UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT
Filed October 16, 1998, 12:00 a.m. through November 2, 1998, 11:59 p.m.

Number 98-22
November 15, 1998

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 October 16, 1998, 12:00 a.m., and November 2, 1998, 11:59 p.m., are included in this, the November 15, 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 Rules being repealed are completely struck out.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 December 15, 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 March 15, 1999, 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.

Administrative Services, Finance
R25-4
Uniform Clothing Allowance for State Employees

NOTICE OF PROPOSED RULE
(Repeal)
DAR FILE NO.: 21622
FILED: 10/30/1998, 15:08
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: A division review determined that this rule is not required, based on Subsection 63-46a-3(4). Dealing with the uniform allowance is an internal administrative detail which is covered by state accounting policy.

SUMMARY OF THE RULE OR CHANGE: This rule is repealed in its entirety.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 63-46a-3(4)

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: Removing the rule does not change the impact of uniform allowance costs on the state budget. Uniform allowances are addressed by state policy.
❖LOCAL GOVERNMENTS: This rule applied only to state employees and therefore would have no effect on local government.
❖OTHER PERSONS: This rule applied only to state employees and therefore would have no effect on other persons.
COMPLIANCE COSTS FOR AFFECTED PERSONS: Removing the rule does not change the compliance costs of uniform allowances. Uniform allowances are addressed by state policy.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The rule on uniform allowances impacted only state employees, and removing the rule would not have an impact on businesses. Uniform allowances are addressed by state policy--Raylene G. Ireland, Executive Director.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Administrative Services
Finance
2110 State Office Building
PO Box 141031
Salt Lake City, UT 84114-1031, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Teddy Cramer at the above address, by phone at (801) 538-3450, by FAX at (801) 538-3244, or by Internet E-mail at fimain.tcramer@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 12/15/1998.

THIS RULE MAY BECOME EFFECTIVE ON: 12/16/1998

AUTHORIZED BY: Kim S. Thorne, Director of Finance

R25. Administrative Services, Finance.
[~~**R25-4. Uniform Clothing Allowance for State Employees.**~~
~~**R25-4-1. Purpose.**~~
~~The purpose of this rule is to establish procedures to be followed by departments to pay uniform allowances to state employees.~~

~~**R25-4-2. Authority.**~~
~~This rule is established pursuant to Subsection 63-1-13(1), which authorizes the Division of Finance to define fiscal procedures relating to approval and allocation of funds.~~

~~**R25-4-3. Definitions.**~~
~~(1) "Allowance" means a sum of money given to state employees to pay for uniforms which they are required to wear on the job.~~
~~(2) "Department" means all executive departments of state government.~~
~~(3) "Finance" means the Division of Finance.~~
~~(4) "State employee" means any person who is paid on the state payroll system.~~
~~(5) "Uniform" means clothing required for an employee's current job.~~

~~**R25-4-4. Departments Set Policy.**~~
~~(1) The individual departments set the policies which determine:~~
~~(a) which employees qualify for uniform allowances; and~~
~~(b) the amount of uniform allowance to be given.~~
~~(2) The allowance shall:~~
~~(a) be reasonable; and~~
~~(b) cover expenses only.~~

~~**R25-4-5. Taxability of Allowance Is Determined by IRS Rules.**~~
~~The uniform allowance may be either taxable or nontaxable, based on Internal Revenue Code section 62 (a) (2) (1992).~~

~~**KEY: finance, taxation, clothing allowance***~~
~~**1993 63A-3-101**~~]

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Administrative Services, Finance
R25-6
Relocation Allowance

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21625
FILED: 10/30/1998, 15:08
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: A division review determined that this rule needed to be updated to reflect current practices.

SUMMARY OF THE RULE OR CHANGE: The rule was updated to reflect current practices and to make minor wording revisions, including changing "allowance" to "reimbursement."

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 63A-3-103(1)

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: Amending the rule does not change the impact of relocation costs on the state budget. Relocation reimbursements are addressed by state policy.
❖LOCAL GOVERNMENTS: This rule applies only to state employees and therefore would have no effect on local government.
❖OTHER PERSONS: This rule applies only to state employees and therefore would have no effect on other persons.
COMPLIANCE COSTS FOR AFFECTED PERSONS: Amending the rule does not change the compliance costs of relocation reimbursements. They are addressed by state policy.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Amending this rule should have no impact on businesses because relocation reimbursements apply to state employees and have been addressed by state policy--Raylene G. Ireland, Executive Director.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Administrative Services
Finance
2110 State Office Building
PO Box 141031
Salt Lake City, UT 84114-1031, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Teddy Cramer at the above address, by phone at (801) 538-3450, by FAX at (801) 538-3244, or by Internet E-mail at fimain.tcramer@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 12/15/1998.

THIS RULE MAY BECOME EFFECTIVE ON: 12/16/1998

AUTHORIZED BY: Kim S. Thorne, Director of Finance

R25. Administrative Services, Finance.
R25-6. Relocation [~~Allowance~~]Reimbursement.
R25-6-1. Purpose.

The purpose of this rule is to establish procedures for payment of relocation [~~allowances~~]reimbursements to employees who move for career progression or to accept employment with the state.

R25-6-2. Authority.

This rule is established pursuant to Subsection [~~63-1-13(1)~~]63A-3-103(1), which authorizes the Director of Finance to define fiscal procedures relating to approval and allocation of funds.

R25-6-3. Definitions.

(1) "Agency" means any department, division, commission, council, board, bureau, committee, office, or other administrative subunit of state government.

[~~(2) "Allowance" means a sum of money given to state employees to pay for moving-related expenses.~~]

([~~3~~]2) "Career progression" means job advancement.

([~~4~~]3) "Department" means all executive departments of state government.

([~~5~~]4) "Finance" means the Division of Finance.

([~~6~~]5) "Policy" means the policies and procedures of the Division of Finance, as published in the "Accounting Policies and Procedures[~~ Manual~~]."

([~~7~~]6) "Relocation" means [~~to move at least 50 miles (unless otherwise approved) for purposes of employment with the state~~]the distance between the employee's old residence and new job site must increase at least 50 miles over the distance between the old residence and the old job site.

(7) "Reimbursement" means money paid to compensate an employee for money spent.

R25-6-4. Approval of Relocation Reimbursement.

All relocation [~~allowances~~]reimbursements require prior written approval of the department director or agency head.

. . . . . .

R25-6-7. Payment of Relocation Expenses.

(1) The employee or new hire makes all payments and then requests reimbursement from the state.

(2) The employee may receive an advance of up to 90 percent of the estimated cost of the moving company, the storage of goods, and/or the real estate fees.

R25-6-8. Reimbursable Categories of Expenditures.

(1) Based on Finance policy, costs reimbursable to an employee for relocation fall into the following broad categories:

(a) Mileage or common carrier expenses;

(b) Lodging and meal expenses;

(c) Costs of moving household goods and furniture; and

(d) Real estate expenses.

(2) The use of state equipment to move an employee or to pull a privately-owned trailer or trailer house is prohibited unless approved by the Director of Finance and the State Risk Manager.

. . . . . .

KEY: costs, finance, relocation benefits, reimbursements*
[~~1993~~]1998 63A-3-103

Administrative Services, Finance
R25-7
Travel-Related Reimbursements for State Employees

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21627
FILED: 10/30/1998, 15:08
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule was expanded to include greater detail on eligible travel costs and reimbursement policies.

SUMMARY OF THE RULE OR CHANGE: The rule was expanded to provide specific details regarding allowable travel charges and reimbursement procedures for state employees.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 63A-3-107

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: Amending the rule does not change the impact of travel reimbursement costs on the state budget. These costs are addressed by state policy.
❖LOCAL GOVERNMENTS: This rule applies only to state employees and therefore would have no effect on local government.
❖OTHER PERSONS: This rule applies only to state employees and therefore would have no effect on other persons.
COMPLIANCE COSTS FOR AFFECTED PERSONS: Amending the rule does not change the compliance costs of travel reimbursements. Travel reimbursements are addressed by state policy.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Amendments to R25-7 apply only to state employees and should have no impact on businesses--Raylene G. Ireland, Executive Director.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Administrative Services
Finance
2110 State Office Building
PO Box 141031
Salt Lake City, UT 84114-1031, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Teddy Cramer at the above address, by phone at (801) 538-3450, by FAX at (801) 538-3244, or by Internet E-mail at fimain.tcramer@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 12/15/1998.

THIS RULE MAY BECOME EFFECTIVE ON: 12/16/1998

AUTHORIZED BY: Kim S. Thorne, Director of Finance

R25. Administrative Services, Finance.
R25-7. Travel-Related Reimbursements for State Employees.

. . . . . .

R25-7-3. Definitions.
(1) "Agency" means any department, division, commission, council, board, bureau, committee, office, or other administrative subunit of state government.
(2) "Boards" means policy boards, advisory boards, councils, or committees within state government.
(3) "Department" means all executive departments of state government.
(4) "Finance" means the Division of Finance.
(5) "Per diem" means an allowance paid daily.
(6) "Policy" means the policies and procedures of the Division of Finance, as published in the "Accounting Policies and Procedures[~~Manual~~]."
(7) "Rate" means an amount of money.
(8) "Reimbursement" means money paid to compensate an employee for money spent.
(9) "State employee" means any person who is paid on the state payroll system.

R25-7-4. Eligible Expenses.
(1) Reimbursements are intended to cover all normal areas of expense.
(2) Requests for reimbursement must be accompanied by original receipts for all expenses except those for which flat allowance amounts are established.

R25-7-5. Approvals.
(1) For insurance purposes, all state business travel, whether reimbursed by the state or not, must have prior approval by an appropriate authority. This also includes non-state employees where the state is paying for the travel expenses.
(2) Both in-state and out-of-state travel must be approved by the department head or designee.
(3) Exceptions to the prior approval for out-of -state travel must be justified in the comments section of the Request for Out-of-State Travel Authorization, form FI 5, or on an attachment, and must be approved by the Department Director or the designee.
(4) The Department Director, the Executive Director, or the designee must approve all travel to out-of-state functions where

more than two employees from the same department are attending the same function at the same time.

R25-7-[~~4~~]6. Reimbursement for Meals.

(1) State employees who travel on state business [~~are~~]may be eligible for a meal reimbursement.

(2) The reimbursement will include tax, tips, and other expenses associated with the meal.

(3) Allowances for in-state travel differ from those for out-of-state travel.

(a) The daily travel meal allowance for in-state travel is $26.00 and is computed according to the rates listed in the following table.

TABLE 1

In-State Travel Meal Allowances

Meals	Rate
Breakfast	$5.00
Lunch	$7.00
Dinner	$14.00
Total	$26.00

(b) The daily travel meal allowance for out-of-state travel is $34.00 and is computed according to the rates listed in the following table.

TABLE 2

Out-of-State Travel Meal Allowances

Meals	Rate
Breakfast	$8.00
Lunch	$9.00
Dinner	$17.00
Total	$34.00

(4) When traveling to premium cities (New York, Los Angeles, Chicago, San Francisco, Washington DC, Boston, and Atlanta), the traveler may choose to accept the per diem rate for out-of state travel or to be reimbursed at the actual meal cost, with original receipts, up to $50 per day.

(a) The traveler must be entitled to all meals for the day in order to qualify for premium rates for a given day.

(b) The traveler must use the same method of reimbursement for an entire day.

(c) Actual meal cost includes tips.

(d) Alcoholic beverages are not reimbursable.

(5) When traveling in foreign countries, the traveler may choose to accept the per diem rate for out-of-state travel or to be reimbursed at the reasonable, actual meal cost, with original receipts.

(a) The traveler may combine the reimbursement methods during a trip; however, he must use the same method of reimbursement for an entire day.

(b) Actual meal cost includes tips.

(c) Alcoholic beverages are not reimbursable.

(6) The meal reimbursement calculation is comprised of three parts:

(a) The day the travel begins. The traveler's entitlement is determined by the time of day he leaves his home base (the location the employee leaves from and/or returns to), as illustrated in the following table.

TABLE 3

The Day Travel Begins

1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
a.m.	a.m.	p.m.	p.m.
12:01-6:00	6:01-noon	12:01-6:00	6:01-midnight
*B, L, D	*L, D	*D	*no meals
In-State			
$26.00	$21.00	$14.00	$0
Out-of-State			
$34.00	26.00	$17.00	$0

*B=Breakfast, L=Lunch, D=Dinner

(b) The days at the location.

(i) Complimentary meals of a hotel, motel, and/or association and meals included in the registration cost are deducted from the total daily meal allowance.

(ii) Meals provided on airlines will not reduce the meal allowance.

(c) The day the travel ends. The meal reimbursement the traveler is entitled to is determined by the time of day he returns to his home base, as illustrated in the following table.

TABLE 4

The Day Travel Ends

1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
a.m.	a.m.	p.m.	p.m.
12:01-6:00	6:01-noon	12:01-7:00	7:01-midnight
*no meals	*B	*B, L	*B, L, D
In-State			
$0	$5.00	$12.00	$26.00
Out-of-State			
$0	$8.00	$17.00	$34.00

*B=Breakfast, L=Lunch, D=Dinner

(7) An employee is also entitled to meals when his destination is at least 100 miles from his home base and he does not stay overnight.

(a) Breakfast is paid when the employee leaves his home base before 6 a.m.

(b) Lunch is paid when the trip meets one of the following requirements:

(i) The employee is on an officially approved trip that warrants entitlement to breakfast and dinner.

(ii) The employee leaves his home base before 10 a.m. and returns after 2 p.m.

(iii) The department director provides prior written approval based on circumstances.

(c) Dinner is paid when the employee leaves his home base and returns after 7 p.m.

R25-7-[5]7. Meal Per Diem for Statutory Non-Salaried State Boards.

[~~The cost of meals for statutory, nonsalaried per diem boards of the state may be charged as public expense where these boards meet during a mealtime and actually carry on business during the mealtime.~~](1) When a board meets and conducts business activities during mealtime, the cost of meals may be charged as public expense.

(2) Where salaried employees of the State of Utah or other advisors or consultants must, of necessity, attend such a meeting in order to permit the board to carry on its business, the meals of such employees, advisors, or consultants may also be paid. In determining whether or not the presence of such employees, advisors, or consultants is necessary, the boards are requested to restrict the attendance of such employees, advisors, or consultants to those absolutely necessary at such mealtime meetings.

R25-7-[6]8. Reimbursement for Lodging.

State employees who travel on state business [~~are~~]may be eligible for a lodging reimbursement.

(1) Lodging is reimbursed for single occupancy only.

(2) For non-conference hotel in-state travel, where the department/traveler makes reservations through the State Travel Agency, the state will reimburse the actual cost up to $55 per night plus tax except in Moab, metropolitan Salt Lake City (Draper to Centerville), Ogden city, and Provo/Orem city. In these areas, the rates are:

(a) Moab - $65 per night plus tax

(b) Metropolitan Salt Lake City (Draper to Centerville) - $68 per night plus tax

(c) Ogden city and Provo/Orem city - $63 per night plus tax

(3) The state will reimburse the actual cost per night plus tax for out-of-state travel where the department/traveler makes reservations through the State Travel Agency.

(4) The same rates apply for in-state travel for stays at a non-conference hotel where the department/traveler makes their own reservations.

(5) For out-of-state travel, the state will reimburse the actual cost up to $65 per night plus tax.

(6) Exceptions will be allowed for unusual circumstances when approved in writing by the Department Director or designee prior to the trip.

(a) For out-of state travel, the approval may be on the form FI 5.

(b) Attach the written approval to the Travel Reimbursement Request, form FI 51A or FI 51.

(7) For stays at a conference hotel, the state will reimburse the actual cost plus tax for both in-state and out-of-state travel. The traveler must include the conference registration brochure with the Travel Reimbursement Request, form FI 51A or FI 51.

(8) A proper receipt for lodging accommodations must accompany each request for reimbursement.

(a) The tissue copy of the MasterCard Corporate charge receipt is not acceptable.

(b) A proper receipt is a copy of the registration form generally used by motels and hotels which includes the following information: name of motel/hotel, street address, town and state, telephone number, current date, name of person/persons staying at the motel/hotel, date of occupancy, amount and date paid, signature of agent, number in the party, and single or double occupancy.

(9) Travelers may also elect to stay with friends or relatives or use their personal campers or trailer homes instead of staying in a hotel.

(a) With proof of staying overnight away from home on approved state business, the traveler will be reimbursed the following:

(i) $20 per night with no receipts required or

(ii) Actual cost up to $30 per night with a signed receipt from a facility such as a campground or trailer park, not from a private residence.

(10) Travelers who are on assignment away from their home base for longer than 90 days will be reimbursed as follows:

(a) First 30 days - follow regular rules for lodging and meals. Lodging receipt is required.

(b) After 30 days - $46 per day for lodging and meals. No receipt is required.

R25-7-[7]9. Reimbursement for Incidentals.

State employees who travel on state business [~~are~~]may be eligible for a reimbursement for incidental expenses.

(1) Travelers will be reimbursed for actual out-of-pocket costs for incidental items such as baggage tips.

(a) Tips for maid service, doormen, and meals are not reimbursable.

(b) No other gratuities will be reimbursed.

(c) Include an original receipt for each individual incidental item above $20.00.

(2) The state will reimburse incidental ground transportation and parking expenses.

(a) Document all official business use of taxi, bus, parking, and other ground transportation including dates, destinations, parking locations, receipts, and amounts.

(b) Personal use of such transportation to restaurants is not reimbursable.

(c) Parking at the Salt Lake City airport will be reimbursed at a maximum of the airport long-term parking rate with a receipt.

(3) Registration should be paid in advance on a state warrant.

(a) A copy of the approved FI 5 form must be included with the Payment Voucher for out-of-state registrations.

(b) If a traveler must pay the registration when he arrives, process a Payment Voucher and have the traveler take the state warrant with him.

(4) Telephone calls related to state business are reimbursed at the actual cost.

(a) List the amount of these calls separately on the Travel Reimbursement Request, form FI 51A or FI 51.

(b) The traveler must provide an original lodging receipt or original personal phone bill showing the phone number called and the dollar amount for business telephone calls and personal telephone calls made during stays of five nights or more.

(5) Allowances for personal telephone calls made while out of town on state business overnight will be based on the number of nights away from home.

(a) Four nights or less - actual amount up to $2.50 per night (documentation is not required for personal phone calls made during stays of four nights or less)

(b) Five to eleven nights - actual amount up to $20.00

(c) Twelve nights to thirty nights - actual amount up to $30.00

(d) More than thirty days - start over

(6) Actual laundry expenses up to $18.00 per week will be allowed for trips longer than seven days, beginning after the seventh night out.

(a) The traveler must provide receipts for the laundry expense.

(b) For use of coin-operated laundry facilities, the traveler must provide a list of dates, locations, and amounts.

(7) An amount of $5 per day will be allowed for travelers away in excess of six consecutive nights.

(a) This amount covers miscellaneous incidentals not covered in this rule.

(b) This allowance is not available for travelers going to extended conferences.

R25-7-[8]10. Reimbursement for Transportation.

State employees who travel on state business [~~are~~]may be eligible for a transportation reimbursement.

(1) Air transportation is limited to Air Coach or Excursion class.

(a) All reservations (in-state and out-of-state) should be made through the State Travel Office for the least expensive air fare available at the time reservations are made.

(b) Only one change fee per trip will be reimbursed.

(c) The explanation for the change and any other exception to this rule must be given and approved by the Department Director or designee.

(d) In order to preserve insurance coverage, travelers must fly on tickets in their names only.

(2) Travelers may be reimbursed for mileage to and from the airport and long-term parking or away-from-the-airport parking.

(a) The parking receipt must be included with the Travel Reimbursement Request, form FI 51A or FI 51.

(b) Travelers may be reimbursed for mileage to and from the airport to allow someone to drop them off and to pick them up.

(3) Travelers may use private vehicles with prior approval from the Department Director or designee.

(a) Only one person in a vehicle may receive the reimbursement, regardless of the number of people in the vehicle.

(b) Reimbursement for private vehicle use is reimbursed at the rate of 31 cents per mile.

(c) Exceptions must be approved in writing by the Director of Finance.

(d) Mileage will be computed from the latest official state road map and will be limited to the most economical, usually traveled routes.

(e) The mileage rate is all-inclusive, and additional expenses such as parking and storage will not be allowed unless approved in writing by the Department Director.

(f) An approved Private Vehicle Usage Report, form FI 40, should be included with the department's payroll documentation reporting miles driven on state business during the payroll period.

(g) Departments may allow mileage reimbursement on an approved Travel Reimbursement Request, form FI 51A or FI 51, if other costs associated with the trip are to be reimbursed at the same time.

(4) A traveler may choose to drive instead of flying if approved by the Department Director.

(a) If the traveler drives a state-owned vehicle, allowable reimbursement will include allowable expenses for the same period of time that would have occurred had the employee flown, plus incidental expenses such as toll fees and parking fees.

(b) If the traveler drives a privately-owned vehicle, reimbursement will be at the approved mileage rate or the airplane fare, whichever is less, unless otherwise approved by the Department Director.

(i) The airline ticket cost in effect between 15 and 30 days prior to the departure date will be used when calculating the cost of travel for comparison to private vehicle cost.

(ii) An itinerary printout which is available through the State Travel Office is required when the traveler is taking a private vehicle.

(c) The traveler may be reimbursed for meals and lodging for a reasonable amount of travel time; however, the total cost of the trip must not exceed the equivalent cost of an airline trip.

(d) These reimbursements are all-inclusive, and additional expenses such as parking and toll fees will not be allowed unless approved in writing by the Department Director.

(e) When submitting the reimbursement form, attach a schedule comparing the cost of driving with the cost of flying. The schedule should show that the total cost of the trip driving was less than or equal to the total cost of the trip flying.

(f) If the travel time taken for driving during the employee's normal work week is greater than that which would have occurred had the employee flown, the excess time used will be taken as annual leave and deducted on the Time and Attendance System.

(5) Use of rental vehicles must be approved in writing in advance by the Department Director.

(a) An exception to advance approval of the use of rental vehicles shall be fully explained in writing with the request for reimbursement and approved by the Department Director.

(b) Detailed explanation is required if a rental vehicle is requested for a traveler staying at a conference hotel.

(c) When making rental car arrangements through the State Travel Agency, reserve the vehicle you need. Upgrades in size or model made when picking up the rental vehicle will not be reimbursed.

(i) State employees should rent vehicles to be used for state business in their own names, using the state contract so they will have full coverage under the state's liability insurance.

(ii) Rental vehicle reservations not made through the travel agency must be approved in advance by the Department Director.

(iii) The traveler will be reimbursed the actual rate charged by the rental agency.

(iv) The traveler must have approval for a rental car in order to be reimbursed for rental car parking.

(6) Travel by private airplane must be approved in advance by the Department Director or designee.

(a) The pilot must certify to the Department Director that he is certified to fly the plane being used for state business.

(b) If the plane is owned by the pilot/employee, he must certify the existence of at least $500,000 of liability insurance coverage.

(c) If the plane is a rental, the pilot must provide written certification from the rental agency that his insurance covers the traveler and the state as insured. The insurance must be adequate to cover any physical damage to the plane and at least $500,000 for liability coverage.

(d) Reimbursement will be made at 50 cents per mile.

(e) Mileage calculation is based on road mileage computed from the latest official state road map and is limited to the most economical, usually-traveled route.

(f) An employee may be reimbursed for rental of the aircraft and purchase of gasoline and oil instead of the amount per mile,

with prior approval from the Department Director, when it is cost effective for the state.

(7) Travel by private motorcycle must be approved prior to the trip by the Department Director or designee. Travel will be reimbursed at 16 cents per mile.

(8) A car allowance may be allowed in lieu of mileage reimbursement in certain cases. Prior written approval from the Department Director, the Department of Administrative Services, and the Governor is required.

KEY: air travel, per diem allowance, state employees, transportation
[~~1993~~]1998 **63A-3-107**
63A-3-106

Administrative Services, Finance
R25-8
Meal Allowance

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21629
FILED: 10/30/1998, 15:08
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule was amended to clarify that this is an allowance and not a reimbursement. Amending the rule does not change the way the allowance is applied.

SUMMARY OF THE RULE OR CHANGE: Wording has been changed to clarify that this is an allowance, not a reimbursement. A fixed allowance has always been given, regardless of the actual meal cost.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 63A-3-103

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: Amending the rule does not change the impact of the meal allowance on the state budget. These costs are addressed by state policy.
❖LOCAL GOVERNMENTS: This rule applies only to state employees and has no effect on local government.
❖OTHER PERSONS: This rule applies only to state employees and therefore would have no effect on other persons.
COMPLIANCE COSTS FOR AFFECTED PERSONS: Amending the rule does not change the compliance costs of meal allowances. They are addressed by state policy.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: R25-8 applies only to state employees and does not impact businesses--Raylene G. Ireland, Executive Director.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Administrative Services
Finance
2110 State Office Building
PO Box 141031
Salt Lake City, UT 84114-1031, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Teddy Cramer at the above address, by phone at (801) 538-3450, by FAX at (801) 538-3244, or by Internet E-mail at fimain.tcramer@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 12/15/1998.

THIS RULE MAY BECOME EFFECTIVE ON: 12/16/1998

AUTHORIZED BY: Kim S. Thorne, Director of Finance

R25. Administrative Services, Finance.
R25-8. Meal Allowance.

. . . . . .

R25-8-3. Definitions.

(1) "Meal allowance" means a sum of money given to state employees to pay for meals which may be authorized when work hours are in excess of regularly scheduled hours during a 24-hour period.

(2) "Department" means all executive departments of state government.

(3) "Finance" means the Division of Finance.

(4) "Policy" means the policies and procedures of the Division of Finance, as published in the "Accounting Policies and Procedures[~~ Manual~~]."

(5) "Rate" means an amount of money.

[~~(6) "Reimbursement" means money paid to compensate an employee for money spent.~~]

([~~7~~]6) "State employee" means any person who is paid on the state payroll system.

R25-8-4. [~~Reimbursement for Meals~~]Allowance.

(1) A state employee required to work in excess of regularly scheduled hours [~~during a 24-hour period~~]may be authorized by his department to receive a nontaxable meal allowance [~~reimbursement~~]up to $7 during a 24-hour period.

(a) The employee is not on travel status.

([~~a~~]b) The total hours worked during the 24-hour period shall be three hours or more in excess of the regularly scheduled hours.

([~~b~~]c) The allowance is not considered an absolute right of the employee, and is authorized at the discretion of the department head or his designee.

([~~c~~]d) The allowance may not be given in addition to any other meal allowance or per diem.

([~~d~~]e) [~~A meal allowance reimbursement is considered taxable income to the employee, based on Internal Revenue Code section 132 (e) (1986)~~]The Employee Reimbursement/Earnings Request, form FI 48, should be completed and approved for the reimbursement of the meal allowance.

KEY: finance, rates, state employees, reimbursements*
[~~1993~~]1998 **63A-3-103**

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Administrative Services, Finance
R25-9
Payment of Professional Dues and License Fees

NOTICE OF PROPOSED RULE
(Repeal)
DAR FILE NO.: 21630
FILED: 10/30/1998, 15:08
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: A division review determined that this rule is not required, based on Subsection 63-46a-3(4). Dealing with payment of professional dues and license fees is an internal administrative detail which is covered by state accounting policy.

SUMMARY OF THE RULE OR CHANGE: This rule is repealed in its entirety.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 63-46a-3(4)

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: Removing the rule does not impact the state budget related to payment of professional dues and license fees. The payment of these fees is covered by state policy.
❖LOCAL GOVERNMENTS: Payment of professional dues and license fees applies only to state employees.
❖OTHER PERSONS: Payment of these fees applies only to state employees.
COMPLIANCE COSTS FOR AFFECTED PERSONS: Removing the rule does not change the compliance costs for payment of professional dues or license fees. These fees are addressed by state policy.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no fiscal impact on businesses because this rule applies only to state employees and is covered by state policy--Raylene G. Ireland, Executive Ireland.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Administrative Services
Finance
2110 State Office Building
PO Box 141031
Salt Lake City, UT 84114-1031, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Teddy Cramer at the above address, by phone at (801) 538-3450, by FAX at (801) 538-3244, or by Internet E-mail at fimain.tcramer@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 12/15/1998.

THIS RULE MAY BECOME EFFECTIVE ON: 12/16/1998

AUTHORIZED BY: Kim S. Thorne, Director of Finance

R25. Administrative Services, Finance.
[**~~R25-9. Payment of Professional Dues and License Fees.~~**
~~R25-9-1. Purpose.~~
~~The purpose of this rule is to establish procedures to be followed by agencies to pay professional dues and license fees for state employees.~~

~~R25-9-2. Authority.~~
~~This rule is established pursuant to Section 63A-3-103, which authorizes the Division of Finance to define fiscal procedures.~~

~~R25-9-3. Definitions.~~
~~(1) "Agency" means any department, division, commission, council, board, bureau, committee, office, or other subunit of state government.~~
~~(2) "Department" means all executive departments of state government, including commissions, boards, and other entities.~~
~~(3) "Finance" means the Division of Finance.~~
~~(4) "Policy" means the policies and procedures of the Division of Finance, as published in the "Accounting Policies and Procedures Manual."~~
~~(5) "State employee" means any person who is paid on the state payroll system.~~

~~R25-9-4. Conditions for Approval of Payment for Professional Dues or License Fees.~~
~~Professional dues or license fees related to the job duties of state employees may be paid from state funds with the approval of the Department Director or his assistants.~~

~~KEY: finance, state employees, professional dues*, license fees* 1993 63A-3-103~~]

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Administrative Services, Finance
R25-10
Honorariums

NOTICE OF PROPOSED RULE
(Repeal)
DAR FILE NO.: 21631
FILED: 10/30/1998, 15:08
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: A division review determined that this rule is not required, based on Subsection 63-46a-3(4). Dealing with honorariums is an internal administrative detail which is covered by state accounting policy.

SUMMARY OF THE RULE OR CHANGE: This rule is repealed in its entirety.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 63-46a-3(4)

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: Removing the rule does not change the impact of honorarium costs on the state budget. Payment of these costs is covered by state policy.
❖LOCAL GOVERNMENTS: The rule on honorariums applied only to state employees and therefore would have no effect on local government.
❖OTHER PERSONS: This rule applied only to state employees and therefore would not impact other persons.
COMPLIANCE COSTS FOR AFFECTED PERSONS: Removing the rule on honorariums does not change any compliance costs. Honorariums are covered by state policy.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The rule on honorariums applies only to state employees and has no impact on businesses--Raylene G. Ireland, Executive Director.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Administrative Services
Finance
2110 State Office Building
PO Box 141031
Salt Lake City, UT 84114-1031, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Teddy Cramer at the above address, by phone at (801) 538-3450, by FAX at (801) 538-3244, or by Internet E-mail at fimain.tcramer@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 12/15/1998.

THIS RULE MAY BECOME EFFECTIVE ON: 12/16/1998

AUTHORIZED BY: Kim S. Thorne, Director of Finance

R25. Administrative Services, Finance.
[~~**R25-10. Honorariums.**~~
~~**R25-10-1. Purpose.**~~
~~The purpose of this rule is to establish procedures to be followed by agencies concerning honorariums received by state employees for speaking engagements and other consultative services.~~

~~**R25-10-2. Authority.**~~
~~This rule is established pursuant to Section 63A-3-103, which authorizes the Division of Finance to define fiscal procedures.~~

~~**R25-10-3. Definitions.**~~
~~(1) "Agency" means any department, division, commission, council, board, bureau, committee, office, or other subunit of state government.~~
~~(2) "Department" means all executive departments of state government.~~
~~(3) "Finance" means the Division of Finance.~~
~~(4) "Honorarium" means a voluntary payment made for services where no fee is legally required.~~
~~(5) "Policy" means the policies and procedures of the Division of Finance.~~
~~(6) "State employee" means any person who is paid on the state payroll system.~~

~~**R25-10-4. Handling of Honorariums.**~~
~~(1) State employees who travel at state expense and/or on state time who are granted honorariums for speaking or for rendering consultative services, shall remit the amount of such honorarium to the agency in which they are employed.~~
~~(a) The department will handle these funds as refunds of expenses.~~
~~(2) State employees who travel at their own expense and on their own time may retain honorariums.~~

~~**KEY: finance, state employees, honorariums***~~
~~**1993** **63A-3-103**~~]

Administrative Services, Finance
R25-11
Service and Retirement Awards for State Employees

NOTICE OF PROPOSED RULE
(Repeal)
DAR FILE NO.: 21632
FILED: 10/30/1998, 15:08
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: A division review determined that this rule is not required, based on Subsection 63-46a-3(4). Dealing with service and retirement awards is an internal administrative detail which is covered by state accounting policy.

SUMMARY OF THE RULE OR CHANGE: This rule is repealed in its entirety.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 63-46a-3(4)

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: Removing the rule does not change the impact of service and retirement awards costs on the state budget. These are addressed by state policy.
❖LOCAL GOVERNMENTS: This rule applied only to service and retirement awards for state employees and has no impact on local government.
❖OTHER PERSONS: This rule applied only to state employees.
COMPLIANCE COSTS FOR AFFECTED PERSONS: Removing the rule does not change the compliance costs of service and retirement awards for state employees. These costs are addressed by state policy.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: R25-11 applies only to state employees and should have no impact on businesses--Raylene G. Ireland, Executive Director.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Administrative Services
Finance
2110 State Office Building
PO Box 141031
Salt Lake City, UT 84114-1031, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Teddy Cramer at the above address, by phone at (801) 538-3450, by FAX at (801) 538-3244, or by Internet E-mail at fimain.tcramer@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 12/15/1998.

THIS RULE MAY BECOME EFFECTIVE ON: 12/16/1998

AUTHORIZED BY: Kim S. Thorne, Director of Finance

R25. Administrative Services, Finance.
[~~**R25-11. Service and Retirement Awards for State Employees.**~~
~~**R25-11-1. Purpose.**~~
~~The purpose of this rule is to establish procedures to be followed by departments to recognize their employees for years of service or to honor their employees who are retiring.~~

~~**R25-11-2. Authority.**~~
~~This rule is established pursuant to Subsection 63A-3-103(1), which authorizes the Division of Finance to define fiscal procedures relating to approval and allocation of funds.~~

~~**R25-11-3. Definitions.**~~
~~(1) "Department" means all executive departments of state government.~~
~~(2) "Employee" means any person who is paid on the state payroll system.~~
~~(3) "Finance" means the Division of Finance.~~
~~(4) "Policy" means the policies and procedures of the Division of Finance, as published in the "Accounting Policies and Procedures Manual."~~

~~**R25-11-4. Awards for Service or Retirement.**~~
~~Departments may give awards to recognize employees for years of service or to honor employees who are retiring.~~

~~**R25-11-5. Standardized Maximum Expenditures.**~~
~~(1) For service awards, departments shall not exceed the maximum expenditures allowed by the Department of Human Resource Management (DHRM).~~
~~(2) For retirements awards, departments shall not use state funds in excess of the limit set by DHRM. They may supplement retirement gifts using donations from co-workers; however, departments shall maintain the public trust by avoiding unusual or lavish gifts.~~

~~**R25-11-6. Cash Equivalent Awards.**~~
~~(1) Departments may give cash awards, including any of the following:~~
~~(a) Gift certificates;~~
~~(b) Savings bonds;~~
~~(c) Checks;~~
~~(d) Currency.~~
~~(2) Cash awards are considered taxable, based on Internal Revenue Code section 61 (a) (1) (1988).~~

~~**R25-11-7. Noncash Awards.**~~
~~(1) Departments may give noncash awards, including the following:~~
~~(a) Pins;~~
~~(b) Jewelry;~~
~~(c) Plaques;~~
~~(d) Clocks;~~
~~(e) Pen and pencil sets;~~
~~(f) Paperweights.~~
~~(2) Noncash awards are not considered taxable by the Internal Revenue Service.~~

~~**R25-11-8. Refreshments.**~~
~~Departments may serve refreshments at award functions, based on Finance policy.~~

~~**R25-11-9. Invitations and Decorations.**~~
~~(1) Departments shall not use state funds for floral arrangements or printed invitations.~~

~~(2) Departments may send invitations using flyers or letterhead.~~

~~**KEY: gifts*, recognition*, retirement, service***~~
~~**1993 63A-3-103(1)**~~]

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Administrative Services, Finance
R25-12
American Express Cards

NOTICE OF PROPOSED RULE
(Repeal)
DAR FILE NO.: 21633
FILED: 10/30/1998, 15:08
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: A division review determined that this rule is not required, based on Subsection 63-46a-3(4). Dealing with state travel cards is an internal administrative detail which is covered by state accounting policy.

SUMMARY OF THE RULE OR CHANGE: This rule is repealed in its entirety.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 63-46a-3(4)

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: Removing the rule does not change the impact of American Express card usage costs on the state budget. A new travel card program was implemented and is covered by state policy.
❖LOCAL GOVERNMENTS: Removing the rule should not impact local government because the rule applies only to state employees.
❖OTHER PERSONS: This rule applies only to state employees.
COMPLIANCE COSTS FOR AFFECTED PERSONS: Removing the rule does not change the compliance costs. The use of a state travel card is addressed by state policy.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule applies only to state employees and should have no impact on businesses--Raylene G. Ireland, Executive Director.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Administrative Services
Finance
2110 State Office Building
PO Box 141031
Salt Lake City, UT 84114-1031, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Teddy Cramer at the above address, by phone at (801) 538-3450, by FAX at (801) 538-3244, or by Internet E-mail at fimain.tcramer@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 12/15/1998.

THIS RULE MAY BECOME EFFECTIVE ON: 12/16/1998

AUTHORIZED BY: Kim S. Thorne, Director of Finance

R25. Administrative Services, Finance.
[~~**R25-12. American Express Cards.**~~
~~**R25-12-1. Purpose.**~~
~~The purpose of this rule is to establish procedures to be followed by departments to allow their employees to use the American Express Corporate card for state business expenses.~~

~~**R25-12-2. Authority.**~~
~~This rule is established pursuant to Subsection 63A-3-103(1)(b), which authorizes the Division of Finance to define fiscal procedures relating to the approval and allocation of funds.~~

~~**R25-12-3. Definitions.**~~
~~(1) "Department" means all executive departments of state government.~~
~~(2) "Employee" means any person who is paid on the state payroll system.~~
~~(3) "Finance" means the Division of Finance.~~
~~(4) "Policy" means the policies and procedures of the Division of Finance, as published in the "Accounting Policies and Procedures Manual."~~

~~**R25-12-4. Acceptable Use of Card.**~~
~~(1) Departments may request American Express Corporate cards for employees to use when they are on official state business.~~
~~(2) Employees shall not use these cards to pay for personal non-official expenses.~~
~~(a) The state shall withdraw the card privilege and shall take disciplinary action against any employee who misuses the card.~~

~~**R25-12-5. Allowable Expenses.**~~
~~(1) Expenses the employee may charge on the American Express Corporate card include any of the following:~~
~~(a) Lodging;~~
~~(b) Meals;~~
~~(c) Car rental;~~
~~(d) Books, fees, or registration for a workshop or seminar.~~
~~(2) Employees shall not charge air travel on the American Express Corporate card. Air travel expenses shall be charged to the American Express BTA card.~~

~~**R25-12-6. Responsibility for Charges.**~~
~~Departments are responsible for American Express card charges not paid by their employees, based on procedures established by Finance policy.~~

~~**R25-12-7. Return of American Express Card.**~~

~~Upon termination or transfer, the employee shall return the American Express card to the department, based on procedures established by Finance policy.~~

~~**KEY: business, credit cards, expenses*, travel***~~
~~**1993 63A-3-103(1)(b)**~~
~~**63A-3-107**~~]

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Agriculture and Food, Regulatory Services

R70-510

Standards for Meat and Meat Products

NOTICE OF PROPOSED RULE
(Repeal)
DAR FILE NO.: 21620
FILED: 10/29/1998, 14:26
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: These rules were established to set sanitation requirements for meat establishments.

SUMMARY OF THE RULE OR CHANGE: This rule is repealed in its entirety.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 4-5-6, and Subsection 4-2-2(j)

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: State budget is not affected by the repeal of this rule.
❖LOCAL GOVERNMENTS: Local government is not affected by the repeal of this rule.
❖OTHER PERSONS: Other persons are not affected by the repeal of this rule.
COMPLIANCE COSTS FOR AFFECTED PERSONS: Since other persons are not affected, there will be no compliance cost.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule is repealed. The Federal law, which preempts this rule, is adopted in the Agriculture Food Code.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Agriculture and Food
Regulatory Services
350 North Redwood Road
PO Box 146500
Salt Lake City, UT 84114-6500, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Doug Pearson at the above address, by phone at (801) 538-7144, by FAX at (801) 538-7126, or by Internet E-mail at agmain.dpearson@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 12/15/1998.

THIS RULE MAY BECOME EFFECTIVE ON: 12/16/1998

AUTHORIZED BY: Cary G. Peterson, Commissioner

R70. Agriculture and Food, Regulatory Services.
[~~**R70-510. Standards for Meat and Meat Products.**~~
~~**R70-510-1. Authority.**~~
~~Promulgated Under Authority of Sections 4-5-6 and 4-2-2(j).~~

~~**R70-510-2. Application.**~~
~~A. These rules shall apply to retail meat establishments.~~
~~B. These rules shall not apply to:~~
~~1. Hotels, restaurants and institutions where meat products are prepared for immediate consumption.~~
~~2. Federally and state inspected meat plants.~~

~~**R70-510-3. Sanitation and Construction.**~~
~~Sanitation in establishments covered by this rule shall meet those requirements found in the Utah Food Establishment Sanitation Rule.~~

~~**R70-510-4. Standards.**~~
~~A. "Chopped Beef" or "Ground Beef" shall consist of chopped fresh and/or frozen beef skeletal muscle with or without seasoning and without the addition of beef fat as such, shall not contain more than 30 percent fat, and shall not contain added water, binders, extenders or heart muscle. When beef cheek meat (trimmed beef cheeks) is used in the preparation of chopped or ground beef, the amount of such cheek meat shall be limited to 25 percent. Heart muscle may be present only in natural proportions, one heart per complete carcass.~~
~~1. To call a product lean hamburger, lean ground beef or lean chopped beef, it shall meet the definition as in (A) with the exception that fat shall not exceed 10 grams total fat, with less than 4.5 grams saturated fat and less than 95 mg cholesterol per reference amount and per 100 grams.~~
~~2. To call a product extra lean hamburger, extra-lean ground beef or extra lean chopped beef, it shall meet the definition as explained in (A) above with the exception it shall not exceed 5 grams total fat, less than 2 grams saturated fat, and less than 95 mg cholesterol per reference amount and per 100 grams.~~
~~3. Ground beef, chopped beef or hamburger may be identified by specific cuts of meat, such as ground chuck, ground round, ground sirloin, etc. as part of a program monitored by in-plant official inspection. All products must be received as ground chuck, ground round, ground sirloin, etc., from official plants bearing appropriate labeling and marks of inspection. The retailer may only use labels provided by the official plants. All labels must bear nutritional facts statements as required by The Nutritional Labeling~~

~~and Education Act of 1990. (Authority: 21 U.S.C. 601-695, 7 CFR 2.17, 2.55)~~

~~B. "Hamburger" shall consist of chopped fresh and/or frozen beef skeletal muscle with or without the addition of beef fat as such and/or seasoning, shall not contain more than 30 percent fat, and shall not contain added water, binders, extenders or heart. Beef cheek meat (trimmed beef cheeks) may be used in preparation of hamburger only in accordance with the conditions prescribed in paragraph A in this section.~~

~~C. Meat Products with Extender shall meet the following standards.~~

~~1. Product labeled as "(species) Pattie" or "(species) Pattie Mix" must consist of chopped fresh or frozen meat (of the species named) with or without the addition of fat and seasoning. Extenders and binders may be used with or without the addition of water in amounts so that the product characteristics are essentially that of a meat pattie. Product labeled (species) pattie must be in pattie form.~~

~~2. "Ground Beef with Hydrated Soy Extender" shall consist of chopped fresh and/or frozen beef skeletal muscle. A ratio of one soy to two water will be allowed to be added to regular ground beef. A limit of 25 percent of the soy-water mixture will be allowed in a finished product. A fat limit of 22.5 percent shall be the maximum for this finished product.~~

~~3. "Beef with Variety Meats" shall consist of chopped fresh or frozen beef skeletal muscle, variety meats not exceeding 15 percent, and added water not exceeding 10 percent of the weight of the finished product. The percent fat shall not exceed 30 percent. An ingredient statement shall be on the label of this product, listing all ingredients in descending order of predominance by weight and listing the specific names of the variety meats (by-products). Variety meats shall include heart, tongue, esophagus, diaphragm and any other product listed as a meat by product in Title 9, Chapter III, subchapter A, part 301 of the Federal Meat Inspection Regulations as adopted by Utah's rule governing meat inspection, R58-10.~~

~~4. The price-weight label shall show the name of the product ("Ground Beef with Hydrated Soy Extender", or "Beef with Variety Meats") and include an ingredient statement. All labeling must conform to The Nutritional Labeling and Education Act of 1990. (Authority: 21 U.S.C. 601-695; 7 CFR 2.17, 2.55)~~

~~D. Fabricated Steak. Fabricated beef steaks, veal steaks, beef and veal steaks, or veal and beef steaks, and similar products, such as those labeled "Beef Steak, Chopped, Shaped, Frozen", "Minute Steak, Formed, Wafer Sliced, Frozen", "Veal Steaks, Beef Added, Chopped-Molded-Cubed-Frozen, Hydrolyzed Plant Protein, and Flavoring" shall be prepared by comminuting and forming the product from fresh and/or frozen meat, with or without added fat, of the species indicated on the label. Such products shall not contain added water, binders, or extenders. Beef cheek meat (trimmed beef cheeks) may be used in the preparation of fabricated beef steaks only in accordance with the conditions prescribed in section A.~~

~~E. Partially Defatted Beef Fatty Tissue is a beef by-product derived from the low temperature rendering (not exceeding 120 degrees Fahrenheit) of fresh beef fatty tissue. Such product shall have a pinkish color and a fresh odor and appearance.~~

~~F. All ground meat product shall be labeled in accordance with The Nutritional Labeling and Education Act of 1990. The Food Establishment will be held to the labeled fat percentage and all ingredients labeling of ground products. (Authority: 21 U.S.C. 601-695; 7 CFR 2.17, 2.55)~~

~~**R70-510-5. Samples.**~~

~~Samples may be taken as prescribed in Subsection 4-5-18(1)(d).~~

~~**R70-510-6. Ingredient Listing.**~~

~~Those non-standardized meat products with ingredients added and sold from a display case shall have a sign, placard, poster or other labeling device of adequate dimensions placed in a prominent and conspicuous position that shows the name of the product and its list of ingredients.~~

~~**R70-510-7. Chemical Substances.**~~

~~Chemical substances are prohibited in any meat food products unless they are specifically permitted by these rules.~~

~~**R70-510-8. Federal Regulations Adopted by Reference.**~~

~~Exceptions to R70-510-4 are defined in regulations which were promulgated by the United States Department of Agriculture (or designated agencies), as contained in 9 CFR, Chapter III, Subchapters A and C, the January 1, 1990 edition; which is hereby adopted by the department, and incorporated by reference within this rule.~~

~~**KEY: inspections**~~
~~**1994** **4-5-6**~~
~~**4-2-2(j)**~~]

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Agriculture and Food, Regulatory Services

R70-520

Slaughtering and Processing of Rabbits

NOTICE OF PROPOSED RULE
(Repeal)
DAR FILE NO.: 21621
FILED: 10/29/1998, 14:26
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule establishes the requirements for slaughtering and marketing rabbits.

SUMMARY OF THE RULE OR CHANGE: This rule is repealed in its entirety.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 4-5-17 and 4-2-2

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: State budget is not affected by the repeal of this rule.
❖LOCAL GOVERNMENTS: Local government is not affected by the repeal of this rule.
❖OTHER PERSONS: Other persons are not affected by the repeal of this rule.
COMPLIANCE COSTS FOR AFFECTED PERSONS: Since other persons are not affected, there will be no compliance cost.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule is repealed. The Federal law, which preempts this rule, is adopted in the Agriculture Food Code.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Agriculture and Food
Regulatory Services
350 North Redwood Road
PO Box 146500
Salt Lake City, UT 84114-6500, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Doug Pearson at the above address, by phone at (801) 538-7144, by FAX at (801) 538-7126, or by Internet E-mail at agmain.dpearson@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 12/15/1998.

THIS RULE MAY BECOME EFFECTIVE ON: 12/16/1998

AUTHORIZED BY: Cary G. Peterson, Commissioner

R70. Agriculture and Food, Regulatory Services.
[~~**R70-520. Slaughtering and Processing of Rabbits.**~~
~~**R70-520-1. Authority.**~~
~~A. Promulgated Under the Authority of Section 4-5-17 and Section 4-2-2.~~
~~B. Scope: This rule establishes the requirements for slaughtering and marketing rabbits and shall apply to any processor using the official marks of certification for rabbits as outlined in this rule.~~

~~**R70-520-2. General Definitions.**~~
~~A. "Department" means the Utah Department of Agriculture and Food.~~
~~B. "Plant" means any facility which is for the slaughtering, eviscerating, processing, packaging or in any other way preparing rabbits for sale, with the exception of raising rabbits.~~

~~**R70-520-3. Application.**~~
~~Rabbit processors shall submit a written request to the department for inspection services and submit plans to operate as a rabbit processor. No plant may operate as a rabbit processing facility as herein outlined without approval of their application by the department.~~

~~**R70-520-4. Inspection.**~~
~~A. For the purpose of enforcing these rules a duly appointed representative of the department may at reasonable times enter the plant and~~
~~1. make an inspection under the parameters of these rules;~~
~~2. collect samples necessary for the enforcement of these rules;~~
~~3. have access to and copy, if deemed necessary, all records pertinent to the operation of the plant.~~
~~B. The owners or operators of the plant shall be responsible for providing in-plant inspection to carry out the duties outlined in this rule.~~
~~C. The owners or operators of the plant shall be responsible for reimbursement to the department of all required services and for any special services performed by the department not included in Section R70-420-3.~~

~~**R70-520-5. Construction and Sanitation Requirements.**~~
~~A. The plant shall maintain their facility's construction and maintenance as stated in Section R70-530, with the following additions:~~
~~1. The facility shall be large enough to adequately process rabbits in a sanitary manner.~~
~~2. The facility shall have at least two rooms partitioned to isolate the packaging area from the slaughtering and skinning area.~~
~~3. If a diseased animal enters the plant, all equipment and utensils which have been used to process that animal shall be cleaned and sanitized in an approved manner.~~

~~**R70-520-6. Ante-mortem Inspection.**~~
~~All rabbits shall be inspected prior to slaughter for any diseases. If systemic symptoms of disease, injury or contamination are noted, the rabbit shall be killed and disposed of in a manner which will preclude other carcass contamination, the spread of disease and also preclude the diseased carcass' use as food. This inspection shall be made by a trained employee (inspector) who has been reviewed and approved by the department. Ante-mortem inspection techniques and records must be reviewed monthly by the veterinarian. No slaughtering shall take place unless an in-plant inspector is present to perform ante-mortem inspection.~~

~~**R70-520-7. Post-Mortem Inspection.**~~
~~All carcasses and parts shall be inspected during processing to ensure only wholesome animals are sold, moved in commerce or consumed. All diseased or contaminated rabbits shall be disposed of in a manner which will preclude other carcass contamination or the spread of disease and also preclude the diseased carcass' use as food. This inspection shall be made by a trained employee (inspector) who has been reviewed and approved by the department. Post-mortem inspection, techniques, and records shall be reviewed monthly by the veterinarian. No slaughtering shall take place unless an approved in-plant inspector is present to perform post-mortem inspection.~~

~~**R70-520-8. Denaturing of Rabbit Carcasses.**~~

~~All animals not passing ante-mortem inspection shall be killed and denatured, and animals not passing post-mortem inspection shall be denatured. Only denaturants approved by the department shall be used, and carcasses shall be disposed of at a location approved by the department or local health department.~~

~~**R70-520-9. Official Marks of Inspection for Rabbits.**~~

~~A. Products coming from a plant covered by these rules shall carry an official mark of certification.~~

~~B. Official plants shall furnish devices for marking products as the department shall require.~~

~~In advance of manufacture, complete and accurate descriptions and designs of the marks of inspection shall be submitted to and approved by the department.~~

~~**R70-520-10. Marking and Labeling of Rabbit Products.**~~

~~All labeling shall conform to 21 USC 343, known as Federal Fair Packaging and Labeling Act and the Nutrition Labeling and Education Act of 1990, requirements for food products.~~

~~A. The classes of rabbit meat as determined by appearance and weight shall be labeled as follows:~~

~~1. "Rabbit fryer" means a young, domestic rabbit (usually under 12 weeks of age) with tender, fine-grained, and bright pearly white color which may be properly cooked by broiling or frying and which weighs not less than 1-1/2 pounds or over 3-1/2 pounds ready-to-cook weight.~~

~~2. "Stewing rabbit" means a domestic rabbit over 12 weeks of age, which may be properly cooked by stewing.~~

~~B. Definitions of fresh and frozen rabbits are as follows:~~

~~1. Fresh rabbit is defined as product that is ice packed, "frosted" or "crusted" which has an internal temperature not below 26 degrees F, and which shall be maintained at a temperature below 45 degrees F.~~

~~2. Frozen rabbit is product which has been brought to and maintained at 0 degrees F or less.~~

~~C. Packaged products which require special handling to maintain their wholesome condition shall have prominently displayed on the principal display panel of the label the statement: "Keep Refrigerated" if the product requires refrigeration, and "Keep Frozen" if the product is frozen, or similar statements. The immediate containers for products that are frozen during distribution and intended to be thawed prior to or during display for sale shall bear the statement: "This product has been previously frozen and thawed. Keep refrigerated."~~

~~**R70-520-11. Records and Reports.**~~

~~A. An accurate record of the disposition of blood and inedibles shall be maintained.~~

~~B. The plant shall be responsible to test water quality. Public water systems shall be tested annually and private water systems shall be tested semiannually. These analyses shall be kept on file at the plant.~~

~~C. A written, department-approved list of procedures and results for the following areas shall be maintained and reviewed at least every other month by the compliance officer.~~

~~1. Techniques, procedures and diseases checked for during ante- and post-mortem inspection.~~

~~2. Steps taken after a diseased animal contacts and/or contaminates equipment or utensils.~~

~~D. The plant shall assure that all rabbits slaughtered are free from medicated feed residues.~~

~~E. Tissue samples shall be taken at least semiannually by the plant or as deemed necessary by the department. The samples shall be tested for residues of medication, pesticides, growth hormones, and other residues.~~

~~F. A daily cleanup checklist indicating what sanitation procedures are used to maintain the facility in a clean and sanitary manner must be maintained and reviewed by the department as necessary.~~

~~**R70-520-12. Penalties.**~~

~~A. The department may withdraw approval of an in-plant inspector from any plant that:~~

~~1. Violates the rules governing the sanitation of food establishments, or~~

~~2. Violates any of the provisions stated in these rules governing the slaughtering and processing of rabbits.~~

~~B. The use of the approved marks of certification on processed rabbits without the express written approval of the department is prohibited.~~

~~C. Prior to any court actions being taken or any other rights or privileges herein granted being revoked, the department shall:~~

~~1. Give written notice of such intentions, and~~

~~2. Afford an opportunity to the persons involved to present their views in a hearing.~~

~~3. Consider whether items R70-520-11(C)(1) through R70-520-11(C)(2) shall not apply to situations of an immediate nature which may endanger public health.~~

~~**KEY: inspections**~~
~~**1987** **4-5-17**~~
~~**Notice of Continuation September 25, 1996** **4-2-2**~~]

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Commerce, Occupational and Professional Licensing

R156-56

Utah Uniform Building Standard Act Rules

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21572
FILED: 10/22/1998, 14:02
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Division needs to adopt some new building codes and delete others that will not be used after January 1, 1999.

SUMMARY OF THE RULE OR CHANGE: All references to and amendments to the 1991 edition of the Uniform Plumbing Code (UPC) are being deleted as that code is only in effect

until January 1, 1999. Deleted reference to the 1994 edition of the Uniform Building Code (UBC) as it was only in effect until January 1, 1998. Deleted use of the 1994 ICBO edition of the Uniform Mechanical Code (UMC) and any references and amendments. Added the 1998 International Code Council (ICC) edition of the International Mechanical Code (IMC). Also added references to the IMC throughout the rule to replace the UMC. Amendments to the International Mechanical Code were added as follows: Chapter 1, Section 103 is deleted in its entirety; Chapter 1, Section 109 is deleted in its entirety and replaced with new language regarding board of appeals and limitation of authority; Chapter 3, Sections 304.8, 306.5 and 306.6 were amended by adding exceptions to each section; Chapter 4 is deleted in its entirety and a reference was made to see the 1997 Uniform Building Code, Chapter 12; Section 603.8.1 regarding residential round ducts.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-56-1, and Subsections 58-56-4(2), 58-56-6(2)(a), 58-1-106(1), and 58-1-202(1)

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: Deletes the 1994 edition of the Uniform Building Code (UBC); deletes the 1991 edition of the Uniform Plumbing Code (UPC); adds the 1998 edition of the International Mechanical Code (IMC) as published and promulgated by the International Code Council

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: Cost of approximately $35 to those persons or state agencies who would need to purchase the new 1998 International Mechanical Code.

❖LOCAL GOVERNMENTS: Cost of approximately $35 to those persons or local jurisdictions who would need to purchase the new 1998 International Mechanical Code.

❖OTHER PERSONS: The International Mechanical Code (IMC) is a performance based code, whereas the currently adopted code, the Uniform Mechanical Code (UMC), is a prescriptive based code. The adoption of the IMC will allow contractors to install variations as long as they perform the function of the code. This could allow for undeterminable cost savings to the consumer, whereas a prescriptive code, such as the UMC, requires specific installation and does not allow for variations.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Cost savings would vary according to the contractor's implementation. The amendments being proposed would also allow further cost savings to the homeowner in that they lessen some of the requirements of the International Mechanical Code. Savings could potentially be in excess of $1,200 per home in new home construction.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The purpose of this rule change is to substitute the International Plumbing Code and International Mechanical Code for the currently adopted Uniform Plumbing Code and Uniform Mechanical Code. Since the International codes are performance codes as opposed to the Uniform codes which are prescriptive, the change will allow for alternative and theoretically less costly applications. The bureau manager represents that the change will not lessen protection to the consumer but will result in potential savings of up to $1,200 per home to the consumer. Since the rule change merely substitutes one code for another, there will be no fiscal impact upon the state budget and the only foreseeable additional expense to local governments will be the acquisition of the new codes for the usage of building inspectors--Douglas C. Borba, Executive Director.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
Jud Weiler at the above address, by phone at (801) 530-6731, by FAX at (801) 530-6511, or by Internet E-mail at brdopl.jweiler@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 12/15/1998; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 11/16/1998, 9:00 a.m., Murray City Council Chambers, 5025 South State Street, Murray, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 12/16/1998

AUTHORIZED BY: J. Craig Jackson, Director

R156. Commerce, Occupational and Professional Licensing.
R156-56. Utah Uniform Building Standard Act Rules.
R156-56-102. Definitions.

In addition to the definitions in Title 58, Chapters 1, 55 and 56, as used in Title 58, Chapter 56 or these rules:

(1) "Building construction trades" means, for the purpose of these rules only, those areas of construction regulated in the UBC, NEC, IPC, [~~UPC~~]and [~~UMC~~]IMC and requiring inspection by compliance agencies.

(2) "Building permit" means, for the purpose of determining the building permit surcharge under Subsection 58-56-9(4), a warrant, license or authorization to build or construct a building or structure or any part thereof.

(3) "Building permit fee" means, for the purpose of determining the building permit surcharge under Subsection 58-56-9(4), fees assessed by an agency of the state or political subdivision of the state for the issuance of permits for construction, alteration, remodeling, and repair and installation including building, electrical, mechanical and plumbing components.

(4) "Construction of a permanent foundation", as used in Subsection 58-56-3(10), means a foundation system constructed entirely of placed concrete and is installed around the exterior of the manufactured/mobile home which when completed will be the only source of support and attachment of the home to the ground.

(5) "Direct supervision" means that the inspector responsible for supervising an inspector-in-training shall be physically present on-site at the time of inspection and the supervising inspector is responsible for any work delegated to the inspector-in-training. The inspector-in-training may not approve or disapprove any work and may not sign any orders, approvals or permits.

(6) "Employed by a local regulator, state regulator or compliance agency" means, with respect to Subsection 58-56-9(1), the hiring of services of a qualified inspector whether by an employer/employee relationship, an independent contractor relationship, a fee-for-service relationship or any other lawful arrangement under which the regulating agency purchases the services of a qualified inspector.

(7) "Indirect supervision" means that the inspector responsible for supervising an inspector-in-training may be remote from the site of inspection and the supervisor reviews the results of the inspection with the inspector-in-training and is responsible for any work delegated to the inspector-in-training. The inspector-in-training may issue orders, approvals and permits with the approval of his supervisor and may sign orders, approvals and permits with his supervisor's approval.

(8) "Inspector" means a person employed by a local regulator, state regulator or compliance agency for the purpose of inspecting building, electrical, plumbing or mechanical construction, alteration, remodeling, repair or installation in accordance with the UBC, NEC, [~~UPC~~]IPC and [~~UMC~~]IMC and taking appropriate action based upon the findings made during inspection.

(9) "Permanently affixed to real property" means a manufactured home or mobile home which has been anchored to, and supported by a permanent foundation, and which has complied with all of the provisions of Section 59-2-602.

(10) "Refuses to establish a method of appeal" means with respect to Subsection 58-56-8(3), that a compliance agency does not in fact adopt a formal written method of appealing uniform building standard matters in accordance with generally recognized standards of due process; or, that the compliance agency does not convene an appeals board and render a decision in the matter within ninety days from the date on which the appeal is properly filed with the compliance agency.

(11) "Set-up" means the installation of a manufactured/mobile or modular home.

(12) "Uniform Building Standards" means the UBC, [~~UMC~~]IMC, IPC, [~~UPC~~]and NEC as amended and the HUD Code as amended (See R156-56-701) and NCSBCS.

(13) "Unprofessional conduct" as defined in Title 58, Chapter 1 is further defined, in accordance with Subsection 58-1-203(5), in Section R156-56-502.

R156-56-302. Licensure of Inspectors.

In accordance with Subsection 58-56-9(1), the licensee classifications, scope of work, qualifications for licensure, and application for license are established as follows:

(1) License Classifications. Each inspector employed by a local regulator, state regulator, compliance agency, or private agency providing inspection services to a regulator or compliance agency, shall qualify for licensure and be licensed by the division in one of the following classifications not later than July 1, 1993:

(a) Building Inspector I - UBC;

(b) Electrical Inspector I - NEC;

(c) Plumbing Inspector I - IPC[~~and UPC~~];

(d) Mechanical Inspector I - [~~UMC~~]IMC;

(e) Combination Inspector I - UBC, NEC, IPC, [~~UPC, UMC~~]IMC

(f) Combination Inspector II - Limited Commercial Combination;

(g) Combination Inspector III - Dwelling; and

(h) Building Inspector III - UBC;

(i) Electrical Inspector III - NEC;

(j) Plumbing Inspector III - IPC[~~and UPC~~];

(k) Mechanical Inspector III - [~~UMC~~]IMC; and

(l) Inspector-in-Training.

(2) Scope of Work. The scope of work permitted under each inspector classification is as follows:

(a) Building Inspector I - UBC.

(i) In accordance with the provisions of the UBC, inspect the construction, alteration, remodeling or repair of any building or structure, or the components of any building or structure for which a standard is provided in the specific edition of the UBC adopted under these rules or amendments to the UBC as included in these rules.

(ii) Determine whether the construction, alteration, remodeling or repair is in compliance or is not in compliance with the adopted UBC.

(iii) After determination of compliance or non-compliance with the adopted building code, take appropriate action as is provided in the UBC.

(b) Electrical Inspector I - NEC.

(i) In accordance with the NEC, inspect all electrical components of any building, structure or work for which a standard is provided in the specific edition of the NEC adopted under these rules or amendments to the NEC as included in these rules.

(ii) Determine whether the construction, alteration, remodeling, repair or installation of the electrical components of any building, structure or work is in compliance or is not in compliance with the adopted NEC.

(iii) After determination of compliance or noncompliance with the NEC, take appropriate administrative action as is provided in the UBC.

(c) Plumbing Inspector I - IPC[~~and UPC~~].

(i) In accordance with the IPC[~~and UPC~~], inspect all plumbing components of any building, structure or work for which a standard is provided in the specific edition of the IPC[~~and UPC~~] adopted under these rules or amendments to the IPC[~~and UPC~~] as included in these rules.

(ii) Determine whether the construction, alteration, remodeling, repair or installation of the plumbing components of any building, structure or work is in compliance or is not in compliance with the adopted IPC[~~and UPC~~].

(iii) After determination of compliance or noncompliance with the IPC[~~and UPC~~], take appropriate action as is provided in the IPC[~~and UPC~~].

(d) Mechanical Inspector I - [~~UMC~~]IMC.

(i) In accordance with the [~~UMC~~]IMC, inspect all mechanical components of any building, structure or work for which a standard is provided in the specific edition of the [~~UMC~~]IMC adopted under these rules or amendments to the [~~UMC~~]IMC as included in these rules.

(ii) Determine whether the construction, alteration, remodeling, repair or installation of the mechanical component of any building, structure or work is in compliance or is not in compliance with the adopted [~~UMC~~]IMC.

(iii) After determination of compliance or noncompliance with the [~~UMC~~]IMC, take appropriate action as is provided in the [~~UMC~~]IMC.

(e) Combination Inspector I - UBC, NEC, IPC, [~~UPC~~]and [~~UMC~~]IMC.

(i) In accordance with the UBC, NEC, IPC, [~~UPC~~]and [~~UMC~~]IMC, inspect the components of any building, structure or work for which a standard is provided in the specific edition of the aforesaid codes adopted under these rules or amendments to these codes as included in these rules.

(ii) Determine whether the construction, alteration, remodeling, repair or installation of all components of any building, structure or work is in compliance with the adopted UBC, NEC, IPC, [~~UPC~~]and [~~UMC~~]IMC.

(iii) After determination of compliance or noncompliance with the UBC, IPC, [~~UPC, ~~]NEC and [~~UMC~~]IMC, take appropriate action as is provided in the aforesaid codes.

(f) Combination Inspector II - Limited Commercial Combination.

(i) In accordance with the provisions of the UBC, inspect the construction, alteration, remodeling or repair of any residential building not exceeding 15 units and two stories in height which is classified under an "R" occupancy in the UBC; all accessory buildings classified under a "U" occupancy in the UBC; and commercial buildings limited to those not exceeding two stories in height or 6000 square feet for buildings classified under a "A-3" occupancy in the UBC, 8000 square feet for buildings classified under a "B", "F-1", "M", "S-1", "S-3", or "S-5 occupancy in the UBC, and 3000 square feet for buildings classified under a "H-4" occupancy in the UBC.

(ii) In accordance with the NEC, IPC, [~~UPC~~]and [~~UMC~~]IMC inspect the electrical, plumbing and mechanical components of a building defined in the above Subsection (i) of Subsection (f).

(iii) Determine whether the construction, alteration, remodeling or repair is in compliance or is not in compliance with the adopted building codes.

(iv) After determination of compliance with the adopted building codes, take appropriate action as is provided in the UBC, NEC, IPC, [~~UPC~~]or [~~UMC~~]IMC.

(g) Combination Inspector III - Dwelling.

(i) In accordance with the provisions of the UBC, inspect the construction, alteration, remodeling or repair of any single family or two family residential building classified under an "R-3" occupancy in the UBC, accessory buildings to R-3 dwellings classified under "U-1" or "U-2" occupancy in the UBC, and agricultural buildings classified under an "U-1", "U-2", "UBC Appendix Chapter 3, Division II", or "UBC Appendix Chapter 3, Division IV" occupancy in the UBC.

(ii) In accordance with the NEC, IPC, [~~UPC~~]and [~~UMC~~]IMC inspect the electrical, plumbing and mechanical components of a building defined in the above Subsection (i) of Subsection (g).

(iii) Determine whether the construction, alteration, remodeling or repair is in compliance or is not in compliance with the adopted building codes.

(iv) After determination of compliance with the adopted building codes, take appropriate action as is provided in the UBC, NEC, IPC, [~~UPC~~]or [~~UMC~~]IMC.

(h) Building Inspector III - UBC.

In accordance with the provisions of the UBC, inspect the construction, alteration, remodeling, or repair of any single-family or two-family residential building classified under an "R-3" occupancy, accessory buildings to R-3 dwellings classified under "U-1" or "U-2" occupancy, and agricultural buildings classified under an "U-1", "U-2", or "UBC Appendix Chapter 3, Division IV" occupancy as defined in the UBC.

(i) Electrical Inspector III - NEC.

