UTAH STATE BULLETIN

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

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

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

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EDITOR'S NOTES

LEGISLATION WHICH MAY AFFECT THE RULEMAKING PROCESS

As of February 22, 1999, the bill that affects administrative rules in general has been amended.

H.B. 331 Administrative Rules Review Committee (Ure)
This bill changes the composition of the Administrative Rules Review Committee. As amended in committee on February 18, 1999, the bill gives the House and the Senate three members each (instead of five), and adds two citizen members with one appointed by the Senate President and one appointed by the House Speaker. It also provides that members of the committee may be compensated. H.B. 331 provides for an effective date of July 1, 1999. H.B. 331 passed the House on February 19, 1999, and has been forwarded to the Senate for its consideration.

General Information
Up-to-date information about legislation related to rulemaking is available on the Internet at:
http://www.rules.state.ut.us/law/legis.htm
Information about legislation may be found on the Legislature's 1999 General Session page at:
http://www.le.state.ut.us/~1999/1999.htm

Questions about these bills may be directed to Ken Hansen, Director, Division of Administrative Rules, PO Box 141007, Salt Lake City, UT 84114-1007, phone: (801) 538-3777, FAX: (801) 538-1773, or Internet E-mail at: asitmain.khansen@email.state.ut.us

Bill Text Begins on Next Page

H.B. 331

ADMINISTRATIVE RULES REVIEW
COMMITTEE
1999 GENERAL SESSION
STATE OF UTAH
Sponsor: David Ure

AN ACT RELATING TO STATE AFFAIRS IN GENERAL; REDUCING THE NUMBER OF LEGISLATORS ON THE ADMINISTRATIVE RULES REVIEW COMMITTEE AND ADDING CITIZEN MEMBERS; MAKING TECHNICAL CORRECTIONS; AND PROVIDING AN EFFECTIVE DATE.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

63-46a-11, as last amended by Chapter 332, Laws of Utah 1998

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **63-46a-11** is amended to read:

63-46a-11. Administrative Rules Review Committee.

(1)(a) There is created an Administrative Rules Review Committee of **h [~~ten~~] *EIGHT* h** permanent members and four ex officio members.

(b)(i) The committee's permanent members shall be composed of [~~five~~]*:*

(A) three members of the Senate, appointed by the president of the Senate[~~, and five~~]*;*

(B) three members of the House, appointed by the speaker of the House[~~, with no more than three senators and three~~]*; and*

(C) **h [~~*four*~~] *TWO* h** *citizen members,* **h [~~*two*~~] *ONE* h** *appointed by the president of the Senate and* **h [~~*two*~~] *ONE* h** *appointed by the speaker of the House.*

(ii) No more than two senators and two representatives *may be* from the same political party.

[~~(ii)~~]*(iii)* The permanent members shall convene at least once each month as a committee to review new agency rules, amendments to existing agency rules, and repeals of existing agency rules. Meetings may be suspended at the discretion of the committee chairs.

[~~(iii)~~]*(iv)* Members shall serve for two-year terms or until their successors are appointed.

[~~(iv)~~]*(v)* A vacancy exists whenever a committee member ceases to be a member of the Legislature, or when a member resigns from the committee. Vacancies shall be filled by the appointing authority, and the replacement shall serve out the unexpired term.

(c) When the committee reviews existing rules, the committee's permanent members shall invite the Senate and House chairmen of the standing committee and the Senate and House chairmen of the appropriation subcommittee that have jurisdiction over the agency whose existing rules are being reviewed to participate as nonvoting, ex officio members with the committee.

(d) [~~Three representatives and three senators from the~~] *Six* permanent members are a quorum for the transaction of business at any meeting.

(2)(a) Citizen members shall receive per diem and expenses incurred in the performance of the member's official duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107 .

(b) Legislators on the committee shall receive compensation and expenses as provided by law and legislative rule.

[~~(2)~~]*(3)* Each agency rule as defined in Section 63-46a-2 shall be submitted to the committee at the same time public notice is given under Section 63-46a-4 .

[~~(3)~~]*(4)*(a) The committee shall exercise continuous oversight of the process of rulemaking.

(b) The committee shall examine rules submitted by each agency to determine:

(i) whether or not they are authorized by statute;

(ii) whether or not they comply with legislative intent;

(iii) their impact on the economy and the government operations of the state and local political subdivisions; and

(iv) their impact on affected persons.

(c) To carry out these duties, the committee may examine any other issues that it considers necessary. The committee may also notify and refer rules to the chairmen of the interim committee which has jurisdiction over a particular agency when the committee determines that an issue involved in an agency's rules may be more appropriately addressed by that committee.

(d) In reviewing the rules, the committee shall follow generally accepted principles of statutory construction.

[~~(4)~~]*(5)* The committee may request that the Office of the Legislative Fiscal Analyst prepare a fiscal note on any rule.

[~~(5)~~]*(6)* In order to accomplish its oversight functions, the committee has all the powers granted to legislative interim committees as set forth in Section 36-12-11 .

[~~(6)~~]*(7)*(a) The committee may prepare written findings of its review of each rule and may include any recommendations, including legislative action.

(b) The committee shall provide to the agency that enacted the rule:

(i) a copy of its findings, if any; and

(ii) a request that the agency notify the committee of any changes it makes in the rule.

(c) The committee shall provide a copy of its findings to any member of the Legislature and to any person affected by the rule who requests a copy.

(d) The committee shall provide a copy of its findings to the presiding officers of both the House and the Senate, Senate and House chairmen of the standing committee, and the Senate and House chairmen of the Appropriation Subcommittee that have jurisdiction over the agency whose rules are the subject of the findings.

[~~(7)~~]*(8)*(a) The committee may submit a report on its review of state agency rules to each member of the Legislature at each regular session.

(b) The report shall include:

(i) the findings and recommendations made by the committee under Subsection [~~(6)~~] *(7)*;

(ii) any action taken by an agency in response to committee recommendations; and

(iii) any recommendations by the committee for legislation.

Section 2. **Effective date.**

This act takes effect on July 1, 1999.

Legislative Review Note

as of 2-2-99 3:53 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel

End of the Editor's Notes Section

SPECIAL NOTICES

DEPARTMENT OF AGRICULTURE AND FOOD
UTAH SOIL CONSERVATION COMMISSION

PUBLIC NOTICE
1999 REVISED MEETING SCHEDULE

Public Notice is hereby given of the 1999 calendar year meeting schedule for the Utah Soil Conservation Commission, hereafter called "Commission," a public agency created pursuant to Title 4, Chapter 18, Utah Code. This Commission is a policy making body helping to bring about sensible development and wise conservation of Utah's soil and water resource on private lands by: assisting Utah's 38 local soil conservation districts to fulfill their purposes; administering the Agriculture Resource Development Loan program; and, by facilitating the coordination of state and federal conservation partnership government agencies and groups who may influence these programs.

The five remaining regular meetings for 1999 are planned as follows:

1. March 8 (Monday) at 2:00 - 5:00 p.m. in St George (St George City Chambers)
2. May 13 (Thursday) at 1:00 - 4:00 p.m. in Provo (Historic County Courthouse, Ballroom)
3. June 24 (Thursday) at 1:00 - 4:00 p.m. in Price (Holiday Inn)
4. August 2 (Monday) at 11:00 a.m. - 4:00 p.m. in Ogden (Ogden Marriott Hotel with the Water Quality Board)
5. November 3 (Wednesday) at 1:00 - 4:00 p.m. in Provo (Historic County Courthouse, Ballroom)

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

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

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

End of the Special Notices Section

NOTICES OF
PROPOSED RULES

A state agency may file a PROPOSED RULE when it determines the need for a new rule, a substantive change to an existing rule, or a repeal of an existing rule. Filings received between February 2, 1999, 12:00 a.m., and February 16, 1999, 11:59 p.m., are included in this, the March 1, 1999, issue of the *Utah State Bulletin*.

In this publication, each PROPOSED RULE is preceded by a RULE ANALYSIS. This analysis provides summary information about the PROPOSED RULE including the name of a contact person, anticipated cost impact of the rule, and legal cross-references.

Following the RULE ANALYSIS, the text of the PROPOSED RULE is usually printed. New rules or additions made to existing rules are underlined (e.g., example). Deletions made to existing rules are struck out with brackets surrounding them (e.g., [~~example~~]). Rules being repealed are completely struck out. A row of dots in the text (• • • • • •) indicates that unaffected text was removed to conserve space. If a PROPOSED RULE is too long to print, the Division of Administrative Rules will include only the RULE ANALYSIS. A copy of rules that are too long to print is available from the filing agency or from the Division of Administrative Rules.

The law requires that an agency accept public comment on PROPOSED RULES published in this issue of the *Utah State Bulletin* until at least March 31, 1999. The agency may accept comment beyond this date and will list the last day the agency will accept comment in the RULE ANALYSIS. The agency may also hold public hearings. Additionally, citizens or organizations may request the agency to hold a hearing on a specific PROPOSED RULE. Section 63-46a-5 (1987) requires that a hearing request be received "in writing not more than 15 days after the publication date of the PROPOSED RULE."

From the end of the public comment period through June 29, 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.

Commerce, Occupational and Professional Licensing

R156-63

Security Personnel Licensing Act Rules

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21855
FILED: 02/11/1999, 09:41
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division needed to update the rule with respect to basic education and training programs for armed and unarmed private security officers and with respect to the type of liability insurance required for contract security companies.

SUMMARY OF THE RULE OR CHANGE: Additions are being made to the type of liability insurance a contract security company is required to have. The Utah Department of Insurance reviewed Section R156-63-302d and suggested the changes that are currently being made to provide adequate insurance coverage to protect the contract security company and the public. Added that it is unprofessional conduct to continue employment of an unarmed/armed private security officer or alarm response runner who fails to meet the requirements of Section R156-63-307. Deleted from the basic education and training program for armed and unarmed private security officers the requirement of case law and replaced it with the requirement of ethics. By adding the ethics criteria to the training program, it will aid the unarmed/armed private security officer to understand the principles of right and wrong that govern the conduct of a member of this profession. The requirement that the basic training include first aid and cardiopulmonary resuscitation (CPR) was also deleted because such training if properly given could take up the entire eight hour security officer training requirement. Deleted from the basic training program of unarmed private security officers the requirement regarding armed patrol techniques since it does not apply to an unarmed private security officer.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-63-101, and Subsections 58-1-106(1) and 58-1-202(1)

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: The Division has determined that there is no cost or savings impact to the state budget since the proposed changes are only a clarification of terminology contained in the current rule and only apply to contract security companies and armed/unarmed private security officers.
❖LOCAL GOVERNMENTS: The Division has determined that there is no cost or savings impact on local governments since the rules only apply to contract security companies and armed/unarmed private security officers.
❖OTHER PERSONS: The proposed changes being made in the basic training and education programs may cause an initial unknown cost to persons or companies who have approved training programs in that the training program will need to be revised slightly if the changes are approved; but the persons or companies could also realize an unknown amount of savings by not being required to include first aid and CPR in their training program. In the end, the increased costs may be offset by the increased savings. There will be an increase in costs to contract security companies to obtain the proposed insurance requirements. The fiscal impact on such companies would vary depending upon their current coverage and the varying price of such coverage among insurance providers.
COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed changes being made in the basic training and education programs may cause an initial unknown cost to persons or companies who have approved training programs in that the training program will need to be revised slightly if the changes are approved; but the persons or companies could also realize an unknown amount of savings by not being required to include first aid and CPR in their training program. In the end, the increased costs may be offset by the increased savings. There will be an increase in costs to contract security companies to obtain the proposed insurance requirements. The fiscal impact on such companies would vary depending upon their current coverage and the varying price of such coverage among insurance providers.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: These rule changes are intended to make the training received by private security officers more realistic. The first aid and CPR training requirement has been removed since such training, if properly given, would take up the entire 8 hour security officer training requirement. Companies can offer additional first aid and CPR training outside of the minimum training requirements, but it would be wrong to indicate to the public that private security officers are proficient in first aid and CPR based solely upon a brief introductory lecture. Additionally, these rules drop the unnecessary weapons training from the licensing requirements for unarmed private security officers. A second change is in the insurance requirements for contract security companies. The Division has had the insurance needs and requirements assessed and the language used in the rules is that given to the Division by the Department of Insurance at the conclusion of their assessment. The third change is to add to the unprofessional conduct provisions of the existing rules the continued employment of an unlicensed person as a private security officer after the expiration of the 30 day on-the-job training period during which licensure is being processed by the Division. These proposed rule changes would have no fiscal impact on the state budget and would not affect local governments. There is a potential positive impact upon the general public as the rule change will require wider insurance coverage of the activities where private security officers interact with the general public. There will be a fiscal impact upon companies offering private security officer services for additional insurance coverage if they do not already have

such coverage. The fiscal impact on such companies would vary depending upon their current coverage and the varying price of such coverage among insurance providers. This additional expense is well justified to meet the Division's mandate to protect the public--Douglas C. Borba.

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:
Clyde Ormond at the above address, by phone at (801) 530-6254, by FAX at (801) 530-6511, or by Internet E-mail at brdopl.cormond@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 03/31/1999; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 03/04/1999, 9:00 a.m., 160 East 300 South, Conference Room 4A, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 04/01/1999

AUTHORIZED BY: Diane J. Blake, Acting Director

R156. Commerce, Occupational and Professional Licensing.
R156-63. Security Personnel Licensing Act Rules.
R156-63-302d. Qualification for Licensure - Liability Insurance for a Contract Security Company.

In accordance with Subsections 58-1-203(2) and 58-1-301(3), the insurance requirements for licensure as a contract security company in Subsection 58-63-302(1)(j)(i) are defined, clarified, or established as follows.

(1) An applicant shall file with the division a "Certificate of Insurance" providing liability insurance for the following exposures:

(a) general liability;
(b) assault and battery;
(c) personal injury;
(d) false arrest;
(e) libel and slander;
(f) invasion of privacy;
(g) broad form property damage;
(h) damage to property in the care, custody or control of the contract security company; and
(i) errors and omissions.

(2) Said insurance shall provide[~~demonstrating comprehensive public~~] liability limits in amounts not less than[~~coverage issued by the insurance carrier showing coverage of at least~~] $300,000 for each incident and not less than $1,000,000 [~~in~~]total aggregate for each annual term.

(3) The insurance carrier must be an insurer which has a certificate of authority to do business in Utah, or is an authorized surplus lines insurer in Utah, or is authorized to do business under the laws of the state in which the corporate offices of foreign corporations are located.

([~~2~~]4) All contract security companies shall have a current insurance certificate of coverage as defined in Subsection (1) on file at all times and available for immediate inspection by the division during normal working hours.

R156-63-502. Unprofessional Conduct.

"Unprofessional conduct" includes the following:

(1) making any statement that would reasonably cause another person to believe that a private security officer functions as a law enforcement officer or other official of this state or any of its political subdivisions or any agency of the federal government;

(2) employment of an unarmed or armed private security office or alarm response runner by a contract security company, as an on-the-job trainee pursuant to Section R156-63-307, who has been convicted of a felony or a misdemeanor crime of moral turpitude;

(3) employment of an unarmed or armed private security officer or alarm response runner by a contract security company who fails to meet the requirements of Section R156-63-307; and

([~~3~~]4) a judgment on, or a judicial or prosecutorial agreement concerning a felony, or a misdemeanor involving moral turpitude, entered against an individual by a federal, state or local court, regardless of whether the court has made a finding of guilt, accepted a plea of guilty or nolo contendere by an individual, or an individual has entered into participation in a first offender, deferred adjudication or other program or arrangement where judgment of conviction is withheld.

R156-63-603. Operating Standards - Content of Approved Basic Education and Training Program for Armed Private Security Officers.

An approved basic education and training program for armed private security officers shall have the following components:

(1) at least eight hours of basic classroom instruction to include the following:

(a) the nature and role of private security;
(b) state laws and rules applicable to private security;
(c) legal responsibilities of private security;
(d) civil and criminal considerations;
(e) situational response evaluations;
(f) [~~case law~~]ethics;
(g) use of deadly force;
(h) observation and description;
(i) report writing;
(j) witness statements;
(k) courtroom testimony;
(l) industrial accidents;
(m) civil and criminal incidents;
(n) crimes in progress;
(o) armed patrol techniques;
(p) unarmed patrol techniques;
(q) fixed post techniques;
(r) [~~first aid including cardiopulmonary resuscitation, accident, injury, and illness;~~
~~(s) ~~]sexual harassment in the work place; and

([~~t~~]s) a final examination which competently examines the student in the subjects included in the approved program of education and training.

(2) at least six hours of classroom firearms instruction to include the following:

(a) the weapon and its ammunition;

(b) the use of factory loaded ammunition only;

(c) the care and cleaning of the weapon;

(d) cleaning equipment options;

(e) barrel and cylinder maintenance;

(f) no alterations of firing mechanism;

(g) weapons inspection review procedures;

(h) firearm safety on duty;

(i) firearm safety at home;

(j) firearm safety on range;

(k) ethical restraints on weapon use;

(l) legal restraints on weapon use;

(m) use of deadly force under Utah law and the provisions of Title 76, Chapter 2, Part 4 and;

(n) the instruction that armed private security officers shall not fire their weapon unless there is an eminent threat to life and at no time will the weapon be drawn as a threat or means to force compliance with any verbal directive; and

(3) at least six hours of firearms instruction on the range to include the following:

(a) demonstration of appropriate techniques of shooting;

(b) explanation of the difference between flash sight and sight picture; and

(c) a recognized practical pistol course on which the applicant achieves a minimum score of 80%.

R156-63-604. Operating Standards - Content of Approved Basic Education and Training Program for Unarmed Private Security Officers.

An approved basic education and training program for unarmed private security officers shall have the following components:

(1) at least eight hours of basic classroom instruction to include the following:

(a) the nature and role of private security;

(b) state laws and rules applicable to private security;

(c) legal responsibilities of private security;

(d) civil and criminal considerations;

(e) situational response evaluations;

(f) [~~case law~~]ethics;

(g) use of deadly force;

(h) observation and description;

(i) report writing;

(j) witness statements;

(k) courtroom testimony;

(l) industrial accidents;

(m) civil and criminal incidents;

(n) crimes in progress;

(o) [~~armed patrol techniques;~~

~~(p)~~]unarmed patrol techniques;

([~~q~~]p) fixed post techniques;

[~~(r) first aid including cardiopulmonary resuscitation, accident, injury, and illness;~~]

([~~s~~]q) sexual harassment in the work place;

([~~t~~]r) a final examination which competently examines the student in the subjects included in the approved program of education and training.

KEY: licensing, security guards

May 19, [~~1998~~]1999 **58-1-106(1)**
58-1-202(1)
58-63-101

◆ ◆

Environmental Quality, Air Quality

R307-101-2

Definitions

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 21851

FILED: 12/10/1999, 15:21

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Section R307-410-4 requires that sources document ambient air impacts from hazardous air pollutants before receiving approval to construct or operate. The rule relies on terms defined in Section R307-101-2 in terms of the biologic exposure indices issued annually by the American Conference of Governmental Industrial Hygienists. The amendments to Section R307-101-2 update to the most recent ACGIH publication for the definitions.

SUMMARY OF THE RULE OR CHANGE: Definitions of "acute hazardous air pollutant," "carcinogenic hazardous air pollutant," "chronic hazardous air pollutant," "threshold limit value-ceiling," and "threshold limit value-time weighted average" are updated to the 1998 edition of "Threshold Limit Values for Chemical Substances and Physical Agents - Biological Exposure Indices." The American Conference of Governmental Industrial Hygienists (ACGIH) has changed the format of its publication so that the indices take up more pages, but there are no significant changes to the indices themselves.

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

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: No change in costs, since the indices have changed only slightly.

❖LOCAL GOVERNMENTS: No change in costs, since the indices have changed only slightly.

❖OTHER PERSONS: No change in costs, since the indices have changed only slightly.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No change in costs, since the indices have changed only slightly. Only sources of hazardous air pollutants which seek to modify or expand are affected by this rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: We want Utah rules to reflect the most current scientific understanding of what may be hazardous to the public. Businesses can count on our using the most up-to-date version of the indices which determine the level of review applied to changes in their emissions--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 03/31/1999; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 03/24/1999, 1:30 p.m., Room 201, Department of Environmental Quality (DEQ) building, 168 North 1950 West, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 05/06/1999

AUTHORIZED BY: Rick Sprott, Planning Branch 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~~]72 (199[~~7~~]8)."

"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~~]72 (199[~~7~~]8)."

"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~~]72 (199[~~7~~]8)."

"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 kilograms per hour or 11 pounds per hour as determined by test procedures prescribed in 40 CFR 60.534, and weigh less than 800 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.

"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;

Municipal waste combustor organics (measured as total tetra- through octa-chlorinated dibenzo-p-dioxins and dibenzofurans): 3.2 grams per year (3.5×10^{-6} tons per year);

Municipal waste combustor metals (measured as particulate matter): 14 megagrams per year (15 tons per year);

Municipal waste combustor acid gases (measured as sulfur dioxide and hydrogen chloride): 36 megagrams per year (40 tons per year);

Municipal solid waste landfill emissions (measured as nonmethane organic compounds): 45 megagrams per year (50 tons per year);

(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 (199[~~7~~]8), pages 15 - [~~40~~]72."

"Threshold Limit Value - Time Weighted Average (TLV-TWA)" means the time-weighted airborne concentration of a substance adopted by the American Conference of Governmental Industrial Hygienists in its "Threshold Limit Values for Chemical Substances and Physical Agents - Biological Exposure Indices (199[~~7~~]8), pages 15 - [~~40~~]72."

"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 published on July 1, 1998, 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*
1999 **19-2-104**

Environmental Quality, Air Quality
R307-403
Permits: New and Modified Sources in Nonattainment Areas and Maintenance Areas

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21852
FILED: 02/10/1999, 15:24
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: In implementing the more stringent measures to obtain emission reductions (offset) for volatile organic compounds which were triggered by the Air Quality Board on December 2, 1998 (see the Special Notice in the January 1, 1999, issue of the *Utah State Bulletin*), it has become clear that the existing rule is confusing. This proposed amendment moves the ozone provisions applying to Salt Lake and Davis Counties to a new rule R307-420 and clarifies how the provisions work. Provisions for offset in nonattainment areas remain in R307-403, and would be applicable immediately if Salt Lake and Davis Counties or any other areas are redesignated as nonattainment areas for ozone. These provisions apply to operators seeking approval to modify or construct sources of ozone precursors located in Salt Lake and Davis Counties. The present rule does not clearly distinguish among the various conditions which may apply to sources in those counties, and could be interpreted to apply to sources which were not intended to be included.

SUMMARY OF THE RULE OR CHANGE: In Section R307-403-1, delete the reference to the definition in the Clean Air Act because the term is discussed but not defined in the Act; also, move the definition of "major" to the new rule R307-420. In Subsection R307-403-4(4), clarify the reference to the Clean Air Act by adding its U.S.C. citation. In Subsection R307-403-5(2), change the reference of "nonattainment areas" to "areas where offsets are required," and specify that sources of nitrogen oxides must meet the most stringent offset required by R307-403 or R307-420. In Section R307-403-6, clarify that sources in any ozone nonattainment area shall meet the offset requirements of the Clean Air Act. There are presently no ozone nonattainment areas in Utah. (**DAR Note:** The corresponding proposed new rule for R307-420 is found under DAR No. 21852 in this *Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-2-104 and 19-2-108
FEDERAL REQUIREMENT FOR THIS RULE: 42 U.S.C. 7503(e) and 42 U.S.C. 7511a

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: No change from the present as no change is made in the applicability of the rule.
❖LOCAL GOVERNMENTS: No change from the present as no change is made in the applicability of the rule.
❖OTHER PERSONS: No change from the present as no change is made in the applicability of the rule.
COMPLIANCE COSTS FOR AFFECTED PERSONS: No change from the present as no change is made in the applicability of the rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The regulated community has found this rule difficult to understand and use; moving the ozone offset provisions which apply in Davis and Salt Lake Counties into a separate rule highlights them for users and clarifies their application. In addition, it simplifies the application of the remaining parts of R307-403--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 03/31/1999; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 03/23/1999, 1:30 p.m., Room 201, Department of Environmental Quality (DEQ) Building, 168 North 1950 West, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 05/06/1999

AUTHORIZED BY: Rick Sprott, Planning Branch Manager

R307. Environmental Quality, Air Quality.
R307-403. Permits: New and Modified Sources in Nonattainment Areas and Maintenance Areas.
R307-403-1. Definitions.

[~~(1)~~]The following additional definition[~~s~~] appl[~~y~~]ies to R307-403:

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

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

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

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

[~~(2) For the purposes of R307-403-6(2), the term "major" shall mean: any stationary source or group of sources located within a contiguous area and under common control that emits, or has the potential to emit, at least 50 tons per year of either volatile organic compounds or oxides of nitrogen; or a modification to an existing source if the net emissions increase in either volatile organic compounds or oxides of nitrogen is at least 25 tons per year.~~]

R307-403-2. Emission Limitations.

