i) Either the employees or management can make the suggestion;

(ii) Employees and management agree;

(iii) The agency head approves;

(iv) A written program policy achieves increased productivity through labor/management collaboration;

(v) The agency human resource representative approves;

(vi) The position will be abolished from the position authorization plan for a minimum of one year;

(vii) Staff receives additional duties which are substantially above a normal full workload;

(viii) The same or higher level of service or productivity is achieved without accruing additional overtime hours;

(ix) The total dollar increase, including benefits, awarded to the workgroup as a result of the additional salary steps does not exceed 50 percent of the savings generated by eliminating the position;

(11) Administrative Salary Increase

The executive director or commissioner authorizes and approves Administrative Salary increases under the following parameters:

(a) Employees shall receive one or more steps up to the maximum of their salary range.

(b) Administrative Salary increases shall only be granted when the agency has sufficient funding within their annualized base budgets for the fiscal year in which the adjustment is given.

(c) Justifications for Administrative Salary Increases shall be --

(i) In writing;

(ii) Approved by the executive director or commissioner;

(iii) Supported by issues such as: special agency conditions or problems, equity issues, or other unique situations or considerations in the agency.

(d) The executive director or commissioner is the final authority for salary actions authorized within these guidelines. The executive director or commissioner or designee shall answer any challenge or grievance resulting from an Administrative Salary Increase.

(e) Administrative salary increases may be given during the probationary period. These increases alone do not constitute successful completion of probation or the granting of career service status.

(12) Administrative Salary Decrease

The executive director or commissioner authorizes and approves administrative salary decreases for non-disciplinary reasons according to the following:

(a) Employees shall receive a one or more step decrease not to exceed the minimum of their salary range.

(b) Justification for administrative salary decreases shall be:

(i) in writing;

(ii) approved by the executive director or commissioner;

(iii) supported by issues such as; previous written agreements between the agency and employees to include career mobility; reasonable accommodation, special agency conditions or problems, equity issues, or other unique situations or considerations in the agency.

(c) The executive director or commissioner is the final authority for salary actions within these guidelines. The executive director or commissioner or designee shall answer any challenge or grievance resulting from an administrative salary decrease.

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KEY: salaries, employee benefit plans*, insurance, personnel management

[~~June 27,~~]1998

67-19-6

Notice of Continuation July 1, 1997



**End of the Notices of Changes
in Proposed Rules Section**

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the responsible agency is required to review the rule. This review is designed to remove obsolete rules from the *Utah Administrative Code*.

Upon reviewing a rule, an agency may: repeal the rule by filing a PROPOSED RULE; continue the rule as it is by filing a NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (NOTICE); or amend the rule by filing a PROPOSED RULE and by filing a NOTICE. By filing a NOTICE, the agency indicates that the rule is still necessary.

NOTICES are not followed by the rule text. The rule text that is being continued may be found in the most recent edition of the *Utah Administrative Code*. The rule text may also be inspected at the agency or the Division of Administrative Rules. NOTICES are effective when filed. NOTICES are governed by *Utah Code* Section 63-46a-9 (1996).

Public Service Commission, Administration

R746-344

Filing Requirements for Telephone Corporations With Less Than 5,000 Access Line Subscribers

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 21348
FILED: 08/11/1998, 16:47
RECEIVED BY: NL

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsections 54-7-12(5) and 54-7-12(6) require telephone cooperatives to provide necessary information to support proposed rate changes by the completion of schedules approved by the Commission.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE-YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received regarding this rule. Nonsubstantive changes were made in July of 1993 to clarify and to comply with the Rulewriting Manual.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule remains necessary to provide uniformity of factual information for general rate case filings. Providing this information simplifies proceedings, eliminates expense, and enhances the effectiveness of the fact-finding process.

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

Public Service Commission
Administration
Fourth Floor, Heber M. Wells Building
160 East 300 South
Salt Lake City, UT 84111, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Barbara Stroud or Sandy Mooy at the above address, by phone at (801) 530-6716, by FAX at (801) 530-6796, or Internet E-mail at pupsc.bstroud@state.ut.us.

AUTHORIZED BY: Barbara Stroud, Paralegal

EFFECTIVE: 08/11/1998



Public Service Commission, Administration

R746-345

Pole Attachments for Cable Television Companies

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 21349
FILED: 08/11/1998, 16:47
RECEIVED BY: NL

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 54-4-13 provides that the Commission shall have the power to regulate the rates, terms, and conditions by which a public

utility can permit attachments to public utility poles by cable television companies.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE-YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received regarding this rule. Nonsubstantive changes were made in July of 1993 to clarify and to comply with the Rulewriting Manual.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Commission must continue to determine that under the terms and conditions of the pole attachment contract, the cable company's use of the utilities' facilities will not interfere with the primary utility function or render them unsafe.

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

Public Service Commission
Administration
Fourth Floor, Heber M. Wells Building
160 East 300 South
Salt Lake City, UT 84111, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Barbara Stroud or Sandy Mooy at the above address, by phone at (801) 530-6716, by FAX at (801) 530-6796, or Internet E-mail at pupsc.bstroud@state.ut.us.