In accordance with the NEC, inspect the electrical components of any single-family or two-family residential building classified under an "R-3" occupancy, accessory buildings to R-3 dwellings classified under an "U-1" or "U-2" occupancy, and agricultural buildings classified under an "U-1", "U-2" or "UBC Appendix Chapter 3, Division IV" occupancy as defined in the UBC.

(j) Plumbing Inspector III - IPC[~~ and UPC~~].

In accordance with the IPC[~~ and UPC~~], inspect the plumbing components of any single-family or two-family residential building classified under an "R-3" occupancy, accessory buildings to R-3 dwellings classified under an "U-1" or "U-2" occupancy, and agricultural buildings classified under an "U-1", "U-2" or "UBC Appendix Chapter 3, Division IV" occupancy as defined in the UBC.

(k) Mechanical Inspector III - [~~UMC~~]IMC.

In accordance with the [~~UMC~~]IMC, inspect the mechanical components of any single-family or two-family residential building classified under an "R-3" occupancy, accessory buildings to R-3 dwellings classified under an "U-1" or "U-2" occupancy, and agricultural buildings classified under an "U-1", "U-2" or "UBC Appendix Chapter 3, Division IV" occupancy as defined in the UBC.

(l) Inspector-in-Training.

(i) Under the direct supervision of a licensed building inspector, licensed electrical inspector, licensed plumbing inspector or licensed mechanical inspector, for the purpose of training, inspect the construction, alteration, remodeling, repair and/or installation of buildings, electrical components, plumbing components, and/or mechanical components for which a standard is provided in the adopted editions of the UBC, NEC, IPC, [~~UPC~~]or [~~UMC~~]IMC or under amendments to those codes when the regulator, compliance agency, or private agency providing inspection services to a regulator or a compliance agency elects to employ the services of a licensed inspector-in-training. Nothing in this subsection shall be interpreted to require a regulator, compliance agency, or private agency to employ the services of a person licensed in the classification inspector-in-training.

(ii) A licensed inspector-in-training may not take any action authorized under the UBC, NEC, IPC, [~~UPC~~]and/or [~~UMC~~]IMC upon a finding after inspection of compliance or noncompliance other than to inform the licensed inspector responsible for his supervision while under direct supervision. Thereafter the inspector-in-training may perform assigned duties under indirect supervision. Related experience and education approved by the division in collaboration with the committee in accordance with the following hours designated by code and/or classification may be credited towards the direct supervision hours.

(iii) Building Inspector-in-training III required direct supervision hours.

(A) Uniform Building Code: 70 hours, 50 of which can be waived with documented experience and/or education.

(B) National Electrical Code: 70 hours, 50 of which can be waived with documented experience and/or education.

(C) [~~Uniform Plumbing Code/~~]International Plumbing Code: 60 hours, 50 of which can be waived with documented experience and/or education.

(D) [~~Uniform Mechanical Code~~]International Mechanical Code: 60 hours, 50 of which can be waived with documented experience and/or education.

(iv) Building Inspector-in-training II required direct supervision hours.

(A) Uniform Building Code: 80 hours, 60 of which can be waived with documented experience and/or education.

(B) National Electrical Code: 80 hours, 60 of which can be waived with documented experience and/or education.

(C) [~~Uniform Plumbing Code/~~]International Plumbing Code: 70 hours, 60 of which can be waived with documented experience and/or education.

(D) [~~Uniform Mechanical Code~~]International Mechanical Code: 70 hours, 60 of which can be waived with documented experience and/or education.

(v) Building Inspector-in-training I required direct supervision hours.

(A) Uniform Building Code: 100 hours, 70 of which can be waived with documented experience and/or education.

(B) National Electrical Code: 100 hours, 70 of which can be waived with documented experience and/or education.

(C) [~~Uniform Plumbing Code/~~]International Plumbing Code: 80 hours, 70 of which can be waived with documented experience and/or education.

(D) [~~Uniform Mechanical Code~~]International Mechanical Code: 80 hours, 70 of which can be waived with documented experience and/or education.

(vi) The supervising licensed inspector is at all times responsible for the work of the inspector-in-training while that inspector is training and assigned to be under the direction of that supervisor.

(vii) An inspector-in-training license in each single classification may be issued by the division to an individual for a period not to exceed two years.

(3) Qualifications for Licensure. The qualifications for licensure for each inspector classification are as follows:

(a) Building Inspector I - UBC.

Has passed the examination for and maintained as current the "Building Inspector Certification" issued by the International Conference of Building Officials, or has passed a Building Inspector I examination if such is developed at the direction of the division in collaboration with the commission.

(b) Electrical Inspector I - NEC.

Has passed the examination for and obtained the "Electrical Inspector Certification" issued by the International Conference of Building Officials or a "General Electrical Inspectors Certification" issued by the International Association of Electrical Inspectors, or has passed an Electrical Inspector examination if such is developed at the direction of the division in collaboration with the commission.

(c) Plumbing Inspector I - IPC[~~and UPC~~].

Has passed the examination for and obtained the "Commercial Plumbing Inspector Certification" issued by the International Association of Plumbing and Mechanical Officials, the "Plumbing Inspector Certification" issued by the International Conference of Building Officials, or has passed a Plumbing Inspector examination if such is developed at the direction of the division in collaboration with the commission.

(d) Mechanical Inspector I - [~~UMC~~]IMC.

Has passed the examination for and obtained the "Commercial Mechanical Inspector Certification" issued by the International Code Council or International Association of Plumbing and Mechanical Officials, the "Mechanical Inspectors Certification" issued by the International Conference of Building Officials, or has passed a Mechanical Inspector examination if such is developed at the direction of the division in collaboration with the commission.

(e) Combination Inspector I - UBC, NEC, IPC, [~~UPC, UMC~~]IMC.

Has passed the examination for and maintained as current the following national certifications:

(i) the "Building Inspector Certification" issued by the International Conference of Building Officials;

(ii) the "Electrical Inspector Certification" issued by the International Conference of Building Officials or the "General Electrical Certification" issued by the International Association of Electrical Inspectors;

(iii) the "Plumbing Inspector Certification" issued by the International Conference of Building Officials, International Code Council or the International Association of Plumbing and Mechanical Officials or the "Commercial Plumbing Inspector Certification" issued by the International Code Council or International Association of Plumbing and Mechanical Officials; and

(iv) the "Mechanical Inspector Certification" issued by the International Conference of Building Officials or the "Commercial Mechanical Inspector Certification" issued by the International Association of Plumbing and Mechanical Officials.

(f) Combination Inspector II - Limited Commercial Combination.

(i) Has passed the examination for and maintained as current:

(A) the "Combination Dwelling Inspector Certification" issued by the International Conference of Building Officials; or

(B) the "Combination Inspector III State Certification" as developed at the direction of the division in collaboration with the commission; and

(C) the "Limited Commercial Combination Certification" issued by the International Conference of Building Officials.

(ii) After July 1, 1993 those newly qualifying for licensure by passing and maintaining ICBO Combination Dwelling Certification must also pass and maintain the ICBO Light Commercial Combination Certification.

(g) Combination Inspector III - Dwelling.

(i) Has passed the examination for and maintained as current the "Building Inspector III Certification" as prepared and administered under the direction of the division in collaboration with the commission or has passed the examination for and maintained as current the "Combination Dwelling Inspector Certification" issued by the International Conference of Building Officials.

(A) Proof of passing and maintaining as current a board approved national certification exam in plumbing, electrical, mechanical or building inspection exempts the applicant from having to take and pass that portion of the state exam.

(h) Building Inspector III - UBC.

Has passed the examination for and maintained as current the "Building Inspector III - Residential Building Inspector Certification" as prepared and administered under the direction of the division.

(i) Electrical Inspector III - NEC.

Has passed the examination for and maintained as current the "Electrical Inspector III - Residential Electrical Inspector Certification" as prepared and administered under the direction of the division.

(j) Plumbing Inspector III - IPC[~~ and UPC~~].

Has passed the examination for and maintained as current the "Plumbing Inspector III - Residential Plumbing Inspector Certification" as prepared and administered under the direction of the division.

(k) Mechanical Inspector III - [~~UMC~~]IMC.

Has passed the examination for and maintained as current the "Mechanical Inspector III - Residential Mechanical Inspector Certification" as prepared and administered under the direction of the division.

(l) Inspector-in-training.

Show the applicant has graduated from high school or has obtained an equivalent certification.

(4) Application for License.

(a) An applicant for licensure shall:

(i) submit an application in a form prescribed by the division; and

(ii) pay a fee determined by the department pursuant to Section 63-38-3.2.

R156-56-701. Specific Editions of Uniform Building Standards.

(1) In accordance with Subsection 58-56-4(3), the following Uniform Building Standards are hereby incorporated by reference and adopted as the building standard editions to be applied to construction in the state:

(a) [~~the 1994 edition of the Uniform Building Code (UBC) promulgated by the International Conference of Building Officials to be in effect until January 1, 1998;~~

~~(b)~~]the 1997 edition of the Uniform Building Code (UBC) promulgated by the International Conference of Building Officials (ICBO)[~~to become effective January 1, 1998~~];

([~~c~~]b) the 1996 edition of the National Electrical Code (NEC) promulgated by the National Fire Protection Association;

[~~(d) the 1991 edition of the Uniform Plumbing Code (UPC) promulgated by the International Association of Plumbing and Mechanical Officials with all appendices and installation standards except appendix I which is not adopted herein, to be in effect until January 1, 1999;~~]

([~~e~~]c) the 1997 edition of the International Plumbing Code (IPC) promulgated by the International Code Council[~~ to become effective January 1, 1998~~];

([~~f~~]d) the [~~1994 ICBO edition of the Uniform Mechanical Code (UMC), as published by the International Congress of Building Officials, and promulgated by the International Conference of Building Officials and the International Association of Plumbing and Mechanical Officials~~]1998 ICC edition of the International Mechanical Code (IMC), as published and promulgated by the International Code Council (ICC);

([~~g~~]e) the Federal Manufactured Housing Construction and Safety Standards Act (HUD Code) as promulgated by the Department of Housing and Urban Development and published in the Federal Register as set forth in 24 CFR parts 3280 and 3282 as revised April 1, 1990; and

([~~h~~]f) the 1994 edition of NCSBCS A225.1 Manufactured Home Installations promulgated by the National Conference of States on Building Codes and Standards (NCSBCS).

(2) Amendments adopted by rule to prior editions of the Uniform Building Standards shall remain in effect until specifically amended or repealed.

(3) The manufacturer, dealer or homeowner shall be permitted to design for unusual installation of a manufactured home not provided for in the manufacturer's standard installation instruction or NCSBCS/ANSI 225.1, Manufactured Home Installations, provided the design is approved in writing by a professional engineer or architect licensed in Utah. Guidelines for Manufactured Housing Installation as promulgated by the International Conference of Building Officials may be used as a reference guide.

R156-56-707. Reserved.[~~Amendments to the UPC.~~

~~(1) Statewide Amendments~~

~~Chapter 1, Section 104 (a) is amended as follows:~~

~~"(a) Certified Backflow Assembly Tester - A certified backflow assembly tester is a person who has shown competence to test backflow assemblies to the satisfaction of the Administrative Authority having jurisdiction."~~

~~Chapter 6, Section 601 (b) is amended as follows:~~

~~"(b) No cold storage room, refrigerator, cooling counter, compartment, receptacle, appurtenance, or device which is used, designed or intended to be used for the storage or holding of food or drink and no dishwashing or culinary sink in any food preparation room which is used for soaking, washing, or preparing ready-to-serve food shall have any drain in connection therewith directly connected to any soil, waste, or vent pipe. A minimum of one compartment of a three-compartment sink located in a food preparation room shall be indirectly drained through an airbreak. Such equipment or fixtures shall be drained by means of indirect waste pipes, as defined in Chapter 1 of this Code, and all wastes drained by them shall discharge through an airbreak into an open floor sink or other approved type receptor which is properly connected to the drainage system.~~

~~The foregoing does not apply to walk-in refrigerators or combination walk-in, reach-in refrigerators used for storage and sales of products packaged in bottles, cartons, or containers.~~

~~Cooling and air-conditioning equipment may be separated by an airbreak."~~

~~Chapter 6, Section 608 (d) is replaced by the following:~~

~~"(d) Domestic pump-type dishwashers may be directly connected to the inlet side (top or head) of an approved food waste disposal unit or a branch tailpiece in the tailpiece of the sink, by either the use of an approved airgap device installed above the flood level of the sink, or by the drain hose being extended and secured as high as possible under the bottom of the countertop before it is connected to the branch tailpiece located above the trap or to an approved food waste disposal unit."~~

Chapter 7, Section 702 (c) is amended as follows:

"(c) A trap arm may change direction without the use of a cleanout when such accumulated change of direction does not exceed one hundred and thirty-five (135) degrees." The Exception following paragraph (c) is deleted.

Chapter 7, Section 707 is amended as follows:

"Floor drain or similar traps directly connected to the drainage system and subject to infrequent use shall be provided with an approved means of maintaining their water seals, except where not deemed necessary for safety or sanitation by the Administrative Authority."

Chapter 8, Section 804 - the following is added as paragraph (g):

"(g) Corrugated Stainless Steel Tubing (CSST) Joint - The method of joining CSST shall be by mechanical fittings listed for use with specific CSST systems."

Chapter 9, Section 902 is amended as follows:

"Special-use fixtures may be made of soapstone, chemical stoneware, or may be lined with lead, copper base alloy, nickel-copper alloy, corrosion-resisting steel, or other materials especially suited for the use for which the fixture is intended.

Other special use sinks may be made of approved type bonderized and galvanized sheet steel of not less than No. 16 U.S. Gauge (.0625 inches) (1.6 mm). All sheet metal plumbing fixtures shall be adequately designed, constructed, and braced in an approved manner to satisfactorily accomplish their intended purpose.

Chapter 9, Section 905(c) is added as follows:

(c) Effective July 1, 1992:

(1) All tank type water closets with a flow rate greater than 1.6 gallons per flush are prohibited.

(2) Shower heads with a flow rate greater than 2.5 gallons per minute are prohibited.

(d) Bonderized and galvanized sheet steel restaurant kitchen sinks are prohibited.

Chapter 9, Section 909(g) is deleted and replaced with the following:

(g) Shower valves. Shower and tub-shower combination valves shall be balanced pressure, thermostatic or combination mixing valves that conform to the requirements of ASSE 1016 or CSA CAN/CSA-B 125. Such valves shall be equipped with handle position stops that are field adjusted in accordance with the manufacturer's instructions to a maximum hot water setting of 120 degrees Fahrenheit (49 degrees Celsius).

Exception: Balanced pressure, thermostatic or combination mixing valves shall not be required for showers and tub-shower combinations in one- or two-family dwellings and multiple showers supplied with a single tempered water supply provided the hot water supply for such showers is controlled by an approved master thermostatic mixing valve adjusted in accordance with the manufacturer's instructions to a maximum hot water setting of 120 degrees Fahrenheit (49 degrees Celsius). Such master thermostatic mixing valves shall be sized according to the peak demand of fixtures located downstream of the valve and shall comply with ASSE 1016. The water heater thermostat shall not be used as the temperature-control device for compliance with this section.

Chapter 9, Section 910 is amended as follows:

"Each building intended for human habitation shall be provided with sanitary facilities.

(a) A lavatory or similar fixture shall be provided in the same room or an immediately adjoining room wherever a water closet or urinal is installed.

(b) All public rest room facilities shall be equipped with at least one floor drain.

(c) Hot and cold water shall be supplied to all plumbing fixtures which normally use hot and cold water for their proper use and function."

Chapter 10, Section 1003 (c) is amended as follows:

"(c) Access and clearance shall be provided for the required testing, maintenance and repair."

Chapter 10, Section 1003 (s) is amended as follows:

"(s) Potable Water Supply to Carbonaters shall be protected by a stainless steel vented dual check valve and installed per the requirements of this chapter."

Chapter 10, Section 1003 - the following is added as paragraph (u):

"(u) Addition of chemicals other than pure glycerin (CP or USP 96.5%) or propylene glycol to any wet standpipe fire suppression system shall require the installation of a Reduced Pressure Zone Principle Backflow Assembly. A warning sign shall be posted at those systems containing pure glycerine or propylene glycol stating CAUTION - FILL ONLY WITH WATER SOLUTIONS OF PURE GLYCERINE (C.P. OR U.S.P. 96.5%) OR PROPYLENE GLYCOL."

Chapter 10, Section 1004 (a) is amended as follows:

"(a) Water pipe and fittings shall be of brass, copper, cast iron, galvanized malleable iron, galvanized wrought iron, galvanized steel, or other approved materials. Asbestos-cement, CPVC, PB, PE, or PVC water pipe manufactured to recognized standards may be used for cold water distribution systems outside a building. PB manifold and CPVC water pipe and tubing may be used for hot and cold water distribution systems within a building in accordance with manufacturers recommendation. PB systems must have all unions left accessible. All materials used in the water supply system, except valves and similar devices shall be of a like material, except where otherwise approved by the Administrative Authority."

Chapter 11, Section 1101 (d) is amended as follows:

"(d) The public sewer may be considered as being available when such public sewer is within three hundred (300) feet of any property line with any building used for human occupancy."

Chapter 12, Section 1202 - the following is added as paragraphs (c) through (e). All remaining paragraphs are renumbered.

"(c) CSST - Corrugated Stainless Steel Tubing.

(d) CSST Gas Manifold - A listed fitting used to connect multiple branches to a central gas piping system.

(e) EHD - Equivalent Hydraulic Diameter."

Chapter 12, Section 1202, new paragraph (g) is amended as follows:

"(g) Gas Piping - Any installation of pipe, CSST, valves, and fittings that is used to convey fuel gas, installed on any premises or in any building, but shall not include:

(1) Any portion of the service piping.

(2) Any approved piping connection six feet (1.8 m) or less in length between an existing gas outlet and a gas appliance in the same room with the outlet."

Chapter 12, Section 1205 is amended as follows:

"No rigid gas piping shall be strained or bent and no appliance shall be supported by or develop any strain or stress on its supply piping. Gas piping supplying appliances designed to be supported by the piping may be used to support such appliances, when first approved by the Administrative Authority."

Chapter 12, Section 1211 is amended as follows:

(g) All gas meters located more than 6500 feet above sea level must be located in an area that is protected from ice and snow or be provided with snow and ice protection.

Chapter 12, Section 1212 (a), (b) and (c) are amended as follows:

"(a) All pipe used for the installation, extension, alteration, or repair of any gas piping shall be standard weight wrought iron or steel (galvanized or black), yellow brass (containing not more than 75 percent copper), internally tinned or equivalently treated copper of iron pipe size or listed CSST. Approved PVC or PE pipe may be used in exterior buried piping systems. Type "K" copper tubing without joints below grade may be used in exterior LP Gas piping systems only.

(b) New materials shall be utilized when installing CSST. All other pipe shall be either new, or shall previously have been used for no other purpose than conveying gas; it shall be in good condition and free from internal obstructions. Burred ends shall be reamed to the full bore of the pipe.

(c) All fittings used in connection with the above piping shall be of malleable iron, yellow brass (containing not more than 75 percent copper), or approved plastic fittings. All fittings and components used with CSST shall be part of the same listed system."

Chapter 12, Section 1213 (a) is amended as follows:

"(a) All joints in the piping system, unless welded or a component of a listed CSST system, shall be screwed joints, having approved standard threads. Such screwed joints shall be made up with approved pipe joint material, insoluble in the presence of fuel gas and applied to the male threads only."

Chapter 12, Section 1213 (c) is amended as follows:

"(c) No gas piping shall be installed in or on the ground under any building or structure and all exposed gas piping shall be kept at least six inches (152.4 mm) above grade or structure. CSST shall only be installed within the building structure downstream of the meter."

Chapter 12, Section 1213 - the following will be added after paragraph (h):

"EXCEPTION: CSST shall be supported with hooks, metal pipe, straps, bands, brackets, or hangers suitable for the size and weight of the tubing, at intervals not to exceed those shown in Table 12-11.

A listed termination fitting shall be installed and secured to the structure at all CSST gas outlets."

Chapter 12, Section 1213 (o), the following is added:

When approved by the authority having jurisdiction, shut-off valves for listed, vented decorative appliances may be accessibly located in an area remote from the appliance. Such valve shall be permanently identified and shall serve no other equipment.

Chapter 12, Section 1213 (q) is amended as follows:

"(q) Changes in direction of gas piping shall be made by appropriate use of fittings, except CSST may be bent to a radius of not less than three times the nominal tubing diameter, and PE gas pipe and tubing may be bent to a radius of not less than 20 times the nominal pipe or tubing diameter."

Chapter 12, Section 1213 - the following are added as paragraphs (r) and (s):

"(r) CSST Installation Requirements

(1) CSST may be installed in concealed locations. Listed CSST fittings and assemblies shall not be considered concealed if accessible.

(2) CSST installed in exposed and/or concealed locations subject to physical damage shall be adequately protected.

(3) When CSST passes through wood members, it shall be installed and protected as follows:

1. Bored Holes - In locations where CSST is installed through bored holes in wood members, holes shall be bored so that the edge of the hole is not less than two inches (50.8 mm) from the nearest edge of the wood member. Where this distance cannot be maintained at any point, the CSST shall be protected by a listed striker plate of the appropriate length and width. The diameter of bored holes shall be a minimum of one-half inch larger than the L.D. of the CSST.

2. Notches in wood are prohibited for CSST installations.

(4) When CSST passes through metal members, it shall be installed and protected as follows: In both exposed and concealed locations where CSST passes through metal members, the CSST shall be protected by bushings or grommets securely fastened in the opening prior to installation. Where nails or screws may penetrate CSST, it shall be protected by a listed striker plate of appropriate length and width.

(5) When CSST is installed parallel to framing members, it shall be installed and protected as follows: CSST shall be installed and supported so that the nearest outside surface of the tubing is not less than two and one-half inches (63.5 mm) from the nearest edge of the framing member where nails or screws may penetrate. Where the distance cannot be maintained at any point, the tubing shall be protected by a listed striker plate of appropriate length and width.

(s) Each manifold used with a CSST system shall:

(1) Be accessible.

(2) Be securely fastened to the structure.

(3) Be installed in a location that communicates with a ventilated area."

Chapter 12, Section 1215 (e) is amended as follows:

The following is added after paragraph (e):

EXCEPTION: LP Gas Piping may be installed in basements of buildings with not more than 6,000 square feet per floor and not classified as group E, H or I occupancy, PROVIDED:

1. All new systems shall be installed in accordance with NFPA Article 58 and 54.

2. The entire gas system shall be pressure tested and inspected for leaks as set forth in NFPA Article 54, Sections 4.1.1 through 4.3.4 and all tanks, piping, regulators, gauges, connectors, valves, vents, thermostats, pilots, burners and appliance controls shall be inspected for proper installation and function as administered and required by the Utah LPG Board and reinspected every five years thereafter. The inspector shall be a certified LPG serviceman as provided by the Liquified Petroleum Gas Act.

3. All new LPG systems installed in basements shall be inspected by a certified LPG serviceman and approved before occupancy is allowed. All existing below grade installations shall

be inspected and approved within five years of the adoption of this program and every five years thereafter.

4. A visible tag indicating the system has successfully passed a gas check inspection shall be affixed to the LPG supply tank. Such tag shall indicate the name of the company, the certification number of the inspector, and the date of inspection.

5. An approved and listed audible LP gas detector alarm shall be installed in all new below grade installations in accordance with the manufacturer's listing.

Chapter 12, Section 1215 (f) is amended as follows:

The following is added after paragraph (f):

EXCEPTION: LP Gas Piping may be installed in basements of buildings with not more than 6,000 square feet per floor and not classified as group E, H or I occupancy, PROVIDED:

1. All new LPG systems installed in basements shall be inspected by a certified LPG serviceman and approved before occupancy is allowed. All existing below grade installations shall be inspected and approved within five years of the adoption of this program and every five years thereafter.

2. An approved and listed audible LP gas detector alarm shall be installed in all new below grade installations in accordance with manufacturers listing.

Chapter 12, Section 1219 (a) is amended as follows:

"(a) Where the maximum demand does not exceed 250 cubic feet per hour (2 L/s) and the maximum length of piping between the meter and the most distant outlet is not over 250 feet (76 m), the size of each section and each outlet of any system of gas piping shall be determined by means of Table 12-3. Other systems within the range of Table 12-3 may be sized from that table or by means of the methods set forth in subsection (c) of this section. For systems using CSST, refer to Tables 12-12 and 12-13."

Chapter 12, Section 1219 (b) (2) and (4) are amended as follows:

"(b) To determine the size of each section of pipe or EHD for CSST, in any system within the range of Table 12-3, 12-12 or 12-13, proceed as follows:

(2) In Table 12-3, 12-12 or 12-13, select the column showing that distance, or the next longer distance, if the table does not give the exact length.

(4) Opposite this demand figure, in the first column at the left in Table 12-3, 12-12 or 12-13, will be found the correct size of pipe or CSST."

Chapter 12, Section 1219 - the following will be added after paragraph (c):

"EXCEPTION: For CSST systems, see Table 12-13 for permissible pressure drops greater than one-half inch water column. Table 12-13 shall be used in conjunction with medium pressure systems only, and for sizing the tubing in the low pressure portion of medium pressure systems."

Chapter 12, Section 1219 (d) is amended as follows:

"(d) Where the gas pressure may be higher than 14 inches (355.6 mm) or lower than six inches (152.4 mm) of water column, or when diversity demand factors are used, the design, pipe, sizing, materials, location, and use of such systems first shall be approved by the Administrative Authority. Piping systems designed for pressures higher than the serving gas supplier's standard delivery pressure shall have prior verification from the gas supplier of the availability of the design pressure. Systems using undiluted liquified petroleum gas may be sized using either Table 12-7 for steel pipe or Table 12-16 for CSST systems for 11 inches (279.4 mm) water column and in accordance with the provisions of subsections (a) and (b)."

Chapter 12, Section 1220 (f) and (g) are amended as follows:

"(f) Tables 12-4, 12-5 and 12-6 may be used to size natural gas piping system carrying two, three, or five psig (13.8, 20.7, or 34.5 kPa) gas. Tables 12-14 and 12-15 may be used to size CSST systems, carrying two or five psig. The procedure to determine the size of each section of the system is similar to that contained in Section 1219 of this Code using the pipe length from the meter to the most remote regulator on the medium pressure system and sizing the downstream low pressure piping from Table 12-3 for steel pipe and Table 12-13 for CSST.

(g) For other than CSST systems, Table 12-8 may be used to size undiluted liquified petroleum gas piping systems carrying 10 psig (68.9 kPa) gas. The procedure to determine the size of each section of the system is similar to Section 1219 of this Code using the pipe length from the first stage or tank regulator to the most remote regulator in the second state system. Low pressure piping to be sized from Table 12-7."

TABLE I
Table 12-11
Support Intervals for CSST

Tubing Size EHD	Feet	Meters
1-16 horizontal	4	1.22
17-32 horizontal	6	1.83
1-32 vertical	Every floor not to exceed 10 feet between supports	

TABLE II
Table 12-12
Maximum Capacity of CSST in Cubic Feet per Hour for Gas Pressure of 7 in. WC and Pressure Drop of 0.5 in. WC (Based on 0.60 Specific Gravity Gas)(1)

EHD(2) Flow Designation	Tubing Length (ft) 5	10	15	20	25	30	40	50
12	48	25	24	21	20	17	14	13
13	50	34	28	23	21	18	15	14
14	70	52	43	37	34	31	28	27
17	116	85	70	62	55	50	42	39
18	129	90	75	65	58	54	45	41
19	143	102	79	70	63	58	49	44
20	250	168	130	110	105	96	80	72
22	258	174	133	116	105	96	80	75
26	336	232	174	161	145	129	110	98
31	581	400	323	278	245	226	187	169

EHD(2) Flow Designation	Tubing Length (ft) 60	70	80	90	100	150	200	250	300
12	11	11	10	10	7	5	-	-	-
13	12	11	11	10	9	6	5	4	-
14	25	24	22	21	19	14	10	8	5
17	34	32	28	27	22	19	15	14	10
18	37	36	35	30	23	21	15	15	13
19	40	39	37	36	35	29	23	18	15
20	60	55	48	46	42	29	23	18	15
22	60	56	52	49	45	36	31	27	23
26	88	83	77	75	72	67	61	49	48
31	152	142	129	127	117	106	96	75	71

~~(1)Table includes losses for four 90 degree bends and two end fittings. Tubing runs with larger numbers of bends and/or fittings should be increased by an equivalent length of tubing to the following equation: L equals 1.3n where L is additional length (ft) of tubing and n is the number of additional fittings and/or levels.~~

~~(2)EHD - Effective Hydraulic Diameter - A measure of the relative hydraulic efficiency between different tubing sizes. The greater the value of EHD, the greater the gas capacity of the tubing.~~

~~TABLE III~~
~~Table 12-12A~~
~~Maximum Capacity of CSST in Liters of Gas per Second for Gas Pressure of 177.8 mm WC and Pressure Drop of 12.7 mm WC (Based on 0.60 Specific Gravity Gas)(1)~~

~~Tubing Length (m)~~

~~EHD(2) Flow Designation~~	~~1.50~~	~~3.00~~	~~4.60~~	~~6.00~~	~~7.60~~	~~9.00~~
~~12~~	~~0.38~~	~~0.20~~	~~0.19~~	~~0.17~~	~~0.16~~	~~0.13~~
~~13~~	~~0.39~~	~~0.27~~	~~0.22~~	~~0.18~~	~~0.17~~	~~0.14~~
~~14~~	~~0.55~~	~~0.41~~	~~0.34~~	~~0.29~~	~~0.27~~	~~0.24~~
~~17~~	~~0.91~~	~~0.67~~	~~0.55~~	~~0.49~~	~~0.43~~	~~0.39~~
~~18~~	~~1.02~~	~~0.71~~	~~0.59~~	~~0.51~~	~~0.46~~	~~0.42~~
~~19~~	~~1.13~~	~~0.80~~	~~0.62~~	~~0.55~~	~~0.50~~	~~0.46~~
~~20~~	~~1.97~~	~~1.32~~	~~1.02~~	~~0.87~~	~~0.83~~	~~0.76~~
~~22~~	~~2.03~~	~~1.37~~	~~1.05~~	~~0.91~~	~~0.83~~	~~0.76~~
~~26~~	~~2.64~~	~~1.83~~	~~1.37~~	~~1.27~~	~~1.14~~	~~1.02~~
~~31~~	~~4.57~~	~~3.15~~	~~2.54~~	~~2.19~~	~~1.93~~	~~1.78~~

	~~12.20~~	~~15.20~~	~~18.30~~	~~21.30~~	~~24.40~~	~~27.40~~
~~12~~	~~0.11~~	~~0.10~~	~~0.09~~	~~0.09~~	~~0.08~~	~~0.08~~
~~13~~	~~0.12~~	~~0.11~~	~~0.09~~	~~0.09~~	~~0.09~~	~~0.08~~
~~14~~	~~0.22~~	~~0.21~~	~~0.20~~	~~0.19~~	~~0.17~~	~~0.17~~
~~17~~	~~0.33~~	~~0.31~~	~~0.27~~	~~0.25~~	~~0.22~~	~~0.21~~
~~18~~	~~0.35~~	~~0.32~~	~~0.29~~	~~0.28~~	~~0.27~~	~~0.24~~
~~19~~	~~0.39~~	~~0.35~~	~~0.31~~	~~0.31~~	~~0.29~~	~~0.28~~
~~20~~	~~0.63~~	~~0.57~~	~~0.47~~	~~0.43~~	~~0.38~~	~~0.36~~
~~22~~	~~0.63~~	~~0.59~~	~~0.47~~	~~0.44~~	~~0.41~~	~~0.39~~
~~26~~	~~0.87~~	~~0.77~~	~~0.69~~	~~0.65~~	~~0.61~~	~~0.59~~
~~31~~	~~1.47~~	~~1.33~~	~~1.20~~	~~1.12~~	~~1.02~~	~~1.00~~

	~~30.50~~	~~45.70~~	~~60.90~~	~~76.20~~	~~91.40~~
~~12~~	~~0.06~~	~~0.04~~	~~-~~	~~-~~	~~-~~
~~13~~	~~0.07~~	~~0.05~~	~~0.04~~	~~0.03~~	~~-~~
~~14~~	~~0.15~~	~~0.11~~	~~0.08~~	~~0.06~~	~~0.04~~
~~17~~	~~0.17~~	~~0.15~~	~~0.13~~	~~0.11~~	~~0.08~~
~~18~~	~~0.18~~	~~0.17~~	~~0.13~~	~~0.12~~	~~0.10~~
~~19~~	~~0.28~~	~~0.23~~	~~0.18~~	~~0.14~~	~~0.12~~
~~20~~	~~0.33~~	~~0.23~~	~~0.18~~	~~0.14~~	~~0.12~~
~~22~~	~~0.35~~	~~0.28~~	~~0.24~~	~~0.21~~	~~0.18~~
~~26~~	~~0.56~~	~~0.53~~	~~0.48~~	~~0.39~~	~~0.38~~
~~31~~	~~0.92~~	~~0.83~~	~~0.76~~	~~0.59~~	~~0.56~~

~~(1)Table includes losses for four 90 degree bends and two end fittings. Tubing runs with larger numbers of bends and/or fittings should be increased by an equivalent length of tubing to the following equation: L equals 0.4n where L is additional length (m) of tubing and n is the number of additional fittings and/or levels.~~

~~(2)EHD - Effective Hydraulic Diameter - A measure of the relative hydraulic efficiency between different tubing sizes. The greater the value of EHD, the greater the gas capacity of the tubing.~~

~~TABLE IV~~
~~Table 12-13~~
~~Maximum Capacity of CSST in Cubic Feet per Hour for Gas Pressure of 10 in. WC and Pressure Drop of 3 in. WC (Based on 0.60 Specific Gravity Gas)(1)~~

~~Tubing Length (ft)~~

~~EHD(2) Flow Designation~~	~~5~~	~~10~~	~~15~~	~~20~~	~~25~~	~~30~~	~~40~~	~~50~~
~~12~~	~~102~~	~~75~~	~~60~~	~~52~~	~~47~~	~~42~~	~~41~~	~~38~~
~~13~~	~~132~~	~~90~~	~~72~~	~~68~~	~~56~~	~~50~~	~~43~~	~~38~~
~~14~~	~~155~~	~~114~~	~~93~~	~~83~~	~~75~~	~~70~~	~~62~~	~~56~~
~~17~~	~~240~~	~~180~~	~~148~~	~~130~~	~~115~~	~~108~~	~~99~~	~~90~~
~~18~~	~~310~~	~~219~~	~~168~~	~~148~~	~~136~~	~~129~~	~~114~~	~~101~~
~~19~~	~~361~~	~~258~~	~~207~~	~~181~~	~~158~~	~~145~~	~~124~~	~~110~~
~~20~~	~~510~~	~~387~~	~~310~~	~~286~~	~~247~~	~~225~~	~~207~~	~~188~~
~~22~~	~~650~~	~~449~~	~~368~~	~~310~~	~~287~~	~~254~~	~~213~~	~~190~~
~~26~~	~~852~~	~~581~~	~~478~~	~~413~~	~~361~~	~~336~~	~~290~~	~~256~~
~~31~~	~~1485~~	~~1033~~	~~826~~	~~697~~	~~633~~	~~581~~	~~491~~	~~439~~

	~~60~~	~~70~~	~~80~~	~~90~~	~~100~~	~~150~~	~~200~~	~~250~~	~~300~~
~~12~~	~~34~~	~~30~~	~~28~~	~~27~~	~~25~~	~~21~~	~~18~~	~~16~~	~~15~~
~~13~~	~~34~~	~~31~~	~~28~~	~~27~~	~~26~~	~~21~~	~~18~~	~~16~~	~~15~~
~~14~~	~~52~~	~~48~~	~~45~~	~~43~~	~~41~~	~~35~~	~~30~~	~~28~~	~~27~~
~~17~~	~~85~~	~~80~~	~~75~~	~~70~~	~~68~~	~~55~~	~~46~~	~~42~~	~~38~~
~~18~~	~~90~~	~~84~~	~~77~~	~~74~~	~~71~~	~~57~~	~~48~~	~~45~~	~~40~~
~~19~~	~~101~~	~~93~~	~~88~~	~~83~~	~~77~~	~~63~~	~~54~~	~~49~~	~~44~~
~~20~~	~~174~~	~~158~~	~~150~~	~~137~~	~~128~~	~~104~~	~~90~~	~~79~~	~~73~~
~~22~~	~~177~~	~~163~~	~~155~~	~~140~~	~~130~~	~~107~~	~~90~~	~~80~~	~~73~~
~~26~~	~~232~~	~~213~~	~~200~~	~~183~~	~~170~~	~~142~~	~~123~~	~~108~~	~~99~~
~~31~~	~~400~~	~~368~~	~~349~~	~~323~~	~~303~~	~~245~~	~~209~~	~~187~~	~~170~~

~~(1)Table includes losses for four 90 degree bends and two end fittings. Tubing runs with larger numbers of bends and/or fittings should be increased by an equivalent length of tubing to the following equation: L equals 1.3n where L is additional length (ft) of tubing and n is the number of additional fittings and/or levels.~~

~~(2)EHD - Effective Hydraulic Diameter - A measure of the relative hydraulic efficiency between different tubing sizes. The greater the value of EHD, the greater the gas capacity of the tubing.~~

~~TABLE V~~
~~Table 12-13A~~
~~Maximum Capacity of CSST in Liters of Gas per Second for Gas Pressure of 254 mm WC and Pressure Drop of 76.2 mm WC (Based on 0.60 Specific Gravity Gas)(1)~~
~~Tubing Length (m)~~

~~EHD(2) Flow Designation~~	~~1.50~~	~~3.00~~	~~4.60~~	~~6.00~~	~~7.60~~	~~9.00~~
~~12~~	~~0.80~~	~~0.59~~	~~0.47~~	~~0.41~~	~~0.37~~	~~0.33~~
~~13~~	~~1.04~~	~~0.71~~	~~0.57~~	~~0.54~~	~~0.44~~	~~0.39~~
~~14~~	~~1.22~~	~~0.90~~	~~0.73~~	~~0.65~~	~~0.59~~	~~0.55~~
~~17~~	~~1.89~~	~~1.42~~	~~1.16~~	~~1.02~~	~~0.91~~	~~0.85~~
~~18~~	~~2.44~~	~~1.72~~	~~1.32~~	~~1.16~~	~~1.07~~	~~1.02~~
~~19~~	~~2.84~~	~~2.03~~	~~1.63~~	~~1.42~~	~~1.24~~	~~1.14~~
~~20~~	~~4.01~~	~~3.05~~	~~2.44~~	~~2.25~~	~~1.94~~	~~1.77~~
~~22~~	~~5.18~~	~~3.53~~	~~2.90~~	~~2.44~~	~~2.26~~	~~2.00~~
~~26~~	~~6.71~~	~~4.57~~	~~3.76~~	~~3.25~~	~~2.84~~	~~2.64~~
~~31~~	~~11.69~~	~~8.13~~	~~6.50~~	~~5.49~~	~~4.98~~	~~4.57~~

	12.20	15.20	10.30	21.30	24.40	27.40
12	0.32	0.30	0.27	0.24	0.22	0.21
13	0.34	0.30	0.27	0.24	0.22	0.21
14	0.49	0.44	0.41	0.38	0.35	0.34
17	0.78	0.71	0.67	0.63	0.59	0.55
18	0.90	0.79	0.71	0.66	0.61	0.58
19	0.98	0.87	0.79	0.73	0.69	0.65
20	1.63	1.48	1.37	1.24	1.18	1.08
22	1.68	1.50	1.39	1.28	1.22	1.10
26	2.28	2.01	1.83	1.68	1.57	1.44
31	3.86	3.45	3.15	2.90	2.75	2.54

	30.50	45.70	60.90	76.20	91.40
12	0.20	0.17	0.14	0.13	0.12
13	0.20	0.17	0.14	0.13	0.12
14	0.32	0.28	0.24	0.22	0.21
17	0.54	0.43	0.36	0.33	0.30
18	0.56	0.45	0.38	0.35	0.31
19	0.61	0.50	0.42	0.39	0.35
20	1.01	0.82	0.71	0.62	0.57
22	1.02	0.84	0.71	0.63	0.57
26	1.40	1.12	0.97	0.85	0.78
31	2.38	1.93	1.64	1.47	1.34

(1)Table includes losses for four 90 degree bends and two end fittings. Tubing runs with larger numbers of bends and/or fittings should be increased by an equivalent length of tubing to the following equation: L equals 0.4n where L is additional length (m) of tubing and n is the number of additional fittings and/or levels.

(2)EHD - Effective Hydraulic Diameter - A measure of the relative hydraulic efficiency between different tubing sizes. The greater the value of EHD, the greater the gas capacity of the tubing.

TABLE VI
Table 12-14
Maximum Capacity of CSST in Cubic Feet per Hour for Gas Pressure of 2 psi and Pressure Drop of 1.5 psi (Based on 0.60 Specific Gravity Gas)(1)

	Tubing Length (ft)							
EHD(2) Flow Designation	10	25	30	40	50	75	80	100
12	250	170	160	142	130	112	110	100
13	355	207	187	155	142	127	123	106
14	361	239	219	194	176	147	145	129
17	570	380	360	320	290	245	235	225
18	839	503	452	413	368	297	284	271
19	981	607	555	478	420	349	336	297
20	1180	800	745	650	600	520	500	460
22	2195	1252	1097	968	865	704	658	594
26	2324	1446	1291	1150	1007	800	775	697
31	4002	2453	2259	1937	1743	1394	1420	1188

	150	200	250	300	400	500
12	85	75	64	55	50	45
13	88	75	65	58	50	45
14	110	96	86	80	70	63
17	180	160	144	135	118	105
18	194	168	168	142	129	121
19	245	213	186	174	145	129
20	380	340	310	280	250	220
22	452	387	349	284	261	220
26	568	484	432	400	336	297
31	968	839	749	684	581	503

Table does not include effect of pressure drop across line regulator. If regulator loss exceeds 4 in WC, DO NOT USE THIS TABLE. Consult with regulator manufacturer for pressure drops and capacity factors. Pressure drop across regulator may vary with the flow rate.

CAUTION: Capacities shown in table may exceed maximum capacity of selected regulator. Consult with tubing manufacturer for guidance.

(1)Table includes losses for four 90 degree bends and two end fittings. Tubing runs with larger numbers of bends and/or fittings should be increased by an equivalent length of tubing to the following equation: L equals 1.3n where L is additional length (ft) of tubing and n is the number of additional fittings and/or levels.

(2)EHD - Effective Hydraulic Diameter - A measure of the relative hydraulic efficiency between different tubing sizes. The greater the value of EHD, the greater the gas capacity of the tubing.

TABLE VII
Table 12-14A
Maximum Capacity of CSST in Liters of Gas per Second for Gas Pressure of 13.8 Kpa and Pressure Drop of 10.3 KPa (Based on 0.60 Specific Gravity Gas)(1)

	Tubing Length (m)					
EHD(2) Flow Designation	3.00	7.62	9.00	12.20	15.20	22.86
12	1.97	1.34	1.26	1.12	1.02	0.88
13	2.79	1.63	1.47	1.22	1.12	1.00
14	2.84	1.88	1.72	1.53	1.39	1.16
17	4.49	2.99	2.83	2.52	2.28	1.93
18	6.60	3.96	3.56	3.25	2.90	2.34
19	7.72	4.78	4.37	3.76	3.31	2.75
20	9.29	6.30	5.86	5.12	4.72	4.09
22	17.27	9.85	8.63	7.62	6.81	5.54
26	18.29	11.38	10.16	9.05	7.93	6.30
31	31.50	19.31	17.78	15.24	13.72	10.97

	24.40	30.50	45.70	60.90	76.20	91.40
12	0.87	0.79	0.67	0.59	0.50	0.43
13	0.97	0.83	0.69	0.59	0.51	0.46
14	1.14	1.02	0.87	0.76	0.68	0.63
17	1.85	1.77	1.42	1.26	1.13	1.06
18	2.24	2.13	1.53	1.32	1.32	1.12
19	2.64	2.34	1.93	1.68	1.46	1.37
20	3.94	3.62	2.99	2.68	2.44	2.20
22	5.18	4.67	3.56	3.05	2.75	2.24
26	6.10	5.49	4.47	3.81	3.40	3.15
31	11.18	9.35	7.62	6.60	5.89	5.38

	121.90	152.40
12	0.39	0.35
13	0.39	0.35
14	0.55	0.50
17	0.93	0.83
18	1.02	0.95
19	1.14	1.02
20	1.97	1.73
22	2.05	1.73
26	2.64	2.34
31	4.57	3.96

Table does not include effect of pressure drop across line regulator. If regulator loss exceeds 100 mm WC, DO NOT USE THIS TABLE. Consult with regulator manufacturer for pressure drops and capacity factors. Pressure drop across regulator may vary with the flow rate.

CAUTION: Capacities shown in table may exceed maximum capacity of selected regulator. Consult with tubing manufacturer for guidance.

(1)Table includes losses for four 90 degree bends and two end fittings. Tubing runs with larger numbers of bends and/or fittings should be increased by an equivalent length of tubing to the following equation: L equals 0.4n where L is additional length (m) of tubing and n is the number of additional fittings and/or levels.

(2)EHD - Effective Hydraulic Diameter - A measure of the relative hydraulic efficiency between different tubing sizes. The greater the value of EHD, the greater the gas capacity of the tubing.

TABLE VIII
Table 12-15
Maximum Capacity of CSST in Cubic Feet per Hour for Gas Pressure of 5 psi and Pressure Drop of 3.5 psi (Based on 0.60 Specific Gravity Gas)(1)

EHD(2) Flow Designation	Tubing Length (ft) 10	25	30	40	50	75	80	100
12	350	240	225	192	185	155	151	140
13	490	340	312	279	250	207	198	181
14	542	355	323	284	258	217	200	187
17	830	560	510	447	405	345	340	310
18	1291	775	749	633	549	439	432	400
19	1549	968	891	723	646	568	516	465
20	1700	1175	1075	900	850	705	700	640
22	3357	2195	2066	1678	1420	1046	1033	910
26	3679	2259	2079	1704	1549	1291	1108	1110
31	6455	3073	3550	3034	2776	2102	2130	1904

EHD(2) Flow Designation	Tubing Length (ft) 150	200	250	300	400	500
12	120	105	98	90	78	70
13	136	116	101	96	80	70
14	161	142	127	116	98	93
17	260	230	210	192	118	155
18	336	290	239	232	213	187
19	374	323	290	258	219	207
20	540	480	440	405	342	320
22	749	633	523	497	432	368
26	852	749	665	607	503	465
31	1549	1323	1162	1065	878	813

Table does not include effect of pressure drop across line regulator. If regulator loss exceeds 1 psig, DO NOT USE THIS TABLE. Consult with regulator manufacturer for pressure drops and capacity factors. Pressure drop across regulator may vary with the flow rate.

CAUTION: Capacities shown in table may exceed maximum capacity of selected regulator. Consult with tubing manufacturer for guidance.

(1)Table includes losses for four 90 degree bends and two end fittings. Tubing runs with larger numbers of bends and/or fittings should be increased by an equivalent length of tubing to the following equation: L equals 1.3n where L is additional length (ft) of tubing and n is the number of additional fittings and/or levels.

(2)EHD - Effective Hydraulic Diameter - A measure of the relative hydraulic efficiency between different tubing sizes. The greater the value of EHD, the greater the gas capacity of the tubing.

TABLE IX
Table 12-15A
Maximum Capacity of CSST in Liters of Gas per Second for Gas Pressure of 34.5 kPa and Pressure Drop of 24.2 kPa (Based on 0.60 Specific Gravity Gas)(1)

EHD(2) Flow Designation	Tubing Length (m) 3.00	7.62	9.00	12.20	15.20	22.86
12	2.75	1.89	1.77	1.51	1.46	1.22
13	3.86	2.66	2.46	2.20	1.97	1.63
14	4.27	2.79	2.54	2.24	2.03	1.71
17	6.53	4.41	4.01	3.52	3.19	2.72
18	10.16	6.10	5.89	4.98	4.32	3.45
19	12.19	7.62	7.01	5.69	5.08	4.47
20	13.38	9.25	8.46	7.08	6.69	5.55
22	26.42	17.27	16.26	13.21	11.18	8.23
26	28.95	17.78	16.36	13.41	12.19	10.16
31	50.80	30.48	27.94	23.88	21.85	17.17

EHD(2) Flow Designation	Tubing Length (m) 24.40	30.50	45.70	60.90	76.20	91.40
12	1.19	1.10	0.94	0.83	0.77	0.71
13	1.56	1.42	1.07	0.91	0.79	0.76
14	1.57	1.47	1.27	1.12	1.00	0.91
17	2.68	2.44	2.05	1.81	1.65	1.51
18	3.40	3.15	2.64	2.28	1.88	1.83
19	4.06	3.66	2.94	2.54	2.28	2.03
20	5.51	5.04	4.25	3.78	3.46	3.19
22	8.13	7.16	5.89	4.98	4.12	3.91
26	9.35	8.74	6.71	5.89	5.23	4.78
31	16.76	14.98	12.19	10.41	9.14	8.38

EHD(2) Flow Designation	Tubing Length (m) 121.90	152.40
12	0.61	0.55
13	0.63	0.55
14	0.77	0.73
17	0.93	1.22
18	1.68	1.47
19	1.72	1.63
20	2.69	2.52
22	3.40	2.90
26	3.96	3.66
31	6.91	6.40

Table does not include effect of pressure drop across line regulator. If regulator loss exceeds 6.9 kPa, DO NOT USE THIS TABLE. Consult with regulator manufacturer for pressure drops and capacity factors. Pressure drop across regulator may vary with the flow rate.

CAUTION: Capacities shown in table may exceed maximum capacity of selected regulator. Consult with tubing manufacturer for guidance.

(1)Table includes losses for four 90 degree bends and two end fittings. Tubing runs with larger numbers of bends and/or fittings should be increased by an equivalent length of tubing to the following equation: L equals 0.4n where L is additional length (m) of tubing and n is the number of additional fittings and/or levels.

(2)EHD - Effective Hydraulic Diameter - A measure of the relative hydraulic efficiency between different tubing sizes. The greater the value of EHD, the greater the gas capacity of the tubing.

TABLE X
Table 12-16
Maximum Capacity of CSST in Cubic Feet per Hour of Undiluted Liquefied Petroleum Gases at a Pressure of 11 in. WC and Pressure Drop of 0.5 in. WC (Based on 1.52 Specific Gravity Gas)(1)

EHD(2) Flow Designation	Tubing Length (ft) 5	10	15	20	25	30	40	50
12	30	21	16	13	12	11	9	8
13	31	21	18	14	13	11	9	9
14	44	33	27	23	21	19	18	17
17	73	53	44	39	35	31	26	25
18	81	57	47	41	36	34	28	26
19	90	64	50	44	40	36	31	28
20	157	106	82	69	66	60	50	45
22	162	109	84	73	66	60	50	47
26	211	146	109	101	91	81	69	62
31	365	251	203	175	154	142	117	106

EHD(2) Flow Designation	Tubing Length (ft) 60	70	80	90	100	150

12	7	7	6	6	4	3
13	8	7	7	6	6	4
14	16	15	14	13	12	9
17	21	20	18	17	14	12
18	23	23	22	19	14	13
19	25	25	23	23	22	18
20	38	35	30	29	26	18
22	38	35	33	31	28	23
26	55	52	48	47	45	42
31	96	89	81	80	74	67

	200	250	300
12	-	-	-
13	3	3	0
14	6	5	3
17	10	9	6
18	10	9	8
19	14	11	9
20	14	11	9
22	19	17	14
26	38	31	30
31	60	47	45

(1)Table includes losses for four 90 degree bends and two end fittings. Tubing runs with larger numbers of bends and/or fittings should be increased by an equivalent length of tubing to the following equation: L equals 1.3n where L is additional length (ft) of tubing and n is the number of additional fittings and/or levels.

(2)EHD - Effective Hydraulic Diameter - A measure of the relative hydraulic efficiency between different tubing sizes. The greater the value of EHD, the greater the gas capacity of the tubing.

TABLE XI
Table 12-16A
Maximum Capacity of CSST in Liters of Gas per Second of Undiluted Liquefied Petroleum Gases at a Pressure of 279.44 mm WC and Pressure Drop of 12.7 mm WC (Based on 1.52 Specific Gravity Gas)(1)

	Tubing Length (m)					
EHD(2) Flow Designation	1.50	3.00	4.60	6.00	7.60	9.00
12	0.24	0.17	0.12	0.10	0.09	0.08
13	0.25	0.17	0.14	0.11	0.10	0.09
14	0.35	0.26	0.21	0.18	0.17	0.15
17	0.57	0.42	0.35	0.31	0.27	0.25
18	0.64	0.45	0.37	0.32	0.29	0.27
19	0.71	0.50	0.39	0.35	0.31	0.29
20	1.24	0.83	0.64	0.54	0.52	0.47
22	1.28	0.86	0.66	0.57	0.52	0.47
26	1.66	1.15	0.86	0.80	0.72	0.64
31	2.87	1.98	1.60	1.37	1.21	1.12

	12.20	15.20	18.30	21.30	24.40	27.40
12	0.07	0.06	0.05	0.05	0.04	0.04
13	0.07	0.07	0.06	0.05	0.05	0.05
14	0.14	0.13	0.12	0.12	0.11	0.10
17	0.21	0.19	0.17	0.16	0.14	0.13
18	0.22	0.20	0.18	0.18	0.17	0.15
19	0.24	0.22	0.20	0.19	0.18	0.18
20	0.40	0.36	0.30	0.27	0.24	0.23
22	0.40	0.37	0.30	0.28	0.26	0.24
26	0.54	0.48	0.44	0.41	0.38	0.37
31	0.92	0.84	0.75	0.70	0.64	0.63

	30.50	45.70	60.90	76.20	91.40
12	0.03	0.02	-	-	-
13	0.04	0.03	0.02	0.02	-
14	0.09	0.07	0.05	0.04	0.02
17	0.11	0.09	0.08	0.07	0.05
18	0.11	0.10	0.08	0.07	0.06
19	0.17	0.14	0.11	0.09	0.07
20	0.21	0.14	0.11	0.09	0.07
22	0.22	0.18	0.15	0.13	0.11
26	0.36	0.33	0.30	0.24	0.24
31	0.58	0.52	0.47	0.37	0.35

(1)Table includes losses for four 90 degree bends and two end fittings. Tubing runs with larger numbers of bends and/or fittings should be increased by an equivalent length of tubing to the following equation: L equals 0.4n where L is additional length (m) of tubing and n is the number of additional fittings and/or levels.

(2)EHD - Effective Hydraulic Diameter - A measure of the relative hydraulic efficiency between different tubing sizes. The greater the value of EHD, the greater the gas capacity of the tubing.

Chapter 13, Section 1310 (g) is amended as follows:

"(g) When a water heater is located in an attic or furred space where damage may result from a leaking water heater, a watertight pan of corrosion resistant materials shall be installed beneath the water heater with a minimum one and one-half (1-1/2) inch diameter drain to an approved location."

(2) Local Amendments

City of Logan

City of Logan adopted Appendix H.

City of Orem

City of Orem adopted Appendix A.

City of West Jordan

City of West Jordan adopted Appendix A, Appendix B, Appendix D, Appendix E and Appendix I.]

Reserved.

R156-56-708. Amendments to the [~~UMC~~]IMC.

(1) Statewide Amendments

[~~Chapter 3, Section 303.2 - the following is added as Exception 3:~~

~~3. When approved by the authority having jurisdiction, shut-off valves for listed, vented decorative appliances may be accessibly located in an area remote from the appliance. Such valve shall be permanently identified and shall serve no other equipment.~~

~~Chapter 3, Section 304.6 is amended as follows:~~

~~The following is added after paragraph 304.6:~~

~~Exception: LP Gas burning appliances may be installed in basements of buildings with not more than 6,000 square feet per floor and not classified as group E, H or I occupancy, PROVIDED:~~

~~A. All new systems shall be installed in accordance with NFPA Article 58 and 54.~~

~~B. The entire gas system shall be pressure tested and inspected for leaks as set forth in NFPA Article 54, Sections 4.1.1 through 4.3.4 and all tanks, piping, regulators, gauges, connectors, valves, vents, thermostats, pilots, burners and appliance controls shall be inspected for proper installation and function as administered and required by Utah State LPG Board and reinspected every five years thereafter. Inspector shall be a certified LPG serviceman as provided by the Liquified Petroleum Gas Act.~~

~~C. All new LPG systems installed in basements shall be inspected by a certified LPG serviceman and approved before occupancy is allowed. All existing below grade installations shall~~

be inspected and approved within five years of adoption of this program and every five years thereafter.

D. A visible tag indicating system has successfully passed gas check inspection shall be affixed to LPG supply tank. Tag shall indicate name of company, certification number of inspector, and date of inspection.

E. An approved and listed audible LP gas detector alarm shall be installed in all new below grade installations in accordance with manufacturers listing.

Chapter 7, Section 702.0 is amended as follows:

The following is added after Section 702.1:

Exception: When all air is taken from the outdoors for an appliance with a minimum clearance of one inch (2.5 cm) on the sides and backs and six inches (15.2 cm) on the front, one opening shall be permitted and located within the upper 12 inches (304 mm) of the enclosure.

Table 7-1, Column II is amended as follows. Table No. 7-1, Column II is deleted and replaced with the following:

TABLE NO. 7-1
SIZE OF COMBUSTION-AIR OPENINGS OR DUCTS(1)
COLUMN II
BUILDINGS OF UNUSUALLY TIGHT CONSTRUCTION(2)

CONDITION	SIZE OF OPENINGS OR DUCTS
Appliance in unconfined(2) space: Obtain combustion air from outdoors or from space freely communicating with outdoors.	Provide two openings, each have one square inch (645 mm²) per 5000 Btu/h (1.47 kW)input. Ducts admitting outdoor air may be connected to the cold-air return.
	x0.293 for W x645.2 for mm²
Appliance in confined(4) space: Obtain combustion air from outdoors, or from space freely communicating with outdoors.	1. Provide two vertical ducts or plenums; one square inch per 4,000 Btu/h input each duct or plenum.
	2. Provide two horizontal ducts or plenums; one square inch per 2,000 Btu/h input each duct or plenum.
	3. Provide two openings in an exterior wall of the enclosure; each opening one square inch per 4,000 Btu/h input.
	4. Provide one ceiling ventilated attic and one vertical duct to attic; each opening one square inch per 4,000 Btu/h input.
	5. Provide one opening or one vertical duct or one horizontal duct in the enclosure; one square inch per 3,000 Btu/h input but no smaller than vent flow area.
	6. Provide one opening in enclosure ceiling to ventilated attic and one opening in enclosure floor to ventilated crawl space; each opening one square inch per 4,000 Btu/h input.

(1) For location of openings, see Section 702.0

(2) As defined in Section 223.0

(3) When the total input rating of appliances in enclosure exceeds 100,000 Btu/h (29.3 kW), the area of each opening into the enclosure shall be increased one square inch (645 mm²) for each 1,000 Btu/h (293 W) over 100,000 (29.3 kW).

(4) As defined in Section 205.0.

Appendix B, Chapter 13 is adopted as a part of the UMC and incorporated by reference.

Appendix B, Chapter 13, Section 1313.2 is amended to include the following:

All gas meters located more than 6500 feet above sea level must be located in an area that is protected from ice and snow or be provided with snow and ice protection.

(2) Local Amendments

City of West Jordan

City of West Jordan adopted Appendix B.]

Chapter 1, Section 103 is deleted in its entirety.

Chapter 1, Section 109 is deleted in its entirety and replaced with the following:

Section 109.1 General. In order to hear and decide appeals of orders, decisions or determinations made by the building official relative to the application and interpretation of this code, there shall be and is hereby created a board of appeals consisting of members who are qualified by experience and training to pass on matters pertaining to mechanical systems and who are not employees of the jurisdiction. The building official shall be an ex officio member of and shall act as secretary to said board but shall have no vote on any matter before the board. The board of appeals shall be appointed by the governing body and shall hold office at its pleasure. The board shall adopt rules of procedure for conducting its business and shall render all decisions and findings in writing to the appellant with a duplicate copy to the building official.

Section 109.2 Limitations of authority. The board of appeals shall have no authority relative to interpretation of the administrative provision of this code nor shall the board be empowered to waive requirements of this code.

Chapter 3, Section 304.8 is amended by adding the following exception at the end of the paragraph:

Exception: R-3 occupancy.

Chapter 3, Section 306.5 is amended by adding the following exception at the end of the paragraph:

Exception: R-3 occupancy.

Chapter 3, Section 306.6 is amended by adding the following exception at the end of the paragraph:

Exception: Evaporative coolers serving R-3 occupancy.

Chapter 4 is deleted in its entirety. In place of the IMC, Chapter 4, reference the 1997 Uniform Building Code, Chapter 12.

Chapter 6, Section 603.8.1 is added as follows:

Section 603.8.1 Residential round ducts. Crimp joints for residential freound ducts shall have a contact lap of at least 1 1/2 inches (38 mm) and shall be mechanically fastened by means of at least three sheet metal screws equally spaced around the joint, or an equivalent fastening method.

KEY: contractors, building codes, building inspection, licensing
[~~Effective July 1,~~] 1998 **58-1-106(1)**
Notice of Continuation June 3, 1997 **58-1-202(1)**
58-56-1
58-56-4(2)
58-56-6(2)(a)

Commerce, Occupational and Professional Licensing

R156-56-704

Amendments to the UBC

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21573
FILED: 10/22/1998, 14:02
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Amendments to the UBC that have been approved by the Uniform Building Code Commission are being proposed.

SUMMARY OF THE RULE OR CHANGE: Added an amendment to Chapter 11, Section 1103.1.9.3 which proposes that when a change of use in the building or portion of the building results in multi-unit dwellings as defined in this section, only 20% of the dwelling units need to be Type B dwelling units. These dwelling units may be located on any floor of the building provided with an accessible route. Two percent, but not less than one, of the dwelling units, shall be Type A dwelling units. NOTE: There are two separate rule filings being proposed to amend Section R156-56-704. Each of the filings amends separate distinctive sections of the Uniform Building Code (UBC). One filing amends Chapter 18 of the UBC while the other rule filing amends Chapter 11 of the UBC. Interested persons should read both filings.
(**DAR Note:** The other amendment to Section R156-56-704 is found under DAR No. 21574 in this *Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-56-1, and Subsections 58-56-4(2), 58-56-6(2)(a), 58-1-106(1), and 58-1-202(1)

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: No costs or savings to the state budget are anticipated as amendment will impact consumers only.
❖LOCAL GOVERNMENTS: No costs or savings to local governments are anticipated as amendment will impact consumers only.
❖OTHER PERSONS: Buildings of this type require excessive circulation space which increases the required building area. This in turn increases the cost per dwelling unit. The result greatly reduces the development incentive for low income and speculative housing. Type B dwelling units inherently require larger doors, bathrooms, kitchens and laundry rooms. The resulting unit has an increased area with a diminished return on the dollar. This has the potential of a negative impact on the future development of affordable housing.
COMPLIANCE COSTS FOR AFFECTED PERSONS: Buildings of this type require excessive circulation space which increases the required building area. This in turn increases the cost per dwelling unit. The result greatly reduces the development incentive for low income and speculative housing. Type B dwelling units inherently require larger doors, bathrooms, kitchens and laundry rooms. The resulting unit has an increased area with a diminished return on the dollar. This has the potential of a negative impact on the future development of affordable housing.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This proposed rule change was submitted by the Architectural Advisory Committee and proposes a reduction in the currently required circulation space which the Committee deems excessive. The rule also proposes diminishing the required size of certain rooms and doors to reduce building costs. The stated purpose of the rule would be to reduce the cost of development and provide an incentive for the production of more low income and speculative housing. This rule would allow converted units to be finished as necessary while not requiring all units to be of an adaptable nature for handicapped residency. Under this rule only 20% of the units would have to be adaptable thereby allowing builders to reduce their costs in producing housing units. There would appear to be no direct fiscal impact on the state budget or upon local governments. Adoption of this proposed rule would definitely provide a cost savings to builders. If the decreased costs of producing dwellings under the proposed rule change is passed on, there could be a definite economic benefit to consumers. However, if the cost savings which would be occasioned by the builder under this rule are not passed on to the ultimate consumer, such consumer would be getting less for his investment and the cost saving to the builder could rightfully be viewed as corner-cutting by such home purchaser. Due to the speculative nature of the possible impact of this proposed rule, it is impossible to assign either a benefit or cost figure to its adoption and none was assigned by the division--Douglas C. Borba, Executive Director.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
Jud Weiler at the above address, by phone at (801) 530-6731, by FAX at (801) 530-6511, or by Internet E-mail at brdopl.jweiler@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 12/15/1998; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 11/16/1998, 9:00 a.m., Murray City Council Chambers, 5025 South State Street, Murray, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 12/16/1998

AUTHORIZED BY: J. Craig Jackson, Director

R156. Commerce, Occupational and Professional Licensing.
R156-56. Utah Uniform Building Standard Act Rules.
R156-56-704. Amendments to the UBC.

(1) Statewide Amendments

Chapter 1, Section 101.3 is amended by adding the following paragraph:

"The appendix chapters of this code are approved for adoption in each political subdivision of the State provided that each said political subdivision shall furnish to the Division a list of adopted chapters of the appendix to be kept on file. Where this code is not adopted by any political subdivision, the use of the appendix chapters shall be as determined by the Division with the concurrence of the Commission".

Chapter 1, Section 104.1 is amended as follows:

"There is hereby established in each political subdivision of the state a code enforcement agency which shall be under the administrative and operational control of the building official. The building official shall be appointed by the local regulator. If the local regulator fails to appoint a building official, the Director of the Division of Occupational and Professional Licensing with the Commission shall appoint one".

Chapter 1, Section 109.1 is amended by replacing the exception with the following:

EXCEPTION: Group R, Division 3 and Group U Occupancies; provided local jurisdictions may require a certificate of occupancy for Group R, Division 3 occupancies.

Chapter 3, Section 305.2.3 is amended as follows:

The following section is added after the title of Section 305.2.3 Special Provisions:

305.2.3.1 Kindergarten, first- or second-grade pupils.

Delete in its entirety the last paragraph of Section 305.2.3 which reads "Stages and platforms shall be construed in accordance with Chapter 4. For attic space partitions and draft stops, see Section 708".

Chapter 3, Section 305.2.3.2 is added as follows:

305.2.3.2 Day Care for 7 to 12 persons. Areas used for day care purposes of not less than seven persons and not more than 12 persons may be located in a dwelling unit, provided the building substantially complies with the requirements for a Group R, Division 3 occupancy. The increased requirements in Chapter 10 for occupant loads of 10 or more shall not apply. In addition, dwellings used for day care shall be provided with the following:

1. Areas used for group day care shall have two separate means of egress arranged so that if one is blocked, the other will be available.

a. Exit doors, other than the main exit, may be 32 inches wide.

b. When area is located in the basement or on the second floor, one of the exits must discharge directly to the outside.

c. Any interior stairway used as an exit from a basement shall be enclosed by a smoke and draft barrier which includes a self-closing, 20 minute fire-rated door assembly.

2. Group day care uses located in dwelling units shall not be located above the second floor.

3. Rooms used for sleeping shall have at least one window or door approved for emergency escape per Section 310.4.

4. Closet door latches shall be such that children can open the door from the inside of the closet.

5. Bathroom door locks shall be readily openable by staff from the outside.

6. Smoke detectors shall be installed in accordance with Section 310.9.1, including existing dwelling units.

Chapter 3, Section 305.2.3.3 is added as follows:

305.2.3.3 Other. Stages and platforms shall be constructed in accordance with Chapter 4. For attic space partitions and draft stops, see Section 708.

Chapter 10, Section 1004.3.4.3.2.1, Doors is amended by renumbering the existing exception as No. 1 and adding Exception 2. as follows:

2. In Group E-1 and E-2 occupancies that are fully protected by an approved fire sprinkler system, the door closers may be of the friction hold open type on classrooms only. In non-sprinkled E-1 and E-2 occupancies, classroom doors shall be held open only by a magnetic hold open device.

Chapter 10, Section 1003.3.3.6 is amended by adding an exception to the third paragraph as follows:

Exception: Handrails serving an individual unit in a Group R, Division 1 or Division 3 Occupancy may have either a circular cross section with a diameter of 1 1/4 inches (32 mm) to 2 inches (51 mm), or a non-circular cross section with a perimeter dimension of at least 4 inches (102 mm) but not more than 6 5/8 inches (168 mm) and a largest cross sectional dimension not exceeding 3 1/4 inches (83 mm). The perimeter on non-circular cross sections shall be measured from one side of the cross section, 2 inches (51 mm) down from the top or crown.