Any source constructed in an actual area of nonattainment, or in the Salt Lake City and Ogden maintenance areas for carbon monoxide, or in an area which will impact on an actual area of nonattainment or on the Salt Lake City and Ogden maintenance areas for carbon monoxide must meet all applicable emission requirements of R307 and the State Implementation Plan incorporated by reference under R307-110. A proposed source which is not a major source may be approved without further analysis provided such source meets all such applicable emission limitations and offset requirements in R307-403-4, 5, and 6. The emission limitations shall be stated as a condition of the approval order.

R307-403-3. Review of Major Sources of Air Quality Impact.

Every major new source or major modification must be reviewed by the Executive Secretary to determine if a source will cause or contribute to a violation of the NAAQS. The determination of whether a source will cause or contribute to a violation of the NAAQS will be made by the Executive Secretary as of the new source's projected start-up date. He will make an analysis of the proposed new source's operation data using the best information and analytical techniques available.

(1) If the owner or operator of a source proposes to locate the source outside an area of nonattainment where the source will not cause an increase greater than the following increments in actual areas of nonattainment or in the Salt Lake City and Ogden maintenance areas for carbon monoxide and the source otherwise meets the requirements of these regulations, such source shall be approved.

TABLE

MAXIMUM ALLOWABLE MICROGRAM/CUBIC METER IMPACT
BY AVERAGING TIME

Pollutant	Annual	24-Hr	8-Hr	3-Hr	1-Hr
SULFUR DIOXIDE	1.0	5		25	
PM10	1.0	3			
CO			500		2000

(2) If the Executive Secretary finds that the emissions from a proposed source would cause a new violation of the NAAQS but would not contribute to an existing violation, the Executive Secretary shall approve the proposed source if and only if:

(a) the new source is required to meet a more stringent emission limitation, sufficient to avoid a new violation of the NAAQS and

(b) the new source has acquired sufficient offset to avoid a new violation of the NAAQS and

(c) the new emission limitations for the proposed source and for any affected existing sources are enforceable.

(3) If the Executive Secretary finds that the emissions from a proposed source in a nonattainment area would contribute to an existing violation of a national ambient air quality standard at the time of the source's proposed start-up date, approval shall be granted if and only if:

(a) the new source meets an emission limitation which is the Lowest Achievable Emission Rate (LAER) for such source and

(b) the applicant has certified that all existing major sources in the State, owned or controlled by the owner or operator (or by any entity controlling, controlled by or under common control with such owner or operator) of the proposed source, are in compliance with all applicable rules in R307, including the Utah Implementation Plan requirements or are in compliance with an approved schedule and timetable for compliance under the Utah Implementation Plan, R307, or an enforcement order, and that the source is complying with all requirements and limitations as expeditiously as practicable.

(c) emission offsets to the extent provided in R307-403-4, 5 and 6 are sufficient such that there will be reasonable further progress toward attainment of the applicable NAAQS.

(d) the emission offsets provide a positive net air quality benefit in the affected area of nonattainment.

(e) there is an approved implementation plan in effect for the pollutant to be emitted by the proposed source.

(4) A source which is locating outside a nonattainment area or the Salt Lake City and Ogden maintenance areas for carbon monoxide and which causes the significant increments in (1) above to be exceeded in the nonattainment or maintenance area is subject to the requirements of (3) above.

R307-403-4. Offsets: General Requirements.

(1) Emission offsets must be obtained from the same source or other sources in the same nonattainment area except that the owner or operator of a source may obtain emission offsets in another nonattainment area if:

(a) the other area has an equal or higher nonattainment classification than the area in which the source is located; and

(b) emissions from such other area contribute to a violation of the national ambient air quality standard in the nonattainment area in which the source is located or which is impacted by the source.

(2) Any emission offsets shall be enforceable by the time a new or modified source commences construction, and, by the time a new or modified source commences operation, any emission offsets shall be in effect and enforceable and shall assure that the total tonnage of increased emissions of the air pollutant from the new or modified source shall be offset by an equal or greater reduction, as applicable, in the actual emissions of such air pollutant from the same or other sources in the area.

(3) Emission reductions otherwise required by the federal Clean Air Act or R307, including the State Implementation Plan shall not be creditable as emission reductions for purposes of any offset requirement. Incidental emission reductions which are not otherwise required by federal or state law shall be creditable as emission reductions if such emission reductions meet the requirements of (1) and (2) above.

(4) Sources shall be allowed to offset, by alternative or innovative means, emission increases from rocket engine and motor

firing, and cleaning related to such firing, at an existing or modified major source that tests rocket engines or motors under the conditions outlined in 42 U.S.C. 7503(e) (Section 173(e)(1) through Section 173(e)(4) of the federal Clean Air Act as amended in 1990).

R307-403-5. Offsets: PM10 Nonattainment Areas.

(1) New sources which have a potential to emit, or modified sources which would produce an emission increase equal to or exceeding the tonnage total of combined PM10, sulfur dioxide, and oxides of nitrogen listed below which are located in or impact a PM10 Nonattainment Area as defined in (a) below, shall obtain an enforceable offset as defined in (b) and (c) below.

(a) For the purpose of determining whether the owner or operator which proposes to locate a source outside a nonattainment area is required to obtain offsets, the maximum allowable impact on any nonattainment area is 1.0 microgram/cubic meter for a one-year averaging period and 3.0 micrograms/cubic meter for a 24-hour averaging period for any combination of PM10, sulfur dioxide and nitrogen dioxide.

(b) For a total of 50 tons/year or greater, an offset of 1.2:1 of the emission increase is required.

(c) For a total of 25 tons/year but less than 50 tons/year, an offset of 1:1 of the emission increase is required.

(2) For the offset determinations, PM10, sulfur dioxide, and oxides of nitrogen shall be considered on an equal basis. In areas [~~which are nonattainment~~]where offsets are required for both PM10 and ozone, the most stringent emission offset ratio for oxides of nitrogen required by R307-403 or R307-420 shall apply.

R307-403-6. Offsets: Ozone Nonattainment Areas[~~and Davis and Salt Lake Counties~~].

In any ozone nonattainment area, n[~~N~~]ew sources and modifications to existing sources as defined and outlined in 42 U.S.C. 7511a (Section 182 of the Clean Air Act) shall meet the offset requirements and conditions listed in that section for the applicable classified area and for the identified pollutants.[~~As outlined in Section 182 of the federal Clean Air Act, for moderate areas, the emission offset ratio must be at least 1.15:1.~~

~~(1) Ozone Maintenance Plan, Salt Lake and Davis Counties. In the event that the contingency measures described in Section IX, Part D.2.h.(3) of the State Implementation Plan are triggered, the offset requirement in (2) below shall apply to emissions of both volatile organic compounds and oxides of nitrogen.~~

~~(2) The emission offset ratio must be at least 1.2:1, and offset must be obtained for the same pollutant for which the source or modification has been deemed "major".~~]

R307-403-7. Offsets: Baseline.

The baseline to be used for determination of credit for emission and air quality offsets will be the emission limitations and/or other requirements in the State Implementation Plan (SIP), revised in accordance with the Clean Air Act or subsequent revisions thereto in effect at the time the application to construct or modify a source is filed.

R307-403-8. Offsets: Banking of Emission Offset Credit.

Banking of emission offset credit will be permitted to the fullest extent allowed by applicable Federal Law as identified in EPA's document "Emissions Trading Policy Statement" published in the Federal Register on December 4, 1986, and 40 CFR 51.165(a)(3)(ii)(c) as amended on June 28, 1989, and 40 CFR 51.165, Appendix S. To preserve banked emission reductions, the Executive Secretary must identify them in either the Utah SIP or an order issued pursuant to R307-401 and shall provide a registry to identify the person, private entity or governmental authority that has the right to use or allocate the banked emission reductions, and to record any transfers of, or liens on these rights.

R307-403-9. Construction in Stages.

When a source is constructed or modified in stages which individually do not have the potential to emit more than 100 tons per year, the allowable emission from all such stages shall be added together in determining the applicability of R307-403.

KEY: air quality, nonattainment*, offset*
199[~~8~~]9 **19-2-104**
19-2-108

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Environmental Quality, Air Quality
R307-420
Permits: Ozone Offset Requirements in Davis and Salt Lake Counties

NOTICE OF PROPOSED RULE
(New)
DAR FILE NO.: 21853
FILED: 02/10/1999, 15:24
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Now that Salt Lake and Davis Counties are no longer a nonattainment area for ozone, this rule sets up and clarifies the offset requirements which apply for sources of volatile organic compounds (VOCs) and nitrogen oxides in those counties by moving those offset requirements out of R307-403, which apply in nonattainment areas for ozone and particulate matter. The offset provisions of R307-403 are very difficult to understand presently.

SUMMARY OF THE RULE OR CHANGE: This rule is a clarification of provisions which have been found in R307-403, and clarifies the sources subject to the rule. Section R307-420-1 declares the intention to maintain in Davis and Salt Lake Counties the offset requirements which are applicable in nonattainment areas, and to establish more stringent offset requirements for nitrogen oxides which may be triggered as a contingency measure under the Ozone Maintenance Plan. Section R307-420-2 includes the definition of "major source" which was previously found in Section R307-403-1, and a definition of "significant" is added. Section R307-420-3 applies an offset ratio for sources of nitrogen oxides of 1.15:1, effective on August 18, 1997, the date on which Salt

Lake and Davis Counties were redesignated to attainment for ozone. It sets the offset ratio for volatile organic compounds (VOCs) at 1.2:1, effective on December 2, 1998, the date on which the Air Quality Board triggered the contingency measures allowed in the Ozone Maintenance Plan (see Special Notice in January 1, 1999, issue of the *Utah State Bulletin*). Section R307-420-4 requires that offsets meet the requirements of Sections R307-403-4, R307-403-7, and R307-403-8, and specifies how offset credits may be applied. Section R307-420-5 specifies the more stringent offset provisions to be applied to oxides of nitrogen if the contingency measures specified in the Ozone Maintenance Plan are triggered by the Air Quality Board.
(**DAR Note:** The corresponding proposed amendment for R307-403 is found under DAR No. 21852 in this *Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-2-104 and 19-2-108
FEDERAL REQUIREMENT FOR THIS RULE: 42 U.S.C. 7503(e) and 42 U.S.C. 7511a

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: No change from the present as no change is made in the applicability of the rule.
❖LOCAL GOVERNMENTS: No change from the present as no change is made in the applicability of the rule.
❖OTHER PERSONS: No change from the present as no change is made in the applicability of the rule.
COMPLIANCE COSTS FOR AFFECTED PERSONS: No change from the present as no change is made in the applicability of the rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The regulated community has found this rule difficult to understand and use; moving the ozone offset provisions which apply in Davis and Salt Lake Counties into a separate rule highlights them for users and clarifies their application--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 03/31/1999; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 03/23/1999, 1:30 p.m., Room 201, Department of Environmental Quality (DEQ) Building, 168 North 1950 West, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 05/06/1999

AUTHORIZED BY: Rick Sprott, Planning Branch Manager

R307. Environmental Quality, Air Quality.
R307-420. Permits: Ozone Offset Requirements in Davis and Salt Lake Counties.
R307-420-1. Purpose.

The purpose of R307-420 is to maintain the offset provisions of the nonattainment area new source review permitting program in Salt Lake and Davis Counties after the area is redesignated to attainment for ozone. R307-420 also establishes more stringent offset requirements for nitrogen oxides that may be triggered as a contingency measure under the ozone maintenance plan.

R307-420-2. Definitions.

The following additional definitions apply to R307-420:

"Major Source" means:

(1)(a) any stationary source of air pollutants which emits, or has the potential to emit, fifty tons per year or more of volatile organic compounds; or

(b) any stationary source of air pollutants which emits, or has the potential to emit, one hundred tons per year or more of nitrogen oxides; or

(c) any physical change that would occur at a source not qualifying under (1)(a) or (b) as a major source, if the change would constitute a major source by itself.

(2) The fugitive emissions of a stationary source shall not be included in determining whether it is a major stationary source, unless the source belongs to one of the following categories of stationary sources:

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

(z) Fossil fuel-fired steam electric plants of more than 250 million British Thermal Units per hour heat input;

(aa) Any other stationary source category which, as of August 7, 1980, is being regulated under 42 U.S.C. 7411 or 7412 (section 111 or 112 of the federal Clean Air Act).

"Significant" means, for the purposes of determining what is a significant net emission increase and therefore a major modification, a rate of emissions that would equal or exceed any of the following rates:

(1) for volatile organic compounds, 25 tons per year,

(2) for nitrogen oxides, 40 tons per year.

R307-420-3. Applicability.

(1) Nitrogen Oxides. Effective August 18, 1997, any new major source or major modification of nitrogen oxides in Davis County or Salt Lake County shall offset the proposed increase in nitrogen oxide emissions by a ratio of 1.15:1 before the executive secretary may issue an approval order to construct, modify, or relocate under R307-401.

(2) Volatile Organic Compounds. Effective December 2, 1998 any new major source or major modification of volatile organic compounds in Davis County or Salt Lake County shall offset the proposed increase in volatile organic compound emissions by a ratio of 1.2:1 before the executive secretary may issue an approval order to construct, modify, or relocate under R307-401.

R307-420-4. General Requirements.

(1) All emission offsets shall meet the general requirements for calculating and banking emission offsets that are established in R307-403-4, R307-403-7 and R307-403-8.

(2) Emission offset credits generated in Davis County or Salt Lake County may be used in either county.

(3) Offsets may not be traded between volatile organic compounds and nitrogen oxides.

R307-420-5. Contingency Measure: Offsets for Oxides of Nitrogen.

If the nitrogen oxide offset contingency measure described in Section IX, Part D.2.h(3) of the state implementation plan is triggered, the following conditions shall apply in Davis County and Salt Lake County.

(1) Paragraph (1)(b) in the term "major source," which is defined in R307-420-2, shall be changed to read: any stationary source of air pollutants which emits, or has the potential to emit, fifty tons per year or more of nitrogen oxides.

(2) The nitrogen dioxide level that is included in the term "significant", which is defined in R307-420-2, shall be changed from 40 tons per year to 25 tons per year.

(3) The emission offset ratio shall be 1.2:1 for nitrogen oxides.

KEY: air pollution, ozone, offset*
1999 **19-2-104**
19-2-108

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Environmental Quality, Solid and Hazardous Waste

R315-2-2

Definition of Solid Waste

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21856
FILED: 02/12/1999, 09:12
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To eliminate a date that is not needed.

SUMMARY OF THE RULE OR CHANGE: This proposed rule change eliminates a date that was erroneously added in previous rulemaking.
(**DAR Note:** The previous rulemaking was a change in proposed rule under DAR No. 21459 that was published in the January 1, 1999, issue of the *Utah State Bulletin* and is effective as of February 15, 1999.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-6-105 and 19-6-106
FEDERAL REQUIREMENT FOR THIS RULE: 40 CFR 271.21(e)

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: Since the changes in the rule do not affect State entities and the enforcement of the rule will not change, there will be no cost or savings impact.
❖LOCAL GOVERNMENTS: Since the changes in the rule do not affect local governments and the enforcement of the rule will not change, there will be no cost or savings impact.
❖OTHER PERSONS: Since the amendment only eliminates a date, there will be no costs or savings to other persons.
COMPLIANCE COSTS FOR AFFECTED PERSONS: Since the amendment only eliminates a date, there will be no compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed changes in this rule will have no fiscal impact on businesses--Dianne R. Nielson, Ph.D.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Environmental Quality
Solid and Hazardous Waste
Cannon Health Building
288 North 1460 West
PO Box 144880
Salt Lake City, UT 84114-4880, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Susan Toronto at the above address, by phone at (801) 538-6170, by FAX at (801) 538-6715, or by Internet E-mail at storonto@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 03/31/1999.

THIS RULE MAY BECOME EFFECTIVE ON: 04/15/1999

AUTHORIZED BY: Dennis R. Downs, Executive Secretary

R315. Environmental Quality, Solid and Hazardous Waste.
R315-2. General Requirements - Identification and Listing of Hazardous Waste.
R315-2-2. Definition of Solid Waste.

(a)(1) A solid waste is any discarded material that is not excluded by subsection R315-2-4(a) or that is not excluded by variance granted under R315-2-18 and R315-2-19.

(2) A discarded material is any material which is:

(i) Abandoned, as explained in paragraph (b) of this section; or

(ii) Recycled, as explained in paragraph (c) of this section; or

(iii) Considered inherently waste-like, as explained in paragraph (d) of this section.

(b) Materials are solid waste if they are abandoned by being;

(1) Disposed of; or

(2) Burned or incinerated; or

(3) Accumulated, stored, or treated, but not recycled, before or in lieu of being abandoned by being disposed of, burned, or incinerated.

(c) Materials are solid wastes if they are recycled - or accumulated, stored, or treated before recycling - as specified in paragraphs (c)(1) through (c)(4) of this section. Table 1 of 40 CFR 261.2, 1997 ed., is adopted and incorporated by reference and shall be effective through June 30, 1999. Table 1 of 40 CFR 261.2, 1998 ed., is adopted and incorporated by reference, except that the heading for Column 3 shall read "reclamation (Section 261.2(c)(3)) (except as provided in 261.4(a)(16) for mineral processing secondary materials), and shall be effective July 1, 1999.

(1) Used in a manner constituting disposal

(i) Materials noted with "*" in Column 1 of Table 1 of 40 CFR 261.2, are solid wastes when they are:

(A) Applied to or placed on the land in a manner that constitutes disposal; or

(B) Used to produce products that are applied to or placed on the land or are otherwise contained in products that are applied to or placed on the land, in which cases the product itself remains a solid waste.

(ii) However, commercial chemical products listed in R315-2-11 are not solid wastes if they are applied to the land and that is their ordinary manner of use.

(2) Burning for energy recovery.

(i) Materials noted with a "*" in Column 2 of Table 1 of 40 CFR 261.2 are solid wastes when they are:

(A) Burned to recover energy;

(B) Used to produce a fuel or are otherwise contained in fuels, in which cases the fuel itself remains a solid waste.

(ii) However, commercial chemical products listed in R315-2-11 are not solid wastes if they are themselves fuels.

(3) Reclaimed. Materials noted with a "*" in Column 3 of Table 1 of 40 CFR 261.2 are solid wastes when reclaimed, except as provided under R315-2-4(a)(16), which shall be effective on July 1, 1999. Materials noted with a "---" in column 3 of Table 1 are not solid wastes when reclaimed, except as provided under R315-2-4(a)(16), which shall be effective on July 1, 1999.

(4) Accumulated speculatively. Materials noted with a "*" in Column 4 of Table 1 of 40 CFR 261.2 are solid wastes when accumulated speculatively.

(d) Inherently waste-like materials. The following materials are solid wastes when they are recycled in any manner:

(1) Hazardous Waste Nos. F020, F021, unless used as an ingredient to make a product at the site of generation, F022, F023, F026, and F028.

(2) Secondary materials fed to a halogen acid furnace that exhibit a characteristic of a hazardous waste or are listed as a hazardous waste as defined in R315-2-9 through R315-2-10 and R315-2-24, except for brominated material that meets the following criteria:

(i) The material must contain a bromine concentration of at least 45%; and

(ii) The material must contain less than a total of 1% of toxic organic compounds listed in 40 CFR 261 Appendix VIII; and

(iii) The material is processed continually on-site in the halogen acid furnace via direct conveyance (hard piping).

(3) The Board will use the following criteria to add wastes to that list:

(i)(A) The materials are ordinarily disposed of, burned, or incinerated; or

(B) The materials contain toxic constituents listed in R315-50-10 and these constituents are not ordinarily found in raw materials or products for which the materials substitute, or are found in raw materials or products in smaller concentrations, and are not used or reused during the recycling process; and

(ii) The material may pose a substantial hazard to human health and the environment when recycled.

(e) Materials that are not solid waste when recycled.

(1) Materials are not solid wastes when they can be shown to be recycled by being:

(i) Used or reused as ingredients in an industrial process to make a product, provided the materials are not being reclaimed; or

(ii) Used or reused as effective substitutes for commercial products; or

(iii) Returned to the original process from which they are generated, without first being reclaimed or land disposed. The material must be returned as a substitute for feedstock materials. [~~After June 30, 1999, in~~]In cases where the original process to which the material is returned is a secondary process, the materials must be managed such that there is no placement on the land. After June 30, 1999, in cases where the materials are generated and reclaimed within the primary mineral processing industry, the conditions of the exclusion found at R315-2-4(a)(16) apply rather than this provision.

(2) The following materials are solid wastes, even if the recycling involves use, reuse, or return to the original process, described in paragraphs (e)(1)(i)-(iii) of this section:

(i) Materials used in a manner constituting disposal, or used to produce products that are applied to the land; or

(ii) Materials burned for energy recovery, used to produce a fuel, or contained in fuels; or

(iii) Materials accumulated speculatively; or

(iv) Materials listed in paragraphs (d)(1) and (d)(2) of this section.

(f) Documentation of claims that materials are not solid wastes or are conditionally exempt from regulation. Respondents in actions to enforce rules implementing the Utah Solid and Hazardous Waste Act who raise a claim that a certain material is not a solid waste, or is conditionally exempt from regulation, must demonstrate that there is a known market or disposition for the material, and that they meet the terms of the exclusion or exemption. In doing so, they must provide appropriate documentation, such as contracts showing that a second person uses the material as an ingredient in a production process, to demonstrate that the material is not a waste, or is exempt from regulation. In addition, owners or operators of facilities claiming that they actually are recycling materials must show that they have the necessary equipment to do so.

KEY: hazardous waste
[~~February 15,~~]1999 19-6-105
Notice of Continuation March 12, 1997 19-6-106

Fair Corporation (Utah State), Administration
R325-1
Utah State Fair Competitive Exhibitor Rules

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21872
FILED: 02/16/1999, 15:05
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule needs to be changed so the director may act solely on complaints that do not need to involve the board of directors for a resolution.

SUMMARY OF THE RULE OR CHANGE: There are protests and complaints regarding State Fair Rules which are easily handled by the director and which do not always need to involve the Board of Directors for a resolution.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 9-4-1103 and Subsection 63-46a-3(2)

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: None--change in complaint handling procedures of State Fair rules only. Not all complaints involve a monetary amount (i.e., refund) to resolve. If a monetary amount (i.e., refund) were required to resolve a complaint, it would come from Fairpark gate admission, competition, or exhibitor entry fees.
❖LOCAL GOVERNMENTS: None--does not affect local government. The change in complaint handling procedures of State Fair rules only involves the State Fairpark.
❖OTHER PERSONS: None--does not affect other persons. The change in complaint handling procedures of State Fair rules only involves the State Fairpark.
COMPLIANCE COSTS FOR AFFECTED PERSONS: None--internal change in complaint handling procedures only. Does not require a monetary amount in any way to come into compliance other than filing a written complaint with the executive director.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule change allows the director to act solely on complaints rather than always involving the Fairpark Board of Directors. This change would not involve a fiscal impact on other businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Fair Corporation (Utah State)
Administration
155 North 1000 West
Salt Lake City, UT 84116, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Kelly West at the above address, by phone at (801) 538-8441, by FAX at (801) 538-8455, or by Internet E-mail at kellyw@fiber.net.

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 03/31/1999.

THIS RULE MAY BECOME EFFECTIVE ON: 04/01/1999

AUTHORIZED BY: Kelly West, Assistant to the Director

R325. Fair Corporation (Utah State), Administration.
R325-1. Utah State Fair Competitive Exhibitor Rules.
R325-1-4. Protests.

A protest against judging, exhibitor handbook rules, exhibition of displays, damage to an exhibit or a disagreement with fair personnel, shall be made in writing to the fair coordinator, stating the exact reason for the complaint. The executive director also known as President/CEO, and/or the board of directors shall consider and act on the complaint.

KEY: fairs, rules and procedures
[~~1996~~]1999 **9-4-1103**
Notice of Continuation October 29, 1996

Fair Corporation (Utah State), Administration
R325-2
Utah State Fair Commercial Exhibitor Rules

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21873
FILED: 02/16/1999, 15:05
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule change is to better clarify that awarding of space is content neutral, however, can be limited based on the number of exhibitors selling or exhibiting the same items. Secondly, some individuals, companies, or organizations try to conduct business in the Fairpark without an agreement. Some want to do business in the parking area, which is not allowed during the State Fair.

SUMMARY OF THE RULE OR CHANGE: Makes rule more likely to pass constitutional tests. Secondly, this rule change should make it clear that all individuals, companies, or organizations must have an agreement and must be inside the fenced Fair area. Also, the rule clarifies that no one is permitted to conduct business of any kind in the parking area.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 9-4-1103 and Subsection 63-461-3(2)

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: None--rule change is a clarification of how exhibitors are chosen during the Utah State Fair. These changes do not affect a cost or savings on the State budget.
❖LOCAL GOVERNMENTS: None--rule change is a clarification of how exhibitors are chosen during the Utah State Fair. These changes do not affect a cost or savings on local government.
❖OTHER PERSONS: None--rule change is a clarification of how exhibitors are chosen during the Utah State Fair. These changes do not affect a cost or savings on other persons. However, it may affect other persons by forcing them to enter into a lease agreement with the Fairpark and purchase a booth at prevailing rates.
COMPLIANCE COSTS FOR AFFECTED PERSONS: None--change in selection of exhibitors policy only, no compliance costs associated for anyone. Secondly, compliance costs may include purchasing a booth in the Utah State Fair at prevailing rates.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule change will not have a fiscal impact on businesses other than forcing businesses who desire to do business on the Fairpark to comply with the rules of the Utah State Fair by entering into a lease agreement with the fair and purchasing a booth at prevailing rates.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Fair Corporation (Utah State)
Administration
155 North 1000 West
Salt Lake City, UT 84116, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Kelly West at the above address, by phone at (801) 538-8441, by FAX at (801) 538-8455, or by Internet E-mail at kellyw@fiber.net.