AUTHORIZED BY: Barbara Stroud, Paralegal

EFFECTIVE: 08/11/1998

do all things necessary or convenient in the exercise of that power and jurisdiction.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE-YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received regarding this rule. Nonsubstantive changes were made in July of 1993 to clarify and to comply with the Rulewriting Manual.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Electric and gas utility companies continue to request approval of promotional programs and the Commission must continue to monitor and regulate those programs to insure that they are in the public interest.

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

Public Service Commission
Administration
Fourth Floor, Heber M. Wells Building
160 East 300 South
Salt Lake City, UT 84111, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Barbara Stroud or Sandy Mooy at the above address, by phone at (801) 530-6716, by FAX at (801) 530-6796, or Internet E-mail at pupsc.bstroud@state.ut.us.

AUTHORIZED BY: Barbara Stroud, Paralegal

EFFECTIVE: 08/11/1998



Public Service Commission,
Administration
R746-404
Regulation of Promotional Programs of
Electric and Gas Public Utilities

Public Service Commission,
Administration
R746-406
Advertising by Electric and Gas Utilities

**FIVE-YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 21350
FILED: 08/11/1998, 16:47
RECEIVED BY: NL

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 54-4-1 gives the Commission the authority and jurisdiction to supervise and regulate every public utility in this state, and to

**FIVE-YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 21351
FILED: 08/11/1998, 16:47
RECEIVED BY: NL

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 54-4-1 gives the Commission the authority and jurisdiction to supervise and regulate every public utility in this state, and to

do all things necessary or convenient in the exercise of that power and jurisdiction.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE-YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received regarding this rule. Nonsubstantive changes were made in July of 1993 to clarify and to comply with the Rulewriting Manual.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule remains necessary to continue to monitor and regulate the direct or indirect advertising expenditures of utility companies and to insure that they are in the public interest.

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

Public Service Commission
Administration
Fourth Floor, Heber M. Wells Building
160 East 300 South
Salt Lake City, UT 84111, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Barbara Stroud or Sandy Mooy at the above address, by phone at (801) 530-6716, by FAX at (801) 530-6796, or Internet E-mail at pupsc.bstroud@state.ut.us.

AUTHORIZED BY: Barbara Stroud, Paralegal

EFFECTIVE: 08/11/1998

resolution of complaints filed in accordance with Title II of the Americans with Disabilities Act of 1990.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE-YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received regarding this rule. A nonsubstantive change to correct numbering was made in 1993.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule continues to be necessary so that no qualified individual with a disability, by reason of that disability, will be excluded from participation in or be denied the benefits of the services, programs, or activities of the Commission or be subjected to discrimination by the Commission.

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

Public Service Commission
Administration
Fourth Floor, Heber M. Wells Building
160 East 300 South
Salt Lake City, UT 84111, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Barbara Stroud or Sandy Mooy at the above address, by phone at (801) 530-6716, by FAX at (801) 530-6796, or Internet E-mail at pupsc.bstroud@state.ut.us.

AUTHORIZED BY: Barbara Stroud, Paralegal

EFFECTIVE: 08/05/1998

Public Service Commission,
Administration
R746-500
Americans With Disabilities Act
Complaint Procedure

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 21341
FILED: 08/05/1998, 13:39
RECEIVED BY: NL

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is required and authorized by 42 U.S.C. 12201, Section 54-1-1, and Subsection 63-46a-3(2) of the Utah Administrative Rulemaking Act. It provides for prompt and equitable

End of the Five-Year Notices of Review and Statements of Continuation Section

NOTICES OF RULE EFFECTIVE DATES

These are the effective dates of PROPOSED RULES or CHANGES IN PROPOSED RULES published in earlier editions of the *Utah State Bulletin*. These effective dates are at least 31 days and not more than 120 days after the date the following rules were published.

Abbreviations

AMD = Amendment
CPR = Change in Proposed Rule
NEW = New Rule
R&R = Repeal and Reenact
REP = Repeal

Education

Administration

No. 21259 (REP): R277-451. The State School Building Program.
Published: July 15, 1998
Effective: August 15, 1998

No. 21260 (AMD): R277-458. 70% Utilization of School Buildings.
Published: July 15, 1998
Effective: August 15, 1998

No. 21261 (AMD): R277-502. Teacher Certification Procedures.
Published: July 15, 1998
Effective: August 15, 1998

Environmental Quality

Air Quality

No. 21015 (AMD): R307-1-2. General Requirements.
Published: May 15, 1998
Effective: August 13, 1998

No. 21009 (REP): R307-6. De minimis Emissions from Air Strippers and Soil Venting Projects.
Published: May 15, 1998
Effective: August 13, 1998

No. 21011 (AMD): R307-18 (Changed to R307-210). Stationary Sources.
Published: May 15, 1998
Effective: August 13, 1998

No. 21010 (NEW): R307-413. Exemptions and Special Provisions.
Published: May 15, 1998
Effective: August 13, 1998

No. 21016 (NEW): R307-840. Lead-Based Paint Accreditation, Certification and Work Practice Standards.
Published: May 15, 1998
Effective: August 13, 1998

