

# UTAH STATE BULLETIN

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

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

Inquiries concerning administrative rules or other contents of the *Bulletin* may be addressed to the responsible agency or to: Division of Administrative Rules, 4120 State Office Building, Salt Lake City, Utah 84114, telephone (801) 538-3218, FAX (801) 538-1773. To view rules information, and on-line versions of the division's publications, visit: <http://www.rules.utah.gov/>

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Division of Administrative Rules, Salt Lake City 84114

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# SPECIAL NOTICES

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## GOVERNOR'S EXECUTIVE ORDER: CREATING THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA) TASK FORCE

**WHEREAS**, the Health Insurance Portability and Accountability Act (HIPAA) is generally recognized as the single most significant Federal legislation affecting the health care industry since the creation of the Medicare and Medicaid programs in 1965;

**WHEREAS**, the Federal Department of Health and Human Services has adopted rules under HIPAA to establish standards for the electronic exchange of health care information and to protect and maintain the privacy and security of personal health information; and

**WHEREAS**, it is necessary for state agencies and private organizations to effectively implement the requirements of the HIPAA privacy rule and to determine how provisions of HIPAA interact, and possibly, supercede existing Utah laws;

**NOW THEREFORE**, I, Michael O. Leavitt, Governor of the State of Utah, do hereby order the formation of a HIPAA Preemption Task Force.

- I. The task force shall:
  - a. identify existing state statutes and rules which may be impacted by HIPAA;
  - b. identify the agency most responsible for interpreting or enforcing an impacted statute or rule;
  - c. analyze how HIPAA applies to each impacted statute and rule and determine whether one supercedes the other;
  - d. draft a brief position statement on the application of HIPAA to each impacted statute and rule with a recommendation, if appropriate, for amending the statute or rule;
  - e. create sub-committees to focus on areas of HIPAA preemption; and
  - f. take such other actions necessary to determine how HIPAA impacts existing state statutes and rules.
- II. The task force procedures, staffing, and duration shall be as follows:
  - a. The task force shall be composed of persons from public agencies with the responsibility of interpreting and enforcing state laws impacted by HIPAA and persons with knowledge of HIPAA from private organizations.
  - b. The task force shall consist of persons appointed by the Governor in consultation with the Office of the Attorney General.
  - c. The task force shall designate its own chair.
  - d. A majority of task force members constitute a quorum for voting purposes.
  - e. All action shall be by a simple majority vote of meeting attendees.
  - f. The task force shall meet as often as necessary to achieve its objectives.
  - g. The task force shall remain in existence for 24 months from the date of this order, at which time a review shall be conducted to determine possible continuation.
- III. The terms and conditions of task force members shall be as follows:
  - a. When a vacancy occurs in the appointed membership for any reason, the replacement shall be appointed for the unexpired term of the person being replaced.
  - b. Members shall serve without per diem or expenses.

(STATE SEAL)

**IN TESTIMONY WHEREOF**, I have here unto set my hand and caused to be affixed the Great Seal of the State of Utah. Done at the State Capitol in Salt Lake City, Utah, this 31st day of July, 2003

**MICHAEL O. LEAVITT**  
Governor

Attest:  
**OLENE WALKER**  
Lieutenant Governor

## NOTICES OF PROPOSED RULES

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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 July 16, 2003, 12:00 a.m., and August 1, 2003, 11:59 p.m. are included in this, the August 15, 2003, issue of the *Utah State Bulletin*.

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

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

The law requires that an agency accept public comment on PROPOSED RULES published in this issue of the *Utah State Bulletin* until at least September 15, 2003. The agency may accept comment beyond this date and will list the last day the agency will accept comment in the RULE ANALYSIS. The agency may also hold public hearings. Additionally, citizens or organizations may request the agency to hold a hearing on a specific PROPOSED RULE. Section 63-46a-5 (1987) requires that a hearing request be received "in writing not more than 15 days after the publication date of the PROPOSED RULE."

From the end of the public comment period through December 13, 2003, the agency may notify the Division of Administrative Rules that it wants to make the PROPOSED RULE effective. The agency sets the effective date. The date may be no fewer than 31 days nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file a CHANGE IN PROPOSED RULE in response to comments received. If the Division of Administrative Rules does not receive a NOTICE OF EFFECTIVE DATE or a CHANGE IN PROPOSED RULE, the PROPOSED RULE filing lapses and the agency must start the process over.