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 03/31/1999.

THIS RULE MAY BECOME EFFECTIVE ON: 04/01/1999

AUTHORIZED BY: Kelly West, Assistant to the Director

R325. Fair Corporation (Utah State), Administration.
R325-2. Utah State Fair Commercial Exhibitor Rules.
R325-2-2. Selection of Exhibitors.

(a) The executive director, also known as President/CEO, and board of directors reserve the right to contract for exhibit space on a year by year basis regardless of the number of years an exhibitor[~~'s length of time~~] has participated at the fair.[~~, product, or other sufficient reasons determined by the executive director.~~] Renewals to participate in the next year's fair are sent in February by invitation only. The renewal is based upon the previous year's exhibitor's fulfillment of the exhibit space lease agreement[~~,~~] including, but not limited to, payment of rent on due date, conduct of exhibitor and his hired help.[~~and the quality of product.~~] Following this process, new applications are reviewed and vacant spaces filled. The executive director may limit the number of the same type of exhibitors, whether new or renewal, in order to give fair patrons a better variety.

(b) Applications [~~are accepted on the basis of educational value, variety, quality of product, and credentials and are not necessarily accepted by the posted date received by the fair. All commercial exhibits, products or advertising are subject to approval of the board of directors.~~]are accepted on a first-come, first served basis, with public policy exception stated in the standard contract unrelated to the content of speech and with the modification that variety may be taken into account.

R325-2-4. Advertising Material, Petition Signing or Private Business is Prohibited Without Lease Agreement.

(a) No individual, [~~or~~]company or organization of any kind shall distribute or post advertising material, solicit signatures for

petitions, pass out campaign literature or conduct business of any kind in the Fairpark without a certified exhibit space lease agreement.

(b) Lease agreements for space during the State Fair are not available for Fairpark parking areas, vehicle entrances or exit areas.

KEY: fairs, rules and procedures
[~~1996~~]1999 9-4-1103
Notice of Continuation October 29, 1996

Fair Corporation (Utah State), Administration

R325-3

Utah State Fair Patron Rules

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21874
FILED: 02/16/1999, 15:05
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Some Utah State Fair patrons want gate refunds for very frivolous reasons. Current rule implies that in order to get a refund, all someone has to do is submit a reason in writing. Secondly, there are many different organizations that desire to pass out literature, conduct surveys, have petitions signed, etc., during the state fair by taking advantage of the large crowds that come to the fair. This rule change requires all individuals, companies, or organizations desiring to conduct any type of business activities to pay for an exhibit space. Thirdly, the rule needs to make it so Fairpark Management may act without the Fairpark Board of Directors in resolving complaints. Fourthly, for various reasons we do not allow dogs or pets on the Fairpark during the State Fair unless they are entered for some competition, however, we find some elderly or disturbed people have a pet with them that is required by their physician.

SUMMARY OF THE RULE OR CHANGE: This rule change will allow the executive director to consider if a refund is warranted, and not to imply a refund will be made just because their reason for a refund is submitted in writing. Secondly, this rule change emphasizes the fact that everyone desiring to conduct any type of business on the Fairpark must have a lease agreement. Thirdly, There are protests and complaints regarding State Fair rules which are easily handled by Fairpark Management, and which do not need to involve the Fairpark Board of Directors for a resolution. Fourthly, this rule change allows Fairpark Management to make exceptions for people who have special needs and may have a need to bring a dog or pet onto the Fairpark.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 9-4-1103 and Subsection 63-46a-3(2)

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: None--this rule change is a clarification of language only so as not to imply that just because someone submits their complaint in writing they will receive a refund. Any refunds given to resolve a complaint would come from Fairpark gate admission, competition, or exhibitor entry fees. Secondly, this rule change will broaden the scope of activities not allowed on the Fairpark without an exhibit space lease agreement. No cost or savings is associated with the state budget when requiring exhibitors to have an exhibit space lease agreement. Thirdly, this is a change in complaint handling procedures of State Fair rules only. Not all complaints involve a monetary amount to resolve. If a monetary amount (i.e., refund) were required to resolve a complaint, it would come from Fairpark gate admission, competition, or exhibitor entry fees. Fourthly, rule change allows Fairpark Management to make exceptions for those who have special needs. No cost or savings is associated with allowing or not allowing dogs or pets on the Fairpark.
❖LOCAL GOVERNMENTS: None--this rule change is a clarification of language only so as not to imply that just because someone submits their complaint in writing they will receive a refund. No cost or savings is associated with local governments when requiring exhibitors to have an exhibit space lease agreement.
❖OTHER PERSONS: Those individuals, companies, or organizations who desire to conduct business on the Fairpark are required to sign an exhibit space lease agreement and purchase their booth space at the prevailing rates depending on size and location.
COMPLIANCE COSTS FOR AFFECTED PERSONS: Patrons desiring to protest a Utah State Fair rule must submit the complaint in writing to the executive director in order for the complaint to be considered for action. No cost or savings is associated to comply other than a written complaint submitted to the executive director. Any individual, company, or organization desiring to do any type of business on the Utah State Fairpark during the Utah State Fair must sign an exhibit space lease agreement. In order to comply with this agreement, they must purchase a booth at the prevailing rates depending on size and location. Thirdly, this is an internal change in complaint handling procedures only. It does not require a monetary amount on anyone's part to come into compliance. Fourthly, this is an internal change in policy on dogs and pets on the Fairpark. It does not require a monetary amount on anyone's part to come into compliance.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Prices for individual booth locations at the Utah State Fair are determined on a year-to-year basis. The prices are based on size and location and are published in the yearly *Utah State Fair Commercial Exhibitor Handbook.*

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

Fair Corporation (Utah State)
Administration
155 North 1000 West
Salt Lake City, UT 84116, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Kelly West at the above address, by phone at (801) 538-8441, by FAX at (801) 538-8455, or by Internet E-mail at kellyw@fiber.net.

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 03/31/1999.

THIS RULE MAY BECOME EFFECTIVE ON: 04/01/1999

AUTHORIZED BY: Kelly West, Assistant to the Director

R325. Fair Corporation (Utah State), Administration.
R325-3. Utah State Fair Patron Rules.
R325-3-1. Admission Charge.

A patron shall pay a gate admission charge upon entrance to the annual Utah State Fair. The admission charge will be posted at the entrance gates and shall be established by the executive director and board of directors on a yearly basis. Gate refunds shall not be [~~made~~]considered unless the patron submits, in writing, a letter to the executive director, also known as President/CEO, stating the reason for the refund and at the discretion of the executive director, also known as President/CEO, a refund may be given.

R325-3-5. Unauthorized Business.

The management reserves the right to remove from the Fairpark any person or persons distributing advertising material or conducting private business of any kind who does not have an authorized Exhibit Space Lease Agreement.

R325-3-6. Handling Complaints.

A patron who feels he has been mistreated by Fairpark personnel, exhibitors, midway and food concession personnel, or others shall submit, in writing, a detailed summary of his complaint for action by the Fairpark management and/or board of directors.

R325-3-8. Pets, Bicycles and Miscellaneous.

No pets, bicycles, motorcycles or golf carts shall be allowed in the Fairpark without written approval of the Fairpark management. Seeing eye dogs or pets required by physician prescription are the only exception.

KEY: fairs, rules and procedures
[~~1996~~]1999 9-4-1103
Notice of Continuation October 29, 1996

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Fair Corporation (Utah State), Administration

R325-4

Interim Patrons Rules (Other Than Utah State Fair)

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21875
FILED: 02/16/1999, 15:05
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule change will delete the roads of the Fairpark as state highways. Some individuals, companies, or organizations believe they have the right to use the roads of the Fairpark to conduct their business without entering into an agreement, regardless of what is going on at the Fairpark. Many times the roads are not even used as roadways but for entertainment and exhibits. Secondly, the rule needs to make it so Fairpark Management may act without the Board of Directors in handling complaints. Thirdly, we do not want imply that all complaints will be acted upon.

SUMMARY OF THE RULE OR CHANGE: The Utah Department of Transportation (UDOT) does not maintain or manage the roads inside the State Fairpark in any way and this amendment will delete this from the rule. Secondly, there are protests and complaints regarding State Fair rules which are easily handled by Fairpark Management, and which do not need to involve the Board of Directors for a resolution. Also, we don't want to imply action will be taken on complaints if we feel no action is necessary.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 9-4-1103 and Subsection 63-46a-3(2)

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: None--since UDOT does not currently maintain the roads of the Utah State Fairpark, there will be no savings to the State budget. Secondly, this rule change involves internal procedures on handling complaints against State Fairpark rules only. Not all complaints involve a monetary amount (i.e., refund) to resolve. If a monetary amount (i.e., refund) were required to resolve a complaint, it would come from Fairpark gate admission, competition, or entry fees only.

❖LOCAL GOVERNMENTS: None--does not affect local government. The change involves internal procedures on handling complaints against State Fairpark rules only.

❖OTHER PERSONS: None--does not other persons. The change involves internal procedures on handling complaints against State Fairpark rules only.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule change will require any individual, company, or organization desiring to conduct any type of business activities on the Fairpark to enter into a lease agreement and pay for the space being used at prevailing rates.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Since UDOT does not maintain the roads of the Utah State Fairpark as state highways, they are happy to remove the designation of such from the rule. In addition, this rule change will allow Fairpark Management to better control what activities take place on the Fairpark. This will impact other companies by forcing them to enter into a lease agreement and pay for the space being used at prevailing prices.

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

Fair Corporation (Utah State)
Administration
155 North 1000 West
Salt Lake City, UT 84116, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Kelly West at the above address, by phone at (801) 538-8441, by FAX at (801) 538-8455, or by Internet E-mail at kellyw@fiber.net.

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 03/31/1999.

THIS RULE MAY BECOME EFFECTIVE ON: 04/01/1999

AUTHORIZED BY: Kelly West, Assistant to the Director

R325. Fair Corporation (Utah State), Administration.
R325-4. Interim Patrons Rules (Other Than Utah State Fair).
R325-4-12. Fairpark Roads.

[~~The main roads of the Fairpark are state highways. A patron~~]Patrons shall observe all traffic signs and the Fairpark's speed limit of ten miles-per-hour.

R325-4-17. Complaints.

A patron who feels he has been mistreated by Fairpark personnel, event promoter, food concession personnel or others shall submit, in writing, a detailed summary of this complaint for [~~action~~]consideration by the Fairpark management.[~~ and board of directors.~~]

R325-4-18. Complaint Against Renter.

A patron who has a complaint about an event sponsored by a renter shall submit, in writing, a detailed summary of his complaint [~~for action by~~]to the Fairpark management for their consideration.[~~and board of directors.~~]

KEY: fairs, rules and procedures
[~~1996~~]1999 **9-4-1103**
Notice of Continuation October 29, 1996

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Fair Corporation (Utah State), Administration
R325-5
Interim Renters Rules (Other Than Utah State Fair)

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21876
FILED: 02/16/1999, 15:05
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule change will better clarify the Executive Director's title of the Utah State Fairpark. Secondly, it will delete the roads of the Fairpark as designated state highways. Some individuals, companies, and organizations believe they have the right to use the roads of the Fairpark to conduct their business without entering into an agreement, regardless of what is going on at the Fairpark. Many times the roads are not even used as roadways but for entertainment and exhibits. Thirdly, this rule change clarifies who may give permission for the horse barn renters to use the warm-up ring.

SUMMARY OF THE RULE OR CHANGE: The Utah State Fairpark's Executive Director is over both the Fair activities and the Fairpark's day-to-day operations and Interim Events. Secondly, the Utah Department of Transportation (UDOT) does not maintain or manage the roads inside the State Fairpark in any way and this will be deleted them from the rule. Thirdly, this language better clarifies who may give permission for the horse barn renters to use the warm-up ring. Some renters may consider there to be a difference between fair management and Fairpark management since we hire some temporary help during the fair to work in the horse barns and warm-up ring.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 63-46a3(2)

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: None--first, this amendment only clarifies the title of the Fairpark's Executive Director, and will not enact a cost or savings to the State budget. Secondly, since UDOT does not currently maintain the roads of the Utah State Fairpark, there will be no cost or savings to the State budget.

❖LOCAL GOVERNMENTS: None--this amendment will not enact a cost or savings to local government because it deals with the Fairpark only.
❖OTHER PERSONS: None--this amendment will not enact a cost or savings to other persons because it deals with the Fairpark only. However, giving permission to individual horse barn renters to use the warm-up ring may require them to pay a fee for the warm-up ring.
COMPLIANCE COSTS FOR AFFECTED PERSONS: None--this amendment only clarifies the title of the Fairpark's Executive Director. This rule change does not require any compliance from outside individuals or organizations. Secondly, deleting the Fairpark's roads from the rule as designated state highways does not require any compliance from outside individuals or organizations. Thirdly, the cost of compliance for a horsebarn renter to gain permission from Fairpark management may also require them to pay a fee (at prevailing rates) to do so.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This is only clarification of the title of the Fairpark's Executive Director in outlining more roles this position requires the Executive Director to play. Secondly, since UDOT does not maintain the roads of the Utah State Fairpark as state highways, they are happy to remove the designation of such from the rule. The cost of compliance for a horsebarn renter to gain permission from Fairpark management may also require them to pay a fee (at prevailing rates) to do so.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Fair Corporation (Utah State)
Administration
155 North 1000 West
Salt Lake City, UT 84116, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Kelly West at the above address, by phone at (801) 538-8441, by FAX at (801) 538-8455, or by Internet E-mail at kellyw@fiber.net.

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 03/31/1999.

THIS RULE MAY BECOME EFFECTIVE ON: 04/01/1999

AUTHORIZED BY: Kelly West, Assistant to the Director

R325. Fair Corporation (Utah State), Administration.
R325-5. Interim Renters Rules (Other Than Utah State Fair).
R325-5-1. Written Contracts.

Every interim event requires a written contract, signed by both the renter and the [~~fair~~]executive director, also known as President/CEO, or his representative, providing for appropriate security, insurance, parking and food arrangements.

R325-5-9. Traffic on Roads.

[~~The main roads of the Fairpark are state highways.~~]The renter shall observe all traffic signs and the Fairpark speed limit of ten miles-per-hour.

R325-5-11. Horses.

A horse barn renter shall be allowed to exercise horses in the warm-up ring areas only and then only at the discretion of Fairpark management.

KEY: fairs, rules and procedures
[~~1996~~]1999 **9-4-1103**
Notice of Continuation October 29, 1996

Health, Community Health Services, Chronic Disease
R384-100
Cancer Reporting Rule

NOTICE OF PROPOSED RULE
(New)
DAR FILE NO.: 21849
FILED: 02/08/1999, 17:15
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule covers cancer reporting. Cancers constitute a leading cause of morbidity and mortality in Utah and, therefore, pose an important risk to the public health. Through the routine reporting of cancer cases, trends in cancer incidence and mortality can be monitored and prevention and control measures evaluated. Cancer records are managed by the Utah Cancer Registry on behalf of the Utah Department of Health. This Cancer Reporting Rule is adopted to specify the reporting requirements for the cases of cancer to the Cancer Registry.

SUMMARY OF THE RULE OR CHANGE: This new rule incorporates some of the provisions from the Communicable Disease rule, R386-702; clarifies who is required to report; and establishes a uniform reporting format. It also eliminates duplicate reporting.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 26-1-30 and 26-5-3

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: There will be no additional costs to the state budget because the state has previously been enforcing the requirement of this rule.
❖LOCAL GOVERNMENTS: This rule places no additional requirements on local governments, because the requirements of the rule already existed.

❖OTHER PERSONS: There is no additional cost to other persons because the state has previously been enforcing the requirements of this rule. There may be some negligible savings to some because of the elimination of duplicate reporting.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule imposes no additional costs from the cancer reporting requirements of the old Communicable Disease Rule, R386-702. There may be some negligible savings to some persons because of the changes made that clarify who is to report among many who could have reported.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The substantive requirements of this rule were previously in R386-702. Businesses will not incur any new costs as a result of this rule. Cancer reporting is crucial to the efforts of public health. Costs of this rule continue to be justified and necessary--Rod L. Betit

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

Health
Community Health Services,
Chronic Disease
Cannon Health Building
288 North 1460 West
PO Box 142107
Salt Lake City, UT 84114-2107, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Kathryn Rowley at the above address, by phone at (801) 538-6233, by FAX at (801) 538-9495, or by Internet E-mail at krowley@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 03/31/1999.

THIS RULE MAY BECOME EFFECTIVE ON: 04/01/1999

AUTHORIZED BY: Rod L. Betit, Executive Director

R384. Health, Community Health Services, Chronic Disease.
R384-100. Cancer Reporting Rule.
R384-100-1. Purpose Statement.

(1) The Cancer Reporting Rule is adopted under authority of sections 26-1-30 and 26-5-3.

(2) Cancers constitute a leading cause of morbidity and mortality in Utah and, therefore, pose an important risk to the public health. Through the routine reporting of cancer cases, trends in cancer incidence and mortality can be monitored and prevention and control measures evaluated.

(3) Cancer records are managed by the Utah Cancer Registry (Registry) on behalf of the Utah Department of Health. This Cancer Reporting Rule is adopted to specify the reporting requirements for cases of cancer to the Registry. The Utah Department of Health retains ownership and all rights to the records.

R384-100-2. Definitions.

As used in this rule:

(1) "Cancer" means all in-situ (with the exception of in-situ cervical cancers) or malignant neoplasms diagnosed by histology, radiology, laboratory testing, clinical observation, autopsy or suggestible by cytology, but excluding basal cell and squamous cell carcinoma of the skin unless occurring in genital sites such as the vagina, clitoris, vulva, prepuce, penis and scrotum.

(2) "Follow-up data" includes date last seen or date of death, status of disease, date of first recurrence, type of recurrence, distant site(s) of first recurrence, and the name of the physician who is following the case.

(3) "Health care provider" includes any person who renders health care or professional services such as a physician, physician assistant, nurse practitioner, registered nurse, licensed practical nurse, dentist, optometrist, podiatric physician, osteopathic physician, osteopathic physician and surgeon, or others rendering patient care.

(4) "Registrar" means a person who is employed as a registrar and who has attended a certified cancer registrar training program or has two years of experience in medical record discharge analysis, coding, and abstracting, and has successfully completed a course in anatomy, physiology, and medical terminology.

(5) "Reportable benign tumor" means any noncancerous neoplasm occurring in the brain.

R384-100-3. Reportable Cases.

Each case of cancer or reportable benign tumor, as described in R384-100-2, that is diagnosed or treated in Utah shall be reported to the Utah Cancer Registry, 546 Chipeta Way; Suite 2100; Salt Lake City, Utah 84108, telephone number 801-581-8407, FAX number 801-581-4560.

R384-100-4. Case Report Contents.

Each report of cancer or reportable benign tumor shall include information on report forms provided by the Registry. These reports shall be made in a standard format and shall include items such as the name and address of the patient, medical history, environmental factors, date and method of diagnosis, primary site, stage of disease, tissue diagnosis, laboratory data, methods of treatment, recurrence and follow-up data, and physician names.

R384-100-5. Agencies or Individuals Required to Report Cases.

(1) All hospitals, radiation therapy centers, pathology laboratories licensed to provide services in the state, nursing homes, and other facilities and health care providers involved in the diagnosis or treatment of cancer patients shall report or provide information related to a cancer or reportable benign tumor to the Registry.

(2) Procedures for reporting:

(a) Hospital employed registrars shall report hospital cases.

(b) Registrars employed by radiation therapy centers shall report center cases.

(c) Pending implementation of electronic reporting by pathology laboratories, pathology laboratories shall allow the Registry to identify reportable cases and extract the required information during routine visits to pathology laboratories.

(d) If a health care provider diagnoses a reportable case but does not send a tissue specimen to a pathology laboratory or arrange

for treatment of the case at a hospital or radiation therapy center, then the health care provider must report the case to the Registry.

(e) If the Registry has not received complete information on a reportable case from routine reporting sources (hospitals, radiation therapy centers, pathology laboratories), the Registry may contact health care providers and require them to complete a report form.

R384-100-6. Time Requirements.

(1) New Cases:

(a) Hospitals and radiation therapy facilities shall submit reports to the Registry within six months of the date of diagnosis.

(b) Other facilities and health care providers shall submit reportable data to the Registry upon request.

(2) Follow-up Data:

(a) Hospitals and radiation therapy centers shall submit annual follow-up data to the Registry within 13 months of the date the patient was last contacted by hospital or facility personnel.1

(b) Physicians shall submit follow-up data to the Registry upon request.

R384-100-7. Reporting Format.

Reports shall be submitted in a standard format designated by the Registry. Report forms can be obtained by contacting the Registry.

R384-100-8. Data Quality Assurance.

Records maintained by hospitals, pathology laboratories, cancer clinics, and physicians are subject to review by Registry personnel acting on behalf of the Department of Health to assure the completeness and accuracy of reported data.

R384-100-9. Confidentiality of Reports.

All reports required by this rule are confidential and are not open to public inspection. The Registry shall maintain all reports according to the provisions of Title 26, Chapter 3.

R384-100-10. Penalties.

Enforcement provisions and penalties for the violation or for the enforcement of public health rules, including this Cancer Reporting Rule, are prescribed under Section 26-23-6 and are punishable as a class B misdemeanor on the first offense, a class A misdemeanor on the second offense or by civil money penalty of up to $5,000 for each violation.

KEY: cancer, reporting requirements and procedures
1999 **26-1-30**
26-5-3

◆ ◆

Health, Health Systems Improvement, Health Facility Licensure
R432-2
General Licensing Provisions

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21859
FILED: 02/12/1999, 16:46
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The amendment includes format changes, change in name to the Bureau of Licensing, removal of passive language, including the criteria used for granting or denying variances, and clarifying the reasons for issuing a conditional license.

SUMMARY OF THE RULE OR CHANGE: The rule changes include making format and passive wording changes, changing the name to the Bureau of Licensing, including the criteria used for granting or denying variances, and clarifying the reasons for issuing a conditional license. Nonsubstantive changes were also made.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 26, Chapter 21

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: This amendment poses no additional aggregate cost to state government, except for the publishing of the rule amendment which can be absorbed by current operating expenses.

❖LOCAL GOVERNMENTS: This filing poses no increased cost or savings to local governments as enforcement of this rule does not apply to local governments.

❖OTHER PERSONS: This rule poses no additional requirements therefore there is no increased cost or savings to the licensed health care providers.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be some cost to print and distribute copies of the amended rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The changes, largely in response to recommendations from legal counsel, should make the rule easier to implement and not impose additional costs on businesses--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 03/31/1999.

THIS RULE MAY BECOME EFFECTIVE ON: 04/01/1999

AUTHORIZED BY: Rod L. Betit, Executive Director

R432. Health, Health Systems Improvement, Health Facility Licensure.
R432-2. General Licensing Provisions.
R432-2-1. Legal Authority.

This rule is adopted pursuant to Title 26, Chapter 21.

R432-2-2. Purpose.

The purpose of this rule is to define the standards that health care facilities and agencies must follow in order to obtain a license. No person or governmental unit acting severally or jointly with any other person, or governmental unit shall establish, conduct, or maintain a health facility in this state without first obtaining a license from the Department. Section 26-21-8.

R432-2-3. Exempt Facilities.

The provisions of Section 26-21-7 apply for exempt facilities.

R432-2-4. Distinct Part.

Licensed health care facilities that wish to offer services outside the scope of their license or services regulated by another [~~licensure~~]licensing rule, with the exception of federally recognized Swing Bed Units, shall submit for [~~agency~~]Department review a program narrative defining the levels of service to be offered and the specific patient population to be served. If the program is determined to require a license, the facility must meet the definition of a distinct part entity and all applicable codes and standards and obtain a separate license.

R432-2-5. Requirements for a Satellite Service Operation.

(1) A "[~~S~~]satellite [~~O~~]operation" [~~means~~]is a health care treatment service that:

(a) is administered by a parent facility within the scope of [~~its~~]the parent facility's current license,

(b) is in a location not contiguous with the parent facility,

(c) does not qualify for [~~licensure~~]licensing under Section 26-21-2, and

(d) [~~must be~~]is approved by the Department for inclusion under the parent facility's license and identified as a remote service.

(2) A licensed health care facility that wishes to offer a [~~health care service at a remote location~~]satellite operation shall submit for Department review a program narrative and one set of construction drawings. The program narrative shall define at least the following:

(a) [~~The~~]location of the remote facility (street address);

(b) [~~The~~]capacity of the remote facility;

(c) [~~The~~]license category of the parent facility;

(d) [~~The~~]service to be provided at the remote facility (must be a service authorized under the parent facility license);

(e) [~~All~~]ancillary administrative and support services to be provided at the remote facility; and

(f) [~~The~~]Uniform Building Code occupancy classification of the remote facility physical structure.