Radiation Control

No. 21088 (AMD): R313-32. Medical Use of Radioactive Material.
Published: May 15, 1998
Effective: August 11, 1998

Health

Community Health Services, Epidemiology

No. 20958 (REP): R386-704. Immunization Rule for Students.
Published: April 15, 1998
Effective: August 12, 1998

Family Health Services, Child Health

No. 20959 (CPR): R396-100. Immunization Rule for Students.
Published: June 15, 1998
Effective: August 12, 1998

Human Services

Administration, Administrative Services, Licensing

No. 21258 (AMD): R501-12. Foster Care Core Standards.
Published: July 15, 1998
Effective: August 17, 1998

Mental Health, State Hospital

No. 20891 (CPR): R525-6. Weapons at the Utah State Hospital.
Published: July 15, 1998
Effective: August 15, 1998

Professional Practices Advisory Commission

Administration

No. 21262 (NEW): R686-101. Alcohol Related Offenses.
Published: July 15, 1998
Effective: August 15, 1998

No. 21263 (NEW): R686-102. Drug Related Offenses.
Published: July 15, 1998
Effective: August 15, 1998

NOTICES OF RULE EFFECTIVE DATES

Tax Commission

Auditing

No. 21194 (AMD): R865-13G-14. Environmental Assurance Fee Pursuant to Utah Code Ann. Section 19-6-410.5.

Published: July 1, 1998

Effective: August 11, 1998

No. 21195 (AMD): R865-19S-90. Telephone Service Defined Pursuant to Utah Code Ann. Section 59-12-103.

Published: July 1, 1998

Effective: August 11, 1998

No. 21220 (AMD): R865-19S-103. Municipal Energy Sales and Use Tax Pursuant to Utah Code Ann. Sections 10-1-303 and 10-1-306.

Published: July 1, 1998

Effective: August 11, 1998

No. 21219 (AMD): R865-25X-1. Brine Shrimp Royalty Procedures Pursuant to Utah Code Ann. Section 59-23-4.

Published: July 1, 1998

Effective: August 11, 1998

Motor Vehicle

No. 21221 (AMD): R873-22M-38. Procedure for Reinstatement of Registration Revoked for Lack of Owner's or Operator's Security Pursuant to Utah Code Ann. Section 41-1a-1220.

Published: July 1, 1998

Effective: August 11, 1998

Motor Vehicle Enforcement

No. 21196 (AMD): R877-23V-17. Reasonable Cause for Denial, Suspension, or Revocation of License Pursuant to Utah Code Ann. Sections 41-3-105 and 41-3-209.

Published: July 1, 1998

Effective: August 11, 1998

Property Tax

No. 21097 (AMD): R884-24P-19. Appraiser Designation Program Pursuant to Utah Code Ann. Sections 59-2-701 and 59-2-702.

Published: June 1, 1998

Effective: August 11, 1998

No. 21222 (AMD): R884-24P-60. Age-Based Uniform Fee on Tangible Personal Property Required to be Registered with the State Pursuant to Utah Code Ann. Section 59-2-405.1.

Published: July 1, 1998

Effective: August 11, 1998

No. 21223 (AMD): R884-24P-61. 1.5 Percent Uniform Fee on Tangible Personal Property Required to be Registered with the State Pursuant to Utah Code Ann. Sections 41-1a-202, 59-2-104, 59-2-401, 59-2-402, and 59-2-405.

Published: July 1, 1998

Effective: August 11, 1998

End of the Notices of Rule Effective Dates Section

RULES INDEX BY AGENCY (CODE NUMBER) AND BY KEYWORD (SUBJECT)

The *Rules Index* is a cumulative index that reflects all changes to Utah's administrative rules from January 2, 1998, to the present (current as of August 14, 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).

A copy of the *Rules Index* is available for public inspection at the Division of Administrative Rules (4120 State Office Building, Salt Lake City, UT), or may be viewed online at the Division's web site (<http://www.rules.state.ut.us/>).

RULES INDEX - BY AGENCY (CODE NUMBER)

ABBREVIATIONS

AMD = Amendment	NSC = Nonsubstantive rule change
CPR = Change in proposed rule	REP = Repeal
EMR = Emergency rule (120 day)	R&R = Repeal and reenact
NEW = New rule	* = Text too long to print in <i>Bulletin</i> , or repealed text not printed in <i>Bulletin</i>
5YR = Five-Year Review	
EXD = Expired	

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
ADMINISTRATIVE SERVICES					
<u>Administration</u>					
R13-2	Access to Records	20537	NSC	01/06/98	Not Printed
R13-3	American With Disabilities Act Grievance Procedures	20631	5YR	01/08/98	98-3/89
<u>Administrative Rules</u>					
R15-4	Administrative Rulemaking Procedures	20976	AMD	07/01/98	98-9/3
R15-4-3	Publication Dates and Deadlines	20952	AMD	07/01/98	98-8/2
<u>Facilities Construction and Management</u>					
R23-4	Suspension/Debarment From Consideration for Award of State Contracts	20702	5YR	01/28/98	98-4/128
R23-5	Contingency Funds	20703	5YR	01/28/98	98-4/128
R23-6	Value Engineering and Life Cycle Costing of State Owned Facilities Rules and Regulations	20704	5YR	01/28/98	98-4/129
R23-7	Utah State Building Board Policy Statement Master Planning	20705	5YR	01/28/98	98-4/129
R23-8	Planning Fund Use	20706	5YR	01/28/98	98-4/130
R23-9	Building Board State/Local Cooperation Policy	20707	5YR	01/28/98	98-4/130
R23-10	Naming of State Buildings	20708	5YR	01/28/98	98-4/131