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

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

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**The Proposed Rules Begin on the Following Page.**

**Commerce, Occupational and  
Professional Licensing  
R156-60a  
Social Worker Licensing Act Rules**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 26500

FILED: 07/28/2003, 08:48

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The Division is proposing an amendment to eliminate the requirement for applicants to take the Utah Social Work Law, Rules and Ethics Examination. The ethics portion of the exam is adequately covered in the national examination which is still required. The Social Worker Licensing Board believes the law and rules exam is unnecessary and is not required in many other types of licenses.

**SUMMARY OF THE RULE OR CHANGE:** Deleted Subsection R156-60a-302d(4) which required that all applicants for licensure as a social service worker, certified social worker, and licensed clinical social worker (LCSW) shall pass the Utah Social Work Law, Rules and Ethics Examination with a passing score of 75%. Deleted Subsection R156-60a-308(3) which required the passing of the Utah Social Work Law, Rules and Ethics Examination with a passing score of 75%.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 58-60-201, and Subsections 58-1-106(1)(a) and 58-1-202(1)(a)

**ANTICIPATED COST OR SAVINGS TO:**

❖ **THE STATE BUDGET:** The Division will incur minimal costs, less than \$75, to reprint this rule once the proposed amendments are made effective. Any costs incurred will be absorbed in the Division's current budget.

❖ **LOCAL GOVERNMENTS:** Proposed amendments do not apply to local governments. Therefore, there are no costs or savings to local government.

❖ **OTHER PERSONS:** Applicants for licensure as either a social service worker (SSW), certified social worker (CSW) or licensed clinical social worker (LCSW) will save \$55 for the cost to take the law/rule/ethics examination. Also, most applicants will also save \$25 for the cost of a study guide for the examination. Thus, a total savings of \$80 per applicant for social work licensure. The Division is unable to determine an aggregate amount of savings due to the unknown number of persons who will apply for licensure in social work in the future.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** Applicants for licensure as either a social service worker (SSW), certified social worker (CSW) or licensed clinical social worker (LCSW) will save \$55 for the cost to take the law/rule/ethics examination. Also, most applicants will also save \$25 for the cost of a study guide for the examination. Thus, a total savings of \$80 per applicant for social work licensure.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** This rule amendment eliminates the requirement for applicants to take the laws, rules and ethics examination, because it is adequately covered in the required national examination. This amendment will likely result in a cost savings to applicants for licensure in social work. Klare Bachman, Executive Director

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

COMMERCE

OCCUPATIONAL AND PROFESSIONAL LICENSING

HEBER M WELLS BLDG

160 E 300 S

SALT LAKE CITY UT 84111-2316, or

at the Division of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

Dan S. Jones at the above address, by phone at 801-530-6720, by FAX at 801-530-6511, or by Internet E-mail at dsjones@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 09/15/2003

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 9/11/2003 at 8:15 AM, 160 E 300 S, Conference Room 4B (Fourth Floor), Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 09/16/2003

AUTHORIZED BY: J. Craig Jackson, Director

**R156. Commerce, Occupational and Professional Licensing.  
R156-60a. Social Worker Licensing Act Rules.**

**R156-60a-302d. Examination Requirements.**

(1) In accordance with Subsection 58-60-205(1)(h), the examination requirements for licensure as a LCSW include passing the Clinical Examination of the AASSWB or the Clinical Social Workers Examination of the State of California.

(2) In accordance with Subsection 58-60-205(2)(e), the examination requirements for licensure as a CSW shall include passing the Intermediate, Advanced, or Clinical Examination of the AASSWB.

(3) In accordance with Subsection 58-60-205(3)(e), the examination requirements for licensure as a SSW shall include passing the Basic Examination of the AASSWB.[

~~(4) In accordance with Section 58-1-309, all applicants for licensure as a SSW, CSW and LCSW shall pass the Utah Social Work Law, Rules and Ethics Examination with a passing score of 75%.]~~

**R156-60a-308. Reinstatement of a LCSW License which has Expired Beyond Two Years.**

In accordance with Subsection 58-1-308(6) and Section R156-1-308e, an applicant for reinstatement for licensure as a LCSW, whose license expired after two years following the expiration of that license, shall:

(1) upon request, meet with the board to evaluate the applicant's ability to safely and competently practice clinical social work and mental health therapy;

(2) upon recommendation of the board, establish a plan of supervision under an approved supervisor which may include up to 4000 hours of clinical social work and mental health therapy training as a CSW before qualifying for reinstatement of the LCSW license;

(3) ~~[pass the Utah Social Work Law, Rules and Ethics Examination with a passing score of 75%;~~

~~—(4)—~~ pass the Clinical Examination of the AASSWB if it is determined by the board that examination or reexamination is necessary to demonstrate the applicant's ability to safely and competently practice clinical social work and mental health therapy; and

(~~5~~) complete a minimum of 40 hours of continuing education in subjects determined by the board as necessary to ensure the applicant's ability to safely and competently practice clinical social work and mental health therapy.