An indentation is required on both sides of non-circular handrail cross sections. This indentation must be in the area of the sides between 5/8 inch (16 mm) and 1 1/2 inches (38 mm) down from the top or crown of the cross section. The indentation shall be a minimum of 1/4 inch (6 mm) deep on each side and shall be at least 1/2 inch (13 mm) high.

Edges within the handgrip shall have a minimum radius of 1/16 inch (2 mm). The handrail surface shall be smooth with no cusps so as to avoid catching clothing or skin.

Chapter 11, Section 1103.1.9.3 is amended as follows:

The following is added as Exception 6.:

6. When a change of use in the building or portion of the building results in multi-unit dwellings as defined in this section, only 20% of the dwelling units need to be Type B dwelling units. These dwelling units may be located on any floor of the building provided with an accessible route. Two percent, but not less than one, of the dwelling units, shall be Type A dwelling units.

Chapter 16, Section 1612.3.2, Exception 2 is amended to read as follows:

2. Snow loads over 30 psf may be reduced in accordance with Section 1630.1.1, Item 3 (amended), and snow loads 30 psf or less need not be combined with seismic.

Chapter 16, Section 1630.1.1, Item 3 is amended as follows:

3. Design snow loads of 30 psf or less need not be included. Where the snow load exceeds 30 psf, the snow load shall be included. The snow load shall be adjusted in accordance with the following formula: $W_s = ((0.25 + 0.025(A-5))P_f$

WHERE: W_s = Weight of snow to be included in seismic calculations

A = Elevation above sea level at the location of the structure in question (ft/1000)

P_f = Design roof snow load, psf.

Chapter 23, Section 2316.2, Item 6 is amended by adding footnote 3, reference from "two months", to read as follows:

(6) When the accumulated duration of the full maximum load during the life of the member does not exceed the period indicated below, the values may be increased in the tables as follows:

3 as for snow below 5000 feet elevation.

Chapter 23, Section 2307 is amended by adding exception 5 as follows:

5. Veneer of brick or stone applied as specified in Section 1403.6 may be supported on structural glued-laminated timber or laminated veneer lumber provided that the beam be designed to limit the dead load deflection to 1/800 of the span and the total load deflection to 1/600 of the span with due consideration given for shrinkage and creep. The beam shall be protected from exposure to weather as required for dwelling under Section 1402.1.

Chapter 34, Section 3403.2 is amended as follows:

The following is added after the exceptions:

Buildings constructed prior to 1975 with parapet walls, cornices, spires, towers, tanks, signs, statuary and other appendages shall have such appendages evaluated by a licensed engineer to determine resistance to design loads specified in this code when said building is undergoing reroofing, or alteration of or repair to said feature.

EXCEPTION: Group R-3 and U occupancies.

Original plans and/or structural calculations may be utilized to demonstrate that the parapets or appendages are structurally adequate. When found to be deficient because of design or deteriorated condition, the engineer shall prepare specific recommendations to anchor, brace, reinforce or remove the deficient feature.

The maximum height of an unreinforced masonry parapet above the level of diaphragm tension anchors or above the parapet braces shall not exceed one and one-half times the thickness of the parapet wall. The parapet height may be a maximum of two and one-half times its thickness in other than Seismic Zones Nos. 3 and 4. If the required parapet height exceeds this maximum height, a bracing system designed for the forces specified in Table 16-0 for walls shall support the top of the parapet. When positive diaphragm connections are absent, tension roof anchors are required. Approved alternate methods of equivalent strength will be considered when accompanied by engineer sealed drawings, details and calculations.

Appendix Chapter 3, Division IV, Requirements for Group R, Division 4 Occupancies, is adopted as a part of the UBC and incorporated by reference.

Appendix Chapter 11, Division I, Site Accessibility, is adopted as a part of the UBC and incorporated by reference.

Appendix Chapter 11, Division II, Accessibility For Existing Buildings, is adopted as a part of the UBC and incorporated by reference.

Appendix Chapter 13, Energy Conservation in New Building Construction, is adopted as a part of the UBC and incorporated by reference.

Appendix Chapter 13, Section 1302.2 is amended as follows:

In order to comply with the purpose of this appendix, low-rise residential buildings shall be designed to comply with the requirements of the Model Energy Code promulgated jointly by the International Conference of Building Code Officials (ICBO); the Southern Building Code Congress International, Inc. (SBCCI); the Building Officials and Code Administrators International, Inc. (BOCA); and the National Conference of States on Building Codes and Standards, dated 1995. Commercial and high-rise residential buildings shall be designed to comply with the requirements of the Energy Code for Commercial and High-Rise Residential Building, which is a codification of ASHRAE/IES Standard 90.1 - 1989, Energy Efficient Design of New Buildings except Low-Rise Residential Buildings.

The Model Energy Code is amended as follows:

Section 502.2.1 Walls is amended as follows:

Equation 1 shall be used to determine acceptable combinations to meet this requirement, and when metal studs are used, Uw-values shall be those calculated using appropriate correction factors for thermal bridging of insulation as published in Section 8 of RS-1; or calculated using ASHRAE RS-4 approved methodology for either serial or parallel path thermal transfer; or U-values compiled in Table 8-Y of the "User's Manual" for ASHRAE/IES Standard 90.1-1989, which is hereby incorporated by reference and which shall be available at all offices issuing building permits or the Division of Occupational and Professional Licensing or insertion in the Model Energy Code.

Simplified prescriptive maps, tables or other compliance aids, manuals or computer programs as may be supplied by DOE/Pacific Northwest Laboratory or others, when certified by the state or its agencies, may be used to demonstrate energy code compliance.

ASHRAE/IES Standard 90.1-1989 is amended as follows:

Section 101.3.1.2 Exceptions:

(4) The building official may approve designs which do not fully conform with all of the requirements of this code where in the opinion of the building official full compliance is physically impossible and/or economically impractical.

Appendix Chapter 16, Division I, Snow Load Design is adopted and incorporated by reference.

Appendix Chapter 16, Division I, Section 1639 is amended as follows:

The ground snow load, P_g, to be used in the determination of design snow loads for buildings and other structures shall be determined by using the following formula: $P_g = (P_o^2 + S^2(A-A_o)^2)^{1/2}$ for A greater than A_o and $P_g = P_o$ for A less than = A_o

WHERE:

P_g = Ground snow load at a given elevation (psf)

P_o = Base ground snow load (psf) from Table A-16-C

S = Change in ground snow load with elevation (psf/1000 ft), from Table A-16-C

A = Elevation above sea level at the location for which snow load is being determined (ft/1000)

A_o = Asymptote and zero ground snow axis intercept (ft/1000) from Table A-16-C

The ground snow load, P_g, may be adjusted by the building official when a licensed engineer or architect submits data

substantiating the adjustments. A record of such action together with the substantiating data shall be provided to the division for a permanent record. The building official may round the snow load to the nearest 5 psf.

TABLE NO. A-16-C
STATE OF UTAH - REGIONAL SNOW LOAD FACTORS

COUNTY	P_o	S	A_o
Beaver	43	63	6.2
Box Elder	43	63	5.2
Cache	50	63	4.5
Carbon	43	63	5.2
Daggett	43	63	6.5
Davis	43	63	4.5
Duchesne	43	63	6.5
Emery	43	63	6.0
Garfield	43	63	6.0
Grand	36	63	6.5
Iron	43	63	5.8
Juab	43	63	5.2
Kane	36	63	5.7
Millard	43	63	5.3
Morgan	57	63	4.5
Piute	43	63	6.2
Rich	57	63	4.1
Salt Lake	43	63	4.5
San Juan	43	63	6.5
Sanpete	43	63	5.2
Sevier	43	63	6.0
Summit	86	63	5.0
Tooele	43	63	4.5
Uintah	43	63	7.0
Utah	43	63	4.5
Wasatch	86	63	5.0
Washington	29	63	6.0
Wayne	36	63	6.5
Weber	43	63	4.5

Appendix Chapter 29, Minimum Plumbing Facilities, is adopted as a part of the UBC and incorporated by reference.

Appendix Chapter 29 is amended as follows:

The following is added as footnote 7:

7. When provided, there shall be an equal number of diaper changing facilities for men as for women.

Appendix Chapter 30, Elevators, Dumbwaiters, Escalators and Moving Walks, is adopted as a part of the UBC and incorporated by reference.

Appendix Chapter 30, Section 3012 is amended as follows:

The following is added at the end of Section 3012:

Exceptions to ANSI/ASME A17.1:

(1) Delete Rule 102.2(c)(3); and

(2) Rule 102.2(c)(4) shall apply to all elevators except hydraulic elevators with 50 feet of travel or less.

Chapter 9-1 of the UBC Standards is amended as follows:

Replace the current Uniform Building Code Standard 9-1 (NFPA-13, 1991 edition) with the fire sprinkler standard, NFPA-13, 1996 edition.

Chapter 9-3 of the UBC Standards is amended as follows:

Replace the current Uniform Building Code Standard 9-3 (NFPA-13R, 1989 edition) with the fire sprinkler standard, NFPA-13R, 1996 edition.

(2) Local Amendments

Beaver County

Beaver County adopted Appendix Chapter 3, Division II.

Heber City Corporation

Heber City Corporation adopted Appendix Chapter 33.

Murray City Corporation adopted Appendix Chapter 3 Division II, Appendix Chapter 31 Division III, and Appendix Chapter 33.

City of North Salt Lake

City of North Salt Lake adopted Appendix Chapter 3, except Section 332, Appendix Chapter 9, Appendix Chapter 12, Division I, Appendix Chapter 15, Appendix Chapter 31, Division II and III and Appendix Chapter 33.

City of Orem

City of Orem adopted Appendix Chapter 3, Division I, Appendix Chapter 3, Division II, Appendix Chapter 31, Division III, and Appendix Chapter 33.

Park City Corporation

Chapter 9, Section 904.2.1 is amended by adding the following sections:

904.2.1.1 All new construction having more than 6,000 square feet on any one floor, except R-3 occupancy.

904.2.1.2 All new construction having more than two (2) stories, except R-3 occupancy.

904.2.1.3 All new construction having three (3) or more dwelling units, including units rented or leased, and including condominiums or other separate ownership.

904.2.1.4 All new construction in the Historic Commercial Business zone district, regardless of occupancy.

904.2.1.5 All new construction and buildings in the General Commercial zone district where there are side yard setbacks or where one or more side yard setbacks is less than two and one half (2.5) feet per story of height.

904.2.1.6 All existing building within the Historic District Commercial Business zone by August 15, 1996.

Park City Corporation

Chapter 15, Table No. 15-A. The following is added as footnote 5:

5 Wood roof covering is prohibited in areas with a combined rating of more than 11 using the following tables with a score of 9 for weather factors.

TABLE
WILDFIRE HAZARD SEVERITY SCALE

RATING	SLOPE	VEGETATION
1	less than or equal to 10%	Pinion-juniper
2	10.1 - 20%	Grass-sagebrush
3	greater than 20%	Mountain brush or softwoods

PROHIBITION/EXEMPTION TABLE

RATING	WOOD ROOF PROHIBITION
less than or equal to 11	wood roofs are allowed
greater than or equal to 12	wood roofs are prohibited

Park City Corporation

Chapter 33, Section 3306.2 is amended as follows:

Omit paragraph 1 and add a period after the word "excavation" in the third line of paragraph 2 and omit "nor exempt any excavation having an unsupported height greater than 5 feet after the completion of such structure". Delete paragraphs 8 and 9. Re-number the sections and add a new paragraph 7 requiring a permit for removal of substantial vegetation, shrubs, trees and stabilizing grass, but not to include weeds.

Park City Corporation adopted Appendix Chapter 3 Division II, Chapter 4 Division II, Chapter 12 Division II, Chapter 13, Chapter 15, Chapter 30, Chapter 31 Division I and Chapter 33.

Salt Lake County

Salt Lake County adopted Chapter 15, Chapter 16, Division III, Chapter 31, Division II, Chapter 31, Division III and Chapter 33.

City of St. George

City of St. George adopted Appendix Chapter 3 and Appendix Chapter 33.

Sandy City

Chapter 9, Section 904.2 is amended as follows:

An automatic fire sprinkler system shall be installed in all occupancies where the required fire flow exceeds 2,000 gallons per minute based on Table A-III-A-1 of the 1994 Uniform Fire Code.

Exception: Automatic fire sprinklers are not required in buildings used solely for worship, Group R, Division 3 and Group U occupancies.

Summit County

Summit County adopted Appendix Chapter 33.

Summit County

Chapter 9, Section 904.2

1. All new construction having more than 6,000 square feet on any one floor, except R-3 and U occupancies.

2. All new construction having more than two (2) stories, except R-3 and U occupancies.

3. All new construction having three (3) or more dwelling units, including units rented or leased and including condominiums or other separate ownership.

4. All newly constructed structures used as dwelling units in a multi-unit structure shall have at least an one hour fire resistive separation between units.

Washington City

Washington City adopted Appendix Chapter 33.

City of West Jordan

City of West Jordan adopted Appendix Chapter 3, Division II, Appendix Chapter 4, Division II, Appendix Chapter 13 and Appendix Chapter 33.

KEY: contractors, building codes, building inspection, licensing
[~~July 1,~~]1998 **58-1-106(1)**
Notice of Continuation June 3, 1997 **58-1-202(1)**
58-56-1
58-56-4(2)
58-56-6(2)(a)

◆ ◆

Commerce, Occupational and Professional Licensing

R156-56-704

Amendments to the UBC

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21574
FILED: 10/22/1998, 14:02
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Amendments to the Uniform Building Code (UBC) that have been approved by the Uniform Building Code Commission are being proposed.

SUMMARY OF THE RULE OR CHANGE: Added an amendment to Chapter 18, Section 1806.6.1 by adding an exception regarding when anchor bolt spacing does not exceed 32 inch on center (32" O.C.). The requirement for designed anchor bolts for three story buildings and for the large plate washers is based on an anchor bolt spacing of 72" O.C. Common practice in Utah is to provide anchor bolt spacing of 32" O.C. This has the effect of reducing the stress on the anchor bolts and on the wood by more than 50%, eliminating the need for the large washers or design requirement. The large washers will also create some substantial problems with construction as the anchor bolt must be nearly centered on the sill plate. Since such anchor bolt placement is expensive to achieve, it will result in higher costs of construction with little or no gain in protection to property. Thus, the amendment to Section 1806.6.1 is being proposed. NOTE: There are two separate rule filings being proposed to amend Section R156-56-704. Each of the filings amends separate distinctive sections of the Uniform Building Code. One filing amends Chapter 18 of the UBC while the other rule filing amends Chapter 11 of the UBC. Interested persons should read both filings.
(**DAR Note:** The other amendment to Section R156-56-704 is found under DAR No. 21573 in this *Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-56-1, and Subsections 58-56-4(2), 58-56-6(2)(a), 58-1-106(1), and 58-1-202(1)

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: No costs or savings to the state budget are anticipated as amendment will impact consumers only.
❖LOCAL GOVERNMENTS: No costs or savings to local governments are anticipated as amendment will impact consumers only.
❖OTHER PERSONS: The proposed amendment allows for fewer anchor bolts, therefore affording a cost savings in construction. The cost of each anchor bolt would be dependent on the size of the anchor bolt used and savings would vary dependent upon the size of each individual structure. Therefore, a single definitive savings cannot be calculated.
COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed amendment allows for fewer anchor bolts, therefore affording a cost savings in construction. The cost of each anchor bolt would be dependent on the size of the anchor bolt used and savings would vary dependent upon the size of each individual structure. Therefore, a single definitive savings cannot be calculated.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This proposed rule change was submitted by the Structural Advisory Committee and proposes a reduction in the currently required number of anchor bolts for three story buildings. The analysis furnished to the Executive Director is that there would be little or no lessening of protection but would reduce the cost of construction by an unspecified amount. Since implementation of this rule would only allow for builders to reduce their costs in producing buildings, there would appear to be no direct fiscal impact on the state budget or upon local governments. Adoption of this proposed rule would definitely provide a cost savings to builders by allowing them to utilize less material and labor. Due to the variables involved including the size of buildings and the volatility of the commercial building industry, it would be impossible to assign a reasonable cost saving figure which would be realized by the construction industry through adoption of this rule--Douglas C. Borba, Executive Director.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jud Weiler at the above address, by phone at (801) 530-6731, by FAX at (801) 530-6511, or by Internet E-mail at brdopl.jweiler@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 12/15/1998; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 11/16/1998, 9:00 a.m., Murray City Council Chambers, 5025 South State Street, Murray, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 12/16/1998

AUTHORIZED BY: J. Craig Jackson, Director

R156. Commerce, Occupational and Professional Licensing.
R156-56. Utah Uniform Building Standard Act Rules.
R156-56-704. Amendments to the UBC.

(1) Statewide Amendments

Chapter 1, Section 101.3 is amended by adding the following paragraph:

"The appendix chapters of this code are approved for adoption in each political subdivision of the State provided that each said political subdivision shall furnish to the Division a list of adopted chapters of the appendix to be kept on file. Where this code is not adopted by any political subdivision, the use of the appendix chapters shall be as determined by the Division with the concurrence of the Commission".

Chapter 1, Section 104.1 is amended as follows:

"There is hereby established in each political subdivision of the state a code enforcement agency which shall be under the administrative and operational control of the building official. The building official shall be appointed by the local regulator. If the local regulator fails to appoint a building official, the Director of the Division of Occupational and Professional Licensing with the Commission shall appoint one".

Chapter 1, Section 109.1 is amended by replacing the exception with the following:

EXCEPTION: Group R, Division 3 and Group U Occupancies; provided local jurisdictions may require a certificate of occupancy for Group R, Division 3 occupancies.

Chapter 3, Section 305.2.3 is amended as follows:

The following section is added after the title of Section 305.2.3 Special Provisions:

305.2.3.1 Kindergarten, first- or second-grade pupils.

Delete in its entirety the last paragraph of Section 305.2.3 which reads "Stages and platforms shall be construed in accordance with Chapter 4. For attic space partitions and draft stops, see Section 708".

Chapter 3, Section 305.2.3.2 is added as follows:

305.2.3.2 Day Care for 7 to 12 persons. Areas used for day care purposes of not less than seven persons and not more than 12 persons may be located in a dwelling unit, provided the building substantially complies with the requirements for a Group R, Division 3 occupancy. The increased requirements in Chapter 10 for occupant loads of 10 or more shall not apply. In addition, dwellings used for day care shall be provided with the following:

1. Areas used for group day care shall have two separate means of egress arranged so that if one is blocked, the other will be available.

a. Exit doors, other than the main exit, may be 32 inches wide.

b. When area is located in the basement or on the second floor, one of the exits must discharge directly to the outside.

c. Any interior stairway used as an exit from a basement shall be enclosed by a smoke and draft barrier which includes a self-closing, 20 minute fire-rated door assembly.

2. Group day care uses located in dwelling units shall not be located above the second floor.

3. Rooms used for sleeping shall have at least one window or door approved for emergency escape per Section 310.4.

4. Closet door latches shall be such that children can open the door from the inside of the closet.

5. Bathroom door locks shall be readily openable by staff from the outside.

6. Smoke detectors shall be installed in accordance with Section 310.9.1, including existing dwelling units.

Chapter 3, Section 305.2.3.3 is added as follows:

305.2.3.3 Other. Stages and platforms shall be constructed in accordance with Chapter 4. For attic space partitions and draft stops, see Section 708.

Chapter 10, Section 1004.3.4.3.2.1, Doors is amended by renumbering the existing exception as No. 1 and adding Exception 2. as follows:

2. In Group E-1 and E-2 occupancies that are fully protected by an approved fire sprinkler system, the door closers may be of the friction hold open type on classrooms only. In non-sprinkled E-1 and E-2 occupancies, classroom doors shall be held open only by a magnetic hold open device.

Chapter 10, Section 1003.3.3.6 is amended by adding an exception to the third paragraph as follows:

Exception: Handrails serving an individual unit in a Group R, Division 1 or Division 3 Occupancy may have either a circular cross section with a diameter of 1 1/4 inches (32 mm) to 2 inches (51 mm), or a non-circular cross section with a perimeter dimension of at least 4 inches (102 mm) but not more than 6 5/8 inches (168 mm) and a largest cross sectional dimension not exceeding 3 1/4 inches (83 mm). The perimeter on non-circular cross sections shall be measured from one side of the cross section, 2 inches (51 mm) down from the top or crown.

An indentation is required on both sides of non-circular handrail cross sections. This indentation must be in the area of the sides between 5/8 inch (16 mm) and 1 1/2 inches (38 mm) down from the top or crown of the cross section. The indentation shall be a minimum of 1/4 inch (6 mm) deep on each side and shall be at least 1/2 inch (13 mm) high.

Edges within the handgrip shall have a minimum radius of 1/16 inch (2 mm). The handrail surface shall be smooth with no cusps so as to avoid catching clothing or skin.

Chapter 16, Section 1612.3.2, Exception 2 is amended to read as follows:

2. Snow loads over 30 psf may be reduced in accordance with Section 1630.1.1, Item 3 (amended), and snow loads 30 psf or less need not be combined with seismic.

Chapter 16, Section 1630.1.1, Item 3 is amended as follows:

3. Design snow loads of 30 psf or less need not be included. Where the snow load exceeds 30 psf, the snow load shall be included. The snow load shall be adjusted in accordance with the following formula: $W_s = ((0.25 + 0.025(A-5))P_f$

WHERE: W_s = Weight of snow to be included in seismic calculations

A = Elevation above sea level at the location of the structure in question (ft/1000)

P_f = Design roof snow load, psf.

Chapter 18, Section 1806.6.1 is amended by adding the following exception at the end of that section:

Exception: When anchor bolt spacing does not exceed 32 inch on center.

Chapter 23, Section 2316.2, Item 6 is amended by adding footnote 3, reference from "two months", to read as follows:

(6) When the accumulated duration of the full maximum load during the life of the member does not exceed the period indicated below, the values may be increased in the tables as follows:

3 as for snow below 5000 feet elevation.

Chapter 23, Section 2307 is amended by adding exception 5 as follows:

5. Veneer of brick or stone applied as specified in Section 1403.6 may be supported on structural glued-laminated timber or laminated veneer lumber provided that the beam be designed to limit the dead load deflection to 1/800 of the span and the total load deflection to 1/600 of the span with due consideration given for shrinkage and creep. The beam shall be protected from exposure to weather as required for dwelling under Section 1402.1.

Chapter 34, Section 3403.2 is amended as follows:

The following is added after the exceptions:

Buildings constructed prior to 1975 with parapet walls, cornices, spires, towers, tanks, signs, statuary and other appendages shall have such appendages evaluated by a licensed engineer to determine resistance to design loads specified in this code when said building is undergoing reroofing, or alteration of or repair to said feature.

EXCEPTION: Group R-3 and U occupancies.

Original plans and/or structural calculations may be utilized to demonstrate that the parapets or appendages are structurally adequate. When found to be deficient because of design or deteriorated condition, the engineer shall prepare specific recommendations to anchor, brace, reinforce or remove the deficient feature.

The maximum height of an unreinforced masonry parapet above the level of diaphragm tension anchors or above the parapet braces shall not exceed one and one-half times the thickness of the parapet wall. The parapet height may be a maximum of two and one-half times its thickness in other than Seismic Zones Nos. 3 and 4. If the required parapet height exceeds this maximum height, a bracing system designed for the forces specified in Table 16-0 for walls shall support the top of the parapet. When positive diaphragm connections are absent, tension roof anchors are required. Approved alternate methods of equivalent strength will be considered when accompanied by engineer sealed drawings, details and calculations.

Appendix Chapter 3, Division IV, Requirements for Group R, Division 4 Occupancies, is adopted as a part of the UBC and incorporated by reference.

Appendix Chapter 11, Division I, Site Accessibility, is adopted as a part of the UBC and incorporated by reference.

Appendix Chapter 11, Division II, Accessibility For Existing Buildings, is adopted as a part of the UBC and incorporated by reference.

Appendix Chapter 13, Energy Conservation in New Building Construction, is adopted as a part of the UBC and incorporated by reference.

Appendix Chapter 13, Section 1302.2 is amended as follows:

In order to comply with the purpose of this appendix, low-rise residential buildings shall be designed to comply with the requirements of the Model Energy Code promulgated jointly by the International Conference of Building Code Officials (ICBO); the Southern Building Code Congress International, Inc. (SBCCI); the Building Officials and Code Administrators International, Inc. (BOCA); and the National Conference of States on Building Codes and Standards, dated 1995. Commercial and high-rise residential buildings shall be designed to comply with the requirements of the Energy Code for Commercial and High-Rise Residential Building, which is a codification of ASHRAE/IES Standard 90.1 - 1989, Energy Efficient Design of New Buildings except Low-Rise Residential Buildings.

The Model Energy Code is amended as follows:

Section 502.2.1 Walls is amended as follows:

Equation 1 shall be used to determine acceptable combinations to meet this requirement, and when metal studs are used, Uw-values shall be those calculated using appropriate correction factors for thermal bridging of insulation as published in Section 8 of RS-1; or calculated using ASHRAE RS-4 approved methodology for either serial or parallel path thermal transfer; or U-values compiled in Table 8-Y of the "User's Manual" for ASHRAE/IES Standard 90.1-1989, which is hereby incorporated by reference and which shall be available at all offices issuing building permits or the Division of

Occupational and Professional Licensing or insertion in the Model Energy Code.

Simplified prescriptive maps, tables or other compliance aids, manuals or computer programs as may be supplied by DOE/Pacific Northwest Laboratory or others, when certified by the state or its agencies, may be used to demonstrate energy code compliance.

ASHRAE/IES Standard 90.1-1989 is amended as follows:

Section 101.3.1.2 Exceptions:

(4) The building official may approve designs which do not fully conform with all of the requirements of this code where in the opinion of the building official full compliance is physically impossible and/or economically impractical.

Appendix Chapter 16, Division I, Snow Load Design is adopted and incorporated by reference.

Appendix Chapter 16, Division I, Section 1639 is amended as follows:

The ground snow load, P_g, to be used in the determination of design snow loads for buildings and other structures shall be determined by using the following formula: $P_g = (P_o^2 + S^2(A-A_o)^2)^{1/2}$ for A greater than A_o and $P_g = P_o$ for A less than = A_o

WHERE:

P_g = Ground snow load at a given elevation (psf)

P_o = Base ground snow load (psf) from Table A-16-C

S = Change in ground snow load with elevation (psf/1000 ft), from Table A-16-C

A = Elevation above sea level at the location for which snow load is being determined (ft/1000)

A_o = Asymptote and zero ground snow axis intercept (ft/1000) from Table A-16-C

The ground snow load, P_g, may be adjusted by the building official when a licensed engineer or architect submits data substantiating the adjustments. A record of such action together with the substantiating data shall be provided to the division for a permanent record. The building official may round the snow load to the nearest 5 psf.

TABLE NO. A-16-C
STATE OF UTAH - REGIONAL SNOW LOAD FACTORS

COUNTY	P_o	S	A_o
Beaver	43	63	6.2
Box Elder	43	63	5.2
Cache	50	63	4.5
Carbon	43	63	5.2
Daggett	43	63	6.5
Davis	43	63	4.5
Duchesne	43	63	6.5
Emery	43	63	6.0
Garfield	43	63	6.0
Grand	36	63	6.5
Iron	43	63	5.8
Juab	43	63	5.2
Kane	36	63	5.7
Millard	43	63	5.3
Morgan	57	63	4.5
Piute	43	63	6.2
Rich	57	63	4.1
Salt Lake	43	63	4.5
San Juan	43	63	6.5
Sanpete	43	63	5.2
Sevier	43	63	6.0
Summit	86	63	5.0
Tooele	43	63	4.5
Uintah	43	63	7.0
Utah	43	63	4.5
Wasatch	86	63	5.0
Washington	29	63	6.0
Wayne	36	63	6.5
Weber	43	63	4.5

Appendix Chapter 29, Minimum Plumbing Facilities, is adopted as a part of the UBC and incorporated by reference.

Appendix Chapter 29 is amended as follows:

The following is added as footnote 7:

7. When provided, there shall be an equal number of diaper changing facilities for men as for women.

Appendix Chapter 30, Elevators, Dumbwaiters, Escalators and Moving Walks, is adopted as a part of the UBC and incorporated by reference.

Appendix Chapter 30, Section 3012 is amended as follows:

The following is added at the end of Section 3012:

Exceptions to ANSI/ASME A17.1:

(1) Delete Rule 102.2(c)(3); and

(2) Rule 102.2(c)(4) shall apply to all elevators except hydraulic elevators with 50 feet of travel or less.

Chapter 9-1 of the UBC Standards is amended as follows:

Replace the current Uniform Building Code Standard 9-1 (NFPA-13, 1991 edition) with the fire sprinkler standard, NFPA-13, 1996 edition.

Chapter 9-3 of the UBC Standards is amended as follows:

Replace the current Uniform Building Code Standard 9-3 (NFPA-13R, 1989 edition) with the fire sprinkler standard, NFPA-13R, 1996 edition.

(2) Local Amendments

Beaver County

Beaver County adopted Appendix Chapter 3, Division II.

Heber City Corporation

Heber City Corporation adopted Appendix Chapter 33.

Murray City Corporation adopted Appendix Chapter 3 Division II, Appendix Chapter 31 Division III, and Appendix Chapter 33.

City of North Salt Lake

City of North Salt Lake adopted Appendix Chapter 3, except Section 332, Appendix Chapter 9, Appendix Chapter 12, Division I, Appendix Chapter 15, Appendix Chapter 31, Division II and III and Appendix Chapter 33.

City of Orem

City of Orem adopted Appendix Chapter 3, Division I, Appendix Chapter 3, Division II, Appendix Chapter 31, Division III, and Appendix Chapter 33.

Park City Corporation

Chapter 9, Section 904.2.1 is amended by adding the following sections:

904.2.1.1 All new construction having more than 6,000 square feet on any one floor, except R-3 occupancy.

904.2.1.2 All new construction having more than two (2) stories, except R-3 occupancy.

904.2.1.3 All new construction having three (3) or more dwelling units, including units rented or leased, and including condominiums or other separate ownership.

904.2.1.4 All new construction in the Historic Commercial Business zone district, regardless of occupancy.

904.2.1.5 All new construction and buildings in the General Commercial zone district where there are side yard setbacks or

where one or more side yard setbacks is less than two and one half (2.5) feet per story of height.

904.2.1.6 All existing building within the Historic District Commercial Business zone by August 15, 1996.

Park City Corporation

Chapter 15, Table No. 15-A. The following is added as footnote 5:

5 Wood roof covering is prohibited in areas with a combined rating of more than 11 using the following tables with a score of 9 for weather factors.

TABLE
WILDFIRE HAZARD SEVERITY SCALE

RATING	SLOPE	VEGETATION
1	less than or equal to 10%	Pinion-juniper
2	10.1 - 20%	Grass-sagebrush
3	greater than 20%	Mountain brush or softwoods

PROHIBITION/EXEMPTION TABLE

RATING	WOOD ROOF PROHIBITION
less than or equal to 11	wood roofs are allowed
greater than or equal to 12	wood roofs are prohibited

Park City Corporation

Chapter 33, Section 3306.2 is amended as follows:

Omit paragraph 1 and add a period after the word "excavation" in the third line of paragraph 2 and omit "nor exempt any excavation having an unsupported height greater than 5 feet after the completion of such structure". Delete paragraphs 8 and 9. Re-number the sections and add a new paragraph 7 requiring a permit for removal of substantial vegetation, shrubs, trees and stabilizing grass, but not to include weeds.

Park City Corporation adopted Appendix Chapter 3 Division II, Chapter 4 Division II, Chapter 12 Division II, Chapter 13, Chapter 15, Chapter 30, Chapter 31 Division I and Chapter 33.

Salt Lake County

Salt Lake County adopted Chapter 15, Chapter 16, Division III, Chapter 31, Division II, Chapter 31, Division III and Chapter 33.

City of St. George

City of St. George adopted Appendix Chapter 3 and Appendix Chapter 33.

Sandy City

Chapter 9, Section 904.2 is amended as follows:

An automatic fire sprinkler system shall be installed in all occupancies where the required fire flow exceeds 2,000 gallons per minute based on Table A-III-A-1 of the 1994 Uniform Fire Code.

Exception: Automatic fire sprinklers are not required in buildings used solely for worship, Group R, Division 3 and Group U occupancies.

Summit County

Summit County adopted Appendix Chapter 33.

Summit County

Chapter 9, Section 904.2

1. All new construction having more than 6,000 square feet on any one floor, except R-3 and U occupancies.

2. All new construction having more than two (2) stories, except R-3 and U occupancies.

3. All new construction having three (3) or more dwelling units, including units rented or leased and including condominiums or other separate ownership.

4. All newly constructed structures used as dwelling units in a multi-unit structure shall have at least an one hour fire resistive separation between units.

Washington City

Washington City adopted Appendix Chapter 33.

City of West Jordan

City of West Jordan adopted Appendix Chapter 3, Division II, Appendix Chapter 4, Division II, Appendix Chapter 13 and Appendix Chapter 33.

KEY: contractors, building codes, building inspection, licensing
[~~July 1,~~]1998 **58-1-106(1)**
Notice of Continuation June 3, 1997 **58-1-202(1)**
58-56-1
58-56-4(2)
58-56-6(2)(a)

Commerce, Occupational and Professional Licensing

R156-56-706

Amendments to the IPC

NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE NO.: 21575
FILED: 10/22/1998, 14:02
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Amendments to the International Plumbing Code that have been approved by the Uniform Building Code Commission are being proposed.

SUMMARY OF THE RULE OR CHANGE: Sections 103.1 through 103.4 of the International Plumbing Code (IPC) are being deleted in their entirety. Section 103.5 is renumbered as Section 103.1. These sections dealt with separate plumbing inspection departments which Utah jurisdictions do not have. Deletions allow building inspection departments to operate as they are currently operating. Deletions were made in an amendment affecting Section 409.3 regarding waste connection. Added wording to amendment affecting Section 412.5 regarding public toilet rooms which allows a second alternative for toilet room floor drains. Corrected a reference number for Airgap in Table - General Methods of Protection. Added to Table 608.1.2 a reference for hose connection backflow preventer which ultimately removes an installation method that has never been a common practice in Utah. Section 608.13.4 regarding barometric loop is being deleted in its entirety. Section 608.16.3 regarding heat exchangers was deleted and replaced with new language which

establishes the conditions under which a single wall heat exchanger can be used. Changed that Gray Water Recycling Systems cannot be adopted by any jurisdiction until January 1, 2000. Sections 1201.2 and 1202.2 were amended to reference the 1998 International Mechanical Code. NOTE: There are two separate rule filings to amend Section R156-56-706. Each of the rule filings amends separate distinctive sections of the International Plumbing Code. One filing amends Sections 103, 409.3, 412.5, 608.1, 1201 and 1202 of the IPC. The other filing amends Section 608.16.4 of the IPC. Interested persons should read both rule filings.
(**DAR Note:** The other amendment to Section R156-56-706 is found under DAR No. 21576 in this *Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-56-1, and Subsections 58-56-4(2), 58-56-6(2)(a), 58-1-106(1), and 58-1-202(1)

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: No costs or savings to the state budget are anticipated as amendments will impact consumers only.
❖LOCAL GOVERNMENTS: No costs or savings to local governments are anticipated as amendments will impact consumers only.
❖OTHER PERSONS: Most changes being made are to merely allow the continuation of existing practices. Due to some of the variations which would be permissible under the IPC, costs could be either increased or decreased depending on the discretion of the practitioner.
COMPLIANCE COSTS FOR AFFECTED PERSONS: Most changes being made are to merely allow the continuation of existing practices. Due to some of the variations which would be permissible under the IPC, costs could be either increased or decreased depending on the discretion of the practitioner.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The purpose of this proposed rule change is to conform certain provisions of the International Plumbing Code, if adopted, to current Utah practices. Since adoption would merely allow continuance of existing practice, there would be no fiscal impact upon those practicing under the plumbing code except insofar as variations permissible under the International Plumbing Code could alter costs upward or downward, largely within the discretion of the practitioner--Douglas C. Borba, Executive Director.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
Jud Weiler at the above address, by phone at (801) 530-6731, by FAX at (801) 530-6511, or by Internet E-mail at brdopl.jweiler@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 12/15/1998; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 11/16/1998, 9:00 a.m., Murray City Council Chambers, 5025 South State Street, Murray, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 12/16/1998

AUTHORIZED BY: J. Craig Jackson, Director

R156. Commerce, Occupational and Professional Licensing.
R156-56. Utah Uniform Building Standard Act Rules.
R156-56-706. Amendments to the IPC.

(1) Statewide Amendments
Section 103.1 is deleted in its entirety.
Section 103.2 is deleted in its entirety.
Section 103.3 is deleted in its entirety.
Section 103.4 is deleted in its entirety.
Section 103.5 is renumbered as Section 103.1.
Section 107.1.1 is deleted in its entirety.
Section 109 is retitled as "Board of Appeal".
Section 109.1 is deleted and replaced with the following:
109.1 General. In order to hear and decide appeals of orders, decisions or determinations made by the code official relative to the application and interpretation of this code, there shall be and is hereby created a local board of appeals consisting of members who are qualified by experience and training to pass on matters pertaining to building construction and who are not employees of the jurisdiction. The code official shall be an ex officio member of and shall act as secretary to said board but shall have no vote on any matter before the board. The board of appeals shall be appointed by the governing body and shall hold office at its pleasure. The board shall adopt rules of procedure for conducting its business, and shall render all decisions and finding in writing to the appellant with a duplicate copy to the code official.
Sections 109.2 through 109.7 are deleted in their entirety.
Section 202 General Definitions is revised as follows:
The definition for "Backflow Backpressure, Low Head" is deleted in its entirety.
The definition for "Backsiphonage" is deleted and replaced with the following:
Backsiphonage. The backflow of potentially contaminated, polluted or used water into the potable water system as a result of the pressure in the potable water system falling below atmospheric pressure of the plumbing fixtures, pools, tanks or vats connected to the potable water distribution piping.
The following definition is added:
Certified Backflow Preventer Assembly Tester. A person who has shown competence to test Backflow prevention assemblies to the satisfaction of the authority having jurisdiction under Subsection 19-4-104(4), Utah Code Ann. (1953), as amended.
The definition for "Code Official" is deleted and replaced with the following:
Code Official. The individual official, board, department or agency established and authorized by a state, county, city or other political subdivision created by law to administer and enforce the provisions of the plumbing code as adopted or amended. This

definition shall include the code official's duly authorized representative.

The definition for "Cross Connection" is deleted and replaced with the following:

Cross Connection. Any physical connection or potential connection or arrangement between two otherwise separate piping systems, one of which contains potable water and the other either water of unknown or questionable safety or steam, gas or chemical, whereby there exists the possibility for flow from one system to the other, with the direction of flow depending on the pressure differential between the two systems (see "Backflow").

The following definition is added:

Emergency Floor Drain. A floor drain installed for the primary purpose of collecting water from emergency spills or water line breaks.

The following definition is added:

Heat Exchanger (Potable Water). A device to transfer heat between two physically separated fluids (liquid or steam), one of which is potable water.

The definition for "Potable Water" is deleted and replaced with the following:

Potable Water. Water free from impurities present in amounts sufficient to cause disease or harmful physiological effects and conforming to the Titles 19-4 and 19-5, Utah Code Ann. (1953), as amended and the regulations of the public health authority having jurisdiction.

The definition for "Water Heater" is deleted and replaced with the following:

Water Heater. A closed vessel in which water is heated by the combustion of fuels or electricity and is withdrawn for use external to the system at pressures not exceeding 160 psig (1100 kPa (gage)), including the apparatus by which heat is generated, and all controls and devices necessary to prevent water temperatures from exceeding 210 degrees Fahrenheit (99 degrees Celsius).

Section 305.10 is added as follows:

Section 305.10 Improper Connections. No drain, waste, or vent piping shall be drilled and tapped for the purpose of making connections.

Section 312.9 is deleted in its entirety.

Section 403.1 is deleted and replaced with the following:

403.1 Minimum number of fixtures. Plumbing fixtures shall be provided for the type of occupancy and in the minimum number shown in Appendix Chapter 29, Uniform Building Code.

Table 403.1 is deleted in its entirety.

Section 403.2 is deleted and replaced with the following:

403.2 Hand sink location. Hand sinks in commercial food establishments shall be located accessible to food preparation areas, food service areas, dishwashing areas, and toilet rooms in accordance with Rule R392-100-5, Utah Administrative Code. Hand sinks in child care facilities shall be installed in accordance with R430-5(19)(5) a and b, Utah Administrative Code.

Sections 403.4, 403.5 and 403.6 are deleted in their entirety.

Section 409.1 is deleted and replaced with the following:

409.1 Approval. Domestic dishwashing machines shall conform to ASSE (American Society of Sanitary Engineering) 1006. Commercial dishwashing machines shall conform to ASSE 1004, NSF (National Sanitary Foundation) 3 or NSF 26.

Section 409.3 is deleted and replaced with the following:

Section 409.3 Waste connection. Domestic pump-type dishwashers may be directly connected to the inlet side (top or head) of an approved food waste disposal unit or a branch tailpiece in the tailpiece of the sink, by [~~either the use of an approved airgap device installed above the flood level of the sink, or by~~]the drain hose being extended and secured as high as possible under the bottom of the counter top before it is connected to the branch tailpiece located above the trap or to an approved food waste disposal unit.

Section 412.5 is added as follows:

412.5 Public toilet rooms. All public toilet rooms shall be equipped with at least one floor drain with a wall mounted hose bibb, or at least one emergency floor drain.

Section 418.1 is deleted and replaced with the following:

418.1 Approval. Sinks shall conform to ANSI Z124.6, ASME A112.19.1, ASME A112.19.2, ASME A112.19.3, ASME A112.19.4, ASME A112.19.9, CSA B45.1, CSA B45.2, CSA B45.3, CSA B45.4 or NSF 2.

Section 425.1.1 - The following exception is added after the paragraph.

Exception: Multiple urinals with an automatic flushing device.

Section 502.6 is added as follows:

502.6 Water Heater Seismic Bracing. In seismic zones 3 and 4, water heaters shall be anchored or strapped in the upper third of the appliance to resist a horizontal force equal to one third the operating weight of the water heater, acting in any horizontal direction, or in accordance with the appliance manufacturers recommendations.

Section 504.8.1 is amended as follows:

The measurement of "1 inch" in the last sentence of the paragraph is replaced with the measurement "1 1/2 inch".

Section 602.3 is deleted and replaced with the following:

602.3 Individual water supply. Where a potable public water supply is not available, individual sources of potable water supply shall be utilized provided that the source has been developed in accordance with Sections 73-3-1 and 73-3-25, Utah Code Ann. (1953), as amended, as administered by the Department of Natural Resources, Division of Water Rights. In addition, the quality of the water shall be approved by the local health department having jurisdiction. The source shall supply sufficient quantity of water to comply with the requirements of this chapter.

Sections 602.3.1, 602.3.3, 602.3.4, 602.3.5 and 602.3.5.1 are deleted in their entirety.

Section 604.4.1 is added as follows:

604.4.1 Metering faucets. Self closing or metering faucets shall provide a flow of water for at least 15 seconds without the need to reactivate the faucet.

Section 606.2 is deleted and replaced with the following:

606.2 Location of shutoff valves. Shutoff valves shall be installed in the following locations:

1. On the fixture supply to each plumbing fixture.

Exception: 1) bath tubs and showers.

Exception: 2) in individual guest rooms that are provided with unit shutoff valves in hotels, motels, boarding houses and similar occupancies.

2. On the water supply pipe to each sillcock.

3. On the water supply pipe to each appliance or mechanical equipment.

Section 606.5 is deleted and replaced with the following:

606.5 Water pressure booster systems. Water pressure booster systems shall be provided as required by Section 606.5.1 through 606.5.11.

Section 606.5.11 is added as follows:

606.5.11 Prohibited installation. In no case shall a booster pump be allowed that will lower the pressure in the public main to less than 20 psi.

Section 608.1 - The following sentence is added at the end of the paragraph: Connection without an air gap between potable water piping and sewer-connected waste shall not exist under any condition.

Table 608.1 is deleted and replaced with the following:

TABLE
General Methods of Protection

Assembly (applicable standard)	Degree of Hazard	Application	Installation Criteria
Air Gap (ASME A112.[~~2~~]1)	High or Low	Backsiphonage	See Table 608.15.1
Reduced Pressure Principle Backflow Preventer (AWWA C511, USC-FCCCHR, ASSE 1013 CSA CNA/CSA-B64.4) and Reduced Pressure Detector Assembly (ASSE 1047, USC-FCCCHR)	High or Low	Backpressure or Backsiphonage 1/2" - 16"	a. The bottom of each RP assembly shall be a minimum of 12 inches above the ground or floor. b. RP assemblies shall NOT be installed in a pit. c. The relief valve on each RP assembly shall not be directly connected to any waste disposal line, including sanitary sewer, storm drains, or vents. d. The assembly shall be installed in a horizontal position only unless listed or approved for vertical installation.
Double Check Backflow Prevention Assembly (AWWA C510, USC-FCCCHR, ASSE 1015) Double Check Detector Assembly Backflow Preventer (ASSE 1048, USC-FCCCHR)	Low	Backpressure or Backsiphonage 1/2" - 16"	a. If installed in a pit, the DC assembly shall be installed with a minimum of 12 inches of clearance between all sides of the vault including the floor and roof or ceiling with adequate room for testing and maintenance. b. Shall be installed in a horizontal position unless listed or approved for vertical installation.
Pressure Vacuum Breaker Assembly (ASSE 1020, USC-FCCCHR)	High or Low	Backsiphonage 1/2" - 2"	a. Shall not be installed in an area that could be subjected to backpressure or back drainage conditions. b. Shall be installed a minimum of 12 inches above all downstream piping and the highest point of use. c. Shall not be installed below ground or in a vault or pit. d. Shall be installed in a vertical position only.
Spill Resistant Vacuum Breaker (ASSE 1056, USC-FCCCHR)	High or Low	Backsiphonage 1/4" - 2"	a. Shall not be installed in an area that could be subjected to backpressure or back drainage conditions. b. Shall be installed a minimum of 6 inches above all downstream piping and the highest point of use. c. Shall not be installed below ground or in a vault or pit. d. Shall be installed in a vertical position only.
Atmospheric Vacuum Breaker (ASSE 1001 USC-FCCCHR, CSA CAN/CSA-B64.1.1	High or Low	Backsiphonage	a. Shall not be installed in an area that could be subjected to backpressure or back drainage conditions. b. Shall not be installed where it may be subjected to continuous pressure for more than 12 consecutive hours at any time. c. Shall be installed a minimum of six inches above all downstream piping and the highest point of use. d. Shall be installed on the discharge (downstream) side of any valves. e. The AVB shall be installed in a vertical position only.
General Installation Criteria			The assembly owner, when necessary, shall provide devices or structures to

		facilitate testing, repair, and/or maintenance and to insure the safety of the backflow technician. Assemblies shall not be installed more than five feet off the floor unless a permanent platform is installed. The body of the assembly shall not be closer than 12 inches to any wall, ceiling or incumbrance, and shall be accessible for testing, repair and/or maintenance. In cold climates, assemblies shall be protected from freezing by a means acceptable to the code official. Assemblies shall be maintained as an intact assembly.

Table 608.1.2 is added as follows:

TABLE 608.1.2
Specialty Backflow Devices for low hazard use only

Device	Degree of Hazard	Application	Applicable Standard
Antisiphon-type Water Closet Flush Tank Ball Cock	Low	Backsiphonage	ASSE 1002 CSA CAN/ CSA-B125
Dual check valve Backflow Preventer	Low	Backsiphonage or Backpressure 1/4" - 1"	ASSE 1024
Backflow Preventer with Intermediate Atmospheric Vent	Low Residential Boiler	Backsiphonage or Backpressure 1/4" - 3/4"	ASSE 1012 CSA CAN/ CSA-B64.3
Dual check valve type Backflow Preventer for Carbonated Beverage Dispensers/Post Mix Type	Low	Backsiphonage or Backpressure 1/4" - 3/8"	ASSE 1032
Hose-connection Vacuum Breaker	Low	Backsiphonage 1/2", 3/4", 1"	ASSE 1011 CSA CAN/ CSA-B64.2
Vacuum Breaker Wall Hydrants, Frost-resistant, Automatic Draining Type	Low	Backsiphonage 3/4", 1"	ASSE 1019 CSA CAN/ CSA-B64.2.2
Laboratory Faucet Backflow Preventer	Low	Backsiphonage	ASSE 1035 CSA CAN/ CSA-B64.7
Hose Connection Backflow Preventer	Low	Backsiphonage 1/2" - 1"	ASSE 1052

Installation Guidelines: The above specialty devices shall be installed in accordance with their listing and the manufacturer's instructions and the specific provisions of this chapter.

Section 608.3.1 - The following sentence is added at the end of the paragraph: All piping and hoses shall be installed below the atmospheric vacuum breaker.

Section 608.7 is deleted in its entirety.

Section 608.8 - The following sentence is added at the end of the paragraph: In addition each nonpotable water outlet shall be labeled with the words "CAUTION: UNSAFE WATER, DO NOT DRINK".

Section 608.11 - The following sentence is added at the end of the paragraph: The coating shall conform to NSF Standard 61 and application of the coating shall comply with the manufacturers instructions.

Section 608.13.3 is deleted and replaced with the following:

608.13.3 Backflow preventer with intermediate atmospheric vent. Backflow preventers with intermediate atmospheric vents shall conform to ASSE 1012 or CAS CAN/CAS-B64.3. These devices shall be permitted to be installed on residential boilers only where subject to continuous pressure conditions. The relief opening shall discharge by air gap and shall be prevented from being submerged.

Section 608.13.4 is deleted in its entirety.

Section 608.15.3 is deleted and replaced with the following:

608.15.3 Protection by a backflow preventer with intermediate atmospheric vent. Opening and outlets to residential boilers only shall be protected by a backflow preventer with an intermediate atmospheric vent.

Section 608.15.4 is deleted and replaced with the following:

608.15.4 Protection by a vacuum breaker. Openings and outlets shall be protected by atmospheric-type or pressure-type vacuum breakers. The critical level of the vacuum breaker shall be set a minimum of 6 inches (152 mm) above the flood level rim of the fixture or device. The critical level of the pressure vacuum breaker shall be set a minimum of 12 inches (304 mm) above the flood level rim of the fixture or device. Ball cocks shall be set in accordance with Section 425.3.1. Vacuum breakers shall not be installed under exhaust hoods or similar locations that will contain toxic fumes or vapors. Pipe-applied vacuum breakers shall be installed not less than 6 inches (152 mm) above the flood level rim of the fixture, receptor or device served. No valves shall be installed downstream of the atmospheric vacuum breaker.

Section 608.15.4.2 - The following is added at the end of the paragraph: In climates where freezing temperatures occur, a listed, self-draining frost proof hose bibb with an integral backflow preventer shall be used.

Section 608.16.1 is deleted and replaced with the following:

608.16.1 Beverage dispensers. Potable water supply to carbonators shall be protected by a stainless steel vented dual check valve installed according to the requirements of this chapter.

Section 608.16.2 - The first sentence of the paragraph is deleted and replaced as follows:

608.16.2 The potable water supply to the residential boiler shall be equipped with a backflow preventer with an intermediate

atmospheric vent complying with ASSE 1012 or CSA CAN/CSA B64.3.

Section 608.16.3 is deleted and replaced with the following:

608.16.3 Heat exchangers. Heat exchangers shall be separated from potable water by double-wall construction. An air gap open to the atmosphere shall be provided between the two walls. Heat exchangers shall be permitted to be of single wall construction under one of the following conditions:

1. a. Utilize a heat transfer medium of potable water or only substances which are recognized as safe by the United States Food and Drug Administration (FDA); and

b. The pressure of the heat transfer medium is maintained less than the normal minimum operating pressure of the potable water system; and

Exception: Steam complying with paragraph 1 above; and

c. The equipment is permanently labeled to indicate only additives recognized as safe by the FDA shall be used.

2. Approved listed electrical drinking water coolers.

Section 608.16.7 is deleted and replaced with the following:

608.16.7 Chemical dispensers. Where chemical dispensers connect to the water distribution system, the water supply system shall be protected against backflow in accordance with Section 608.13.1, Section 608.13.2, Section 608.13.5, Section 608.13.6 or Section 608.13.8.

Section 608.16.8 is deleted and replaced with the following:

608.16.8 Portable cleaning equipment. Where the portable cleaning equipment connects to the water distribution system, the water supply system shall be protected against backflow in accordance with Section 608.13.1, Section 608.13.2 or Section 608.13.8.

Section 608.16.9 is deleted and replaced with the following:

608.16.9 Dental pump equipment or water syringe. Where dental pumping equipment or water syringes connects to the water distribution system, the water supply system shall be protected against backflow in accordance with Section 608.13.1, Section 608.13.2, Section 608.13.5, Section 608.13.6 or Section 608.13.8.

Section 608.16.10 is added as follows:

608.16.10 Automatic and coin operated car washes. The water supply to an automatic or coin operated car wash shall be protected in accordance with Section 608.13.1 or Section 608.13.2.

Section 608.17 is deleted in its entirety.

Section 608.18 is added as follows:

608.18 Backflow assembly testing. The premise owner or his designee shall have backflow prevention assemblies operation tested at the time of installation, repair and relocation and at least on an annual basis thereafter, or more frequently as required by the authority having jurisdiction. Testing shall be performed by a Certified Backflow Preventer Assembly Tester. The assemblies that are subject to this paragraph are the Spill Resistant Vacuum Breaker, the Pressure Vacuum Breaker Assembly, the Double Check Backflow Prevention Assembly, the Double Check Detector Assembly Backflow Preventer, the Reduced Pressure Principle Backflow Preventer, and the Reduced Pressure Detector Assembly.

Section 612 is added as follows:

612. Gray Water

Gray Water Recycling Systems, Appendix C of the IPC, cannot be adopted by any jurisdiction until January 1, [~~1999~~]2000.

Section 701.2 - The following is added at the end of the paragraph: The sewer is considered as available when within 300 feet of the property line in accordance with Section 10-8-38, Utah Code Ann. (1953), as amended. Private sewage disposal systems shall conform with Rule R317-501 through R317-513 and Rule R317-5, Utah Administrative Code, as administered by the Department of Environmental Quality, Division of Water Quality.

Section 802.1.1 is deleted and replaced with the following:

802.1.1 Food handling. Equipment and fixtures utilized for the storage, preparation and handling of food or food equipment shall discharge through an indirect waste pipe by means of an air gap.

Exception: This requirement shall not apply to dishwashing machines and dishwashing sinks. This requires commercial dishwashing machines and dishwashing sinks to discharge through an air gap or an air break.

Section 802.3 is amended as follows:

The term "waste receptors" in the last sentence of the paragraph is replaced with the term "floor sinks".

Section 802.3.2 is deleted in its entirety.

Section 904.6 - The following sentence is added at the end of the paragraph: Vents extending through the wall shall terminate not less than 12 inches from the wall with an elbow pointing downward.

Section 917.2 is deleted and replaced with the following:

917.2 Installation. The valves may be installed in accordance with the requirements of this section and the manufacturers installation instructions when approved by the code official. Air admittance valves shall be installed after the DWV testing required by Section 312.2 or 312.3 has been performed.

Section 1002.4.1 is added as follows:

1002.4.1 Emergency floor drains. Each emergency floor drain shall be installed with a trap seal primer. Trap seal primer shall conform to ASSE 1018 or ASSE 1044.

Section 1003.3.3 is added as follows:

1003.3.3 Grease trap restriction. Unless specifically required or permitted by the code official, no food waste grinder or dishwasher shall be connected to or discharge into any grease trap.

Section 1104.2 is deleted and replaced with the following:

1104.2 Combining storm with sanitary drainage. The sanitary and storm drainage systems of a structure shall be entirety separate.

Section 1108 is deleted in its entirety.

Section 1201.2 is deleted and replaced with the following:

1201.2 Fuel piping systems. All fuel piping systems shall be sized, installed, tested and placed in operation in accordance with the requirements of [~~Appendix B, Chapter 13 of the 1994 Uniform Mechanical Code~~]the 1998 International Mechanical Code.

Appendix G, Section G110 is deleted, renumbered and replaced with the following:

Section 1202 CNG GAS-DISPENSING SYSTEMS

1202.1 Dispenser protection. The gas dispenser shall have an emergency switch to shut off the power to the dispenser. An approved backflow device that prevents the reverse flow of gas shall be installed on the gas supply pipe or in the gas dispenser.

1202.2 Ventilation. Gas-dispensing systems installed inside the structure shall be ventilated by mechanical means in accordance with the [~~Uniform Mechanical Code~~]1998 International Mechanical Code.

1202.3 Compressed natural gas vehicular fuel systems. Compressed natural gas (CNG) fuel-dispensing systems for CNG-fueled vehicles shall be designed and installed in accordance with NFPS 52 and the uniform fire code.

Chapter 14, Referenced Standards, is amended as follows:

NSF - Standard Reference Number 61-95 - The following referenced in code section number is added: 608.11

The following reference standard is added:

TABLE

USC-FCCCHR 9th Edition Manual of Cross Connection	Foundation for Cross-Connection Control and Hydraulic Research University of Southern California Kaprielian Hall 300 Los Angeles CA 90089-2531	Control Table 608.1

KEY: contractors, building codes, building inspection, licensing
[~~July 1,~~]1998
Notice of Continuation June 3, 1997

58-1-106(1)
58-1-202(1)
58-56-1
58-56-4(2)
58-56-6(2)(a)

Commerce, Occupational and Professional Licensing

R156-56-706

Amendments to the IPC

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21576
FILED: 10/22/1998, 14:02
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Amendments to the International Plumbing Code (IPC) that have been approved by the Uniform Building Code Commission are being proposed.

SUMMARY OF THE RULE OR CHANGE: Added amendments to Sections 608.16.4 and 608.16.4.1 which will allow the use of an alarm check valve without the additional double back flow valve. NOTE: There are two separate rule filings to amend Section R156-56-706. Each of the rule filings amends separate distinctive sections of the International Plumbing Code. One filing amends Sections 103, 409.3, 412.5, 608.1, 1201 and 1202 of the IPC. The other filing amends Section 608.16.4 of the IPC. Interested persons should read both rule filings.
(**DAR Note:** The other amendment to Section R156-56-706 is found under DAR No. 21575 in this *Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-56-1, and Subsections 58-56-4(2), 58-56-6(2)(a), 58-1-106(1), and 58-1-202(1)

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: No costs or savings to the state budget are anticipated as amendment will impact consumers only.
❖LOCAL GOVERNMENTS: No costs or savings to local governments are anticipated as amendment will impact consumers only.
❖OTHER PERSONS: Amendments eliminate the need for a second backflow device which depending on the size of the building and fire suppression system could save as much as $25,000 on large high rise installations.
COMPLIANCE COSTS FOR AFFECTED PERSONS: Amendments eliminate the need for a second backflow device which depending on the size of the building and fire suppression system could save as much as $25,000 on large high rise installations.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This proposed rule change proposes that an alarm check valve be allowed to be utilized instead of a double back-flow valve. Elimination of a second back-flow device is estimated to save contractors up to $25,000 in a high rise installation of automatic fire sprinkler systems. The exception listed in Section 608.16.4 appears to contain a potential adverse fiscal impact on businesses owning or occupying buildings without back-flow prevention devices. However, the Uniform Fire Code already requires an alarm check valve on all fire suppression systems regardless of the existence of a back-flow device in the building. This amendment allows the alarm check valve to act as the back-flow device and eliminates the requirement to install a second back-flow valve, therefore resulting in either a cost savings or a neutral impact--Douglas C. Borba, Executive Director.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
Jud Weiler at the above address, by phone at (801) 530-6731, by FAX at (801) 530-6511, or by Internet E-mail at brdopl.jweiler @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 12/15/1998; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 11/16/1998, 9:00 a.m., Murray City Council Chambers, 5025 South State Street, Murray, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 12/16/1998

AUTHORIZED BY: J. Craig Jackson, Director

R156. Commerce, Occupational and Professional Licensing.
R156-56. Utah Uniform Building Standard Act Rules.
R156-56-706. Amendments to the IPC.

(1) Statewide Amendments

Section 107.1.1 is deleted in its entirety.

Section 109 is retitled as "Board of Appeal".

Section 109.1 is deleted and replaced with the following:

109.1 General. In order to hear and decide appeals of orders, decisions or determinations made by the code official relative to the application and interpretation of this code, there shall be and is hereby created a local board of appeals consisting of members who are qualified by experience and training to pass on matters pertaining to building construction and who are not employees of the jurisdiction. The code official shall be an ex officio member of and shall act as secretary to said board but shall have no vote on any matter before the board. The board of appeals shall be appointed by the governing body and shall hold office at its pleasure. The board shall adopt rules of procedure for conducting its business, and shall render all decisions and finding in writing to the appellant with a duplicate copy to the code official.

Sections 109.2 through 109.7 are deleted in their entirety.

Section 202 General Definitions is revised as follows:

The definition for "Backflow Backpressure, Low Head" is deleted in its entirety.

The definition for "Backsiphonage" is deleted and replaced with the following:

Backsiphonage. The backflow of potentially contaminated, polluted or used water into the potable water system as a result of the pressure in the potable water system falling below atmospheric pressure of the plumbing fixtures, pools, tanks or vats connected to the potable water distribution piping.

The following definition is added:

Certified Backflow Preventer Assembly Tester. A person who has shown competence to test Backflow prevention assemblies to the satisfaction of the authority having jurisdiction under Subsection 19-4-104(4), Utah Code Ann. (1953), as amended.

The definition for "Code Official" is deleted and replaced with the following:

Code Official. The individual official, board, department or agency established and authorized by a state, county, city or other political subdivision created by law to administer and enforce the provisions of the plumbing code as adopted or amended. This definition shall include the code official's duly authorized representative.

The definition for "Cross Connection" is deleted and replaced with the following:

Cross Connection. Any physical connection or potential connection or arrangement between two otherwise separate piping systems, one of which contains potable water and the other either water of unknown or questionable safety or steam, gas or chemical, whereby there exists the possibility for flow from one system to the other, with the direction of flow depending on the pressure differential between the two systems (see "Backflow").

The following definition is added:

Emergency Floor Drain. A floor drain installed for the primary purpose of collecting water from emergency spills or water line breaks.

The following definition is added:

Heat Exchanger (Potable Water). A device to transfer heat between two physically separated fluids (liquid or steam), one of which is potable water.

The definition for "Potable Water" is deleted and replaced with the following:

Potable Water. Water free from impurities present in amounts sufficient to cause disease or harmful physiological effects and conforming to the Titles 19-4 and 19-5, Utah Code Ann. (1953), as amended and the regulations of the public health authority having jurisdiction.

The definition for "Water Heater" is deleted and replaced with the following:

Water Heater. A closed vessel in which water is heated by the combustion of fuels or electricity and is withdrawn for use external to the system at pressures not exceeding 160 psig (1100 kPa (gage)), including the apparatus by which heat is generated, and all controls and devices necessary to prevent water temperatures from exceeding 210 degrees Fahrenheit (99 degrees Celsius).

Section 305.10 is added as follows:

Section 305.10 Improper Connections. No drain, waste, or vent piping shall be drilled and tapped for the purpose of making connections.

Section 312.9 is deleted in its entirety.

Section 403.1 is deleted and replaced with the following:

403.1 Minimum number of fixtures. Plumbing fixtures shall be provided for the type of occupancy and in the minimum number shown in Appendix Chapter 29, Uniform Building Code.

Table 403.1 is deleted in its entirety.

Section 403.2 is deleted and replaced with the following:

403.2 Hand sink location. Hand sinks in commercial food establishments shall be located accessible to food preparation areas, food service areas, dishwashing areas, and toilet rooms in accordance with Rule R392-100-5, Utah Administrative Code. Hand sinks in child care facilities shall be installed in accordance with R430-5(19)(5) a and b, Utah Administrative Code.

Sections 403.4, 403.5 and 403.6 are deleted in their entirety.

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409.1 Approval. Domestic dishwashing machines shall conform to ASSE (American Society of Sanitary Engineering) 1006. Commercial dishwashing machines shall conform to ASSE 1004, NSF (National Sanitary Foundation) 3 or NSF 26.

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Section 412.5 is added as follows:

412.5 Public toilet rooms. All public toilet rooms shall be equipped with at least one emergency floor drain.

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Section 425.1.1 - The following exception is added after the paragraph.

Exception: Multiple urinals with an automatic flushing device.

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Sections 602.3.1, 602.3.3, 602.3.4, 602.3.5 and 602.3.5.1 are deleted in their entirety.

Section 604.4.1 is added as follows:

604.4.1 Metering faucets. Self closing or metering faucets shall provide a flow of water for at least 15 seconds without the need to reactivate the faucet.

Section 606.2 is deleted and replaced with the following:

606.2 Location of shutoff valves. Shutoff valves shall be installed in the following locations:

1. On the fixture supply to each plumbing fixture.

Exception: 1) bath tubs and showers.

Exception: 2) in individual guest rooms that are provided with unit shutoff valves in hotels, motels, boarding houses and similar occupancies.

2. On the water supply pipe to each sillcock.

3. On the water supply pipe to each appliance or mechanical equipment.

Section 606.5 is deleted and replaced with the following:

606.5 Water pressure booster systems. Water pressure booster systems shall be provided as required by Section 606.5.1 through 606.5.11.

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606.5.11 Prohibited installation. In no case shall a booster pump be allowed that will lower the pressure in the public main to less than 20 psi.

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Air Gap (ASME A112.2)	High or Low	Backsiphonage	See Table 608.15.1
Reduced Pressure Principle Backflow Preventer (AWWA C511, USC-FCCCHR, ASSE 1013 CSA CNA/CSA-B64.4) and Reduced Pressure Detector Assembly (ASSE 1047, USC-FCCCHR)	High or Low	Backpressure or Backsiphonage 1/2" - 16"	a. The bottom of each RP assembly shall be a minimum of 12 inches above the ground or floor. b. RP assemblies shall NOT be installed in a pit. c. The relief valve on each RP assembly shall not be directly connected to any waste disposal line, including sanitary sewer, storm drains, or vents. d. The assembly shall be installed in a horizontal position only unless listed or approved for vertical installation.
Double Check Backflow Prevention Assembly (AWWA C510, USC-FCCCHR, ASSE 1015) Double Check Detector Assembly Backflow Preventer (ASSE 1048, USC-FCCCHR)	Low	Backpressure or Backsiphonage 1/2" - 16"	a. If installed in a pit, the DC assembly shall be installed with a minimum of 12 inches of clearance between all sides of the vault including the floor and roof or ceiling with adequate room for testing and maintenance. b. Shall be installed in a horizontal position unless listed or approved for vertical installation.
Pressure Vacuum Breaker Assembly (ASSE 1020, USC-FCCCHR)	High or Low	Backsiphonage 1/2" - 2"	a. Shall not be installed in an area that could be subjected to backpressure or back drainage conditions. b. Shall be installed a minimum of 12 inches above all downstream piping and the highest point of use. c. Shall not be installed below ground or in a vault or pit. d. Shall be installed in a vertical position only.

Spill Resistant Vacuum Breaker (ASSE 1056, USC-FCCCHR)	High or Low	Backsiphonage 1/4" - 2"	a. Shall not be installed in an area that could be subjected to backpressure or back drainage conditions. b. Shall be installed a minimum of 6 inches above all downstream piping and the highest point of use. c. Shall not be installed below ground or in a vault or pit. d. Shall be installed in a vertical position only.
Atmospheric Vacuum Breaker (ASSE 1001 USC-FCCCHR, CSA CAN/CSA-B64.1.1	High or Low	Backsiphonage	a. Shall not be installed in an area that could be subjected to backpressure or back drainage conditions. b. Shall not be installed where it may be subjected to continuous pressure for more than 12 consecutive hours at any time. c. Shall be installed a minimum of six inches above all downstream piping and the highest point of use. d. Shall be installed on the discharge (downstream) side of any valves. e. The AVB shall be installed in a vertical position only.
General Installation Criteria			The assembly owner, when necessary, shall provide devices or structures to facilitate testing, repair, and/or maintenance and to insure the safety of the backflow technician. Assemblies shall not be installed more than five feet off the floor unless a permanent platform is installed. The body of the assembly shall not be closer than 12 inches to any wall, ceiling or incumbrance, and shall be accessible for testing, repair and/or maintenance. In cold climates, assemblies shall be protected from freezing by a means acceptable to the code official. Assemblies shall be maintained as an intact assembly.