RULES INDEX

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R23-11	Facilities Allocation and Sale Procedures	20709	5YR	01/28/98	98-4/131
R23-12	State of Utah Parking Policy	21186	5YR	06/01/98	98-12/37
R23-13	State of Utah Parking Rules for Facilities Managed by the Division of Facilities Construction and Management	21150	5YR	05/15/98	98-11/200
R23-21	Division of Facilities Construction and Management Lease Procedures	20710	5YR	01/28/98	98-4/132
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WORKFORCE SERVICES (CHANGED TO HEALTH -- 06/01/98)

Employment Development (Changed to Health Care Financing, Coverage and Reimbursement Policy -- 06/01/98)

R986-301 (Changed to R414-301)	Medicaid General Provisions	21164	NSC	06/01/98	Not Printed
R986-302 (Changed to R414-302)	Eligibility Requirements	21165	NSC	06/01/98	Not Printed
R986-303 (Changed to R414-303)	Coverage Groups	21166	NSC	06/01/98	Not Printed
R986-304 (Changed to R414-304)	Income and Budgeting	21167	NSC	06/01/98	Not Printed
R986-305 (Changed to R414-305)	Resources	21168	NSC	06/01/98	Not Printed
R986-306 (Changed to R414-306)	Program Benefits	21169	NSC	06/01/98	Not Printed
R986-307 (Changed to R414-307)	Eligibility Determination and Redetermination	21170	NSC	06/01/98	Not Printed
R986-308 (Changed to R414-308)	Record Management	21171	NSC	06/01/98	Not Printed
R986-309 (Changed to R414-309)	Utah Medical Assistance Program (UMAP)	21172	NSC	06/01/98	Not Printed
R986-310 (Changed to R414-310)	Demonstration Programs	21173	NSC	06/01/98	Not Printed

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ABBREVIATIONS

AMD = Amendment	NSC = Nonsubstantive rule change
CPR = Change in proposed rule	REP = Repeal
EMR = Emergency rule (120 day)	R&R = Repeal and reenact
NEW = New rule	* = Text too long to print in <i>Bulletin</i> , or repealed text not printed in <i>Bulletin</i>
5YR = Five-Year Review	
EXD = Expired	

<u>KEYWORD</u> AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<u>ACCESS TO INFORMATION</u>					
Administrative Services, Administration	20537	R13-2	NSC	01/06/98	Not Printed
<u>ACCREDITATION</u>					
Education, Administration	20780	R277-504	AMD	04/07/98	98-5/10
	20657	R277-516	5YR	01/14/98	98-3/89
	20904	R277-912	5YR	03/13/98	98-7/75
	21077	R277-912	NSC	05/07/98	Not Printed
<u>ACUPUNCTURE</u>					
Commerce, Occupational and Professional Licensing	21149	R156-72	AMD	07/07/98	98-11/29
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	20952	R15-4-3	AMD	07/01/98	98-8/2
<u>ADMINISTRATIVE PROCEDURES</u>					
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Natural Resources, Energy	20718	R636-2	EXD	02/01/98	98-4/136
	20720	R636-5	EXD	02/01/98	98-4/136
Natural Resources; Oil, Gas and Mining Board	21041	R641-100	5YR	05/01/98	98-10/158
	21042	R641-101	5YR	05/01/98	98-10/159
	21043	R641-102	5YR	05/01/98	98-10/159
	21044	R641-103	5YR	05/01/98	98-10/160
	21045	R641-104	5YR	05/01/98	98-10/160
	21046	R641-105	5YR	05/01/98	98-10/160
	21047	R641-106	5YR	05/01/98	98-10/161
	21048	R641-107	5YR	05/01/98	98-10/161
	21049	R641-108	5YR	05/01/98	98-10/162
	21050	R641-109	5YR	05/01/98	98-10/162
	21051	R641-110	5YR	05/01/98	98-10/163
	21052	R641-111	5YR	05/01/98	98-10/163
	21053	R641-112	5YR	05/01/98	98-10/164
	21054	R641-113	5YR	05/01/98	98-10/164
	21055	R641-114	5YR	05/01/98	98-10/164
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	21057	R641-116	5YR	05/01/98	98-10/165

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	21059	R641-118	5YR	05/01/98	98-10/166
	21060	R641-119	5YR	05/01/98	98-10/167
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	21184	R850-80-600	AMD	07/16/98	98-12/20
Workers' Compensation Fund, Administration	21214	R980-1	REP	08/07/98	98-13/28
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	20847	R986-213	NSC	04/01/98	Not Printed
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	20813	R68-19-4	AMD	04/15/98	98-6/16
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	20814	R70-201-4	AMD	04/15/98	98-6/16
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	20202	R307-1-1	AMD	01/08/98	97-23/10
	20736	R307-1-1	AMD	04/22/98	98-5/16
	21015	R307-1-2	AMD	08/13/98	98-10/26
	20219	R307-1-3	AMD	02/05/98	97-23/20
	20740	R307-1-3	NSC	02/05/98	Not Printed
	20099	R307-2-12	AMD	01/08/98	97-21/14
	21280	R307-2-12	NSC	07/27/98	Not Printed