**KEY: licensing, social workers**

~~[January 2, ]~~2003

Notice of Continuation November 15, 1999

58-60-201

58-1-106(1)(a)

58-1-202(1)(a)

▼ ————— ▼

## Environmental Quality, Drinking Water

# R309-535

### Facility Design and Operation: Miscellaneous Treatment Methods

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 26505

FILED: 07/28/2003, 14:01

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This amendment provides specific requirements for miscellaneous water treatment methods which are primarily intended to remove chemical contaminants from drinking water or adjust the chemical composition of drinking water.

**SUMMARY OF THE RULE OR CHANGE:** This amendment prohibits the use of lead weights to keep pump suction at the bottom of day or bulk storage tanks containing fluoride chemical solutions. (DAR NOTE: A corresponding 120-day (emergency) rule is under DAR No. 26503 in this issue, and was effective as of August 1, 2003.)

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 19-4-104

**ANTICIPATED COST OR SAVINGS TO:**

❖ THE STATE BUDGET: None--There is no increase or reduction to the State budget as a result of this action.

❖ LOCAL GOVERNMENTS: None--There is no increase or reduction to Local agencies budgets as a result of this action.

❖ OTHER PERSONS: Little to None--Persons drinking water from systems that utilize lead weights would realize a very slight reduction in the lead content of their water. This might have some minor savings in their long term health care expenses.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** None--Even if communities or public water systems changed existing lead weights for other material or methods for keeping the suction tube near the bottom the cost would be so insignificant that increased budgets would not be required.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** The department agrees that this amendment will have little to no fiscal impact on water systems presently adding fluoride chemicals to their drinking water or to those systems now being required by public vote to add fluoride chemicals.

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

ENVIRONMENTAL QUALITY

DRINKING WATER

150 N 1950 W

SALT LAKE CITY UT 84116-3085, or

at the Division of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

Bill Birkes at the above address, by phone at 801-536-4201, by FAX at 801-536-4211, or by Internet E-mail at [bbirkes@utah.gov](mailto:bbirkes@utah.gov)

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 09/15/2003.

THIS RULE MAY BECOME EFFECTIVE ON: 09/16/2003

AUTHORIZED BY: Kevin Brown, Director

—————

**R309. Environmental Quality, Drinking Water.**

**R309-535. Facility Design and Operation: Miscellaneous Treatment Methods.**

**R309-535-5. Fluoridation.**

Sodium fluoride, sodium silicofluoride and fluorosilicic acid shall conform to the applicable AWWA standards and/or ANSI/NSF Standard 60. Other fluoride compounds which may be available must be approved by the Executive Secretary.

(1) Fluoride compound storage.

Fluoride chemicals should be isolated from other chemicals to prevent contamination. Compounds shall be stored in covered or unopened shipping containers and should be stored inside a building. Unsealed storage units for fluorosilicic acid should be vented to the atmosphere at a point outside any building. Bags, fiber drums and steel drums should be stored on pallets.

(2) Chemical feed equipment and methods.

In addition to the requirements in R309-525-11 "Chemical Addition", fluoride feed equipment shall meet the following requirements:

- (a) scales, loss-of-weight recorders or liquid level indicators, as appropriate, accurate to within five percent of the average daily change in reading shall be provided for chemical feeds,
- (b) feeders shall be accurate to within five percent of any desired feed rate,
- (c) fluoride compound shall not be added before lime-soda softening or ion exchange softening,
- (d) the point of application of fluorosilicic acid, if into a horizontal pipe, shall be in the lower half of the pipe,
- (e) a fluoride solution shall be applied by a positive displacement pump having a stroke rate not less than 20 strokes per minute,
- (f) a spring opposed diaphragm type anti-siphon device shall be provided for all fluoride feed lines and dilution water lines,
- (g) a device to measure the flow of water to be treated is required,
- (h) the dilution water pipe shall terminate at least two pipe diameters above the solution tank,
- (i) water used for sodium fluoride dissolution shall be softened if hardness exceeds 75 mg/l as calcium carbonate,
- (j) fluoride solutions shall be injected at a point of continuous positive pressure or a suitable air gap provided,
- (k) the electrical outlet used for the fluoride feed pump should have a nonstandard receptacle and shall be interconnected with the well or service pump,

(l) saturators should be of the upflow type and be provided with a meter and backflow protection on the makeup water line.