Table 608.1.2 is added as follows:

TABLE 608.1.2
Specialty Backflow Devices for low hazard use only

Device	Degree of Hazard	Application	Applicable Standard
Antisiphon-type Water Closet Flush Tank Ball Cock	Low	Backsiphonage	ASSE 1002 CSA CAN/ CSA-B125
Dual check valve Backflow Preventer	Low	Backsiphonage or Backpressure 1/4" - 1"	ASSE 1024
Backflow Preventer with Intermediate Atmospheric Vent	Low Residential Boiler	Backsiphonage or Backpressure 1/4" - 3/4"	ASSE 1012 CSA CAN/ CSA-B64.3
Dual check valve type Backflow Preventer for Carbonated Beverage Dispensers/Post Mix Type	Low	Backsiphonage or Backpressure 1/4" - 3/8"	ASSE 1032
Hose-connection Vacuum Breaker	Low	Backsiphonage 1/2", 3/4", 1"	ASSE 1011 CSA CAN/ CSA-B64.2
Vacuum Breaker Wall Hydrants, Frost-resistant, Automatic Draining Type	Low	Backsiphonage 3/4", 1"	ASSE 1019 CSA CAN/ CSA-B64.2.2
Laboratory Faucet Backflow Preventer	Low	Backsiphonage	ASSE 1035 CSA CAN/ CSA-B64.7

Installation Guidelines: The above specialty devices shall be installed in accordance with their listing and the manufacturer's instructions and the specific provisions of this chapter.

Section 608.3.1 - The following sentence is added at the end of the paragraph: All piping and hoses shall be installed below the atmospheric vacuum breaker.

Section 608.7 is deleted in its entirety.

Section 608.8 - The following sentence is added at the end of the paragraph: In addition each nonpotable water outlet shall be labeled with the words "CAUTION: UNSAFE WATER, DO NOT DRINK".

Section 608.11 - The following sentence is added at the end of the paragraph: The coating shall conform to NSF Standard 61 and application of the coating shall comply with the manufacturers instructions.

Section 608.13.3 is deleted and replaced with the following:

608.13.3 Backflow preventer with intermediate atmospheric vent. Backflow preventers with intermediate atmospheric vents shall conform to ASSE 1012 or CAS CAN/CAS-B64.3. These devices shall be permitted to be installed on residential boilers only where subject to continuous pressure conditions. The relief opening shall discharge by air gap and shall be prevented from being submerged.

Section 608.15.3 is deleted and replaced with the following:

608.15.3 Protection by a backflow preventer with intermediate atmospheric vent. Opening and outlets to residential boilers only shall be protected by a backflow preventer with an intermediate atmospheric vent.

Section 608.15.4 is deleted and replaced with the following:

608.15.4 Protection by a vacuum breaker. Openings and outlets shall be protected by atmospheric-type or pressure-type vacuum breakers. The critical level of the vacuum breaker shall be set a minimum of 6 inches (152 mm) above the flood level rim of the fixture or device. The critical level of the pressure vacuum breaker shall be set a minimum of 12 inches (304 mm) above the flood level rim of the fixture or device. Ball cocks shall be set in accordance with Section 425.3.1. Vacuum breakers shall not be installed under exhaust hoods or similar locations that will contain toxic fumes or vapors. Pipe-applied vacuum breakers shall be installed not less than 6 inches (152 mm) above the flood level rim of the fixture, receptor or device served. No valves shall be installed downstream of the atmospheric vacuum breaker.

Section 608.15.4.2 - The following is added at the end of the paragraph: In climates where freezing temperatures occur, a listed, self-draining frost proof hose bibb with an integral backflow preventer shall be used.

Section 608.16.1 is deleted and replaced with the following:

608.16.1 Beverage dispensers. Potable water supply to carbonators shall be protected by a stainless steel vented dual check valve installed according to the requirements of this chapter.

Section 608.16.2 - The first sentence of the paragraph is deleted and replaced as follows:

608.16.2 The potable water supply to the residential boiler shall be equipped with a backflow preventer with an intermediate atmospheric vent complying with ASSE 1012 or CSA CAN/CSA B64.3.

Section 608.16.4 - The following is added as Exception 3.:

3. When there are no back-flow prevention devices which are listed for use in an automatic fire sprinkler system, a listed alarm check-valve, complete with all the trim, including a retard chamber, shall be provided.

Section 608.16.4.1 - The following is added as an Exception after the paragraph:

Exception: When there are no back-flow prevention devices which are listed for use in an automatic fire sprinkler system, a listed alarm check-valve, complete with all the trim, including a retard chamber, shall be provided instead. Additionally, propylene glycol or pure glycerine shall be the only acceptable antifreeze additives.

Section 608.16.7 is deleted and replaced with the following:

608.16.7 Chemical dispensers. Where chemical dispensers connect to the water distribution system, the water supply system shall be protected against backflow in accordance with Section 608.13.1, Section 608.13.2, Section 608.13.5, Section 608.13.6 or Section 608.13.8.

Section 608.16.8 is deleted and replaced with the following:

608.16.8 Portable cleaning equipment. Where the portable cleaning equipment connects to the water distribution system, the water supply system shall be protected against backflow in accordance with Section 608.13.1, Section 608.13.2 or Section 608.13.8.

Section 608.16.9 is deleted and replaced with the following:

608.16.9 Dental pump equipment or water syringe. Where dental pumping equipment or water syringes connects to the water distribution system, the water supply system shall be protected against backflow in accordance with Section 608.13.1, Section 608.13.2, Section 608.13.5, Section 608.13.6 or Section 608.13.8.

Section 608.16.10 is added as follows:

608.16.10 Automatic and coin operated car washes. The water supply to an automatic or coin operated car wash shall be protected in accordance with Section 608.13.1 or Section 608.13.2.

Section 608.17 is deleted in its entirety.

Section 608.18 is added as follows:

608.18 Backflow assembly testing. The premise owner or his designee shall have backflow prevention assemblies operation tested at the time of installation, repair and relocation and at least on an annual basis thereafter, or more frequently as required by the authority having jurisdiction. Testing shall be performed by a Certified Backflow Preventer Assembly Tester. The assemblies that are subject to this paragraph are the Spill Resistant Vacuum Breaker, the Pressure Vacuum Breaker Assembly, the Double Check Backflow Prevention Assembly, the Double Check Detector Assembly Backflow Preventer, the Reduced Pressure Principle Backflow Preventer, and the Reduced Pressure Detector Assembly.

Section 612 is added as follows:

612. Gray Water

Gray Water Recycling Systems, Appendix C of the IPC, cannot be adopted by any jurisdiction until January 1, 1999.

Section 701.2 - The following is added at the end of the paragraph: The sewer is considered as available when within 300 feet of the property line in accordance with Section 10-8-38, Utah Code Ann. (1953), as amended. Private sewage disposal systems shall conform with Rule R317-501 through R317-513 and Rule R317-5, Utah Administrative Code, as administered by the Department of Environmental Quality, Division of Water Quality.

Section 802.1.1 is deleted and replaced with the following:

802.1.1 Food handling. Equipment and fixtures utilized for the storage, preparation and handling of food or food equipment shall discharge through an indirect waste pipe by means of an air gap.

Exception: This requirement shall not apply to dishwashing machines and dishwashing sinks. This requires commercial dishwashing machines and dishwashing sinks to discharge through an air gap or an air break.

Section 802.3 is amended as follows:

The term "waste receptors" in the last sentence of the paragraph is replaced with the term "floor sinks".

Section 802.3.2 is deleted in its entirety.

Section 904.6 - The following sentence is added at the end of the paragraph: Vents extending through the wall shall terminate not less than 12 inches from the wall with an elbow pointing downward.

Section 917.2 is deleted and replaced with the following:

917.2 Installation. The valves may be installed in accordance with the requirements of this section and the manufacturers installation instructions when approved by the code official. Air admittance valves shall be installed after the DWV testing required by Section 312.2 or 312.3 has been performed.

Section 1002.4.1 is added as follows:

1002.4.1 Emergency floor drains. Each emergency floor drain shall be installed with a trap seal primer. Trap seal primer shall conform to ASSE 1018 or ASSE 1044.

Section 1003.3.3 is added as follows:

1003.3.3 Grease trap restriction. Unless specifically required or permitted by the code official, no food waste grinder or dishwasher shall be connected to or discharge into any grease trap.

Section 1104.2 is deleted and replaced with the following:

1104.2 Combining storm with sanitary drainage. The sanitary and storm drainage systems of a structure shall be entirety separate.

Section 1108 is deleted in its entirety.

Section 1201.2 is deleted and replaced with the following:

1201.2 Fuel piping systems. All fuel piping systems shall be sized, installed, tested and placed in operation in accordance with the requirements of Appendix B, Chapter 13 of the 1994 Uniform Mechanical Code.

Appendix G, Section G110 is deleted, renumbered and replaced with the following:

Section 1202 CNG GAS-DISPENSING SYSTEMS

1202.1 Dispenser protection. The gas dispenser shall have an emergency switch to shut off the power to the dispenser. An approved backflow device that prevents the reverse flow of gas shall be installed on the gas supply pipe or in the gas dispenser.

1202.2 Ventilation. Gas-dispensing systems installed inside the structure shall be ventilated by mechanical means in accordance with the Uniform Mechanical Code.

1202.3 Compressed natural gas vehicular fuel systems. Compressed natural gas (CNG) fuel-dispensing systems for CNG-fueled vehicles shall be designed and installed in accordance with NFPS 52 and the uniform fire code.

Chapter 14, Referenced Standards, is amended as follows:

NSF - Standard Reference Number 61-95 - The following referenced in code section number is added: 608.11

The following reference standard is added:

TABLE

USC-FCCCHR 9th Edition Manual of Cross Connection	Foundation for Cross-Connection Control and Hydraulic Research University of Southern California Kaprielian Hall 300 Los Angeles CA 90089-2531	Control Table 608.1

KEY: contractors, building codes, building inspection, licensing
[~~July 1,~~]1998 **58-1-106(1)**
Notice of Continuation June 3, 1997 **58-1-202(1)**
58-56-1
58-56-4(2)
58-56-6(2)(a)

Environmental Quality, Air Quality
R307-101-2
Definitions

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21588
FILED: 10/28/1998, 12:53
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Move the definition of "Regulated Air Pollutant" from Section R307-415-3 to make it applicable throughout all air quality rules.

SUMMARY OF THE RULE OR CHANGE: Move the definition of "Regulated Air Pollutant" from Section R307-415-3 to make it applicable throughout all air quality rules. See separate filings for R307-150, R307-155, R307-158, and Section R307-415-3 in this *Bulletin*.

(**DAR Note:** R307-150 has a repeal and a new rule in this *Bulletin* under DAR No. 21590 and DAR No. 21591, respectively. R307-155 has a repeal and a new rule in this *Bulletin* under DAR No. 21592 and DAR No. 21593, respectively. The proposed new rule for R307-158 is under DAR No. 21594 in this *Bulletin*. The proposed amendment to Section R307-415-3 is under DAR No. 21589 in this *Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-2-104(1)(c)(ii)

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: No change in costs for moving the definition; currently it is not used anywhere in the rules beyond R307-415. See the separate filing on the new R307-150 for the cost impact to add this term to the inventory requirements.

❖LOCAL GOVERNMENTS: No change in costs for moving the definition; currently it is not used anywhere in the rules beyond R307-415.

❖OTHER PERSONS: No change in costs for moving the definition; currently it is not used anywhere in the rules beyond R307-415.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No change in costs for moving the definition; currently it is not used anywhere in the rules beyond R307-415.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no change in costs for moving the definition. See the filing on the new R307-150 for the cost impact of adding this term in the inventory requirements--Dianne R. Nielson.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
Jan Miller at the above address, by phone at (801) 536-4042, by FAX at (801) 536-4099, or by Internet E-mail at jmiller@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 12/15/1998; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 12/03/1998, 1:30 p.m., Room 101, Department of Environmental Quality (DEQ) bldg, 168 North 1950 West, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 01/06/1999

AUTHORIZED BY: Rick Sprott, Manager

R307. Environmental Quality, Air Quality.
R307-101. General Requirements.
R307-101-2. Definitions.

Except where specified in individual rules, definitions in R307-101-2 are applicable to all rules adopted by the Air Quality Board.

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

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

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

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

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

"Acute Hazardous Air Pollutant" means any noncarcinogenic hazardous air pollutant for which a threshold limit value - ceiling (TLV-C) has been adopted by the American Conference of Governmental Industrial Hygienists in its "Threshold Limit Values for Chemical Substances and Physical Agents - Biological Exposure Indices, pages 15 - 40 (1997)."

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

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

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

"Air Quality Related Values" means, as used in analyses under R307-401-4(1), Public Notice, those special attributes of a Class I area, assigned by a federal Land Manager, that are adversely affected by air quality.

"Allowable Emissions" means the emission rate of a source calculated using the maximum rated capacity of the source (unless the source is subject to enforceable limits which restrict the operating rate, or hours of operation, or both) and the emission limitation established pursuant to R307-401-6.

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

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

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

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

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

"Baseline Date":

(1) Major source baseline date means:

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

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

(2) Minor source baseline date means the earliest date after the trigger date on which the first complete application under 40 CFR 52.21 or R307-405 is submitted by a major source or major modification subject to the requirements of 40 CFR 52.21 or R307-405. The minor source baseline is the date after which emissions from all new or modified sources consume or expand increment, including emissions from major and minor sources as well as any or all general commercial, residential, industrial, and other growth. The trigger date is:

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

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

"Best Available Control Technology (BACT)" means an emission limitation and/or other controls to include design, equipment, work practice, operation standard or combination thereof, based on the maximum degree or reduction of each pollutant subject to regulation under the Clean Air Act and/or the Utah Air Conservation Act emitted from or which results from any emitting installation, which the Air Quality Board, on a case-by-case basis taking into account energy, environmental and economic impacts and other costs, determines is achievable for such installation through application of production processes and available methods, systems and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of each such pollutant. In no event shall applications of BACT result in emissions of any pollutants which will exceed the emissions allowed by Section 111 or 112 of the Clean Air Act.

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

"Breakdown" means any malfunction or procedural error, to include but not limited to any malfunction or procedural error during start-up and shutdown, which will result in the inoperability or sudden loss of performance of the control equipment or process equipment causing emissions in excess of those allowed by approval order or Title R307.

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

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

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

"Carcinogenic Hazardous Air Pollutant" means any hazardous air pollutant that is classified as a known human carcinogen (A1) or suspected human carcinogen (A2) by the American Conference of Governmental Industrial Hygienists in its "Threshold Limit Values for Chemical Substances and Physical Agents - Biological Exposure Indices, pages 15 - 40 (1997)."

"Chronic Hazardous Air Pollutant" means any noncarcinogenic hazardous air pollutant for which a threshold limit value - time weighted average (TLV-TWA) having no threshold limit value - ceiling (TLV-C) has been adopted by the American Conference of Governmental Industrial Hygienists in its "Threshold Limit Values for Chemical Substances and Physical Agents - Biological Exposure Indices, pages 15 - 40 (1997)."

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) A general description of the location and/or nature of the source operation to the extent necessary to identify the source

operation and to distinguish it from other source operations (including, to the extent necessary for such purposes, a description of the device, installation, or operation constituting the source operation).

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

"Enforceable" means all limitations and conditions which are enforceable by the Administrator, including those requirements developed pursuant to 40 CFR Parts 60 and 61, requirements within the State Implementation Plan and R307, any permit requirements established pursuant to 40 CFR 52.21 or R307-401.

"EPA" means Environmental Protection Agency.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) routine maintenance, repair and replacement;

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

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

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

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

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

(b) which the source is otherwise approved to use;

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

(7) any change in ownership at a source.

"Major Source" means, to the extent provided by the federal Clean Air Act as applicable to R307:

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

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

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

nonattainment area as outlined in Section 182 of the federal Clean Air Act; or

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

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

(3) the fugitive emissions and fugitive dust of a stationary source shall not be included in determining for any of the purposes of these R307 rules whether it is a major stationary source, unless the source belongs to one of the following categories of stationary sources:

(a) Coal cleaning plants (with thermal dryers);

(b) Kraft pulp mills;

(c) Portland cement plants;

(d) Primary zinc smelters;

(e) Iron and steel mills;

(f) Primary aluminum or reduction plants;

(g) Primary copper smelters;

(h) Municipal incinerators capable of charging more than 250 tons of refuse per day;

(i) Hydrofluoric, sulfuric, or nitric acid plants;

(j) Petroleum refineries;

(k) Lime plants;

(l) Phosphate rock processing plants;

(m) Coke oven batteries;

(n) Sulfur recovery plants;

(o) Carbon black plants (furnace process);

(p) Primary lead smelters;

(q) Fuel conversion plants;

(r) Sintering plants;

(s) Secondary metal production plants;

(t) Chemical process plants;

(u) Fossil-fuel boilers (or combination thereof) totaling more than 250 million British Thermal Units per hour heat input;

(v) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;

(w) Taconite ore processing plants;

(x) Glass fiber processing plants;

(y) Charcoal production plants;

(z) Fossil fuel-fired steam electric plants of more than 250 million British Thermal Units per hour heat input;

(aa) Any other stationary source category which, as of August 7, 1980, is being regulated under section 111 or 112 of the federal Clean Air Act.

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

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

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

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

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

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

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

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

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

(e) A decrease in actual emissions is creditable only to the extent that:

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

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

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

(iv) It has not been relied on in issuing any permit under R307-401 nor has it been relied on in demonstrating attainment or reasonable further progress.

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

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

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

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

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

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

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

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

"PM10 Nonattainment Area" means Salt Lake County, Utah County, or Ogden City.

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

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

"Part 70 Source" means any source subject to the permitting requirements of R307-415.

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

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

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

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

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

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

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

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

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

"Regulated air pollutant" means any of the following:

(a) Nitrogen oxides or any volatile organic compound;

(b) Any pollutant for which a national ambient air quality standard has been promulgated;

(c) Any pollutant that is subject to any standard promulgated under Section 111 of the Act, Standards of Performance for New Stationary Sources;

(d) Any Class I or II substance subject to a standard promulgated under or established by Title VI of the Act, Stratospheric Ozone Protection;

(e) Any pollutant subject to a standard promulgated under Section 112, Hazardous Air Pollutants, or other requirements established under Section 112 of the Act, including Sections 112(g), (j), and (r) of the Act, including any of the following:

(i) Any pollutant subject to requirements under Section 112(j) of the Act, Equivalent Emission Limitation by Permit. If the Administrator fails to promulgate a standard by the date established pursuant to Section 112(e) of the Act, any pollutant for which a subject source would be major shall be considered to be regulated on the date 18 months after the applicable date established pursuant to Section 112(e) of the Act;

(ii) Any pollutant for which the requirements of Section 112(g)(2) of the Act (Construction, Reconstruction and Modification) have been met, but only with respect to the individual source subject to Section 112(g)(2) requirement.

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

"Residential Solid Fuel Burning" device means any residential burning device except a fireplace connected to a chimney that burns solid fuel and is capable of, and intended for use as a space heater, domestic water heater, or indoor cooking appliance, and has an air-to-fuel ratio less than 35-to-1 as determined by the test procedures prescribed in 40 CFR 60.534. It must also have a useable firebox volume of less than 6.10 cubic meters or 20 cubic feet, a minimum burn rate less than 5 [~~kg/hr~~]kilograms per hour or 11 pounds per hour as determined by test procedures prescribed in 40 CFR 60.534, and weigh less than 800 [~~kg~~]kilograms or 362.9 pounds. Appliances that are described as prefabricated fireplaces and are designed to accommodate doors or other accessories that would create the air starved operating conditions of a residential solid fuel burning device shall be considered as such. Fireplaces are not included in this definition for solid fuel burning devices.

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

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

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

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

"Significant" means:

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

Carbon monoxide: 100 ton per year (tpy)

Nitrogen oxides: 40 tpy

Sulfur dioxide: 40 tpy

PM10 Particulate matter: 15 tpy

Particulate matter: 25 tpy

Ozone: 40 tpy of volatile organic compounds

Lead: 0.6 tpy

(2) For purposes of R307-405 it shall also additionally mean for:

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

Asbestos: 0.007 tpy

Beryllium: 0.0004 tpy

Mercury: 0.1 tpy

Vinyl Chloride: 1 tpy

Fluorides: 3 tpy

Sulfuric acid mist: 7 tpy

Hydrogen Sulfide: 10 tpy

Total reduced sulfur (including H2S): 10 tpy

Reduced sulfur compounds (including H2S): 10 tpy

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

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

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

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

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

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

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

"State" means Utah State.

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

"Temporary" means not more than 180 calendar days.

"Threshold Limit Value - Ceiling (TLV-C)" means the airborne concentration of a substance which may not be exceeded, as adopted by the American Conference of Governmental Industrial Hygienists in its "Threshold Limit Values for Chemical Substances and Physical Agents - Biological Exposure Indices (1997), pages 15 - 40."

"Threshold Limit Value - Time Weighted Average (TLV-TWA)" means the time-weighted airborne concentration of a substance adopted by the American Conference of Governmental Industrial Hygienists in its "Threshold Limit Values for Chemical Substances and Physical Agents - Biological Exposure Indices (1997), pages 15 - 40."

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

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

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

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

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

"Volatile Organic Compound (VOC)" as defined in 40 CFR Subsection 51.100(s)(1), as amended on September 24, 1997,and published at 62 Fed. Reg. 164 (August 25, 1997) is hereby adopted and incorporated by reference.

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

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

KEY: air pollution, definitions*
~~[September 15, 1998]~~1999 **19-2-104**

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Environmental Quality, Air Quality
R307-150
Periodic Inventories

NOTICE OF PROPOSED RULE
(Repeal)
DAR FILE NO.: 21590
FILED: 10/28/1998, 12:59
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: When all R307 rules were reorganized earlier this year, two paragraphs regarding emission inventories were found in parts of the rules having nothing to do with inventories, and were therefore moved into R307-150 until a better place could be located for them.

SUMMARY OF THE RULE OR CHANGE: This rule is repealed in its entirety.
(**DAR Note:** A corresponding proposed new rule is under DAR No. 21591 in this *Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-2-104(1)(c)

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: No change for deleting Section R307-150-1 because it is moved to the new Subsection R307-150-2(2). No change to delete Section R307-150-2 because no costs have been incurred in recent years.
❖LOCAL GOVERNMENTS: No change because local governments are not affected by this rule.
❖OTHER PERSONS: No change. See "compliance costs for affected persons."
COMPLIANCE COSTS FOR AFFECTED PERSONS: No change for deleting Section R307-150-1 because it is moved to the new Subsection R307-150-2(2). No change to delete Section R307-150-2 because no source has reported using these substances in recent years.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Re-writing and moving the text does not change the cost for any business--Dianne R. Nielson.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
Jan Miller at the above address, by phone at (801) 536-4042, by FAX at (801) 536-4099, or by Internet E-mail at jmiller@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 12/15/1998; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 12/03/1998, 1:30 p.m., Room 101, Department of Environmental Quality (DEQ) bldg, 168 North 1950 West, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 01/06/1999

AUTHORIZED BY: Rick Sprott, Manager

R307. Environmental Quality, Air Quality.
[~~**R307-150. Periodic Inventories.**~~
~~**R307-150-1. Periodic Reports of Emissions and Availability of Information.**~~
~~The owner or operator of any stationary air-contaminant source in Utah shall furnish to the Board the periodic reports required under Section 19-2-104(1)(c) and any other information as the Board may deem necessary to determine whether the source is in compliance with Utah and Federal regulations and standards. The information thus obtained will be correlated with applicable emission standards or limitations and will be available to the public during normal business hours at the Division of Air Quality.~~

~~**R307-150-2. Emissions from Exempted Activities.**~~
~~Any owner or operator of a source submitting an inventory as required in R307-155 shall include in that inventory an estimate of all emissions from activities exempted in R307-413-2 through 6 from the requirement to obtain an approval order, using appropriate emission factors and estimating techniques.~~
~~Sources emitting 10 tons per year or more of 1,1,1-trichloroethane, trichlorofluoromethane, dichlorodifluoromethane, chlorodifluoromethane, trifluoromethane, 1,1,2-trichloro-1,2,2-trifluoroethane, 1,2-dichloro-1,1,2,2-tetrafluoroethane, methane, ethane, and chloropentafluoroethane are required to submit an annual emissions report.~~

~~**KEY: inventories, authority*, reporting***~~
~~**September 15, 1998 19-2-104(1)(c)**~~]

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Environmental Quality, Air Quality
R307-150
Emission Inventories

NOTICE OF PROPOSED RULE
(New)
DAR FILE NO.: 21591
FILED: 10/28/1998, 12:59
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Material previously found in Section R307-155-1 is rewritten and moved to a new R307-150. The old R307-150 is repealed. See separate filing in this *Bulletin*.
(**DAR Note:** the repeal of R307-150 is found under DAR number 21590 in this *Bulletin*.)

SUMMARY OF THE RULE OR CHANGE: The requirement that large sources submit inventories every third year and small sources every sixth year is not changed by this proposal.

Conditions under which a source must submit more frequently are specified in Subsection R307-150-3(4). Any source may submit more frequently as they choose; if emissions decline from year to year, a source subject to Title V Operating Permit requirements may submit more frequently to reduce emissions fees which are $27.75 per ton in fiscal year 1999. Approximately 275 sources at 406 different sites presently submit inventories. This amendment establishes the following: (1) references to "actual emissions" have been deleted. This term has a specific definition which does not correspond to federally-required inventories; (2) the old Section R307-155-1 referred to "criteria pollutants." This proposal requires inventories of "regulated air pollutants." There are regulated pollutants that are neither criteria pollutants nor hazardous air pollutants (HAP) and inventories must be submitted for those regulated pollutants. With this change, all pollutants covered under Title V (Operating Permits Program) will be inventoried at affected sources; (3) this proposal requires sources of 10 tons per year or more of ammonia to submit an inventory. Ammonia is a precursor to $PM_{2.5}$ and contributes to regional haze. Environmental Protection Agency (EPA) guidance specifies that statewide inventories for ammonia should be submitted. This information will be used in developing state implementation plans (SIPs) for regional haze and $PM_{2.5}$. Sources of ammonia which do not currently submit emission inventories include sewage treatment plants (Publicly Owned Treatment Works) and large livestock operations; (4) this proposal requires sources in a PM_{10} nonattainment area (Salt Lake, Davis and Utah Counties) with combined emissions of PM_{10}, SO_x, and NO_x of 25 tons per year to submit an inventory. This follows the PM10 offset requirements; (5) sources with allowable emissions between 90 and 100 tons per year who would be subject to Title V Operating Permit requirements if their emissions were 100 tons per year or more will be inventoried to insure that they remain below 100 tons per year and to obtain emissions data for modeling and control strategies; (6) this proposal eliminates the requirement for small sources to calculate whether emissions are more than 5% different from the previous submitted inventory. EPA requires an annual report only from major sources where the amount of emissions change by 5%. This will remove an inventory burden from approximately 150 small sources. An inventory will still be required for any year in which an approval order is needed for a modification to the source; (7) this proposal deletes the requirement to submit an annual inventory for some pollutants (including methane) if 10 tons per year or more is emitted. This requirement has become irrelevant because the federal Clean Air Act mandates that these substances be phased out because they contribute to stratospheric ozone depletion. They do not contribute to formation of ozone at ground level; (8) change the number of years that a source is required to maintain emission inventory data to six years for sources that are required to submit an inventory every six years and five years for other sources. This is to insure that the sources have at least one inventory on hand when they complete the current one. The five year requirement coincides with Title V Operating Permit requirements; and (9) the present wording requires reporting emissions from installations exempt from obtaining an approval order. The proposed rule clarifies that ALL emissions must be reported, whether or not the equipment or process is included in an approval order. Emissions from sources that are not required to have an approval order due to the date of installation or construction are required by Title V Operating Permit program to be included in the inventory submittals.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-2-104(1)(c)

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: These changes cause both costs and savings for the Division of Air Quality (DAQ). Sources submit information every 3 years or every 6 years, depending upon their size. Average salary + benefits of inventory staff members is approximately $24.84 per hour. Additional COSTS are likely to be: (a) adding a requirement to submit data for each "regulated air pollutant." Only 8 to 10 additional inventories will need processing, adding approximately 60 minutes of processing time every third year for each source. (1 hour x 10 sources = 10 hours); (b) inventory of ammonia. Approximately 10 industrial installations voluntarily submitted ammonia information for 1997. Calculating emissions for ammonia adds about 60 minutes of staff time for each installation every third year. (1 hour x approx 20 installations = 20 hours). There are approximately 80 publicly owned treatment works in Utah. The data needed to calculate emissions of ammonia from them is available from the Division of Water Quality (DWQ) with little cost to DWQ or DAQ. Similarly, information about agricultural emissions is available by county from the U.S. Dept. of Agriculture with little cost to them or DAQ; (c) inventory from installations with combined emissions of PM10, NOx, and SOx in Salt Lake, Davis, Weber and Utah Counties. This will add approximately 40 sources every third year, adding approximately 2.5 hours of staff time for each installation for processing. (2.5 hours x 40 installations = 100 hours); (d) sources which are near the cutoff to be subject to Title V. Approximately 7 additional installations will be process every third year, adding approximately 8 hours of staff time for each. (8 hours x 7 installations = 56 hours); (e) delete the inventory requirement for ozone-depleting gases. No change--none had been reported in recent years. TOTAL COSTS = (10 + 20 + 100 + 56) X $24.84 = 256 x $24.84 = $4,620. Additional SAVINGS are likely to be: (f) eliminating inventories for the interim years for small installations whose emissions change by 5% or more. Approximately 150 inventories will not be processed. Instead of hiring 4 skilled interns at a cost of $10,000, only 1 intern will be needed, for a savings of $7,500; (g) finally, ambient monitoring data indicate that Utah will need new State Implementation Plans for ozone, PM25, and regional haze in the next 5 to 7 years. Federal requirements will include using inventories from calendar 1999. It is less expensive to collect data while it is current than to wait until the moment it is needed. TOTAL QUANTIFIABLE SAVINGS = $7,500. NET SAVINGS = $7,500 - $4,620 = $2,880 for every three year period.

❖LOCAL GOVERNMENTS: Affected local governments are cities and service districts operating electric generating stations. They will be affected only by items (4) and (5) under "summary of the rule or change." No more than 3 cities will

be affected by item (4) at a cost of approximately $700 each for a total cost of $2,100. TOTAL COST = $2,100 for every three year period.

❖OTHER PERSONS: See "compliance costs for affected persons." (a) (1 installation x $700) + (approximately 8 installations x $300) = $3,100; (b) (20 installations x 0.5 hour x $24.84 salary and benefits) = $248; (c) 40 installations x $700 = $28,000; (d) 7 installations x $700 = $4,900; (e) $0; (f) Minimal unquantifiable cost. TOTAL QUANTIFIABLE COSTS = ($3,100 + $248 + $28,000 + $4,900) = $36,248; (g) TOTAL SAVINGS = 150 X 700 = $105,000. NET BENEFITS = $105,000 - $36,248 = $68,752 for every three year period. However, those who will save and those who will pay more may not be the same.

COMPLIANCE COSTS FOR AFFECTED PERSONS: These changes cause both costs and savings for installations. For items (b), (c), and (e) below, it is cheaper for installations to submit timely information than to go back to reconstruct if it is required later. The cost of preparing an inventory varies from $400 to $3000, depending upon the number of pollutants emitted and the complexity of production processes. The average cost is approximately $700. Additional COSTS are likely to be: (a) adding a requirement to submit data for each "regulated air pollutant." Only 1 to 2 additional installations will be required to submit a report at an average cost of $700, and fewer than 10 installations will need to submit additional information at a cost approximating $300. (1 installation x $700) + (approximately 8 installations x $300); (b) inventory of ammonia. Approximately 10 industrial installations voluntarily submitted ammonia information for 1997. Installations are not required to determine their emissions of ammonia, but rather submit commonly-available data. This information is used to calculate emissions based on federally-specified emission factors for various production processes. We estimate the time needed to submit the information at 30 minutes for installations already submitting inventories of other emissions and one hour for installations not otherwise required to submit inventories. (approximately 20 installations x 0 .5 hour x $24.84 salary and benefits) = $248; (c) inventory from installations with combined emissions of 25 tons per year PM10, NOx, and SOx in Salt Lake, Davis, Utah, and Weber Counties. This will add approximately 40 installations every third year which are presently not submitting inventories at all. Since they will be required to inventory all their emissions, the cost will range from $400 to $3,000, and average about $700; (d) installations which are near the cutoff to be subject to Title V. Approximately 7 additional installations will submit an inventory every third year, at a cost approximating $700; (e) delete the inventory requirement for stratospheric ozone-depleting gases. No change--none had been reported in recent years; (f) keep records until the next inventory is submitted. Necessary storage space could be 1 to 8 inches in a file drawer, depending on the installation, or could be saved electronically on 1 to 3 floppy disks. 289 Title V installations already are required to keep the records for 5 years and would incur no additional costs. 117 installations would have to keep records for additional years. Minimal unquantifiable cost. Additional SAVINGS are likely to be: (g) eliminating inventories for the interim years for small installations whose emissions change by 5% or more. Approximately 150 inventories will not be processed each year at a saving of approximately $700 each.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: We have reason to believe that we will need to write new State Implementation Plans in the next 5 to 7 years to address federal requirements fine particulates, ozone, and regional haze. Federal requirements for those Plans will include using inventory information for 1999. It is cheaper both for us and for installations of air pollutants to gather the information while it is current--Diane R. Nielson.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jan Miller at the above address, by phone at (801) 536-4042, by FAX at (801) 536-4099, or by Internet E-mail at jmiller@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 12/15/1998; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 12/03/1998, 1:30 p.m., Room 101, Department of Environmental Quality (DEQ) bldg, 168 North 1950 West, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 01/06/1999

AUTHORIZED BY: Rick Sprott, Manager

R307. Environmental Quality, Air Quality.
R307-150. Emission Inventories.
R307-150-1. General Applicability.

(1) The following sources shall submit an emission inventory report:

(a) any Part 70 source;

(b) any source that emits or is allowed under R307 to emit 100 ton per year or more of sulfur oxides or any regulated air pollutant;

(c) any source located in Davis, Salt Lake, Utah or Weber County that emits or is allowed under R307 to emit 25 tons per year or more of a combination of PM10, sulfur oxides, or oxides of nitrogen;

(d) any source located in Davis, Salt Lake, Utah or Weber County that emits or is allowed under R307 to emit 10 tons per year or more of volatile organic compounds;

(e) any source that emits or is allowed under R307 to emit 5 tons per year or more of lead;

(f) any source that emits or is allowed under R307 to emit 10 tons or more per year of ammonia;

(g) any source that is allowed under R307 to emit between 90 and 100 tons per year of any regulated air pollutant;

(h) any source that the executive secretary requires to submit an inventory for any full or partial year on reasonable notice.

R307-150-2. What to Report.

(1) The requirements of R307-150 replace any annual inventory reporting requirements in approval orders issued prior to April 1, 1998.

(2) The emission inventory report shall include the information the Board deems necessary to determine whether the source is in compliance with R307 and federal regulations and standards. The data shall include information concerning ammonia, and all regulated air pollutants that are not hazardous air pollutants that are emitted at a source. Data shall include the rate and period of emission, excess or breakdown emissions, startup and shut down emissions, specific installation which is the source of the air pollution, composition of air contaminant, type and efficiency of the air pollution control equipment and other information necessary to quantify operation and emissions, and to evaluate pollution control. The emissions of a pollutant shall be calculated using the source's actual operating hours, production rates, and types of materials processed, stored, or combusted during the inventoried time period.

(3) In addition, any owner or operator of a source that is required by R307-150-1 to submit an inventory shall include in that inventory an estimate of all emissions from each activity not required by R307-401 to obtain an approval order, using appropriate emission factors and estimating techniques.

R307-150-3. Timing of Submittals.

(1) A report is required for 1998, 1999, and for every third year after 1999 for any source which actually emits or is allowed under R307 to emit 10 tons or more per year of ammonia.

(2) Report Every Third Year. The owner or operator of each of the following sources is required to submit a report of emissions every third year. The first report shall be due in 2000 for calendar year 1999 for:

(a) any Part 70 source located in Davis, Salt Lake, Utah or Weber Counties;

(b) any Part 70 temporary source;

(c) any Part 70 source located outside Davis, Salt Lake, Utah or Weber Counties with 25 tons per year or more of combined allowable emissions of PM10, sulfur oxides, oxides of nitrogen, volatile organic compounds or carbon monoxide; or

(d) any stationary source:

(i) located in Davis, Salt Lake, Utah or Weber County that emits or is allowed under R307 to emit a combination of PM10, sulfur oxides, or oxides of nitrogen of 25 tons per year or more;

(ii) located in Davis, Salt Lake, Utah or Weber County that emits or is allowed under R307 to emit 10 tons per year or more of volatile organic compounds;

(iii) located in Davis, Salt Lake, Weber, or Utah County that emits or is allowed under R307 to emit 100 tons per year or more of carbon monoxide;

(iv) that emits 100 tons per year or more of any regulated air pollutant; or

(v) that emits or is allowed to emit 5 tons per year or more of lead;

(e) any source that is allowed under R307 to emit between 90 and 100 tons per year of any regulated air pollutant.

(3) Report Every Sixth Year. Any Part 70 source not included in R307-150-3(2) shall submit an emissions inventory every sixth year. The inventory for calendar year 1996 suffices as the first inventory.

(4) Additional Reports of Emissions Required Under Specified Circumstances. This subsection is applicable to all sources identified in R307-150-1.

(a) A source that initially achieves compliance at any time with any requirement of an applicable state implementation plan shall submit an inventory for the calendar year in which compliance is achieved.

(b) A source that emits or is allowed under R307 to emit 100 or more tons per year of any regulated air pollutant and whose emissions of any of these pollutants increase or decrease by five percent or more from the most recently submitted inventory shall submit an inventory for the calendar year in which the increase or decrease occurred.

(c) A source operating temporarily in Davis, Salt Lake, Utah or Weber County shall submit an inventory for the calendar year in which the source operated in those counties.

(d) A source that is not a temporary source, is required to submit an inventory, and ceases operations shall submit a report of emissions for the partial year and a report for the previous calendar year, if not already submitted.

(e) A new or modified source that is not a temporary source, is required to submit an inventory, and receives approval to construct or begins operating shall submit a report for the initial partial year of operation and a report for the subsequent calendar year.

(5) In addition to the required inventories, any source may choose to submit an inventory for any calendar year. The executive secretary may require at any time a full or partial year inventory on reasonable notice to affected sources.

(6) Due Date. Emission inventories shall be submitted on or before April 15 of each calendar year following any calendar year in which an inventory is required.

R307-150-4. Recordkeeping Requirements.

(1) Each owner or operator of a stationary source subject to this rule shall maintain a copy of the emission inventory submitted to the Division of Air Quality and records indicating how the information submitted in the inventory was determined, including any calculations, data, measurements, and estimates used. The records shall be kept for a period of at least five years from the due date of each emission statement or until the next inventory is due, whichever is longer.

(2) Upon the request of the executive secretary, the owner or operator of the stationary source shall make these records available at the stationary source for inspection by any representative of the Division of Air Quality during normal business hours.

KEY: air pollution, reports, inventories
1999 19-2-104(1)(c)

Environmental Quality, Air Quality
R307-155
Emission Inventories

NOTICE OF PROPOSED RULE
(Repeal)
DAR FILE NO.: 21592
FILED: 10/28/1998, 13:02
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: R307-155 requires criteria pollutants inventories, hazardous air pollutants inventories, and emission statement inventories. These requirements are being rewritten and are found in new R307-150, R307-155, and R307-158. See separate filings in this *Bulletin*.

SUMMARY OF THE RULE OR CHANGE: This rule is repealed in its entirety.
(**DAR Note:** A corresponding proposed new rule is under DAR No. 21592 in this *Bulletin*. The proposed new rules for R307-150 and R307-158 are found in this *Bulletin* under DAR No. 21591 and DAR No. 21594, respectively.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-2-104(1)(c)
FEDERAL REQUIREMENT FOR THIS RULE: 40 CFR 51 Subpart Q

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: Cost effects are associated with changes in the rule and are summarized in the filings for new rules R307-150, R307-155, and R307-158.
❖LOCAL GOVERNMENTS: Cost effects are associated with changes in the rule and are summarized in the filings for new rules R307-150, R307-155, and R307-158.
❖OTHER PERSONS: Cost effects are associated with changes in the rule and are summarized in the filings for new rules R307-150, R307-155, and R307-158.
COMPLIANCE COSTS FOR AFFECTED PERSONS: Cost effects are associated with changes in the rule and are summarized in the filings for new rules R307-150, R307-155, and R307-158.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The rule is rewritten and cost changes are explained with each new DEQ filing elsewhere in this *Bulletin*--Dianne R. Nielson.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
Jan Miller at the above address, by phone at (801) 536-4042, by FAX at (801) 536-4099, or by Internet E-mail at jmiller@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 12/15/1998; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 12/03/1998, 1:30 p.m., Room 101, Department of Environmental Quality (DEQ) Bldg, 168 North 1950 West, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 01/06/1999

AUTHORIZED BY: Rick Sprott, Manager

R307. Environmental Quality, Air Quality.
[**~~R307-155. Emission Inventories.~~**
~~R307-155-1. Criteria Pollutant Inventory.~~
~~(1) The requirements of R307-155 replace any annual inventory reporting requirements in approval orders issued prior to April 1, 1998.~~
~~(a) Report Every Third Year. The owner or operator of each of the following sources is required to submit a report of actual emissions every third year. The first report shall be due in 2000 for calendar year 1999 for:~~
~~(i) any Part 70 source located in Davis, Salt Lake, Utah or Weber Counties;~~
~~(ii) any Part 70 temporary source;~~
~~(iii) any Part 70 source located outside Davis, Salt Lake, Utah or Weber Counties with 25 tons per year or more of combined allowable emissions of PM10, sulfur dioxide, oxides of nitrogen, volatile organic compounds or carbon monoxide; or~~
~~(iv) any stationary source:~~
~~(I) located in Davis, Salt Lake, Utah or Weber County with allowable emissions of PM10, sulfur oxides, or oxides of nitrogen of 25 tons per year or more;~~
~~(II) located in Davis or Salt Lake County with allowable emissions of volatile organic compounds of 10 tons per year or more;~~
~~(III) located in Davis, Salt Lake, or Utah County with allowable emissions of carbon monoxide of 100 tons per year or more;~~
~~(IV) that actually emits 100 tons per year or more of PM10, sulfur oxides, volatile organic compounds, carbon monoxide or oxides of nitrogen; or~~
~~(V) that actually emits 5 tons per year or more of lead.~~
~~(b) Report Every Sixth Year. Any Part 70 source not included in (a) above shall submit an emissions inventory every sixth year. The inventory for calendar year 1996 suffices as the first inventory.~~
~~(c) Additional Reports of Actual Emissions Required Under Specified Circumstances. This subsection is applicable to sources identified in (a)(i) through (iv) above.~~
~~(i) A source that initially achieves compliance at any time with any requirement of an applicable state implementation plan shall submit an inventory for the calendar year in which compliance is achieved.~~

(ii) A source specified in (a)(iv)(I), (II), (III), or (V) above and whose actual emissions of any of the individual pollutants specified in(a)(iv)(I), (II), (III), or (V) above increase or decrease by five percent or more from the most recently submitted inventory information shall submit an inventory for the calendar year in which the increase or decrease occurred.

(iii) A source with actual or allowable emissions of 100 or more tons per year of carbon monoxide, PM10, sulfur oxides, volatile organic compounds, or oxides of nitrogen, and whose actual emissions of any of these pollutants increase or decrease by five percent or more from the most recently submitted inventory shall submit an inventory for the calendar year in which the increase or decrease occurred.

(iv) A source operating temporarily in Davis, Salt Lake, Utah or Weber County shall submit an inventory for the calendar year in which the source operated in those counties.

(v) A source that ceases operations shall submit a report of actual emissions for the partial year and a report for the previous calendar year.

(vi) A new or modified source that receives approval to construct or begins operating shall submit a report for the initial partial year of operation and a report for the subsequent calendar year.

(d) In addition to the required inventories, any source may choose to submit an inventory for any calendar year. The executive secretary may require at any time a full or partial year inventory on reasonable notice to affected sources.

(e) Due Date. Emission inventories shall be submitted on or before April 15 of each calendar year following any calendar year in which an inventory is required under R307-155-1 or 3.

(f) Reports. Emission inventory reports shall include the rate and period of emission, excess or breakdown emissions, specific plant source of air pollution, composition of air contaminant, type and efficiency of air pollution control equipment and other information necessary to quantify operation and pollution emission, and to evaluate pollution control.

R307-155-2. Hazardous Air Pollutant Inventory.

The owner or operator of a stationary source, either "major source" or "area source" as defined in the Federal Clean Air Act (Title I, Part A, Section 112), which emits one or more hazardous air pollutant shall submit, at the request of the Executive Secretary, but not more than once per year, a Hazardous Air Pollutant Inventory. The inventory shall be submitted no later than July 1 of each year following any calendar year for which the hazardous air pollutant inventory is required. The required submittal shall be limited to hazardous air pollutants and shall include a report of the rate and period of emission, excess or breakdown emissions, the specific plant source of the emissions, the composition of the emission, the type and efficiency of air pollution control equipment, and any other information determined necessary by the Executive Secretary for the issuance of permits, the verification of compliance, and the determination of the effectiveness of control technology relative to the source's maximum achievable control technology (MACT).

R307-155-3. Emission Statement Inventory.

(1) Applicability. The owner or operator of a stationary source of either volatile organic compounds or oxides of nitrogen that is located in Salt Lake or Davis Counties or a nonattainment area for ozone and which emits or has the potential to emit 25 tons or more per year of either volatile organic compounds or oxides of nitrogen is required to submit an emission statement for the emissions released directly or indirectly into the outdoor atmosphere in the calendar years specified in (2) below. Such emission statement shall include information concerning both volatile organic compounds and oxides of nitrogen even if the source's emissions or its potential to emit equaled or exceeded 25 tons per year for only volatile organic compounds or oxides of nitrogen. Compliance with the emission statement requirements does not relieve any owner or operator of a source from the responsibility to comply with any other applicable reporting requirements set forth in any federal or state law or in the conditions of approval of any order or certificate in effect.

(2) Timing of Submittals.

(a) An emission statement shall be submitted for calendar year 1999 and every third year thereafter.

(b) A report for the calendar year in which any of the following conditions occurs must be submitted by any source:

(i) whose actual emissions of volatile organic compounds or oxides of nitrogen increase or decrease by five percent or more from the most recently submitted inventory information;

(ii) that initially achieves compliance at any time with any requirement of an applicable state implementation plan; or

(iii) for which the executive secretary requests submittal.

(c) A source that ceases operations shall submit a report for the partial year and a report for the previous calendar year.

(d) A new or modified source that receives approval to construct or begins operating during the reporting period shall submit a report for the initial partial year of operation and the subsequent calendar year.

(3) Procedure for submitting an emission statement. Emission statements shall be submitted in accordance with the following provisions:

(a) Emission statements shall be submitted on or before April 15 of each calendar year following any calendar year in which the source is subject to this rule.

(b) Emission statements shall be submitted to the Division of Air Quality on a form obtainable from the Division of Air Quality.

(4) Required contents of an emission statement. Any person who submits an emission statement shall include, as an integral part of the report:

(a) Certification, signed by the highest ranking individual with direct knowledge and overall responsibility for the information contained in the certified documents, that the information provided is true, accurate and complete. Such certification should be submitted with the understanding that submittal of false, inaccurate or incomplete information is subject to civil and criminal penalties.

(b) The date of the signature of certification and the telephone number of the certifying individual shall be included.

(c) The following source identification information shall be included:

(i) full name of the source;

(ii) parent company name, if applicable;

(iii) physical location of the source (i.e., the street address);

(iv) mailing address of the source;

(v) SIC code(s) of the source;

~~(vi) UTM coordinates or latitude and longitude of the source; and~~

~~(vii) the calendar year of the emissions.~~

~~(d) The following operating data for each source operation which has the potential to emit volatile organic compounds or oxides of nitrogen shall be included:~~

~~(i) annual and peak ozone season throughput;~~

~~(ii) average days of operation per week;~~

~~(iii) average hours of operation per day; and~~

~~(iv) total hours of operation for the year.~~

~~(e) The following information at the process level for oxides of nitrogen (expressed as molecular weight of nitrogen dioxide) and volatile organic compounds shall be included:~~

~~(i) Emissions information, including:~~

~~(A) the actual emissions of volatile organic compounds and oxides of nitrogen in tons per year;~~

~~(B) the average actual emissions of volatile organic compounds and oxides of nitrogen in pounds per day of operation during the peak ozone season;~~

~~(C) the code for the method used to quantify the actual emissions (from Table 1 included with the filing form in (2)(b) above); and~~

~~(D) any emission factor used to determine actual emissions.~~

~~(ii) Control apparatus information, including current primary and secondary control apparatus identification codes (from Table 2 included with the filing form in (2)(b)), and the actual control efficiency achieved by the control apparatus. If the actual control efficiency is unavailable, the control apparatus design efficiency shall be used.~~

~~(iii) Process rate data, including the annual process rate and the average process rate per day of operation during the peak ozone season.~~

~~(f) In place of the information required in (4)(d) and (e) above, any source which has the potential to emit less than one ton per year of either volatile organic compounds or nitrogen oxides but which is subject to this rule shall include:~~

~~(i) a description of each source operation and actual emissions of each air contaminant emitted from each source operation shall be estimated at one ton per year, or~~

~~(ii) a description of each source operation, estimated actual emission in tons per year; the code for the method used to quantify the actual emissions (from Table 1 included with the filing form in (2)(b); and any emission factor used to determine actual emissions.~~

~~(g) Emission statements shall include cumulative total fugitive emissions for the stationary source for all fugitive emissions that cannot be reported in the information pursuant to (4)(d) through (f) above. Such fugitive emissions shall be expressed in tons per year and in average pounds per day of operation during the peak ozone season.~~

~~(h) The method used for quantifying actual emissions for a source operation for use in preparing emission information required in (4)(e)(i) or (4)(f)(ii) above above shall be the method which is reasonably available and which best estimates the actual emissions from the source operation, unless an operating permit pursuant to Title V of the federal Clean Air Act has been issued for the stationary source. In such case, the method used shall be the method specified in the operating permit.~~

~~(5) Recordkeeping requirements.~~

~~(a) Each owner or operator of a stationary source subject to this rule shall maintain for a period of four years from the due date of each emission statement a copy of the emission statement submitted to the Division of Air Quality and records indicating how the information submitted in the emission statement was determined, including any calculations, data, measurements, and estimates used.~~

~~(b) Upon the request of the Executive Secretary, the owner or operator of the stationary source shall make these records available at the stationary source for inspection by any representative of the Division of Air Quality during normal business hours.~~

~~KEY: inventory, air pollution~~
~~September 15, 1998~~ **~~19-2-104~~**
~~40 CFR 51 Subpart Q~~]

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Environmental Quality, Air Quality
R307-155
Hazardous Air Pollutant Inventory

NOTICE OF PROPOSED RULE
(New)
DAR FILE NO.: 21593
FILED: 10/28/1998, 13:02
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The contents of the former Section R307-155-2 are rewritten and moved to a new R307-155.

SUMMARY OF THE RULE OR CHANGE: This proposal changes the due date for the hazardous air pollutant (HAP) inventory to April 15, the due date for other submittals. Larger sources submit every third year. Small sources submit every sixth year. Completing the regulated pollutant inventory, the HAP inventory and the emission statement inventories at different times may cause errors that would not occur if completed at the same time. Also, HAP emissions are included in the calculation of Title V fees. The present July 1 HAP inventory deadline does not give the Division of Air Quality (DAQ) enough time to check source calculations and enter the information into the inventory database before fee invoices are sent to sources. Finally, having different due dates for inventories causes confusion for some sources. Initially, the reason for setting July 1 as the due date was to coincide with the Toxic Release Inventory (TRI) due date. However, the TRI applies to emissions to air, water, and soil and off-site transfers from a specified set of sources. The TRI includes 600 chemicals and only 188 are reported to DAQ. Because of these differences, completing the DAQ inventory would help to complete the TRI. In addition, all emissions for processes and equipment should be analyzed at the same time to ensure there are no omissions. In Subsection R307-155-1(2), this proposal establishes a de minimis level for HAP emissions. This level is below the emission threshold

value calculated using the worst case factors already established in the HAP modeling rule. The cutoff level will change for an individual HAP if Threshold Limit Value for the chemical is changed. The exact cutoff can be listed in the instructions provided by DAQ and changed as needed without requiring a rule change.
(**DAR Note:** A corresponding proposed repeal is under DAR No. 21592 in this *Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-2-104(1)(c)
FEDERAL REQUIREMENT FOR THIS RULE:

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: There will be some unquantifiable savings in doing all the inventories for each source at the same time. Setting a de minimis level for HAPs emissions will result in one-time costs of approximately 10 staff hours to prepare the forms showing the cutoff levels for each of 188 HAPs, but the savings in reducing the data entry for HAPs less than the de minimis cutoff level will be about 0.5 hours for each of 37 sources. Reduced income to DAQ of approximately $900 per year because sources will no longer report small amounts of HAPs and will not be required to pay Title V Operating Permit program fees for each ton of pollutants. Average salary plus benefits for staff person is $24.84. One time cost = 10 hours x $24.84 = $248.40 + $900 lost revenue each year. TOTAL COST = $1,148.40 for the first year and $900 per year thereafter. TOTAL SAVINGS = (.5 x 37 x $24.84) = $459.54 every third year.
❖LOCAL GOVERNMENTS: Local government is not affected.
❖OTHER PERSONS: See "compliance costs for affected persons." TOTAL SAVINGS = (37 x $200) + (32 x $100) = $10,600.
COMPLIANCE COSTS FOR AFFECTED PERSONS: There are approximately 69 installations reporting emissions of HAPs. Costs will be reduced for approximately 37 sources of small amounts of HAPs who will no longer be required to submit an inventory. The present cost to prepare a HAPs inventory varies with the number of different pollutants and the complexity of production processes, but the form is only one page and the average cost is approximating $200. This will be a saving up to $200 every third year for those 37 sources. In addition, the new form will require about half the present time for completion for approximately 32 installations. This will be a saving of approximately $100 every third year for each one.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule strikes a balance between the costs of collecting information necessary to protect human health while still keeping the reporting burden as low as possible, especially for smaller businesses--Dianne R. Nielson.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
Jan Miller at the above address, by phone at (801) 536-4042, by FAX at (801) 536-4099, or by Internet E-mail at jmiller@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 12/15/1998; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 12/03/1998, 1:30 p.m., Room 101, Department of Environmental Quality (DEQ) bldg, 168 North 1950 West, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 01/06/1999

AUTHORIZED BY: Ursula K. Trueman, Director

R307. Environmental Quality, Air Quality.
R307-155. Hazardous Air Pollutant Inventory.
R307-155-1. General Applicability.

(1) The owner or operator of a stationary source, either "major source" or "area source" as defined in the Federal Clean Air Act (Title I, Part A, Section 112), that emits one or more hazardous air pollutants shall submit, at the request of the executive secretary, but not more than once per year, a Hazardous Air Pollutant Inventory.

(2) Inventory data is not required for each hazardous air pollutant that has a threshold limit value and is emitted in an amount less than the smaller of the following:

(a) 500 pounds per year; and

(b) the emission threshold value calculated as explained in the instructions provided by the executive secretary for filing the report required by R307-155-1(1).

R307-155-2. Timing of Submittals.

The inventory shall be submitted no later than April 15 of each year following any calendar year for which the hazardous air pollutant inventory is required.

R307-155-3. What to Report.

The inventory shall include information for each hazardous air pollutant not excluded by R307-155-1(2). The inventory shall report the rate and period of emission, excess or breakdown emissions, the specific plant source of the emissions, the composition of the emission, the type and efficiency of air pollution control equipment, and any other information determined necessary by the executive secretary. The information shall be sufficient for the issuance of permits, the verification of compliance, and the determination of the effectiveness of control technology.

R307-155-4. Recordkeeping Requirements.

(1) Each owner or operator of a stationary source subject to this rule shall maintain a copy of the hazardous air pollutant emission inventory submitted to the Division of Air Quality and records indicating how the information submitted in the inventory was determined, including any calculations, data, measurements, and estimates used. The records shall be kept for a period of at least

five years from the due date of each emission statement or until the next inventory is due, whichever is longer.

(2) Upon the request of the executive secretary, the owner or operator of the stationary source shall make these records available at the stationary source for inspection by any representative of the Division of Air Quality during normal business hours.

KEY: air pollution, hazardous air pollutant, inventories
1999 19-2-104(1)(c)

Environmental Quality, Air Quality
R307-158
Emission Statement Inventory

NOTICE OF PROPOSED RULE
(New)
DAR FILE NO.: 21594
FILED: 10/28/1998, 13:17
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The contents of the former Section R307-155-3 are re-written and moved to a new R307-158.

SUMMARY OF THE RULE OR CHANGE: The only significant change is to require installations of 10 tons per year or more of volatile organic compounds or 25 tons per year or more of nitrogen oxides in Utah and Weber Counties to report every third year on their emissions during the summertime ozone season. 33 of these installations do not already submit an inventory under the existing Section R307-155-1. The data is needed to develop a State Implementation Plan (SIP) for ozone because ozone levels in the ambient air have been measured above the new health-based federal standard. It is easier for the sources and for the Division of Air Quality (DAQ) to collect the information while it is current than to backtrack to collect old data when a new state implementation plan (SIP) is required for those counties. (**DAR Note:** The proposed repeal for R307-155 is under DAR No. 21592 in this *Bulletin*, and the corresponding proposed new rule for R307-155 is under DAR No. 21593 in this *Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-2-104(1)(c)

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: Inventory installations of volatile organic compounds (VOCs) and NOx in Weber and Utah Counties. Approximately 33 more inventories will be processed at a cost of 8 hours of staff time for each. Salary plus benefits are approximately $24.84 for these staff members. TOTAL COST = 8 hours x 33 installations x $24.84 = $6,558.
❖LOCAL GOVERNMENTS: Local government is not affected.
❖OTHER PERSONS: 33 x $140 = $4,620.
COMPLIANCE COSTS FOR AFFECTED PERSONS: The cost to prepare an inventory for the ozone season is approximately 20% of the cost of the inventory required under the new R307-150, which averages $700 (see separate filing in this *Bulletin*.) Approximately 33 more installations will submit additional inventories for the ozone season at a cost of $140. (**DAR Note:** The proposed new rule for R307-150 is found under DAR No. 21591 in this *Bulletin*.)

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: As population grows, the emissions of many pollutants increase and exceed the health-based standard. If a new plan is required to protect the public from ozone, this information for 1999 will be needed, and it is cheaper to collect it while it is current than it is to wait until the moment it is needed--Dianne R. Nielson.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
Jan Miller at the above address, by phone at (801) 536-4042, by FAX at (801) 536-4099, or by Internet E-mail at jmiller@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 12/15/1998; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 12/03/1998, 1:30 p.m., Room 101, Department of Environmental Quality (DEQ) bldg, 168 North 1950 West, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 01/06/1999

AUTHORIZED BY: Ursula K. Trueman, Director

R307. Environmental Quality, Air Quality.
R307-158. Emission Statement Inventory.
R307-158-1. Applicability.

The owner or operator of a stationary source emitting either volatile organic compounds or oxides of nitrogen that is located in Salt Lake, Davis, Weber, or Utah Counties or a nonattainment area for ozone and that emits or has the potential to emit 25 tons or more per year of either volatile organic compounds or oxides of nitrogen is required to submit an emission statement for the emissions released directly or indirectly into the outdoor atmosphere in the calendar years specified in R307-158-2.

R307-158-2. Timing of Submittals.

(1) An emission statement shall be submitted for calendar year 1999 and every third year thereafter.

(2) A report shall be submitted for any additional calendar year for which the executive secretary requests submittal.

(3) A source that is not a temporary source that ceases operations shall submit a report for the partial year of operations and a report for the previous calendar year.

(4) A new or modified source that is not a temporary source that receives approval to construct or begins operating during the reporting period shall submit a report for the initial partial year of operation and the subsequent calendar year.

(5) A temporary source shall submit an inventory for the calendar year in which the source operated in Salt Lake, Davis, Weber, or Utah Counties or a nonattainment area for ozone.

(6) Emission statements shall be submitted on or before April 15 of each calendar year following any calendar year in which the source is subject to this rule.

(7) Each source required under R307-158-1 to file an emission statement inventory, and that emits or is allowed under R307 to emit 100 or more tons per year of any regulated air pollutant, and whose emissions of any of these pollutants increase or decrease by five percent or more from the most recently submitted inventory shall submit an emission statement inventory for the calendar year in which the increase or decrease occurred.

R307-158-3. What to Report.

(1) The emission statement shall include information concerning both volatile organic compounds and oxides of nitrogen even if the source's emissions or its potential to emit equaled or exceeded 25 tons per year for either volatile organic compounds or oxides of nitrogen. Compliance with the emission statement requirements does not relieve any owner or operator of a source from the responsibility to comply with any other applicable reporting requirements set forth in any federal or state law or in the conditions of approval of any order or certificate in effect.

(2) Emission statements shall be submitted to the Division of Air Quality on a form obtainable from the Division of Air Quality.

(3) Required contents of an emission statement. Any person who submits an emission statement shall include, as an integral part of the report:

(a) Certification, signed by the highest ranking individual with direct knowledge and overall responsibility for the information contained in the certified documents, that the information provided is true, accurate and complete. Such certification should be submitted with the understanding that submittal of false, inaccurate or incomplete information is subject to civil and criminal penalties.

(b) The date of the signature of certification and the telephone number of the certifying individual shall be included.

(4) The following source identification information shall be included:

(a) full name of the source;

(b) parent company name, if applicable;

(c) physical location of the source (i.e., the street address);

(d) mailing address of the source;

(e) SIC code(s) of the source;

(f) UTM coordinates or latitude and longitude of the source; and

(g) the calendar year of the emissions.

(5) The following operating data for each source operation which has the potential to emit volatile organic compounds or oxides of nitrogen shall be included:

(a) annual and peak ozone season throughput;

(b) average days of operation per week;

(c) average hours of operation per day; and

(d) total hours of operation for the year.

(6) The following information at the process level for oxides of nitrogen (expressed as molecular weight of nitrogen dioxide) and volatile organic compounds shall be included:

(a) Emissions information, including:

(i) the actual emissions of volatile organic compounds and oxides of nitrogen in tons per year;

(ii) the average emissions of volatile organic compounds and oxides of nitrogen in pounds per day of operation during the peak ozone season;

(iii) the estimated emissions method code for the method used to quantify the emissions as required by 42 U.S.C. 7512a(a)(1)(as included in the instructions provided by the executive secretary for filing the report required by R307-158-2(1)); and

(iv) any emission factor used to determine emissions.

(b) Control apparatus information, including current primary and secondary control apparatus identification codes as required by 42 U.S.C. 7512a(a)(1)(as included in the instructions provided by the executive secretary for filing the report required by R307-158-2(1); and the actual control efficiency achieved by the control apparatus. If the actual control efficiency is unavailable, the control apparatus design efficiency shall be used.

(c) Process rate data, including the annual process rate and the average process rate per day of operation during the peak ozone season.

(7) In place of the information required in R307-158-3(4) and R307-158-3(5), any source which has the potential to emit less than one ton per year of either volatile organic compounds or nitrogen oxides but that is subject to this rule shall include:

(a) a description of each source operation and emissions of each air contaminant emitted from each source operation shall be estimated at one ton per year, or

(b) a description of each source operation; estimated emission in tons per year; the estimated emissions method code for the method used to quantify the emissions as required by 42 U.S.C. 7512a(a)(1) (as included in the instructions provided by the executive secretary for filing the report required by R307-158-2(1)); and any emission factor used to determine emissions.

(8) Emission statements shall include cumulative total fugitive emissions for the stationary source for all fugitive emissions that cannot be reported in the information pursuant to R307-158-3(4) through R307-158-3(6) above. Such fugitive emissions shall be expressed in tons per year and in average pounds per day of operation during the peak ozone season.

(9) The method used for quantifying emissions for a source operation for use in preparing emission information required in R307-158-3(5)(a) or 158-3(6)(b) above shall be the method which is reasonably available and that best estimates the emissions from the source operation.

R307-158-4. Recordkeeping Requirements.

(1) Each owner or operator of a stationary source subject to this rule shall maintain a copy of the emission statement submitted to the Division of Air Quality and records indicating how the information submitted in the emission statement was determined, including any calculations, data, measurements, and estimates used.

The records shall be kept for a period of at least five years from the due date of each emission statement.

(2) Upon the request of the executive secretary, the owner or operator of the stationary source shall make these records available at the stationary source for inspection by any representative of the Division of Air Quality during normal business hours.

KEY: air pollution, ozone, inventories
1999 **19-2-104(1)(c)**

Environmental Quality, Air Quality
R307-221
Emission Standards: Emission Controls for Existing Municipal Solid Waste Landfills

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21595
FILED: 10/28/1998, 13:17
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: When R307-221 was written in 1997, the submittal date for inventories was set to match reporting dates required by the Division of Solid and Hazardous Waste, March 1 each year. In practice, the inventories were submitted much later than that, and this proposal amends Section R307-221-1 to require inventories to be submitted by April 15 each year, the same date they are submitted by any other source. Subsection R307-221-5(3) is amended to require that inventories be based on emissions for each year.

SUMMARY OF THE RULE OR CHANGE: In Subsection R307-221-1(3), delete the requirement that inventories be submitted by March 1 each year. This leaves affected sources subject to R307-150, which requires submittal of inventories by April 15 each year. In Subsection R307-221-5(3) delete "actual" emissions. "Actual emissions" are defined to mean the average of two years of emissions. For inventory purposes, emissions information is required for each year.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-2-104(1)(c)(ii)
FEDERAL REQUIREMENT FOR THIS RULE: 40 CFR 60.25(a)

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: No change in costs is expected; the same information is required. Allowing the source an additional 6 weeks to submit the inventory does not affect state processing. Seven sources are affected by this rule.
❖LOCAL GOVERNMENTS: No change in costs is expected; the same information is required. Allowing the source an additional 6 weeks to submit the inventory may save some money but very little.
❖OTHER PERSONS: No change in costs is expected; the same information is required. Allowing the source an additional 6 weeks to submit the inventory may save some money but very little.
COMPLIANCE COSTS FOR AFFECTED PERSONS: No change in costs is expected; the same information is required. Allowing the source an additional 6 weeks to submit the inventory may save some money but very little.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Allowing an additional 6 weeks for submittal of the inventory provides additional flexibility but is not likely to reduce costs--Dianne R. Nielson.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
Jan Miller at the above address, by phone at (801) 536-4042, by FAX at (801) 536-4099, or by Internet E-mail at jmiller@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 12/15/1998; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 12/03/1998, 1:30 p.m., Room 101, Department of Environmental Quality (DEQ) bldg, 168 North 1950 West, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 01/06/1999

AUTHORIZED BY: Ursula K. Trueman, Director

R307. Environmental Quality, Air Quality.
R307-221. Emission Standards: Emission Controls for Existing Municipal Solid Waste Landfills.
R307-221-1. Purpose and Applicability.

(1) To meet the requirements of 42 U.S.C. 7411(d) and 40 CFR 60.30c through 60.36c, and to meet the requirements of the plan for Municipal Solid Waste Landfills, incorporated by reference at R307-220-2, R307-221 regulates emissions from existing municipal solid waste landfills.

(2) R307-221 applies to each existing municipal solid waste landfill for which construction, reconstruction or modification was commenced before May 30, 1991. Municipal solid waste landfills which closed prior to November 8, 1987, are not subject to R307-221. Physical or operational changes made solely to comply with the plan for Municipal Solid Waste Landfills are not considered a modification or reconstruction and do not subject the landfill to the requirements of 40 CFR 60 Subpart WWW.

(3) Municipal solid waste landfills with a design capacity greater than or equal to 2.5 million megagrams(2,755,750 tons) and 2.5 million cubic meters (3,270,000 cubic yards) are subject to the emission inventory requirements of R307-150[~~155, except that the date on which the annual inventory is due shall be March 1 of each calendar year~~].

R307-221-5. Compliance Schedule.

(1) Except as provided in (2) below, planning, awarding of contracts, and installation of municipal solid waste landfill air emission collection and control equipment capable of meeting the emission standards established under R307-221-3(1) shall be accomplished within 30 months after the date on which EPA approves the state plan incorporated by reference under R307-220-2.

(2) For each existing municipal solid waste landfill meeting the conditions in Subsection R307-221-1(2) whose emission rate for nonmethane organic compounds is less than 50 megagrams (55 tons) per year on the date EPA approves the state plan incorporated by reference under R307-220-2, installation of collection and control systems capable of meeting emissions standards in Subsection R307-221-1(2) shall be accomplished within 30 months of the date when the landfill has an emission rate of nonmethane organic compounds of 50 megagrams (55 tons) per year or more.

(3) The owner or operator of each landfill with a design capacity greater than or equal to 2.5 million megagrams (2,755,750 tons) and 2.5 million cubic meters (3,270,000 cubic yards) shall submit by April 1, 1997, an inventory of nonmethane organic compounds. The calculations for this inventory shall use emission factors which obtain the most accurate representation of [~~actual~~]emissions from the landfill.