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	20737	R307-10-2	AMD	06/26/98	98-5/34
	21011	R307-18 (Changed to R307-210)	AMD	08/13/98	98-10/32
	21016	R307-840	NEW	08/13/98	98-10/36
<u>AIR POLLUTION CONTROL</u>					
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	21032	R81-1-18	AMD	07/01/98	98-10/5
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	20904	R277-912	5YR	03/13/98	98-7/75
	21077	R277-912	NSC	05/07/98	Not Printed
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	20394	R884-24P-24	AMD	02/24/98	98-1/114
	20203	R884-24P-58	AMD	02/24/98	97-23/96
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<u>APPROVAL FOR RESERVE BASIC COURSE</u>					
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	20200	R156-3a	CPR	02/18/98	98-2/79
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	20938	R657-33	5YR	03/24/98	98-8/65
	20939	R657-33	AMD	05/18/98	98-8/43
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	20744	R986-302	5YR	02/06/98	98-5/70
	20860	R986-415	NSC	04/01/98	Not Printed
	20208	R986-417	AMD	see CPR	97-23/100
	20208	R986-417	CPR	02/03/98	98-1/120
	20862	R986-417	NSC	04/01/98	Not Printed
	20863	R986-418	NSC	04/01/98	Not Printed
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	21185	R657-5	AMD	07/16/98	98-12/14
	20700	R657-43	AMD	03/18/98	98-4/90
<u>BRACHYTHERAPY</u>					
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	20829	R313-32	NSC	04/01/98	Not Printed
	21088	R313-32	AMD	08/11/98	98-10/40
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<u>BRINE SHRIMP ROYALTY</u>					
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<u>BUDGETING</u>					
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Workforce Services, Employment Development	20746	R986-304	5YR	02/06/98	98-5/71
	20738	R986-304	EMR	02/12/98	98-5/60
	20739	R986-304	AMD	04/01/98	98-5/49
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	20990	R156-56-706	AMD	07/01/98	98-9/24
	20989	R156-56-706	AMD	07/01/98	98-9/23
	20991	R156-56-706	AMD	07/01/98	98-9/25
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	20883	R156-56-302	AMD	05/04/98	98-7/28
	20990	R156-56-706	AMD	07/01/98	98-9/24
	20989	R156-56-706	AMD	07/01/98	98-9/23
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	20709	R23-11	5YR	01/28/98	98-4/131
	20711	R23-24	5YR	01/28/98	98-4/132
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<u>BUSLINES</u>					
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	21300	R671-205	EXD	07/15/98	98-16/96
	21310	R671-205	EMR	07/17/98	98-16/81
	20489	R671-312	AMD	02/18/98	98-1/87
	21301	R671-312	EXD	07/15/98	98-16/96
	21312	R671-312	EMR	07/17/98	98-16/82
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	20925	R855-2	EXD	03/17/98	98-8/67
	20926	R855-3	EXD	03/17/98	98-8/67
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	20755	R986-702	5YR	02/06/98	98-5/76
	20871	R986-702	NSC	04/01/98	Not Printed
	20756	R986-703	5YR	02/06/98	98-5/77
	20872	R986-703	NSC	04/01/98	Not Printed
	20757	R986-704	5YR	02/06/98	98-5/77
	20873	R986-704	NSC	04/01/98	Not Printed
	20758	R986-705	5YR	02/06/98	98-5/78
	20874	R986-705	NSC	04/01/98	Not Printed
	20759	R986-706	5YR	02/06/98	98-5/78
	20875	R986-706	NSC	04/01/98	Not Printed
	20760	R986-707	5YR	02/06/98	98-5/79
	20876	R986-707	NSC	04/01/98	Not Printed
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	20265	R430-3	NEW	01/21/98	97-24/69
	20266	R430-5	NEW	02/05/98	97-24/71
	20267	R430-6	NEW	01/20/98	97-24/75
	20645	R430-10	EMR	01/09/98	98-3/86
	20684	R430-10	EMR	01/20/98	98-4/122
	20268	R430-30	NEW	01/21/98	97-24/79
	20269	R430-100	NEW	02/05/98	97-24/79
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	20870	R986-701	NSC	04/01/98	Not Printed
	20755	R986-702	5YR	02/06/98	98-5/76
	20871	R986-702	NSC	04/01/98	Not Printed
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	21155	R382-20	NEW	07/14/98	98-11/178
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	20522	R527-39	NEW	02/05/98	98-1/67
	20978	R527-56	5YR	04/13/98	98-9/69
	21018	R527-100	NEW	06/16/98	98-10/129
	20723	R527-300	AMD	03/18/98	98-4/77
	21006	R527-300	AMD	06/16/98	98-10/130
	20724	R527-301	AMD	03/18/98	98-4/80
	21017	R527-305	NEW	06/16/98	98-10/131
	20523	R527-430	NEW	02/05/98	98-1/68
	20725	R527-475	AMD	03/18/98	98-4/82
	20520	R527-550	AMD	02/11/98	98-1/70
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	20288	R512-31	AMD	04/01/98	97-24/91
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<u>CIVIL RIGHTS</u>					
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	20871	R986-702	NSC	04/01/98	Not Printed
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	20856	R986-411	NSC	04/01/98	Not Printed
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	21327	R645-102	5YR	07/27/98	98-16/91
	20190	R645-301-500	AMD	03/15/98	97-22/38
	20191	R645-301-700	AMD	03/15/98	97-22/59