(m) lead weights shall not be used in fluoride chemical solutions to keep pump suction lines at the bottom of a day or bulk storage tank.

(3) Secondary controls.

Secondary control systems for fluoride chemical feed devices shall be provided as a means of reducing the possibility for overfeed; these may include flow or pressure switches or other devices.

(4) Protective equipment.

Personal protective equipment as outlined in R309-525-11(10) shall be provided for operators handling fluoride compounds. Deluge showers and eye wash devices shall be provided at all fluorosilicic acid installations.

(5) Dust control.

(a) Provision must be made for the transfer of dry fluoride compounds from shipping containers to storage bins or hoppers in such a way as to minimize the quantity of fluoride dust which may enter the room in which the equipment is installed. The enclosure shall be provided with an exhaust fan and dust filter which place the hopper under a negative pressure. Air exhausted from fluoride handling equipment shall discharge through a dust filter to the outside atmosphere of the building.

(b) Provision shall be made for disposing of empty bags, drums or barrels in a manner which will minimize exposure to fluoride dusts. A floor drain should be provided to facilitate the hosing of floors.

(6) Testing equipment.

Equipment shall be provided for measuring the quantity of fluoride in the water. Such equipment shall be subject to the approval of the Executive Secretary.

**KEY: drinking water, miscellaneous treatment, stabilization, iron and manganese control**

**[May 1, 2001]2003**

**Notice of Continuation September 16, 2002  
19-4-104**

▼ ————— ▼

## Environmental Quality, Drinking Water R309-545 Facility Design and Operation: Drinking Water Storage Tanks

### NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 26506  
FILED: 07/28/2003, 14:02

#### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This amendment provides specific requirements for public drinking water storage tanks and emphasize the requirement of a referenced standard that tanks be constructed from new, previously unused plates.

**SUMMARY OF THE RULE OR CHANGE:** This amendment adds text that requires steel tanks to be constructed from new, previously unused plates and designed in accordance with AWWA Standard D-100. (DAR NOTE: A corresponding 120-day (emergency) rule is under DAR No. 26507 is this issue, and was effective as of August 1, 2003.)

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 19-4-104

**ANTICIPATED COST OR SAVINGS TO:**

❖ **THE STATE BUDGET:** None--There is no increase or reduction to the State budget as a result of this action.

❖ **LOCAL GOVERNMENTS:** None--There is no increase or reduction to Local governmental agencies budgets as a result of this action.

❖ **OTHER PERSONS:** Little to none--Consulting Engineering firms may have to seek an "exception to rule," as well as provide slight modifications in their specifications concerning the preparation of used plates prior to being used in addition to justification for their use over new plates.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** Little to None--Public water systems may be required to take greater precautions in the preparation of used plates than before as well as justify to the Executive Secretary why they should be allowed to utilize used plates rather than new plates.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** The department agrees that this amendment will have little to no fiscal impact on water systems presently installing drinking water storage tanks utilizing used plates and that the cost for systems in the future that wish to utilize such lies more in the justification than in the slight additional cost associated with greater precautions in the preparation of used plates.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Bill Birkes at the above address, by phone at 801-536-4201, by FAX at 801-536-4211, or by Internet E-mail at bbirkes@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 09/15/2003.

THIS RULE MAY BECOME EFFECTIVE ON: 09/16/2003

AUTHORIZED BY: Kevin Brown, Director

### R309. Environmental Quality, Drinking Water.

#### R309-545. Facility Design and Operation: Drinking Water Storage Tanks.

#### R309-545-6. Tank Material and Structural Adequacy.

##### (1) Materials.

The materials used in drinking water storage structures shall provide stability and durability as well as protect the quality of the stored water.

Steel tanks shall be constructed from new, previously unused, plates and designed in accordance with AWWA Standard D-100.

##### (2) Structural Design.

The structural design of drinking water storage structures shall be sufficient for the environment in which they are located. The design shall incorporate a careful analysis of potential seismic risks.

**KEY: drinking water, storage tanks, access, overflow and drains**

~~August 15, 2000~~ 2003

Notice of Continuation September 16, 2002

19-4-104



## Human Services, Services for People with Disabilities

# R539-1-1

## Eligibility for General Developmental Disability Services

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 26520

FILED: 07/31/2003, 17:17

### RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This amendment clarifies the authority of the Division to reduce or terminate services.