(4) The owner or operator of a landfill requiring controls shall notify the executive secretary of the awarding of contracts for the construction of the collection and control system or the order to purchase components for the system. This notification shall be submitted within 18 months after reporting a nonmethane organic compound emission equal to or greater than 50 megagrams (55 tons) per year.

(5) The owner or operator shall notify the executive secretary of the initiation of construction or installation of the collection and control system. This notification shall be submitted to the executive secretary within 22 months after reporting a nonmethane organic compound emission rate equal to or greater than 50 megagrams (55 tons) per year. Landfills with commingled asbestos and municipal solid waste may include the submittals required under R307-214-1 with this notice.

KEY: air pollution, municipal landfills*
[~~September 15, 1998~~]1999 **19-2-104**

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Environmental Quality, Air Quality
R307-302-2
No-Burn Periods for PM10

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21570
FILED: 10/22/1998, 11:43
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Federal health standards for fine particles have been revised to add a new measure for very fine particles called PM2.5. This proposal adds provisions to trigger no-burn periods for PM2.5 as well as PM10 in Salt Lake County, Davis County south of Kaysville, and Utah County north of the southern boundary of Payson.

SUMMARY OF THE RULE OR CHANGE: Equipment is being installed to monitor PM2.5 levels in ambient air and the rule is revised to call for no visible emissions from woodburning in residential fireplaces and stoves when PM2.5 in the atmosphere reaches 80% of the health standard. In recent years, only 3 to 6 no-burn days have been called each winter. This proposal is likely to double the number of days when a no-burn period is called. This amendment is to: change the title of the section to "No-Burn Periods for Fine Particulate," in order to include both PM10 and PM2.5; make minor editorial changes in Subsection R307-302-2(3); and add a new Subsection R307-302-2(5) to trigger a no-burn period when PM2.5 levels reach 52 micrograms per cubic meter.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-2-104(1)(a)

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: Compliance costs are likely to double, thus diverting the Division of Air Quality (DAQ) employees from other tasks. Presently, 4 to 6 employees patrol on a no-burn day, issuing warnings or notices of violation, and distributing pamphlets explaining woodburning procedures to reduce emissions. Thus each no-burn day will add approximately $1794 (65 hours X $27.60 salary and benefits).

❖LOCAL GOVERNMENTS: No change in costs because only residences are affected.

❖OTHER PERSONS: We do not know how many residences in the three counties are heated with wood to save money. Therefore it is not possible to determine the total cost. Individual costs are outlined under "compliance costs for affected persons."

COMPLIANCE COSTS FOR AFFECTED PERSONS: The rule applies in Salt Lake County, southern Davis County, and northern Utah County to residences for which a fireplace or stove is NOT the sole source of heating. In addition, wood stoves installed in the last 10 years are required to be Environmental Protection Agency (EPA)-certified, and can be used with no visible emissions; when they are properly operated, they would not be subject to the ban. Monetary costs to individual households with fireplaces will vary depending upon whether the fireplace supplements other heating devices or is used only to create a cozy atmosphere. It is unlikely that many fireplaces are used for heat, and few residents will have to switch to other fuel during no-burn periods. Cost is not likely

to exceed $1 per day of curtailment. Wood stoves, however, generally supplement other heating devices; curtailing their use may cause increased costs for other heat sources. The maximum cost would be incurred by a resident who is able to obtain wood free and in no-burn periods must switch to another fuel source. The cost for natural gas could be as much as $1 per day for a home which could otherwise reasonably be heated with wood. If there were as many as 20 no-burn days in a winter season, the annual cost increase could be $20.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule affects only residential fireplaces and stoves; there is no cost to businesses--Dianne R. Nielson.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
Jan Miller at the above address, by phone at (801) 536-4042, by FAX at (801) 536-4099, or by Internet E-mail at jmiller@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 12/15/1998; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 12/01/1998, 1:30 p.m., Room 201, Department of Environmental Quality (DEQ) Bldg, 168 North 1950 West, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 01/07/1999

AUTHORIZED BY: Rick Sprott, Planning Branch Manager

R307. Environmental Quality, Air Quality.
R307-302. Davis, Salt Lake, Utah Counties: Residential Fireplaces and Stoves.
R307-302-2. No-Burn Periods for [~~PM10~~]Fine Particulate.

(1) R307-302-2 shall apply only in areas in Utah County which are north of the southernmost border of Payson City, and east of State Route 68, all of Salt Lake County, and areas in Davis County which are south of the southern-most border of Kaysville.

(2) By September 1, 1992, all sole source residential solid fuel burning devices must be registered with the Executive Secretary or local health district office in order to be exempt during mandatory no-burn periods as detailed below.

(3) After September 1, 1992, when[~~ever~~] the ambient concentration of PM10[~~, as~~]measured by the monitors[~~ing sites~~] in Salt Lake, Davis, or Utah Counties reaches the level of 120 [~~ug/~~]micrograms per cubic meter and the forecasted weather for the specific area includes a temperature inversion which is predicted to continue for at least 24 hours, the Executive Secretary will issue a public announcement and will distribute such announcement to the local media notifying the public that a mandatory no-burn period for residential solid fuel burning devices and fireplaces is in effect. The mandatory no-burn periods will only apply to those areas or counties impacting the real-time monitoring site registering the 120 [~~ug/~~]micrograms per cubic meter concentration. Residents of Salt Lake County or the affected areas of Davis and Utah Counties shall not use residential solid fuel burning devices or fireplaces except those which are the sole source of heat for the entire residence and registered with the Executive Secretary or the local health district office or those having no visible emissions.

(4) PM10 Contingency Plan. If the PM10 Contingency Plan described in Section IX, Part A, of the State Implementation Plan has been implemented, the following actions will be implemented immediately:

(a) The trigger level for no-burn periods as specified in (3) above will be 110 micrograms per cubic meter for that area where the PM10 Contingency Plan has been implemented; and

(b) In Salt Lake, Davis and Utah County nonattainment areas and in any other nonattainment area, it shall be unlawful to sell or install for use as a solid fuel burning device any used solid fuel burning device that is not approved by the Environmental Protection Agency.

(5) After January 1, 1999, when the ambient concentration of PM2.5 measured by the monitors in Salt Lake, Davis, or Utah Counties reaches the level of 52 micrograms per cubic meter and the forecasted weather for the specific area includes a temperature inversion which is predicted to continue for at least 24 hours, the executive secretary will issue a public announcement and will distribute such announcement to the local media notifying the public that a mandatory no-burn period for residential solid fuel burning devices and fireplaces is in effect. The mandatory no-burn periods will only apply to those areas or counties impacting the real-time monitoring site registering the 52 micrograms per cubic meter concentration. Residents of Salt Lake County or the affected areas of Davis and Utah Counties shall not use residential solid fuel burning devices or fireplaces except those which are the sole source of heat for the entire residence and registered with the Executive Secretary or the local health district office or those having no visible emissions.

KEY: air pollution, woodburning*, fireplace*, stove*
[~~September 15, 1998~~]1999 **19-2-101**
19-2-104

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Environmental Quality, Air Quality
R307-415-3
Definitions

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21589
FILED: 10/28/1998, 12:53
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Section R307-415-3 includes definitions used only in the Operating Permit Program. Moving the definition to Section R307-101-2 makes it applicable throughout R307 rules, though the term currently is used only in R307-415.

SUMMARY OF THE RULE OR CHANGE: Delete the definition of "Regulated Air Pollutant" from Section R307-415-3 and add it to Section R307-101-2. See separate filing for Section R307-101-2 in this *Bulletin*.
(**DAR Note:** The proposed amendment to Section R307-101-2 is under DAR No. 21588 in this *Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-2-104(1)(c)

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: No change in costs for moving the definition; currently it is not used anywhere in the rules beyond R307-415. See the separate filing on R307-150 for the cost impact to add this term to the inventory requirements.
❖LOCAL GOVERNMENTS: No change in costs for moving the definition; currently it is not used anywhere in the rules beyond R307-415.
❖OTHER PERSONS: No change in costs for moving the definition; currently it is not used anywhere in the rules beyond R307-415.
(**DAR Note:** The proposed new rule for R307-150 is under DAR No. 21591 in this *Bulletin*.)
COMPLIANCE COSTS FOR AFFECTED PERSONS: No change in costs for moving the definition; currently it is not used anywhere in the rules beyond R307-415.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no change in costs for moving the definition. See the filing on R307-150 for the cost impact of adding this term in the inventory requirements--Dianne R. Nielson.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
Jan Miller at the above address, by phone at (801) 536-4042, by FAX at (801) 536-4099, or by Internet E-mail at jmiller@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 12/15/1998; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 12/03/1998, 1:30 p.m., Room 101, Department of Environmental Quality (DEQ) Bldg, 168 North 1950 West, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 01/06/1999

AUTHORIZED BY: Rick Sprott, Manager

R307. Environmental Quality, Air Quality.
R307-415. Permits: Operating Permit Requirements.
R307-415-3. Definitions.

(1) The definitions contained in R307-101-2 apply throughout R307-415, except as specifically provided in (2).

(2) The following additional definitions apply to R307-415.

"Act" means the Clean Air Act, as amended, 42 U.S.C. 7401, et seq.

"Administrator" means the Administrator of EPA or his or her designee.

"Affected States" are all states:

(a) Whose air quality may be affected and that are contiguous to Utah; or

(b) That are within 50 miles of the permitted source.

"Air Pollutant" means an air pollution agent or combination of such agents, including any physical, chemical, biological, or radioactive (including source material, special nuclear material, and byproduct material) substance or matter which is emitted into or otherwise enters the ambient air. Such term includes any precursors to the formation of any air pollutant, to the extent the Administrator has identified such precursor or precursors for the particular purpose for which the term air pollutant is used.

"Applicable requirement" means all of the following as they apply to emissions units in a Part 70 source, including requirements that have been promulgated or approved by the Board or by the EPA through rulemaking at the time of permit issuance but have future-effective compliance dates:

(a) Any standard or other requirement provided for in the State Implementation Plan;

(b) Any term or condition of any approval order issued under R307-401;

(c) Any standard or other requirement under Section 111 of the Act, Standards of Performance for New Stationary Sources, including Section 111(d);

(d) Any standard or other requirement under Section 112 of the Act, Hazardous Air Pollutants, including any requirement concerning accident prevention under Section 112(r)(7) of the Act;

(e) Any standard or other requirement of the Acid Rain Program under Title IV of the Act or the regulations promulgated thereunder;

(f) Any requirements established pursuant to Section 504(b) of the Act, Monitoring and Analysis, or Section 114(a)(3) of the Act, Enhanced Monitoring and Compliance Certification;

(g) Any standard or other requirement governing solid waste incineration, under Section 129 of the Act;

(h) Any standard or other requirement for consumer and commercial products, under Section 183(e) of the Act;

(i) Any standard or other requirement of the regulations promulgated to protect stratospheric ozone under Title VI of the Act, unless the Administrator has determined that such requirements need not be contained in an operating permit;

(j) Any national ambient air quality standard or increment or visibility requirement under part C of Title I of the Act, but only as

it would apply to temporary sources permitted pursuant to Section 504(e) of the Act;

(k) Any standard or other requirement under rules adopted by the Board.

"Area source" means any stationary source that is not a major source.

"Designated representative" shall have the meaning given to it in Section 402 of the Act and in 40 CFR Section 72.2, and applies only to Title IV affected sources.

"Draft permit" means the version of a permit for which the Executive Secretary offers public participation under R307-415-7i or affected State review under R307-415-8(2).

"Emissions allowable under the permit" means a federally-enforceable permit term or condition determined at issuance to be required by an applicable requirement that establishes an emissions limit, including a work practice standard, or a federally-enforceable emissions cap that the source has assumed to avoid an applicable requirement to which the source would otherwise be subject.

"Emissions unit" means any part or activity of a stationary source that emits or has the potential to emit any regulated air pollutant or any hazardous air pollutant. This term is not meant to alter or affect the definition of the term "unit" for purposes of Title IV of the Act, Acid Deposition Control.

"Final permit" means the version of an operating permit issued by the Executive Secretary that has completed all review procedures required by R307-415-7a through 7i and R307-415-8.

"General permit" means an operating permit that meets the requirements of R307-415-6d.

"Hazardous Air Pollutant" means any pollutant listed by the Administrator as a hazardous air pollutant under Section 112(b) of the Act.

"Major source" means any stationary source (or any group of stationary sources that are located on one or more contiguous or adjacent properties, and are under common control of the same person (or persons under common control)) belonging to a single major industrial grouping and that are described in paragraphs (a), (b), or (c) of this definition. For the purposes of defining "major source," a stationary source or group of stationary sources shall be considered part of a single industrial grouping if all of the pollutant emitting activities at such source or group of sources on contiguous or adjacent properties belong to the same Major Group (all have the same two-digit code) as described in the Standard Industrial Classification Manual, 1987. Emissions resulting directly from an internal combustion engine for transportation purposes or from a non-road vehicle shall not be considered in determining whether a stationary source is a major source under this definition.

(a) A major source under Section 112 of the Act, Hazardous Air Pollutants, which is defined as: for pollutants other than radionuclides, any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, in the aggregate, ten tons per year or more of any hazardous air pollutant or 25 tons per year or more of any combination of such hazardous air pollutants. Notwithstanding the preceding sentence, emissions from any oil or gas exploration or production well, with its associated equipment, and emissions from any pipeline compressor or pump station shall not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources.

(b) A major stationary source of air pollutants, as defined in Section 302 of the Act, that directly emits or has the potential to emit, 100 tons per year or more of any air pollutant, including any major source of fugitive emissions or fugitive dust of any such pollutant as determined by rule by the Administrator. The fugitive emissions or fugitive dust of a stationary source shall not be considered in determining whether it is a major stationary source for the purposes of Section 302(j) of the Act, unless the source belongs to any one of the following categories of stationary source:

(i) Coal cleaning plants with thermal dryers;

(ii) Kraft pulp mills;

(iii) Portland cement plants;

(iv) Primary zinc smelters;

(v) Iron and steel mills;

(vi) Primary aluminum ore reduction plants;

(vii) Primary copper smelters;

(viii) Municipal incinerators capable of charging more than 250 tons of refuse per day;

(ix) Hydrofluoric, sulfuric, or nitric acid plants;

(x) Petroleum refineries;

(xi) Lime plants;

(xii) Phosphate rock processing plants;

(xiii) Coke oven batteries;

(xiv) Sulfur recovery plants;

(xv) Carbon black plants, furnace process;

(xvi) Primary lead smelters;

(xvii) Fuel conversion plants;

(xviii) Sintering plants;

(xix) Secondary metal production plants;

(xx) Chemical process plants;

(xxi) Fossil-fuel boilers, or combination thereof, totaling more than 250 million British thermal units per hour heat input;

(xxii) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;

(xxiii) Taconite ore processing plants;

(xxiv) Glass fiber processing plants;

(xxv) Charcoal production plants;

(xxvi) Fossil-fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input;

(xxvii) All other stationary source categories regulated by a standard promulgated under Section 111 of the Act, Standards of Performance for New Stationary Sources, or Section 112 of the Act, Hazardous Air Pollutants, but only with respect to those air pollutants that have been regulated for that category.

(c) A major stationary source as defined in part D of Title I of the Act, Plan Requirements for Nonattainment Areas, including:

(i) For ozone nonattainment areas, sources with the potential to emit 100 tons per year or more of volatile organic compounds or oxides of nitrogen in areas classified as "marginal" or "moderate," 50 tons per year or more in areas classified as "serious," 25 tons per year or more in areas classified as "severe," and 10 tons per year or more in areas classified as "extreme"; except that the references in this paragraph to 100, 50, 25, and 10 tons per year of nitrogen oxides shall not apply with respect to any source for which the Administrator has made a finding, under Section 182(f)(1) or (2) of the Act, that requirements under Section 182(f) of the Act do not apply;

(ii) For ozone transport regions established pursuant to Section 184 of the Act, sources with the potential to emit 50 tons per year or more of volatile organic compounds;

(iii) For carbon monoxide nonattainment areas that are classified as "serious" and in which stationary sources contribute significantly to carbon monoxide levels as determined under rules issued by the Administrator, sources with the potential to emit 50 tons per year or more of carbon monoxide;

(iv) For PM-10 particulate matter nonattainment areas classified as "serious," sources with the potential to emit 70 tons per year or more of PM-10 particulate matter.

"Non-Road Vehicle" means a vehicle that is powered by an internal combustion engine (including the fuel system), that is not a self-propelled vehicle designed for transporting persons or property on a street or highway or a vehicle used solely for competition, and is not subject to standards promulgated under Section 111 of the Act (New Source Performance Standards) or Section 202 of the Act (Motor Vehicle Emission Standards).

"Operating permit" or "permit," unless the context suggests otherwise, means any permit or group of permits covering a Part 70 source that is issued, renewed, amended, or revised pursuant to these rules.

"Part 70 Source" means any source subject to the permitting requirements of R307-415, as provided in R307-415-4.

"Permit modification" means a revision to an operating permit that meets the requirements of R307-415-7f.

"Permit revision" means any permit modification or administrative permit amendment.

"Permit shield" means the permit shield as described in R307-415-6f.

"Proposed permit" means the version of a permit that the Executive Secretary proposes to issue and forwards to EPA for review in compliance with R307-415-8.[

~~"Regulated air pollutant" means any of the following:~~

~~(a) Nitrogen oxides or any volatile organic compound;~~

~~(b) Any pollutant for which a national ambient air quality standard has been promulgated;~~

~~(c) Any pollutant that is subject to any standard promulgated under Section 111 of the Act, Standards of Performance for New Stationary Sources;~~

~~(d) Any Class I or II substance subject to a standard promulgated under or established by Title VI of the Act, Stratospheric Ozone Protection;~~

~~(e) Any pollutant subject to a standard promulgated under Section 112, Hazardous Air Pollutants, or other requirements established under Section 112 of the Act, including Sections 112(g), (j), and (r) of the Act, including any of the following:~~

~~(i) Any pollutant subject to requirements under Section 112(j) of the Act, Equivalent Emission Limitation by Permit. If the Administrator fails to promulgate a standard by the date established pursuant to Section 112(e) of the Act, any pollutant for which a subject source would be major shall be considered to be regulated on the date 18 months after the applicable date established pursuant to Section 112(e) of the Act;~~

~~(ii) Any pollutant for which the requirements of Section 112(g)(2) of the Act (Construction, Reconstruction and Modification) have been met, but only with respect to the individual source subject to Section 112(g)(2) requirement.~~]

"Renewal" means the process by which a permit is reissued at the end of its term.

"Responsible official" means one of the following:

(a) For a corporation: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either:

(i) the operating facilities employ more than 250 persons or have gross annual sales or expenditures exceeding $25 million in second quarter 1980 dollars; or

(ii) the delegation of authority to such representative is approved in advance by the Executive Secretary;

(b) For a partnership or sole proprietorship: a general partner or the proprietor, respectively;

(c) For a municipality, State, Federal, or other public agency: either a principal executive officer or ranking elected official. For the purposes of R307-415, a principal executive officer of a Federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency;

(d) For Title IV affected sources:

(i) The designated representative in so far as actions, standards, requirements, or prohibitions under Title IV of the Act, Acid Deposition Control, or the regulations promulgated thereunder are concerned;

(ii) The responsible official as defined above for any other purposes under R307-415.

"Stationary source" means any building, structure, facility, or installation that emits or may emit any regulated air pollutant or any hazardous air pollutant.

"Title IV Affected source" means a source that contains one or more affected units as defined in Section 402 of the Act and in 40 CFR, Part 72.

KEY: air pollution, environmental protection, operating permit*, emission fee*

[~~September 15, 1998~~]1999 **19-2-109.1**

19-2-104

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Health, Health Data Analysis

R428-13

Health Data Authority. Audit and Reporting of the HMO Performance Measures

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 21637

FILED: 11/02/1998, 11:41

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The amendment requires health maintenance organizations (HMOs) to request an exemption by January 1 of each reporting year. This allows the office of Health Data Analysis (HDA) to review the exemption request and make a recommendation to the Health Data Committee. If the request is denied by the Health Data Committee, the HMO has enough time to begin the audit process again.

SUMMARY OF THE RULE OR CHANGE: The proposed amendment changes the exemption request deadline from June 1 to January 1 of each reporting year.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 26, Chapter 33a

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: Since this amendment only changes a deadline, it has no effect on the state budget.
❖LOCAL GOVERNMENTS: This rule does not apply to local governments and has no fiscal impact on them.
❖OTHER PERSONS: This rule only changes a deadline to request an exemption. It should not have any cost impact on those regulated by the rule.
COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule has no cost impact on any of the affected persons as it only changes a deadline to request an exemption.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule change should not have any fiscal impact on businesses, as it only changes the date to request an exemption. The change will allow affected businesses more time to gather the necessary data if an exemption request is denied.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Health
Health Data Analysis
Cannon Health Building
288 North 1460 West
PO Box 144004
Salt Lake City, UT 84114, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Denise Love at the above address, by phone at (801) 538-6689, by FAX at (801) 538-9916, or by Internet E-mail at dlove@doh.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 12/15/1998.

THIS RULE MAY BECOME EFFECTIVE ON: 12/16/1998

AUTHORIZED BY: Rod L. Betit, Executive Director

R428. Health, Health Data Analysis.
R428-13. Health Data Authority. Audit and Reporting of HMO Performance Measures.

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R428-13-3. Definitions.

These definitions apply to rule R428-13:

(1) "Office" as defined in R428-2-3A.

(2) "Health Maintenance Organization (HMO)" means any person or entity operating in Utah which is licensed under Title 31A, Chapter 8, Utah Code.

(3) "Health plan" means any insurer under a contract with the Utah Department of Health to serve Medicaid clients under Title XIX and Title XXI of the Social Security Act.

(4) "Utah Health Care Performance Measurement Plan" means the plan for data collection and public reporting of health-related measures, adopted by the Utah Health Data Committee to establish a statewide health performance reporting system.

(5) "NCQA" means the National Committee for Quality Assurance, a not-for-profit organization committed to evaluating and reporting on the quality of managed care plans.

(6) "Performance Measure" means the quantitative, numerical measure of an aspect of the HMO or health plan, or its membership in part or in its entirety, or qualitative, descriptive information on the HMO in its entirety as described in HEDIS.

(7) "HEDIS" means the Health Plan Employer Data and Information Set, a set of standardized performance measures developed by the NCQA.

(8) "HEDIS data" means the complete set of HEDIS measures calculated by HMOs and health plans according to NCQA specifications.

(9) "Audited HEDIS data" means HEDIS data verified by an NCQA certified audit agency.

(10) "Committee" means Utah Health Data Committee established under the Utah Health Data Authority Act, Title 26, Chapter 33a, Utah Code.

(11) "Covered period" means the calendar year on which the data used for calculation of HEDIS measures [~~are~~]is based.

(12) "Submission year" means the year immediately following the covered period.

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R428-13-6. Exemptions.

(1) An HMO or health plan that cannot meet the reporting requirements of this rule may request an exemption by [~~June 1~~]January 1 of each submission year by submitting to the Office a written request for an exemption, accompanied by all documentation necessary to establish the HMO's or health plan's inability to report. The exemption request shall be signed by the chief executive officer of the HMO or health plan who shall certify that all information contained in the request is true and correct. An HMO or health plan may request an exemption if the HMO or health plan did not operate in Utah for the reporting year, if the number of covered lives is too low for HEDIS standards, or for other similarly prohibitive circumstances beyond the HMO's or health plan's control.

(2) The Office may request additional information from the HMO and health plan relevant to the exemption or extension request. If the committee denies the exemption, the HMO or health plan may resubmit the request to the Office if it has additional information or analysis bearing on the request.

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KEY: health, health planning, health policy
[~~April 5,~~]1998 **26-33a**

Health, Health Systems Improvement, Health Facility Licensure

R432-300

Residential Health Care Facility - Limited Capacity - Type N

NOTICE OF PROPOSED RULE
(Repeal and reenact)
DAR FILE NO.: 21561
FILED: 10/20/1998, 14:41
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: R432-300, "Residential Health Care - Limited Capacity - Type N," is repealed as part of the legislative action S.B. 153 passage that repealed the Residential Health Care facility category. The current Type N rule has been modified and moved to the Small Health Care Facility category.
(**DAR Note:** S.B. 153 is found at 1998 Utah Laws 192, and was effective July 1, 1998.)

SUMMARY OF THE RULE OR CHANGE: The term "Residential Health Care Facility Type N" has been deleted from R432-300 as the re-enactment of the rule places the rule in the Small Health Care Facility category. Reference to Residential Health Care Facility Type N is the only substantial deletion from the previous rule. The re-enactment of this rule includes the following modifications and additions to R432-300 that were not present in the previous rule: The definition Subsection R432-300-4(2) is modified to define "owner" as a licensed nurse who resides in the facility to meet the original intent of the passage of administrative rules. Subsection R432-300-4(3) defines "Small Health Care Facility Type N". Subsection R432-300-7(4)(c) adds the requirement for outside air for those Type N facilities licensed after July 1, 1998. Subsection R432-300-7(7) adds the requirement for the main entrance to be accessible to persons with disabilities. Subsection R432-300-8(4) adds the requirement that the owner is a licensed nurse who provides daily nursing coverage. Subsection R432-300-8(5) requires facilities licensed prior to July 1, 1998, which do not have a licensed nurse residing in the facility to provide 24 hour Certified Nurse Assistant (CNA) coverage. Section R432-300-9 is renamed "Facility Records" and adds the requirement to maintain employee records. Section R432-300-13, "Nursing Care," combines the former sections "Health Care Services" and "Nursing Staff." Section R432-300-14, "General Resident Care Policies," combines the former sections "Personal Care" and "Resident Rights." Section R432-300-15, "Medications," defines self-administration of medication by residents, family administration of medications, and delegation of medication administration to unlicensed staff by the licensed nurse. Section R432-300-16, "First Aid," is added to the rule. This section requires that the facility have a current first aid manual, a first aid kit, and an Occupational Safety and Health Administration (OSHA) approved clean up kit for blood-borne pathogens. Section R432-300-20, "Penalties" is added as required by state law.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 26, Chapter 21

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: There will be some cost increase for the printing and distribution of new rules to the 19 providers. For new providers who submit plans for review, additional time will be required to ensure that the air exchange and ventilation system complies. However, it is felt that existing resources are available to absorb the increase in costs.
❖LOCAL GOVERNMENTS: This rule imposes no cost or savings to local governments as enforcement of this rule does not apply to local governments.
❖OTHER PERSONS: There will be an increase in costs to the 19 providers if they aren't licensed nurses or CNAs. It is not known how many of the providers would fall into this category. If we assume that none of the providers are CNAs then the cost to receive training is between $200-350. The most expensive training is at Salt Lake Community College for $350, a one-time expense. If all of the providers receive their training there then the aggregate cost would be $6,650. In addition, if each program hired an additional staff person who was required to receive training, then the total aggregate one-time expense would be $700 per program or $13,300. This rule only applies to the 19 facilities who were licensed prior to July 1, 1998. There is also an additional cost to maintain personnel records and training documentation which is estimated to be $25 per year for the 19 providers. The aggregate cost would be $475. In addition, the Americans with Disabilities Act (ADA) requires that the main entrance to the facility be accessible to people with disabilities. If 5 of the 19 providers need to install a ramp or other means for accessibility the cost would be $965 or an aggregate one-time cost for the physical plant modification of $4,825. New providers will need to ensure that outside air and ventilation requirements are provided at an estimated cost of $400. If 6 new providers license in FY99 the aggregate cost would be $2,400. In addition, the annual energy cost increase to providers who must comply with the outside air requirement is $60 per year. An informal hearing was held September 25, 1998, and the 19 affected providers were mailed draft rules September 1, 1998. No oral comments were received at the informal hearing.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be some compliance cost to the Department to print and distribute the new rules to providers. The individual compliance costs are outlined in the justification for aggregate costs under "other persons."

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule change is required by S.B. 153's repeal of the Residential Health Care Facility Category. Facilities governed by this rule provide nursing care to very ill patients and the requirement to have licensed nurses available to manage their care reflects changes that the affected industry has already largely implemented. Listed costs under "other persons" are maximums; it is expected that actual costs to the industry will be much less and reflect changes that would occur regardless of this rule. This rule will be carefully evaluated based on public comments received, prior to allowing the rule to become effective.
(**DAR Note:** S.B. 153 is found at 1998 Utah Laws 192, and was effective July 1, 1998.)

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

Health
Health Systems Improvement,
Health Facility Licensure
Cannon Health Building
288 North 1460 West
PO Box 142003
Salt Lake City, UT 84114-2003, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Debra Wynkoop-Green at the above address, by phone at (801) 538-6152, by FAX at (801) 538-6325, or by Internet E-mail at dwynkoop@doh.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 12/15/1998.

THIS RULE MAY BECOME EFFECTIVE ON: 12/16/1998

AUTHORIZED BY: Rod L. Betit, Executive Director

R432. Health, Health Systems Improvement, Health Facility Licensure.
[~~**R432-300. Residential Health Care Facility - Limited Capacity - Type N.**~~
~~**R432-300-1. Legal Authority.**~~
~~This rule is adopted pursuant to Title 26, Chapter 21.~~

~~**R432-300-2. Purpose.**~~
~~The purpose of this rule is to establish standards for protection of the health, safety, and welfare of individuals who receive nursing care in privately owned homes.~~

~~**R432-300-3. Time for Compliance.**~~
~~All facilities governed by these rules shall be in full compliance at the time of licensure. Each facility shall comply with these rules and their own policies and procedures.~~

~~**R432-300-4. Definitions.**~~
~~(1) Refer to common definitions R432-1-3, in addition;~~
~~(2) "Owner or operator occupied" means the owner or operator resides in the facility as opposed to simply working a duty shift in the facility.~~
~~(3) "Residential Health Care Facility- Type N" means a home or a residence occupied by the owner or operator that provides protected living arrangements plus nursing care and services on a daily basis for two to three individuals unrelated to the owner or operator of the facility.~~

~~**R432-300-5. License Required.**~~
~~A license is required to operate Residential Health Care Facility Type "N", see R432-2.~~

~~**R432-300-6. Criteria for Type "N" Facility.**~~
~~The licensee shall meet the following criteria to obtain a license for a Residential Health Care Facility-Limited Capacity (Type "N"):~~
~~(1) Provide care in a residence where the owner lives full time;~~
~~(2) Meet local zoning requirements to allow the facility to be operated at the given address;~~
~~(3) Obtain a certificate of fire clearance annually from the local fire marshal having jurisdiction;~~
~~(4) Have a physician assessment and approval for each resident's admission;~~
~~(5) Provide daily, licensed nursing care;~~
~~(6) Provide 24-hour direct care staff available on the premises.~~

~~**R432-300-7. Guidelines.**~~
~~When not addressed in these rules nursing care and other services provided in type "N" facilities shall comply with the standards in R432-150-19.~~

~~**R432-300-8. Physical Environment.**~~
~~(1) The facility shall provide comfortable living accommodations and privacy for residents who live in the facility.~~
~~(2) Bedrooms.~~
~~(a) Single-bed rooms shall have a minimum of 100 square feet of floor space.~~
~~(b) Multiple-bed rooms shall have a minimum of 80 square feet of floor space per bed.~~
~~(c) Beds shall be placed at least three feet away from each other.~~
~~(d) Residential family members or staff shall not share sleeping quarters with patients.~~
~~(e) Each resident shall have a separate standard sized bed.~~
~~(f) No room ordinarily used for other purposes (such as a hall, corridor, unfinished attic, garage, storage area, shed or similar detached building) shall be used as a sleeping room for a resident.~~
~~(g) Each bedroom shall be provided with light and ventilation.~~

(h) Each bedroom shall have a window to the outside which opens easily.

(i) Each room shall have a closet or space suitable for hanging clothing and personal belongings.

(j) There shall be a reading lamp for each patient.

(3) Toilet and Bathing Facilities.

(a) Toilets and bathrooms shall be well-ventilated, accessible to and usable by all persons accepted for care.

(b) There shall be provisions for privacy.

(c) Grab bars which comply with ADAAG shall be placed around each toilet, tub, and shower.

(d) If the facility accepts a resident with disabilities, the bath, shower, sink, and toilet shall be equipped for use by persons with disabilities which meet ADAAG.

(4) Heating, air conditioning, and ventilating systems shall be maintained to provide comfortable temperatures for the resident.

(a) Heating system shall be capable of maintaining temperatures of 80 degrees F. in areas occupied by residents.

(b) Cooling system shall be capable of maintaining temperatures of 72 degrees F. in areas occupied by residents.

(5) There shall be provision for essential lighting and heating during an emergency. All emergency heating devices shall be approved by the local fire jurisdiction.

(6) Residents shall be housed on the main floor only, unless an outside exit leading to the ground grade level is provided from any upper or lower levels.

R432-300-9. Administration and Organization.

(1) The owner shall be responsible for compliance with Utah law and licensure requirements, management, operation, and control of the facility.

(2) The owner shall employ a sufficient number of competent people who are able to perform their respective duties to meet the needs of residents.

(3) All employees must be 18 years of age, and successfully complete an orientation program in order to provide personal care and demonstrate competency.

(a) All staff shall be registered, certified or licensed as required by the Utah Department of Commerce.

(b) Registration, license and certificates must be current, filed in the personnel files, and presented to the licensee within 45-days of employment.

(c) Failure to ensure that all personnel are licensed, registered or certified may result in sanctions to the health facility license.

(4) The Facility shall establish written policies and procedures for a personnel health program which shall protect the health and safety of personnel and clients commensurate with the service offered. The policies shall include and employee health evaluation.

(a) Each employee shall complete a health evaluation which shall include a health inventory when hired.

(b) The health inventory shall document the employee's health history of the following:

(i) conditions that predispose the employee to acquiring or transmitting infectious diseases;

(ii) conditions which may prevent the employee from performing certain assigned duties satisfactorily;

(iii) health screening and immunization components of personnel health programs shall be in accordance with R386-704 Communicable Disease Rules.

(c) Employee skin testing by the Mantoux Method and follow up for tuberculosis shall be done in accordance with R386-702-5, Special Measures for control of Tuberculosis.

(i) Skin testing shall be conducted on each employee annually and after suspect exposure to a resident with active tuberculosis.

(ii) Skin testing shall be exempted for all employees with known positive reaction to skin tests.

(d) All infections and communicable diseases reportable by law shall be reported by the facility to the local health department in accordance with R386-702-2.

R432-300-10. Resident Records.

(1) A separate resident's record shall be maintained and readily available.

(2) Records shall be retained for at least seven years following discharge.

(3) The resident record shall include at least:

(a) Admission Record (face sheet) including the resident's name, social security number, age at admission, birth date, date of admission, last known address, religious preference, if any; name, address, telephone number of spouse, guardian, or person or agency responsible for the resident; name, address, and telephone number of attending physician and dentist;

(b) Admission diagnoses and reason for admission;

(c) Any known allergies;

(d) Temperature, pulse, respirations, blood pressure, height, and height notations, when indicated;

(e) Physician's assessment;

(f) If entrusted to the facility, a record of the resident's cash resources and valuables;

(g) Incident and injury reports.

R432-300-11. Acceptance and Retention of Residence.

(1) Each owner shall establish acceptance criteria which includes:

(a) the resident's health needs;

(b) the residents's ability to perform activities of daily living;

(c) the ability of the facility to address the residents needs.

(2) Residents shall not be accepted nor retained by a Type "N" Limited Capacity Residential Health Care Facility when:

(a) A resident has active tuberculosis or serious communicable diseases;

(b) A resident requires inpatient hospital care;

(c) A resident with a mental illness manifests behavior which is suicidal, assaultive, or harmful to self or others, or who manifests behavior that requires close supervision and a controlled environment.

(3) The facility shall notify both the family, or responsible person and the physician of a change in the resident's condition.

(4) The facility shall request that the family or responsible person relocate the resident within seven days if the resident requires care which cannot be provided in the "N"- type facility.

(5) The facility shall refer the family to a licensed health care facility or agency who is able to meet the resident's needs.

(6) If the department determines at the time of inspection that the facility knowingly and willfully admits or retains residents who do not meet the licensure criteria, then the department may, for a time period specified, require that the resident assessment be

conducted by an approved individual who is independent of the facility.

R432-300-12. Personal Physician.

(1) Each resident shall have a personal physician and shall have a physician's assessment completed prior to admission.

(2) The physician's signed assessment shall document:

(a) The resident is capable of functioning in a limited capacity type residential health care facility;

(b) The resident is free of communicable diseases or any condition which would prevent admission to the facility;

(c) A list of current medications including:

(i) Dosage, time of administration, and route;

(ii) Whether medication is self-administered and what assistance, if any, is required from facility staff;

(d) Type of diet and restrictions or special instructions;

(e) Any known allergies;

(f) Any physical or mental limitations, or restrictions on activity.

R432-300-13. Emergency Services.

A facility shall have the ability to safely evacuate the disabled and bed fast patient in the event of an emergency without impeding the self evacuation of other residents.

R432-300-14. Health Care Services.

(1) The facility owner shall be responsible to coordinate with nursing personnel to ensure that the following duties are carried out:

(a) Implementing physicians' orders;

(b) Planning and directing the delivery of nursing care, treatments, procedures, and other services assuring that each resident's needs are met;

(c) Reviewing and documenting each resident's health care needs, orders for care and treatment, and into a care plan;

(d) Notifying the responsible party and attending physician of significant changes in the resident's health status or behavior and documenting notifications in the resident's record;

(e) Ensuring that the resident is treated for and prevent decubitus ulcers from occurring.

(f) Notification of the resident's family or guardian promptly of any injury or change in the resident's condition after notification of the physician. A record of this notification shall be maintained in the facility;

(g) Providing equipment to meet the needs of residents;

(h) Ensuring that licensed nurses are available and on site every day to provide licensed nursing services.

(2) The owner shall orient employees to the residents daily routine and train the employee to assist the resident in the activities of daily living.

(3) The owner shall have experience in administering a health facility or two years experience working in a health care facility.

R432-300-15. Nursing Staff.

(1) The owner shall ensure that there is licensed nurse coverage daily.

(2) The owner may contract with a licensed nurse to perform the health care services or hire a full time employee.

(3) The licensed nurse may be the owner.

(4) Licensed nurses shall be on-site working directly with residents a minimum of 24 minutes per patient per day. Chronically ill patients may require a minimum of 45 minutes per patient per day.

(5) Nursing staff shall be licensed by the state and perform nursing care as license to practice.

R432-300-16. Personal Care.

(1) There shall be competent, registered or certified staff available 24 hours a day, every day of the week, to meet the needs of residents.

(2) Each resident shall receive the following:

(a) preventive health care and treatment;

(b) personal hygiene for the prevention of conditions as decubitus, contracture, and other deformities;

(c) receive good nutrition and adequate fluids;

(i) All residents shall have access to water and cups.

(ii) Residents unable to feed themselves shall be assisted to eat, in a prompt manner.

(iii) Residents shall be provided assistive devices to maximize their independence when eating or drinking.

(d) Each resident shall receive assistance to make arrangements for medical and dental care including transportation to and from the medical or dental facility.

(3) Staff shall be trained to administer emergency first aid.

(4) The owner shall document and review every accident or incident causing injury to a resident or employee and take appropriate corrective action. A report of each incident shall be maintained in a separate file for one year then placed in the residents record.

R432-300-17. Medications.

(1) Medications shall be administered by a licensed nurse.

(a) Facility staff shall assist a resident with self-administration of medications pursuant to R432-250-20.

(b) If the physician certifies that a resident is capable of administering insulin and oral medications, the patient may self-inject the prescribed insulin and self-administer the prescribed medications.

(2) Immediate family members may administer medications.

R432-300-18. Resident Rights.

(1) The facility shall ensure that each resident is provide a written copy of his rights, and the home's rules.

(2) Each resident has the right to be treated with respect and full recognition of personal dignity and individuality.

(3) Each resident shall have the right to be free of verbal, mental and physical abuse.

(4) Each resident shall be free of chemical and physical restraints. Restraints shall not be used in limited capacity programs.

(5) The facility shall provide an opportunity for and encourage the resident to visit with family and friends to maintain social interaction in the facility and in the community.

(6) The resident has the right to participate in decisions regarding placement, health care status and financial matters unless there is a court appointed guardian or a signed durable power of attorney.

(7) Each resident shall be provided privacy for treatments and hygiene care.

~~(8) Resident rights shall be posted or reviewed with the resident and the responsible party annually.~~

~~**R432-300-19. Activity Program.**~~

~~(1) The facility shall provide activities for the residents to encourage independent functioning.~~

~~(2) The facility shall, complete a resident interest survey and with the residents' involvement, develop a monthly activity calendar.~~

~~(3) The activity program shall be developed to include the residents' needs and interests to include:~~

~~(a) Socialization activities;~~

~~(b) Independent Activities of Daily Living;~~

~~(c) Physical activities;~~

~~(4) Community activities away from the facility. These activities may include:~~

~~(a) Attendance at a place of worship;~~

~~(b) Service activities for the community;~~

~~(c) Concerts, tours, and plays;~~

~~(d) Senior citizen groups, sport leagues, and service clubs.~~

~~**R432-300-20. Food Service.**~~

~~(1) There shall be adequate space and equipment for the following:~~

~~(a) Resident dining;~~

~~(b) An adequate supply, at least three days, of food items to complete the established menus;~~

~~(c) Space for meal planning and preparation.~~

~~(2) Menus shall be planned and followed to meet the residents' nutritional needs using the four basic food groups on a daily basis.~~

~~(a) A different menu shall be followed for each day of the week.~~

~~(b) At least three meals or their equivalent shall be served daily.~~

~~(c) There shall be no more than a 14-hour span between the evening meal and breakfast unless a substantial snack is provided.~~

~~(d) Bedtime snacks of nourishing quality and quantity shall be offered routinely to all residents whose diets permit.~~

~~(3) Food shall be palatable and attractively served.~~

~~(4) If the facility accepts residents who require special diets, the diets shall be provided to residents as ordered by the resident's physician. If the facility is unable to provide the required diet, the resident, physician, and responsible person shall be notified so arrangements can be made to meet the resident's needs including discharge or transfer to another facility.~~

~~(5) Facility food service shall be maintained in accordance with the Utah Department of Health Food Service Sanitation rules, R392-100.~~

~~**R432-300-21. Housekeeping.**~~

~~(1) There shall be adequate housekeeping services to maintain a clean, sanitary, and healthful environment in the facility.~~

~~(2) Entrances, exits, steps, and outside walkways shall be maintained and kept free of ice, snow, and other hazards.~~

~~(3) Furniture, bedding, linens, and equipment shall be cleaned periodically and before use by another resident.~~

~~(4) Odors shall be controlled by maintaining cleanliness and proper ventilation. Deodorizers shall not be used to cover odors caused by poor housekeeping or unsanitary conditions.~~

~~(5) A facility may keep household pets providing the pets are kept clean, disease free, and not allowed in food preparation and serving areas.~~

~~(6) Dangerous or hazardous conditions shall not be permitted to exist.~~

~~**KEY: health facilities**~~
~~**August 22, 1995 26-21-5**~~
~~**Notice of Continuation December 15, 1997 26-21-16**~~]

R432-300. Small Health Care Facility - Type N.

R432-300-1. Legal Authority.

This rule is adopted pursuant to Title 26, Chapter 21.

R432-300-2. Purpose.

The purpose of this rule is to establish standards for protection of the health, safety, and welfare of individuals who receive nursing care in privately owned homes.

R432-300-3. Time for Compliance.

All facilities governed by these rules shall be in full compliance at the time of licensure.

R432-300-4. Definitions.

(1) Refer to common definitions R432-1-3, in addition;

(2) "Owner" means a licensed nurse who resides in the facility and provides direct care to residents in the facility as opposed to simply working a duty shift in the facility.

(3) "Small Health Care Facility - Type N" means a home or a residence occupied by the owner, who is a licensed nurse, that provides protected living arrangements plus nursing care and services on a daily basis for two to three individuals unrelated to the owner of the facility.

R432-300-5. License Required.

A license is required to operate a Small Health Care Facility Type N, see R432-2.

R432-300-6. Criteria for Type N Facility.

The licensee shall meet the following criteria to obtain a license for a Small Health Care Facility - Type N:

(1) provide care in a residence where the owner lives full time;

(2) meet local zoning requirements to allow the facility to be operated at the given address;

(3) obtain a certificate of fire clearance annually from the local fire marshal having jurisdiction;

(4) have a physician assessment and approval for each resident's admission;

(5) provide daily, licensed nursing care; and

(6) provide 24-hour direct care staff available on the premises.

R432-300-7. Physical Environment.

(1) Each facility must provide comfortable living accommodations and privacy for residents who live in the facility.

(2) Bedrooms may be private or semi-private.

(a) Single-bed rooms shall have a minimum of 100 square feet of floor space.

(b) Multiple-bed rooms shall have a minimum of 80 square feet of floor space per bed and shall be limited to two beds.

(c) Beds shall be placed at least three feet away from each other.

(d) Owner's family members or staff shall not share sleeping quarters with residents.

(e) Each resident shall have a separate standard sized bed.

(f) No room ordinarily used for other purposes (such as a hall, corridor, unfinished attic, garage, storage area, shed or similar detached building) shall be used as a sleeping room for a resident.

(g) Each bedroom shall be provided with light and ventilation.

(h) Each bedroom shall have a window to the outside which opens easily. Windows must have insect screens.

(i) Each room shall have a closet or space suitable for hanging clothing and personal belongings.

(j) Each resident shall have a reading lamp.

(3) Toilets and bathrooms shall provide privacy, be well-ventilated, and be accessible to and usable by all persons accepted for care.

(a) Grab bars which comply with ADAAG shall be placed around each toilet, tub, and shower.

(b) If the licensee admits a resident with disabilities, the bath, shower, sink, and toilet must be equipped for use by persons with disabilities in accordance with ADAAG.

(4) Heating, air conditioning, and ventilating systems must provide comfortable temperatures for the resident.

(a) Heating system shall be capable of maintaining temperatures of 80 degrees F. in areas occupied by residents.

(b) Cooling system shall be capable of maintaining temperatures of 72 degrees F. in areas occupied by residents.

(c) Facilities licensed after July 1, 1998, must comply with ventilation and minimum total air change requirements as outlined in R432-6-22 Table 2, which is adopted and incorporated by reference.

(5) The facility must have equipment to provide essential lighting and heating during an emergency. All emergency heating devices must be approved by the local fire jurisdiction.

(6) Residents shall be housed on the main floor only, unless an outside exit leading to the ground grade level is provided from any upper or lower levels.

(7) At least one building entrance shall be accessible to persons with physical disabilities.

R432-300-8. Administration and Organization.

(1) The licensee is responsible for compliance with Utah law and licensure requirements, management, operation, and control of the facility.

(2) The licensee is responsible to establish and implement facility policies and procedures. Policies and procedures must reflect current facility practice.

(3) The licensee must have experience in administering a health facility or two years experience working in a health care facility.

(4) The owner must be a licensed nurse and provide nursing coverage on a daily basis.

(5) Facilities licensed prior to July 1, 1998, who do not have licensed nurses residing in the facility, shall provide 24 hour certified nurse aide coverage.

(6) The licensee must employ sufficient staff to meet the needs of the residents.

(7) All employees must be 18 years of age, and successfully complete an orientation program in order to provide personal care and demonstrate competency.

(a) The licensee shall orient employees to the residents' daily routine and train employees to assist the residents in activities of daily living.

(b) All staff shall be registered, certified or licensed as required by the Utah Department of Commerce.

(c) Registration, license and certificates must be current, filed in the personnel files, and presented to the licensee within 45-days of employment.

(8) The licensee shall establish and implement written policies and procedures for a personnel health program to protect the health and safety of personnel and clients commensurate with the service offered. The policies shall include an employee health evaluation.

(a) Each employee shall, upon hire, complete a health evaluation that includes a health inventory.

(b) The health inventory must document the employee's health history of the following:

(i) conditions that predispose the employee to acquiring or transmitting infectious diseases;

(ii) conditions which may prevent the employee from performing certain assigned duties satisfactorily;

(c) Employee skin testing by the Mantoux Method and follow up for tuberculosis shall be done in accordance with R388-804, Tuberculosis Control Rule.

(i) Skin testing shall be conducted on each employee within two weeks of hire and after suspect exposure to a person with active tuberculosis.

(ii) Skin testing shall be exempted for all employees with known positive reaction to skin tests.

(d) All infections and communicable diseases reportable by law shall be reported by the facility to the local health department in accordance with R386-702-2.

R432-300-9. Facility Records.

(1) The licensee must maintain accurate and complete records. Records shall be filed, stored safely, and be easily accessible to staff and the Department.

(2) Records shall be protected against access by unauthorized individuals.

(3) The licensee shall maintain personnel records for each employee and retain such records for at least three years following termination of employment. Personnel records must include the following:

(a) employee application;

(b) date of employment and initial policies and procedures orientation;

(c) termination date;

(d) reason for leaving;

(e) documentation of cardio-pulmonary resuscitation, first aid, and emergency procedures training;

(f) health inventory;

(g) food handlers permits;

(h) TB skin test documentation;

(i) documentation of criminal background check; and

(j) certifications, registration, and licenses as required.

(4) The licensee must maintain in the facility a separate record for each resident that includes the following:

(a) the resident's name, date of birth, and last address;

(b) the name, address, and telephone number of the person who administers and obtains medications, if this is not facility staff;

(c) the name, address, and telephone number of the individual to be notified in case of accident or death;

(d) the name, address, and telephone number of a physician and dentist to be called in an emergency;

(e) admission diagnoses and reason for admission;

(f) any known allergies;

(g) the admission agreement;

(h) the acceptance appraisal;

(i) a physician's assessment;

(j) a resident assessment;

(k) a written plan of care;

(l) physician orders;

(m) daily nurses notes including temperature, pulse, respirations, blood pressure, height, and height notations, when indicated;

(n) if entrusted to the facility, a record of the resident's cash resources and valuables; and

(o) incident and accident reports.

(5) Resident records must be retained for at least seven years following discharge.

R432-300-10. Acceptance and Retention of Residence.

(1) Each licensee must establish acceptance criteria which includes:

(a) the resident's health needs;

(b) the residents's ability to perform activities of daily living; and

(c) the ability of the facility to address the residents needs.

(2) A resident shall not be accepted nor retained by a Type "N" Limited Capacity Small Health Care Facility when:

(a) The resident has active tuberculosis or serious communicable diseases;

(b) The resident requires inpatient hospital care; or

(c) The resident has a mental illness that manifests behavior which is suicidal, assaultive, or harmful to self or others.

(3) The licensee shall request that the family or responsible person relocate the resident within seven days if the resident requires care which cannot be provided in the Type N facility.

(4) If the department determines at the time of inspection that the licensee knowingly and willfully admits or retains residents who do not meet the licensure criteria, then the department may, for a time period specified, require that the resident assessment be conducted by an approved individual who is independent of the facility.

R432-300-11. Personal Physician.

(1) Each resident shall have a personal physician and have a physician's assessment completed prior to admission.

(2) The physician's signed assessment shall document:

(a) that the resident is capable of functioning in a limited capacity Type N Small Health Care Facility;

(b) that the resident is free of communicable diseases or any condition which would prevent admission to the facility;

(c) a list of current medications including dosage, time of administration, route, and assistance required;

(d) type of diet and restrictions or special instructions;

(e) any known allergies; and

(f) any physical or mental limitations, or restrictions on activity.

R432-300-12. Emergency Procedures.

The licensee must develop and implement policies and procedures to safely evacuate disabled and bed fast residents in the event of an emergency without impeding the self-evacuation of other residents.

R432-300-13. Nursing Care.

(1) Each Type N facility must provide nursing care services to meet the needs of the residents.

(2) Licensed nurses shall be on-site working directly with residents a minimum of 24 minutes per patient per day. Chronically ill patients may require a minimum of 45 minutes per patient per day.

(3) Licensed nurses shall practice nursing in accordance with the Utah Nurse Practice Act Title 58, Chapter 31b.

(4) Licensed nurses shall have the following responsibilities:

(a) direct the implementation of physician's orders;

(b) plan and direct the delivery of nursing care, treatments, procedures, and other services to meet the needs of the residents;

(c) review the health care needs of each resident admitted to the facility and develop resident care plans according to the resident's needs and the physician's orders;

(d) review the resident's medication to ensure accuracy;

(e) ensure that nursing notes describe the care rendered including the resident's response;

(f) supervise staff to assure they perform restorative measures in their daily care of residents;

(g) teach and coordinate habilitative and rehabilitative care to promote and maintain optimal physical and mental functioning of the resident; and

(h) plan and conduct documented orientation and in-service programs for staff.

(5) The licensed nurse must develop a health services policy and procedure manual that is to be reviewed and updated by the licensed nurse at least annually.

(a) The manual must be accessible to all staff and be available for review by the Department.

(b) The policy and procedure manual must address the following:

(i) bathing;

(ii) positioning;

(iii) enema administration;

(iv) decubitus prevention and care;

(v) bed making;

(vi) isolation procedures;

(vii) clinitest procedures;

(viii) telephone orders;

(ix) charting;

(x) rehabilitative nursing;

(xi) diets and feeding residents; and

(xi) oral hygiene and denture care;

(6) Each resident's care plan shall include measures to prevent and reduce incontinence.

(a) The licensed nurse shall assess each resident to determine the resident's ability to participate in a bowel and bladder management program.

(b) An individualized plan for each incontinent resident shall begin within two weeks of the initial assessment.

(c) The licensed nurse shall document a weekly evaluation of the resident's performance in the bowel/bladder management program.

(d) Fluid intake and output shall be recorded for each resident and evaluated at least weekly, as ordered by the physician or nurse.

(e) Physician's or nurse's orders shall be re-evaluated periodically.

(7) The licensee must ensure that staff are trained in rehabilitative nursing.

(a) Rehabilitative nursing services shall be performed daily for residents who require such services and shall be documented in the resident's record when provided.

(b) Rehabilitative services shall be provided to maintain function or to improve the resident's ability to carry out the activities of daily living.

(c) Rehabilitative nursing services shall include the following:

(i) turning and positioning of residents;

(ii) assisting residents to ambulate;

(iii) improving resident's range of motion;

(iv) restorative feeding;

(v) bowel and bladder retraining;

(vi) teaching residents self-care skills;

(vii) teaching residents transferring skills;

(viii) teaching residents self-administration of medications, as appropriate; and

(ix) taking measures to prevent secondary disabilities such as contractions and decubitus ulcers.

R432-300-14. General Resident Care Policies.

(1) Each resident shall be treated as an individual with dignity and respect in accordance with Residents' Rights (R432-200-12).

(2) The licensee shall develop and implement resident care policies to be reviewed at least annually.

(3) These policies shall address the following:

(a) Each resident upon admission shall be oriented to the facility, services, and staff.

(b) Each admission shall comply with R432-300-11.

(c) Each resident shall receive care to ensure good personal hygiene. This care shall include bathing, oral hygiene, shampoo and hair care, shaving or beard trimming, fingernail and toenail care.

(d) Linens and other items in contact with the resident shall be changed weekly or as the item is soiled.

(e) Each resident shall be encouraged and assisted to achieve and maintain the highest level of functioning and independence including:

(i) teaching the resident self-care,

(ii) assisting residents to adjust to their disabilities and prosthetic devices,

(iii) directing residents in prescribed therapy exercises, and

(iv) redirecting residents interests as necessary.

(f) Each resident shall receive care and treatment to ensure the prevention of decubiti, contractions, and deformities.

(g) Each resident shall be provided with good nutrition and adequate fluids for hydration.

(i) All residents shall have ready access to water and drinking glasses.

(ii) Residents unable to feed themselves shall be assisted to eat in a prompt, orderly manner.

(iii) Residents shall be provided with adapted equipment to assist in eating and drinking.

(h) Visual privacy shall be provided for each resident during treatments and personal care.

(i) Call lights or signals (where required) shall be answered promptly.

(4) The owner shall notify the resident's responsible person and physician of significant changes or deterioration of the resident's health, and ensure the resident's transfer to an appropriate health care facility if the resident requires services beyond the scope of the Type N facility license. This notification shall be documented in the resident's record.

(5) Each resident shall receive assistance to make arrangements for medical and dental care including transportation to and from the medical or dental facility.

(6) The licensee must document and make available for Department review every accident or incident causing injury to a resident or employee. The documentation must include appropriate corrective action.

R432-300-15. Medications.

(1) A licensed health care professional must assess each resident to determine what level and type of assistance is required for medication administration. The level and type of assistance provided shall be documented on the resident's service plan.

(2) The resident's medication program shall include one or all of the following:

(a) The resident is able to self-administer medications.

(i) Residents who have been assessed to be able to self-administer medications may keep prescription medications in their rooms.

(ii) If more than one resident resides in a unit, the facility must assess each person's ability to safely have medications in the unit. If safety is a factor, the resident shall keep his medication in a locked container in the unit.

(b) Facility staff may assist residents who self-medicate by:

(i) reminding the resident to take the medication;

(ii) opening medication containers;

(iii) reading the instructions on container labels;

(iv) checking the dosage against the label of the container;

(v) reassuring the resident that the dosage is correct;

(vi) observing a resident take the medication; and

(vii) reminding the resident or the resident's responsible person when the prescription needs to be refilled.

(c) Family members or a designated responsible person may set up medications in a package which identifies the medication and time to administer. If a family member or significant other assists with medication administration, they must sign a waiver indicating that they agree to assume the responsibility to fill prescriptions, administer medication, and document that the medication has been

administered. Facility staff may assist the resident to self-medicate by:

(i) reminding residents to take medications; and

(ii) opening the container at the resident's request.

(d) Unlicensed assistive personnel may assist with medication administration under the supervision of the facility's registered nurse.

(i) The facility's registered nurse may delegate the task of assisting with medication administration to unlicensed assistive personnel in accordance with the Nurse Practice Act R156-31-603.

(ii) The registered nurse who delegates the assisting with medication administration must verify and evaluate the practitioner's orders, perform a nursing assessment, and determine whether unlicensed assistive personnel can safely perform the assisting with administration of medications.

(iii) The medications must be administered according to a plan of care developed by the registered nurse.

(iv) The registered nurse shall provide and document supervision, evaluation, and training of unlicensed assistive personnel assisting with medication administration.

(v) The delegating nurse or another registered nurse shall be readily available either in person or by telecommunication.

(e) The resident may have the facility's licensed nurse administer medications.

(i) The care plan shall document instructions for medication administration.

(ii) All medications shall be prescribed in writing for the resident by the resident's licensed practitioner.

(3) The licensee or facility licensed nurse must review all resident medications at least every six months.

(a) Medication records shall include the following:

(i) the resident's name;

(ii) the name of the prescribing practitioner;

(iii) the name of the medication, including prescribed dosage;

(iv) the times and dates administered;

(v) the method of administration;

(vi) signatures of personnel administering the medication; and

(vii) the review date.

(b) Any change in the dosage or schedule of medication administration shall be made by the resident's licensed practitioner and be documented in the medication record. All personnel shall be notified of the medication change.

(c) The licensee must keep on file a list of possible reactions and precautions to any medications that facility staff assist the resident to administer.

(6) The licensed practitioner shall be notified when medications errors occur.

(7) Medications shall be stored in a locked central storage area to prevent unauthorized access.

(a) If medication is stored in a central location, the resident shall have timely access to the medication.

(b) Medications that require refrigeration shall be stored separately from food items and at temperatures between 36 - 46 degrees F.

(c) The administration, storage, and handling of oxygen must comply with the requirements of NFPA 99.

(8) Facility policies must address the disposal of unused, outdated, or recalled medications.

(a) The licensee must return a resident's medication to the resident or to the resident's responsible person upon discharge.

(b) The licensee must document the return to the resident or the resident's responsible person of medication stored in a central storage.

R432-300-16. First Aid.

(1) There shall be at least one staff person on duty at all times who has training in basic first aid, the Heimlich maneuver, certification in cardiopulmonary resuscitation, and emergency procedures to ensure that each resident receives prompt first aid as needed.

(2) First aid training refers to any basic first aid course approved by the American Red Cross or Utah Emergency Medical Training Council.

(3) The licensee must ensure that a first aid kit is available at a specified location in the facility.

(4) The licensee must ensure that a current edition of a basic first aid manual approved by the American Red Cross, the American Medical Association, or a state or federal health agency is available at a specified location in the facility.

(5) Each facility must have an OSHA approved clean up kit for blood borne pathogens.

R432-300-17. Activity Program.

(1) The facility shall provide activities for the residents to encourage independent functioning.

(2) The licensee must complete a resident interest survey and, with the resident's involvement, develop a monthly activity calendar.

(3) The activity program shall include the residents needs and interests to include:

(a) socialization activities;

(b) independent activities of daily living; and

(c) physical activities;

(4) The resident may participate in community activities away from the facility. These activities may include:

(a) attendance at a place of worship;

(b) service activities for the community;

(c) concerts, tours, and plays; and

(d) senior citizen groups, sport leagues, and service clubs.

R432-300-18. Food Service.

(1) The facility must have adequate space and equipment for the following:

(a) resident dining;

(b) at least three days supply of food items to complete the established menus; and

(c) space for meal planning and preparation.

(2) Menus shall be planned and followed to meet the residents' nutritional needs using the four basic food groups on a daily basis.

(a) A different menu shall be followed for each day of the week.

(b) At least three meals or their equivalent shall be served daily.

(c) There shall be no more than a 14-hour span between the evening meal and breakfast unless a substantial snack is provided.

(d) Bedtime snacks of nourishing quality and quantity shall be offered routinely to all residents whose diets permit.

(3) Food shall be palatable and attractively served.

(4) If the licensee accepts residents who require special diets, the diets shall be provided to residents as ordered by the resident's physician. If the licensee is unable to provide the required diet, the resident, physician, and responsible person shall be notified so arrangements can be made to meet the resident's needs including discharge or transfer to another facility.

(5) Facility food service shall be maintained in accordance with the Utah Department of Health Food Service Sanitation rules, R392-100.

R432-300-19. Housekeeping and Maintenance Services.

(1) Housekeeping and maintenance services must be adequate to maintain a safe, clean, sanitary, and healthful environment.

(2) Entrances, exits, steps, and outside walkways shall be maintained and kept free of ice, snow, and other hazards.

(3) Furniture, bedding, linens, and equipment shall be cleaned periodically and before use by another resident.

(4) Odors shall be controlled by maintaining cleanliness and proper ventilation. Deodorizers shall not be used to cover odors caused by poor housekeeping or unsanitary conditions.

(5) A facility may keep household pets providing the pets are kept clean, disease free, and not allowed in food preparation and serving areas.

R432-300-20. Penalties.

Any person who violates any provision of this rule may be subject to the penalties enumerated in 26-21-11 and R432-3-6 or be assessed a penalty not to exceed the sum of $5,000 or be punished for violation of a class B misdemeanor for the first violation and for any subsequent similar violation within two years for violation of a class A misdemeanor as provided in Section 26-23-6.

KEY: health facilities
December 1998 **26-21-5**
Notice of Continuation December 15, 1997 **26-21-16**

◆ ◆

Health, Health Systems Improvement, Health Facility Licensure

R432-650

End Stage Renal Disease Facility Rules

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21562
FILED: 10/20/1998, 14:41
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This change incorporates staffing requirements, quality improvement functions, and construction standards.

SUMMARY OF THE RULE OR CHANGE: Interdisciplinary team is defined in Subsection R432-650-3(2). Deletes Section R432-650-7, Staffing Table 1, from rule and substitutes specific language for staffing ratios. Adds employee health evaluation specifics in Section R432-650-6. Adds continuous quality improvement requirements in Section R432-650-13. Adds physical environment and equipment standards in Section R432-650-14. Adds "Penalties" at Section R432-650-15 as required by state law.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 26, Chapter 21

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 42 CFR 482.52(a)

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: This proposed rule change imposes no anticipated aggregate cost or savings to state government. The Department will have an aggregate increase to mail and distribute rules to the affected 16 providers, however, this can be absorbed in the current budget.

❖LOCAL GOVERNMENTS: No anticipated cost or savings to local governments as enforcement of this rule does not apply to local governments.

❖OTHER PERSONS: There will be an aggregate cost increase to some of the 16 end stage renal disease (ESRD) providers to increase licensed nurse and dialysis technician staffing from a 1:5 to a 1:4 ratio. A poll of existing providers revealed that 75% of the providers are currently meeting or exceeding the new requirement. If we estimate that 4 providers hire an additional licensed nurse or dialysis technician at a cost of approximately $120 per treatment day for 3 days per week per each additional staff then the aggregate cost would be $18,720. Some aggregate savings may be incurred by providers as registered nurse coverage is changed from a 1:5 to 1:12 ratio. It is estimated that 12 providers who are permitted to reduce registered nurse coverage may realize a savings of approximately $176 per treatment day times 3 days per week with a savings of $27,456 per facility. There will be some aggregate cost to providers to maintain a quality improvement committee. A poll of existing providers revealed that most providers are currently meeting this requirement; however, if we estimate that 4 providers do not currently conduct quarterly quality improvement meetings the cost would be approximately $640 annually, which is estimated at $17.50 per staff person for a one hour meeting four times a year, for an aggregate increase of $2,560. There may be some compliance cost to providers who choose to remodel existing available space or new providers to meet the proposed physical environment and equipment

standards. The remodel cost per square foot to meet the proposed rule averages $40 per square foot for existing remodeled space. If we estimate that the average remodel is 200 foot times $40, the aggregate cost would be $8,000 for one provider to remodel.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The compliance costs for affected persons for staffing changes, quality improvement quarterly meetings, and remodel expenses are outlined to justify the costs identified under "other persons." There will be some compliance cost to the Department to print and distribute the amended rules to providers.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: These changes are the result of the five-year review process. A subcommittee of the Health Facilities committee met and reviewed the rule to bring the requirements in line with current practice of providers. A net savings is expected to affected providers when the reduced cost of having fewer registered nurses is balanced against the cost of having additional licensed nurses and dialysis technicians. The addition of quality review committee is prudent and has already been adopted by a majority of providers. After formal public comment is received this rule and its predicted costs will be evaluated again--Rod Betit.

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

Health
Health Systems Improvement,
Health Facility Licensure
Cannon Health Building
288 North 1460 West
PO Box 142003
Salt Lake City, UT 84114-2003, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Debra Wynkoop-Green at the above address, by phone at (801) 538-6152, by FAX at (801) 538-6325, or by Internet E-mail at dwynkoop@doh.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 12/15/1998.

THIS RULE MAY BECOME EFFECTIVE ON: 12/16/1998

AUTHORIZED BY: Rod L. Betit, Executive Director

R432. Health, Health Systems Improvement, Health Facility Licensure.
R432-650. End Stage Renal Disease Facility Rules.
R432-650-1. Legal Authority.

[~~The State Department of Health, by and through the Health Facility Committee, does hereby adopt and promulgate the following standards and rules governing health care facilities or agencies required under and by virtue or authority vested in it by the Utah State Legislature under Title 26, Chapter 21.~~]This rule is adopted pursuant to Title 26, Chapter 21.

R432-650-2. Purpose.

The purpose of this rule is to promote the public health and welfare through the establishment and enforcement of licensure standards. This rule sets standards for the operation and maintenance for End Stage Renal Disease (ESRD) facilities in order to provide safe and effective services.

[~~**R432-650-3. Compliance.**~~

~~All facilities governed by these rules shall be in full compliance with these rules by February 1, 1994.~~

~~-~~]

R432-650-[~~4~~]3. Definitions.

(1) The[~~See common~~] definitions in R432-1-3 apply to this rule.

(2) "Interdisciplinary professional team" means a team of qualified professionals who are responsible for creating the Patient Long Term Care Program and Patient Care Plan. The qualifications are described in 42CFR 405.2137(a) and (b), 1997, which is adopted and incorporated by reference.

R432-650-[~~5~~]4. Licensure.

License Required. See R432-2 and R432-3.

R432-650-[~~6~~]5. Patient Care Services.

[~~The~~]Each ESRD facility [~~shall~~]must comply with the conditions of participation set forth in the Code of Federal Regulations, Title 42, Part 405, Subpart U., 1997, which is adopted and incorporated by reference.

R432-650-[~~7~~]6. Personnel Health.

[~~Staff Health Surveillance.~~

~~(1) The facility shall establish a personnel health program through written personnel health policies and procedures which shall protect the health and safety of personnel and patients commensurate with the services offered.~~](1) Each ESRD facility shall establish a written health surveillance and evaluation program for facility personnel commensurate with the services offered. The program must include applicable portions of:

(a) The Communicable Disease Rule, R386-702;

(b) Tuberculosis Control Rule, R388-804; and

(c) OSHA guidelines for Bloodborne Pathogens, 29 CFR 1910.1030.

(2) [~~An employee placement health evaluation to include at least a health inventory shall be completed when an employee is hired.~~]All employees shall undergo a health status examination as prescribed in the health surveillance and evaluation program upon hiring and may not be assigned to patient care duties until they are determined to be able to safely discharge their duties.