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	21254	R986-602	5YR	06/29/98	98-14/106
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	20860	R986-415	NSC	04/01/98	Not Printed
	20861	R986-416	NSC	04/01/98	Not Printed
	20208	R986-417	AMD	see CPR	97-23/100
	20208	R986-417	CPR	02/03/98	98-1/120
	20862	R986-417	NSC	04/01/98	Not Printed
	20863	R986-418	NSC	04/01/98	Not Printed
	20209	R986-419	AMD	01/02/98	97-23/102
	20864	R986-419	NSC	04/01/98	Not Printed
	20210	R986-420	AMD	01/02/98	97-23/102
	20865	R986-420	NSC	04/01/98	Not Printed
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	20928	R657-10	EMR	03/19/98	98-8/57
	20929	R657-33	EMR	03/19/98	98-8/58
	20938	R657-33	5YR	03/24/98	98-8/65
	20939	R657-33	AMD	05/18/98	98-8/43
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	21159	R277-436	AMD	07/02/98	98-11/31
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	20449	R671-304	AMD	02/18/98	98-1/83
	20487	R671-305	AMD	02/18/98	98-1/83
	20465	R671-317	AMD	02/18/98	98-1/91
	20490	R671-403	AMD	02/18/98	98-1/92
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	20794	R425-1	AMD	see CPR	98-6/34
	20794	R425-1	CPR	06/03/98	98-9/61
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	20383	R315-2	AMD	02/20/98	98-1/17
	20733	R315-2-17	NSC	02/18/98	Not Printed
	20384	R315-3	AMD	02/20/98	98-1/27
	20795	R315-3	NSC	03/05/98	Not Printed
	20385	R315-4	AMD	02/20/98	98-1/35
	20797	R315-4-4	NSC	03/06/98	Not Printed
	20538	R315-6-7	AMD	02/20/98	98-2/24
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	20387	R315-8	AMD	02/20/98	98-1/38
	20388	R315-13	AMD	02/20/98	98-1/39
	20796	R315-13	NSC	03/05/98	Not Printed
	20389	R315-14-7	AMD	02/20/98	98-1/40
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	20560	R432-600	AMD	02/24/98	98-2/39
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	21258	R501-12	AMD	08/17/98	98-14/66
	21081	R501-14	EMR	05/04/98	98-10/140
	21085	R501-14	AMD	06/16/98	98-10/121
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	20179	R501-17	NEW	03/15/98	97-22/24
	20286	R501-17	NSC	03/15/98	Not Printed
	20880	R501-17	NSC	03/17/98	Not Printed
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	20856	R986-411	NSC	04/01/98	Not Printed
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	21006	R527-300	AMD	06/16/98	98-10/130
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	20742	R986-221	5YR	02/06/98	98-5/69
	20854	R986-221	NSC	04/01/98	Not Printed
	20855	R986-222	NSC	04/01/98	Not Printed
	20224	R986-302	AMD	01/02/98	97-23/97
	20744	R986-302	5YR	02/06/98	98-5/70
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	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
	20739	R986-304	AMD	04/01/98	98-5/49
	20752	R986-310	5YR	02/06/98	98-5/74
	20207	R986-414	AMD	01/02/98	97-23/99
	20859	R986-414	NSC	04/01/98	Not Printed
	20211	R986-421	AMD	01/02/98	97-23/103
	20753	R986-421	5YR	02/06/98	98-5/75
	20866	R986-421	NSC	04/01/98	Not Printed
	20757	R986-704	5YR	02/06/98	98-5/77
	20873	R986-704	NSC	04/01/98	Not Printed
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	21167	R986-304 (Changed to R414-304)	NSC	06/01/98	Not Printed
	21173	R986-310 (Changed to R414-310)	NSC	06/01/98	Not Printed
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	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
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	20465	R671-317	AMD	02/18/98	98-1/91
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	21338	R590-94	5YR	07/31/98	98-16/90
	18730	R590-132	AMD	see CPR (First)	97-7/36
	18730	R590-132	CPR (First)	see CPR (Second)	97-15/102
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	20783	R728-402	NSC	02/23/98	Not Printed
	20784	R728-403	NSC	02/23/98	Not Printed
	20810	R728-404	AMD	04/15/98	98-6/52
	20786	R728-406	NSC	02/23/98	Not Printed
	20787	R728-407	NSC	02/23/98	Not Printed
	20831	R728-408	5YR	03/04/98	98-7/77
	20995	R728-409	AMD	06/02/98	98-9/41
	20788	R728-410	NSC	02/23/98	Not Printed
	20833	R728-502	5YR	03/04/98	98-7/78
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	21007	R156-60b	AMD	06/16/98	98-10/17
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	21250	R746-340	5YR	06/26/98	98-14/103
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	20728	R156-60c-502	NSC	02/19/98	Not Printed
	21008	R156-60c	AMD	06/16/98	98-10/20
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	20658	R277-518	5YR	01/14/98	98-3/90
<u>PROFESSIONAL ENGINEERS</u>					