SUMMARY OF THE RULE OR CHANGE: The Division is adding a statement to clarify that due to budget shortfalls, reduced legislative allocations, and/or reevaluations of eligibility, Non-Waiver Persons or Waiver Persons receiving non-Waiver services may have reductions in service packages or be discharged from services completely. (DAR NOTE: A corresponding 120-day (emergency) rule is under DAR No. 26508 is this issue, and was effective as of July 28, 2003.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 62a-5-105

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The implementation of the new subsection is one of the many processes the Division is taking to clarify the eligibility process. Any monies saved will be used toward balancing the budget deficits.

❖ LOCAL GOVERNMENTS: No local government funding is used in any of these activities, therefore, it is expected that there is no cost to local governments.

❖ OTHER PERSONS: Non-Waiver Persons or Waiver Persons receiving non-Waiver services may have reductions in service packages or be discharged from services completely.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Non-Waiver Persons or Waiver Persons receiving non-Waiver services may have reductions in service packages or be discharged from services completely.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Providers may lose funding if a Person is discharged from services due to budget reductions or a reevaluation of eligibility.

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

HUMAN SERVICES  
SERVICES FOR PEOPLE WITH DISABILITIES  
Room 411  
120 N 200 W  
SALT LAKE CITY UT 84103-1500, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Meredith Mannebach at the above address, by phone at 801-538-4197, by FAX at 801-538-4279, or by Internet E-mail at mmannebach@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 09/15/2003.

THIS RULE MAY BECOME EFFECTIVE ON: 09/16/2003

AUTHORIZED BY: Robin Arnold-Williams, Executive Director

—————

**R539. Human Services, Services for People with Disabilities.****R539-1. Eligibility.****R539-1-1. Eligibility for General Developmental Disability Services.**

(1) The Division will serve those Applicants who meet the definition of disabled in Subsections 62A-5-101(4)(a)(i) through (iv) and 62A-5-101(4)(b).

(2) When determining limitations in the areas listed below, age appropriate abilities must be considered.

(a) Self-care - An Applicant who requires assistance, training and/or supervision with eating, dressing, grooming, bathing or toileting.

(b) Expressive and/or Receptive Language - An Applicant who lacks functional communication skills, requires the use of assistive devices to communicate, or does not demonstrate an understanding of requests or is unable to follow two-step instructions.

(c) Learning - An Applicant who has a valid diagnosis of mental retardation based on the criteria found in the current edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM).

(d) Mobility - An Applicant with mobility impairment who requires the use of assistive devices to be mobile and who cannot physically self-evacuate from a building during an emergency.

(e) Capacity for Independent Living - An Applicant (age 7-17) who is unable to locate and use a telephone, cross streets safely, or understand that it is not safe to accept rides, food or money from strangers. An adult who lacks basic survival skills in the areas of shopping, preparing food, housekeeping, or paying bills.

(f) Self-direction - An Applicant (age 7-17) who is significantly at risk in making age appropriate decisions. An adult who is unable to provide informed consent for medical/health care, personal safety, legal, financial, habilitative, or residential issues and/or who has been declared legally incompetent. A person who is a significant danger to self or others without supervision.

(g) Economic self-sufficiency - (This area is not applicable to children under 18.) An adult who receives disability benefits and who is unable to work more than 20 hours a week or is paid less than minimum wage without employment support.

(3) The Applicant or the Applicant's Representative must be a Resident of the state of Utah prior to the Division's final determination of eligibility. Resident is an Applicant or Guardian who is physically present in Utah and provides a statement of intent to reside in Utah.

(4) The Applicant or Applicant's Representative shall be provided with information about Division service options and a copy of the Division's Guide to Services, Medicaid, state and local Family Councils, community resources (e.g. vocational rehabilitation, SSI, etc.). If an Applicant's Representative is interested in residential services for an Applicant who is 17 years of age and under, the Applicant's Representative shall be provided with (in addition to the information listed above) an Office of Recovery Services (ORS) Pamphlet and given instructions on how to contact ORS in order to request a required Duty of Support application.

(5) The intake process determines eligibility for Division funding as per R539-3-1.

(6) It is the Applicant's or Applicant's Representative's responsibility to ensure that the appropriate documentation is provided to the Intake worker to determine eligibility.

(7) The following documents are required to determine eligibility for State funded developmental disabilities services.

(a)[-] A Division Eligibility for Services Form 19 signed by a licensed physician, licensed psychologist or certified school psychologist. For children under seven years of age, two separate Eligibility for Services Form 19c signed by a certified or licensed professional working in the disability field will be accepted in lieu of the Eligibility for Services Form 19. The professional will indicate on the Eligibility for Services Form 19c that the child has substantial functional limitation in three areas of major life activity or is at risk due to an existing condition associated with these limitations; that the limitations are likely to continue indefinitely; and what assessment provides the bases of this determination.