(3) [~~The health inventory shall obtain the employee's history of the following:~~

~~(a) conditions that predispose the employee to acquiring or transmitting infectious diseases;~~

~~(b) conditions which may prevent the employee from performing certain assigned duties satisfactorily.~~

~~(3) Employee health screening and immunization components of personnel health programs shall be developed in accordance with R386-702, Code of Communicable Disease Rules.~~

~~(4) Employee skin testing and follow-up for tuberculosis shall be done in accordance with R386-702-5, Special Measures for the~~

~~Control of Tuberculosis. Skin testing shall be exempted for all employees with known positive reaction to skin tests.~~

~~(5) The facility shall establish a policy and procedure for the health examination of all facility personnel and shall prohibit employees with a communicable disease or open skin lesions, or weeping dermatitis from direct contact with patients, patient care items, if direct contact may result in the transmission of the infection or the disease.~~

~~(6) All personnel shall have a test for Hepatitis within two weeks of employment and quarterly thereafter. Persons receiving a successful vaccination for hepatitis B shall not be required to undergo further testing.~~

~~(7) The facility shall comply with the Occupational Safety and Health Administration Bloodborne Pathogen Standard.~~]Each ESRD facility must test all employees who provide direct patient care for Hepatitis B, and for Tuberculosis by the Mantoux method within the first two weeks of beginning employment.

R432-650-[~~8~~]7. Required Staffing.

(1) [~~A minimum of two staff persons, one of whom shall be a Registered Nurse, trained in dialysis procedures and facility emergency procedures shall be on duty in the facility at all times a patient is being dialyzed.~~

~~(2) The facility shall be staffed by licensed nurses or dialysis technicians at the minimum ratios set forth in Table 1.~~

~~TABLE 1~~
~~Minimum Staffing Ratios~~

~~Patient Orientation and Treatment Process~~	~~Minimum Ratio of Direct Care Staff to Patients~~
~~Start of Training~~	~~1:1~~
~~Training Progression~~	~~1:2~~
~~Stable~~	~~1:5~~

] Each patient shall be under the continuing supervision of a physician. A physician shall be available in medical emergency situations through a current telephone call roster readily accessible to the nursing staff.

(2) Physician assistants and advanced practice registered nurses may provide services in ESRD facilities in association with the supervising or consulting nephrologist, and in accordance with state law.

(3) Each ESRD facility shall provide sufficient qualified clinical staff to meet patient care needs. A minimum of two clinical staff personnel, one a registered nurse for supervision of patient clinical care, shall be on duty whenever patients are receiving dialysis services.

(a) A registered nurse may not supervise the clinical care of more than 10 patients if arranged in an open setting, or 12 patients if arranged in three pods of four patients.

(b) A registered nurse may not supervise patient clinical care, or provide unsupervised patient clinical care until the nurse has completed training and demonstrated competency as determined by facility policy.

(c) Dialysis technicians and licensed practical nurses may not be assigned patient clinical care for more than four patients at a time.

(d) Dialysis technicians and licensed practical nurses must complete training and demonstrate competency according to facility policy prior to providing patient care.

(4) Each ESRD facility must orient all employees to specific job requirements and facility policies. The facility shall document initial and on-going employee orientation and training. Patient clinical care staff orientation and training shall include at least the following topics:

(a) patient rights and responsibilities;
(b) kidney disease processes;
(c) hemodialysis process;
(d) hemodialysis complications;
(e) dialysis access and management;
(f) psycho-social implications of dialysis on patient care;
(g) nutritional requirements;
(h) universal precautions;
(i) use of the medical emergency kit;
(j) use and function of facility equipment;
(k) emergency procedures;
(l) AAMI water treatment standards; and
(m) dialyzer re-use procedures, if offered.

(5) A registered nurse may delegate the following patient care activities to licensed practical nurses or dialysis technicians:

(a) cannulation of peripheral vascular access;

(b) administration of intradermal lidocaine, intravenous heparin and intravenous normal saline; and

(c) initiation, monitoring and discontinuation of the dialysis process.

(6) Each ESRD facility must ensure that all personnel are licensed, certified or registered as required by the Utah Department of Commerce.

R432-650-[~~9~~]8. Patient Care Plan.

(1) [~~A short-term~~]Each patient must have a care plan that is[~~shall be~~] developed and implemented by the interdisciplinary[~~professional~~] team with the patient's consent within one month of beginning treatment.

(2) [~~A~~]Each patient who receives treatment for more than 90 days must have a long-term care [~~plan~~]program that is [~~shall be~~]developed and implemented by the interdisciplinary[~~professional~~] team with the patient's participation[~~ within three months of beginning treatment~~].

R432-650-[~~10~~]9. Emergency Equipment.

(1) [~~The~~]Each ESRD facility [~~shall~~]must have available on-site a[~~n~~] medical emergency kit containing medications, equipment and supplies. The medical director shall determine and approve the contents of the kit.[~~The kit's contents shall be determined by the Medical Director.~~]

(2) Each ESRD facility must have available on-site an[~~An~~] emergency supply of oxygen[~~ shall be available on-site~~].

R432-650-[~~11~~]10. Drug Storage.

(1) [~~Medications and similar items that require refrigeration shall be stored securely and segregated from food items.~~]Each ESRD facility shall provide for controlled storage and supervised preparation and use of medications. Medications and food items may be stored in the same refrigerator if safely separated.

[~~(2) The facility shall maintain appropriate temperatures for the storage of medications.~~]

(a) Medications stored at room temperature shall be maintained within 59-80 degrees F (15-30 degrees C).

(b) Refrigerated medications shall be maintained within 36-46 degrees F (2-8 degrees C).

([~~3~~]c) Medications [~~shall~~]must be kept in the original container and [~~shall~~]may not be transferred to other containers.

(2) If a medication station is provided, the facility shall provide a work counter and hand washing facilities.

R432-650-[~~12~~]11. Medical Records.

(1) Each ESRD facility must store and file medical records to allow for easy staff access. [~~Provision shall be made for the filing, safe storage, and easy accessibility of medical records.~~]

(a) [~~The record and its contents~~]Medical records shall be safeguarded from loss, defacement, tampering, fires, and floods.

(b) Medical [~~R~~]records shall be protected against access by unauthorized individuals.

(2) The licensee must retain [~~M~~]medical records[~~shall be retained~~] for at least seven years after the last date of patient care. Records of minors shall be retained until the minor reaches the age of majority plus an additional two years. In no case shall the record be retained less than seven years.

(3) All patient records shall be retained within the facility upon change of ownership.

R432-650-[~~13~~]12. Water Quality.

(1) Water used for dialysis purposes shall comply with quality standards established by the Association for the Advancement of Medical Instrumentation (AAMI) as [~~approved by the American National Standards Institute in May 1982~~]published in "Hemodialysis Systems," second edition, which is adopted and incorporated by reference.

(2) Each ESRD facility that utilizes[~~For~~] in-center water systems must have[~~,~~] bacteriologic quality analysis [~~shall be conducted~~]performed and documented at least monthly by a [~~State certified~~]laboratory that adheres to AAMI standards.

(3) For home systems, the ESRD facility must conduct bacteriological quality analysis[~~shall be conducted~~] at least monthly using an approved home testing methodology as identified in the patient care plan.

(a) An alternate schedule of testing may be [~~developed~~]approved by the attending physician.

(b) The alternate schedule shall be specified in [~~writing~~]the patient care plan.

(4) [~~When~~]If reverse osmosis or deionization devices are used for in-center or home systems, the ESRD facility must have chemical quality analysis [~~shall be conducted~~]performed and documented at least once every 12 months by a [~~State certified~~]laboratory that adheres to AAMI standards.

(5) [~~When no treatment is used, or when a method other than deionization, reverse osmosis, or a comparable system is used, chemical quality analysis shall be conducted at least once every three months and at times of expected high levels of contamination by a State certified laboratory.~~

~~(6)~~]The ESRD facility must maintain and make available for Department review [~~A~~]all water quality test results.[~~shall be maintained at the facility for review.~~] In the case of home dialysis, test results shall become part of the patient record maintained by the [~~dialysis~~]ESRD facility.

R432-650-13. Continuous Quality Improvement Program.

(1) Each ESRD facility must implement a well-defined continuous quality improvement program to monitor and evaluate the quality of patient care services. The program shall be consistent with the scope of services offered and adhere to accepted standards of care associated with the renal dialysis community.

(2) The program shall include a review of patient care records, facility policies and practices to:

(a) identify and assess problems and concerns, or opportunities for improvement of patient care;

(b) implement actions to reduce or eliminate identified problems and concerns, and improve patient care; and

(c) document corrective actions and results.

(3) The administrator shall establish a committee to implement the continuous quality improvement program. The committee shall include the facility administrator or designee, the medical director, the nursing supervisor, and other individuals as identified in the program.

(4) The committee must meet at least quarterly and keep minutes and related records, which shall be available for Department review.

(5) The continuous quality improvement program may include more than one facility in scope only when the facilities are organized under the same governing body and the program addresses problems, concerns and issues at the individual ESRD facility level.

R432-650-14. Physical Environment.

The following standards apply for new construction and remodeling of ESRD facilities:

(1) The treatment area may be an open area and shall be separate from the administrative and waiting area. Individual treatment areas must contain at least 80 square feet. Each treatment area shall have the capacity for privacy for each patient.

(2) The dialysis treatment area must include a nurses station designed to provide visual observation of the patient treatment area.

(3) There shall be at least one hand washing facility serving no more than eight stations. All hand washing stations shall be convenient to the nurses station and treatment areas.

(4) If an infection isolation room is required to control airborne infection, the isolation room shall have a separate hand washing facility and comply with R386-702, Communicable Disease Rule, and other applicable standards determined in the pre-construction plan review process.

(5) If the ESRD facility provides home dialysis training, a private treatment room of at least 120 square feet is required for patients who are being trained to use dialysis equipment at home. The room shall contain a counter, hand washing facilities, and a separate drain for fluid disposal.

(6) Each ESRD facility must provide a clean work area that is separate from soiled work areas. If the area is used for preparing patient care items, it must contain a work counter, hand washing facilities, and storage facilities for clean and sterile supplies. If the area is used only for storage and holding as part of a system for distribution of clean and sterile materials, the work counter and hand washing facilities may be omitted.

(7) Each ESRD facility must provide a soiled work area that contains a hand washing sink, work counter, storage cabinets, waste receptacles and a soiled linen receptacle.

(8) If dialyzers are reused, a reprocessing room is required that is sized and equipped to perform the functions required and to include one-way flow of materials from soiled to clean with provisions for refrigerated temporary storage of dialyzers, a decontamination and cleaning area, sinks processors, computer processors and label printers, a packaging area, and dialyzer storage cabinets.

(9) If a nourishment station for dialysis service is provided, the nourishment station must contain a sink, a work counter, a refrigerator, storage cabinets, and equipment for serving nourishments as required.

(10) Each ESRD facility must have an environmental services closet immediately available to the treatment area. The closet must contain a floor receptor or service sink and storage space for housekeeping supplies and equipment.

(11) If an equipment maintenance service area is provided, the service area must contain hand washing facilities, a work counter and a storage cabinet.

(12) Each ESRD facility must provide a supply area or supply carts.

(13) Storage space out of the direct line of traffic shall be available for wheelchairs and stretchers, if stretchers are provided.

(14) Each ESRD facility must provide a clean linen storage area commensurate with the needs of the facility. The storage area may be within the clean work area, a separate closet, or distribution system. If a closed cart distribution system is used for clean linen, the cart must be stored out of the path of normal traffic.

(15) Each ESRD facility using central batch delivery system, must provide, either on premises or through written arrangements, individual delivery systems for the treatment of any patient requiring special dialysis solutions.

(16) Each ESRD facility must house water treatment equipment in an enclosed room at a sufficient distance from the patient treatment area to prevent machinery and operational noise from disturbing patients.

(17) Each ESRD facility must provide a patient toilet with hand washing facilities immediately adjacent to the treatment area.

(18) Each ESRD facility must provide lockers, toilets and hand washing facilities for staff.

(19) Each ESRD facility must provide a secure storage area for patients' belongings.

(20) A waiting area with seating accommodations shall be available or accessible to the dialysis unit. A toilet room with hand washing facilities, a drinking fountain, and a telephone for public use shall be available or accessible for use by persons using the waiting room.

(21) Office and clinical work space shall be available for administrative services.

R432-650-15. Penalties.

Any person who violates any provision of this rule may be subject to the penalties enumerated in 26-21-11 and R432-3-6 or be assessed a penalty not to exceed the sum of $5,000 or be punished for violation of a class B misdemeanor for the first violation and for any subsequent similar violation within two years for violation of a class A misdemeanor as provided in Section 26-23-6.

KEY: health facilities
[~~1994~~]1998 **26-21-5**
Notice of Continuation December 15, 1997 **26-21-16**

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Human Resource Management, Administration
R477-1
Definitions

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21634
FILED: 10/30/1998, 16:09
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To correct previous rulemaking which left out a key word in the definition of the term "Career Mobility."

SUMMARY OF THE RULE OR CHANGE: In Subsection R477-1-1(18), "Career Mobility," the word "assignment" is inserted into the definition.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 67-19-6

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: None--this is a correction to a definition and has no effect on the operations of agencies and thus no effect on the budget.
❖LOCAL GOVERNMENTS: None--this rule only affects state government.
❖OTHER PERSONS: None--this rule only affects state government.
COMPLIANCE COSTS FOR AFFECTED PERSONS: None--this rule only affects state government.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Rules published by the Department of Human Resource Management (DHRM) have no direct effect 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 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 effect on businesses--Karen Suzuki-Okabe.

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 12/15/1998.

THIS RULE MAY BECOME EFFECTIVE ON: 12/16/1998

AUTHORIZED BY: Conroy Whipple, Legislation and Planning Coordinator

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R477. Human Resource Management, Administration.
R477-1. Definitions.
R477-1-1. Definitions.

The following definitions apply throughout these rules unless otherwise indicated within the text of each rule.

(1) Abandonment of Position: A discretionary act of termination resulting from an employee's unexcused absence from work or failure to come to work for three consecutive days when the employee is capable, but does not properly notify his supervisor.

(2) Active Duty: Full-time active military and reserve duty; a term used for veteran's preference adjustments. It does not include active or inactive duty for training or initial active duty for training.

(3) Actual Hours Worked: Time spent performing duties and responsibilities associated with the employee's job assignments. This time is calculated in increments of 15 minutes or more for purposes of overtime accrual, and shall not include "on-call," holiday leave, or any other leave time taken off during the work period.

(4) Administrative Leave: Leave with pay granted to an employee at management discretion that is not charged against the employee's leave accounts.

(5) Administrative Adjustment: A DHRM approved change of a position from one job to another job or salary range change for administrative purposes that is not based on a change of duties and responsibilities.

(6) Administrative Salary Decrease: A salary decrease of one or more pay steps based on non-disciplinary administrative reasons determined by an agency executive director or commissioner.

(7) Administrative Salary Increase: A salary increase of one or more pay steps based on special circumstances determined by an agency executive director or commissioner.

(8) Agency: Any department, division, institution, office, commission, board, committee, or other entity of state government.

(9) Agency Head: The chief executive officer of each agency or their designated appointee.

(10) Agency Management: The agency head and all other officers or employees who have responsibility and authority to establish, implement, and manage agency policies and programs.

(11) Appeal: A formal request to a higher level review for consideration of an unacceptable grievance decision.

(12) Appointing Authority: The officer, board, commission, person or group of persons authorized to make appointments in their agencies.

(13) Assignment: Appointment of an employee to a position.

(14) "At will" Employee: An individual appointed to work for no specified period of time or one who has not acquired career service status and may be terminated at any time without just cause.

(15) Bumping: A procedure that may be applied in a reduction-in-force action (RIF). It allows employees with higher retention points to bump other employees with lower retention points who are in the same categories of work identified in the work force adjustment plan, as long as employees meet the eligibility criteria outlined in interchangeability of skills.

(16) Career Exempt Employee: An employee appointed to a position exempt from career service in state employment and who serves at the pleasure of the appointing authority.

(17) Career Exempt Position: A position in state service exempted by law from provisions of competitive career service, as prescribed in 67-19-15 and in R477-2-1(1).

(18) Career Mobility: A time-limited assignment of an employee to another position of equal or higher salary for purposes of professional growth or fulfillment of specific organizational needs.

(19) Career Service Employee: An employee who has successfully completed a probationary period in a career service position.

(20) Career Service Status: Status granted to employees who successfully completes a probationary period for competitive career service positions.

(21) Category of Work: Jobs, work units, or other definable categories of work within departments, divisions, institutions, offices, commissions, boards or committees that are designated by the agency head as the Category of Work to be eliminated through a reduction-in-force. These are subject to review by the Executive Director, DHRM.

(22) Certifying: The act of verifying the qualifications and availability of individuals on the hiring list. The number of individuals certified shall be based on standards and procedures established by the Department of Human Resource Management.

(23) Change of Workload: A change in the work requirements or a need to eliminate or create particular positions in an agency caused by legislative action, financial circumstances, or administrative reorganization.

(24) Classification Grievance: The approved procedure by which a career service employee may grieve a formal DHRM decision regarding the classification of the employee's position.

(25) Classified Service: Positions that are subject to the classification and compensation provisions stipulated in Section 67-19-12 of the Utah Code Annotated.

(26) Constant Review: A period of formal frequent review of an employee, not to exceed six months, resulting from substandard performance or unacceptable behavior, as defined by Utah law and contained in these rules. Removal from constant review requires a formal evaluation.

(27) Contractor: An individual who is contracted for service, is not supervised by a state supervisor, but is responsible for providing a specified service for a designated fee within a specified time. The contractor shall be responsible for paying all taxes and FICA payments, and shall not accrue benefits.

(28) Demeaning Behavior: Sex-based behavior which lowers the status, dignity or standing of any other individual.

(29) Demotion: A disciplinary action resulting in a salary reduction on the current salary range or the movement of an incumbent from one position to another position having a lower salary range, including a reduction in salary. If this action is taken for a limited time period it shall only be within the current salary range.

(30) Department: The Department of Human Resource Management.

(31) Derisive Behavior: Any behavior which insults, taunts, or otherwise belittles or shows contempt for another individual.

(32) Designated Hiring Rule: A rule promulgated by DHRM that defines which individuals on a certification are eligible for appointment to a career service position.

(33) DHRM: The Department of Human Resource Management.

(34) Disability: Disability shall have the same definition found in the Americans With Disabilities Act (ADA) of 1990, 42 USC 12101, 1994 edition; Equal Employment Opportunity Commission regulation, 29 CFR 1630 1993 edition; including exclusions and modifications.

(35) Disciplinary Action: Action taken by management under the rules outlined in R477-11.

(36) Discrimination: Unlawful action against an employee or applicant based on age, disability, national origin, political or religious affiliation, race, sex, military status or affiliation, or any other non-merit factor, as specified by law.

(37) Dismissal: A separation from state employment for cause.

(38) Drug-Free Workplace Act: A 1988 congressional act, 34 CFR 85, 1993 edition, requiring a drug-free workplace certification by state agencies that receive federal grants or contracts.

(39) Employment Eligibility Certification: A requirement of the Immigration Reform and Control Act of 1986, 8 USC 1324, 1988 edition, as amended, that employers verify the identity and eligibility of individuals for employment in the United States.

(40) "Escalator" Principle: Under USERRA, returning veterans are entitled to return back onto their seniority escalator at the point they would have occupied had they not left state employment.

(41) Equal Employment Opportunity (EEO): Non-discrimination in all facets of employment by eliminating patterns and practices of illegal discrimination.

(42) Excess Hours: A category of compensable hours separate and apart from compensatory or overtime hours that accrue at straight time only when an employee's hours actually worked, plus additional hours paid but not worked, exceed an employee's normal work period.

(43) Executive Director: The executive director of the Department of Human Resource Management.

(44) Fair Employment Opportunity and Practice: Assures fair treatment of applicants and employees in all aspects of human resource administration without regard to age, disability, national origin, political or religious affiliation, race, sex, or any non-merit factor.

(45) Fitness For Duty Evaluation: Evaluation, assessment or study by a licensed professional to determine if an individual is able to meet the performance or conduct standards required by the position held, or is a direct threat to the safety of self or others.

(46) FLSA: Fair Labor Standards Act. The federal statute that governs overtime. See 29 USC 201, 1993 edition et seq.

(47) FLSA Exempt: Employees who are exempt from the Fair Labor Standards Act.

(48) FLSA Non-Exempt: Employees who are not exempt from the Fair Labor Standards Act.

(49) Furlough: A temporary leave of absence from duty without pay for budgetary reasons or lack of work.

(50) Grievance: A career service employee's claim or charge of the existence of injustice or oppression, including dismissal from employment resulting from an act, occurrence, omission, condition, discriminatory practice or unfair employment practice not including position classification or schedule assignment.

(51) Grievance Procedures: The statutory process of grievances and appeals as set forth in Sections 67-19a-101 through 67-19a-408 and the rules promulgated by the Career Service Review Board.

(52) Gross Compensation: Employee's total earnings, taxable and untaxable, as shown on the employee's paycheck stub.

(53) Hiring List: A list of names of qualified applicants who have successfully met the examination requirements for appointment to the position.

(54) Hostile Work Environment: A work environment or work related situation where an individual suffers physical or emotional stress due to the unwelcome behavior of another individual which is motivated by sex.

(55) HRE: Human Resource Enterprise; the state human resource management information system.

(56) Immediate Supervisor: The employee or officer who exercises direct authority over an employee and who appraises the employee's performance.

(57) Incompetence: Inadequacy or unsuitability in performance of assigned duties and responsibilities.

(58) Inefficiency: Wastefulness of government resources including time, energy, money, or staff resources or failure to maintain the required level of performance.

(59) Interchangeability of Skills: Employees are considered to have interchangeable skills only for those classes of positions they have previously held successfully in Utah state government employment or for those classes of positions which they have successfully supervised and for which they satisfy job requirements.

(60) Intern: An individual in a college degree program assigned to work in an activity where on-the-job training is accepted.

(61) Involuntary Reassignment: Management initiated movement of an employee from his current position to a position of an equal or lower salary range, or to a different work location or organization unit for administrative, corrective action or other reasons not included in the definition of demotion or reclassification.

(62) Job: A group of positions similar in duties performed, in degree of supervision exercised or required, in requirements of training, experience, or skill and other characteristics. The same,

salary range and test standards are applied to each position in the group.

(63) Job Series: Two or more jobs in the same functional area having the same job class title, but distinguished and defined by increasingly difficult levels of duties and responsibilities and requirements.

(64) Job Proficiency Rating: An average of the last three annual performance evaluation ratings used in reduction in force proceedings.

(65) Job Requirements: Skill requirements defined a the job level.

(66) Job Description: A document containing the duties, distinguishing characteristics, knowledge, skills, and other requirements for a job.

(67) Job Identification Number: A unique number assigned to a job by DHRM.

(68) Legislative Salary Adjustment: A legislatively approved salary increase for a specific category of employees based on criteria determined by the Legislature.

(69) Malfeasance: Intentional wrongdoing, deliberate violation of law or standard, or mismanagement of responsibilities.

(70) Market Comparability Adjustment: Legislatively approved reallocation of a salary range for a job based on a compensation survey conducted by DHRM.

(71) Merit Increase: A legislatively approved and funded salary increase for employees to recognize and reward performance.

(72) Misfeasance: Performance of a lawful action in an illegal or improper manner.

(73) Nonfeasance: Omission or failure to do what ought to be done.

(74) Performance Evaluation: A formal, periodic evaluation of an employee's work performance.

(75) Performance Evaluation Date: The date when an employee's performance evaluation shall be conducted. An evaluation shall be conducted at least once during the probationary period and no less than once annually thereafter consistent with the common review date.

(76) Performance Management: The ongoing process of communication between the supervisor and the employee which defines work standards and expectations, and assesses performance leading to a formal annual performance evaluation.

(77) Performance Plan: A written summary of the standards and expectations required for the successful performance of each job duty or task. These standards normally include completion dates and qualitative and quantitative levels of performance expectations.

(78) Performance Standard: Specific, measurable, observable and attainable objectives that represent the level of performance to which an employee and supervisor are committed during an evaluation period.

(79) Personnel Adjudicatory Proceedings: The informal appeals procedure contained in Title 63, Chapter 46b, for all human resource policies and practices not covered by the state employees grievance procedure promulgated by the Career Service Review Board, or the classification appeals procedure.

(80) Position: An employees unique set of duties and responsibilities identified by DHRM authorized job and position management numbers.

(81) Position management Report: A document that lists an agency's authorized positions including job identification numbers, salaries, and schedules. The list includes occupied or vacant positions and full or part-time positions.

(82) Position Sharing: A situation where two employees share the duties and responsibilities of one full-time career service position. Salary, retirement service credits and leave benefits for position sharing employees are pro-rated according to the number of hours worked. To be eligible for benefits, position sharing employees must work at least 50% of a full-time equivalent.

(83) Probationary Period: A period of time considered part of the selection process, identified at the job level, the purpose of which is to allow management to evaluate an employee's ability to perform assigned duties and responsibilities and to determine if career service status should be granted.

(84) Productivity Step Adjustment: A management authorized salary increase of one to four steps. Management and employees agree to the adjustment for employees who accept an increased workload resulting from FTE reductions and agency base budget reduction.

(85) Promotion: A management initiated action moving an employee from a position in one job to a position in another job having a higher maximum salary step.

(86) Reappointment: Return to work of an employee from the reappointment register. Accrued annual leave, converted sick leave, compensatory time and excess hours in their former position were cashed out at termination.

(87) Reappointment Register: A register of career service employees who have been separated in a reduction in force because of inadequate funds, change of workload or lack of work. It also includes career service employees who accepted exempt positions without a break in service and who were not retained, unless discharged for cause, and those employees who by the Career Service Review Board's decision are placed on the reappointment register.

(88) Reasonable Suspicion: Knowledge sufficient to induce an ordinary, reasonable and prudent person to arrive at a conclusion of thought or belief based on factual, non-subjective and substantiated observations or reported circumstances. Factual situations verified through personal visual observation of behavior or actions, or substantiated by a reliable witness.

(89) Reclassification: A DHRM approved reallocation of a position from one job to another job to reflect management initiated changes in duties and responsibilities as determined through a DHRM classification review.

(90) Reduction in Force: (RIF) Abolishment of positions resulting in the termination of staff. RIFs can occur due to inadequate funds, a change of workload, or a lack of work.

(91) Reemployment: Return to work of an employee who terminated state employment to join the uniformed services covered under USERRA. Accrued annual leave, converted sick leave, compensatory time and excess hours may have been cashed out at termination.

(92) Rehire: Return to work of a former career service employee who terminated state employment. Accrued annual leave, converted sick leave, compensatory time and excess hours in their former position were cashed out at termination.

(93) Reprisal: An act of management retaliation taken against an employee.

(94) Requisition: An electronic document used for Utah Skill Match search and tracking purposes that includes specific information for a particular position.

(95) Return from LWOP: A return to work from any leave without pay status. Accrued annual leave, converted sick leave, compensatory time and excess hours may have been cashed out before the leave without pay period began.

(96) Ridiculing Behavior: Any behavior specifically performed to cause humiliation or to mock, taunt or tease another individual.

(97) RIF'd Employee: An employee who is placed on the reappointment register as a result of a reduction in force.

(98) Safety Sensitive Position: A position approved by DHRM that includes the performance of functions:

(a) directly related to law enforcement; or

(b) involving direct access or having control over direct access to controlled substance; or

(c) directly impacting the safety or welfare of the general public.

(99) Salary Range: The segment of an approved pay plan assigned to a job.

(100) Schedule: The determination of whether a position meets criteria stipulated in the Utah Code Annotated to be career service (Schedule B) or career service exempt (Schedule A).

(101) Serious Health Condition: An illness, injury, impairment, physical or mental condition that involves:

(a) In-patient care in a hospital, hospice, or residential medical care facility;

(b) Continuing treatment by a health care provider.

(102) Sexual Harassment:

(a) Any behavior or conduct of a sexual nature which is unwelcome and pervasive, demeaning, ridiculing, derisive or coercive and results in a hostile, abusive or intimidating work environment.

(i) Level One: sex role stereotyping

(ii) Level Two: targeted gender harassment/discrimination

(iii) Level Three: targeted or individual harassment

(iv) Level Four: criminal touching of another's body parts or taking indecent liberties with another.

(b) Any quid pro quo behavior which offers job advancement, enhancement or other tangible job benefits in return for sexual favors.

(103) Temporary Transitional Assignment: An assignment on a temporary basis to a position or duties of lesser responsibility and salary range to accommodate an injury or illness or to provide a temporary reasonable accommodation.

(104) Transfer: Voluntary assignment of an employee within an agency or between agencies from one position to another position with the same maximum salary step and for which the employee qualifies, including a change of work location or organizational unit.

(105) Underfill: DHRM authorization for an agency to fill a position at a lower salary range within the same job series.

(106) Uniformed Services: The United States Army, Navy, Marine Corps, Air Force, Coast Guard; Reserve units of the Army, Navy, Marine Corps, Air Force, or Coast Guard; Army National Guard or Air National Guard; Commissioned Corps of Public Health Service, or any other category of persons designated by the President in time of war or emergency. Service in Uniformed Services includes: voluntary or involuntary duty, including active duty; active duty for training; initial active duty for training; inactive duty training; full-time National Guard duty; absence from work for an examination to determine fitness for any of the above types of duty.

(107) USERRA: Uniformed Services Employment and Reemployment Rights Act of 1994 (P.L. 103-353), requires state governments to re-employ eligible veterans who left state employment to enter the uniformed services and who return to work within a specified time period after military discharge. Employees covered under USERRA are in a leave without pay status from their state position.

(108) Utah Skill Match: Utah Skill Match is the state's recruitment and selection system, which includes:

(a) continuous recruitment of all positions;

(b) a centralized and automated computer database of resumes and related information administered by the Department of Human Resource Management;

(c) decentralized access to the database based on delegation agreements.

(109) Veteran: An individual who has served on active duty in the armed forces for more than 180 consecutive days, or was a member of a reserve component who served in a campaign or expedition for which a campaign medal has been authorized. Individuals must have been separated or retired under honorable conditions.

(110) Voluntary Reassignment: Employee initiated movement from a position in one job to a position in another job having a lower maximum salary step.

(111) Volunteer: Any person who donates services to the state or its subdivisions without pay or other compensation except actual and reasonable expenses incurred, as approved by the supervising agency.

(112) Volunteer Experience Credit: Credit given in meeting job requirements to participants who gain experience through unpaid or uncompensated volunteer work with the state, its subdivisions or other public and private organizations.

KEY: personnel management, rules and procedures, definitions*
[~~June 27,~~]1998 67-19-6
Notice of Continuation July 1, 1997

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Human Resource Management, Administration

R477-3

Control of Personal Service Expenditures

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21635
FILED: 10/30/1998, 16:09
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To add clarifying language to the title of Section R477-3-2.

SUMMARY OF THE RULE OR CHANGE: In Section R477-3-2, "Changes to the Position," the phrase "Management Report" is added to the title to clarify that the section content addresses the Position Management Report.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 67-19-6

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: There is no fiscal impact in cost or savings with this change. The actual content of the rule is not affected.
❖LOCAL GOVERNMENTS: None--this rule only affects state government.
❖OTHER PERSONS: None--this rule only affects state government.
COMPLIANCE COSTS FOR AFFECTED PERSONS: None--this rule only affects state government.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Rules published by the Department of Human Resource Management (DHRM) have no direct effect 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 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 effect on businesses--Karen Suzuki-Okabe.

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 12/15/1998.

THIS RULE MAY BECOME EFFECTIVE ON: 12/16/1998

AUTHORIZED BY: Conroy Whipple, Legislation and Planning Coordinator

R477. Human Resource Management, Administration.
R477-3. Control of Personal Service Expenditures.

. . . . . .

R477-3-2. Changes to the Position Management System.

Agency management may request changes to Position Management Report which are justified as cost reduction or improved service measures.

(1) Changes in the numbers, job identification, or salary ranges of positions listed in the Position Management Report shall be approved by the Executive Director, DHRM or designee.

. . . . . .

KEY: administrative responsibility, personnel management, state expenditures
[~~July 3, 1995~~]1998 67-19-6
Notice of Continuation July 1, 1997

Human Resource Management, Administration
R477-8
Working Conditions

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21636
FILED: 10/30/1998, 16:09
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To clarify that the DHRM Human Resource Management Information System, Human Resource Enterprise, is the official location of the overtime compensation designation code for all employees.

SUMMARY OF THE RULE OR CHANGE: In Subsection R477-8-6(2), the abbreviation HRE, for Human Resource Enterprise, is added.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 67-19-6

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: There is no fiscal impact; this is an internal administrative matter which requires no action or change in operating procedure for agencies.
❖LOCAL GOVERNMENTS: None--this rule only affects state government.
❖OTHER PERSONS: None--this rule only affects state government.
COMPLIANCE COSTS FOR AFFECTED PERSONS: None--this rule only affects state government.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Rules published by the Department of Human Resource Management (DHRM) have no direct effect 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 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 effect on businesses--Karen Suzuki-Okabe.

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 12/15/1998.

THIS RULE MAY BECOME EFFECTIVE ON: 12/16/1998

AUTHORIZED BY: Conroy Whipple, Legislation and Planning Coordinator

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R477. Human Resource Management, Administration.
R477-8. Working Conditions.

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R477-8-6. Overtime.

The state's policy for overtime is adopted and incorporated from the Fair Labor Standards Act, 29 CFR Parts 500 to 899, 1991 edition.

(1) Management may direct an employee to work overtime. Each agency shall develop internal rules and procedures to ensure overtime usage is efficient and economical. These policies and procedures shall include:

(a) Prior supervisory approval for all overtime worked;

(b) Recordkeeping guidelines for all overtime worked;

(c) Verification that there are sufficient funds in the budget to compensate for overtime worked.

(2) Overtime compensation standards are identified for each job title in HRE as either FLSA non-exempt, or FLSA exempt.

(a) Employees may appeal their FLSA designation to their agency human resource office and DHRM concurrently. Further appeals must be filed directly with the United States Department of Labor, Wage and Hour Division. The provisions of Sections 67-19-31 and 67-19a-301 and Title 63, Chapter 46b shall not apply for FLSA appeals purposes.

(3) FLSA non-exempt employees shall be eligible for overtime when they actually work more than 40 hours a week. Leave and holiday time taken within the work period shall not count as hours worked when calculating overtime accruing. Hours worked over two or more weeks shall not be averaged out with the exception of certain types of law enforcement, fire protection, and correctional employees.

(a) Non-exempt employees shall sign a prior agreement authorizing management to compensate them for overtime worked by actual payment or time off at time and one-half.

(b) Non-exempt employees may receive compensatory time for overtime, up to a maximum of 80 hours. Only with prior approval of the Executive Director, may compensatory time accrue up to 240 hours for regular employees or up to 480 hours for peace/correctional officers, emergency or seasonal employees. Once employees reach the maximum, they shall be paid for additional overtime on the pay day for the period in which it was earned.

(4) FLSA exempt employees shall be eligible for overtime when they actually work more than 80 hours in a work period. Leave and holiday time taken within the work period shall not count as hours worked when calculating overtime. Each agency shall compensate FLSA exempt employees who work overtime by giving them time off. For each hour of overtime worked, an employee shall receive an hour off. Compensatory hours earned in excess of a base of 80 shall be paid down to 80.

(a) Agencies shall establish in written policy a uniform overtime year and communicate it to employees. If an agency fails to establish a uniform overtime year, the Executive Director and the Director of Finance, Department of Administrative Services, will determine the date for the agency at the end of one of the following pay periods: Five, Ten, Fifteen, Twenty, or the last pay period of the calendar year.

(b) Any overtime earned by FLSA exempt employees is not an entitlement, a benefit, nor a vested right.

(c) Any overtime earned by FLSA exempt employees shall lapse at the end of an agency's annual overtime year.

(d) Any compensatory overtime earned by FLSA exempt employees shall lapse when they transfer to another agency, terminate, retire or otherwise do not return to work before the end of the overtime year.

(e) The agency director may approve overtime for division and deputy directors, but overtime shall not be compensated with actual payment.

(5) Law enforcement/correctional officers

(a) To be considered for overtime compensation under this rule, a law enforcement or correctional officer must meet the following criteria:

(i) be a uniformed or plainclothes sworn officer;

(ii) be empowered by statute or local ordinance to enforce laws designed to maintain public peace and order, to protect life and property from accident or willful injury, and to prevent and detect crimes; and

(iii) have the power to arrest.

(b) Law enforcement or correctional officers designated FLSA non-exempt and covered under this rule shall accrue overtime when they work more than 171 hours in 28 consecutive days. An agency may select a work period of 86 hours within a 14-day period for law enforcement employees, but all changes shall conform to the following:

(i) The Fair Labor Standards Act, Section 207(k);

(ii) The State's payroll period;

(iii) The approval of the Executive Director.

(c) Fire protection employees shall accrue overtime when they work more than 212 hours in 28 consecutive days.

(d) The work period selection becomes permanent when scheduled and may not be changed to evade overtime compensation rules.

(6) Compensatory Time

(a) Employees and agency management shall arrange for use of compensatory time as soon as possible without unduly disrupting agency operations or endanger public health, safety or property.

(b) Compensatory time balances are paid down to zero when employees transfer from one agency to a different agency.

(7) Time Reporting

(a) FLSA non-exempt employees must complete and sign a State approved biweekly time sheet. Time sheets developed by the agency shall have the same elements of the State approved time sheet and be approved by the Department of Administrative Services, Division of Finance.

(b) FLSA exempt employees who work more than 80 hours in a work period must record their total hours worked, and/or the compensatory time used on their biweekly time sheet. All hours must be recorded in order to claim overtime. Completion of the time sheet is at agency discretion when no overtime is worked during the work period.

(8) Hours Worked: FLSA non-exempt employees shall be compensated for all hours they are permitted to work. Hours worked shall be accounted for as long as the state permits employees to work on its behalf, regardless of the reason for the work. Employees who work unauthorized overtime may be subject to disciplinary actions.

(a) All time that FLSA non-exempt employees are required to wait for an assignment while on duty, before reporting to duty, or before performing their activities is counted towards hours worked.

(b) Time spent waiting after being relieved from duty is not counted as hours worked if one or more of the following conditions apply:

(i) The employee arrives voluntarily before their scheduled shift and waits before starting duties;

(ii) The employee is completely relieved from duty and allowed to leave the job;

(iii) The employee is relieved until a definite specified time;

(iv) The relief period is long enough for the employee to use as the employee sees fit.

(c) On-call time: Employees required by agency management to be available for on-call work shall be compensated for on-call time at a rate of 1 hour for every 12 hours the employee is on-call.

(i) Time is considered "on-call time" when the employee has freedom of movement in personal matters as long as he/she is available for call to duty.

(ii) An employee must be directed by his supervisor, either verbally or in writing, that he is on call for a specified time period. Carrying a beeper or cell phone shall not constitute on call time without a specific directive from a supervisor.

(iii) The employee shall record the hours spent in on call status on his time sheet in order to be paid.

(d) Stand-by time: Employees restricted to "stand-by" at a specified location ready for work must be paid full time or overtime, as appropriate. Workers must be paid for stand-by time if they are required to stand by their posts ready for duty, even during lunch periods, equipment breakdowns, or other temporary work shut-downs.

(e) The meal periods of guards, police, and other public safety or correctional officers and firefighters who are on duty more than 24 consecutive hours must be counted as working time, unless an express agreement excludes the time.

(f) Commuting and Travel Time:

(i) Normal commuting time from home to work and back shall not count towards hours worked.

(ii) Time employees spend traveling from one job site to another during the normal work schedule shall count towards hours worked.

(iii) Time employees spend traveling on a special one day assignment shall count towards hours worked except meal time and ordinary home to work travel.

(iv) Travel that keeps an employee away from home overnight does not count towards hours worked if it is time spent outside of regular working hours as a passenger on an airplane, train, boat, bus, or automobile.

(g) Excess Hours: Employees may use excess hours the same way as annual leave.

(i) Employees on schedule AB may not accumulate more than 80 excess hours.

(ii) Agency management may pay out excess hours under one of the following:

(A) Paid off automatically in the same pay period accrued;

(B) All hours accrued after 40 hours are paid off;

(C) All hours accrued after 80 hours are paid off.

(D) Employees on schedule AB shall only be paid for excess hours at retirement or termination.

. . . . . .

KEY: compensatory time, disability insurance, leave, vacations
[~~June 27,~~]1998 67-19-6
Notice of Continuation July 1, 1997

Human Services, Recovery Services

R527-201

Medical Support Services

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21638
FILED: 11/02/1998, 12:15
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Section R527-201-4 addresses the requirement that a family Medicaid recipient not receiving financial assistance assign his/her medical support rights to the state as a condition of Medicaid eligibility. Because Medicaid eligibility is determined by either the Division of Health Care Financing (DHCF) or the Department of Workforce Services (DWS) according to a written agreement between the Department of Health and DWS, as provided under Section R414-1-17, and is not the responsibility of the Office of Recovery Services (ORS), it is not necessary to reference it in the ORS rule. ORS does, however, play a role in determining whether a family Medicaid recipient is cooperating, as required by law, for the purpose of establishing paternity and/or enforcing medical support. Because Subsection 62A-11-104(11) and Section 62A-11-307.2 of the Utah Code already address this cooperation requirement and the good cause exception, including them in this rule is also unnecessary.

SUMMARY OF THE RULE OR CHANGE: Subsection R527-201-4(1), which deals with assignment of medical support as a condition of family Medicaid eligibility, the requirement to cooperate with the Office of Recovery Services (ORS), and the good cause exception to cooperation, has been deleted. The title of this section has been changed from "Cooperation Requirements for Non-IV-A Medicaid Recipients" to "Conditions under which Non-IV-A Medicaid Recipients May Decline Support Services" to more accurately describe the remaining subsection in Section R527-201-4.

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

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: Although text has been deleted from this rule, there is no change in cost or savings to the state because the requirements, which are included in Division of Health Care Financing (DHCF) rules and state law, still apply.

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

❖OTHER PERSONS: None--the eligibility and cooperation requirements and exceptions to the cooperation requirement for family Medicaid recipients not receiving financial assistance remain in force, though reference to them is deleted in this rule.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Because the requirements referred to in the deleted text are still included in the Administrative Code and State statute, there is no change in compliance costs for any affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The deletion of the first paragraph in Section R527-201-4 is the only substantive change in this rule being proposed, and will have no fiscal impact on any business. The subject matter of the paragraph, family Medicaid eligibility, and recipient cooperation requirements, is not related to businesses. Furthermore, it is not anticipated that deleting the text in this rule will create any impact whatsoever, because the requirements referred to still exist in other sections of the Administrative Code and state statute.

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 hsadmin.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 12/15/1998.

THIS RULE MAY BECOME EFFECTIVE ON: 12/16/1998

AUTHORIZED BY: Emma Chacon, Director

R527. Human Services, Recovery Services.
R527-201. Medical Support Services.

. . . . . .

R527-201-4. [~~Cooperation Requirements for~~]Conditions Under Which Non-IV-A Medicaid Recipients May Decline Support Services.

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

~~2.~~]ORS/CSS shall provide child and spousal support services; however, a Non-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.

. . . . . .

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

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Pardons (Board of), Administration
R671-204
Hearing Continuance

NOTICE OF PROPOSED RULE
(Repeal)
DAR FILE NO.: 21596
FILED: 10/28/1998, 14:49
RECEIVED BY: NL

RULE ANALYSIS
PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Board is modifying its Parole Violation process.

SUMMARY OF THE RULE OR CHANGE: This rule is repealed in its entirety.
(**DAR Note:** This information is being moved into the proposed new rule R671-522, which is found under DAR No. 21619 in this *Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 77-27-7

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: Anticipated savings of approximately 20% of the attorney contract if the inmates waive.
❖LOCAL GOVERNMENTS: There will be no fiscal impact on local government as the funding related to the cost of legal representation for state offenders is state funded.
❖OTHER PERSONS: There will be no fiscal impact on other persons as the funding related to the cost of legal representation for state offenders is state funded.
COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no affected persons costs as the legal representation is funded and provided through state contracts using state funds.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The only private business impact will be the potential state government savings relating to the private contract maintained by private defense counsel.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Pardons (Board of)
Administration
#300
448 East 6400 South
Murray, UT 84107, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
John Green at the above address, by phone at (801) 261-6470, by FAX at (801) 261-6481, or by Internet E-mail at bpmain.jgreen@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 12/15/1998.

THIS RULE MAY BECOME EFFECTIVE ON: 01/01/1999

AUTHORIZED BY: Michael R. Sibbett, Chairman

R671. Pardons (Board of), Administration.
[~~**R671-204. Hearing Continuance.**~~
~~**R671-204-1. Hearing Continuance.**~~
~~It is the policy of the Board to consider continuing hearing pending the resolution of felony or misdemeanor charges or other good cause. When determining whether or not to grant a continuance, the Board will consider the gravity of the new charges, whether the date has been set for trial, whether the presentence or post sentence reports have been completed, or any other information that could address the pending charges.~~
~~If the Board determines that a continuance is warranted, the offender will be notified in writing of the reasons for doing so. When the Board is notified that the charges have been resolved, the hearing will be rescheduled as soon as practicable.~~
~~Any party may petition for a continuance by submitting a request and accompanied justification to the Board in writing.~~
~~Any party may petition for a continuance by submitting their request and accompanied justification.~~

~~**KEY: inmate, parole**~~
~~**February 18, 1998 77-27-7**~~
~~**Notice of Continuation December 12, 1997 77-27-11**~~]

Pardons (Board of), Administration
R671-401
Parole Incident Reports

NOTICE OF PROPOSED RULE
(Repeal)
DAR FILE NO.: 21597
FILED: 10/28/1998, 14:49
RECEIVED BY: NL

RULE ANALYSIS
PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Board is modifying its Parole Violation process.

SUMMARY OF THE RULE OR CHANGE: This rule is repealed in its entirety.
(**DAR Note:** This information is being moved into the proposed new rule R671-509, which is found under DAR No. 21606 in this *Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 77-27-7

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: Anticipated savings of approximately 20% of the attorney contract if the inmates waive.

❖LOCAL GOVERNMENTS: There will be no fiscal impact on local government as the funding related to the cost of legal representation for state offenders is state funded.
❖OTHER PERSONS: There will be no fiscal impact on other persons as the funding related to the cost of legal representation for state offenders is state funded.
COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no affected persons costs as the legal representation is funded and provided through state contracts using state funds.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The only private business impact will be the potential state government savings relating to the private contract maintained by private defense counsel.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Pardons (Board of)
Administration
#300
448 East 6400 South
Murray, UT 84107, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
John Green at the above address, by phone at (801) 261-6470, by FAX at (801) 261-6481, or by Internet E-mail at bpmain.jgreen@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 12/15/1998.

THIS RULE MAY BECOME EFFECTIVE ON: 01/01/1999

AUTHORIZED BY: Michael R. Sibbett, Chairman

R671. Pardons (Board of), Administration.
[~~**R671-401. Parole Incident Reports.**~~
~~**R671-401-1. General.**~~
~~An incident report shall be submitted to the Board when an incident, positive or negative, occurs which would serve to modify the conditions of parole or a parolee's status.~~
~~Examples of incidents which shall be reported to the Board via an Incident Report at the time of occurrence are:~~
~~a. Conviction of any infraction, misdemeanor or felony.~~
~~b. Significant incidents of infractions of the general or specific conditions of parole.~~
~~c. An incident which results in the parole supervisor placing the parolee in jail on a parole hold, arrest, detainment, or other conditions or incidents which result in the parolee being denied liberty.~~
~~All suspected parole violations shall be investigated and an incident report along with a recommended course of action shall be submitted to the Board within a reasonable period of time. The report shall advise the Board of a parolee's adjustment and provide for modification of parole agreement conditions if necessary. Police reports, court orders, and waivers of personal appearance from parolees shall be attached when applicable.~~

~~**KEY: parole**~~
~~**1993** 77-27-7~~
~~**Notice of Continuation December 12, 1997** 77-27-10~~
~~77-27-11~~
~~77-27-13~~
~~77-27-21.5~~]

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Pardons (Board of), Administration
R671-501
Warrants of Arrest

NOTICE OF PROPOSED RULE
(Repeal)
DAR FILE NO.: 21598
FILED: 10/28/1998, 14:49
RECEIVED BY: NL

RULE ANALYSIS
PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Board is modifying its Parole Violation process.

SUMMARY OF THE RULE OR CHANGE: This rule is repealed in its entirety.
(**DAR Note:** This information is being moved into the proposed new rules R671-509 through R671-522, which are found under DAR No. 21606 through DAR No. 21619 in this *Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 77-27-7

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: Anticipated savings of approximately 20% of the attorney contract if the inmates waive.
❖LOCAL GOVERNMENTS: There will be no fiscal impact on local government as the funding related to the cost of legal representation for state offenders is state funded.
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COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The only private business impact will be the potential state government savings relating to the private contract maintained by private defense counsel.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Pardons (Board of)
Administration
#300
448 East 6400 South
Murray, UT 84107, or

at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
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THIS RULE MAY BECOME EFFECTIVE ON: 01/01/1999

AUTHORIZED BY: Michael R. Sibbett, Chairman

R671. Pardons (Board of), Administration.
[~~**R671-501. Warrants of Arrest.**~~
~~**R671-501-1. Issuance of Warrants.**~~
~~Warrants of arrest and detention will be issued only upon a showing that there is probable cause to believe that a parole violation has occurred.~~
~~A Certified Warrant Request will be submitted by the parole agent setting forth reasons to believe that the named parolee committed specific parole violations. The request may be accompanied by supporting documentation such as police reports, incident reports, and judgment and commitment orders. Upon approval of the request by the Board, a Warrant of Arrest shall be issued to arrest, detain, and return to actual custody the parolee named therein.~~

~~**R671-501-2. Voiding of Warrants.**~~
~~A request to void a warrant will be submitted in writing and will include the rationale on which the recommendation is based.~~

~~**KEY: warrants**~~
~~**February 18, 1998** 77-27-11~~
~~**Notice of Continuation December 12, 1997**~~]

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Pardons (Board of), Administration
R671-503
Prerevocation Hearings

NOTICE OF PROPOSED RULE
(Repeal)
DAR FILE NO.: 21600
FILED: 10/28/1998, 14:49
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Board is modifying its Parole Violation process.

SUMMARY OF THE RULE OR CHANGE: This rule is repealed in its entirety.

(**DAR Note:** This information is being moved into the proposed new rules R671-509 through R671-522, which are found under DAR No. 21606 through DAR No. 21619 in this *Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 77-27-7

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THIS RULE MAY BECOME EFFECTIVE ON: 01/01/1999

AUTHORIZED BY: Michael R. Sibbett, Chairman

R671. Pardons (Board of), Administration.
[~~**R671-503. Prerevocation Hearings.**~~
~~**R671-503-1. General.**~~
~~A Prerevocation Hearing should be conducted by an independent hearing officer within fourteen days after detention exclusively on a Board warrant, on all alleged parole violations unless such hearing is expressly waived by the parolee, unless good cause is shown for exceeding the 14 day period as determined by the Board. The parole officer will serve Prerevocation Hearing Information on a parolee at least three working days prior to the actual Prerevocation Hearing. At the same time, the parole officer~~

~~will advise the parolee of his rights concerning the Prerevocation Hearing.~~

~~The hearing should be held reasonably near where the violation is alleged to have occurred. The purpose of the hearing is to determine whether there is probable cause to believe that the parolee is in violation of his parole agreement. Upon completion of the hearing, the hearing officer will inform the parolee both verbally and in writing whether probable cause exists. At the time of service, the parolee shall also be informed of his right to waive the Prerevocation Hearing, and where the parolee elects to do so a written waiver to that effect will be obtained. The parolee may request witnesses, an attorney, or a postponement. A certified copy of a bindover or conviction will be accepted by the Board as a finding of probable cause in lieu of a Prerevocation Hearing and the matter will proceed directly to a Parole Revocation hearing.~~

~~Upon completion of the Prerevocation Hearing, the hearing officer will notify the parolee verbally, whether probable cause exists that a parole violation has occurred. Within twenty-one calendar days, excluding holidays, a written decision will be issued by the hearing officer and served on the parolee.~~

~~**KEY: parole, government hearings**~~
~~**February 18, 1998** **77-27-11**~~
~~**Notice of Continuation December 12, 1997** **77-27-27**~~
~~**77-27-28**~~
~~**77-27-29**~~
~~**77-27-30**~~]

◆ ◆

Pardons (Board of), Administration
R671-504
Timeliness of Parole Revocation Hearings

NOTICE OF PROPOSED RULE
(Repeal)
DAR FILE NO.: 21601
FILED: 10/28/1998, 14:49
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Board is modifying its Parole Violation process.

SUMMARY OF THE RULE OR CHANGE: This rule is repealed in its entirety.
(**DAR Note:** This information is being moved into the proposed new rules R671-509 through R671-522, which are found under DAR No. 21606 through DAR No. 21619 in this *Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 77-27-7

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THIS RULE MAY BECOME EFFECTIVE ON: 01/01/1999

AUTHORIZED BY: Michael R. Sibbett, Chairman

R671. Pardons (Board of), Administration.
[~~**R671-504. Timeliness of Parole Revocation Hearings.**~~
~~**R671-504-1. General.**~~

~~The Parole Revocation Hearing should be conducted within ninety (90) days from the date of the Prerevocation Hearing or its waiver EXCEPT in the following circumstances:~~

~~1. If a parolee is detained in another state on a Utah Board warrant or on a new offense, a parole revocation hearing should be conducted within ninety (90) days from the parolee's return to the State of Utah. When the only hold on a parolee is a Utah Board warrant, then the parolee must be returned as soon as is practicable after affording the parolee all rights.~~

~~2. The Board may for good cause upon a motion by the parolee or the Department of Corrections, or upon its own motion exceed the 90 day period.~~

~~If a "guilty" plea is entered, the dispositional phase of the hearing begins at once.~~

~~If a "not guilty" plea is entered, and the case has not been continued, the evidentiary stage of the Revocation Hearing should be conducted within sixty (60) days, unless good cause is shown for exceeding the 60 days.~~

~~**KEY: parole, government hearings**~~
~~**February 18, 1998** 77-27-11~~
~~**Notice of Continuation December 12, 1997** 77-27-27~~
~~77-27-28~~
~~77-27-29~~
~~77-27-30~~]

Pardons (Board of), Administration
R671-505
Parole Revocation Hearings

NOTICE OF PROPOSED RULE
(Repeal)
DAR FILE NO.: 21602
FILED: 10/28/1998, 14:49
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Board is modifying its Parole Violation process.

SUMMARY OF THE RULE OR CHANGE: This rule is repealed in its entirety.
(**DAR Note:** This information is being moved into the proposed new rules R671-509 through R671-522, which are found under DAR No. 21606 through DAR No. 21619 in this *Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 77-27-7

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THIS RULE MAY BECOME EFFECTIVE ON: 01/01/1999

AUTHORIZED BY: Michael R. Sibbett, Chairman

R671. Pardons (Board of), Administration.
[~~**R671-505. Parole Revocation Hearings.**~~
~~**R671-505-1. General.**~~
~~Prior to the Parole Revocation Hearing, the parolee will be given adequate written notice of the date, time and location of the hearing and the alleged parole violations. At the hearing, the offender will be provided with an opportunity to hear the evidence in support of the allegations, legal counsel unless waived, an opportunity to confront and cross-examine adverse witnesses unless they would be subject to risk or harm, and an opportunity to present evidence and witnesses in his/her own behalf.~~
~~Parolees are served with written allegations and notice of the hearing, and provided with required disclosure at least five working days prior to the Revocation Hearing. Such service and notice may be waived by the parolee. These allegations are again read at the hearing, after which the parolee enters a plea.~~
~~The parolee may plead guilty at the initial hearing and the dispositional phase will begin immediately, or the Board may continue the hearing upon request of the parolee, or on its own motion, pending the outcome of a court criminal action or an Evidentiary Hearing.~~
~~If a guilty plea is entered or the offender is found guilty in an Evidentiary Hearing, the Board will then hear discussion as to disposition from the offender or the attorney for the offender and the Department of Corrections. The Board may then retire to Executive Session, make a decision, reopen the hearing and render the decision on the record.~~

~~**KEY: parole, government hearings**~~
~~**February 18, 1998** 77-27-11~~
~~**Notice of Continuation December 12, 1997** 77-27-27~~
~~77-27-28~~
~~77-27-29~~
~~77-27-30~~]

Pardons (Board of), Administration
R671-507
Restarting the Parole Period

NOTICE OF PROPOSED RULE
(Repeal)
DAR FILE NO.: 21604
FILED: 10/28/1998, 14:49
RECEIVED BY: NL

RULE ANALYSIS
PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Board is modifying its Parole Violation process.

SUMMARY OF THE RULE OR CHANGE: This rule is repealed in its entirety.
(**DAR Note:** This information is being moved into the proposed new rules R671-509 through R671-522, which are found under DAR No. 21606 through DAR No. 21619 in this *Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 77-27-7

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THIS RULE MAY BECOME EFFECTIVE ON: 01/01/1999

AUTHORIZED BY: Michael R. Sibbett, Chairman

R671. Pardons (Board of), Administration.
[~~**R671-507. Restarting the Parole Period.**~~
~~**R671-507-1. General.**~~
~~Upon a parolee's new conviction for a crime or a violation of the parole agreement, the Board may restart the parole period after conducting a personal appearance hearing or upon receipt of a waiver of personal appearance signed by the parolee.~~
~~If additional incarceration is indicated, parole revocation proceedings will be initiated at the Board's direction.~~

~~**KEY: parole**~~
~~**February 18, 1998** **76-3-202**~~
~~**Notice of Continuation December 12, 1997**~~]

Pardons (Board of), Administration
R671-508
Evidentiary Hearings

NOTICE OF PROPOSED RULE
(Repeal)
DAR FILE NO.: 21605
FILED: 10/28/1998, 14:49
RECEIVED BY: NL

RULE ANALYSIS
PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Board is modifying its Parole Violation process.

SUMMARY OF THE RULE OR CHANGE: This rule is repealed in its entirety.
(**DAR Note:** This information is being moved into the proposed new rules R671-509 through R671-522, which are found under DAR No. 21606 through DAR No. 21619 in this *Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 77-27-7

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THIS RULE MAY BECOME EFFECTIVE ON: 01/01/1999

AUTHORIZED BY: Michael R. Sibbett, Chairman

R671. Pardons (Board of), Administration.
[~~**R671-508. Evidentiary Hearings.**~~
~~**R671-508-1. General.**~~

~~The Board will conduct an evidentiary hearing when a not guilty plea is entered by a parolee at a parole revocation hearing and the Department of Corrections desires to pursue the allegation.~~

~~**R671-508-2. Conduct of Evidentiary Hearings.**~~

~~When a parolee enters a plea of not guilty to one or more of the allegations at a parole violation hearing, the Board may conduct, or in its discretion, continue the matter for an evidentiary hearing.~~

~~1. The evidentiary hearing will be conducted within sixty (60) days of the entry of a not-guilty plea, unless the Board finds good cause for continuance beyond that date. The parolee may be represented by an attorney of choice or as provided by the Board. The state may be represented by a representative of the Department of Corrections and/or by the Attorney General's Office. All hearings will be open to the public, except for matters the Board determines to be confidential. Such confidential hearings will be conducted as set forth in Rule 508-3, herein.~~

~~2. All parties will be notified of the time, date, and place of the hearing and of the disputed allegations(s). The parolee will be notified of his or her right to request counsel, the right to confront and cross examine witnesses (absent a showing of good cause for not allowing the confrontation), and the right to present rebuttal evidence.~~

~~3. At least ten (10) days prior to the hearing, unless otherwise directed by the Board, each party shall provide to the other and to the Board a list of anticipated witnesses, documents, and other evidence to be submitted at the hearing, together with a summary of the relevance of each anticipated piece of evidence.~~

~~4. The hearing may be presided over by a single board member, a panel of board members, or by a hearing officer or panel of hearing officers as the Board chairperson may designate. The presiding hearing officer, or panel may, upon its or her own motion, or upon motion of either party, exclude evidence that is irrelevant, unduly repetitious, or privileged in the courts of Utah. He or she may further take judicial notice of undisputed facts and may rule on motions offered or pending during the hearing.~~

~~5. The state shall bear the burden to establish a parole violation by a preponderance of the evidence. All testimony will be given under oath. Strict rules of evidence will not apply. Hearsay evidence will be admissible and will be given such weight as the Board deems appropriate; however, no finding of guilt will be based solely on hearsay evidence, except where such evidence would be otherwise permitted in a court of law.~~

~~6. At the hearing, each party will be afforded an opportunity to make a brief opening statement, beginning with the State. The State will thereafter present its evidence. Upon conclusion of the State's case, the parolee will be permitted to present evidence in response. If the parolee, in his or her defense, raises issues not adequately addressed by the State's case in chief, the presiding officer will allow the State to present rebuttal evidence in response to that issue. Upon conclusion of all evidence, the presiding officer may allow each party a brief closing argument. The panel will then render a finding of guilty or not guilty, and may thereafter proceed directly to the dispositional phase of the hearing.~~

~~**R671-508-3. Treatment of Confidential Testimony.**~~

~~Confidential testimony will be admitted at an evidentiary hearing on an alleged parole violation under the following three-part procedure:~~

~~1. The State will make a specific, written preliminary showing of good cause for the testimony to be received in camera.~~

~~2. Upon a finding of just cause for confidentiality, the Board will conduct an in camera inspection of the witness, the proffered testimony, and any supporting testimony to determine (a) the credibility and veracity of the witness, (b) the overall reliability of the information itself, and (c) that keeping the information confidential will not substantially impair the parolee's due process rights to notice of the evidence or to confront and cross-examine adverse witnesses. If the Board is satisfied with these three aspects, it will receive the testimony and give it whatever weight it deems appropriate. An electronic record will be made of this in camera proceeding.~~

~~3. A summary of the testimony taken in camera will be prepared for disclosure to the parolee, informing the parolee of the general nature of the testimony received in camera but without defeating the good cause found by the Board for treating the information confidentially. This summary will be presented on the record at the public evidentiary hearing and the parolee will be afforded an opportunity to respond thereto.~~

~~**KEY: parole, government hearings**~~
~~**February 18, 1998** **77-27-5**~~
~~**Notice of Continuation December 12, 1997** **77-27-9**~~
~~**77-27-11**~~]

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Pardons (Board of), Administration
R671-509
Parole Incident Reports

NOTICE OF PROPOSED RULE
(New)
DAR FILE NO.: 21606
FILED: 10/28/1998, 14:49
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Board is modifying its Parole Violation process.

SUMMARY OF THE RULE OR CHANGE: The information found within this rule replaces repealed rules.
(**DAR Note:** The information found in the Board of Pardons' new rules in this *Bulletin* comes from repealed rules which are also published in this *Bulletin*. The new rules R671-509 through R671-522 are under DAR No. 21606 through DAR No. 21619 in this *Bulletin*. The repealed rules R671-204 through R671-508 are under DAR No. 21596 through DAR No. 21605 in this *Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 77-27-7

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: With this new rule it is anticipated that approximately 20% of the parole violators will opt to plead guilty without legal counsel, with anticipated savings of approximately 20% of the attorney contract if the inmates waive.
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THIS RULE MAY BECOME EFFECTIVE ON: 01/01/1999

AUTHORIZED BY: Michael R. Sibbett, Chairman

R671. Pardons (Board of), Administration.
R671-509. Parole Incident Reports.
R671-509-1. Parole Incident Reports.

A parole agent or other representative of the Department of Corrections shall submit to the Board a parole incident report when an incident, positive or negative, occurs that constitutes cause to modify the conditions of, or revoke, parole.

Examples of incidents which shall be reported to the Board via an Incident Report are:

a. Conviction of any infraction, misdemeanor or felony.

b. Significant incidents or infractions of the general or specific conditions of parole.

c. An incident which results in the parole supervisor placing the parolee in jail on a parole hold, arrest, detainment, or other conditions or incidents which result in the parolee being denied liberty.

All suspected parole violations shall be investigated and an incident report along with a recommended course of action submitted to the Board within a reasonable period of time. The report shall advise the Board of a parolee's adjustment and provide for modification of parole agreement conditions if necessary. Police reports, court orders, and waivers of personal appearance from parolees shall be attached when applicable.

KEY: parole, incident
1999 **77-27-11**

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Pardons (Board of), Administration
R671-510
Evidence for Issuance of Warrants

NOTICE OF PROPOSED RULE
(New)
DAR FILE NO.: 21607
FILED: 10/28/1998, 14:49
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Board is modifying its Parole Violation process.

SUMMARY OF THE RULE OR CHANGE: The information found within this rule replaces repealed rules.
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STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 77-27-7

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THIS RULE MAY BECOME EFFECTIVE ON: 01/01/1999

AUTHORIZED BY: Michael R. Sibbett, Chairman

R671. Pardons (Board of), Administration.
R671-510. Evidence for Issuance of Warrants.
R671-510-1. Evidence for Issuance of Warrants.
Warrants shall be issued only upon a showing that there is probable cause to believe that a parole violation has occurred.
A certified Warrant Request shall be submitted by the parole agent setting forth reasons to believe that the named parolee committed specific parole violations. The request may be accompanied by supporting documentation such as police reports, incident reports, and judgment and commitment orders. Upon approval of the request by the Board, a Warrant of Arrest shall be issued to arrest, detain, and return to actual custody the parolee named therein.

R671-510-2. Warrant Request.
Warrant requests shall include:
a. the name of the parolee and prison number;
b. the nature of the allegations that justify possible revocation of parole;
c. the substance of the evidence substantiating the allegations;
d. the condition of the parole agreement that the parolee is alleged to have violated, along with the date and approximate location where the violation occurred;
e. the signature of the parole officer and supervisor;

R671-510-3. Background Information.
The agent will also give the Board background information about the parolee, including overall status, adjustment to parole, and any other information requested in the warrant request form, which the Board shall promulgate. The background information shall accompany the warrant request if it can be completed in time. If it cannot be completed in time, the agent shall send it to the Board, and the parolee, within seven (7) days after issuance of the warrant.

KEY: warrants, parole, probable cause
1999 **77-27-11**

Pardons (Board of), Administration
R671-511
Warrants of Arrest

NOTICE OF PROPOSED RULE
(New)
DAR FILE NO.: 21608
FILED: 10/28/1998, 14:49
RECEIVED BY: NL

RULE ANALYSIS
PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Board is modifying its Parole Violation process.

SUMMARY OF THE RULE OR CHANGE: The information found within this rule replaces repealed rules.

(**DAR Note:** The information found in the Board of Pardons' new rules in this *Bulletin* comes from repealed rules which are also published in this *Bulletin*. The new rules R671-509 through R671-522 are under DAR No. 21606 through DAR No. 21619 in this *Bulletin*. The repealed rules R671-204 through R671-508 are under DAR No. 21596 through DAR No. 21605 in this *Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 77-27-7

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: With this new rule it is anticipated that approximately 20% of the parole violators will opt to plead guilty without legal counsel, with anticipated savings of approximately 20% of the attorney contract if the inmates waive.
❖LOCAL GOVERNMENTS: There will be no fiscal impact on local government as the funding related to the cost of legal representation for state offenders is state funded.
❖OTHER PERSONS: There will be no fiscal impact on other persons as the funding related to the cost of legal representation for state offenders is state funded
COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no affected persons costs as the legal representation is funded and provided through state contracts using state funds.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The only private business impact will be the potential state government savings relating to the private contract maintained by private defense counsel.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Pardons (Board of)
Administration
#300
448 East 6400 South
Murray, UT 84107, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
John Green at the above address, by phone at (801) 261-6470, by FAX at (801) 261-6481, or by Internet E-mail at bpmain.jgreen@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 12/15/1998.

THIS RULE MAY BECOME EFFECTIVE ON: 01/01/1999

AUTHORIZED BY: Michael R. Sibbett, Chairman

R671. Pardons (Board of), Administration.
R671-511. Warrants of Arrest.
R671-511-1. Warrants of Arrest.

A member of the Board of Pardons may issue a warrant in compliance with the Board's rule on Evidence for Issuance of Warrants. Such warrants shall have the same force and effect as if signed by all members. Issuance of a warrant constitutes a determination of probable cause that the parole has violated a condition of parole.

The warrant shall include:
a. the name of the parolee and prison number;
b. a Board member's signature;
c. the general nature of the alleged violation(s).

KEY: parole, warrant, probable cause
1999 **77-27-11**
77-27-27
77-27-28
77-27-29
77-27-30

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Pardons (Board of), Administration
R671-512
Execution of the Warrant

NOTICE OF PROPOSED RULE
(New)
DAR FILE NO.: 21609
FILED: 10/28/1998, 14:49
RECEIVED BY: NL

RULE ANALYSIS
PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Board is modifying its Parole Violation process.

SUMMARY OF THE RULE OR CHANGE: The information found within this rule replaces repealed rules.
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STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 77-27-7

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COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The only private business impact will be the potential state government savings relating to the private contract maintained by private defense counsel.