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	20940	R156-22	CPR	07/16/98	98-12/29
<u>PROFESSIONAL LAND SURVEYORS</u>					
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	20940	R156-22	AMD	see CPR	98-8/4
	20940	R156-22	CPR	07/16/98	98-12/29
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	20777	R986-306	AMD	04/01/98	98-5/57
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<u>PROGRAM TYPE</u>					
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	20872	R986-703	NSC	04/01/98	Not Printed
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	21097	R884-24P-19	AMD	08/11/98	98-11/198
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	20729	R156-61-502	NSC	02/19/98	Not Printed
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	20850	R986-216	NSC	04/01/98	Not Printed
	20851	R986-218	NSC	04/01/98	Not Printed
	20852	R986-219	NSC	04/01/98	Not Printed
	20749	R986-307	5YR	02/06/98	98-5/73
	20774	R986-307	AMD	04/01/98	98-5/58
	20750	R986-308	5YR	02/06/98	98-5/73
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	21171	R986-308 (Changed to R414-308)	NSC	06/01/98	Not Printed
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	20957	R746-330	5YR	03/31/98	98-8/65
	20626	R746-331	EMR	01/05/98	98-3/87
	20627	R746-331	NEW	04/06/98	98-3/78
	20964	R746-332	5YR	04/02/98	98-9/70
	20970	R746-342	5YR	04/03/98	98-9/71
	21348	R746-344	5YR	08/11/98	98-17/62
	21349	R746-345	5YR	08/11/98	98-17/62
	20956	R746-360	EMR	03/31/98	98-8/59
	21317	R746-360	EMR	07/28/98	98-16/84
	20971	R746-402	5YR	04/03/98	98-9/71
	21350	R746-404	5YR	08/11/98	98-17/63
	20972	R746-405	5YR	04/03/98	98-9/72
	21351	R746-406	5YR	08/11/98	98-17/63
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	20962	R68-15	AMD	05/16/98	98-8/2
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	20953	R313-15	NSC	04/04/98	Not Printed
	21038	R313-15	5YR	04/30/98	98-10/149
	20236	R313-18	AMD	01/23/98	97-23/61
	20961	R313-22-37	NSC	04/01/98	Not Printed
	20238	R313-32	AMD	01/23/98	97-23/65
	20829	R313-32	NSC	04/01/98	Not Printed
	21088	R313-32	AMD	08/11/98	98-10/40
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	20829	R313-32	NSC	04/01/98	Not Printed
	21088	R313-32	AMD	08/11/98	98-10/40
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<u>RAILROADS</u>					
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	21210	R994-307	5YR	06/12/98	98-13/34
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	20625	R162-107	NEW	03/04/98	98-2/22
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	20799	R162-2	AMD	04/23/98	98-6/19
	20800	R162-3	AMD	04/23/98	98-6/21
	20801	R162-4	AMD	04/23/98	98-6/23
	20802	R162-5	AMD	04/23/98	98-6/26
	20803	R162-6	AMD	04/23/98	98-6/27
	20804	R162-7	AMD	04/23/98	98-6/32
	20805	R162-10	AMD	04/23/98	98-6/33
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	21327	R645-102	5YR	07/27/98	98-16/91
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Regents (Board of), Administration	20982	R765-993	5YR	04/13/98	98-9/73
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	20695	R156-40	AMD	see CPR (First)	98-4/73
	20695	R156-40	CPR (First)	see CPR (Second)	98-8/55
	20695	R156-40	CPR (Second)	07/16/98	98-12/31
<u>REDETERMINATION</u>					
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	21078	R280-200	NSC	05/07/98	Not Printed
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	20747	R986-305	5YR	02/06/98	98-5/72
	20726	R986-305	EMR	02/12/98	98-4/123
	20770	R986-305	AMD	04/01/98	98-5/55
	20675	R986-305	AMD	05/28/98	98-3/84
	20758	R986-705	5YR	02/06/98	98-5/78
	20874	R986-705	NSC	04/01/98	Not Printed
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	20958	R386-704	REP	08/12/98	98-8/10
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	20959	R396-100	CPR	08/12/98	98-12/65
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Public Service Commission, Administration	21248	R746-110	5YR	06/26/98	98-14/102
	20964	R746-332	5YR	04/02/98	98-9/70
	20677	R746-341	AMD	04/06/98	98-3/78
	20970	R746-342	5YR	04/03/98	98-9/71
	21348	R746-344	5YR	08/11/98	98-17/62
	21349	R746-345	5YR	08/11/98	98-17/62
	20971	R746-402	5YR	04/03/98	98-9/71
	21350	R746-404	5YR	08/11/98	98-17/63
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	20835	R614-1-4	AMD	05/04/98	98-7/45
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	20676	R909-75	NSC	01/21/98	Not Printed
	20918	R909-75	AMD	05/28/98	98-7/67
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	21184	R850-80-600	AMD	07/16/98	98-12/20