(3) Upon receipt of the satellite service program narrative and construction drawings, the Department shall make a determination of the applicable licensing requirements including the need for [~~Distinct Part licensure as defined in R432-2-4~~]licensing the service. [~~In determining the appropriate licensing requirements, the~~]The Department shall verify at least the following items:

(a) There is only a single health care treatment service provided at the remote site and that it falls within the scope of the parent facility license;

(b) The remote facility physical structure complies with all construction codes appropriate for the service provided;

(c) All necessary administrative and support services for the specified treatment service are available, on a continuous basis during the hours of operation, to insure the health, safety, and welfare of the clients.

(4) [~~A~~]If a facility [~~that~~]qualifies as a single satellite service treatment center the Department shall [~~be issued~~]issue a separate license identifying [~~it~~]the facility as a "satellite service" of the licensed parent facility. This license shall be subject to all requirements set forth in R432-2 of the Health Facility Rules.

(5) A parent facility that wishes to offer more than one health care service at the same remote site shall either obtain a satellite service license for each service offered as described above or obtain [~~licensure~~]a license for the remote complex as a free-standing health care facility.

(6) A satellite facility [~~shall~~]is not [~~be~~]permitted within the confines of another licensed health care facility.[~~Currently licensed satellite operations in other licensed health care facilities, as currently approved, shall be grandfathered and allowed to continue to operate.~~]

R432-2-6. Application.

(1) [~~Application Form.~~]An applicant for a license shall file a Request for Agency Action/License Application with the Utah Department of Health on a form furnished by the Department.

(2) [~~Required Clearances.~~]Each applicant shall comply with all zoning, fire, safety, sanitation, building and licensing laws, regulations, ordinances, and codes of the city and county in which the facility or agency is located. The applicant shall obtain the following clearances and submit them as part of the completed application to the licensing agency:

(a) [~~Fire Clearance.~~]A certificate of fire clearance from the State Fire Marshal or designated local fire authority certifying compliance with local and state fire codes is required with initial and renewal application, change of ownership, and at any time new construction or substantial remodeling has occurred.

(b) [~~Food Service Sanitation Clearance.~~]A satisfactory Food Services Sanitation Clearance report by a local or state sanitarian is required for facilities providing food service at initial application and [~~with~~]upon a change of ownership.

(c) Certificate of Occupancy from the local building official at initial application, change of location and at the time of any new construction or substantial remodeling.

(3) The [~~licensee shall comply~~]applicant shall submit [~~with~~]the following[~~ requirements~~]:

(a) [~~L~~]a list of all officers, members of the boards of directors, trustees, stockholders, partners, or other persons who have a greater than 25 percent interest in the facility;

(b) [~~Provide~~]the name, address, percentage of stock, shares, partnership, or other equity interest of each person; and

(c) [~~L~~]a list, [~~for~~]of all persons, of all health care facilities in the state or other states in which they are officers, directors, trustees, stockholders, partners, or in which they hold any interest;

(4) The [~~licensee~~]applicant shall provide the following written assurances on all individuals listed in R432-2-6(3):

(a) None of the persons has been convicted of a felony;

(b) None of the persons has been found in violation of any local, state, or federal law which arises from or is otherwise related to the individual's relationship to a health care facility; and

(c) None of the persons who has currently or within the five years prior to the date of application had previous interest in a licensed health care facility that has been any of the following:

(i) subject of a patient care receivership action;

(ii) closed as a result of a settlement agreement resulting from a decertification action or a license revocation;

(iii) involuntarily terminated from participation in either Medicaid or Medicare programs; or

(iv) convicted of patient abuse, neglect or exploitation where the facts of the case prove that the licensee failed to provide adequate protection or services for the person to prevent such abuse.

R432-2-7. License Fee.

[~~A license fee as established i~~]In accordance with Subsection 26-21-5(1)(c), the applicant shall [~~be submitted~~]submit a license fee with the completed application form. A current fee schedule is available from the Bureau of Health Facility [~~Licensure~~]Licensing upon request. [~~L~~]Any late fees [~~shall be~~]is assessed according to the fee schedule.

R432-2-8. Additional Information.

The Department may require additional information or review other documents to determine compliance with [~~licensure~~]licensing rules. These include:

(1) [~~A~~]architectural plans and a description of the functional program.

(2) [~~P~~]policies and procedures manuals.

(3) [~~V~~]verification of individual licenses, registrations or certification required by the Utah Department of Commerce.

(4) [~~D~~]data reports including the submission of the annual report at the Departments request.

(5) [~~D~~]documentation that sufficient assets are available to provide services: staff, utilities, food supplies, and laundry for at least a two month period of time.

R432-2-9. Initial License Issuance or Denial.

(1) [~~Decision.~~]The [~~agency~~]Department shall render a decision on an initial license application within 60 days of receipt of a complete application packet or within six months of the date the first component of an application packet is received; provided, in either case, a minimum of 45 days is allowed for the initial policy and procedure manual review.

(2) [~~License Granted.~~]Upon verification of compliance with licensing requirements the Department shall issue a provisional license.

(3) [~~License Denied.~~]The Department shall issue a written notice of agency decision under the procedures for adjudicative proceedings (R432-30) denying a license if the facility is not in compliance with the applicable laws, rules, or regulations. The notice shall state the reasons for denial.

(4) [~~Reapplication.~~] An applicant who is denied [~~licensure~~]licensing may reapply for initial [~~licensure~~]licensing as a new applicant and shall be required to initiate a new request for agency action as described in R432-2-6.

(5) [~~Fee Refund. A~~]The Department shall assess an administrative fee[~~established by the Health Facility Committee shall be assessed~~] on all denied license applications. This fee shall be subtracted from any fees submitted as part of the application packet and a refund for the balance returned to the applicant.

R432-2-10. License Contents and Provisions.

(1) [~~License Content.~~]The license shall document the following:

(a) the name of the health facility,

(b) licensee,

(c) [~~the~~]type of facility,

(d) approved capacity,

(e) street address of the facility,

(f) issue and expiration date of license,

(g) variance information, and

(h) license number.

(2) [~~Nontransferable.~~]The license [~~shall not be~~]is not assignable or transferable.

(3) [~~License Surrender.~~] Each license is the property of the Department. [~~and~~]The licensee shall [~~be returned~~]return the license within five days [~~if the licensee notifies the Department of~~]following closure of a health care facility or upon the request of the Department.

(4) [~~Posting of License.~~]The licensee shall post t[~~T~~]he license [~~shall be posted~~]on the licensed premises in a place readily visible and accessible to the public.

R432-2-11. Expiration and Renewal.

(1) [~~Licensing Period.~~]Each standard license shall expire at midnight, on the last day of the month, 12 months from the anniversary date of the date of the initial license unless the license is revoked or extended under subsection (2) or (4)[~~previously revoked~~] by the Department.

(2) [~~In the event the~~]If a facility is operating under a conditional license for a period extending beyond the expiration date of the current license, the Department shall establish a new expiration date.

(3) [~~Renewal Application. A~~]The licensee shall submit a Request for Agency Action/License Application form, applicable fees, clearances, and the annual report for the previous calendar year (if[~~when~~] required by the Department under R432-2-8) [~~shall be filed with the Department~~]15 days before the current license expires.

(4) [~~License Expiration.~~]A license shall expire on the date specified on the license unless the [~~agency~~]licensee requests and is granted an extension from the Department.

(5) [~~Compliance Required.~~]The Department shall renew a standard license upon verification that the licensee and facility are in compliance with all applicable license rules.

(6) [~~Nonrenewal.~~]Facilities no longer providing patient care or client services may not have their license renewed.[

~~(7) Late fees shall be assessed according to the fee schedule.~~]

R432-2-12. New License Required.

(1) [~~Changes to License. The~~]A prospective licensee shall submit a Request for Agency Action/License Application, fees, and required documentation for a new license at least 30 days before any of the following proposed or anticipated changes occur:

(a) [~~O~~]occupancy of a new or replacement facility.

(b) [~~C~~]change of ownership.

(2) [~~Required Documentation.~~]Before the Department may issue[~~s~~] a new license, the prospective licensee shall provide documentation that:

(a) [~~A~~]all patient care records, personnel records, staffing schedules, quality assurance committee minutes, in-service program records, and other documents required by applicable rules remain in the facility and have been transferred to the custody of the new licensee.

(b) [~~T~~]the existing policy and procedures manual or a new manual has been approved by the Department and adopted by the facility governing body before change of ownership occurs.

(c) [~~N~~]new contracts for professional or other services not provided directly by the facility have been secured.

(d) [~~N~~]new transfer agreements have been drafted and signed.

(e) [~~W~~]written documentation exists of clear ownership or lease of the facility by the new owner.

(3) [~~Patient Fund Accounting.~~]Upon sale or other transfer of ownership, the licensee shall provide the new owner with a written accounting, prepared by an independent certified public accountant, of all patient funds being transferred, and obtain a written receipt for those funds from the new owner.

(4) [~~Outstanding Deficiencies. The~~]A prospective licensee [~~shall be~~]is responsible for all uncorrected rule violations and deficiencies including any current plan of correction submitted by the previous licensee unless a revised plan of correction, approved by the Department, is submitted by the prospective licensee before the change of ownership becomes effective.

(5) [~~Surrender of Previous License. When~~]If a license is issued to the new owner the previous licensee shall return his license to the Department within five days of the new owners receipt of the license.

(6) [~~Compliance Required.~~]Upon verification that the facility is in compliance with all applicable [~~licensure~~]licensing rules, the Department [~~may~~]shall issue a new license effective the date compliance is determined[~~. Refer to~~] as required by R432-2-9.

R432-2-13. Change in [~~Licensure~~]Licensing Status.

(1) [~~License Modification or Amendment. The~~]A licensee shall submit a Request for Agency Action/License Application to amend or modify [~~licensure~~]the license status at least 30 days before any of the following proposed or anticipated changes:

(a) [~~I~~]increase or decrease of licensed capacity.

(b) [~~C~~]change in name of facility.

(c) [~~C~~]change in license category.

(d) [~~C~~]change of license classification.

(e) [~~C~~]change in administrator.

(2) [~~Additional Fees.~~]An increase of licensed capacity may incur an additional license fee if the increase exceeds the maximum number of units in the fee category division of the existing license. This fee shall be the difference in license fee for the existing and proposed capacity according to the [~~L~~]license [~~F~~]fee [~~S~~]schedule.

(3) [~~Compliance Required.~~]Upon verification that the licensee and facility are in compliance with all applicable [~~licensure~~]licensing rules, the Department [~~may~~]shall issue an amended or modified license effective the date that the Department determines that the licensee is in compliance[~~ is determined~~].

R432-2-14. Facility Ceases Operation.

(1) A licensee that voluntarily ceases operation shall complete the following:

(a) [~~N~~]notify the Department and the patients or their next of kin at least 30 days before the effective date of closure.

(b) [~~M~~]make provision for the safe keeping of records.

(c) [~~R~~]return all patients' monies and valuables at the time of discharge.

(d) The licensee must return the license to the [~~licensing agency~~]Department within five days after the facility ceases operation.

(2) [~~In the event that the facility's license is revoked or the facility is served an~~]If the Department revokes a facility's license or if it issues an emergency closure order, the licensee shall document for Department review the following:

(a) [~~T~~]the location and date of discharge for all residents,

(b) [~~T~~]the date that notice was provided to all residents and responsible parties to ensure an orderly discharge and assistance with placement[~~;~~]; and

(c) [~~T~~]the date and time that the facility complied with the closure order.

R432-2-15. Provisional License.

(1) A provisional license is an initial license issued to [~~a licensee~~]an applicant for a probationary period of six months.

(a) In granting a provisional license, the Department shall [~~be assured~~]determine that the facility has the potential to provide services and [~~shall~~]be in full compliance with [~~licensure~~]licensing rules during the six month period.

(b) A provisional license is nonrenewable.[~~, and shall be issued~~] The Department may issue a provisional license for no longer than six months.[~~, and~~] It may issue no more than one provisional license [~~shall be issued~~]to any health facility in any 12-month period.

(2) If the licensee fails to meet terms and conditions of [~~licensure~~]licensing before the expiration date of the provisional license, the license shall automatically expire.

R432-2-16. Conditional License.

(1) A conditional license is a remedial license issued to a licensee found to have:

(a) a Class I violation or a Class II violation that remains uncorrected after the specified time for correction[~~;~~];

(b) more than three cited repeat Class I or II violations from the previous year[~~;~~]; or

(c) fails to fully comply with administrative [~~procedures~~]requirements for licensing.

(2) A standard license is revoked by the issuance of a conditional license.

([~~2~~]3) The Department may not issue a conditional license after the expiration of a provisional license.

([~~3~~]4) In granting a conditional license, the Department shall be assured that the lack of full compliance does not harm the health, safety, and welfare of the patients.

([~~4~~]5) The Department shall establish the period of time for the [~~C~~]conditional [~~L~~]license based on an assessment of the nature of the existing violations and facts available at the time of the decision.

([~~5~~]6) The Department shall set conditions whereby the licensee must comply with an [~~identified~~]accepted plan of correction.

([~~6~~]7) If the licensee fails to meet the conditions before the expiration date of the conditional license, the license shall automatically expire.

R432-2-17. Standard License.

A standard license [~~shall be~~]is a license issued to a licensee if[~~upon completion of the following~~]:

(1) the licensee meets the conditions attached to a [~~P~~]provisional or [~~C~~]conditional license;

(2) the licensee corrects the identified rule violations; or

(3) when the facility assures the Department that [~~they~~]it compl[~~y~~]ies with R432-2-11 to R432-2-12.

R432-2-18. Variances.

(1) [~~Variance Request.~~

~~(a)~~]A health facility may submit a request for agency action to obtain a variance from state rules at any time.

([~~b~~]a) An applicant requesting a variance shall file a Request for Agency Action/Variance Application with the Utah Department of Health on forms furnished by the Department.

([~~c~~]b) The Department may require additional information from the facility before acting on the request.

([~~d~~]c) The Department shall act upon each request for variance in writing within 60 days of receipt of a completed request.

(2) [~~Granting a Variance Request.~~

~~(a) If a request is granted, the license shall be amended~~]If the Department grants a variance, it shall amend the license in writing to indicate that the facility has been granted a variance. The variance [~~which~~]may be renewable or non-renewable. [~~A~~]The licensee shall maintain a copy of the approved variance [~~shall be kept~~]on file in the facility and [~~made~~]make the copy available to all interested parties upon request.

([~~b~~]a) The Department shall file the request and variance with the license application.

([~~c~~]b) The terms of a requested variance may be modified upon agreement between the Department and the facility.

([~~d~~]c) The Department may impose [~~such~~]conditions on the granting of a variance as it determines necessary to protect the health and safety of the residents or patients.

([~~e~~]d) The Department may limit the duration of any variance.

(3) [~~Denying a Variance Request.~~

~~(a)~~]The Department shall issue a written notice of agency decision denying a variance upon determination that the variance is not justified.[

~~(b) If the respondent feels aggrieved by the decision, further administrative and judicial review procedures may be initiated (see R432-30.)~~]

(4) [~~Revocation of Variance.~~]The Department may [~~issue a notice of agency action to~~]revoke a variance if:

(a) The variance [~~is~~]adversely affect[~~ing~~]s the health, safety, or welfare of the residents.

(b) The facility fails to comply with the conditions of the variance as granted.

(c) The licensee notifies the Department in writing that [~~he~~]it wishes to relinquish the variance and be subject to the rule previously varied.

(d) There is a change in the [~~law~~]statute, regulations or rules.

KEY: health facilities

[~~March 3, 1995~~]1999	**26-21-9**
Notice of Continuation January 11, 1999	**26-21-11**
	26-21-12
	26-21-13

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Human Services, Recovery Services

R527-39

Applicant/Recipient Cooperation

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 21870

FILED: 02/16/1999, 13:02

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Under Subsection 62A-11-104(11), the Office of Recovery Services is charged with determining whether an individual who has applied for or is receiving cash assistance or Medicaid is cooperating as required by Section 62A-11-307.2. Because this rule previously addressed only the applicant or recipient of cash assistance, it was necessary to add the Medicaid applicant or recipient who is not receiving cash assistance to be consistent with the statutory requirement. Since the applicant/recipient is required under Section 62A-11-307.2 to cooperate in the establishment of an order for child support and in enforcing provisions of a medical support order, these requirements were added to the list of cooperation requirements in this rule. It was necessary to add "complying with an order for genetic testing" to the rule because it is essential to the establishment of paternity in a contested case, and is also provided for in Section 62A-11-307.2. Because cooperation in obtaining support payments is not required when a Good Cause exception has been granted or when the Non-IV-A applicant/recipient has declined child

support services, appropriate wording was added to the rule for clarification.

SUMMARY OF THE RULE OR CHANGE: In Section R527-39-1, the definitions of "IV-A recipient," "Non-IV-A Medicaid recipient," "IV-A agency," and "Non-IV-A agency" were added at the beginning of the section. Subsection R527-39-1(5) was modified to include the Non-IV-A Medicaid applicant/recipient with the IV-A applicant/recipient as one who must cooperate with the Office of Recovery Services/Child Support Services (ORS/CSS). Cooperation in establishing an order for child support and enforcing the provisions of a medical support order were added to the list of cooperation requirements in that paragraph. Wording was added to Subsection R527-39-1(5)(d) to clarify that the requirement to cooperate in obtaining support payments does not apply when a Good Cause determination has been made or when the Non-IV-A Medicaid applicant/recipient has declined child support services. Complying with an order for genetic testing was added to the list of specific cooperation actions in Subsection R527-39-1(6). References to the Non-IV-A applicant/recipient were added to Section R527-39-2 which deals with the review process which is available following a determination of non-cooperation.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 62A-11-104(11), and Section 62A-11-307.2

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: None--the proposed rule changes will not result in any changes to ORS/CSS policies or procedures regarding applicant/recipient cooperation and will, therefore, have no additional impact on the State budget. The current policies and procedures are based on existing statutory requirements in Subsection 62A-11-104(11) and Section 62A-11-307.2 which are also the foundation of the proposed rule.

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

❖OTHER PERSONS: None--the proposed rule changes will have no additional effect on other persons because they will not result in changes to the existing ORS/CSS policies or procedures which deal with applicant/recipient cooperation.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Because the proposed changes to this rule already exist in statute (Subsection 62A-11-104(11) and Section 62A-11-307.2) and ORS/CSS policy, they will not result in additional financial impact on any entity.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule, which deals exclusively with cooperation requirements for applicants/recipients of financial assistance or Medicaid and procedures for contesting a determination of non-cooperation, is unrelated to businesses. Consequently, the proposed changes to the rule will not create a fiscal impact on any business.

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 03/31/1999.

THIS RULE MAY BECOME EFFECTIVE ON: 04/01/1999

AUTHORIZED BY: Emma Chacon, Director

R527. Human Services, Recovery Services.
R527-39. Applicant/Recipient Cooperation.
R527-39-1. Definitions.

1. IV-A recipient means any individual who has been determined eligible for financial assistance under title IV-A of the Social Security Act.

2. Non-IV-A Medicaid recipient means any individual who has been determined eligible for or is receiving Medicaid under title XIX of the Social Security Act but has not been determined eligible for, or is not receiving, financial assistance under title IV-A of the Social Security Act.

3. IV-A agency means the State agency that has the responsibility for administration of, or supervising the administration of, the State plan under title IV-A of the Social Security Act.

4. Medicaid agency means the State agency that has the responsibility for administration of, or supervising the administration of, the State plan under title XIX of the Social Security Act.

[~~1~~]5. An applicant/recipient of IV-A or Non-IV-A Medicaid services must cooperate with the Office of Recovery Services/Child Support Services (ORS/CSS) in:

a. identifying and locating the parent of a child for whom aid is claimed;

b. establishing the paternity of a child born out of wedlock for whom aid is claimed;

c. establishing an order for child support;

[~~c~~]d. obtaining support payments for the recipient and for a child for whom aid is claimed unless a Good Cause determination has been made by the IV-A or Medicaid agency, or the Non-IV-A Medicaid applicant/recipient has declined child support services;

[~~d~~]e. obtaining any other payments or property due the recipient or the child; and

[~~e~~]f. obtaining and enforcing the provisions of an order for medical support.

[~~2~~]6. The applicant/recipient must cooperate with ORS/CSS with specific actions that are necessary for the achievement of the objectives listed above, as follows:

a. appearing at the ORS/CSS office to provide verbal or written information, or documentary evidence, known to, possessed by, or reasonably obtainable by the recipient;

b. participating at judicial or other hearings or proceedings;

c. providing information;

d. turning over to ORS/CSS any support payments received from the obligor after the Assignment of Collection of Support Payments has been made.

e. complying with a judicial or administrative order for genetic testing.

R527-39-2. Request for Review.

1. When ORS/CSS notifies a IV-A or Non-IV-A Medicaid applicant/recipient that she/he is not cooperating in a case, the [~~IV-A~~]applicant/recipient may contest the determination by requesting that ORS/CSS conduct an informal review, or an administrative review under the Utah Administrative Procedures Act, or the [~~IV-A~~]applicant/recipient may take the matter to district court.

2. If a IV-A or Non-IV-A Medicaid applicant/recipient disagrees with the results of an informal review conducted by an ORS/CSS agent, she/he may appeal the decision to the team manager. If the [~~IV-A~~]applicant/recipient disagrees with the decision of the manager, the [~~IV-A~~]applicant/recipient may request that an ORS/CSS Presiding Officer conduct an administrative review under the Utah Administrative Procedures Act, or the [~~IV-A~~]applicant/recipient may take the matter to district court.

3. If a IV-A or Non-IV-A Medicaid applicant/recipient disagrees with the results of an administrative review conducted by an ORS/CSS Presiding Officer under the Utah Administrative Procedures Act, she/he may petition the district court for judicial review.

KEY: child support
[~~1998~~]1999 **62A-11-104(11)**
62A-11-307.2

◆ ◆

Human Services, Recovery Services
R527-56
In-Kind Support

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21871
FILED: 02/16/1999, 13:02
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Under Subsection 62A-11-307.2(3), the right of the Office of Recovery Services to recover child support cannot be reduced or terminated by an agreement between the obligee and obligor to change the manner or amount of ordered payments, regardless of when the agreement is made. However, a 1991 court decision (Utah Dep't of Social Servs. v. Adams, 806 P.2d. 1193 (Utah Ct. App. 1991)) required Recovery Services to give credit for in-kind support payments which were made pursuant to an agreement between an obligor and obligee that was entered into before the obligee began receiving financial public assistance. This rule was adopted in response to that court ruling to ensure prospective compliance with it and to clarify that a private agreement contrary to the intent of an assignment of support payments to the State does not continue after the date of application for financial assistance. The purpose of this amendment is to clarify that the Office of Recovery Services/Child Support Services (ORS/CSS) is the State agency which must receive written notice of any alternative child support agreement between the obligor and obligee when the obligee applies for financial public assistance so that it has the opportunity register an objection to it. In addition, it is necessary to remove the general agency reference, "office," wherever it appears in the rule and replace it with the updated and more precise title, "ORS/CSS." It is also necessary to clarify that what the obligee signs at the time of application for financial public assistance is "an assignment or other document" specifying that court ordered cash support must be paid to the state, not a "referral."

SUMMARY OF THE RULE OR CHANGE: In Subsection R527-56-1(1), the title, "Definitions," and the definition of "Office" have been eliminated. In Subsection R527-56-1(2), "Office of Recovery Services" has been expanded to "Office of Recovery Service/Child Support Services (ORS/CSS)," which is the precise name of the IV-D child support services program within the Office of Recovery Services. Subsection R527-56-1(2)(h) has been changed to make it clear that written notice of an alternative child support agreement must be received by ORS/CSS so that ORS/CSS has the opportunity to register an objection to it at the time the obligee makes application for financial public assistance with the Department of Workforce Services. In Subsections R527-56-1(3) through R527-56-1(7) "the office" has been replaced with "ORS/CSS."

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 62A-11-104(1), and Section 62A-11-307.2

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: None--the proposed changes to this rule are for clarification purposes only and do not effect any of the procedures currently in effect. Hence, no additional financial impact on any State programs is anticipated.
❖LOCAL GOVERNMENTS: None--administrative rules of the Office of Recovery Services do not apply to local governments.
❖OTHER PERSONS: None--the basic requirements of the current rule as they affect other persons will not change when the proposed amendment becomes effective. Consequently, it is not expected that there will be any additional financial impact on those individuals.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No person or entity affected by this rule should incur any additional costs as a result of the proposed changes because the basic procedures remain the same.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule addresses the conditions for granting or denying credit for support paid in-kind when a court or administrative authority has previously ordered cash support payments, and the right of ORS/CSS to recover the amount of in-kind support from the obligee when s/he continues to accept it after signing an assignment or other similar document. Businesses are not addressed in the rule or the proposed changes and it is not anticipated the changes will create any fiscal impact on them.