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THIS RULE MAY BECOME EFFECTIVE ON: 01/01/1999

AUTHORIZED BY: Michael R. Sibbett, Chairman

R671. Pardons (Board of), Administration.
R671-512. Execution of the Warrant.
R671-512-1. Execution of the Warrant.

When the agent executes the warrant, or as soon thereafter as possible, the agent shall provide the parolee copies of the warrant and the warrant request, at the same time, the agent shall also provide the parolee with the Notice Regarding Parole Allegations, the Challenge to Probable Cause Determination, and the Affidavit of Waiver and Plea of Guilt as published by the Board.

The agent shall inform the Board of any arrests on a Board warrant occurring within the state within 24 hours if possible. An agent's failure to inform the Board of an arrest does not give any rights to the parolee.

Promptly after the warrant is issued, the Board or parole agent shall tell the parolee the date on which a hearing will be held where he can plead guilty or not guilty to the allegations.

KEY: parole, execute, warrant
1999 **77-27-11**
77-27-27
77-27-28
77-27-29
77-27-30

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Pardons (Board of), Administration
R671-513
Expedited Determination on Parolee Challenge to Probable Cause

NOTICE OF PROPOSED RULE
(New)
DAR FILE NO.: 21610
FILED: 10/28/1998, 14:49
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Board is modifying its Parole Violation process.

SUMMARY OF THE RULE OR CHANGE: The information found within this rule replaces repealed rules.
(**DAR Note:** The information found in the Board of Pardons' new rules in this *Bulletin* comes from repealed rules which are also published in this *Bulletin*. The new rules R671-509 through R671-522 are under DAR No. 21606 through DAR No. 21619 in this *Bulletin*. The repealed rules R671-204 through R671-508 are under DAR No. 21596 through DAR No. 21605 in this *Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 77-27-7

ANTICIPATED COST OR SAVINGS TO:
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COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The only private business impact will be the potential state government savings relating to the private contract maintained by private defense counsel.

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THIS RULE MAY BECOME EFFECTIVE ON: 01/01/1999

AUTHORIZED BY: Michael R. Sibbett, Chairman

R671. Pardons (Board of), Administration.
R671-513. Expedited Determination on Parolee Challenge to Probable Cause.
R671-513-1. Expedited Determination on Parolee Challenge to Probable Cause.

Within seven (7) days of arrest and detention on the warrant, if the parolee wishes to challenge the probable cause determination, the parolee shall submit evidence to substantiate the challenge. At least one member of the Board shall review all the evidence in support of the allegations as well as the parolee's submissions in dispute of the allegations and decide whether probable cause continues to exist. The parolee also shall inform the Board and the parole agent in writing if any evidence needs to be preserved from the locale in which the violation was committed. The writing shall be sufficiently detailed so that the parole agent can easily find the evidence to be preserved.

R671-513-2. Review of Evidence.

Review of the parolee's evidence shall occur no later than 5 days after the parolee has submitted it. If the Board member decides that the probable cause determination was incorrect, the case shall be routed to a majority of the Board for deliberation. If a majority of the Board believes the parolee's evidence negates the finding of probable cause, the warrant shall be withdrawn and the parolee released back on parole. Time spent incarcerated counts toward service of the parole term.

KEY: parole, warrant, hearing
1999 **77-27-11**
77-27-27
77-27-28
77-27-29
77-27-30

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Pardons (Board of), Administration
R671-514
Waiver and Pleas of Guilt

NOTICE OF PROPOSED RULE
(New)
DAR FILE NO.: 21611
FILED: 10/28/1998, 14:49
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Board is modifying its Parole Violation process.

SUMMARY OF THE RULE OR CHANGE: The information found within this rule replaces repealed rules.
(**DAR Note:** The information found in the Board of Pardons' new rules in this *Bulletin* comes from repealed rules which are also published in this *Bulletin*. The new rules R671-509 through R671-522 are under DAR No. 21606 through DAR No. 21619 in this *Bulletin*. The repealed rules R671-204 through R671-508 are under DAR No. 21596 through DAR No. 21605 in this *Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 77-27-7

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: With this new rule it is anticipated that approximately 20% of the parole violators will opt to plead guilty without legal counsel, with anticipated savings of approximately 20% of the attorney contract if the inmates waive.
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COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The only private business impact will be the potential state government savings relating to the private contract maintained by private defense counsel.

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Administration
#300
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at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
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THIS RULE MAY BECOME EFFECTIVE ON: 01/01/1999

AUTHORIZED BY: Michael R. Sibbett, Chairman

R671. Pardons (Board of), Administration.
R671-514. Waiver and Pleas of Guilt.
R671-514-1. Waiver and Pleas of Guilt.

After executing the warrant, the agent shall tell the parolee of the opportunity to plead guilty to any or all of the allegations against him and that such a plea waives the right to a revocation and evidentiary hearing on that allegation.

R671-514-2. Guilty Pleas.

If the parolee wishes to plead guilty, the agent shall provide a copy of the Affidavit of Waiver and Plea of Guilt. If the parolee is functionally illiterate, the agent shall explain the contents of the affidavit and waiver. If the agent believes the parolee is unable to understand the affidavit and waiver and appreciate the consequences of signing it for any other reason, the agent shall promptly inform the Board, which may assign counsel to the parolee or take any other action that will assist the parolee to understand his rights.

R671-514-3. Multiple Pleas.

A parolee may plead guilty to only some of the allegations and plead not guilty to others. The Board may decide to dismiss the allegations to which the parolee pled not guilty and make a disposition based solely on the pleas of guilt. If the Board chooses to make a disposition based solely on pleas of guilt, it need not hold either an evidentiary or parole revocation hearing. However, the Board may schedule a special appearance hearing, or parole rehearing, to ask the parolee questions or listen to victim testimony if doing so would assist it in making an appropriate disposition.

R671-514-4. Entry of Pleas at Anytime.

A parolee may enter a plea of guilt at anytime. If the parolee pleads guilty at the revocation or evidentiary hearing, the hearing officer shall explain to the parolee the rights he is surrendering and receive an admission and plea on the record.

R671-514-5. Acceptance of Pleas.

If the parolee pleads guilty to all the allegations, the Board may accept the plea(s) and take any action it considers appropriate for disposition. The Board need not hold a parole revocation or evidentiary hearing. However, the Board may schedule a special appearance hearing, or parole rehearing, to ask the parolee questions or listen to victim testimony if doing so would assist it in making an appropriate disposition.

KEY: parole, allegation, plea
1999 **77-27-9**
77-27-11

Pardons (Board of), Administration
R671-515
Timeliness of Parole Revocation Hearings

NOTICE OF PROPOSED RULE
(New)
DAR FILE NO.: 21612
FILED: 10/28/1998, 14:49
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Board is modifying its Parole Violation process.

SUMMARY OF THE RULE OR CHANGE: The information found within this rule replaces repealed rules.
(**DAR Note:** The information found in the Board of Pardons' new rules in this *Bulletin* comes from repealed rules which are also published in this *Bulletin*. The new rules R671-509 through R671-522 are under DAR No. 21606 through DAR No. 21619 in this *Bulletin*. The repealed rules R671-204 through R671-508 are under DAR No. 21596 through DAR No. 21605 in this *Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 77-27-7

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: With this new rule it is anticipated that approximately 20% of the parole violators will opt to plead guilty without legal counsel, with anticipated savings of approximately 20% of the attorney contract if the inmates waive.
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COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The only private business impact will be the potential state government savings relating to the private contract maintained by private defense counsel.

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Administration
#300
448 East 6400 South
Murray, UT 84107, or
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DIRECT QUESTIONS REGARDING THIS RULE TO:
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THIS RULE MAY BECOME EFFECTIVE ON: 01/01/1999

AUTHORIZED BY: Michael R. Sibbett, Chairman

R671. Pardons (Board of), Administration.
R671-515. Timeliness of Parole Revocation Hearings.
R671-515-1. Timeliness of Parole Revocation Hearings.

A Parole Revocation Hearing will be conducted by a hearing officer within 30 days after detention unless the parolee expressly waives the hearing in writing. For good cause, the Board may continue the hearing beyond 30 days.

R671-515-2. Detained in Another State.

If a parolee is detained in another state on a Utah Board warrant or on a new offense, a parole revocation hearing should be conducted within thirty (30) days from the parolee's return to the State of Utah. When the only hold on a parolee is a Utah Board warrant, then the parolee must be returned as soon as is practical after affording the parolee all rights.

R671-515-3. New Offense.

When the parolee is convicted of a new offense of which the parole office had knowledge, and the parolee has not been detained on a Board warrant during the pendency of court proceedings, the parole revocation process should be commenced within ninety (90) days from the time of sentencing on the new offense.

R671-515-4. Exceed Time Period for Good Cause.

The Board may for good cause upon a motion by the parolee or the Department of Corrections, or upon its own motion, exceed the time periods established in subsection (2) or (3). The time limitations in these rules are directory, not mandatory. A motion to dismiss a revocation based on failure to meet time limits will be granted only if the failure has prejudiced the parolee's defense.

KEY: parole, timeliness, good cause
1999 **76-3-202**

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Pardons (Board of), Administration
R671-516
Parole Revocation Hearings

NOTICE OF PROPOSED RULE
(New)
DAR FILE NO.: 21613
FILED: 10/28/1998, 14:49
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Board is modifying its Parole Violation process.

SUMMARY OF THE RULE OR CHANGE: The information found within this rule replaces repealed rules.
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STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 77-27-7

ANTICIPATED COST OR SAVINGS TO:
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THIS RULE MAY BECOME EFFECTIVE ON: 01/01/1999

AUTHORIZED BY: Michael R. Sibbett, Chairman

R671. Pardons (Board of), Administration.
R671-516. Parole Revocation Hearings.
R671-516-1. Allegations.

At the hearing, the hearing officer shall inform the parolee of the allegations against him and take his plea on the record.

R671-516-2. All Guilty Pleas.

If the parolee pleads guilty to all the allegations, the hearing officer shall proceed directly to disposition. The parolee shall present any reasons for mitigation. The parole agent or representative of the Department of Corrections shall discuss reasons for aggravation or mitigation and recommend a disposition.

R671-516-3. Not Guilty Pleas.

If the parolee pleads not guilty to any allegation, the Board shall either schedule an evidentiary hearing on the remaining allegations or dismiss them as soon as practical. See also Utah Admin. Code R671-514, Waiver and Pleas of Guilt.

R671-516-4. Insufficient Evidence.

If the hearing officer believes there is insufficient evidence to justify continued detention and an evidentiary hearing, the matter shall be promptly routed to a majority of the Board. If the majority agrees there is insufficient evidence to justify detention and an evidentiary hearing, the warrant shall be withdrawn and the parolee released. Time spent incarcerated counts toward service of the parole term.

KEY: parole, revocation, hearings
1999 **77-27-5**
77-27-9
77-27-11

Pardons (Board of), Administration
R671-517
Evidentiary Hearings and Proceedings

NOTICE OF PROPOSED RULE
(New)
DAR FILE NO.: 21614
FILED: 10/28/1998, 14:49
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Board is modifying its Parole Violation process.

SUMMARY OF THE RULE OR CHANGE: The information found within this rule replaces repealed rules.
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STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 77-27-7

ANTICIPATED COST OR SAVINGS TO:
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THIS RULE MAY BECOME EFFECTIVE ON: 01/01/1999

AUTHORIZED BY: Michael R. Sibbett, Chairman

R671. Pardons (Board of), Administration.
R671-517. Evidentiary Hearings and Proceedings.
R671-517-1. Evidentiary Hearings and Proceedings.

When a parolee has entered a not guilty plea to an allegation that parole has been violated, the Board shall hold an evidentiary hearing unless the parolee has been convicted of a criminal charge and revocation is ordered under R671-518, Conduct of Proceedings when Criminal Charge Results in Conviction.

R671-517-2. Confidentiality.

All hearings are open to the public, unless the Board decides that confidential information must be discussed. Only those portions of the hearing during which confidential information is discussed may be closed. Confidential hearings shall be conducted as set forth in R671-520.

R671-517-3. Notification.

The Board shall notify all parties of the time, date, and place of the hearing and of the disputed allegations(s). In this notification, the parolee shall be notified of his or her statutory opportunity for counsel at his own expense and that the Board may, in the appropriate case, direct contract attorneys to provide advice and representation for the evidentiary hearing. The notification also shall inform the parolee of the right to confront and cross examine witnesses (absent a showing of good cause for not allowing the confrontation), and the right to present rebuttal evidence.

R671-517-4. Anticipated Witnesses, Documents and Other Evidence.

At least ten (10) days prior to the hearing, unless otherwise directed by the Board, each party shall provide to the other and to the Board a list of anticipated witnesses, documents, and other evidence to be submitted at the hearing, together with a summary of the relevance of each anticipated piece of evidence.

R671-517-5. Presided Over by a Single Board Member.

The hearing may be presided over by a single Board member or a hearing officer as the Board chairperson designates. The person presiding may, sua sponte, or upon motion of either party, exclude evidence that is irrelevant, unduly repetitious, or privileged in the courts of Utah. The person presiding may further take judicial notice of undisputed facts and may rule on motions offered or pending during the hearing.

R671-517-6. Department of Corrections Bears Burden of Evidence.

The Department of Corrections bears the burden of establishing a parole violation by a preponderance of the evidence. All testimony shall be given under oath. Strict rules of evidence do not apply. Hearsay evidence is admissible and shall be given such weight as the person presiding considers appropriate; however, no finding of guilt shall be based solely on hearsay evidence, except where such evidence would be otherwise permitted in a court of law. The Fourth Amendment exclusionary rule does not apply to parole revocations.

R671-517-7. Opening Statements.

At the hearing, each party may make a brief opening statement, beginning with the Department of Corrections. After opening statements, the Department presents its evidence. Upon conclusion of the Department's case, the parolee may present evidence in response. If the parolee, in his or her defense, raises issues not adequately addressed by the Department's case in chief, the person presiding shall allow the State to present rebuttal evidence in response to that issue. Upon conclusion of all evidence, the person presiding may allow each party a brief closing argument.

R671-517-8. Recommendation.

After closing arguments, the person presiding may tell the parolee his or her recommendation. However, the person presiding shall inform the parolee that the recommendation does not bind the Board, which makes its decision by majority vote of all Board members.

KEY: parole, evidentiary, hearings
1999 **77-27-5**
77-27-9
77-27-11

Pardons (Board of), Administration
R671-518
Conduct of Proceedings When a Criminal Charge Results in Conviction

NOTICE OF PROPOSED RULE
(New)
DAR FILE NO.: 21615
FILED: 10/28/1998, 14:49
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Board is modifying its Parole Violation process.

SUMMARY OF THE RULE OR CHANGE: The information found within this rule replaces repealed rules.
(**DAR Note:** The information found in the Board of Pardons' new rules in this *Bulletin* comes from repealed rules which are also published in this *Bulletin.* The new rules R671-509 through R671-522 are under DAR No. 21606 through DAR No. 21619 in this *Bulletin.* The repealed rules R671-204 through R671-508 are under DAR No. 21596 through DAR No. 21605 in this *Bulletin.*)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 77-27-7

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: With this new rule it is anticipated that approximately 20% of the parole violators will opt to plead

guilty without legal counsel, with anticipated savings of approximately 20% of the attorney contract if the inmates waive.
❖LOCAL GOVERNMENTS: There will be no fiscal impact on local government as the funding related to the cost of legal representation for state offenders is state funded.
❖OTHER PERSONS: There will be no fiscal impact on other persons as the funding related to the cost of legal representation for state offenders is state funded
COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no affected persons costs as the legal representation is funded and provided through state contracts using state funds.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The only private business impact will be the potential state government savings relating to the private contract maintained by private defense counsel.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Pardons (Board of)
Administration
#300
448 East 6400 South
Murray, UT 84107, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
John Green at the above address, by phone at (801) 261-6470, by FAX at (801) 261-6481, or by Internet E-mail at bpmain.jgreen@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 12/15/1998.

THIS RULE MAY BECOME EFFECTIVE ON: 01/01/1999

AUTHORIZED BY: Michael R. Sibbett, Chairman

R671. Pardons (Board of), Administration.
R671-518. Conduct of Proceedings When a Criminal Charge Results in Conviction.
R671-518-1. Conduct of Proceedings When a Criminal Charge Results in Conviction.

If a parolee has been charged with a new criminal offense, which is also the basis for revocation, and the parolee is convicted of a criminal charge, the Board may revoke parole upon receipt of verification of conviction. The Board need not hold a parole revocation or evidentiary hearing even if the parolee continues to deny guilt. It is sufficient that a trial court has adjudicated guilt. However, the Board may schedule a special appearance hearing or parole rehearing if it wishes to ask questions of the parolee or a victim asks to give testimony. The Board may revoke parole and reincarcerate even if the criminal trial court or appellate court has granted a Certificate of Probable Cause in the criminal matter. After a conviction of guilt and revocation of parole, the Board may then place the parolee on a hearing calendar.

KEY: parole, conviction, criminal charges
1999 **77-27-5**
77-27-9
77-27-11

◆ ◆

Pardons (Board of), Administration
R671-519
Conduct of Proceedings When Criminal Charge Results in Acquittal

NOTICE OF PROPOSED RULE
(New)
DAR FILE NO.: 21616
FILED: 10/28/1998, 14:49
RECEIVED BY: NL

RULE ANALYSIS
PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Board is modifying its Parole Violation process.

SUMMARY OF THE RULE OR CHANGE: The information found within this rule replaces repealed rules.
(**DAR Note:** The information found in the Board of Pardons' new rules in this *Bulletin* comes from repealed rules which are also published in this *Bulletin*. The new rules R671-509 through R671-522 are under DAR No. 21606 through DAR No. 21619 in this *Bulletin*. The repealed rules R671-204 through R671-508 are under DAR No. 21596 through DAR No. 21605 in this *Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 77-27-7

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: With this new rule it is anticipated that approximately 20% of the parole violators will opt to plead guilty without legal counsel, with anticipated savings of approximately 20% of the attorney contract if the inmates waive.
❖LOCAL GOVERNMENTS: There will be no fiscal impact on local government as the funding related to the cost of legal representation for state offenders is state funded.
❖OTHER PERSONS: There will be no fiscal impact on other persons as the funding related to the cost of legal representation for state offenders is state funded
COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no affected persons costs as the legal representation is funded and provided through state contracts using state funds.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The only private business impact will be the potential state government savings relating to the private contract maintained by private defense counsel.

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

Pardons (Board of)
Administration
#300
448 East 6400 South
Murray, UT 84107, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
John Green at the above address, by phone at (801) 261-6470, by FAX at (801) 261-6481, or by Internet E-mail at bpmain.jgreen@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 12/15/1998.

THIS RULE MAY BECOME EFFECTIVE ON: 01/01/1999

AUTHORIZED BY: Michael R. Sibbett, Chairman

R671. Pardons (Board of), Administration.
R671-519. Conduct of Proceedings When Criminal Charge Results in Acquittal.
R671-519-1. Conduct of Proceedings When Criminal Charge Results in Acquittal.

If the basis for revocation proceeding is a criminal charge in which the parolee was acquitted, the parole agent or representative of the Department of Corrections may submit as its sole evidence the transcript from the criminal trial. If the parolee believes submission on the transcript is insufficient, the parolee shall inform the Board of any objection and provide a rationale for the objection. Nevertheless, a trial at which the parolee was represented by counsel is presumed sufficient for the hearing officer to determine by a preponderance of the evidence whether parole was violated.

R671-519-2. Evidence Explanation.

Both parties may file memoranda explaining how the evidence provided at the trial either did, or did not, provide sufficient evidence, under a preponderance standard, for finding a parole violation.

R671-519-3. Personal Appearance.

A personal appearance hearing is not required under this rule for purposes of arguing the evidence. However, if, after reviewing the transcripts and memoranda, the hearing officer concludes that parole has been violated, a personal appearance hearing may be held for purposes of taking mitigation and aggravation evidence in determining disposition and listening to any victim comments.

KEY: parole, acquit, hearings
1999 **77-27-5**
77-27-9
77-27-11

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Pardons (Board of), Administration
R671-520
Treatment of Confidential Testimony

NOTICE OF PROPOSED RULE
(New)
DAR FILE NO.: 21617
FILED: 10/28/1998, 14:49
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Board is modifying its Parole Violation process.

SUMMARY OF THE RULE OR CHANGE: The information found within this rule replaces repealed rules.
(**DAR Note:** The information found in the Board of Pardons' new rules in this *Bulletin* comes from repealed rules which are also published in this *Bulletin*. The new rules R671-509 through R671-522 are under DAR No. 21606 through DAR No. 21619 in this *Bulletin*. The repealed rules R671-204 through R671-508 are under DAR No. 21596 through DAR No. 21605 in this *Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 77-27-7

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: With this new rule it is anticipated that approximately 20% of the parole violators will opt to plead guilty without legal counsel, with anticipated savings of approximately 20% of the attorney contract if the inmates waive.
❖LOCAL GOVERNMENTS: There will be no fiscal impact on local government as the funding related to the cost of legal representation for state offenders is state funded.
❖OTHER PERSONS: There will be no fiscal impact on other persons as the funding related to the cost of legal representation for state offenders is state funded
COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no affected persons costs as the legal representation is funded and provided through state contracts using state funds.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The only private business impact will be the potential state government savings relating to the private contract maintained by private defense counsel

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

Pardons (Board of)
Administration
#300
448 East 6400 South
Murray, UT 84107, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
John Green at the above address, by phone at (801) 261-6470, by FAX at (801) 261-6481, or by Internet E-mail at bpmain.jgreen@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 12/15/1998.

THIS RULE MAY BECOME EFFECTIVE ON: 01/01/1999

AUTHORIZED BY: Michael R. Sibbett, Chairman

R671. Pardons (Board of), Administration.
R671-520. Treatment of Confidential Testimony.
R671-520-1. Treatment of Confidential Testimony.

Confidential testimony shall be admitted at an evidentiary hearing on an alleged parole violation under the following three-part procedure:

1. The State shall make a specific, written preliminary showing of good cause for the testimony to be received in camera.

2. Upon a finding of just cause for confidentiality, the Board shall conduct an in camera inspection of the witness, the proffered testimony, and any supporting testimony to determine:

a. the credibility and veracity of the witness;

b. the overall reliability of the witness itself; and

c. that keeping the information confidential will not substantially impair the parolee's due process rights to notice of the evidence or to confront and cross-examine adverse witnesses.

If the Board is satisfied with these three aspects, it shall receive the testimony and give it whatever weight it considers appropriate. An electronic record shall be made of this in camera proceeding.

3. A summary of the testimony taken in camera shall be prepared for disclosure to the parolee, informing the parolee of the general nature of the testimony received in camera but without defeating the good cause found by the Board for treating the information confidentially. This summary shall be presented on the record at the public evidentiary hearing and the parolee shall be given an opportunity to respond.

KEY: parole, confidential testimony, hearings
1999 **77-27-5**
77-27-9
77-27-11

◆ ◆

Pardons (Board of), Administration
R671-521
Alternatives to Re-Incarceration of Parolees

NOTICE OF PROPOSED RULE
(New)
DAR FILE NO.: 21618
FILED: 10/28/1998, 14:49
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Board is modifying its Parole Violation process.

SUMMARY OF THE RULE OR CHANGE: The information found within this rule replaces repealed rules.
(**DAR Note:** The information found in the Board of Pardons' new rules in this *Bulletin* comes from repealed rules which are also published in this *Bulletin*. The new rules R671-509 through R671-522 are under DAR No. 21606 through DAR No. 21619 in this *Bulletin*. The repealed rules R671-204 through R671-508 are under DAR No. 21596 through DAR No. 21605 in this *Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 77-27-7

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: With this new rule it is anticipated that approximately 20% of the parole violators will opt to plead guilty without legal counsel, with anticipated savings of approximately 20% of the attorney contract if the inmates waive.
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COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no affected persons costs as the legal representation is funded and provided through state contracts using state funds.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The only private business impact will be the potential state government savings relating to the private contract maintained by private defense counsel

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Pardons (Board of)
Administration
#300
448 East 6400 South
Murray, UT 84107, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
John Green at the above address, by phone at (801) 261-6470, by FAX at (801) 261-6481, or by Internet E-mail at bpmain.jgreen@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 12/15/1998.

THIS RULE MAY BECOME EFFECTIVE ON: 01/01/1999

AUTHORIZED BY: Michael R. Sibbett, Chairman

R671. Pardons (Board of), Administration.
R671-521. Alternatives to Re-Incarceration of Parolees.
R671-521-1. Alternatives to Re-Incarceration of Parolees.

The Board may pursue alternatives other than further imprisonment for parole violators. A parole violation shall not preclude an offender from being considered for continuance of parole or re-parole.

R671-521-2. Considerations.

At any time during the parole revocation process, the Board may consider alternatives to reincarceration. In order to determine whether to place or retain an alleged parole violator in custody, the Board shall consider:

a. the nature of the alleged violation;

b. the offender's criminal history (particularly violent behavior and escapes);

c. the impact of reincarceration on the offender; and

d. any other factors relating to public safety and the well-being of the offender.

R671-521-3. Release Before Adjudication.

Release before adjudication of a parole violation allegation may be granted by the Board for good cause.

R671-521-4. Re-parole.

When the Board decides that a parolee has violated his parole, the offender may be considered for re-parole.

KEY: parole, alternatives, hearings
1999 **77-27-5**
77-27-9
77-27-11

Pardons (Board of), Administration
R671-522
Continuances Due to Pending Criminal Charges

NOTICE OF PROPOSED RULE
(New)
DAR FILE NO.: 21619
FILED: 10/28/1998, 14:49
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Board is modifying its Parole Violation process.

SUMMARY OF THE RULE OR CHANGE: The information found within this rule replaces repealed rules.
(**DAR Note:** The information found in the Board of Pardons' new rules in this *Bulletin* comes from repealed rules which are also published in this *Bulletin.* The new rules R671-509 through R671-522 are under DAR No. 21606 through DAR No. 21619 in this *Bulletin.* The repealed rules R671-204 through R671-508 are under DAR No. 21596 through DAR No. 21605 in this *Bulletin.*)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 77-27-7

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: With this new rule it is anticipated that approximately 20% of the parole violators will opt to plead guilty without legal counsel, with anticipated savings of approximately 20% of the attorney contract if the inmates waive.
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COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no affected persons costs as the legal representation is funded and provided through state contracts using state funds.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The only private business impact will be the potential state government savings relating to the private contract maintained by private defense counsel.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Pardons (Board of)
Administration
#300
448 East 6400 South
Murray, UT 84107, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
John Green at the above address, by phone at (801) 261-6470, by FAX at (801) 261-6481, or by Internet E-mail at bpmain.jgreen@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 12/15/1998.

THIS RULE MAY BECOME EFFECTIVE ON: 01/01/1999

AUTHORIZED BY: Michael R. Sibbett, Chairman

R671. Pardons (Board of), Administration.
R671-522. Continuances Due to Pending Criminal Charges.
R671-522-1. Continuances Due to Pending Criminal Charges.

It is the Board's policy to consider continuing an original parole grant hearing, parole violation hearing, rehearing or rescission hearing pending the resolution of felony or misdemeanor charges. When determining a continuance, the Board will consider the gravity of the new charges, whether a date has been set for trial, whether the presentence or post-sentence reports have been completed, or any other information that could address the pending charges.

R671-522-2. Notification and Verification.

If the Board determines that pending charges warrant a continuance of a hearing, the Board will notify the offender in writing and the reasons for doing so. When the Board receives verification that the criminal charges have been resolved, the hearing will be rescheduled as soon as practical.

KEY: parole, continuing, hearings
1999 **77-27-5**
77-27-9
77-27-11

Public Safety, Driver License
R708-2
Commercial and Private Driver Training Schools

NOTICE OF PROPOSED RULE
(Repeal and reenact)
DAR FILE NO.: 21579
FILED: 10/26/1998, 15:18
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this filing is to clarify, change requirements, and include language that will allow commercial driver training schools to offer home-study.

SUMMARY OF THE RULE OR CHANGE: This rule has been clarified, reorganized, and changed to help commercial driver training schools and instructors better understand what is required to offer commercial driver training to the public. Specific changes made in the new rule that do not appear in the old rule include: (a) changing the wording so the rule is easier to read and understand; (b) creating new sections; (c) reorganizing old sections; (d) adding a requirement that commercial driver schools discuss the effects of drugs and alcohol on driving as part of the classroom curriculum; (e) changing the minimum classroom requirement from 18 hours to 30 hours for students under 18 years of age; (f) defining visual acuity and physical or mental conditions as it relates to schools in screening students; (g) changing the re-certification requirement for schools from mandatory to discretionary; and (h) providing language that would allow commercial driver training schools, who are approved by an institution of higher learning, to offer an extended learning course for home-study. There are no substantive provisions that appeared in the old rule that do not appear in the new rule.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53-3-505

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: There is no cost or savings difference over the implementation of the previous version of the rule.
❖LOCAL GOVERNMENTS: Local governments are not involved in the regulation of commercial driver licenses, and so will see no fiscal impact from the rule.
❖OTHER PERSONS: (a) The rule will decrease costs for those commercial driver training schools that select the extended learning option because such schools will not have to pay as much for instructor salaries, classroom space, utilities, and other costs associated with classroom training; (b) a cost increase will occur for those same schools because they will have to pay for workbooks and textbooks associated with extended learning; (c) a cost increase will occur to schools because of the requirement that students under age eighteen must receive thirty hours of classroom instruction instead of eighteen hours of classroom instruction; (d) a cost increase will occur to students who are less than 18 years of age because they will be required to have 30 hours of classroom instruction, instead of 18 hours.
COMPLIANCE COSTS FOR AFFECTED PERSONS: All students less than 18 years of age will be required to have 30 hours, instead of 18 hours, of classroom instruction. The increased instruction requirement may result in higher costs to the students.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: It is anticipated that the cost decreases will essentially offset the cost increases under "other persons" for commercial driver training schools that offer extended learning. For those commercial driver training schools that do not teach extended learning it is anticipated there will be a cost increase because of the new requirement to teach 30 hours of classroom instruction instead of 18 hours.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Public Safety
Driver License
Calvin Rampton Building
4501 South 2700 West
PO Box 30560
Salt Lake City, UT 84130-0560, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Vinn Roos at the above address, by phone at (801) 965-4456, by FAX at (801) 965-4496, or by Internet E-mail at vroos@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 12/15/1998; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 12/08/1998, 10:00 a.m., Utah Department of Transportation conference room, First Floor, Calvin Rampton Building, 4501 South 2700 West, Salt Lake City, UT. NOTE: The division would appreciate receiving as many written comments as possible prior to the public hearing so those comments can be addressed as part of the discussion..

THIS RULE MAY BECOME EFFECTIVE ON: 12/16/1998

AUTHORIZED BY: David A. Beach, Director

R708. Public Safety, Driver License.

[~~**R708-2. Commercial and Private Driver Training Schools.**~~

~~**R708-2-1. Foreword.**~~

~~The Commercial Driver Training Schools Act, Sections 53-3-501 through 509, provides for the licensing and regulation of commercial and private automobile driving schools and the instructors of such schools. This law applies to all persons engaged in the business of giving instructions for hire in driver training and in the operation of a motor vehicle. Among other things, the law provides that the Commissioner of Public Safety shall adopt and prescribe such regulations concerning the administration of this article as are necessary to carry out the intent of the law, and to protect the public. The following rules and regulations are promulgated in accordance with the provisions of "The Utah Administrative Rulemaking Act".~~

~~**R708-2-2. Definitions.**~~

~~"Behind-the-Wheel Instruction and Practice Driving Instruction" means the learning experiences in driver training provided for the students as observers and as student drivers in a dual controlled motor vehicle.~~

~~"Branch office" means an approved location where the business of the driver training school is conducted other than the principal place of business.~~

~~"Classroom Instruction" means that part of the driver training course consisting of learning experiences located in a classroom which utilize effective teaching methods such as lecture, discussion, and audio-visual aids.~~

~~"Commissioner" means the Commissioner of the Department of Public Safety.~~

~~"Corporation" means a business incorporated under the laws of a state or other jurisdiction.~~

~~"Department" means the Department of Public Safety.~~

~~"Division" means the Driver License Division.~~

~~"Driver Training" means behind the wheel, observation, and classroom learning experiences provided by the school for the purpose of helping students learn to operate motor vehicles safely and efficiently.~~

~~"Dual Control Automobile" means a motor vehicle equipped with a second functioning foot brake positioned for use by the instructor and inside and outside mirrors for the instructor for the purpose of observing rearward.~~

~~"Fraudulent Practices" means any conduct or representation on the part of the licensee or any partner, officer, agent, or employee of a licensee tending to induce another or to give the impression that a license to operate a motor vehicle or any other license or service granted by the commissioner may be obtained by any means other than the ones prescribed by law; or requesting, accepting, acting, or collecting money for such purpose.~~

~~"Observation Time" means that time during which a student is riding in the rear seat of a dual controlled training vehicle observing the driver instructor, procedures and techniques of the student who is driving and other road users.~~

~~"Partnership" means an association of two or more persons who co-own and operate a business for profit.~~

~~"Qualified Instructor" as per Section 53-3-502.~~

~~"School" as per Section 53-3-502.~~

~~**R708-2-3. Licensing of Commercial and Private Driver Training Schools and Reporting Requirements.**~~

~~A. License Required - Every person proposing to engage in the business of conducting a commercial or private driver training school not exempted by statute, shall, prior to engaging in such business, secure a license for this purpose. Applications for the license may be secured at the Driver License Division, 3495 So. 300 W., Salt Lake City, Ut. 84115. Applicants are responsible for obtaining any business licenses required by the municipality in which they are located.~~

~~B. Application for License - An application made by an individual must be signed by the applicant and notarized. In the case of a partnership, the application must be signed by the persons applying for partnership and notarized. In the case of a corporation, the application must be signed by an officer thereof and notarized. The department may require a financial statement from each applicant or officer or partner thereof. Applications must be submitted at least 30 days prior to licensing and an appointment shall be made at that time to have the school inspected by a department representative.~~

~~Every application must be accompanied by the following supplementary documents:~~

~~1. In the case of a corporation, a certified copy of a certificate of incorporation.~~

~~2. Samples of all forms and receipts to be used by the school.~~

~~3. A schedule of fees for all services to be performed by the licensee.~~

~~4. A fingerprint record of each applicant or officer or partner thereof. A Bureau of Criminal Identification check will be done on all applicants, officers and partners. Fingerprints may be taken by any law enforcement agency. The department may require applicants for renewal of a license to submit a new fingerprint record.~~

~~5. A certificate of automobile insurance for each automobile used for driver training purposes.~~

~~6. A copy of all tests and criteria which the school requires of a student to satisfactorily complete the course.~~

~~C. License Fees - The commercial or private driver training school license is valid for the calendar year and expires on December 31 of the year issued. The annual fee for original license is $80.00. The annual fee for renewal is $50.00. The annual fee for each branch license is $20.00. If a license is suspended or revoked~~

no part of the fees will be refunded. Fees should be paid to the Department of Public Safety, State of Utah.

D. Display of License Required - Upon approval of an original application or renewal thereof, the department will issue a license to the applicant. Such license must be conspicuously displayed in the licensee's principal place of business or branch location at all times.

E. Licenses Not Transferable - Licenses are not transferable.

1. In the event of any change of ownership or interest in the business, the department must be notified immediately in writing by the new owner and a new application must be submitted. Such application shall be considered a renewal as long as one or more of the original licensees remain as part owner of the business. In the event the change of ownership or interest in the school is to any person or persons not named in the application for the last current license or renewal license of the business, such license shall be considered a new application of the business owners.

2. The department, in proper cases, may permit continuance of the business by the current licensee, pending processing of the application made by the person or persons to whom the business is to be transferred.

3. Upon the issuance of the new license, the prior license must be immediately surrendered to the department. There is no provision that permits a refund of any part of the license fee.

F. Lost, Mutilated or Destroyed Licenses - If a license is lost, mutilated or destroyed, a duplicate will be issued upon proof of the facts and payment of a fee of $5.00, and in the case of mutilation, upon surrender of such mutilated license. Such proof shall consist of a notarized affidavit indicating:

1. The date the license was lost, mutilated or destroyed.

2. The circumstances involving the loss, mutilation or destruction.

G. Surrender of License - Whenever any school or branch thereof shall be discontinued for any reason, the license of the school or branch of the school must be surrendered to the department within five days. In all such cases, the licensee is required to state in writing the reason for such surrender.

H. Branch Offices - Any office or classroom facility used at any time by the licensee that is in a location other than the primary location, shall be separately licensed as a branch office. A branch office shall meet all of the requirements for the primary office and shall be similarly equipped and perform substantially the same services. Branch office applications shall be made on an application form provided by the department. Branch offices must be inspected by a department representative and meet all requirements before they conduct business.

I. Instruction Permit - Upon enrollment, an instruction permit shall be issued for each student indicating that he is receiving driver training and is licensed to receive behind-the-wheel instruction with a qualified instructor and other students. Instruction permits shall be retained by the instructor and shall be available in the dual controlled automobile at all times while the student is driving and will be given to the student upon satisfactory completion of the course.

Applications for original driver training instruction permits must be completed by the instructor. It is the responsibility of the instructor to insure that the original application contains the correct name, date of birth, age, and address of the student(s), by means of a birth certificate or other official forms of identification. All applications must be submitted to the department in duplicate (two copies), typed or printed in ink and be complete with all of the required information. In addition, duplicate instruction permits shall not be issued unless the information regarding name, age, and date of birth of the individual are the same as those on the original application. Instruction permits shall not be issued to persons under the age of 15 years and nine months. All unused instruction permits issued between January 1 and September 30 shall be returned to the department prior to December 31 of each year. Unused permits issued during October, November, and December shall be submitted with the unused permits of the subsequent year.

J. Certificate of Completion - Upon completion of the driver training course, a certificate of completion will be issued to the student, to be presented to the division when the student makes application for a driver license. All duplicates of completed certificates shall be ordered by the school that issued the original certificate and for a $5.00 duplicate fee the student may obtain a copy of the certificate from the department.

1. Students transferring from the Utah public school system into the commercial and private driver education system will not be given credit for any previous driver education instruction unless authorized in writing by the State Office of Education.

2. Students who have completed the classroom portion of driver training in another state but who have not completed behind-the-wheel driving and observation training may receive credit for the classroom instruction if they provide an authorized letter or certificate from the school which provided the training. The letter or certificate must state the number of classroom hours completed.

K. Monthly Reports - Each commercial or private driver training school shall submit a monthly report of the number of students completing both classroom and behind-the-wheel driver instruction. These reports shall be submitted on forms supplied by the department and must be received by the department no later than the 15th day of each month. Failure to submit these reports within the prescribed time is grounds for the cancellation or revocation of the school's license.

R708-2-4. Licensing of Commercial or Private School Driver Training Instructors.

A. Instructor's License Required - No person, including the owner, operator, partner or any officer of the licensee shall give instructions for hire in driver training, including the operation of motor vehicles, unless such person is the holder of a valid instructor's license issued for such purpose by the department, such license to be valid for use only in connection with the operation of the specific driver training school or schools listed thereon. Upon approval of an initial application or a renewal thereof, the department will issue an instructor's license to the applicant. The instructor's license will be valid for the calendar year and the annual fee for an original license is $15.00 and renewal thereof is $10.00. Any additional or substitute instructors, for full or part-time teaching, are required to secure an instructor's license. If an instructor's license is lost, the loss must be reported immediately in writing to the department and a duplicate instructor's license must be issued. The fee for a duplicate instructor's license is $3.00.

B. Application for an Instructor's License - Application for an original or renewal instructor's license must be made by the person desiring such a license on a form provided by the department. The original and each yearly renewal application must be accompanied

by a medical profile form provided by the department and completed by a physician or surgeon licensed to practice in this state. The form shall indicate any physical or mental impairments which may preclude his service as a driver training instructor. Physical examinations must have been made not more than three months prior to application. The school desiring to employ such a person as an instructor must endorse its consent on the application. When deemed necessary by the department, an applicant seeking to renew an instructor's permit may be required to take a driving skills test.

C. General Qualifications of Commercial or Private Driver Training Instructors - An instructor of driver training (there is no difference in the requirements for classroom or practice driving instruction) shall be qualified when that person has met the following conditions:

1. Possesses a valid Utah automobile driver license.

2. Has at least three years driving experience.

3. Is at least twenty one years of age.

4. Possesses acceptable physical condition as required by paragraph B of Section 4 of this rule.

5. Has a satisfactory driving record which consists of the following:

a. Instructors shall have a valid driver license, without a conviction for a moving violation or chargeable accident on record for which a driver license is suspended or revoked, for the two year period immediately prior to and during employment.

b. Conviction for a moving violation or chargeable accident for which a driver license is suspended or revoked shall result in automatic cancellation or revocation of authorization to teach which shall be concurrent with the driver license suspension or revocation.

6. Has completed specialized professional preparation in driver safety education consisting of not less than 21 quarter hours of credit as approved by the department. Of the 21 hours, one class in teaching methodology is required. In addition another class must include one of the following subjects:

Basic Driver and Safety Education;

Organization and Administration of Driver Education;

7. Has successfully passed both a written and a practical test administered by the department.

8. Has successfully passed a vision test and submitted a fingerprint record.

D. Special Tests and Examinations-Any of the following tests or examinations may be required by the department of an instructor applicant.

1. Written Test - This test shall be completed by the applicant on forms prepared by the department. The test may cover the following areas: Commercial and Private Driver Education Rules and Regulations, traffic laws, safe driving practices, operation of a motor vehicle, teaching methods and techniques, statutes pertaining to driver education, business ethics, office procedures and record keeping, financial responsibility, no fault insurance and the procedure involved in suspension or revocation of an individual's driving privilege, material contained in the "Utah Driver Handbook" and the applicant's general understanding of traffic safety education programs.

2. Practical Test - This test shall include driving a vehicle over a predetermined course during which the examiner accompanying the driver has an opportunity to judge accurately and grade the driver's ability to operate a vehicle safely and efficiently. The course selected may include right and left turns, stop signs, traffic lights, a grade, curves, parking, freeway, and any other pertinent maneuvers. The practical test may include a demonstration of the ability of the applicant to act as an instructor.

3. Vision Test - This test shall consist of the standard eye tests given applicants for a Utah operator or commercial driver license.

4. Fingerprints - All instructors will be required to submit to fingerprinting and will be checked for a possible criminal record through the Bureau of Criminal Identification. The application of each instructor shall be checked to determine if the individual has an unsatisfactory driving record in any state.

E. Instructors Must Be Affiliated With A Specific Commercial or Private Driver Training School. Instructors shall be sponsored by a commercial or private driver training school and the school shall be responsible for controlling and supervising the actions of said instructors. No commercial or private driver training school shall knowingly employ any person as an instructor or in any other capacity whatsoever, who has been convicted of a felony or any crime involving indecency, degeneracy or moral turpitude.

F. Carrying Instructor's License - The instructor's license must be in the possession of the instructor at all times while providing instruction in driver training both in the classroom and in a motor vehicle.

G. Recertification - Holders of both school licenses and instructor's certificates shall be required to recertify every three years. Recertification may be obtained by submitting proof of completion of classes, seminars, workshops, etc., approved by the department. A list of approved classes, seminars, workshops, etc., can be obtained from the department.

R708-2-5. Grounds for Cancellation, Revocation and Refusal to Issue or Renew Instructor or School License.

A. The commissioner or designated employees of the department shall have the power following a proper hearing to cancel, revoke or refuse to renew a license for either an instructor or a school. The commissioner or designated employees of the department shall also have the power to refuse to issue a license for either an instructor or a school. A license may be canceled, revoked or refused for renewal for any of the following reasons:

1. Failure to comply with any of the provisions of Utah Code Ann. Title 41 Chapter 2.

2. Failure to comply with any of the provisions of these administrative rules.

3. Providing false information in an application or form required by the department.

4. Commission of a violation of Section 4, C-5-B of this rule pertaining to moving violations or chargeable accident that results in a suspension or revocation.

5. Failure to permit the department or its representatives to inspect the school, classrooms, records, or motor vehicles used in the instruction of the school's students.

6. Commission of any crime involving violence, dishonesty, deceit, indecency, degeneracy, drug or alcohol abuse, fraud, or moral turpitude.

7. Commission of any fraudulent acts or practices by any partner, officer, agent or employee in relation to the business conducted under the license.

8. Failure to appear for a hearing on any of the above charges.

B. Any licensee who has had a license canceled or revoked shall not be eligible to reapply for a license until six months have elapsed since the date of the cancellation or revocation. The licensee shall be required to pay a $25.00 reinstatement fee to the department at the time of reapplication for reinstatement.

C. Any proceeding to cancel or revoke or to refuse to issue or renew a school or instructor license is hereby designated an informal adjudicative proceeding under the Utah Administrative Procedures Act, Utah Code Ann. Section 63-46b-4.

D. The following procedures will govern informal adjudicative proceedings:

1. Action by the department to cancel, revoke or refuse to issue or renew a license will be commenced by the department by the issuance of a notice of agency action. The notice of agency action will comply with the provisions of Section 63-46b-3.

2. No response need be filed to the notice of agency action.

3. An opportunity for a hearing will be granted on a cancellation, revocation or refusal to issue or renew a license.

4. The licensee or applicant will receive written notice of the hearing at least ten days prior to the date of the hearing.

5. No discovery, either compulsory or voluntary will be permitted prior to the hearing except that all parties shall have access to information contained in the department's files, and to investigatory information and materials not restricted by law.

6. The hearing shall be conducted by an individual designated by the commissioner.

7. Within twenty days after the close of the hearing or after the failure of a party to appear for the hearing, the individual conducting the hearing shall issue a written decision which shall constitute final agency action. The written decision shall state the decision, the reason for the decision, notice of right to request reconsideration under Section 63-46b-13, notice of right of judicial review under Section 63-46b-15, and the time limits for filing an appeal to the appropriate district court.

R708-2-6. Students Potentially Eligible for Instruction in Commercial or Private Driver Training Schools.

A. Who is Eligible? Commercial and private driver training schools may not offer driver training instruction to any individual who is not at least 15 years and nine months of age. No school or instructor shall decrease the required classroom, driving, or observation hours for any previous driver training instruction without department approval. No credit shall be given for driving experience which the student may have obtained prior to enrollment.

B. Fitness of Students Before Receiving Behind-the-Wheel Instruction - It is recommended that driver training instructors determine physical or emotional problems which may potentially result in a hazardous situation during a period of behind-the-wheel driving. It is recommended that school personnel follow the procedures for making such determination established by the division before permitting any students to participate in the behind-the-wheel phase of the program. Information concerning visual, mental or physical standards may be obtained from any division office.

R708-2-7. Driver Training Standards.

A. Classroom Instruction - For purposes of sequencing instructional events, when practicable, classroom instruction shall be followed by behind-the-wheel practice driving instruction. Concurrent programs are also permitted, however, caution should be exercised that sufficient classroom instruction is given at the beginning of the course to properly prepare the student to handle practice driving instruction.

A course of classroom instruction in driver training shall consist of instruction of not less than 18 clock hours including all of the following areas:

1. Mental attitudes and physical characteristics of individuals as related to driving.

2. Laws and regulations affecting use of motor vehicles with special emphasis on Utah laws.

3. Characteristics of streets and highways, i.e., driving in urban, suburban and rural areas and freeway driving.

4. The automobile and its maintenance.

5. The driver as a consumer of highway transportation services.

6. The cyclist in traffic.

7. Driving skills.

8. Effects of the motor vehicle on modern life.

9. Utah's motor vehicle laws regarding a driver's responsibility when involved in an accident, financial responsibility and no fault insurance.

10. Causes and processes involved in the suspension or revocation of an individual's driver license.

Classroom instruction shall be conducted for not less than nine separate class sessions on nine separate days of two hours for each classroom setting. Classroom instruction will preferably be extended over a two to four week period and shall be conducted in a manner that assures each student will receive instruction in each segment of the curriculum. Not more than five of the classroom hours may be devoted to the showing of slides or films or for presentations by professional people who have been approved in writing in advance by the department.

B. Behind-the-Wheel-or-Practice Driving Instruction - Behind-the-wheel driving instruction shall include a minimum of six clock hours of instruction in a dual-control automobile with a qualified instructor and be limited to a maximum of two hours per day. The front seat of the vehicle shall be occupied by two individuals - the instructor and student. Under no circumstances shall there be more than five individuals in the vehicle.

A course of behind-the-wheel driving shall include teacher demonstrations, observations and student practice in using vehicle controls to start, shift gears, make right and left turns, stop, back, park, etc. This instruction should begin under relatively simple conditions and progress until the student has acquired reasonable skill in operating the vehicle under varying traffic conditions. Each student should have experience in driving on urban streets, open highways, and when appropriate, on freeways. Practice driving should be given under conditions where the student will have an opportunity to develop sound driving practices, including instruction in hazardous conditions which may be present at different times of the day and year. Special emphasis should be given to the matter of developing desirable attitudes so that each student indicates a sincere desire to show courteous and safe consideration for other users of the road and other occupants of their vehicle.

C. In-Vehicle Observation Time - All students shall receive a minimum of six hours of observation of other student drivers. This observation shall be from the rear seat and is limited to a maximum

of two hours per day. The students observing from the rear seat, as well as the practice driver, should receive benefit from time in the car. The teacher's role is not merely to provide driving experience for the student behind-the-wheel, but to make the car a practical classroom on wheels where all students are learning about the multitude of problems and situations which face a driver and the safe and sane solution to these problems.

D. Dual Control Automobiles and Equipment - All motor vehicles which are used for the purposes of behind-the wheel instruction of students in commercial or private training schools shall be properly registered in compliance with the motor vehicle registration laws of Utah and maintained in safe mechanical condition at all times. All motor vehicles shall meet the following requirements.

1. Dual Control Automobiles - Automobiles shall be provided with functioning dual control brakes.

2. Transmission - Students shall receive instruction in either standard shift automobiles or in automobiles with an automatic transmission. The option of choosing the type of transmission shall be left with the school.

3. Maintenance - Each automobile used for driver training shall receive preventive maintenance and repairs in accordance with recommendations of the manufacturer and maintenance records shall be kept.

4. Mirrors - A dual-control automobile shall be equipped with outside and inside mirrors for both the driver and the instructor for the purpose of observing rearward.

5. Seat Belts - All automobiles used in driver training will be equipped with a separate seat belt for each occupant of the vehicle.

6. Heaters and Defrosters - Heaters and defrosters shall be provided for the protection of the health and comfort of students and teachers and for the safe operation of the vehicle.

7. Tire Chains - Tire chains or snow tires shall be used in conformance with local police or highway patrol recommendations if instruction is given in snow or on icy road surfaces.

8. Special Safety Equipment - Fire extinguisher, first aid kit, safety flares and/or reflectors, all maintained in good and operable condition, shall be carried and accessible in every automobile used in driver training.

9. Safety Inspection and Use of Defective Equipment - All dual control vehicles used in a driver training program must be capable of passing an official Utah State Vehicle Safety Inspection at all times during their instructional use. Failure to properly maintain the safe operating condition of a dual controlled instructional vehicle is grounds for the cancellation or revocation of the license of the school operating the vehicle. A dual control automobile shall be replaced when the automobile cannot be maintained to meet safety standards.

10. Marking of Cars - Each automobile used by a commercial or private school for driver training shall be properly identified to safeguard against accidents. An automobile is properly identified when:

The words "STUDENT DRIVER" are displayed on the front and rear and on both the left and right sides of the automobile. The letters shall be at least three inches in height. All advertising or other marking of the car for identification purpose with a specific commercial or private driving school must be limited to letters not to exceed two inches in height.

It is the responsibility of the driver training school to notify the department of any motor vehicle added to or deleted from their fleet. No vehicle many be used for driver training until it passes inspection by the department.

E. Utah Driver Handbook-Utah Traffic Laws- All students shall have a copy of the current Utah Driver Handbook for study which shall be used in the course as the teacher deems most effective. The handbook should not become the sole test of the course, but is an essential aid when Utah Traffic Laws are studied. Handbooks are available from the division.

R708-2-8. Notification of Accident.

Should any driver training vehicle become involved in an accident during the course of instruction, the instructor shall, within five working days of the date of the accident, submit to the department a copy of the investigating officer's accident report.

R708-2-9. Insurance Required.

The licensee must file with the department evidence of the minimum required insurance with a company authorized to do business in the State of Utah. Each commercial or private school shall provide suitable insurance coverage on each automobile used in the driver training program sufficient to protect the instructor and the users of the automobile. The minimum insurance coverage is that required by the Utah Insurance Code, Chapter 22, Part III, Motor Vehicle Insurance, Utah Code Annotated.

The insurance company supplying the policy required by this act shall furnish the department with a certificate of insurance and shall be required to notify the department immediately upon cancellation of said insurance. Operation of a school without the required minimum insurance coverage shall be grounds for cancellation or revocation of the licensee's license.

R708-2-10. Records and Contracts.

A. Contracts and Agreements - A student shall not be given lessons, lectures, tutoring or any other service relating to instructions in driver training including motor vehicle or motorcycle operation unless and until a written contract department has been executed both by the school and by the student.

1. A copy of such contract must be given to the student and the original thereof must be retained by the school in its duplicate contract file.

2. A school shall not agree to give an unlimited number of lessons nor shall any school represent or agree, orally or in writing, or as part of an inducement to sign any contract or to enroll for lessons, to give instruction until the driver license is obtained, or to give free lessons, or a premium or discount if a driver license is not obtained.

3. The term "no refund" is not permitted in contracts. Schools may substitute the following: "This school will not refund any tuition or part of tuition if the school is ready, willing and able to fulfill its part of the agreement". This does not prohibit the refunding of all or a portion of the student fee, however, when circumstances exist which preclude the student from completing the course.

B. Records - Every licensee shall maintain the following records.

1. A permanently bound book, with pages consecutively numbered, setting forth the name, address, record of every person

~~given lessons, lectures, tutoring, instruction of any kind or any other services relating to instruction in the operation of motor vehicles.~~

~~2. A book or other record, showing the date, type and duration of all lessons, lectures, tutoring, instructions or other services relating to instruction in the operation of motor vehicles including the names of the instructors giving such lessons or instructions and identification of the vehicle in which any road lesson is given.~~

~~3. Authorized personnel from the department shall at least annually review the records of all schools and may observe and note the instruction given both in the classroom and behind the wheel. The department shall have the right to conduct reviews of the operations of the schools whenever it is deemed necessary to insure compliance with established rules and regulations governing commercial and private driver training schools.~~

~~C. Loss, Mutilation or Destruction of Records - The loss, mutilation or destruction of any records which a driver school is required to maintain under these regulations must be reported to the department immediately by affidavit stating:~~

~~1. The date such records were lost, destroyed or mutilated.~~

~~2. The circumstances involving such loss, destruction or mutilation.~~

~~D. Retention of Records - All records must be retained for three years during which period they shall be subject to the inspection of the commissioner or his authorized representative at all times during reasonable business hours.~~

~~R708-2-11. Advertising, Location of Schools and Classrooms.~~

~~A. Advertising - Advertising by a commercial or private driver training school must conform to the following:~~

~~1. Schools must not publish, advertise or intimate that a driver license is guaranteed or assured. The display of a sign such as "Driver License Secured Here" is forbidden.~~

~~2. A licensed driver training school may exhibit on its premises a sign reading, "This School is Licensed by the State of Utah".~~

~~3. No commercial or private driver training school shall solicit business or cause business to be solicited in its behalf or display or distribute any advertising material within 1500 feet of a building in which motor vehicles registrations or driver licenses are issued to the public.~~

~~B. Location and Site of Commercial and Private Driver Training Schools - In municipalities having a population of 50,000 or more, no license will be issued for a commercial or private driver training school if the place of business is within 1500 feet of a building in which motor vehicle registrations or driver licenses are issued to the public. This rule shall not apply, however, to compel the discontinuance of a driver training school office which was already established and in operation at the time of the adoption of these regulations. No driver training school may change its place of business or location without prior notification to the department.~~

~~C. Classrooms - Each school shall provide classroom space, either in their own building or in a common classroom. Said classroom shall provide seating facilities for all students, sanitary facilities and appropriate training aids, such as blackboards, charts, projectors, etc. Classroom facilities and building shall be in compliance with local and state fire, safety and health codes.~~

~~R708-2-12. Changes in Officers and Addresses.~~

~~The department must be notified in writing by the school immediately if there is a change in the residence or business address of any individual owner, partner, officer or employee of any driver school. The department must be notified by the school in writing of any change in the officers, directors or controlling stockholder and must supply the same information as would be required on an original application by the corporation. Failure to notify the department of the change of address or in the officers, directors or controlling stockholders of any corporation or change in the members of a partnership may be considered reasonable grounds for the cancellation or revocation of the school license.~~

~~KEY: driver education, schools, rules and procedures~~
~~1992 53-3-501 through 509~~
~~Notice of Continuation December 3, 1997~~]

R708-2. Commercial Driver Training Schools.

R708-2-1. Purpose.

Section 53-3-501 through 509, requires the Driver License Division to administer the Commercial Driver Training Schools Act by licensing and regulating commercial driver training schools and instructors of such schools. This rule assists the division in doing that.

R708-2-2. Authority.

This rule is authorized by Section 53-3-505.

R708-2-3. Definitions.

(1) "Behind-the-wheel instruction" means instruction a student receives while driving a commercial driver training vehicle.

(2) "Branch office" means an approved location where the business of the driver training school is conducted other than the principal place of business.

(3) "Classroom instruction" means that part of the driver training course which takes place in a classroom and which utilizes effective teaching methods such as lecture, discussion, and audio-visual aids.

(4) "Commercial driver training school" or "school" means a business enterprise conducted by an individual, association, partnership, or corporation for the education and training of persons, either practically or theoretically, or both, to drive motor vehicles, including motorcycles, and to prepare an applicant for an examination given by the state for a license or learner permit, and charging a consideration or tuition for those services.

(5) "Commercial driver training vehicle" means a motor vehicle equipped with a second functioning foot brake and inside and outside mirrors which are positioned for use by the instructor for the purpose of observing rearward.

(6) "Commissioner" means the Commissioner of the Department of Public Safety.

(7) "Corporation" means a business incorporated under the laws of a state or other jurisdiction.

(8) "Department" means the Department of Public Safety.

(9) "Division" means the Driver License Division.

(10) "Driver training" means behind the wheel instruction, extended learning, observation time, and classroom instruction provided by a driver training school for the purpose of teaching students to safely operate motor vehicles.

(11) "Extended learning course" means a home-study course in driver education offered by a school and approved and operated under the direction of an institution of higher learning. The division must also approve the course.

(12) "Fraudulent practices" means any misrepresentation on the part of a licensee or any partner, officer, agent, or employee of a licensee tending to induce another to part with something of value or to surrender a legal right.

(13) "Institution of higher learning" means a university or college currently accredited by an appropriate accreditation agency recognized by the United States Department of Education.

(14) "Instructor" means any person, whether acting for himself as operator of a commercial driver training school or for any school for compensation, who teaches, conducts classes of, gives demonstrations to, or supervises practice of persons learning to drive motor vehicles, including motorcycles, or preparing to take an examination for a license or learner permit, and any person who supervises the work of any other instructor.

(15) "Observation time" means the time a student is riding in the rear seat of a commercial driver training vehicle to observe the driver instructor, other student drivers, and other road users.

(16) "Partnership" means an association of two or more persons who co-own and operate a commercial driver training school.

R708-2-4. Licensing Requirement for a Commercial Driver Training School.

(1) Every person who operates a commercial driver training school shall obtain a license from the division. License applications may be obtained from the Driver License Division at 4501 South 2700 West, Salt Lake City, Utah. Applicants are also responsible for obtaining any business licenses required by the municipality or county in which they are located. School and business licenses must be conspicuously displayed in the licensee's principal place of business and branch offices.

(2) A license is valid for the calendar year and expires on December 31 of the year issued. The annual fee for an original license is $80. The annual fee for a renewal license is $50. The annual fee for each branch license is $20. Fees shall be payable to the Department of Public Safety. If a license is suspended or revoked, no part of the fee will be refunded.

(3) Licenses are not transferable.

(4) If a license is lost or destroyed, a duplicate will be issued upon proof of loss or destruction and payment of a fee of $5. A notarized affidavit setting forth the date the license was lost or destroyed and the circumstances of such loss or destruction must be provided.

(5) Whenever any school or branch office is discontinued, the school or branch office license must be surrendered to the division within five days. In such cases, the licensee shall state in writing the reason for such surrender.

(6) Any branch office or classroom facility in a location other than the school's principal place of business shall be separately licensed. A branch office shall meet the same requirements as the school's principal place of business and shall be similarly equipped and perform substantially the same services. Application for a branch office license shall be made on an application form provided by the division. Branch offices shall be inspected by a division representative before they can be licensed.

R708-2-5. Application for a Commercial Driver Training School License.

(1) Application for an original or renewal commercial driver training school license must be made on forms provided by the division, signed by the applicant, and notarized. In the case of a partnership, the application must be signed by all partners. In the case of a corporation, the application must be signed by an officer of the corporation. Applications must be submitted at least 30 days prior to licensing. An appointment should be made when the application is filed to have the school inspected by a division representative.

(2) Every application must be accompanied by the following supplementary documents:

(a) in the case of a corporation, a certified copy of a certificate of incorporation;

(b) samples of all forms and receipts to be used by the school;

(c) a schedule of fees for all services to be performed by the school;

(d) a fingerprint record for each applicant, partner or corporate officers. A Bureau of Criminal Identification check will be done by the division on all applicants, partners, and corporate officers. Fingerprints may be taken by any law enforcement agency. The division may require renewal applicants to submit new fingerprint records;

(e) a certificate of insurance for each vehicle used for driver training purposes; and

(f) a copy of all tests and criteria which the school requires in order for a student to satisfactorily complete the driver training course.

(3) The division may require a financial statement from each applicant.

R708-2-6. Licensing Requirements for a Commercial Driver Training School Instructor.

(1) Every person who serves as an instructor in a commercial driver training school, including the owner, operator, partner or corporate officer of the licensee, substitute or part-time instructor, shall obtain an instructor's license from the division. Such license shall be valid only for the specific driver training school listed on the license.

(2) A license is valid for the calendar year and expires on December 31 of the year issued. The annual fee for an original license is $15. The annual fee for a renewal license is $10. Fees shall be payable to the Department of Public Safety. If a license is suspended or revoked no part of the fee will be refunded.

(3) Licenses are not transferable.

(4) If an instructor license is lost or destroyed, a duplicate will be issued upon proof of loss or destruction and payment of a fee of $3. A notarized affidavit setting forth the date the license was lost or destroyed and the circumstances of such loss or destruction must be provided.

R708-2-7. Additional Requirements for Commercial Driver Training School Instructors.

(1) In addition to obtaining a license, a commercial driver training school instructor must:

(a) have a valid Utah driver license;

(b) be at least twenty one years of age;

(c) have at least three years of driving experience;

(d) have a driving record free of conviction for a moving violation or chargeable accident resulting in suspension or revocation of the driver license for the two year period immediately prior to application and during employment and be checked to determine if there is an unsatisfactory driving record in any state;

(e) be in acceptable physical condition as required by Section 8 of this rule;

(f) complete specialized professional preparation in driver safety education consisting of not less than 21 quarter hours of credit as approved by the division. Of the 21 hours, one class must be in teaching methodology and another class must include basic driver training instruction or organization and administration of driver training instruction;

(g) pass a written test given by the division. The test may cover commercial driver training school rules, traffic laws, safe driving practices, motor vehicle operation, teaching methods and techniques, statutes pertaining to commercial driver training schools, business ethics, office procedures and record keeping, financial responsibility, no fault insurance, procedures involved in suspension or revocation of an individual's driving privilege, material contained in the "Utah Driver Handbook", and traffic safety education programs;

(h) pass a practical driving test;

(i) pass the same standard eye test that is given to applicants who apply for a Utah operator or commercial driver license; and

(j) submit a fingerprint record for a criminal history record check.

(2) Instructors shall be sponsored by a commercial driver training school which shall be responsible for controlling and supervising the actions of the instructors. No school may knowingly employ any person as an instructor or in any other capacity if such person has been convicted of a felony or any crime involving moral turpitude.

(3) The instructor's license must be in the possession of the instructor at all times while providing behind the wheel or classroom instruction.

R708-2-8. Application and Medical Requirements for a Commercial Driver Training School Instructor License.

(1) Application for an original or renewal instructor's license must be made on forms provided by the division, signed by the applicant in front of a division employee authorized to administer oaths. Applications must be submitted at least 30 days prior to licensing. The original and each yearly renewal application must be accompanied by a medical profile form provided by the division and completed by a health care professional as defined in 53-3-302(2).

(2) The medical profile form shall indicate any physical or mental impairments which may preclude service as a commercial driver training school instructor. The physical examinations must take place no more than three months prior to application.

(3) The commercial driver training school desiring to employ the applicant as an instructor must sign the application verifying that the applicant will be employed by the school.

(4) When deemed necessary by the division, an applicant seeking to renew an instructor's permit may be required to take a driving skills test.

R708-2-9. Re-certification.

Holders of school licenses and instructor's licenses may at the discretion of the division be required to re-certify every three years. Re-certification may be obtained by submitting proof of completion of classes, seminars, and workshops approved by the division.

R708-2-10. Classroom and Behind-The-Wheel Instruction.

(1) Classroom instruction for students who are under 18 years of age at the time of enrollment shall meet or exceed 30 clock hours and shall be conducted in not less than 15 separate class sessions on 15 separate days of two hours per class. Classroom instruction for students who are 18 years of age or older at the time of enrollment shall meet or exceed 18 clock hours and shall be conducted in not less than nine separate class sessions on nine separate days of two hours per class. Not more than five of the classroom hours may be devoted to showing slides or films. Classroom instruction shall cover the following areas:

(a) attitudes and physical characteristics of drivers;

(b) driving laws with special emphasis on Utah law;

(c) driving in urban, suburban, and rural areas;

(d) driving on freeways;

(e) maintenance of the motor vehicle;

(f) affect of drugs and alcohol on driving;

(g) motorcycles, bicycles, trucks, and pedestrian's in traffic;

(h) driving skills;

(i) affect of the motor vehicle on modern life;

(j) Utah's motor vehicle laws regarding financial responsibility and no fault insurance, and a driver's responsibility when involved in an accident; and

(k) suspension or revocation of a driver license.

(2) Behind-the-wheel instruction shall include a minimum of six clock hours of instruction in a dual-control vehicle with a licensed instructor. Each student will be limited to a maximum of two hours of behind-the-wheel instruction per day. The front seat of the vehicle shall be occupied by the instructor and no more than one student. Under no circumstances shall there be more than five individuals in the vehicle.

(a) Behind-the-wheel instruction shall include instructor demonstrations and student practice in using vehicle controls to start, shift gears, make right and left turns, stop, backup, and park. This instruction shall begin under relatively simple conditions and progress until the student has acquired reasonable skill in operating the vehicle under varying traffic conditions.

(b) Students shall receive experience in driving on urban streets, open highways, and freeways. Behind the wheel instruction must include the opportunity to drive under hazardous conditions which may be present at different times of the day and year. Special emphasis should be given to teaching students to show courtesy to other drivers and pedestrians.

(c) Students shall receive a minimum of six clock hours of observation time. This instruction shall be obtained while the student is in the rear seat of the vehicle and may not exceed two hours per day. Students observing from the rear seat, as well as the student driver, should benefit from time in the vehicle. The instructor's role is not merely to provide driving experience for the student behind-the-wheel, but to make the vehicle a practical classroom on wheels where all students may learn about the problems which face a driver and the appropriate solution to such problems.

(3) Instructors shall screen students for visual acuity and physical or emotional conditions which may compromise public safety before allowing students to participate in behind-the-wheel instruction.

(a) Students must have 20/40 visual acuity or better in each eye and a visual field of 120 degrees in each eye. Students with less than the required visual acuity and/or visual field in each eye shall be referred to the division for further consideration.

(b) Students must answer all questions on a health questionnaire approved by the Driver License Medical Advisory Board and sign a statement of affirmation of truth. Students indicating a physical or emotional condition on the questionnaire shall be referred to the division for further consideration. Health questionnaires shall be provided by the division.

(4) Commercial driver training schools shall provide each student a copy of the current Utah Driver Handbook. The handbook shall not be used as the sole text of the course, but as an essential aid when Utah traffic laws are studied. Handbooks may be obtained by the schools from the division.

R708-2-11. Monthly Reports.

(1) Each commercial driver training school shall submit a monthly report of the number of students completing both classroom and behind-the-wheel instruction.

(2) Monthly reports shall be submitted on forms supplied by the division and must be received by the division no later than the 15th day of each month.

(3) Failure to submit monthly reports within the prescribed time is grounds for the cancellation or revocation of the school's license.

R708-2-12. Extended Learning Course.

(1) A commercial driver training school may offer an extended learning course of instruction as a substitute for the classroom instruction set forth in Section 10 of this rule provided such course is approved by an institution of higher learning and the division.