(b) Inventory for Client and Agency Planning (ICAP) assessment;

(c) Social History completed by or for the Applicant within one year of the date of application;

(d) Psychological Evaluation or, for children under seven years of age, a Developmental Assessment may be used as an alternative; and

(e) Supporting documentation for all functional limitations identified on the Division Eligibility for Services Form 19 or Division Eligibility for Services Form 19C shall be gathered and filed in applicant's record. Additional supporting documentation shall be required when eligibility is not clearly supported by the above-required documentation. Examples of supporting documentation include, but are not limited to, Mental health assessments, educational records, neuropsychological evaluations, and medical health summaries.

(8) If eligibility documentation is not completed within 90 calendar days of initial contact, a written notification letter and Hearing Rights Form, Form 490S shall be sent to Applicant or Applicant's Representative indicating that the intake case will be placed in inactive status. The Applicant or Applicant's Representative may activate the application at anytime thereafter by providing the remaining required information. The Applicant or Applicant's Representative shall be required to update information.

(9) When all necessary eligibility documentation is received from the Applicant or Applicant's Representative, Region staff shall:

(a)[-] determine the Applicant eligible or ineligible for funding for developmental disabilities supports; or

(b)[-] if Region staff are unable to determine eligibility, the Region staff may forward the Applicant's name and intake information to the State Eligibility Committee for placement on the Committee's next meeting agenda. The Committee shall review the Applicant's information and determine if the Applicant is eligible for funding. If the timeline goes over 90 calendar days from the date of initial referral, the Region Supervisor may grant an extension of the 90-day time frame.

(10) A Notice of Agency Action, Form 522, and a Hearing Request, Form 490S, shall be mailed to each Applicant or Applicant's Representative upon completion of the determination of eligibility or ineligibility for funding. The Notice of Agency Action, Form 522, shall inform the Applicant or Applicant's Representative of eligibility determination and placement on the waiting list.

(11) Non-Waiver Persons who do not meet Waiver level of care must apply for a Medicaid Card prior to entering into services. Non-Waiver Persons who meet Waiver level of care must apply for determination of financial eligibility using Form 927 prior to entering into services. Non-Waiver Persons who apply for a Medicaid Card or for a determination of Waiver financial eligibility shall provide the support coordinator with the determination letter within 10 days of the receipt of such documentation. Non-Waiver

Persons who fail to comply with these requirements shall have funding reduced to the state match rate. As per R539-1-5.

(12) This policy does not apply to Applicants who meet the separate eligibility criteria for personal assistance and brain injury outlined in Rule 539-1-3 and Rule 539-1-4 respectively.

(13) Persons not participating in a Waiver or Persons participating in a Waiver but are receiving non-Waiver services may have reductions in service packages or be discharged from services completely, due to budget shortfalls, reduced legislative allocations and/or reevaluations of eligibility.

**KEY: disabled persons, social services  
2003**

**Notice of Continuation December 18, 2002  
62A-5-103**

## Insurance, Administration **R590-119** Surplus Lines Stamping Fee

### NOTICE OF PROPOSED RULE (Repeal)

DAR FILE No.: 26513  
FILED: 07/29/2003, 14:15

#### RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being repealed since it is being merged into Rule R590-157, Surplus Lines Insurance Premium Tax and Stamping Fee. Since additional changes need to be made to the original filing of Rule R590-157, a Change in Proposed Rule is being filed. (DAR NOTES: The first proposed repeal of Rule R590-119 that was published in the April 15, 2003, issue of the Utah State Bulletin under DAR No. 26130 will be allowed to lapse. The Change in Proposed Rule to Rule R590-157 is under DAR No. 26131 in this issue.)

SUMMARY OF THE RULE OR CHANGE: Since this rule and Rule R590-157 deal with surplus lines insurance and their taxes and fees, it has been decided that they be merged into one rule.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 31A-15-103

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: The repeal of this rule and merging of its substance into Rule R590-157 will have no effect on the state's budget or the workload of the Insurance Department.
- ❖ LOCAL GOVERNMENTS: This rule has nothing to do with the laws and regulations of local government. The stamping fee goes to the department's agent that collects the fees and examines the transactions.
- ❖ OTHER PERSONS: The repeal of this rule will have no effect on the insurance industry or their consumers since much of the text and the intent of this rule will be merged into Rule

R590-157. There will be no change in the requirements of the surplus lines stamping fee. The fee will be the same as it is now.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The repeal of this rule will have no effect on the insurance industry or their consumers since much of the text and the intent of this rule will be merged into Rule R590-157. There will be no change in the requirements of the surplus lines stamping fee. The fee will be the same as it is now.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The moving of the text of much of this rule to Rule R590-157 will create no fiscal impact on the insurance industry or any other business. The requirements of this rule will continue in Rule R590-157, Surplus Lines Insurance Premium Tax and Stamping Fee.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 09/16/2003.