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 03/31/1999.

THIS RULE MAY BECOME EFFECTIVE ON: 04/01/1999

AUTHORIZED BY: Emma Chacon, Director

R527. Human Services, Recovery Services.
R527-56. In-Kind Support.
R527-56-1. In-Kind Support.

1. [~~Definitions.~~

~~a.~~]"In-kind" support[~~"~~] is support provided by the obligor to the obligee in lieu of payment of a cash support amount.

[~~b. "Office" means the Office of Recovery Services.~~]

2. In cases where the obligee is receiving financial public assistance, the Office of Recovery Services/Child Support Services (ORS/CSS) shall give credit to obligors for in-kind support payments when cash support is court-ordered and there is an in-kind support agreement between the obligee and obligor meeting the following criteria:

a. Both the obligor and the obligee shall have agreed to the in-kind support.

b. The agreement shall be in writing.

c. The agreement pre-dates the obligee receiving financial public assistance.

d. The agreement shall have been filed with the court.

e. The value of the in-kind support is undisputed.

f. The in-kind support is easily valued.

g. The value of the in-kind support provided in a month equals or exceeds the monthly amount of cash support ordered by the court.

h. [~~The Department of Workforce Services~~]ORS/CSS shall have received written notice of the agreement and registered no objection to the agreement when the obligee applied for public assistance.

3. If the criteria listed above are met, [~~the office~~]ORS/CSS shall give the obligor credit for the monthly court-ordered amount for each month that the agreement was in effect and the in-kind support was provided.

4. [~~The office~~]ORS/CSS may take whatever action is necessary to require prospective payment of the court-ordered cash support during the time period that the obligee receives financial public assistance.

5. If the obligee signed [~~a referral~~]an assignment or other document from the Department of Workforce Services or ORS/CSS which specified that upon receipt of financial public assistance by the obligee [~~the Office of Recovery Services~~]ORS/CSS requires prospective payment of cash support as ordered by the court, and the obligor and obligee continue to act in accordance with the in-kind support agreement, the obligee is considered to be retaining support in violation of the assignment of support rights, and the office may recover the amount of in-kind support from the obligee.

6. If the obligee did not sign [~~a referral~~]an assignment or other document as described in ([~~4~~]5.), but otherwise received written notice from [~~the office~~]ORS/CSS that upon receipt of financial public assistance by the obligee [~~the office~~]ORS/CSS requires prospective payment of cash support as ordered by the court, and the obligor and obligee continue to act in accordance with the in-kind support agreement, the obligee is considered to be retaining support in violation of the assignment of support rights, and [~~the office~~]ORS/CSS may recover the amount of in-kind support from the obligee.

7. Once an obligor receives written notice that an assignment of support rights is in effect and that [~~the office~~]ORS/CSS requires payment of cash support as ordered by the court, the obligor may be held responsible to pay directly to [~~the office~~]ORS/CSS any prospective support payments which are due under a support order, in the manner provided in the support order.

KEY: child support
[~~1993~~]1999 **62A-11-104(1)**
Notice of Continuation April 13, 1998 **62A-11-307.2**

◆ ◆

Insurance, Administration
R590-195
Rental Car Related Licensing Rule

NOTICE OF PROPOSED RULE
(New)
DAR FILE NO.: 21848
FILED: 02/04/1999, 11:52
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule establishes uniform criteria and procedures for the initial and renewal licensing of rental car related insurance agents and agencies, and sets standards of licensing and conduct for those in the rental car related insurance business in the State of Utah.

SUMMARY OF THE RULE OR CHANGE: During the 1998 Legislature, S.B. 76 was passed which added an added "rental car related" to the list of licensing classifications for a limited license. This rule defines "rental car related insurance" and sets the standards for obtaining and renewing a license to sell this type of insurance.
(**DAR Note:** S.B. 76 is found at 1998 Utah Laws 329, and is effective as of May 4, 1998.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 31A-2-201 and 31A-23-204

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: Additional work for the Department, created by this bill, will be assimilated. The licensing requirement will bring to the state budget approximately $10,500 the first year with renewals two years from when they are issued.
❖LOCAL GOVERNMENTS: This will not impact local governments since they are not involved in the insurance licensing of rental car agencies.
❖OTHER PERSONS: Rental car agencies will be impacted with the paper work involved in the licensing process as well as paying the $30 licensing fee for the agency license and also $30 for each designated individual. Because of the small amount of the fee and limited paper work requirements, this cost will be minimal if passed on to the consumer. Since there are about 175 car rental agencies and locations, the total cost, as a result of fees, will be $10,500.
COMPLIANCE COSTS FOR AFFECTED PERSONS: Rental car agencies will be impacted with the paper work involved in the licensing process as well as paying the $30 licensing fee for the agency license and also $30 for each designated individual. Because of the small amount of the fee and limited paper work requirements, this cost will be minimal if passed on to the consumer.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The rental car industry asked for this legislation as a result of industry problems in other states. It is hoped this law will prevent those problems here. The financial impact will be minimal on the rental car industry.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Insurance
Administration
3110 State Office Building
Salt Lake City, UT 84114, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Jilene Whitby at the above address, by phone at (801) 538-3803, by FAX at (801) 538-3829, or by Internet E-mail at idmain.jwhitby@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 03/31/1999; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 03/17/1999, 10:00 a.m., Room 3112, State Office Building (behind the Capitol).

THIS RULE MAY BECOME EFFECTIVE ON: 04/01/1999

AUTHORIZED BY: Jilene Whitby, Information Specialist

R590. Insurance, Administration.
R590-195. Rental Car Related Licensing Rule.
R590-195-1. Purpose.
This rule establishes uniform criteria and procedures for the initial and renewal licensing of rental car related insurance agents and agencies, and sets standards of licensing and conduct for those in the rental car related insurance business in the State of Utah.

R590-195-2. Authority.
This rule is promulgated by the insurance commissioner pursuant to the Subsection 31A-2-201(3) authorizing rules to implement the Utah Insurance Code and Subsection 31A-23-204(2)(d) authorizing the licensing of rental car related insurance business.

R590-195-3. Scope and Applicability.
This rule applies to all persons and entities engaged in the issuance of rental car related insurance contracts or policies.

R590-195-4. Definitions.
For the purpose of this rule "car rental related insurance" means any contract of insurance issued as a part of an agreement of rental of passenger automobiles and trucks to a gross vehicle weight of 45,000 pounds, for a period of 30 days or less. For the purposes of this rule, definitions contained in chapters 1 and 23 of Title 31A are applicable.

R590-195-5. Agency License and Renewal.
(1) Rental car related licenses are limited lines licenses. These licenses are issued for a two year period and require no examination or continuing education.
(2) Rental car related licenses must be renewed at the end of the two year licensing period in accordance with chapter 23 of title 31A and any applicable department rules regarding license renewal.
(3) Licensing is applicable to all persons and entities involved in the soliciting, quoting, marketing, and issuing of car rental related insurance and must be licensed in accordance with Chapter 23 of Title 31A and applicable department rules regarding individual and agency licencing.
(a) Rental car related licenses may be held either by individuals or entities (agencies).

(b) Licensed individuals must be either appointed by insurers underwriting the insurance policies they sell or be designated to act by an agency licensed under this rule.

(c) Licensed agencies must be appointed by insurers underwriting the insurance policies they sell and must have one designated licensed individual at each location soliciting, quoting, marketing or selling car rental related insurance.

(4) Agencies licensed under the terms of this rule may employ non-licensed personnel employed as rental counter sales representatives in soliciting, quoting, and marketing of car rental related insurance. Such non-licensed personnel must be trained and supervised in the sale of rental car related insurance products and must be responsible to a licensed individual designated by the agency at each location where these insurance products are sold.

R590-195-6. Penalties.

Violations of this rule are punishable pursuant to Section 31A-2-308.

R590-195-7. Severability.

If any provision or clause of this rule or its application to any person or situation is held invalid, such invalidity will not affect any other provision or application of this rule which can be given effect without the invalid provision or application, and to this end the provisions of this rule are declared to be severable.

KEY: insurance licensing
1999 **31A-2-201**
31A-23-204

Labor Commission, Adjudication
R602-2-1
Pleadings and Discovery

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21845
FILED: 02/04/1999, 08:04
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The proposed rule amendment establishes one consistent time period (20 days) for parties to file a response to a motion for review and an election for review by the Appeals Board.

SUMMARY OF THE RULE OR CHANGE: The proposed rule amendment lengthens the time for filing a response to a motion from review from 15 to 20 days, which is the same period allowed by law for electing review by the Appeals Board.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 63-46b-12(2)

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: This amendment only affects the timing of procedures already in place. Consequently, the amendment will result in no costs or savings to the state budget.
❖LOCAL GOVERNMENTS: This amendment only affects the timing of procedures already in place. Consequently, the amendment will result in no costs or savings to local government.
❖OTHER PERSONS: This amendment only affects the timing of procedures already in place. Consequently, the amendment will result in no costs or savings to other persons.
COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed amendment merely changes the time limit for procedures already required by law and rule. Consequently, there will be no additional compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposal has no fiscal impact on businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Labor Commission
Adjudication
Third Floor, Heber M. Wells Office Bldg.
160 East 300 South
PO Box 146600
Salt Lake City UT 84114-6600, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Alan Hennebold at the above address, by phone at (801) 530-6937, by FAX at (801) 530-6390, or by Internet E-mail at icmain.ahennebo@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 03/31/1999.

THIS RULE MAY BECOME EFFECTIVE ON: 04/02/1999

AUTHORIZED BY: R. Lee Ellertson, Commissioner

R602. Labor Commission, Adjudication.
R602-2. Adjudication of Workers' Compensation and Occupational Disease Claims.
R602-2-1. Pleadings and Discovery.

A. For the purposes of this rule, "Commission" means the Labor Commission. "Division" means the Division of Adjudication within the Labor Commission. Adjudicative proceedings for workers' compensation and occupational disease claims may be commenced by the injured worker or dependent filing a request for agency action with the Commission. The Administrative Law Judge is afforded discretion in allowing intervention of other parties pursuant to Section 63-46b-9. The Application for Hearing is the request for agency action. All such applications shall include supporting medical documentation of the claim where there is a dispute over medical issues. Applications without supporting

documentation will not be mailed to the employer or insurance carrier for answer until the appropriate documents have been provided.

B. Whenever a claim for compensation benefits is denied by an employer or insurance carrier, the burden rests on the applicant to initiate the action by filing an Application for Hearing with the Commission.

C. When an Application for Hearing is filed with the Commission, the Commission shall forthwith mail a copy to the employer or to the employer's insurance carrier.

D. The employer or insurance carrier shall have 30 days following the date of the mailing of the application to file a written answer with the Commission, admitting or denying liability for the claim. The answer shall state all affirmative defenses with sufficient accuracy and detail that an applicant may be fully informed of the nature of the defense asserted. All answers shall include a summary and categorization of benefits paid to date on the claim. A copy shall be sent to the applicant or, if there is one, to the applicant's attorney by the defendant.

E. When an employer or insurance carrier fails to file an answer within the 30 days provided above, the Commission may enter a default against such employer or insurance carrier. The Commission may then set the matter for hearing, take evidence bearing on the claim, and enter an Order based on the evidence presented. Such defaults may be set aside by following the procedure outlined in the Utah Rules of Civil Procedure. Said default shall apply to the defendant employer or insurance carrier and may not be construed to deprive the Employers' Reinsurance Fund or the Uninsured Employers' Fund of any appropriate defenses.

F. When the answer denies liability solely on the medical aspects of the case, the applicant, through his/her attorney or agent, and the employer or insurance carrier, with the approval of the Commission or its representative, may enter into a stipulated set of facts, which stipulation, together with the medical documents bearing on the case in the Commission's file, may be used in making the final determination of liability.

G. When deemed appropriate, the Commission or its representatives may have a pre-hearing or post-hearing conference.

H. Upon filing of the Answer, the defendant may commence discovery with appropriate sets of interrogatories. Such discovery should focus on the accident event, witnesses, as well as past and present medical care. The defendant shall also be entitled to appropriately signed medical releases to allow gathering of pertinent medical records. The defendant may also require the applicant to submit to a medical examination by a physician of the defendant's choice. Failure of an applicant to comply with such requests may result in the dismissal of a claim or a delay in the scheduling of a hearing.

I. Commission subpoena forms shall be used in all discovery proceedings and shall be signed, unless good cause is shown for a shorter period, at least one week prior to any scheduled hearing.

J. All medical records shall be filed by the employer or its insurance carrier as a single joint exhibit at least one week before the scheduled hearing. Claimant must cooperate and submit all pertinent medical records contained in his/her file to the employer or its insurance carrier for the joint exhibit submission two weeks in advance of a scheduled hearing. Exhibits are to be placed in an indexed binder arranged by care provider in chronological order. Exhibits shall include all relevant treatment records which tend to prove or disprove a fact in issue. Pages shall be numbered consecutively. Hospital nurses' notes, duplicate materials, and other non-relevant materials may not be included.

K. The Administrative Law Judge shall be notified one week in advance of any proceeding when it is anticipated that more than four witnesses will be called, or where it is anticipated that the hearing of the evidence will require more than two hours.

L. Decisions of the presiding officer in any adjudicative proceeding shall be issued in accordance with the provisions of Section 63-46b-5 or 63-46b-10.

M. Any party to an adjudicative proceeding may obtain[~~seeking~~] review of an Order issued by [~~the Agency~~]an Administrative Law Judge by filing [~~may file~~]a written request for review with the Adjudication Division in accordance with the provisions of[~~Sections 63-46b-12 through 16. A Motion for Review of any Order entered by an Administrative Law Judge may be filed pursuant to the provisions of~~] Section 63-46b-12 and Section 34A-1-303. Unless [~~so~~]a request for review is properly filed, the Administrative Law Judge's Order [~~shall become~~]is the final order[~~award~~] of the Commission[~~and shall be final~~]. If a request for review is[~~appropriately~~] filed, other parties to the adjudicative proceeding may file a response within 20 calendar days of the date the request for review was filed. Thereafter, the Administrative Law Judge shall:

1. Reopen the case and enter a Supplemental Order after holding such further hearing and receiving such further evidence as may be deemed necessary,

2. Amend or modify the prior Order by a Supplemental order, or

3. Refer the entire case for review under Section 34A-2-801.

If the Administrative Law Judge enters a Supplemental Order, as provided in this subsection, it shall be final unless a [~~Motion for Review~~]request for review of the same is filed.

N. In formal adjudicative proceedings, the Division shall generally follow the Utah Rules of Civil Procedure regarding discovery and the issuance of subpoenas, except as the Utah Rules of Civil Procedure are modified by the express provisions of Section 34A-1-802, or as may be otherwise modified by the presiding officer.

O. A request for reconsideration of an Order on Motion for Review may be allowed and shall be governed by the provisions of Section 63-46b-13. Any petition for judicial review of final agency action shall be governed by the provisions of Section 63-46b-14.

KEY: workers' compensation, administrative procedure, hearings, settlement
[~~December 3, 1996~~]1999 34A-1-301 et seq.
Notice of Continuation November 24, 1997 63-46b-1 et seq.

Labor Commission, Adjudication
R602-2-4
Attorney Fees

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21846
FILED: 02/04/1999, 08:04
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Section 34A-1-309 authorizes the Commission to regulate attorneys' fees in workers' compensation cases. The Commission has exercised that authority through Section R602-2-4, which establishes a formula for computing fees for plaintiffs' attorneys based on 20% of the first $15,000 of compensation awarded, 15% of the next $15,000, and 10% of the remainder, up to a maximum total fee of $7,500. None of the foregoing dollar amounts have been increased since 1992, even though injured workers' compensation amounts have increased by 21%. Consequently, it has been the trend for plaintiffs' attorneys fees to represent a smaller and smaller share of compensation awards. The proposed amendment is intended to return plaintiffs' attorneys' fees to the same relative position as existed in 1992.

SUMMARY OF THE RULE OR CHANGE: The amendment increases the dollar values incorporated in the rule to reflect the 21% increase in Utah's average weekly wage (and therefore disability compensation) since July 1992.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 34A-1-309

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: This amendment does not affect workers' compensation benefits paid by the state as an employer, nor is it expected to have any impact on the state's cost of administering the workers' compensation program.
❖LOCAL GOVERNMENTS: This amendment does not affect workers' compensation benefits paid by local governments as employers. It will not, therefore, result in any cost or savings to local government.
❖OTHER PERSONS: This amendment does not increase the proportion of an injured worker's disability compensation that may be paid to the injured worker's attorney as a fee for services rendered in the workers compensation proceeding, but does increase the maximum dollar amounts for such fees. The Commission cannot quantify the aggregate cost of this proposal to all injured workers. However, the maximum possible impact to any individual injured worker is $1,600.
COMPLIANCE COSTS FOR AFFECTED PERSONS: This proposal allows injured workers to agree to somewhat higher attorneys fees than are currently allowed. The proposal is not self-implementing, but requires the agreement of the injured worker. In those cases where the injured worker does agree to the higher fee, the maximum impact will be $1,600, to be deducted from the injured worker's disability compensation. The proposal imposes no compliance costs on employers or insurance carriers.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: As noted above, this proposal has no direct fiscal impact on businesses. The possibility of an indirect and intangible effect exists, to the extent that injured workers may be more able to obtain legal representation so as to obtain benefits due to them under the Workers Compensation Act. To that extent, the proposal may result in additional costs to employers or their insurance companies. This impact cannot be quantified and is expected to be slight.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Labor Commission
Adjudication
Third Floor, Heber M. Wells Office Bldg.
160 East 300 South
PO Box 146600
Salt Lake City, UT 84114-6600, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Alan Hennebold at the above address, by phone at (801) 530-6937, by FAX at (801) 530-6390, or by Internet E-mail at icmain.ahennebo@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 03/31/1999.

THIS RULE MAY BECOME EFFECTIVE ON: 04/02/1999

AUTHORIZED BY: R. Lee Ellertson, Commissioner

R602. Labor Commission, Adjudication.
R602-2. Adjudication of Workers' Compensation and Occupational Disease Claims.
R602-2-4. Attorney Fees.

Pursuant to Section 34A-1-309, the Commission adopts the following rule to regulate and fix reasonable fees for attorneys representing applicants before the Commission in all cases wherein such fees are awarded after [~~December 31, 1991~~]April 2, 1999.

A. The concept of a contingency fee is recognized. A retainer in advance of a Commission approved fee is not allowed. Benefits are only deemed generated within the meaning of this rule when they are paid as a result of legal services rendered after an Appointment of Counsel form is signed by the applicant. A copy of this form must be filed with the Commission by the claimant's attorney.

B. By creating this rule, the commission does not intend that an applicant's attorney be paid a fee where the assistance the attorney renders involves only an incidental expenditure of time. For example, no attorney's fee shall be paid when compensation agreements are merely reviewed, simple documents such as Protection of Rights forms are prepared, or an apparent dispute is quickly resolved as a result of oral or written communication.

C. "Benefits" within the meaning of this rule shall be limited to weekly death or disability compensation and accrued interest thereon paid to or on behalf of an applicant pursuant to the terms of Title 34A, Utah Code Annotated.

D. An attorney's fee deducted from the benefits generated shall be awarded for all legal services rendered through final Commission action with the following constraints:

1. 20% of weekly benefits generated for the first [~~$15,000~~]$18,000, plus 15% of the weekly benefits generated in excess of [~~$15,000~~]$18,000 but not exceeding [~~$30,000~~]$36,000, plus 10% of the weekly benefits generated in excess of [~~$30,000~~]$36,000.

2. In no case shall an attorney collect fees calculated on more than the first 312 weeks of any and all combinations of workers' compensation benefits.

3. Not withstanding the above, in no case shall the maximum fee exceed [~~$7,500~~]$9,100.

E. After either successfully prosecuting or defending an appeal following final Commission action, an increased attorney's fee shall be awarded amounting to:

1. 25% of the benefits in dispute before the Utah Court of Appeals, plus the amount awarded in part D of this rule, not to exceed [~~$11,000~~]$13,300.

2. 30% of the benefits in dispute before the Supreme Court, plus the amount awarded in part D of this rule, plus the amount awarded in part E.1 of this rule, not to exceed [~~$14,500~~]$17,500.

F. An attorney's fee shall be deducted from and paid out of the benefits generated and shall be paid directly to the applicant's attorney upon order of the Commission.

G. If a controversy over an attorney's fee develops, the Commission shall have the discretion, pursuant to Section 34A-1-309, and this rule, to award fees or otherwise resolve the dispute by Order delineating the Commission's findings along with the evidence and reasons supporting the decision.

KEY: workers' compensation, administrative procedure, hearings, settlement
[~~December 3, 1996~~]1999 34A-1-301 et seq.
Notice of Continuation November 24, 1997 63-46b-1 et seq.

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Labor Commission, Occupational Safety and Health

R614-1-4

Incorporation of Federal Standards

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21847
FILED: 02/04/1999, 08:04
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To update the Utah Administrative Code to verify that Utah Occupational Safety and Health (UOSH) is enforcing the most current published 29 CFR 1910 and 29 CFR 1926 standards, including standards for powered industrial truck operator training.

SUMMARY OF THE RULE OR CHANGE: This rule changes the 29 CFR 1910 and 29 CFR 1926 reference from 1997 to 1998 which are the current and published CFR. The changes in the 1998 version have incorporated the final rules that were published, adopted and enforced after the publication of the 1997 29 CFR 1910 and 29 CFR 1926. The change removes the reference to the January 8, 1997 Respiratory Protection final rule, which has been incorporated into the 1998 CFR. The Occupational Safety and Health Administration (OSHA) has revised its existing requirements for powered industrial truck operator training (codified at 29 CFR 1910.178(l)) and issued new requirements to improve the training of these operators. The new requirements are intended to reduce the number of injuries and deaths that occur as a result of inadequate operator training. They apply to all industries (general industry, construction, shipyards, marine terminals, and longshoring operations) in which the trucks are being used, except agricultural operations. These provisions mandate a training program that bases the amount and type of training required on: the operator's prior knowledge and skill; the types of powered industrial trucks the operator will operate in the workplace; the hazards present in the workplace; and the operator's demonstrated ability to operate a powered industrial truck safely. Refresher training is required if: the operator is involved in an accident or a near-miss incident; the operator has been observed operating the vehicle in an unsafe manner; the operator has been determined during an evaluation to need additional training; there are changes in the workplace that could affect safe operation of the truck; or the operator is assigned to operate a different type of truck. Evaluations of each operator's performance are required as part of the initial and refresher training, and at least once every three years. OSHA estimates that this rule will prevent 11 deaths and 9,422 injuries per year. OSHA estimates that the annualized cost of this rule is approximately $16.9 million for all affected industries.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 34A-6-202
FEDERAL REQUIREMENT FOR THIS RULE: 29 CFR 1910 and 29 CFR 1926

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 29 CFR 1910 (July 1, 1998); 29 CFR 1926 (July 1, 1998); 63 FR 230, Tuesday, December 1, 1998

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: It is anticipated that state government has already substantially complied with the requirements of the proposed amendment and that additional costs will be negligible.
❖LOCAL GOVERNMENTS: It is anticipated that local government has already substantially complied with the requirements of the proposed amendment and that additional costs will be negligible.

❖OTHER PERSONS: This final industrial truck operator training standard expands the training of truck operators already required by OSHA's existing standards. OSHA estimates the annual cost of compliance nationwide to be about $16.9 million. The estimated costs to all Utah affected persons are $138,000.

COMPLIANCE COSTS FOR AFFECTED PERSONS: OSHA has assessed the potential economic impacts of compliance with the final standard and has determined that the standard is economically feasible for firms in all covered industry groups. On average, the annualized compliance costs of the standard amount only to 0.0001 percent of the sales and less than 0.01 percent of estimated pre-tax income for affected firms. The two-digit industry sectors with the highest costs of compliance, trucking and warehousing (SIC 42) and water transportation (SIC 44), have costs of compliance that are 0.0013 and 0.0012 percent of revenues respectively. The industry with the greatest reduction in profits, nondurable goods (SIC 51), has a reduction in profits of 0.02 percent. These potential economic impacts overestimate the likely economic impact of the standard because they do not include any consideration of the economic benefits of the standard that may accrue to employers, such as reduced worker compensation costs and reduced property damage.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: As noted above, the proposed standards are expected to reduce business costs attributable to property damage and personal injury, thereby offsetting any costs of training or other compliance measures.

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

Labor Commission
Occupational Safety and Health
Third Floor, Heber M. Wells Office Bldg.
160 East 300 South
PO Box 146650
Salt Lake City, UT 84114-6650, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
William W. Adams, Jr. at the above address, by phone at (801) 530-6897, by FAX at (801) 530-7606, or by Internet E-mail at icmain.wadams@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 03/31/1999.

THIS RULE MAY BECOME EFFECTIVE ON: 04/02/1999

AUTHORIZED BY: R. Lee Ellertson, Commissioner

R614. Labor Commission, Occupational Safety and Health.
R614-1. General Provisions.
R614-1-4. Incorporation of Federal Standards.