(2) An extended learning course must be operated under the direction of an institution of higher learning. The institution of higher learning shall notify the division in writing when it has approved a school's extended learning course. The institution of higher learning will monitor any extended learning course approved by them to ensure the course is run as originally planned. They will notify the division of any substantive changes in the course as well as their approval of such changes. An institution of higher learning can approve the extended learning course of more than one school.

(3) An extended learning course shall consist at a minimum of a text, a workbook, and a 50 question competency test which addresses the subjects described in Section 10 of this rule.

(a) All materials, including texts, workbooks, and tests, used in the course must be submitted by the school to the division for approval.

(b) The average study time required to complete the workbook exercises must meet or exceed 30 clock hours for students who are under 18 years of age at the time of enrollment, or 18 clock hours for students who are 18 years old or older at the time of enrollment.

(c) An extended learning student must complete all workbook exercises.

(d) An extended learning student must pass the 50 question written competency test at 80% or better. Testing shall occur under the following conditions:

(i) the test shall be taken at the school;

(ii) testing procedures shall be monitored by a licenced instructor;

(iii) the test shall be completed by the student without any outside help;

(iv) the school shall maintain at least three separate 50 question competency tests created from a test pool of at least 200 questions;

(v) the extended learning student will be given a minimum of three opportunities to pass the test. After each failure the school will provide the student with additional instruction to assist the student to pass the next test;

(vi) the original fees for the course must include the three opportunities to pass the test and any additional instruction that is required;

(vii) an extended learning student must pass the test in order to complete driver training; and

(viii) the school will maintain for three years records of all tests administered by the school. Test records shall include the results of all tests taken by every student.

R708-2-13. Instruction Permits.

(1) A commercial driver training school must obtain from the division an instruction permit for each student enrolled in the school. An instruction permit provides proof that the student is enrolled in a driver training course and is licensed to receive behind-the-wheel instruction with a licensed instructor. Instruction permits shall be retained by the instructor and shall be available in the vehicle at all times while the student is driving.

(a) It is the responsibility of the school to ensure that the instruction permit application contains the correct name, date of birth, and address of the student, by means of a birth certificate or other official form of identification.

(b) Application for an instruction permit must be typed or printed in ink. Duplicate instruction permits may not be issued unless the student's name and date of birth are the same as those on the original application.

(c) Instruction permits shall not be issued for persons under the age of 15 years and nine months.

(d) All unused instruction permits issued between January 1 and September 30 of each year shall be returned to the division prior to December 31 of that year. Unused permits issued during October, November, and December shall be submitted with the unused permits of the following year.

(2) Upon successful completion of the driver training course, the commercial driver training school shall release to the student a form consisting of an instruction permit, a certificate of training which must be signed by the student, and a certificate of completion which must be signed by the instructor and the school owner.

(3) The student shall present the certificate of completion to the division when the student makes application for a driver license.

(4) Duplicate certificates of completion may be obtained for $5.

R708-2-14. Students Transferring from the Utah Public School System.

(1) Students transferring from the Utah public school system will not be given credit by the division for any previous driver education instruction unless authorized in writing by the State Office of Education.

(2) Students who have completed the classroom portion of driver training in another state, but who have not completed behind-the-wheel driving instruction and observation time, may receive credit for the classroom instruction if they provide an authorized letter or certificate from the school which provided the training. The letter or certificate must state the number of classroom hours completed.

R708-2-15. Commercial Driver Training Vehicles.

(1) Commercial driver training vehicles used for behind-the-wheel instruction shall be properly registered, maintained in safe mechanical condition, and equipped with the following:

(a) functioning dual control brakes;

(b) outside and inside mirrors for both the driver and the instructor for the purpose of observing rearward;

(c) a separate seat belt for each occupant;

(d) functioning heaters and defrosters; and

(e) a functioning fire extinguisher, first aid kit, safety flares and/or reflectors.

(2) Students shall receive instruction in either standard shift or automatic transmission vehicles. The school shall have the option of choosing the type of transmission.

(3) If instruction is given in snow or on icy road surfaces tire chains or snow tires shall be used in compliance with local police or highway patrol recommendations.

(4) Vehicles must be capable of passing a state safety inspection at all times during their instructional use. Failure to maintain a vehicle in safe operating condition is grounds for the cancellation or revocation of the license of the school operating the vehicle.

(5) Vehicles unable to meet safety standards shall be replaced by the school.

(6) It is the responsibility of the school to notify the division of any vehicle added to or deleted from their fleet. No vehicle may be used for driver training until it passes inspection by the division.

(7) Each vehicle used by a school for driver training shall be properly identified to safeguard against accidents. A vehicle is properly identified when the words "STUDENT DRIVER" are displayed on the front and rear and on both the left and right sides of the vehicle. The letters shall be at least three inches in height.

(8) Advertising or other markings on the vehicle for identifying or advertizing the school shall not exceed two inches in height.

R708-2-16. Notification of Accident.

If any driver training vehicle is involved in an accident during the course of instruction, the school shall notify the division in writing within five working days of the date of the accident and submit to the division a copy of the investigating law enforcement officer's accident report as soon as it is available.

R708-2-17. Insurance.

(1) Each commercial driver training school must file with the division evidence of the minimum required insurance with an insurance company authorized to do business in Utah. Schools shall maintain suitable insurance coverage on each vehicle used in the driver training program sufficient to protect the instructor, students, and the public. The minimum insurance coverage is that required by the Utah Insurance Code, in Title 31A, Chapter 22, Part 3.

(2) The insurance company supplying the policy shall furnish to the division a certificate of insurance and shall notify the division immediately upon cancellation of said insurance. Operation of a vehicle without the required minimum insurance coverage shall be grounds for cancellation or revocation of the licensee's license.

R708-2-18. Contracts.

(1) A student shall not be given lessons, lectures, tutoring or any other service relating to instruction in driver training, unless a written contract approved by the division has been executed by the school and the student.

(2) A copy of the contract must be given to the student and the original retained by the school.

(3) A school shall not agree orally or in writing to give an unlimited number of lessons, to give instruction until the driver license is obtained, or to give free lessons, or a premium or discount if a driver license is not obtained.

(4) The term "no refund" or similar phrase is not permitted in contracts.

R708-2-19. Records.

(1) Every school shall maintain the following records:

(a) A permanently bound book, with pages consecutively numbered, setting forth the name, address, record of every person receiving lessons, lectures, tutoring, instruction of any kind or any other services relating to instruction in the operation of motor vehicles.

(b) A book or other record showing the date, type and duration of all lessons, lectures, tutoring, instructions or other services relating to instruction in the operation of motor vehicles. It will also contain the names of the instructors giving such lessons or instructions and identification of the vehicle in which any behind the wheel instruction is given.

(2) The division shall review the records of all schools at least annually and may observe the instruction given both in the classroom and behind the wheel. The division shall have the right to review the operation of the schools whenever the division deems it necessary to insure compliance with this rule.

(3) The loss, mutilation or destruction of any records which a school is required to maintain, must be immediately reported by the school to the division by affidavit stating:

(a) The date such records were lost, mutilated or destroyed; and

(b) The circumstances involving such loss, mutilation or destruction.

(4) All records must be retained by the schools for three years during which time they shall be subject to inspection by the division during reasonable business hours.

R708-2-20. Advertising and School Location.

(1) Schools may not imply or expressly guarantee that a driver license is guaranteed or assured. The display of a sign such as "Driver License Secured Here" is forbidden.

(2) A school may display on its premises a sign reading, "This School is Licensed by the State of Utah".

(3) No school may solicit business directly or indirectly or display or distribute any advertising material within 1500 feet of a building in which vehicle registrations or driver licenses are issued to the public.

(4) In municipalities having a population of 50,000 or more, no license will be issued for a commercial driver training school if the school's place of business is located within 1500 feet of a building in which vehicle registrations or driver licenses are issued to the public.

(5) No driver training school may change its place of business or location without prior approval from the division.

(6) Each school shall provide classroom space, either in their own building or in any other building approved by the division. The classroom shall have seating for all students, access to sanitary facilities, and appropriate training aids, such as blackboards, charts, projectors, etc. Classroom facilities and buildings shall comply with federal, state, and local building, fire, safety and health codes.

R708-2-21. Change of Address and Officers.

(1) The commercial driver training school shall immediately notify the division in writing if there is a change in the residence or business address of any individual owner, partner, officer or employee of the school.

(2) The commercial driver training school shall immediately notify the division in writing of any change in officers or directors and shall provide the same information that would be required on an original application by the corporation.

(3) Failure to notify the division of a change of address, or of a change in the officers, directors or controlling stockholders of any corporation, or change in the members of a partnership, may be considered grounds for the cancellation or revocation of the school license.

R708-2-22. Change in Ownership.

(1) In the event of any ownership change in the school, the division must be notified immediately in writing by the new owner and a new application must be submitted. Such application shall be considered a renewal if one or more of the original licensees remain as part owner of the school. In the event the change in ownership is to any person or persons not named in the application for the last current license or renewal license of the school, such license shall be considered a new application.

(2) The division may permit continuance of the school by the current licensee, pending processing of the application made by the person or persons to whom ownership of the school is to be transferred.

(3) Upon issuance of the new license, the prior license must be immediately surrendered to the division. Refund of any part of the license fee is not permitted.

R708-2-23. Grounds for Cancellation, Revocation or Refusal to Issue or Renew Instructor License or School License.

(1) Following a proper hearing, the division may cancel, revoke or refuse to renew a license for either an instructor or a school. The division may also refuse to issue a license for an instructor or a school. A license may be canceled, revoked or refused for renewal for any of the following reasons:

(a) failure to comply with any of the provisions of Title 53, Chapter 3, Part 5;

(b) failure to comply with any of the provisions of this rule;

(c) providing false information in an application or form required by the division;

(d) commission of a violation of Section 7(d) of this rule pertaining to moving violations or chargeable accident that results in a suspension or revocation of one's driver license;

(e) failure to permit the division or its representatives to inspect the school, classrooms, records, or vehicles used in the instruction of the school's students;

(f) conviction of any crime involving violence, dishonesty, deceit, indecency, degeneracy, drug or alcohol abuse, fraud, or moral turpitude;

(g) conviction of any fraudulent acts or practices by any partner, officer, agent or employee in relation to the business conducted under the license; or

(h) failure to appear for a hearing on any of the above charges; and

(i) violation of any of the provisions of this rule.

(2) Any licensee who has had a license canceled or revoked shall not be eligible to reapply for a license until six months have elapsed since the date of the cancellation or revocation. In addition to the other fees provided for in section 4(2),the licensee shall be required to pay a $25.00 reinstatement fee to the division at the time of application for reinstatement.

(3) Any proceeding to cancel, revoke or refuse to issue or renew a school or instructor license is hereby designated as an informal adjudicative proceeding under the Utah Administrative Procedures Act, Section 63-46b-4.

(4) The following procedures will govern informal adjudicative proceedings:

(a) Action by the division to cancel, revoke or refuse to issue or renew a license will be commenced by the division by the issuance of a notice of agency action. The notice of agency action will comply with the provisions of Section 63-46b-3.

(b) No response is required to the notice of agency action.

(c) An opportunity for a hearing will be granted on a cancellation, revocation or refusal to issue or renew a license.

(d) The licensee or applicant will receive written notice of the hearing at least ten days prior to the date of the hearing.

(e) No discovery, either compulsory or voluntary, will be permitted prior to the hearing except that all parties shall have access to information contained in the division's files, and to investigatory information and materials not restricted by law.

(f) The hearing shall be conducted by an individual designated by the division.

(g) Within twenty days after the close of the hearing or after the failure of a party to appear for the hearing, the individual conducting the hearing shall issue a written decision which shall constitute final agency action. The written decision shall state the decision, the reason for the decision, notice of right to request reconsideration under Section 63-46b-13, notice of right of judicial review under Section 63-46b-15, and the time limits for filing an appeal to the appropriate district court.

KEY: driver education, schools, rules and procedures
1998 53-3-505
Notice of Continuation December 3, 1997

Tax Commission, Property Tax
R884-24P-24
Form for Notice of Property Valuation and Tax Changes Pursuant to Utah Code Ann. Sections 59-2-918 through 59-2-924

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21639
FILED: 11/02/1998, 17:43
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Subsection 59-2-924(2)(b)(iii) defines "new growth" as it is used in the certified tax rate formula.

SUMMARY OF THE RULE OR CHANGE: The proposed amendment would provide clearer guidelines on how to calculate and apply "new growth" in the certified tax rate formula under varying circumstances. Previous practice always substituted a $0 value for new growth in the certified tax rate formula when "new growth" was calculated to be a negative value. The proposed amendment would codify this practice except when the negative new growth was due to shrinking entity boundaries.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 59-2-918 through 59-2-924

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: The proposed rule changes should have no effect on the state budget.
❖LOCAL GOVERNMENTS: For a taxing entity with a constant boundary or with negative new growth solely due to valuation changes, the proposed rule changes should have no effect. For a taxing entity with negative new growth because of shrinking boundaries, the proposed changes would prevent the taxing entity from having a certified tax rate that raises the same amount of revenue as the taxing entity did the previous year when its boundaries were larger; i.e., its certified tax rate and the revenue it generates would decrease.
❖OTHER PERSONS: In those instances where a taxing entity's negative new growth is due to shrinking boundaries, the proposed rule will decrease a taxing entity's certified tax rate. This will result in lower taxes to the taxpayer unless the taxing entity elects to meet the requirements needed to impose a tax increase.
COMPLIANCE COSTS FOR AFFECTED PERSONS: Under the proposed rule, counties would need to keep track of the taxable value of all annexations. This additional requirement should be met with little additional resources in all but the larger counties. In some counties, computer programs would need to be updated to track these values. For these counties, the changes will require additional resources to implement. The proposed changes should have little effect on the Property Tax Division in administering the certified tax rate process.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Businesses would experience lower taxes should they be affected by an entity with shrinking boundaries and that entity does not elect to impose a tax increase that would negate the lower tax rate caused by this amendment.

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) 297-3900, by FAX at (801) 297-3919, or by Internet E-mail at phendric@tax.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 12/15/1998.

THIS RULE MAY BECOME EFFECTIVE ON: 12/16/1998

AUTHORIZED BY: Pam Hendrickson, Commissioner

R884. Tax Commission, Property Tax.
R884-24P. Property Tax.
R884-24P-24. Form for Notice of Property Valuation and Tax Changes Pursuant to Utah Code Ann. Sections 59-2-918 through 59-2-924.

A. The county auditor must notify all real property owners of property valuation and tax changes on the Notice of Property Valuation and Tax Changes form.

1. If a county desires to use a modified version of the Notice of Property Valuation and Tax Changes, a copy of the proposed

modification must be submitted for approval to the Property Tax Division of the Tax Commission no later than March 1.

a) Within 15 days of receipt, the Property Tax Division will issue a written decision, including justifications, on the use of the modified Notice of Property Valuation and Tax changes.

b) If a county is not satisfied with the decision, it may petition for a hearing before the Tax Commission as provided in R861-1A-22.

2. The Notice of Property Valuation and Tax Changes, however modified, must contain the same information as the unmodified version. A property description may be included at the option of the county.

B. The Notice of Property Valuation and Tax Changes must be completed by the county auditor in its entirety, except in the following circumstances:

1. New property is created by a new legal description; or

2. The status of the improvements on the property has changed.

3. In instances where partial completion is allowed, the term nonapplicable will be entered in the appropriate sections of the Notice of Property Valuation and Tax Changes.

4. If the county auditor determines that conditions other than those outlined in this section merit deletion, the auditor may enter the term "nonapplicable" in appropriate sections of the Notice of Property Valuation and Tax Changes only after receiving approval from the Property Tax Division in the manner described in A.

C. Real estate assessed under the Farmland Assessment Act of 1969 must be reported at full market value, with the value based upon Farmland Assessment Act rates shown parenthetically.

D. All completion dates specified for the disclosure of property tax information must be strictly observed.

1. Requests for deviation from the statutory completion dates must be submitted in writing on or before June 1, and receive the approval of the Property Tax Division in the manner described in A.

E. If the proposed rate exceeds the certified rate, jurisdictions in which the fiscal year is the calendar year are required to hold public hearings even if budget hearings have already been held for that fiscal year.

F. If the cost of public notice required under Sections 59-2-918 and 59-2-919 is greater than one percent of the property tax revenues to be received, an entity may combine its advertisement with other entities, or use direct mail notification.

G. Calculation of the amount and percentage increase in property tax revenues required by Sections 59-2-918 and 59-2-919, shall be computed by comparing property taxes levied for the current year with property taxes collected the prior year, without adjusting for revenues attributable to new growth.

H. If a taxing district has not completed the tax rate setting process as prescribed in Sections 59-2-919 and 59-2-920 by August 17, the county auditor must seek approval from the Tax Commission to use the certified rate in calculating taxes levied.

I. The value of property subject to the uniform fee under Section 59-2-405 is excluded from taxable value for purposes of calculating new growth, the certified tax rate, and the proposed tax rate.

J. The value and taxes of property subject to the uniform fee under Section 59-2-405, as well as tax increment distributions and related taxable values of redevelopment agencies, are excluded when calculating the percentage of property taxes collected as provided in Section 59-2-913.

K. The following formulas and definitions shall be used in determining new growth:

1. Actual [~~New~~]new growth shall be computed as follows:

a) the taxable value for the current year adjusted for redevelopment minus year-end taxable value for the previous year adjusted for redevelopment; then

b) plus or minus changes in value as a result of factoring; then

c) plus or minus changes in value as a result of reappraisal; then

d) plus or minus any change in value resulting from a legislative mandate or court order.

2. Net annexation value is the taxable value for the current year adjusted for redevelopment of all properties annexed into an entity during the previous calendar year minus the taxable value for the previous year adjusted for redevelopment for all properties annexed out of the entity during the previous calendar year.

3. New growth is equal to zero for an entity with:

a) an actual new growth value less than zero; and

b) a net annexation value greater than or equal to zero.

4. New growth is equal to actual new growth for:

a) an entity with an actual new growth value greater than or equal to zero; or

b) an entity with:

i) an actual new growth value less than zero; and

ii) the actual new growth value is greater than or equal to the net annexation value.

5. New growth is equal to the net annexation value for an entity with:

a) a net annexation value less than zero; and

b) the actual new growth value is less than the net annexation value.

6. Adjusted new growth equals new growth multiplied by the mean collection rate for the previous five years.

L. The following definitions and formulas shall be used in determining the certified tax rate:

1. Current year adjusted taxable value equals the taxable value for the current year adjusted for redevelopment; then

a) adjusted for estimated value losses due to appeals, using an average percentage loss for the past three years; then

b) adjusted for estimated collection losses.

2. The certified tax rate shall be computed as follows:

a) Last year's taxes collected, excluding redemptions, penalties, interest, roll-back taxes, and other miscellaneous collections.

b) Divided by the sum of the current year adjusted taxable value less adjusted new growth.

3. Entities required to set levies for more than one fund must compute an aggregate certified rate. The aggregate certified rate is the sum of the certified rates for individual funds for which separate levies are required by law. The aggregate certified rate computation applies where:

a) the valuation bases for the funds are contained within identical geographic boundaries; and

b) the funds are under the levy and budget setting authority of the same governmental entity.

4. Exceptions to L.3. are the county assessing and collecting levy, as described in Section 59-2-906.1(3), and the additional

levies for property valuation and reappraisal, as described in Section 59-2-906.3.

a) These levies may not be included as part of a county's aggregate certified rate. Instead, they must be segregated into a separate aggregate certified rate.

b) The separate aggregate certified rate representing these levies is subject to the proposed tax increase requirements of Sections 59-2-918 and 59-2-919.

M. For purposes of determining the certified tax rate of a municipality incorporated on or after July 1, 1996, the levy imposed for municipal-type services or general county purposes shall be the certified tax rate for municipal-type services or general county purposes, as applicable.

N. No new entity, including a new city, may have a certified tax rate or levy a tax for any particular year unless that entity existed on the first day of that calendar year.

KEY: taxation, personal property, property tax, appraisal
[~~August 11,~~]1998 59-2-918 through 59-2-924
Notice of Continuation May 8, 1997

Tax Commission, Property Tax
R884-24P-62
Valuation of State Assessed Utility and Transportation Properties Pursuant to Utah Code Ann. Section 59-2-201

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21640
FILED: 11/02/1998, 17:43
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Subsection 59-2-201(1) requires the Tax Commission to assess utilities and transportation companies that operate as a unit across county lines. The rule also implements H.B. 370, in which the 1998 Legislature redefined "intangible property" under Subsection 59-2-102(14).
(**DAR Note:** H.B. 370 is found at 1998 Utah Laws 290, and was effective January 1, 1998.)

SUMMARY OF THE RULE OR CHANGE: The proposed rule would provide guidelines by which centrally assessed utility and transportation companies would be assessed for property tax purposes.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 59-2-201

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: It is unknown if the rule will increase or decrease the number of appeals. Additional appeal costs or savings could result depending upon this outcome.
❖LOCAL GOVERNMENTS: It is unknown if the rule will increase or decrease the number of appeals. Additional appeal costs or savings could result depending upon this outcome.
❖OTHER PERSONS: It is unknown if the rule will increase or decrease the number of appeals. Additional appeal costs or savings could result depending upon this outcome. Also, it is unknown at this time if the rule will increase or decrease the assessed values of state assessed companies. Depending upon this outcome, the companies may pay less or more property taxes, or possibly even the same.
COMPLIANCE COSTS FOR AFFECTED PERSONS: No additional compliance costs are anticipated as the state assessed companies' reporting procedures remain basically the same.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: It is unknown if the rule will increase or decrease the number of appeals. The state assessed companies could incur additional appeal costs or savings, depending upon this outcome. Also, it is unknown at this time if the rule will increase or decrease the assessed values of state assessed companies. Depending upon this outcome, the companies may pay less or more property taxes, or possibly even the same.

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) 297-3900, by FAX at (801) 297-3919, or by Internet E-mail at phendric@tax.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 12/15/1998.

THIS RULE MAY BECOME EFFECTIVE ON: 12/16/1998

AUTHORIZED BY: Pam Hendrickson, Commissioner

R884. Tax Commission, Property Tax.
R884-24P. Property Tax.
R884-24P-62. Valuation of State Assessed Utility and Transportation Properties Pursuant to Utah Code Ann. Section 59-2-201.
A. Definitions:

1. "Attributes" of property include all defining characteristics inseparable from real property and tangible personal property, such as size, location and other attributes inherent in the property itself.

2. "Cost regulated utility" means any public utility assessable by the Commission pursuant to Section 59-2-201, whose allowed rates are determined by a state or federal regulatory commission by reference to a rate of return applied to rate base where the rate of return and rate base are set by the regulatory body.

3. "Depreciation" is the loss in value from any cause. There are two distinct types of depreciation encountered in the appraisal of properties subject to this rule: accounting depreciation and appraisal depreciation. Accounting depreciation is often called "book depreciation" and is generally calculated in accordance with generally accepted accounting principles or regulatory guidelines. Appraisal depreciation is the total loss in property value from any cause. There are three recognized types of appraisal depreciation: physical deterioration, functional obsolescence and external obsolescence. Physical deterioration is the physical wearing out of the property evidenced by wear and tear, decay and structural defects. Physical deterioration includes the loss in value due to normal aging. Functional obsolescence is the loss in value due to functional deficiencies or inadequacies within the property depicted as the inability of the property to perform adequately the functions for which it was originally designed. External (economic) obsolescence is the loss in value from causes outside the boundaries of the property and is generally incurable. Appraisal depreciation is often called "accrued depreciation."

4. "Fair market value" means the amount at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of the relevant facts. Fair market value reflects the value of property at its highest and best use, subject to regulatory constraints.

5. "Property" means property that is subject to assessment and taxation according to its value but does not include intangible property. Intangible property is property that is capable of private ownership separate from tangible property and includes moneys, credits, bonds, stocks, representative property, franchises, licenses, trade names, copyrights, and patents.

6. "Property which operates as a unit" or "unitary property" means property that is functionally or physically integrated in operation and construction and functions as an economic unit or "one thing."

7. "Rate Base" means the aggregate account balances reported as such by the cost regulated utility to the applicable state or federal regulatory commission.

8. "State Assessed Utility and Transportation Properties" include all property which operates as a unit across county lines, if the values must be apportioned among more than one county or state; all operating property of an airline, air charter service, and air contract service; and all property of public utilities as defined in Utah Code Ann. Section 59-2-102(21). For property tax valuation purposes, these properties may generally be classified as telecommunication properties, energy properties, and transportation properties, some of which may be cost regulated utilities.

a. "Telecommunication properties" means all telephone properties and other similar type properties that operate as a unit across county lines and are assessable by the Commission pursuant to Section 59-2-201.

b. "Energy properties" include the operating property of natural gas pipelines, natural gas distribution companies, liquid petroleum products pipelines, and electric corporations and other similar type entities and are assessable by the Commission pursuant to Section 59-2-201.

c. "Transportation properties" means all airline, air charter service, air contract service, railroad, and other similar type properties that operate as a unit across county lines and are assessable by the Commission pursuant to Section 59-2-201.

B. General Valuation Principles. State assessed utility and transportation properties shall be assessed at fair market value for property tax purposes based on generally accepted appraisal theory and the provisions of this rule.

1. Taxable Property and Unit Methodologies. All property, as defined in this rule, is subject to assessment, and if the property operates together as a unit, the assemblage or enhanced value attributable to the taxable property operating together should be included in the assessed value.

a. The preferred methods to determine the fair market value for all state assessed utility and transportation property are a cost indicator and a yield capitalization income indicator.

b. Other generally accepted appraisal methods may also be used when it can be demonstrated that such methods are necessary in order to more accurately estimate the fair market value, which includes assemblage or enhanced value, of properties that operate together as a unit.

c. The direct capitalization income method and the stock and debt market method may tend to capture the value of intangible property, as defined in this rule, at higher levels than other methods. Accordingly, the value attributable to such intangible property must be identified and removed from value. To the extent such intangible property cannot be identified and removed, relatively less weight shall be given to such methods in the correlation process, as set forth in Section B.5.

d. No final estimate of value will be imposed or considered unless the weighting percentages of the various value indicators used to correlate the final estimate of value are disclosed in writing. Disclosure of the weighting percentages also includes a written explanation describing why a party weighted the particular indicators of value by the percentages so indicated.

e. A party may challenge a final estimate of value by proposing a different valuation methodology or weighting formula that establishes a more accurate final estimate of value. A challenge to a final estimate of value will be considered effective only if the proposed valuation methodology or weighting formula demonstrates, by a preponderance of the evidence, that it establishes a more accurate estimate of fair market value.

2. Cost Indicator. Cost is relevant to value under the principle of substitution, which states that no prudent investor would pay more for a property than the cost to construct a substitute property of equal desirability and utility without undue delay. Generally a cost indicator may be developed under one or more of the following approaches; replacement cost new less depreciation ("RCNLD"), reproduction cost less depreciation ("Reproduction Cost"), and historic cost less depreciation ("HCLD").

a. RCNLD. Replacement cost is the estimated cost to construct, at current prices, a property with utility equivalent to that being appraised, using modern materials, current technology and current standards, design, and layout.

b. Reproduction Cost. Reproduction cost is the estimated cost to construct, at current prices, an exact duplicate or replica of the property being assessed, using the same materials, construction standards, design, layout and quality of workmanship, and embodying all the deficiencies, superadequacies, and obsolescence of the subject property. Reproduction cost shall be adjusted for appropriate depreciation.

c. HCLD. The HCLD approach is the historic cost less depreciation, which may, depending upon the industry, be trended to current costs. Only trending indexes commonly recognized by the industry may be used as a trending adjustment to HCLD.

d. In the mass appraisal environment for state assessed utility and transportation property, RCNLD is impractical to implement. The preferred cost indicator of value is HCLD. A party may challenge the use of HCLD by proposing a different cost indicator that establishes a more accurate cost estimate of value. A challenge to the use of HCLD as the cost indicator of value will be considered effective only if the proposed cost indicator of value demonstrates, by a preponderance of the evidence, that it establishes a more accurate cost estimate of value.

3. Income Indicator. An income indicator recognizes that value is created by the expectation of future benefits to be derived from the property.

a. Yield Capitalization Approach. This income indicator shall be determined by converting future cash flows to present value as of the lien date by capitalizing future estimated cash flows at an appropriate discount rate. The yield capitalization formula is CF/(k-g), where "CF" is cash flow, "k" is the nominal, risk adjusted discount rate, and "g" is the expected future growth of the cash flow in the numerator. Each of these terms is defined below. A discounted cash flow method in which (i) individual years' cash flow are projected, (ii) the formula CF/(k-g) is used to compute terminal value, and (iii) the projected cash flows and terminal value are discounted back to present value; may be used as a substitute income valuation approach for the above yield capitalization approach when the use of a single representative annual cash flow is clearly inappropriate.

(1) Cash Flow ("CF"). Cash flow is restricted to cash flows provided by the operating assets in existence on the lien date, together with any replacements intended to maintain, and not expand or modify, the existing capacity or function thereof. Cash flow is calculated as net operating income (NOI) plus noncash charges (e.g., depreciation and deferred income taxes), less capital expenditures and additions to net working capital necessary to achieve the expected growth "g". The cash flows should reflect the cash flows available to pay sources of financing for the assets in existence on the lien date or an equivalent pool of assets. The capital expenditures should include only those expenditures necessary to replace or maintain existing plant and should not include any expenditures intended for expansion or productivity and capacity enhancements. If a taxpayer is unable to separate replacement capital expenditures from expansion capital expenditures, the taxpayer must provide the Property Tax Division sufficient data to adjust the "g" in the yield capitalization formula appropriately. If the taxpayer is unable to provide data to adjust the "g", the Property Tax Division will estimate an adjustment to cash flows or "g" based on the best information available. Information necessary for the Property Tax Division to calculate the appropriate cash flow shall be summarized and submitted to the Property Tax Division by March 1 on a form provided by the Property Tax Division. The calculation of Cash Flow may be illustrated by the following formula:

CF = NOI + Noncash Charges - Replacement Capital Expenditures - Additions to Net Working Capital

(a) Cash flow is the projected cash flow for the next year and may be estimated by reviewing the last five years' cash flows, forecasting future cash flows, or a combination of both.

(b) If cash flows for a subsidiary company are not available or are not allocated between subsidiary companies on the parent company's cash flow statements, then a method of allocating total cash flows must be developed based on sales, fixed assets, or other reasonable criteria. Whichever criterion is chosen, the subsidiary's total is divided by the parent's total to produce a percentage that is applied to the parent's total cash flow to estimate the subsidiary's cash flow.

(c) If the subject company does not provide the Commission with its most recent cash flow statements by March 1 of the assessment year, Property Tax Division may estimate cash flow using the best information available.

(2) Discount Rate ("k"). The discount rate shall be based upon a weighted average cost of capital considering current market debt rates and equity yields determined by recognized market measurements such as capital asset pricing model ("CAPM"), Risk Premium, Dividend Growth models, or other recognized models. The weighting of debt and equity should reflect the market value weightings of comparable companies in the industry.

(a) Cost of Debt. The cost of debt should reflect the current market (yield to maturity) of debt with the same credit rating as the subject company.

(b) Cost of Equity. In the discount rate, the CAPM is the preferred method to estimate the cost of equity. More than one method may be used to correlate a cost of equity, but only if the CAPM method is weighted at least 75% in the correlation.

(c) CAPM. The CAPM formula is k(e) = R(f) + (Beta x Risk Premium), where k(e) is the cost of equity and R(f) is the risk free rate.

(i) Risk Free Rate ("R(f)"). The risk free rate shall be the current market rate on 20 year Treasury bonds.

(ii) Beta. The beta should reflect an average or value-weighted average of comparable companies. The beta of the comparable companies should be drawn from Value Line or a comparable source. Once a source is chosen, beta should be drawn consistently from this source. However, the beta of the specific assessed property should also be considered.

(iii) Risk Premium. The risk premium shall be obtained from the current Ibbotson Associates study. The risk premium shall be the arithmetic average of the spread between the return on stocks and long term bonds for the most recent 40 years.

(3) Growth Rate ("g"). The growth rate "g" is the expected future growth of the cash flow in the numerator of the formula given in CF/(k-g). If insufficient information is available to the Property Tax Division, either from public sources or from the taxpayer, to determine an appropriate "g", then "g" will be the expected inflationary rate as given by the Gross Domestic Product Price Deflator obtained in Value Line. The inflationary rate and the methodology used to produce it shall be disclosed in a capitalization rate study published by the Commission by February 15 of the assessment year.

b. Direct Capitalization Approach. This is an income approach that converts an estimate of a single year's income expectancy into an indication of value in one direct step, either by dividing the normalized income estimate by an appropriate income capitalization rate or by multiplying the normalized income estimate by an appropriate factor.

4. Market Indicator. The market value of property is directly related to the prices of comparable, competitive properties; or the sale of the specific assessed property when such information is available. The market or sales comparison approach is estimated by comparing the subject property to similar properties that have recently sold. Because sales of state assessed utility and transportation properties are infrequent, the stock and debt approach may be used as a surrogate to the market approach. The stock and debt method is based on the accounting principle which holds that the market value of assets equal the market value of liability plus shareholder's equity.

5. Correlation. When reconciling value indicators into a final estimate of value, the appraiser shall take into consideration the availability, and quality or reliability of data and the strength and weaknesses of each value indicator. The percentage weight assigned to each indicator in the correlation process shall be established, disclosed and explained as set forth in Section B.1.

6. Non-operating property. Property that is not necessary to the operation of the state assessed utility or transportation properties and is assessed by the local county assessor, and property separately assessed by the Property Tax Division, such as registered motor vehicles, shall be removed from the correlated unit value or from the state allocated value.

7. Leased property. All tangible operating property owned, leased, or used by state assessed utilities and transportation companies is subject to assessment.

8. Property Specific Considerations. The Commission recognizes that because of unique differences between certain types of properties and industries, modifications or alternatives to these general cost and yield income indicators, as set forth in Sections C., D., and E., may be required for the following industries: (a) cost regulated utilities, (b) telecommunications properties, and (c) transportation properties.

C. Cost regulated utilities:

1. Cost Indicator. The HCLD approach is the preferred cost indicator of value for cost regulated utilities because it represents an approximation of the basis upon which the investor can earn a return. The HCLD approach is calculated by taking the historic cost less deprecation as reflected in the state assessed utility's net plant accounts, and by then (1) subtracting intangible property, (2) subtracting any items not included in the state assessed utility's rate base (e.g., deferred federal income taxes ("DFIT") and, if appropriate, acquisition adjustments), and (3) adding any taxable items not included in the state assessed utility's net plant account or in rate base.

a. Deferred Federal Income Taxes. DFIT is an accounting entry that reflects a timing difference for reporting income and expenses. Accumulated DFIT reflects the difference between the use of accelerated depreciation for income tax purposes and the use of straight-line depreciation for financial statements. For traditional rate base regulated companies, regulators generally exclude DFIT from rate base, recognizing it as ratepayer contributed capital. Where rate base is reduced by DFIT for rate base regulated companies, DFIT may be removed from HCLD as a surrogate measure for economic obsolescence.

b. DFIT can be a surrogate measure for economic obsolescence. If a study is prepared that authenticates actual economic obsolescence and is approved by the Commission, the amount of the actual economic obsolescence will be subtracted from HCLD to develop the cost indicator of value.

2. Income indicator. The yield capitalization approach set forth in Section B.3. is the preferred method to derive the income indicator of value.

D. Telecommunications Companies:

1. Cost Indicator. This includes the operating property of local exchange carriers, local access providers. long distance carriers, cellular telephone or personal communication service (PCS) providers and pagers. The HCLD approach set forth in Section B.2. is the preferred method to derive the cost indicator of value.

2. Income Indicator. The yield capitalization approach set forth in Section B.3. is the preferred method to derive the income indicator of value.

E. Transportation Properties. These include the operating property of long haul and short line railroads, commercial airlines, including major and small passenger carriers and major and small air freighters.

1. Railroads.

a. Cost Indicator. The Railroad industry is not rate base regulated and does not typically have a majority of its investment in property of recent vintage. Accordingly, for Railroads, the cost indicator should generally be given little or no weight because there is no observable relationship between cost and fair market value. Cost valuation should be based on trended historical costs less depreciation. Additions should be made for material and supplies and operating leased equipment. Deductions should be made for all capitalized intangible property such as customized computer software. All forms of depreciation should be measured and appropriately deducted.

b. Income Indicator. The yield capitalization approach set forth in Section B.3. is the preferred method to derive the income indicator of value.

2. Commercial airlines, including major and small passenger carriers and major and small air freighters.

a. Cost Indicator. The trended HCLD approach set forth in Section B.2. is the preferred method to derive the cost indicator of value.

b. Income Indicator. The yield capitalization approach set forth in Section B.3. is the preferred method to derive the income indicator of value.

F. This rule shall have an effective date of January 1, 1999.

KEY: taxation, personal property, property tax, appraisal
[~~August 11,~~]1998 59-2-201
Notice of Continuation May 8, 1997

Transportation, Motor Carrier
R909-13
Standards for Utah School Buses

NOTICE OF PROPOSED RULE
(Repeal)
DAR FILE NO.: 21571
FILED: 10/22/1998, 12:59
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: School buses are regulated under R277-601.

SUMMARY OF THE RULE OR CHANGE: This rule is repealed in its entirety.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 72-9-103 and 41-6-115

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: None--the school buses are currently regulated under R277-601, repealing this rule eliminates duplication of requirements.
❖LOCAL GOVERNMENTS: None--the school buses are currently regulated under R277-601, repealing this rule eliminates duplication of requirements.
❖OTHER PERSONS: None--the school buses are currently regulated under R277-601, repealing this rule eliminates duplication of requirements.
COMPLIANCE COSTS FOR AFFECTED PERSONS: None--the school buses are currently regulated under R277-601, repealing this rule eliminates duplication of requirements.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No impact anticipated.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Transportation
Motor Carrier
Calvin Rampton
4501 South 2700 West
Box 148240
Salt Lake City, UT 84114-8240, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Tamy L. Scott at the above address, by phone at (801) 965-4752, by FAX at (801) 965-4847, or by Internet E-mail at tscott@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 12/15/1998.

THIS RULE MAY BECOME EFFECTIVE ON: 12/16/1998

AUTHORIZED BY: Tamy L. Scott, Transportation Safety Investigator

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R909. Transportation, Motor Carrier.
[~~**R909-13. Standards for Utah School Buses.**~~
~~**R909-13-1. Adoption of Standards for Utah School Buses.**~~
~~These standards are incorporated by reference according to the 1994 Edition - Standards for Utah School Buses and Operations Manual. These standards apply to all public and private school buses or buses operated under contract by any school district or private school.~~

~~**KEY: school buses, safety**~~
~~**1994** **63-49-8(2)**~~
~~**41-6-115**~~]

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Workforce Services, Employment Development
R986-414
Income

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21581
FILED: 10/27/1998, 14:27
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose for this filing is to incorporate the revised Food Stamp Program maximum shelter deduction as directed by the United States Department of Agriculture (USDA), Food and Nutrition Service (FNS). This new deduction amount is effective for all benefits issued beginning October 1, 1998.

SUMMARY OF THE RULE OR CHANGE: This rule change implements the revised maximum shelter deduction of $275. That maximum was $250. When food stamp benefits are calculated, recipients are allowed a deduction for their shelter expenses that exceed 50% of their adjusted net income. The amount of that deduction can not exceed the maximum established by the Food and Nutrition Service (FNS).
(**DAR Note:** A corresponding 120-day (emergency) rule that is effective as of October 1, 1998, is under DAR No. 21419 in the October 1, 1998, issue of the *Utah State Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 35A-3-103

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: All Food Stamp Program benefits are funded by the federal government. The state does, however, pay one half of the administrative costs related to this could potentially receive a larger deduction for their shelter

expenses which may result in an increase in benefits. That increase may be as much as $5 a month for certain households. It is unlikely that this change, in itself, will result in a significant number of new households participating in the program. There are certain administrative costs associated with implementing this change that are absorbed in the Department's cost of operating the Food Stamp Program. Those costs are not distinguishable or significant.

❖LOCAL GOVERNMENTS: Local governments are not involved in the administration of the Food Stamp Program. This change has no direct impact on local governments.

❖OTHER PERSONS: This rule change incorporates an increase in the maximum shelter deduction which means that Utah's citizens could potentially qualify (or continue to qualify) for increased benefits from the Food Stamp Program. There are no costs or savings associated with an increased shelter expense deduction to existing food stamp recipients or to potential food stamp applicants. Increased benefits for recipients participating in the Food Stamp Program could have some implications for businesses that interact with participants of the Food Stamp Program. Any costs or savings to those businesses reflect the potential for increased sales and operating expenses. Those potential costs or savings are unknown to the Department and are considered incalculable.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Although compliance with and implementation of the revised maximum shelter deduction do potentially increase the benefit level for program participants, all increased benefit costs are borne by the federal government. The Department does incur 50% of the associated administrative costs. Those costs associated with implementing this change are absorbed in the Department's cost of operating the Food Stamp Program. Those costs are not distinguishable or significant.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule change increases the maximum shelter deduction that is used to calculate food stamp benefits. This change will potentially increase the amount of benefits to households participating in the Food Stamp Program. It is also feasible that the number of program participants would also increase. However, businesses dealing directly with the participants (food retailers) would not necessarily realize an increase in business. Although it also possible that the operating costs of those businesses could be affected, those costs are unknown to the Department and are not calculable.

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

Workforce Services
Employment Development
Second Floor
1385 South State Street
Salt Lake City, UT 84115, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Gordon Mendenhall at the above address, by phone at (801) 468-0125, by FAX at (801) 468-0160, or by Internet E-mail at gmenden@wscdomain.wscfam.

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 12/15/1998.

THIS RULE MAY BECOME EFFECTIVE ON: 12/16/1998

AUTHORIZED BY: Robert C. Gross, Executive Director

R986. Workforce Services, Employment Development.
R986-414. Income.

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R986-414-410. Income Deductions.

The department adopts 7 CFR 273.9(d) and 7 CFR 273.11(c) and (d), 1995 edition and P.L. 104-193, Sec. 809.

1. Current Department Practices

a. The State uses the single Standard Utility Allowance (SUA) option.

b. The telephone allowance is the same whether the client chooses actual utility costs or the SUA.

c. The State uses an annualized SUA for households with a heating or cooling cost.

d. The SUA is $150.

e. The standard deduction is $134.

f. The maximum shelter deduction is [~~$250~~]$275 for households with no elderly or disabled household member.

g. The standard homeless shelter deduction is $143. For the purposes of qualifying for this deduction, an individual residing in the home of another person is considered homeless if the living arrangement is expected to last 90 days or less.

h. Amounts paid for legally obligated child support to or for non household members.

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KEY: income
[~~January 2,~~]1998 **35A-3-103**
Notice of Continuation February 10, 1997

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Workforce Services, Employment Development
R986-417
Documentation

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21582
FILED: 10/27/1998, 14:27
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this change is to incorporate revised procedures for processing applications for the Food Stamp Program. This change also corrects rule language for Department practices that are incorporated by reference.

SUMMARY OF THE RULE OR CHANGE: This rule change implements revised application processing requirements for the Food Stamp Program. These revisions incorporate waivers to regulatory procedures as approved by the United States Department of Agriculture (USDA), Food and Nutrition Service (FNS). These waivers allow Utah to deny Food Stamp Program applications when an applicant fails to appear for a second scheduled interview and after applicants have been interviewed but fail to return with required verification.
(**DAR Note:** A corresponding 120-day (emergency) rule that is effective as of October 1, 1998, is under DAR No. 21420 in the October 1, 1998, issue of the *Utah State Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 35A-3-103

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: This rule change implements changes to procedures for processing applications for the Food Stamp Program. The administrative costs attributed to making these changes are absorbed in the Department's costs of operating the Food Stamp Program and are not distinguishable or significant.
❖LOCAL GOVERNMENTS: Local governments are not involved with the administration of the Food Stamp Program. This change has no direct impact on local governments.
❖OTHER PERSONS: With this change, it is likely that some households that make application for benefits from the Food Stamp Program will have their applications denied due to the revised procedures. Although it is unknown how many of these households may reapply, there could be an associated cost for those households that do. The number of households impacted by these changes is unknown to the Department and the applicable costs are considered incalculable. These changes are procedural in nature and involve the application for benefits from the Food Stamp Program. No "other persons" are impacted by this rule change.
COMPLIANCE COSTS FOR AFFECTED PERSONS: The Department of Workforce Services is the single state agency responsible for administering the Food Stamp Program. Compliance with and implementation of these regulatory waivers do not have a direct impact on program benefits which are funded by the federal government. The Department does incur 50% of the associated administrative costs for operating the Food Stamp Program. The costs related to implementing these waivers are absorbed in the those costs and are not distinguishable or significant. No "other persons" have compliance requirements.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule change implements waivers to Food Stamp Program regulations that revise certain application processing procedures for the Food Stamp Program. The changes do impact the Department and potential applicants but have no impact on businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Workforce Services
Employment Development
Second Floor
1385 South State Street
Salt Lake City, UT 84115, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Gordon Mendenhall at the above address, by phone at (801) 468-0125, by FAX at (801) 468-0160, or by Internet E-mail at gmenden@wscdomain.wscfam.

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 12/15/1998.

THIS RULE MAY BECOME EFFECTIVE ON: 12/16/1998

AUTHORIZED BY: Robert C. Gross, Executive Director

R986. Workforce Services, Employment Development.
R986-417. Documentation.

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R986-417-710. Application Processing.

The department adopts 7 CFR 273.2(a) through (e), 7 CFR 273.10(a)(3) and 7 CFR 273.2(j) through (k), 1992 ed. which are incorporated by reference.

1. Current Department Practices

a. A Public Assistance or categorically eligible household's may apply for Food Stamps at the same time they apply for Public Assistance using the same application form.

b. A single interview is conducted for clients who have applied for other assistance at the same time they applied for Food Stamps.

c. If applicants fail to appear for their first scheduled interview, a second interview need not be scheduled unless requested by the applicant household. When the second interview is not rescheduled, the application shall not be denied before 30 days. If the applicant household schedules a second interview and does not appear for the second interview, the application can be

denied after the second missed interview, but no later than 30 days after the date of application.

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R986-417-714. Processing Standards.

The department adopts 7 CFR 273.2(h), 7 CFR 274.2 and 7 CFR 273.10(g), 1992 ed. which are incorporated by reference.

1. Current Department Practices

[~~a. If day 30 falls on a weekend or holiday, the deadline to process the application is 5:00 p.m. of the next working day.~~

~~b. Notice of denial is sent as soon as possible. If the client also applied for AFDC, the denial is postponed for up to 30 days while awaiting a decision on the AFDC application. This delay is to identify households that may become categorically eligible.~~

~~c. Households which are denied on the 30th day for failure to provide requested verification can provide the missing verification within the next 30 days and their eligibility will be redetermined without a new application.~~]a. Applications maybe denied after applicants have been interviewed and have been requested, in writing, to provide required verification, if they fail to return with the requested verification after 10 days, but no later the 30th day after the date of application.

. . . . . .

KEY: food stamps, benefits
[~~February 3,~~]1998 **35A-3-103**
Notice of Continuation February 10, 1997 **7 CFR 273.14**

Workforce Services, Employment Development
R986-421
Demonstration Programs

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21585
FILED: 10/27/1998, 14:27
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose for this filing is to remove certain eligibility conditions of the Food Stamp Program that were in place as a result of waivers approved under Utah's Single Parent Employment Demonstration Program (renamed the Family Employment Program [FEP]) that have been terminated by the United States Department of Agriculture (USDA), Food and Nutrition Service (FNS).

SUMMARY OF THE RULE OR CHANGE: This rule change reflects the termination of certain waivers of Food Stamp Program policy by the United States Department of Agriculture (USDA), Food and Nutrition Service (FNS). These waivers were in place as a result of Utah's Single Parent Employment Demonstration Program (renamed the Family Employment Program [FEP]). The terminated waivers include certain earned, unearned income, and resource exclusions that pertained to recipients of diversion assistance, FEP recipients and recipients of transitional benefits.

(**DAR Note:** A corresponding 120-day (emergency) rule that is effective as of October 1, 1998, is under DAR No. 21423 in the October 1, 1998, issue of the *Utah State Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 35A, Chapter 3

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: All Food Stamp Program benefits are funded by the federal government. The state does, however, pay one half of the administrative costs related to this program. The administrative costs attributed to making these changes are absorbed in the Department's costs of operating the Food Stamp Program, and are not distinguishable or significant.

❖LOCAL GOVERNMENTS: Local governments are not involved in the administration of the Food Stamp Program. This change has no direct impact on local governments. However, it is feasible that certain food stamp households lost benefits as a result of the termination of the waivers. Consequently, local governments may incur costs that are unknown to the Department if they are required to provide for those households who lost benefits.

❖OTHER PERSONS: With this rule change, certain households participating in the Food Stamp Program, lost or received less benefits beginning July 1, 1998. Data concerning the number of households impacted or the amount of benefits that are lost is not available to the Department. The loss or decrease of participant benefits does have some implications for businesses that interact with participants of the Food Stamp Program. There is the potential that sales and/or operating expenses may be affected. Any resulting costs or savings to these businesses, although unknown to the Department, are considered incalculable.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The Department of Workforce Services is the single state agency responsible for administering the Food Stamp Program. Compliance with and implementation of revised requirements due to the termination of certain Demonstration Project waivers did decrease program benefits to certain participants. Although the Federal government funds all program benefits, the Department does incur 50% of the associated administrative costs. The administrative costs related to the loss of the Demo waivers are absorbed in the Department's costs of operating the Food Stamp Program and are not distinguishable or significant. No "other persons" have compliance requirements.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule change reflects the termination of certain waivers that had been authorized under the Single Parent Demonstration Project (now the Family Employment Program). Certain households that were participating in the Food Stamp Program lost or had benefits reduced effective July 1, 1998. The loss or decrease of

participant benefits could have some implications for those businesses that interact with Food Stamp Program recipients. There is the potential that sales and/or operating expenses may be affected. Although there are potential costs to businesses, those costs are unknown to the Department and are not calculable.

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

Workforce Services
Employment Development
Second Floor
1385 South State Street
Salt Lake City, UT 84115, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Gordon Mendenhall at the above address, by phone at (801) 468-0125, by FAX at (801) 468-0160, or by Internet E-mail at gmenden@wscdomain.wscfam.

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 12/15/1998.

THIS RULE MAY BECOME EFFECTIVE ON: 12/16/1998

AUTHORIZED BY: Robert C. Gross, Executive Director

R986. Workforce Services, Employment Development.
R986-421. Demonstration Programs.
R986-421-101. [~~Single Parent Employment Program~~]Family Employment Program.

1. The department shall operate a Single Parent Employment Demonstration Program as authorized by Section 1115 of the Compilation of the Social Security Laws, 1991 ed., U.S. Government Printing Office, Washington, D.C., which is incorporated by reference. The Single Parent Employment Program has been renamed the Family Employment Program.

2. The following definitions apply:

a. "Diversion" means a one time [~~Single Parent Employment Program~~]Family Employment Program payment that may equal up to three months of [~~AFDC~~]financial assistance.

b. "Participant" means any applicant for or recipient of the [~~Single Parent Employment Program~~]Family Employment Program.

c. "Transitional" food stamp benefit means the 24 month period that participants are eligible for food stamp benefits after the end of financial participation in the [~~Single Parent Employment Program~~]Family Employment Program.

3. The goal of the [~~Single Parent Employment Program~~]Family Employment Program is to increase family income through employment and child support.

4. The [~~Single Parent Employment Program~~]Family Employment Program will operate [~~in selected offices as determined by the department~~]statewide.

5. The following exceptions regarding [~~Single Parent Employment Program~~]Family Employment Program participants apply to R986-411 through R986-420;

[~~a. $100 of financial assistance will not be counted in the food stamp allotment calculation.~~

~~b. $100 of earned income will not be counted after financial assistance terminates.~~

~~c. A maximum of $8,000 equity value for one vehicle will be exempt from the resource determination test. The entire equity value of one vehicle equipped to transport a disabled individual is exempt from the resource determination test.~~

~~d. Educational income is exempt.~~

~~e. $50 of child support received is exempt.~~

~~f.~~]a. Participants are required to report the following changes in income[~~ of more than $100 in the Best Estimated Monthly gross income~~]:

(i) change in the income source, both unearned and earned;

[~~(ii) change of more than $25 in gross monthly unearned income;~~

~~(iii)~~](ii) change in employment status;

([~~iv~~]iii) a change from fulltime to parttime or parttime to fulltime;

([~~v~~]iv) a change in wage rate or salary.

[~~g~~]b. The diversion payment is not counted in the food stamp allotment calculation.

[~~h~~]c. Recertification must be completed every 12 months with a face-to-face interview at least every 24 months.

[~~i~~]d. Participants will remain in the [~~Single Parent Employment Program~~]Family Employment Program for 24 months after termination of financial assistance.

KEY: income, demonstration*
[~~January 2,~~]1998 **35A-3**
Notice of Continuation February 6, 1998

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Workforce Services , Workforce Information and Payment Services

R994-207

Unemployment

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21578
FILED: 10/22/1998, 14:36
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To be in compliance with federal law, and to correct an outdated citation to the law.

SUMMARY OF THE RULE OR CHANGE: Removes possibility that a claimant could receive any unemployment benefits for a week in which he worked full-time or 40 hours. Federal law requires a claimant must "experience unemployment" through an actual reduction in hours.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsections 35A-1-104(1) and 35A-4-502(1)(b), and Section 35A-4-207
FEDERAL REQUIREMENT FOR THIS RULE: Section 3304(a)(4) of the Federal Unemployment Tax Act (FUTA), Section 303(a)(5) of the Social Security Act (SSA)

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: Minimal savings possible due to benefits not paid to affected claimants.
❖LOCAL GOVERNMENTS: Minimal savings possible due to benefits not paid to affected claimants.
❖OTHER PERSONS: It is the experience of the Department of Workforce Services (DWS) that between zero and five claimants per year may be denied partial benefits due to this change. This would result in minimal cost savings to the unemployment fund and to employers for benefits not paid.
COMPLIANCE COSTS FOR AFFECTED PERSONS: This change requires no action by either employers or claimants, so there would be no compliance costs. A few claimants may be denied partial benefits for those weeks they work full-time but earn less than their weekly benefit amount. Charges to former employers, including governmental entities, would be reduced by the amount of benefits not paid for those weeks.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The potential fiscal impact on businesses would be a minimal cost savings from reduced charges to employers, reflecting reduced benefits paid to claimants.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Workforce Services
Workforce Information and Payment Services
Fourth Floor
140 East 300 South
PO Box 45277
Salt Lake City, UT 84145-0277 , or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Christopher Love at the above address, by phone at (801) 526-9291, by FAX at (801) 526-9394, or by Internet E-mail at wsadmpo.clove@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 12/15/1998.

THIS RULE MAY BECOME EFFECTIVE ON: 12/16/1998

AUTHORIZED BY: Robert C. Gross, Executive Director

R994. Workforce Services, Workforce Information and Payment Services.
R994-207. Unemployment.
R994-207-101. General Definition.

(1) The objective of Sections 35A-4-[~~403~~]401 and 35A-4-207 of the Utah Employment Security Act is to provide the means by which it may be determined when or if a claimant, who is not totally unemployed, may be allowed unemployment insurance benefits. It is not the intent of the fund to subsidize a claimant who is devoting substantially all his time and efforts to starting up a new business or expanding an existing business even though he receives no income.

(2) There are generally four types of potentially employed claimants who need to have their claims examined under Section 35A-4-207. They are:

(a) corporate officers,
(b) self-employed individuals,
(c) commission salesmen, and
(d) volunteer workers.

R994-207-102. General Requirements for Eligibility.

(1) A claimant is unemployed and eligible for benefits if all of the following conditions are shown to exist:

(a) Less Than Full-Time Work.

The claimant worked all the hours that were reasonable for him to work and the total number of hours was less than full-time. He must not regulate the type or amount of duties or number of hours spent in a remunerative enterprise for the purpose of qualifying for benefits. Full-time work will generally be considered to be 40 hours a week, but may be the number of hours established by schedule, custom, or otherwise as constituting a week of full-time work for the kind of service the claimant performs.[~~for the purposes of Section 35A-4-207.~~]

[~~(i) The definition of full time lies not in the number of hours the claimant is working, or whether the work is day or night. A claimant working 40 or more hours per week may still be considered working less than full time if all of the following circumstances exist: the claimant intends the work to be temporary; the claimant is underemployed. Underemployed means the job is not suitable pursuant to Subsection 35A-4-405(3) and Section R994-405-309. The claimant is actively seeking work each week in line with prior work and experience and the hours of work do not materially prevent him from seeking other work. This exception is not intended to be applied to individuals working in commission sales.~~]

(b) Income Less Than WBA.

The claimant earned less than the weekly benefit amount (WBA) established for his claim.

(c) Available for and Seeking Other Full-time Work.

The claimant in addition to the subject work, must be available for and actively seeking full-time suitable work for another employer as defined by the suitable work test, Subsection 35A-4-405(3) and Section R994-405-309. A failure to make an active search for work will evidence a contentment with his current status and a conclusion that he is "not unemployed" shall be made. The efforts of a claimant to seek work should be distinguished from those directed towards obtaining work for himself as an individual and those directed toward obtaining work or customers for his corporation or business. Efforts to obtain work for the business or corporation are evidence of continuing responsibilities but are not evidence of an individual's active search for other employment as required for eligibility. A claimant who has marketable skills including: bricklaying, plumbing, and office manager, must be willing to seek and accept such work. He may not restrict himself to availability for the type of work he is currently performing on a less than full-time basis. The claimant's past work history is

evidence of the effect of such employment on his attachment to the labor force. If he is unable or unwilling to accept any, but short term or casual labor because of continuing or pending responsibilities, he is "not unemployed".

. . . . . .

KEY: unemployment compensation, unemployed workers
[~~1990~~]December 16, 1998 **35A-1-104(1)**
Notice of Continuation November 15, 1995 **35A-4-502(1)(b)**
35A-4-207

End of the Notices of 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).

Administrative Services, Finance
R25-5
Payment of Per Diem to Boards

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 21623
FILED: 10/30/1998, 15:08
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 63A-3-106 authorizes the Division of Finance to establish per diem rates for all state officers and employees of the executive branch, except officers and employees of higher education, to meet subsistence expenses for attendance at official meetings.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE-YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: We have not received any written comments from interested persons concerning this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: It is necessary to continue the rule because it is required by statute. It sets the rates for per diem paid to board members and establishes the conditions under which the per diem will be paid. No opposing comments have been received.

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

Administrative Services
Finance
2110 State Office Building
PO Box 141031
Salt Lake City, UT 84114-1031, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Teddy Cramer at the above address, by phone at (801) 538-3450, by FAX at (801) 538-3244, or Internet E-mail at fimain.tcramer@state.ut.us.

AUTHORIZED BY: Kim S. Thorne, Director of Finance

EFFECTIVE: 10/30/1998

Administrative Services, Finance
R25-6
Relocation Allowance

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 21624
FILED: 10/30/1998, 15:08
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 enacted under the authority of Subsection 63A-3-103(1), which authorizes the Director of Finance to define fiscal procedures relating to approval and allocation of funds. This rule details under what conditions funds may be allocated for relocation reimbursement.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE-YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: We have not received any written comments from interested persons concerning this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: A division review determined that this rule should be continued because it sets the requirements for reimbursing relocation expenses to state employees. No opposing comments have been received.

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

Administrative Services
Finance
2110 State Office Building
PO Box 141031
Salt Lake City, UT 84114-1031, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Teddy Cramer at the above address, by phone at (801) 538-3450, by FAX at (801) 538-3244, or Internet E-mail at fimain.tcramer@state.ut.us.

AUTHORIZED BY: Kim S. Thorne, Director of Finance

EFFECTIVE: 10/30/1998

Administrative Services, Finance
R25-7
Travel-Related Reimbursements for State Employees

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 21626
FILED: 10/30/1998, 15:08
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 enacted under the authority of Section 63A-3-107, which authorizes the Division of Finance to adopt rules governing in-state and out-of-state travel.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE-YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: We have not received any written comments from interested persons concerning this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: A division review determined that this rule should be continued because it is required by statute. The rule sets the requirements for reimbursing travel-related expenses to state employees. No opposing comments have been received.

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

Administrative Services
Finance
2110 State Office Building
PO Box 141031
Salt Lake City, UT 84114-1031, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Teddy Cramer at the above address, by phone at (801) 538-3450, by FAX at (801) 538-3244, or Internet E-mail at fimain.tcramer@state.ut.us.

AUTHORIZED BY: Kim S. Thorne, Director of Finance

EFFECTIVE: 10/30/1998

Administrative Services, Finance
R25-8
Meal Allowance

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 21628
FILED: 10/30/1998, 15:08
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 enacted under the authority of Subsection 63A-3-103(1), which authorizes the Division of Finance to define fiscal procedures relating to the approval and allocation of funds. This rule details under what conditions funds may be allocated for meal allowance.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE-YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: We have not received any written comments from interested persons concerning this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: A division review determined that this rule should be continued because it is authorized by statute. The rule sets the requirements for

paying a meal allowance to state employees. No opposing comments have been received.

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

Administrative Services
Finance
2110 State Office Building
PO Box 141031
Salt Lake City, UT 84114-1031, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Teddy Cramer at the above address, by phone at (801) 538-3450, by FAX at (801) 538-3244, or Internet E-mail at fimain.tcramer@state.ut.us.

AUTHORIZED BY: Kim S. Thorne, Director of Finance

EFFECTIVE: 10/30/1998

Commerce, Occupational and Professional Licensing

R156-49

Dietitian Rules

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 21558
FILED: 10/19/1998, 13:05
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: Title 58, Chapter 49 provides for the licensing of dietitians. Subsection 58-1-106(1) provides that the Division may adopt and enforce rules to administer Title 58. Subsection 58-49-3(3) provides that the Dietitian Board's duties and responsibilities shall be in accordance with Section 58-1-202. Subsection 58-1-202(1) provides that one of the duties of each board is to recommend to the Division Director appropriate rules. These rules were enacted to clarify the provisions of Title 58, Chapter 49 with respect to dietitians.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE-YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The rules were recently amended as changes had not been made in the rules since their adoption in 1988. The recent amendments were made effective on October 19, 1998. No written comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued as it clarifies the provisions of Title 58, Chapter 49 with respect to dietitians.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
David Fairhurst at the above address, by phone at (801) 530-6621, by FAX at (801) 530-6511, or Internet E-mail at brdopl.dfairhur@email.state.ut.us.

AUTHORIZED BY: J. Craig Jackson, Director

EFFECTIVE: 10/19/1998

Lieutenant Governor, Administration

R622-1

Adjudicative Proceedings

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 21560
FILED: 10/19/1998, 15:14
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: The Administrative Procedures Act, Section 63-46b-5, requires a rule to designate "informal" adjudicative proceedings.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE-YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule required by Section 63-46b-5.

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

Lieutenant Governor
Administration
210 State Capitol Building
350 North Main
Governor's Office
Salt Lake City, UT 84114, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Kent Bishop at the above address, by phone at (801) 538-1564, by FAX at (801) 538-1547, or Internet E-mail at kbishop@gov.state. ut.us.

AUTHORIZED BY: Kent Bishop, Research Consultant

EFFECTIVE: 10/19/1998

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End of the Five-Year Notices of Review and Statements of Continutation

NOTICES OF EXPIRED RULES

Rulewriting agencies are required by law to review each of their administrative rules within five years of the date of the rule's original enactment or the date of last review (*Utah Code* Section 63-46a-9 (1996)). If the agency finds that it will not meet the deadline for review of the rule (the five-year anniversary date), it may file an extension with the Division of Administrative Rules (Division). However, if the agency fails to file either the review or the extension by the five-year anniversary date of the rule, the rule expires. Upon expiration of the rule, the Division is required to remove the rule from the *Utah Administrative Code*. The agency may no longer enforce the rule, and it must follow regular rulemaking procedures to replace the rule if necessary.

The rules listed below were *not* reviewed in accordance with Section 63-46a-9 (1996). These rules have expired and have been removed from the *Utah Administrative Code*. The expiration of administrative rules for failure to comply with the five-year review requirement is governed by *Utah Code* Subsection 63-46a-9(8) (1996).

Education

Administration

No. 21641: R277-437. Student Enrollment Options.
Enacted: 11/01/93 (No. 14886, Filed 09/15/98 at 1:14 p.m., Published 10/01/93)
Expired: 11/01/98

No. 21642: R277-735. Standards and Procedures for Corrections Education Programs Serving Inmates of the Utah Department of Corrections.
Enacted: 11/01/93 (No. 14887, Filed 09/15/98 at 1:14 p.m., Published 10/01/93)
Expired: 11/01/98

Applied Technology Education (Board for), Rehabilitation

No. 21643: R280-201. USOR ADA Complaint Procedure.
Enacted: 11/01/93 (No. 14888, Filed 09/15/98 at 1:14 p.m., Published 10/01/93)
Expired: 11/01/98

No. 21644: R280-202. USOR Procedures for Individuals with the Most Severe Disabilities.
Enacted: 11/01/93 (No. 14889, Filed 09/15/98 at 1:14 p.m., Published 10/01/93)
Expired: 11/01/98

Pardons (Board of)

Administration

No. 21645: R671-403. Restitution.
Enacted: 07/01/87 (No. 8845, Filed 05/05/87 at 5:00 p.m., Published 05/15/87)
Five-Year Review: 11/01/93 (No. 15010, Filed 10/15/93 at 4:00 p.m., Published 11/01/93)
Expired: 11/01/98

End of the Notices of Expired Rules Section

NOTICES OF RULE EFFECTIVE DATES

These are the effective dates of PROPOSED RULES or CHANGES IN PROPOSED RULES published in earlier editions of the *Utah State Bulletin*. These effective dates are at least 31 days and not more than 120 days after the date the following rules were published.

Abbreviations
AMD = Amendment
CPR = Change in Proposed Rule
NEW = New Rule
R&R = Repeal and Reenact
REP = Repeal

Administrative Services
Facilities Construction and Management
No. 21212 (AMD): R23-1. Procurement of Construction.
Published: July 1, 1998
Effective: October 29, 1998

No. 21213 (AMD): R23-4. Suspension/Debarment From Consideration for Award of State Contracts.
Published: July 1, 1998
Effective: October 29, 1998

No. 21206 (REP): R23-12. State of Utah Parking Policy.
Published: July 1, 1998
Effective: October 29, 1998

No. 21208 (AMD): R23-29. Across the Board Delegation.
Published: July 1, 1998
Effective: October 29, 1998

Education
Administration
No. 21467 (AMD): R277-400. Emergency Preparedness Plan.
Published: October 1, 1998
Effective: November 3, 1998

No. 21468 (AMD): R277-410. Accreditation of Schools.
Published: October 1, 1998
Effective: November 3, 1998

No. 21469 (NEW): R277-470. Distribution of Funds for Charter Schools.
Published: October 1, 1998
Effective: November 3, 1998

Environmental Quality
Air Quality
No. 21031 (CPR): R307-2-13. Section IX, Control Measures for Area and Point Sources, Part D, Ozone.
Published: October 1, 1998
Effective: November 2, 1998

Drinking Water
No. 21302 (AMD): R309-211. Facility Design and Operation: Transmission and Distribution Pipelines.
Published: August 15, 1998
Effective: November 1, 1998

Health
Health Systems Improvement, Child Care Licensing
No. 21392 (REP): R430-5. Child Care Facility, General Construction.
Published: September 15, 1998
Effective: October 28, 1998

Human Services
Recovery Services
DAR correction notice: Due to a clerical error In the November 1, 1998, Bulletin, an effective notice for the amendment on R527-201 was printed. This notice was actually for the change in proposed rule (CPR) and not the amendment (however, the amendment is tied to the CPR and was made effective at the same time). The notice should have been:
Recovery Services
No. 21352 (CPR): R527-201. Medical Support Services.
Published: September 15, 1998
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Regents (Board of)
Administration
No. 21396 (AMD): R765-610. Utah Higher Education Assistance Authority Federal Family Education Loan Program, PLUS, SLS and Loan Consolidation Programs.
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No. 21397 (AMD): R765-612. Lender Participation.
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RULES INDEX
BY AGENCY (CODE NUMBER)
AND
BY KEYWORD (SUBJECT)

The *Rules Index* is a cumulative index that reflects all effective changes to Utah's administrative rules. The current *Index* lists changes made effective from January 2, 1998, including notices of effective date received through November 2, 1998, the effective dates of which are no later than November 15, 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).

DAR NOTE: Because of space constraints, neither Index is included in this *Bulletin*.

A copy of the *Rules Index* is available for public inspection at the Division of Administrative Rules (4120 State Office Building, Salt Lake City, UT), or may be viewed online at the Division's web site (http://www.rules.state.ut.us/).