THIS RULE MAY BECOME EFFECTIVE ON: 09/17/2003

AUTHORIZED BY: Jilene Whitby, Information Specialist

#### **R590. Insurance, Administration.**

##### ~~[R590-119. Surplus Lines Stamping Fee.~~

##### ~~R590-119-1. Authority.~~

~~— This rule is adopted pursuant to Subsection 31A-2-201(3), Utah Code Annotated, which authorizes rules to implement the Insurance Code, and Subsection 31A-15-103(11)(d), U.C.A., which requires the commissioner to adopt a rule specifying the amount of the stamping fee collected by the surplus lines advisory organization.~~

##### ~~R590-119-2. Purpose and Scope.~~

~~— A. The purpose of this rule is to comply with the statutory requirement of Subsection 31A-15-103(11)(d), U.C.A., to adopt a rule establishing the amount of the surplus lines transaction stamping fee.~~

~~— B. This rule shall apply to the advisory organization authorized to examine surplus lines transactions under Section 31A-15-111 and Subsection 31A-15-103(11), U.C.A.~~

**R590-119-3. Definitions.**

~~In addition to the definitions of Section 31A-1-301, U.C.A., the following definitions shall apply for the purpose of this rule:~~

~~A. "Stamping Fee" shall mean a percentage of the policy premium payable for the examination of a surplus lines transaction as required in Subsection 31A-15-103(11), U.C.A.~~

~~B. "Surplus Lines Transactions" shall mean insurance transactions placed with unauthorized insurers in accordance with Section 31A-15-103, U.C.A.~~

**R590-119-4. Rule.**

~~The stamping fee to be collected by the surplus lines advisory organization for the examination described in Subsection 31A-15-103(11)(b) shall be 1/4 of 1% of the policy premium payable in connection with the transaction.~~

**R590-119-5. Separability.**

~~If any provision of this Rule or its application to any person or circumstance is for any reason held to be invalid, the remainder of the rule and the application of such provision to other persons or circumstances shall not be affected.~~

**KEY: insurance law****1993****Notice of Continuation September 17, 2002****31A-15-103]**

Insurance, Administration  
**R590-176**  
 Health Benefit Plan Enrollment

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE No.: 26502

FILED: 07/28/2003, 13:34

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: As a result of comments received during the recent hearing and comment period, further changes are being made to this rule.

SUMMARY OF THE RULE OR CHANGE: The substantive changes made are as follows: 1) Subsection R590-176-4(9)(a) removes an incorrect reference to Chapter 30 of the insurance code; and 2) Subsection R590-176-5(3)(a) adds requirement for insurers to provide applicants with reasons for denying their applications.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 31A-2-201 and 31A-2-202

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The changes made to this rule will create no cost or savings to the state's budget. It will not result in a change in revenue or the number of employees needed to do the work of the department.

❖ LOCAL GOVERNMENTS: Local government will not be affected by this rule since it only affects the relationship between the

Utah Insurance Department and health insurers doing business in Utah.

❖ OTHER PERSONS: The changes to this rule will not create a fiscal impact to insurers or insureds. The change that requires an insurer to provide reasons for denying an application will be included on the denial notification already required.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The changes to this rule will not create a fiscal impact to insurers or insureds. The change that requires an insurer to provide reasons for denying an application will be included on the denial notification already required.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The changes to this rule will have no fiscal impact on Utah businesses.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 09/16/2003.

THIS RULE MAY BECOME EFFECTIVE ON: 09/17/2003

AUTHORIZED BY: Jilene Whitby, Information Specialist

**R590. Insurance, Administration.**  
**R590-176. Health Benefit Plan Enrollment.**  
**R590-176-1. Authority.**

The commissioner's authority to promulgate this rule is provided in Sections 31A-2-201(3) and 31A-2-202(2).

**R590-176-2. Purpose and Scope.**

The purpose and scope of this rule is to provide enrollment requirements under Section 31A-30-108 for carriers who provide health benefit plan coverage to individuals and small employers as stated in Section 31A-30-104.

**R590-176-3. Definitions.**

(1) The definitions in Sections 31A-1-301 and 31A-30-103 apply to this rule.

(2) "Carrier" means a covered carrier as defined in Section 31A-30-103.