A. General Industry Standards.

1. Sections 29 CFR 1910.21 to 1910.999 and 1910.1000 through the end of part 1910 of the July 1, [~~1997~~]1998, edition are incorporated by reference.

[~~2. FR Vol. 63, No. 5, Thursday, January 8, 1997, Pages 1152 to and including 1300, "Respiratory Protection"; Final Rule" is incorporated by reference.~~]2. FR Vol. 63, No. 230, Tuesday, December 1, 1998, Pages 66238 to and including 66274, "Powered Industrial Truck Operator Training"; Final Rule" is incorporated by reference.

B. Construction Standards.

1. Section 29 CFR 1926.20 through the end of part 1926, of the July 1, [~~1997~~]1998 edition is incorporated by reference.

[~~2. FR Vol. 63, No. 5, Thursday, January 8, 1997, Pages 1152 to and including 1300, "Respiratory Protection"; Final Rule" is incorporated by reference.~~]2. FR Vol. 63, No. 230, Tuesday, December 1, 1998, Pages 66238 to and including 66274, "Powered Industrial Truck Operator Training"; Final Rule" is incorporated by reference.

KEY: safety
[~~December 2, 1997~~]1999 **34A-6**

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Public Service Commission, Administration
R746-365-4
Service Quality Guidelines

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21879
FILED: 02/16/1999, 17:11
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To reflect Federal Communications Commission requirements regarding number portability.

SUMMARY OF THE RULE OR CHANGE: To make the provision of long term number portability comply with federal agency requirement.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 54-4-1, 54-4-4, 54-4-7,54-4-12, and 54-8b-2.2
FEDERAL REQUIREMENT FOR THIS RULE: 47 U.S.C. 251

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: None--there will be no changes in state agency activity.
❖LOCAL GOVERNMENTS: None--neither the rule nor the proposed amendment affects any local government activity.
❖OTHER PERSONS: None--those subject to the proposed amendment are required to comply with the Federal

Communications Commission requirements pursuant to federal law.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--complying with federal agency requirements is already mandated by federal law.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The Federal Communications Commission has asserted jurisdiction over number portability and has issued a number of orders and other requirements relating to number portability. The Federal Communications Commission continues to develop requirements and the Pubic Service Commission has proposed this amendment to reflect the federal agency's asserted authority and proceedings.

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

Public Service Commission
Administration
Fourth Floor, Heber M. Wells Building
160 East 300 South
Salt Lake City, UT 84111, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Sandy Mooy or Barbara Stroud at the above address, by phone at (801) 530-6716, by FAX at (801) 530-6796, or by Internet E-mail at pupsc.bstroud@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 03/31/1999.

THIS RULE MAY BECOME EFFECTIVE ON: 04/01/1999

AUTHORIZED BY: Barbara Stroud, Paralegal

R746. Public Service Commission, Administration.
R746-365. Intercarrier Service Quality.
R746-365-4. Service Quality Guidelines.

A. Service Quality Applicable to All Telecommunications Corporations --

1. Carrier Provisioning Intervals -- Each telecommunications corporation shall provide essential facilities and associated services in accordance with the following provisioning intervals and shall separately measure each provisioning interval for commonly used circuit or facility types. The provisioning interval is the elapsed time measured in hours from a telecommunications corporation's receipt of a service order to return of an OCN. The percentage of service orders completed on time will be determined by the number of orders completed within the installation interval or the committed due date specified in a FOC. The cumulative elapsed time for each circuit or facility type is divided by the total number of corresponding completed service orders for each circuit or facility type to derive measures of service order flow-through, as further enumerated in R746-365-5. A telecommunications corporation shall return a FOC within two business days of receipt of a service order from another telecommunications corporation.

a. Interoffice Trunking Facilities -- Pursuant to forecasting requirements established in R746-365-6, forecasted trunk, routing and switching facilities shall be provisioned to any requesting local exchange carrier within 30 days of receipt of a service order, unless otherwise agreed to by the requesting carrier.

(i) Service Orders Presented Under Approved Forecasts -- A telecommunications corporation shall complete all service orders for essential facilities and services requested by an[~~—~~]other telecommunications corporation that comport with four-month projections contained in a joint forecast developed pursuant to R746-365-6(C).

b. Number Portability -- Telecommunications corporations shall provide either interim number portability or permanent number portability to a requesting carrier. The installation interval for interim number portability shall not exceed three business days following receipt of a service order. Permanent number portability shall be provided [~~within 60 days following notification by a requesting carrier.~~]pursuant to Federal Communications Commission requirements.

2. Trouble Reports --

a. Receipt, Investigation and Recording -- Each telecommunications corporation shall provide for the receipt of trouble reports 24 hours a day, seven days a week. Each telecommunications corporation providing public telecommunications service shall investigate and respond to each trouble report. Each telecommunications corporation shall maintain a record of trouble reports made by end users and other telecommunications corporations which complies with R746-365-5(B)(4).

b. Emergency Out-of-Service -- Provisions shall be made to clear emergency out-of-service trouble at all hours, consistent with the public interest and the personal safety of a telecommunication corporations personnel. Emergency or alternative service shall be provided local law enforcement and public safety agencies during the period of any network interruption.

c. Notice of Unusual Repairs and Planned Interruptions -- If unusual repairs preclude prompt disposition of a reported trouble, telecommunications corporations shall notify all affected telecommunications corporations. If service must be interrupted for purposes of rearranging facilities or equipment, all affected telecommunications corporations shall be notified and the work shall be completed in the least disruptive manner in order to minimize public inconvenience.

d. Repair Intervals -- Each telecommunications corporation shall seek to clear out-of-service trouble reports received from another telecommunications corporation within the following intervals, unless other repair intervals have been agreed to:

TABLE

DS - 3, OC - 3 and higher	2 hours
DS - 1, Fractional DS - 1, Design DS - 0, and Local Interconnection Trunks	4 hours
Residential and Business Resale POTS	24 hours

The repair interval for clearing a trouble between telecommunications corporations is the elapsed time measured in hours and tenths of hours from the time a trouble report is received by a telecommunications corporation to the time the telecommunications corporation returns a valid trouble resolution

notification. Elapsed time shall be measured by common circuit or facility types and trouble disposition and closure recorded in accordance with R365-5(B)(4).

3. Network Performance Levels -- Each telecommunications corporation shall engineer, furnish and install essential facilities and services designed to meet busy hour demand, and to prevent unreasonable blocking. The following minimum network performance standards apply to:

a. Interoffice Facilities --

(i) Local and extended area service interoffice trunk facilities shall have a minimum engineering design standard of (P.01) grade of service.

(ii) Intertandem facilities shall have a minimum engineering design standard of B.0025 (P.0025) grade of service.

b. Outside Plant -- Each telecommunications corporation shall engineer, construct and maintain cable and wire between an end user network interface device and the serving wire center in conformance with current industry standards, as described in R746-365-3(B), and common engineering practices.

B. Service Quality and Other Network Guidelines Applicable to ILECs --

1. Operational Support Systems --

a. OSS Interfaces -- Each ILEC shall undertake all commercially reasonable efforts to facilitate parity of access to operational support systems the incumbent local exchange carrier uses to store and retrieve information related to network engineering and administration.

b. Testing of OSS Interfaces -- Each telecommunications corporation shall upon request jointly conduct with one or more telecommunications corporations testing of OSS interfaces used to obtain access to operational support systems. OSS Interface testing shall commence not more than 45 days after a request for testing is received by a telecommunications corporation. The telecommunications corporations shall determine the duration of tests which shall be conducted among noncommercial end user accounts. No unreasonable limitation shall be imposed by an ILEC on another telecommunications corporation's ability to test intercarrier OSS Interfaces to ensure compatibility between ILEC and the other telecommunications corporation's operational support systems.

2. Network Provisioning Intervals -- Each ILEC shall provide essential facilities and services that comply with the following installation intervals:

a. Network Elements -- Each ILEC shall provision essential network facilities and services in accordance with the following intervals and shall measure provisioning intervals for each of the following loop facilities and services as described in R746-365-5-(C)(3)(c).

(i) Unbundled Loops -- Provisioning intervals for an unbundled loop will vary by circuit and facility type, the number of loops requested on a service order, availability of facilities and whether or not a dispatch of ILEC personnel must occur. The following essential facilities will be provisioned for telecommunications corporations within the specified intervals.

TABLE

Facility Type	Quantity	Interval
DSO or analog equivalent, dispatch, facilities available:	1 - 24	5 days
	24 - n	negotiated
DSO or voice grade equivalent, no dispatch:	1 - 24	3 days
	24 - n	7-10 days
DS1 -- Facilities provisioned and available:		5 days
ISDN -- Facilities provisioned and available:		7 days
XDSL -- Facilities provisioned and available:		7 days
DS3 -- Facilities provisioned and available:		7 days
OC3 -- Facilities provisioned and available:		15 days
OC4 - Higher -- Facilities provisioned and available:		15 days or negotiated due date.

b. Wholesale Services -- Installation intervals for wholesale services shall vary depending upon whether an existing end user service provided by an ILEC is transferred to another telecommunications corporation, or, is a new service installation.

(i) An ILEC shall transfer wholesale services without changes for an existing end user served by the ILEC within one business day following receipt of a service order from the telecommunications corporation.

(ii) An ILEC shall transfer wholesale service with changes for an existing end user served by the ILEC within three business days following receipt of a service order from the telecommunications corporation.

(iii) An ILEC shall install new wholesale service to a new end user, if facilities are available, within three days following receipt of a service order from the telecommunications corporation.

c. Collocation -- The following provisioning intervals and optional arrangements are common to both virtual and physical collocation:

(i) Upon receipt by an ILEC of a request for collocation, the ILEC shall within 15 days notify the telecommunications corporation whether sufficient space exists. If the telecommunications corporation disputes an ILECs denial of a request for collocation, and the carriers cannot negotiate a mutually satisfactory resolution, the telecommunications corporation may petition the Commission pursuant to Section 54-8b-17 for an expedited hearing and resolution of the dispute. The burden shall be on the ILEC to demonstrate to the Commission that collocation is not practical due to space limitations or is technically infeasible.

(ii) If collocation is available, the ILEC shall within 25 days following receipt of a request for collocation provide a written quotation containing all non-recurring charges for construction of the telecommunications corporation's requested collocation arrangement.

(iii) The telecommunications corporation shall within 30 days following receipt of the ILEC's quotation, by written notice to the ILEC: 1) accept the quotation; 2) withdraw the request for collocation; or, 3) provide the ILEC an independent contractor quotation for construction of the requested collocation arrangement.

(iv) If the telecommunication corporation accepts the quotation from the ILEC, collocation equipment shall be installed on the ILEC's premises in accordance with the following provisioning intervals: 1) For physical collocation arrangements, the ILEC shall within 45 days of the telecommunication corporation's acceptance of the ILEC's quotation complete construction of the collocation space necessary and sufficient for installation of the CLEC's collocated interconnection facilities. The ILEC shall grant the telecommunications corporation access to the collocation space to install network elements therein. 2) For virtual collocation arrangements, the ILEC shall within 45 days after delivery of the telecommunication corporation's collocation equipment complete provisioning of all network facilities ordered by the telecommunications corporation.

(v) If the telecommunication corporation provides the ILEC an independent contractor quotation for construction associated with a collocation arrangement, the ILEC shall within 15 days of receipt of the quotation: 1) accept the proposal and grant to the independent contractor access to the ILEC's premises to complete construction of the collocation space and installation of the collocated interconnection facilities; 2) amend the ILEC's own quotation to perform on substantially similar terms, including, without limitation, price, the services specified in the independent contractor's quotation. If the telecommunication corporation accepts the ILEC's amended quotation, construction of the collocation space shall proceed as described in R746-365-4(B)(3)(c)(iv); or, 3) reject the proposal. If the ILEC refuses to accept an independent contractor quotation or amend its own quotation, the telecommunications corporation may petition the Commission for an expedited hearing and resolution of the dispute pursuant to R746-365-8(B).

KEY: interconnection, public utilities, telecommunications
[~~January 13,~~]1999 54-8b-2

Public Service Commission, Administration
R746-405
Rules Governing the Filing of Tariffs for Gas, Electric, Telephone, Water and Heat Utilities

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21880
FILED: 02/16/1999, 17:11
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To provide information and uniformity in the information that customers may use in selecting service providers and services and to aid in understanding the prices, terms, and conditions for available services.

SUMMARY OF THE RULE OR CHANGE: The amendment provides direction on the format for price lists and competitive contract information which is to be filed with the Public Service Commission, as required by Section 54-8b-2.3. The required format for the information is similar to existing requirements for tariffs, with appropriate modifications.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsections 54-8b-2.3(4) and 54-8b-2.3(7)

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: No anticipated additional cost as information is currently being filed with and processed by state agencies (Public Service Commission and Division of Public Utilities). There may be some cost savings, not expected to be significant, as the uniformity in the format may make filing processes and retrieval easier.
❖LOCAL GOVERNMENTS: None--the rule has no effect upon the operations of any local government activity.
❖OTHER PERSONS: Customers may find search costs reduced in comparing information prepared by different service providers. Entities filing price information should not incur additional costs as they are already filing price information pursuant to statutory requirements.
COMPLIANCE COSTS FOR AFFECTED PERSONS: It is not anticipated that companies filing information regarding service prices, terms, and conditions with the Public Service Commission will experience additional costs as a result of the proposed amendments. Current statutory provisions already require this information to be filed. Different companies have used different formats and displays in filing their information. The proposed amendment attempts to provide some uniformity to the information filed by the different companies and uses a format with which they are already familiar and using, in the context of tariff filings.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Affected companies are currently required to file tariffs in a specified format, to provide consistent information to customers of the price, terms, and conditions of service offerings. The Commission believes that using a similar format for price lists and competitive contract information will make it easier for the public to ascertain the choices available to them and to more easily understand the terms and conditions of available services. As these companies are already providing this information, the Commission does not anticipate that additional costs will be incurred (or that costs will be de minimus) in specifying the format and structure of the information that is to be filed.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Public Service Commission
Administration
Fourth Floor, Heber M. Wells Building
160 East 300 South
Salt Lake City, UT 84111, or

at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Sandy Mooy or Barbara Stroud at the above address, by phone at (801) 530-6716, by FAX at (801) 530-6796, or by Internet E-mail at pupsc.bstroud@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 03/31/1999.

THIS RULE MAY BECOME EFFECTIVE ON: 04/01/1999

AUTHORIZED BY: Barbara Stroud, Paralegal

R746. Public Service Commission, Administration.
R746-405. [~~Rules Governing the Filing of~~]Tariffs for Gas, Electric, Telephone, Water and Heat Utilities and Price Lists and Competitive Contract Information for Telecommunications Corporations.
R746-405-1. General Provisions.

A. Scope--The following rules for electricity, gas, telephone, and water utilities and telecommunications corporations are designed to provide for:

1. the general form and construction of tariffs, price lists and competitive contract information required by law to be filed with the Commission and open for public inspection,

2. the procedures for filing and publishing tariffs, price lists and competitive contract information in Utah, and

3. the particular circumstances and procedures under which utilities may depart from their filed and effective tariffs.

B. Applicability--These rules apply to and govern [~~utilities of the classes herein named~~]all companies, whether they begin service before or after the effective date of these rules, but they shall not affect a right or duty arising out of an existing rule or order in conflict herewith. The rules apply only to new tariff, price list and competitive contract information filings, and do not require the modification of tariffs, price lists and competitive contract information which [~~are~~]were effective on the date the rule[~~s are~~] is adopted or modified. Each [~~utility~~]company shall have on file with the Commission its current tariffs, price lists and competitive contract information. Each [~~utility~~]company shall abide by the tariffs, price lists and competitive contract information as filed [~~and approved by~~]with the Commission. The Commission at any time may direct [~~utilities~~]companies to make revisions or filings of their tariffs, price lists and competitive contract information or a part thereof to bring them into compliance.

C. Definitions--

1. "Commission" means the Public Service Commission of Utah.

2. "Company" means a telecommunications corporation as defined in Section 54-8b-2 and a utility as defined in Section 54-2-1.

3. "Competitive contract information" means the information referenced in Section 54-8b-2.3(7) and as provided in R746-405-4.

[~~2~~]4. "Effective Date" means the date on which the rates, charges, rules and classifications stated in the [~~tariff~~]sheets first become effective, except as otherwise provided by statute or order. This date, in accordance with the statutory notice period, shall not be less than the 30th calendar day after the filed date of tariff sheets, and the 5th calendar day after the filed date of price list sheets, without the prior approval of the Commission. Unless otherwise authorized, rates shall be made effective for service rendered on or after the effective date.

[~~3~~]5. "Filed Date" of [~~tariff sheets~~]materials submitted to the Commission for filing is the date the [~~tariff sheets~~]materials are date-stamped at the Commission's Salt Lake City office.

[~~4~~]6. "Tariff" and "Price lists" means the entire body of rates, tolls, rentals, charges classifications and rules collectively enforced by the [~~utility~~]company , although the book or volumes incorporating the same may consist of one or more sheets applicable to distinct service classifications.

[~~5~~]7. "[~~Tariff~~]Sheet" means the individual sheets of the volume constituting the entire tariff or price list or competitive contract information of a [~~utility~~]company and includes the title page, preliminary statement, table of contents, service area maps, rates schedules and rules.

8. "Telecommunications corporation" means a person or entity as defined in Section 54-8b-2.

[~~6~~]9. "Utility" means a gas, electric, telecommunications, water or heat corporation as defined in Section 54-2-1.

D. Separate Utility Services--

1. Utilities engaged in rendering two or more classes of utility services, such as both gas and electric services, shall file with the Commission a separate tariff covering each class of utility service rendered.

2. Utilities planning to jointly provide utility service shall designate one utility to file a joint tariff for the service with the other utility or utilities filing a concurrence with the joint tariff.

E. Withdrawal of Service--No utility [~~of a class specified herein~~]shall, without prior approval of the Commission, withdraw from public service entirely or in any portion of the territory served.

R746-405-2. Format and Construction of Tariffs.

A. Format--Tariffs shall be in loose-leaf form for binding in a stiff-backed book or books as required and consist of parts or subdivisions arranged in order set forth as follows:

1. Title:
"TARIFF"
Applicable to
Kind of
SERVICE
NAME OF UTILITY

2. Table of Contents: a complete index of numbers and titles of effective sheets listed in the order in which the tariff sheets are arranged in the tariff book. Table of contents sheets shall bear sheet numbers and be in the form set forth in Subsection R746-405-2(C).

3. Preliminary statement: a brief description of the territory served, types and classes or service rendered and general conditions under which the service is rendered. Preliminary sheets shall bear sheet numbers and be in the form set forth in Subsection R746-405-2(C). The preliminary statement shall clearly define the symbols used in the tariffs. For example:

a. "C" to signify changed listing, rule or condition which may affect rates or charges;

b. "D" to signify discontinued material, including listing, rate, rule or condition;

c. "I" to signify increase;

d. "L" to signify material relocated from or to another part of the tariff schedules with no change in text, rate, rule or condition;

e. "N" to signify new material including listing, rate, rule or condition;

f. "R" to signify reduction;

g. "T" to signify change in wording of text but no change in rate, rule or condition.

4. Service area maps: maps for telecommunication utilities shall clearly indicate the boundaries of the service area, the principal streets, other main identifying features therein, the general location of the service area in relation to nearby cities, major highways or other well-known reference points and the relation between service area boundaries and map references. Service area maps shall be approximately 8-1/2 x 11 inches in size, or folded to that size in order to fit within the borders of the space provided on tariff sheets. Maps for gas, water and electric utilities shall clearly indicate the boundaries of the service area.

B. Tariff Books--

1. Utilities shall constantly maintain their presently effective tariff at each business office open to the public.

2. Utilities shall remove canceled tariff sheets from their currently effective tariffs. Utilities shall permanently retain a file of canceled tariff sheets.

C. Construction of Tariffs for Filing--

1. The loose-leaf sheets used in tariffs shall be of paper stock not less than 16 lb. bond or of equal durability and 8-1/2 x 11 inches in size. Tariffs may be printed, typewritten or mimeographed or other similar process. Tariffs may not be hand-written. One side of a sheet only may be used and a binding margin of at least 1-1/8 inches at the left of the sheet.

a. The tariff sheets of each utility shall provide the following information:

i. the name of the utility;

ii. the sheet, or page number, along with information to designate whether it is the first version of the sheet or whether the sheet has been revised since it was originally issued. Sheets shall be numbered consecutively;

iii. the number of the advice letter with which the sheet is submitted to the Commission or the docket number if the sheet is filed in accordance with a report and order of the Commission;

iv. information to indicate the date the sheet was filed with the Commission and the date the sheet became effective.

2. Tariffs shall include the following information and as nearly as possible in the following order:

a. schedule number or other designation;

b. class of service, such as business or residential;

c. character of applicability, such as heating, lighting or power, or individual and party-line service;

d. territory to which the tariff applies;

e. rates, in tabular form if practicable;

f. special conditions, limitations, qualifications and restrictions. The conditions shall be brief and clearly worded to cover all special conditions of the rate. Amounts subject to refund shall be specified.

3. If a rate schedule or a rule is carried forward from one sheet to another, the word "Continued" shall be shown.

D. Submission of Tariff Sheets and Advice Letters--

1. Tariff sheets shall be transmitted by an advice letter or in response to a Commission order. A revised table of contents sheet shall be transmitted with each proposed tariff change, if the change requires alteration of the table of contents.

2. Ten copies of each submission of advice letter and tariff sheets shall be filed with the Commission. One copy of the tariff sheets bearing the "Filed Date" and "Effective Date" shall be returned to the utility to constitute the utility's official file copy.

3. Advice letters shall include the following:

a. sheet numbers and titles of the tariff sheets being filed, together with the sheet numbers of the sheets being canceled;

b. essential information as to the reasons for the filing;

c. dates on which the tariff sheets are proposed to become effective;

d. increases or decreases, more or less restrictive conditions, or withdrawals;

e. in the case of an increase authorized by the Commission, reference to the report and order authorizing the increase and docket number;

f. if the filing covers a new service not previously offered or rendered, an explanation of the general effect of the filing, including a statement as to whether present rates or charges will be affected, or service withdrawn from a previous user and advice whether the proposed rates are cost-based;

g. a statement that the tariff sheets proposed do not constitute a violation of state law or Commission rule. The filing of proposed tariff sheets shall of itself constitute the representation of the filing utility that it, in good faith, believes the proposed sheets or revised sheets to be consistent with applicable statutes, rules and orders. The Commission may, after hearing, impose sanctions for a violation hereof.

4. If authorized to file a notice that the effective tariff of a previous owner for the same service area is being adopted, the notice of adoption shall be submitted in the form of an advice letter.

5. Advice letters shall be numbered annually and chronologically. The first two digits represent the year followed by a hyphen and two or more digits, beginning with 01, as submitted by a company[~~utility for class of utility service rendered~~].

6. If a change is proposed on a tariff sheet, attention shall be directed to the change by an appropriate character along the right-hand margin of the tariff sheet using the symbols set forth in the preliminary statement.

7. At the time of making a tariff filing with the Commission, the utility shall furnish a copy of the advice letter and a copy of each related tariff sheet to interested parties having requested notification.

8. If the suspension is lifted by order of the Commission, the filing shall be resubmitted under a new advice letter number. If the suspension is made permanent by the Commission, the advice letter number shall not be used again.

E. Approval of Filed Tariff Sheets--

1. Utility tariffs may not increase rates, charges or conditions, change classifications which result in increases in rates and charges or make changes which result in lesser service or more restrictive conditions at the same rate or charge, unless a showing has been made before and a finding has been made by the Commission that the increases or changes are justified. This requirement does not

apply to electrical or telephone cooperatives in compliance with Section 54-7-12(6), or by telecommunications utilities with less than 5,000 subscribers access lines in compliance with Section 54-7-12(7).

2. New tariff sheets covering a service or commodity not previously furnished or supplied, or revised tariff sheets, not increasing, or increasing pursuant to Commission order, a rate, toll, rental or charge, may be filed by the advice letter. Tariff sheets, unless otherwise authorized by the Commission either on complaint or on its own motion, shall become effective after not less than 30 calendar days after the filed date.

3. Upon application in the advice letter and for good cause shown, the Commission may authorize tariff sheets to become effective on a day before the end of the 30 day notice period.

4. The Commission may reject tariff sheets that do not conform to these rules, which have alterations on the face thereof or contain errors, or for other reasons as the Commission determines. Copies of rejected tariff sheets and accompanying advice letter shall be stamped "Sheet Rejected" in the appropriate places. The Commission shall return one copy of the rejected sheets to the utility, with a letter stating the reasons for its rejection. Rejected tariff sheets shall be retained in the utility's file of canceled and superseded sheets. Advice letter numbers of rejected filings shall not be reused.

F. Public Inspection of Tariffs--

1. Utilities shall maintain, open for public inspection at their main office, a copy of the complete tariff and advice letters filed with the Commission. Utilities shall maintain, open for public inspection, copies of their effective tariffs applicable within the territories served by the offices.

2. Utilities shall post in a conspicuous place in their major manned business office, a notice to the effect that copies of the schedule of applicable rates in the territory are on file and may be inspected by anyone desiring to do so.