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Tax Commission, Auditing	21195	R865-19S-90	AMD	08/11/98	98-13/20
	21220	R865-19S-103	AMD	08/11/98	98-13/22
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	20794	R425-1	CPR	06/03/98	98-9/61
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	20911	R714-240	R&R	05/05/98	98-7/62
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	20681	R164-6-1g	AMD	03/04/98	98-3/40
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	21280	R307-2-12	NSC	07/27/98	Not Printed
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	20857	R986-412	NSC	04/01/98	Not Printed
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	19876	R315-301-2	CPR	01/05/98	97-23/111
	20249	R315-301-2	NSC	01/05/98	Not Printed
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	20967	R315-303	5YR	04/02/98	98-9/67
	20933	R315-303-3	NSC	03/27/98	Not Printed
	20968	R315-305	5YR	04/02/98	98-9/68
	20969	R315-306	5YR	04/02/98	98-9/69
	20687	R315-306-2	NSC	02/03/98	Not Printed
	20999	R315-307	5YR	04/20/98	98-10/150
	21000	R315-308	5YR	04/20/98	98-10/150
	21001	R315-309	5YR	04/20/98	98-10/151
	20688	R315-309-3	NSC	02/03/98	Not Printed
	21002	R315-310	5YR	04/20/98	98-10/152
	20689	R315-310-7	NSC	02/03/98	Not Printed
	21003	R315-311	5YR	04/20/98	98-10/153
	21004	R315-312	5YR	04/20/98	98-10/154
	21020	R315-313	5YR	04/28/98	98-10/154
	21021	R315-314	5YR	04/28/98	98-10/155
	20690	R315-315	NSC	02/03/98	Not Printed
	21022	R315-315	5YR	04/28/98	98-10/156
	21023	R315-316	5YR	04/28/98	98-10/156
	20691	R315-316-1	NSC	02/03/98	Not Printed
	21024	R315-317	5YR	04/28/98	98-10/157
	20692	R315-317-1	NSC	02/03/98	Not Printed
	21025	R315-318	5YR	04/28/98	98-10/158
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	21159	R277-436	AMD	07/02/98	98-11/31
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	20940	R156-22	CPR	07/16/98	98-12/29
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	20819	R861-1A-24	AMD	05/04/98	98-6/56
	20820	R861-1A-25	AMD	05/04/98	98-6/57
	20821	R861-1A-26	AMD	05/04/98	98-6/57
	20822	R861-1A-27	AMD	05/04/98	98-6/59
	20823	R861-1A-28	AMD	05/04/98	98-6/59
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	21091	R861-1A-32	NSC	05/21/98	Not Printed
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	21194	R865-13G-14	AMD	08/11/98	98-13/19
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	20780	R277-504	AMD	04/07/98	98-5/10
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	20970	R746-342	5YR	04/03/98	98-9/71
	21348	R746-344	5YR	08/11/98	98-17/62
	21349	R746-345	5YR	08/11/98	98-17/62
	20592	R746-356-2	NSC	01/06/98	Not Printed
	20956	R746-360	EMR	03/31/98	98-8/59
	21317	R746-360	EMR	07/28/98	98-16/84
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	21040	R714-205	EXD	05/01/98	98-10/168
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	21254	R986-602	5YR	06/29/98	98-14/106
	20869	R986-603	NSC	04/01/98	Not Printed
	21255	R986-603	5YR	06/29/98	98-14/106
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	20675	R986-305	AMD	05/28/98	98-3/84
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	20960	R986-309-901	AMD	05/18/98	98-8/50
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	20868	R986-602	NSC	04/01/98	Not Printed
	21254	R986-602	5YR	06/29/98	98-14/106
	20869	R986-603	NSC	04/01/98	Not Printed
	21255	R986-603	5YR	06/29/98	98-14/106
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	21254	R986-602	5YR	06/29/98	98-14/106
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	20953	R313-15	NSC	04/04/98	Not Printed
	21038	R313-15	5YR	04/30/98	98-10/149
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	20686	R315-301-2	NSC	02/03/98	Not Printed
	20966	R315-302	5YR	04/02/98	98-9/66
	20761	R315-302-2	NSC	02/18/98	Not Printed
	20967	R315-303	5YR	04/02/98	98-9/67
	20933	R315-303-3	NSC	03/27/98	Not Printed
	20968	R315-305	5YR	04/02/98	98-9/68
	20969	R315-306	5YR	04/02/98	98-9/69
	20687	R315-306-2	NSC	02/03/98	Not Printed
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	20688	R315-309-3	NSC	02/03/98	Not Printed
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	21003	R315-311	5YR	04/20/98	98-10/153
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20690	R315-315	NSC	02/03/98	Not Printed	
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	20627	R746-331	NEW	04/06/98	98-3/78
	20964	R746-332	5YR	04/02/98	98-9/70
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