G. Contracts Authorized by Tariff--Tariff sheets expressly providing that a written contract shall be executed by a customer as a condition to the receipt of service, relating either to the quantity or duration of service or the installation of equipment, the contract need not be filed with the Commission. A copy of the general form of contract to be used in each case shall be filed with the tariff as provided in these rules.

This contract shall be subject to changes or modifications by the Commission.

R746-405-3. Format and Construction of Price lists.

A. Format--Price lists shall be in loose-leaf form for binding in a stiff-backed book or books as required and consist of parts or subdivisions arranged in order set forth as follows:

1. Title:

"Price list"

Applicable to

Kind of

SERVICE

NAME OF COMPANY

2. Table of Contents: a complete index of numbers and titles of effective sheets listed in the order in which the sheets are arranged in the book. Table of contents sheets shall bear sheet numbers and be in the form set forth in Subsection R746-405-2(C).

3. Preliminary statement: a brief description of the territory served, types and classes or service rendered and general conditions under which the service is rendered. Preliminary sheets shall bear sheet numbers and be in the form set forth in Subsection R746-405-2(C).

4. Service area maps: maps for telecommunication corporations shall clearly indicate the boundaries of the service area, the principal streets, other main identifying features therein, the general location of the service area in relation to nearby cities, major highways or other well-known reference points and the relation between service area boundaries and map references. Service area maps shall be approximately 8-1/2 x 11 inches in size, or folded to that size in order to fit within the borders of the space provided on filed sheets. Maps for gas, water and electric utilities shall clearly indicate the boundaries of the service area.

B. Price list Books--

1. Companies shall constantly maintain their presently effective price lists at each business office open to the public.

2. Companies shall remove canceled sheets from their currently effective price lists.

C. Construction of Price lists for Filing--

1. The loose-leaf sheets used in price lists shall be of paper stock not less than 16 lb. bond or of equal durability and 8-1/2 x 11 inches in size. Price lists may be printed, typewritten or photocopied or other similar process. Sheets may not be hand-written. One side of a sheet only may be used and a binding margin of at least 1-1/8 inches at the left of the sheet.

a. The price list sheets of each company shall provide the following information:

i. the name of the company;

ii. the sheet, or page number, along with information to designate whether it is the first version of the sheet or whether the sheet has been revised since it was originally issued. Sheets shall be numbered consecutively;

iii. information to indicate the date the sheet was filed with the Commission and the date the sheet became effective.

2. Price lists shall include the following information and as nearly as possible in the following order:

a. schedule number or other designation;

b. class of service, such as business or residential, if applicable;

c. character of applicability, such as heating, lighting or power, or individual and party-line service;

d. territory to which the price list applies;

e. rates, in tabular form if practicable;

f. special conditions, limitations, qualifications and restrictions. The conditions shall be brief and clearly worded to cover all special conditions of the rate. Amounts subject to refund shall be specified.

3. If a rate schedule or a rule is carried forward from one sheet to another, the word "Continued" shall be shown.

D. Submission of Price list Sheets and Advice Letters--

1. Price list sheets shall be transmitted by an advice letter or in response to a Commission order. A revised table of contents sheet shall be transmitted with each proposed price list change, if the change requires alteration of the table of contents.

2. Five copies of each submission of advice letter and price list sheets shall be filed with the Commission. One copy of the

price list sheets bearing the "Filed Date" and "Effective Date" shall be returned to the company to constitute the company's official file copy.

3. Advice letters shall include the following:

a. sheet numbers and titles of the sheets being filed, together with the sheet numbers of the sheets being canceled;

b. essential information as to the reasons for the filing;

c. dates on which the sheets are proposed to become effective;

d. increases or decreases, more or less restrictive conditions, or withdrawals;

e. if the filing covers a new service not previously offered or rendered, an explanation of the general effect of the filing, including a statement as to whether present rates or charges will be affected, or service withdrawn from a previous user and advice whether the proposed rates are cost-based;

4. The filing of proposed price list sheets shall of itself constitute the representation of the filing company that it, in good faith, believes the proposed sheets or revised sheets to be consistent with applicable statutes, rules and orders.

5. If authorized to file a notice that the effective price list of a previous owner for the same service area is being adopted, the notice of adoption shall be submitted in the form of an advice letter.

6. Advice letters for price lists shall use and be included in the number sequencing described in R746-405-2.D.5.

7. If a change is proposed on a sheet, attention shall be directed to the change by filing a version of the sheet using stike out text for proposed deleted text and underlined text for proposed added text.

E. Public Inspection of price lists--

1. Companies shall maintain, open for public inspection at each business office, a copy of the complete price lists filed with the Commission.

2. Companies shall post in a conspicuous place in their business offices, a notice to the effect that copies of the schedule of applicable rates in the territory are on file and may be inspected by anyone.

G. Contracts Authorized by Price lists--Price list sheets expressly providing that a written contract shall be executed by a customer as a condition to the receipt of service, relating either to the quantity or duration of service or the installation of equipment, the contract need not be filed with the Commission. A copy of the general form of contract to be used in each case shall be filed with the price lists as provided in these rules.

R746-405-4. Format and Construction of Competitive Contract Information.

A. Format -- Competitive contract information shall be in loose-leaf form for binding in a stiff-backed book or books as required and consist of parts or subdivisions arranged in order set forth as follows:

1. Title:

"Competitive Contract Information"

"Applicable to"

Kind of service

NAME OF COMPANY

"and"

NAME OF PURCHASER

2. Preliminary statement: a brief description of the territory served; types and classes or service rendered; and general explanation of the conditions under which the service is rendered.

3. Prices, terms and conditions: a description of the territory served; the terms, conditions, limitations, qualifications and restrictions under which the service is rendered; and the rates, charges or prices applicable to the service. In lieu of this information, a copy of the competitive contract may be filed.

B. Construction of Competitive Contract Information for Filing -- The sheets used in competitive contract information filings shall be of paper stock not less than 16 lb. Bond or of equal durability and 8-1/2 x 11 inches in size. Text may be printed, typewritten or mimeographed or other similar process. Sheets may not be handwitten. One side of a sheet only may be used and a binding margin of at least 1-1/8 inches at the left of the sheet.

C. Submission of Competitive Contract Information --

1. Competitive contract information shall be transmitted by an advice letter or in response to a Commission order.

2. Three copies of each submission of advice letter and two copies of the competitive contract information shall be filed with the Commission. One copy of the advice letter bearing the "Filed Date" and "Effective Date" shall be returned to the company to constitute the Company's official file copy.

3. Advice letters shall include a general description of the services offered under the contract, the territory in which the services will be offered and an identification of the purchaser.

4. Advice letters for competitive contract information shall use and be included in the number sequencing described in R746-405-2(D)(5).

KEY: [~~rules,~~]procedure, public utilities, tariffs, utility regulation

[~~1987~~]1999	**54-3-2**
Notice of Continuation April 3, 1998	**54-3-3**
	54-3-4
	54-4-1
	54-4-3
	54-4-4
	54-7-12

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End of the Notices of Proposed Rules Section

NOTICES OF
CHANGES IN PROPOSED RULES

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

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

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

While a CHANGE IN PROPOSED RULE does not have a formal comment period, there is a 30-day waiting period during which interested parties may submit comments. The 30-day waiting period for CHANGES IN PROPOSED RULES published in this issue of the *Utah State Bulletin* ends March 31, 1999. At its option, the agency may hold public hearings.

From the end of the waiting period through June 29, 1999, the agency may notify the Division of Administrative Rules that it wants to make the CHANGE IN PROPOSED RULE effective. When an agency submits a NOTICE OF EFFECTIVE DATE for a CHANGE IN PROPOSED RULE, the PROPOSED RULE as amended by the CHANGE IN PROPOSED RULE becomes the effective rule. The agency sets the effective date. The date may be no fewer than 30 days nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file another CHANGE IN PROPOSED RULE in response to additional comments received. If the Division of Administrative Rules does not receive a NOTICE OF EFFECTIVE DATE or another CHANGE IN PROPOSED RULE, the CHANGE IN PROPOSED RULE filing, along with its associated PROPOSED RULE, lapses and the agency must start the process over.

CHANGES IN PROPOSED RULES are governed by *Utah Code* Section 63-46a-6 (1996); and *Utah Administrative Code* Rule R15-2, and Sections R15-4-3, R15-4-5, R15-4-7, and R15-4-9.

The Changes in Proposed Rules Begin on the Following Page.

Environmental Quality, Air Quality
R307-170
Continuous Emission Monitoring Program

NOTICE OF CHANGE IN PROPOSED RULE
DAR FILE NO.: 21504
FILED: 02/10/1999, 15:19
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: In response to public comments, changes are made to clarify and simplify the rule.

SUMMARY OF THE RULE OR CHANGE: In Section R307-170-4, simplify the definitions of "excess emissions" and "monitor unavailability," and delete the definition of "out of control period." In Subsection R307-170-5(1), clarify that breakdowns of the continuous monitoring system (CMS) will not be considered a violation if the owner or operator demonstrates to the satisfaction of the executive secretary that the malfunction was unavoidable and is being repaired as expeditiously as possible. Also, a source with minimum CMS data collection requirements may conduct alternative sampling if the method is approved in writing by the executive secretary. Delete Subsection R307-170-5(3) and re-number subsequent subsections. In Subsection R307-170-5(8), clarify that a source shall install a continuous opacity monitor to show compliance on each "obstructed" stack, duct or vent. In Subsection R307-170-7(1), clarify that each range of a dual range monitor shall be audited using an alternative relative accuracy audit procedure. In Subsection R307-170-7(3), clarify that a source may declare the monitor out-of-control and stop the test. In Subsection R307-170-7(5), change test "results" to test "reports." In Subsection R307-170-7(6), second sentence, delete the word "gas." In Subsection R307-170-7(6)(a), clarify that the CMS data collected while a monitor is out-of-control may not be used for monitor availability. In Subsection R307-170-9(1)(a), add the word ASCII to specify the kind of electronic reporting required. Delete Subsection R307-170-9(1)(d), which allowed the executive secretary to require collection and submittal of CMS data. In Subsection R307-170-9(3)(c), clarify that alternative sampling methods must be approved in writing by the executive secretary.
(**DAR Note:** The original proposed repeal and reenact upon which this change in proposed rule is based was published in the October 15, 1999, issue of the *Utah State Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsections 19-2-104(1)(c) and 19-2-115(3)
FEDERAL REQUIREMENT FOR THIS RULE: 40 CFR 51, Appendix P; 40 CFR 60

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: No change in cost from the original proposed repeal and reenact of this rule.
❖LOCAL GOVERNMENTS: Only one source is owned by a local government, and the costs are no different from those for a private sector source.
❖OTHER PERSONS: No change in cost from the original proposed repeal and reenact of this rule.
COMPLIANCE COSTS FOR AFFECTED PERSONS: No change in cost from the original proposed repeal and reenact of this rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Public comments have resulted in changes which make the rule clearer and easier for the regulated community to understand. This may result in some small and unquantifiable savings--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.

THIS RULE MAY BECOME EFFECTIVE ON: 04/01/1999

AUTHORIZED BY: Rick Sprott, Planning Branch Manager

R307. Environmental Quality, Air Quality.
R307-170. Continuous Emission Monitoring Program.
R307-170-1. Purpose.

The purpose of this rule is to establish consistent requirements for all sources required to install a continuous monitoring system (CMS) and for sources who opt into the continuous emissions monitoring program.

R307-170-2 Authority.

Authority to require continuous emission monitoring devices is found in 19-2-104(1)(c), and authorization for a penalty for rendering inaccurate any monitoring device or method is found in 19-2-115(4). Authority to enforce 40 CFR Part 60 is obtained by its incorporation by reference under R307-210.

R307-170-3. Applicability.

Except as noted in (1) and (2) below, any source required to install a continuous monitoring system to determine emissions to the atmosphere or to measure control equipment efficiency is subject to R307-170.

(1) Any source subject to 40 CFR Part 60 as incorporated by R307-210, Standards of Performance for New Sources, is not subject to R307-170-6, Minimum Monitoring Requirements for Specific Sources.

(2) Any source required by an approval order issued under R307-401 to operate a continuous monitoring system to satisfy the requirements of R307-150, Periodic Reports of Emissions and Availability of Information, is not subject to R307-170-9(7), Excess Emission Report.

R307-170-4. Definitions.

The following additional definitions apply to R307-170.

"Accuracy" means the difference between a continuous monitoring system response and the results of an applicable EPA reference method obtained over the same sampling time.

"Averaging Period" means that period of time over which a pollutant or opacity is averaged to demonstrate compliance to an emission limitation or standard.

"Block Averages" means the total time expressed in fractions of hours over which emission data is collected and averaged.

"Calibration Drift" (zero drift and span drift) means the value obtained by subtracting the known standard or reference value from the raw response of the continuous monitoring system.

"Channel" means the pollutant, diluent, or opacity to be monitored.

"CMS Information" means the identifying information for each continuous monitoring system a source is required to install.

"Computer Enhancement" means computerized correction of a monitor's zero drift and span drift to reflect actual emission concentrations and opacity.

"Continuous Emission Monitoring System" (CEMS) means all equipment required to determine gaseous emission rates and to record the resulting data.

"Continuous Monitoring System" (CMS) means all equipment required to determine gaseous emission rates or opacity and to record the data.

"Continuous Opacity Monitoring System" means all equipment required to determine opacity and data recording.

"Cylinder Gas Audit" means an alternative relative accuracy test of a continuous emission monitoring system to determine its precision using gases certified by or traceable to National Institute of Standards and Technology (NIST) in the ranges specified in 40 CFR 60, Appendix F.

"Description Report" means a short but accurate description of events that caused continuous monitoring system irregularities or excess emissions which occurred during the reporting period submitted in the state electronic data report.

"Excess Emission Report" means a report within the state electronic data report which documents the date, time, and magnitude of each excess emission episode occurring during the reporting period.

"Excess Emissions" means the amount by which recorded emissions exceed those allowed by approval orders, operating permits, the state implementation plan, or any other provision of R307.[~~an applicable emission or opacity standard during source operation as outlined in R307, approval orders, operating permits, consent decrees, administrative orders and agreements, or federal new source performance standards and resulting from:~~

~~a. failure to curtail or reduce production during an emission excursion when the curtailment or reduction poses no threat to personnel safety, damage to equipment, or the environment;~~

~~b. bypassing control equipment in conditions other than start-up, shutdown, or emergencies; or~~

~~c. failure to maintain control equipment in good operating condition.~~]

"Monitor" means the equipment in a continuous monitoring system that analyzes concentration or opacity and generates an electronic signal which is sent to a recording device.

"Monitor Availability" means any period in which both the source of emissions and the continuous monitoring system are operating and the minimum frequency of data capture occurred as required in 40 CFR 60.13.

"Monitor Unavailability" means[~~, except for calibration checks, zero and span adjustments required in 40 CFR 60 and R307-170,~~] any period in which the source of emissions is operating and the continuous monitoring system is:

a. not operating or minimum data capture did not occur,

b. not generating data, not recording data, or data is lost, or

c. out-of-control in the case of a continuous emissions monitor used for continuous compliance purposes.

"New Source Performance Standards" (NSPS) means 40 CFR 60, Standards of Performance for New Stationary Sources, incorporated by reference at R307-210.

"Operations Report" means the report of all information required under 40 CFR 60 for utilities and fossil fuel fired boilers.[

~~"Out-of-Control Period." As it applies to a continuous emissions monitoring system used to demonstrate continuous compliance with an emission limitation or emission cap, the period begins and ends as follows:~~

~~a. The out-of-control period begins at the completion of the fifth consecutive daily calibration drift check which has a calibration drift in excess of two times the allowable limit found in 40 CFR 60 Appendix B, Performance Specifications, or when any daily calibration drift check is in excess of four times the allowable limit.~~

~~b. The out-of-control period ends at the completion of the calibration drift check following corrective action that results in the calibration drift at both the zero (or low-level) and high-level measurement points being within the corresponding allowable calibration drift limit outlined in 40 CFR 60 Appendix B, Performance Specifications.~~]

"Performance Specification" means the operational tolerances for a continuous monitoring system as outlined in 40 CFR 60, Appendix B.

"Precision" means the difference between a continuous monitoring system response and the known concentration of a calibration gas or neutral density filter.

"Quality Assurance Calibrations" means calibrations, drift adjustments, and preventive maintenance activities on a continuous monitoring system.

"Raw Continuous Monitoring System Response" means a continuous monitoring system's uncorrected response used to determine calibration drift.

"Relative Accuracy Audit" means an alternative relative accuracy test procedure outlined in 40 CFR 60, Appendix A, which is used to correlate continuous emission monitoring system data to simultaneously collected reference method test data using no fewer than three reference method test runs.

"Relative Accuracy Test Audit" means the primary method of determining the correlation of continuous emissions monitoring system data to simultaneously collected reference method test data,

using no fewer than nine reference method test runs conducted as outlined in 40 CFR 60, Appendix A.

"State Electronic Data Report" (SEDR) means the sum total of a source's monitoring activities which occurred during a reporting period.

"Summary Report" means the summary of all monitor and excess emission information which occurred during a reporting period.

"Tamper" means knowingly:

a. to make a false statement, representation, or certification in any application, report, record, plan, or other document filed or required to be maintained under R307-170, or

b. to render inaccurate any continuous monitoring system or device or any method required to maintain the accuracy of the continuous monitoring system or device.

"Valid Monitoring Data" means data collected by an accurately functioning continuous monitoring system while any installation monitored by the continuous monitoring system is in operation.

R307-170-5. General Requirements.

(1) Each source required to operate a continuous monitoring system is subject to the requirements of 40 CFR 60.13 ([~~b~~]d) through (j), except as follows:

(a) When minimum emission data points are collected by the continuous monitoring system as required in 40 CFR 60.13 or applicable subparts, quality assurance calibration and maintenance activities shall not count against monitor availability.

(b) a monitor's [~~outage~~]unavailability due to [~~an unavoidabled breakdown, ~~]calibration checks, zero and span checks, or adjustments required in 40 CFR 60.13 or R307-170 will not be considered a violation of R307-170.

(c) Monitor unavailability due to continuous monitoring system breakdowns will not be considered a violation provided that the owner or operator demonstrates, to the satisfaction of the executive secretary, that the malfunction was unavoidable and is being repaired as expeditiously as possible.

(d) Each source with minimum continuous monitoring system data collection requirements may conduct alternative sampling approved in writing by the executive secretary to supplement monitor availability requirements.

(2) Each source shall monitor and record all emissions data during all phases of source operations, including start-ups, shutdowns, and process malfunctions.[

~~(3) Each source shall notify the executive secretary by phone or facsimile of all periods of monitor unavailability in which six or more hours of valid monitoring data were lost. Notification shall be made during normal office hours within 96 hours of the beginning of monitoring unavailability.~~]

([~~4~~]3) Each source operating a continuous emissions monitoring system for compliance determination shall document each out-of-control period in the state electronic data report.

([~~5~~]4) Each continuous monitoring system subject to R307-170 shall be installed, operated, maintained, and calibrated in accordance with applicable performance specifications found in 40 CFR 60 Appendix B and Appendix F.

([~~6~~]5) Each continuous emissions monitoring system shall be configured so that calibration gas can be introduced at or as near to the probe inlet as possible. Each source shall conduct daily calibration zero drift and span drift checks and cylinder gas audits by flowing calibration gases at the probe inlet, or as near to the probe inlet as possible. Daily calibration drift checks and quarterly cylinder gas audit data shall be recorded by the continuous emissions monitoring system electronically to a strip chart recorder, data logger, or data recording devices.

([~~7~~]6) No person shall tamper with a continuous monitoring system.

([~~8~~]7) Any source that constructs two or more emission point sources which may interfere with visible emissions observations shall install a continuous opacity monitor to show compliance with visible emission limitations on each obstructed stack, duct or vent that has a visible emission limitation.

R307-170-6. Minimum Monitoring Requirements for Specific Sources.

(1) Fossil Fuel Fired Steam Generators.

(a) A continuous monitoring system for the measurement of opacity shall be installed, calibrated, maintained, and operated on any fossil fuel fired steam generator of greater than 250 million BTU per hour for each boiler except where:

(i) natural gas or oil or a mixture of natural gas and oil is the only fuel burned,

(ii) the source is able to comply with the applicable particulate matter and opacity regulations without using particulate matter collection equipment, and

(iii) the source has never been found through any administrative or judicial proceeding to be in violation of any visible emission standard or requirements.

(b) A continuous monitoring system for the measurement of sulfur dioxide shall be installed, calibrated, maintained, and operated on any fossil fuel fired steam generator of greater than 250 million BTU per hour heat input which has installed sulfur dioxide pollution control equipment.

(c) A continuous monitoring system for the measurement of nitrogen oxides shall be installed, calibrated, maintained, and operated on fossil fuel fired steam generators of greater than 1000 million BTU per hour heat input when such facility is located in an Air Quality Control Region where the executive secretary has specifically determined that a control strategy for nitrogen dioxide is necessary to attain the national standards, unless the source owner or operator demonstrates during source compliance tests as required by the executive secretary that such a source emits nitrogen oxides at levels 30 percent or more below the emission standard.

(d) A continuous monitoring system for the measurement of percent oxygen or carbon dioxide shall be installed, calibrated, maintained, and operated on any fossil fuel fired steam generators where measurements of oxygen or carbon dioxide in the flue gas are required to convert either sulfur dioxide or nitrogen oxides continuous emission monitoring data, or both, to units of the emission standard.

(2) Nitric Acid Plants.

Each nitric acid plant of greater than 300 tons per day production capacity, the production capacity being expressed as 100 percent acid, and located in an Air Quality Control Region where the Executive Secretary has specifically determined that a control strategy for nitrogen dioxide is necessary to attain the national standard, shall install, calibrate, maintain, and operate a continuous monitoring system for the measurement of nitrogen oxides for each nitric acid producing installation.

(3) Sulfuric Acid Plants - Burning and Production.

Each sulfuric acid plant of greater than 300 tons per day production capacity, the production being expressed as 100 percent acid, shall install, calibrate, maintain and operate a continuous monitoring system for the measurement of sulfur dioxide for each sulfuric acid producing installation within such plant.

(4) Petroleum Refineries - Fluid Bed Catalytic Cracking Unit Catalyst Regenerator.

Each catalyst regenerator for fluid bed catalytic cracking units of greater than 20,000 barrels per day fresh feed capacity shall install, calibrate, maintain and operate a continuous monitoring system for the measurement of opacity.

R307-170-7. Performance Specification Audits.

(1) Quarterly Audits.

Each continuous emissions monitoring system shall be audited at least once each calendar quarter. Successive quarterly audits shall be conducted at least two months apart. A relative accuracy test audit shall be conducted at least once every four calendar quarters as described in the applicable performance specification of 40 CFR 60, Appendix B.[~~ Each range of a dual range monitor shall be audited using a relative accuracy audit at least three of the four calendar quarters each year.~~]

(a) Relative accuracy shall be determined in units of the applicable emission limit.

(b) [~~For a single range monitor, a~~]An alternative relative accuracy test (cylinder gas audit or relative accuracy audit) may be conducted in three of the four calendar quarters in place of conducting a relative accuracy test audit, but in no more than three quarters in succession.

(c) Each range of a dual range monitor shall be audited using an alternative relative accuracy audit procedure.

([~~c~~]d) Minor deviations from the reference method test must be submitted to the executive secretary for approval.

([~~d~~]e) Performance specification tests and audits shall be conducted so that the entire continuous monitoring system is concurrently tested.

(2) Notification.

The source shall notify the executive secretary of its intention to conduct a relative accuracy test audit by submitting a pretest protocol or by scheduling a pretest conference if directed to do so by the executive secretary. Each source shall notify the executive secretary no less than 45 days prior to testing.

(3) Audit Procedure.

A source may stop a relative accuracy test audit before the commencement of the fourth run to perform repairs or adjustments on the continuous emissions monitoring system. If the audit is stopped to make repairs or adjustments the audit must be started again from the beginning. If the fourth test run is started, testing shall be conducted until the completion of the ninth acceptable test run or the source may declare the monitor out-of-control and stop the test. If the system does not meet its applicable relative accuracy performance specification outlined in 40 CFR 60, Appendix B, its data may not be used in determining emissions rates until the system is successfully recertified.

(4) Performance Specification Tests.

(a) Except as listed in (b) below, all reference method testing equipment shall be totally independent of the continuous emissions monitoring system equipment undergoing a performance specification test.

(b) Reference method tests conducted on fuel gas lines, vapor recovery units, or other equipment as approved by the executive secretary may use a common probe, when the reference method sample line ties into the continuous emission monitor's probe or sample line as close to the probe inlet as possible.

(5) Submittal of Audit Results.

The source shall submit all relative accuracy performance specification test [~~results~~]reports to the executive secretary no later than 60 days after completion of the test.

(a) Test [~~results~~]reports shall include all raw reference method calibration data, raw reference method emission data with date and time stamps, and raw source continuous monitoring data with date and time stamps. All data shall be reported in concentration and units of the applicable emission limit.

(b) Relative accuracy performance specification test or audit reports shall include the company name, plant manager's name, mailing address, phone number, environmental contact's name, the monitor manufacturer, the model and serial number, the monitor range, and its location.

(6) Daily Drift Test.

Each source operating a continuous monitoring system shall conduct a daily zero and span calibration drift test as required in 40 CFR 60.13(d). The zero and span drifts shall be determined by using raw continuous monitoring system responses to a known value of the reference standard[~~ gas~~]. Computer enhancements may be used to correct continuous monitoring system emission data which has been altered by monitor drift, but may not be used to determine daily zero and span drift.

(a) [~~Any continuous emissions~~]A monitor used for compliance [~~determination~~]which fails the daily calibration drift test[~~s~~] as outlined in 40 CFR 60 Appendix F, Subpart 4, shall be declared out-of-control, and the out-of-control period shall be documented in the state electronic data report. The source shall make corrective adjustments to the system promptly. Continuous emission monitoring system data collected during the out-of-control period may not be used for monitor availability.

(b) Each source operating a continuous monitoring system which exceeds the calibration drift limit as outlined in 40 CFR 60 and the applicable performance specification shall make corrective adjustments promptly.

R307-170-8. Recordkeeping.

Each source[~~s~~] subject to this rule shall maintain a file of all:

(1) parameters for each continuous monitoring system and monitoring device,

(2) performance test measurements,

(3) continuous monitoring system performance evaluations,

(4) continuous monitoring system or monitoring device calibration checks,

(5) adjustments and maintenance conducted on these systems or devices, and

(6) all other information required by this rule. Information shall be recorded in a permanent form suitable for inspection. The file shall be retained for at least two years following the date of such measurements, maintenance, reports, and records, and shall be available to the executive secretary at any time.

R307-170-9. State Electronic Data Report.

(1) General Reporting Requirements.

(a) Each source required to install a continuous monitoring system shall submit the state electronic data report including all information specified in (2) through (10) below. Each source shall submit a complete, unmodified report in an electronic ASCII format specified by the executive secretary.

(b) Partial Reports.

(i) If the total duration of excess emissions during the reporting period is less than one percent of the total operating time and the continuous monitoring system downtime is less than five percent of the total operating time, only the summary portion of the state electronic data report need be submitted.

(ii) If the total excess emission during the reporting period is equal to or greater than one percent of the total operating time, or the total monitored downtime is equal to or greater than five percent of the total operating time, the total state electronic data report shall be submitted.

(iii) Each source required to install a continuous monitoring system for the sole purpose of generating emissions inventory data is not required to submit the excess emission report required by (7) below or the excess emission summary required by (6)(b) below unless otherwise directed by the executive secretary.

(c) Frequency of Reporting. Each source subject to this rule shall submit a report to the executive secretary with the following frequency:

(i) Each source shall submit a report quarterly if required by the executive secretary or by 40 CFR Part 60, or if the continuous monitoring system data is used for compliance determination. Each source submitting quarterly reports shall submit them by January 30, April 30, July 30, and October 30 for the quarter ending 30 days earlier.

(ii) Any source subject to this rule and not required to submit a quarterly report shall submit its report semiannually by January 30 and July 30 for the six month period ending 30 days earlier.

(iii) The executive secretary may require any source to submit all emission data generated on a quarterly basis.[

~~(d) The executive secretary may, with a written finding of cause, require a source to install equipment to collect and submit continuous real time data directly to the executive secretary.~~]

(2) Source Information.

The report shall contain source information including the company name, name of manager or responsible official, mailing address, AIRS number, phone number, environmental contact name, each source required to install a monitoring system, quarter or quarters covered by the report, year, and the operating time for each source.

(3) Continuous Monitoring System Information.

The report shall identify each channel, manufacturer, model number, serial number, monitor span, installation dates and whether the monitor is located in the stack or duct.

(4) Monitor Availability Reporting.

(a) The report shall include all periods that the pollutant concentration exceeded the span of the continuous monitoring system by source, channel, start date and time, and end date and time.

(b) Each continuous monitoring system outage or malfunction which occurs during source operation shall be reported by source, channel, start date and time, and end date and time.

(c) [~~Each source with minimum continuous monitoring system data collection requirements as required in 40 CFR 60, Standards of Performance for New Stationary Sources, may conduct manual sampling to supplement monitor availability requirements. Manual sampling~~]Alternative sampling methods approved in writing by the executive secretary may be used to supplement monitor availability and shall be reported by source, channel, start date and time, and end date and time, and may be used to offset monitor unavailability.

(d) Monitor modifications shall be reported by source, channel, date of modification, whether a support document was submitted, and the reason for the modification.

(5) Continuous Monitoring System Performance Specification Audits.

(a) Each source shall submit the results of each relative accuracy test audit, relative accuracy audit and cylinder gas audit. Each source which reports linearity tests may omit reporting cylinder gas audits.

(b) Each relative accuracy test audit shall be reported by source, channel, date of the most current relative accuracy test audit, date of the preceding relative accuracy test audit, number of months between relative accuracy test audits, units of applicable standard, average continuous emissions monitor response during testing, average reference method value, relative accuracy, and whether the continuous emissions monitor passed or failed the test or audit.

(c) A relative accuracy audit shall be reported by source, channel, date of audit, continuous emissions monitor response, relative accuracy audit response, percent precision, pass or fail results, and whether the monitor range is high or low.

(d) Cylinder gas audit and linearity tests shall be reported by source, channel, date, audit point number, cylinder identification, cylinder expiration date, type of certification, units of measurement, continuous emissions monitor response, cylinder concentration, percent precision, pass or fail results, and and whether the monitor range is high or low.

(6) Summary reports.

(a) Each source shall summarize and report each continuous monitoring system outage that occurred during the reporting period in the continuous monitoring system performance summary report. The summary must include the source, channels, monitor downtime as a percent of the total source operating hours, total monitor downtime, hours of monitor malfunction, hours of non-monitor malfunction, hours of quality assurance calibrations, and hours of other known and unknown causes of monitor downtime. A source operating a backup continuous monitoring system must account for monitor unavailability only when accurate emission data [~~is~~]are not being collected by either continuous monitoring system.

(b) The summary report shall contain a summary of excess emissions which occurred during the reporting period unless the continuous monitoring system was installed to document compliance with an emission cap or to generate data for annual emissions inventories.

(i) Each source with multiple emission limitations per channel being monitored shall summarize excess emissions for each emission limitation.

(ii) The emission summary must include the source, channels, total hours of excess emissions as a percent of the total source operating hours, hours of start-up and shutdown, hours of control equipments problems, hours of process problems, hours of other

known and unknown causes, emission limitation, units of measurement, and emission limitation averaging period.

(c) When no continuous monitoring unavailability or excess emissions have occurred, this shall be documented by placing a zero under each appropriate heading.

(7) Excess Emissions Report.

(a) The magnitude and duration of all excess emissions shall be reported on an hourly basis in the excess emissions report.

(i) The duration of excess emissions based on block averages shall be reported in terms of hours over which the emissions were averaged. Each source that averages opacity shall average it over a six minute block and shall report the duration of excess opacity in tenths of an hour. Sources using a rolling average shall report the duration of excess emissions in terms of the number of hours being rolled into the averaging period.

(ii) Sources with multiple emission limitations per channel being monitored shall report the magnitude of excess emissions for each emission limitation.

(b) Each period of excess emissions that occurs shall be reported. Each episode of excess emission shall be accompanied with a reason code and action code which links the excess emission to a specific description which describes the events of the episode.

(8) Operations Report.

Each source operating fossil fuel fired steam generators subject to 40 CFR 60, Standards of Performance for New Stationary Sources, shall submit an operations report.

(9) Signed Statement.

(a) Each source shall submit a signed statement acknowledging under penalties of law that all information contained in the report is truthful and accurate, and is a complete record of all monitoring related events which occurred during the reporting period. In addition, each source with an operating permit issued under R307-415 shall submit the signed statement required in R307-415-5d.

(10) Descriptions.

Each source shall submit a narrative description explaining each event of monitor unavailability or excess emissions. Each description also shall be accompanied with reason codes and action codes that will link descriptions to events reported in the monitoring information and excess emission report.

KEY: air pollution, monitoring*, continuous monitoring*
199[~~8~~]9

19-2-101
19-2-104(1)(c)
19-2-115(3)(b)
40 CFR 60

End of the Notices of Changes in Proposed Rules Section

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the responsible agency is required to review the rule. This review is designed to remove obsolete rules from the *Utah Administrative Code*.

Upon reviewing a rule, an agency may: repeal the rule by filing a PROPOSED RULE; continue the rule as it is by filing a NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (NOTICE); or amend the rule by filing a PROPOSED RULE and by filing a NOTICE. By filing a NOTICE, the agency indicates that the rule is still necessary.

NOTICES are not followed by the rule text. The rule text that is being continued may be found in the most recent edition of the *Utah Administrative Code*. The rule text may also be inspected at the agency or the Division of Administrative Rules. NOTICES are effective when filed. NOTICES are governed by *Utah Code* Section 63-46a-9 (1996).

Corrections, Administration
R251-103
Undercover Roles of Offenders

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 21858
FILED: 02/12/1999, 15:58
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: In Subsection 64-13-6(1)(f), the Department has been mandated to investigate criminal conduct involving offenders. In Section 64-13-10, the Department has been directed to provide programs as necessary and as required to accomplish its purposes.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE-YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: General requirements governing the use of offenders in undercover roles must be made available and adhered to by other criminal justice entities.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Corrections
Administration
Suite 400
6100 South Fashion Blvd.
Murray, UT 84107, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Pam Elliott at the above address, by phone at (801) 265-5514, by FAX at (801) 265-5726, or Internet E-mail at crdeptdo.crdept.pelliott@email.state.ut.us.

AUTHORIZED BY: H. L. Haun, Executive Director

EFFECTIVE: 02/12/1999

Environmental Quality, Air Quality
R307-214
National Emission Standards for Hazardous Air Pollutants

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 21844
FILED: 02/03/1999, 16:10
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: Subsection 19-2-104(1)(a) authorizes the Air Quality Board to make rules "regarding the control, abatement and prevention of air pollution from all sources and the establishment of the maximum quantity of air contaminants that may be emitted by any air contaminant source." Under that authority, the Board has incorporated by reference various standards promulgated by the Environmental Protection Agency under 40 CFR 61 and 40 CFR 63 to control hazardous air pollutants. 40 CFR 61.17 states: "This part shall not be construed to preclude any state or political subdivision thereof from- 1) Adopting and enforcing any emission limiting regulation applicable to a stationary source, provided that such emission limiting regulation is not less stringent that

the standards prescribed under this part;..." 40 CFR 63.12 states: "The provisions of this part shall not be construed in any manner to preclude any State or political subdivision thereof from- (1) Adopting and enforcing any standard, limitation, prohibition, or other regulation applicable to an affected source subject to the requirements of this part, provided that such standard, limitation, prohibition, or regulation is not less stringent than any requirement applicable to such source established under this part;..." The Board has chosen to incorporate the federal provisions by reference in order to enforce these rules rather than leaving sources within Utah subject only to federal enforcement only.

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 only written comments received on this rule were during the process of amending it. DAR Nos. 15336 and 15338: This rule was adopted as R307-10 with DAR No. 15338, effective Feb 28, 1994. Simultaneously, DAR No. 15336 deleted references to 40 CFR 61 found in Section R307-1-4. This proposal incorporated only 40 CFR 63 Subpart (L) regulating coke ovens. Geneva Steel supported state enforcement of NESHAPS regulations for coke ovens. Division of Air Quality (DAQ) response: Noted. DAR No. 15656, proposed Feb 17, 1994 and abandoned without final adoption: This amendment proposed to incorporate all of 40 CFR 63, thus adding Subpart M, standards for emissions of perchloroethylene from dry cleaners. Geneva Steel supported the proposal. DAQ response: Noted. Though the dry cleaner regulations already were in place at the federal level, oral comments from dry cleaners indicated great confusion in the industry. DAQ abandoned the rule filing in order to conduct outreach in the industry. Dry cleaner regulation was incorporated one year later in DAR No. 16327 with no comments. DAR No. 16327 effective on April 22, 1995: 1) This amendment incorporated 40 CFR 63, Subpart A. Kennecott objected to the Environmental Protection Agency's (EPA's) inclusion of fugitive emissions in the definition of major hazardous air pollutant (HAP) sources, and to EPA's failure to limit the aggregation of emission from contiguous HAP sources to emissions from those sources having the same 2-digit SIC code. Kennecott suggested adopting the general provisions with the substitution of definitions from R307-15 (now R307-415) for "fugitive emissions" and "major source." DAQ response: To obtain delegation of authority to implement the regulation, it is necessary for the state to adopt all provisions of the federal rule. This matter was in litigation at the time; as of early 1999, EPA still has not completed amendments to Subpart A. We will incorporate the amendments by reference when they are issued. DAR No. 18030 effective Nov 15, 1996: No comments. DAR No. 18553 effective April 15, 1997: No comments. DAR No. 20737 effective April 22, 1998: No comments. In addition, DAR No. 21111 effective on Sept 15, 1998, changed the rule number to R307-214 to fit the new structure of R307 rules. No comments were received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Board chooses to continue state primacy rather than allowing only federal enforcement.

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) 536-0099, or Internet E-mail at jmiller@deq.state.ut.us.

AUTHORIZED BY: Rick Sprott, Planning Branch Manager

EFFECTIVE: 02/03/1999

Health, Health Care Financing, Coverage and Reimbursement Policy

R414-58

Children's Organ Transplants

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 21857
FILED: 02/12/1999, 11:34
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 26-18-2.1 creates the Division, which shall be responsible for implementing, organizing, and maintaining the Medicaid program. Section 26-1-5 notes that the Department shall have the power to adopt, amend, or rescind rules necessary to carry out the provisions of this title.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE-YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Review by Division and Bureaus recommends continuation of this rule. No other comments were received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule must be continued because it sets forth criteria to determine eligibility for and the awarding of financial assistance to children who need organ transplants.

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

Health
Health Care Financing,
Coverage and Reimbursement Policy
Cannon Health Building
288 North 1460 West
Box 143102
Salt Lake City, UT 84114-3102, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Patrick Johnson at the above address, by phone at (801) 538-6332, by FAX at (801) 538-6886, or Internet E-mail at pjohnson@email.state.ut.us.

AUTHORIZED BY: Rod L. Betit,Executive Director

EFFECTIVE: 02/12/1999

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End of the Five-Year Notices of Review and Statements of Continuation Section

NOTICES OF
NONSUBSTANTIVE CHANGES
MADE BY THE
DIVISION OF ADMINISTRATIVE RULES

Under authority of UTAH CODE Subsections 63-46a-10(2) and (3) the Division of Administrative Rules may make nonsubstantive changes to the text of the *Utah Administrative Code*. Specifically:

(2) The division may after notifying the agency make nonsubstantive changes to rules filed with the division or published in the bulletin or code by:

(a) implementing a uniform system of formatting, punctuation, capitalization, organization, numbering, and wording;

(b) correcting obvious errors and inconsistencies in punctuation, capitalization, numbering, referencing, and wording;

(c) changing a catchline to more accurately reflect the substance of each section, part, rule, or title;

(d) updating or correcting annotations associated with a section, part, rule, or title; and

(e) merging or determining priority of any amendment, enactment, or repeal to the same rule or section made effective by an agency.

(3) In addition, the division may make the following nonsubstantive changes with the concurrence of the agency:

(a) eliminate duplication within rules;

(b) eliminate obsolete and redundant words; and

(c) correcting defective or inconsistent section and paragraph structure in arrangement of the subject matter of rules.

UTAH CODE Subsection 63-46a-10(4) requires the Division to publish a list of all such changes made after publication of the rule in the *Utah State Bulletin*, giving the affected code citation, a brief description of the change, and the date the change was made. The table below also indicates whether the correction was made under authority of UTAH CODE Subsection 63-46a-10(2) or 63-46a-10(3).

CODE REF.	FILE NO.	DESCRIPTION OF CHANGE	DATE	AUTHORITY
R382-10	21843	Removes the acronym "(CHIP)" from Section R382-10-1. Removes the comma in “$1,620” from Subsection R382-10-13(15).	02/03/1999	63-46a-10(2)

End of the Notices of Nonsubstantive Changes Made by the Divison of Administrative 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

Environmental Quality
Solid and Hazardous Waste
No. 21459 (CPR): R315-2. General Requirements - Identification and Listing of Hazardous Waste.
Published: January 1, 1999
Effective: February 15, 1999

Water Quality
No. 21449 (CPR): R317-10. Certification of Wastewater Works Operators.
Published: January 1, 1999
Effective: February 4, 1999

Human Services
Aging and Adult Services
No. 21730 (AMD): R510-103. Use of Senior Centers by Long Term Care Facility Residents and Senior Citizens' Groups Participating in Activities Outside Their Planning and Service Area.
Published: January 1, 1999
Effective: February 3, 1999

Natural Resources
Water Resources
No. 21736 (AMD): R653-2. Financial Assistance from the Board of Water Resources.
Published: January 1, 1999
Effective: February 2, 1999

Public Safety
Fire Marshal
No. 21733 (AMD): R710-6. Liquefied Petroleum Gas Rules.
Published: January 1, 1999
Effective: February 2, 1999

End of the Notices of Rule Effective Dates Section

RULES INDEX
BY AGENCY (CODE NUMBER)
AND
BY KEYWORD (SUBJECT)

The *Rules Index* is a cumulative index that reflects all effective changes to Utah's administrative rules. The current *Index* lists changes made effective from January 2, 1999, including notices of effective date received through February 16, 1999, the effective dates of which are no later than March 1, 1999. The *Rules Index* is published in the *Utah State Bulletin* and in the annual *Index of Changes*. Nonsubstantive changes, while not published in the *Bulletin*, do become part of the *Utah Administrative Code (Code)* and are included in this *Index*, as well as 120-Day (Emergency) rules that do not become part of the *Code*. The rules are indexed by Agency (Code Number) and Keyword (Subject).

A copy of the *Rules Index* is available for public inspection at the Division of Administrative Rules (4120 State Office Building, Salt Lake City, UT), or may be viewed online at the Division's web site (http://www.rules.state.ut.us/).

RULES INDEX - BY AGENCY (CODE NUMBER)

ABBREVIATIONS

AMD = Amendment
CPR = Change in proposed rule
EMR = Emergency rule (120 day)
NEW = New rule
5YR = Five-Year Review
EXD = Expired
NSC = Nonsubstantive rule change
REP = Repeal
R&R = Repeal and reenact
* = Text too long to print in *Bulletin*, or repealed text not printed in *Bulletin*

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
AGRICULTURE AND FOOD					
Plant Industry					
R68-15	Quarantine Pertaining to Japanese Beetle, (Popillia Japonica)	21701	AMD	01/15/99	98-24/8
CORRECTIONS					
Administration					
R251-103	Undercover Roles of Offenders	21858	5YR	02/12/99	99-5/57
R251-105	Applicant Qualifications for Employment with Department of Corrections	21828	5YR	02/01/99	99-4/65
EDUCATION					
Administration					
R277-437	Student Enrollment Options	21677	NEW	01/05/99	98-23/4
R277-470	Distribution of Funds for Charter Schools	21773	NSC	01/27/99	Not Printed
R277-735	Standards and Procedures for Corrections Education Programs Serving Inmates of the Utah Department of Corrections	21678	NEW	01/05/99	98-23/6

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
Applied Technology Education (Board for), Rehabilitation					
R280-201	USOR ADA Complaint Procedure	21679	NEW	01/05/99	98-23/8
R280-202	USOR Procedures for Individuals with the Most Severe Disabilities	21680	NEW	01/05/99	98-23/10
ENVIRONMENTAL QUALITY					
Air Quality					
R307-101-2	Definitions	21588	AMD	01/07/99	98-22/49
R307-214	National Emission Standards for Hazardous Air Pollutants	21844	5YR	02/03/99	99-5/57
R307-221	Emission Standards: Emission Controls for Existing Municipal Solid Waste Landfills	21595	AMD	01/07/99	98-22/66
R307-302-2	No-Burn Periods for PM10	21570	AMD	01/07/99	98-22/67
R307-415-3	Definitions	21589	AMD	01/07/99	98-22/68
Drinking Water					
R309-104	Monitoring, Reporting and Public Notification	21553	AMD	01/15/99	98-21/16
R309-113	Drinking Water Source Protection	21554	AMD	01/15/99	98-21/20
Radiation Control					
R313-16	General Requirements Applicable to the Installation, Registration, Inspection, and Use of Radiation Machines	21535	AMD	01/15/99	98-21/27
R313-21	General Licenses	21805	5YR	01/25/99	99-4/65
R313-30	Therapeutic Radiation Machines	21806	5YR	01/25/99	99-4/66
R313-38	Radiation Safety Requirements for Wireline Service Operation and Subsurface Tracer Studies	21807	5YR	01/25/99	99-4/66
Solid and Hazardous Waste					
R315-2	General Requirements - Identification and Listing of Hazardous Waste	21459	AMD	see CPR	98-19/10
R315-2	General Requirements - Identification and Listing of Hazardous Waste	21459	CPR	02/15/99	99-1/28
R315-304	Industrial Solid Waste Landfill Requirements	21439	AMD	see CPR	98-19/50
R315-304	Industrial Solid Waste Landfill Requirements	21439	CPR	01/05/99	98-23/45
R315-304-1	Applicability	21772	NSC	01/05/99	Not Printed
Water Quality					
R317-10	Certification of Wastewater Works Operators	21449	AMD	see CPR	98-19/70
R317-10	Certification of Wastewater Works Operators	21449	CPR	02/04/99	99-1/35
HEALTH					
Children's Health Insurance Program					
R382-10	Eligibility	21669	AMD	01/07/99	98-23/12

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
Health Care Financing					
R410-14	Division of Health Care Financing Administrative Hearing Procedures for Medicaid/UMAP Applicants, Recipients and Providers, and Non-Medicaid/UMAP Nursing Home Residents as per "OBRA" Preadmission Screening and Annual Resident Review (PASARR) Determinations/Resident Rights Requirements	21668	AMD	01/07/99	98-23/14
Health Care Financing, Coverage and Reimbursement Policy					
R414-29	Client Review/Education and Restriction Policy	21687	AMD	01/21/99	98-24/50
R414-58	Children's Organ Transplants	21857	5YR	02/12/99	99-5/58
R414-303	Coverage Groups	21529	AMD	01/05/99	98-21/31
Health Systems Improvement, Emergency Medical Services					
R426-1-8	Maximum Licensed Services Transportation Rates and Charges	21649	AMD	01/07/99	98-23/22
R426-2	Air Medical Service Rules	21688	AMD	01/22/99	98-24/59
R426-3	Utah Mobile Paramedic Rules	21694	AMD	01/22/99	98-24/61
R426-4	Emergency Medical Dispatcher Rules	21695	AMD	01/22/99	98-24/67
Health Systems Improvement, Health Facility Licensure					
R432-1	General Health Care Facility Rules	21795	5YR	01/20/99	99-4/67
R432-2	General Licensing Provisions	21775	5YR	01/11/99	99-3/68
R432-3	General Health Care Facility Rules Inspection and Enforcement	21776	5YR	01/11/99	99-3/68
R432-4	General Construction	21815	5YR	01/29/99	99-4/68
R432-5	Nursing Facility Construction	21816	5YR	01/29/99	99-4/68
R432-6	Assisted Living Facility General Construction	21700	AMD	01/29/99	98-24/69
R432-6	Assisted Living Facility General Construction	21817	5YR	01/29/99	99-4/69
R432-149	Intermediate Care Facility	21818	5YR	01/29/99	99-4/69
R432-250	Residential Health Care Facilities	21528	REP	01/20/99	98-21/42
R432-270	Assisted Living Facilities	21722	R&R	01/29/99	98-24/70
R432-300	Residential Health Care Facility - Limited Capacity - Type N	21561	R&R	01/11/99	98-22/73
R432-650	End Stage Renal Disease Facility Rules	21562	AMD	01/11/99	98-22/82
Health Systems Improvement, Primary Care and Rural Health					
R434-20	Special Population Health Care Provider Financial Assistance Program	21666	NEW	01/07/99	98-23/26
HUMAN SERVICES					
Administration, Administrative Services, Licensing					
R501-1	General Provisions	21768	NSC	01/27/99	Not Printed

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
Aging and Adult Services					
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R527-210	Guidelines for Setting Child Support Awards	21809	5YR	01/26/99	99-4/70
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R765-607	Utah Higher Education Tuition Assistance Program	21771	NSC	01/27/99	Not Printed
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R884-24P-52	Criteria for Determining Primary Residence Pursuant to Utah Code Ann. Sections 59-2-102 and 59-2-103	21326	CPR	01/12/99	98-23/46
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RULES INDEX - BY KEYWORD (SUBJECT)

ABBREVIATIONS

AMD = Amendment
CPR = Change in proposed rule
EMR = Emergency rule (120 day)
NEW = New rule
5YR = Five-Year Review
EXD = Expired
NSC = Nonsubstantive rule change
REP = Repeal
R&R = Repeal and reenact
* = Text too long to print in *Bulletin*, or repealed text not printed in *Bulletin*

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