(3) "Time period" means the period such as daily, weekly or monthly, as determined by the carrier, in which applications are grouped.

**R590-176-4. General Provisions.**

(1) Any attempt to selectively or unfairly delay, obstruct or otherwise hinder any person from obtaining coverage under Chapter 30 is a violation of Section 31A-30-108.

(2) Enrollment shall be equally available through all distribution systems, classes of business, and rating criteria categorizations.

(3) Enrollment is available to small employers without respect to whether any eligible employee or dependent is classified as uninsurable.

(4) The enrollment residency requirements do not supersede other dependent and child requirements of the Insurance Code.

(5) A carrier must offer a basic health care plan in compliance with Sections 31A-22-613.5 and 31A-30-109.

(6) A carrier may not market or encourage producers to market individual or small employer health benefit plans in such a way that there is a lessened incentive to insure business with greater health risks.

(7) Commission schedules shall be structured in compliance with R590-207, Health Agent Commissions for Small Employer Groups.

(8) The carrier shall retain a signed statement from each covered small employer that the carrier offered to accept all eligible employees and their dependents at the same level of benefits under the health benefit plan provided to the employer.

(9) An individual or small employer is considered uninsured if the individual or small employer:

(a) does not have a health benefit plan [~~subject to Chapter 30~~]; or

(b) health benefit plan is with a carrier that has made an election under Subsections 31A-8-402.3(3)(e), 31A-8-402.5(3)(e), 31A-22-721(3)(e), 31A-30-107(3)(e), or 31A-30-107.1(3)(e).

(10) All records regarding enrollment applications and underwriting determinations shall:

(a) be [~~organized~~] retrievable for examination by the time period the application was received;

(b) include all documents, indicating the applicable date, pertaining to the application and its underwriting; and

(c) be retained for the current year plus three years.

(11) The documents indicated in subsection (10)(b) would include:

(a) application and date received,

(b) notifications to the [~~application~~] applicant and the date of notification;

(c) records used in underwriting and date received; and

(d) underwriting decision and date of decision.

**R590-176-5. Application and Enrollment.**

(1) [~~The~~] An individual carrier shall establish a procedure to determine the order of applications. The procedure shall group the applications into consistent time periods. The enrollment cap may not be applied until the end of the time period in which it is met. The individual carrier shall keep a record of all applications for coverage that includes the time period an application is received by the carrier.

(2) All applications shall be treated consistently.

(3)(a) A complete application shall be processed and a written notice of the decision communicated to the applicant within 30 days of the decision. If an application is denied, the decision must include specific details explaining the denial.

(b) The carrier may not require that an application be complete in order to qualify as an application for coverage.

(c) If an application is incomplete, within 15 days from receipt of the application, a carrier shall notify the applicant of the areas that are incomplete and the information required to complete the application.

(d) Before an application can be filed as incomplete, applicants shall have at least 30 days, after being notified additional information is required.

(e) A date earlier than the postmarked date of the notice in Subsection (3)(c), may not be used as the date of notification.

(4) The acceptance of an application may not be delayed pending the receipt of medical records. This does not apply to other required statements from applicants as provided in Subsection (3).

**R590-176-6. Small Employer Enrollment.**

A small employer carrier shall:

(1) permit an eligible employee, or a dependent of such employee, to enroll for coverage under the terms of the plan, if the eligible employee requests enrollment not later than 30 days after the eligibility date; and

(2) enroll a new eligible employee and a dependent of such employee making timely application for coverage in a small employer group with existing coverage.

**R590-176-7. Individual Underwriting Criteria.**

(1) Each carrier shall determine the number of individuals classified as uninsurable at initial enrollment. This determination shall be made in accordance with underwriting standards established by this rule.

(2) An individual insured by the Utah Comprehensive Health Insurance Pool is classified as uninsurable.

(3) An individual may be classified as uninsurable if the individual has a condition listed on the Uninsurable Conditions List taking into account the elapsed time, additional criteria and exception criteria. A carrier may not take into account conditions for which coverage is not provided. This includes conditions excluded as a pre-existing condition for which treatment is expected during the exclusion period if the applicant would not be considered uninsurable after the treatment. [~~For example, a pregnancy excluded by a pre-existing condition waiver may not be used to classify an individual as uninsurable.~~] The Uninsurable Conditions List is available at the department.

(4) A carrier may appeal to the commissioner to have an individual classified as uninsurable if the individual has a combination of conditions that would clearly cause that individual to have claims as great as the average of those included on the Uninsurable Conditions List. The commissioner may appoint a designee to review these appeals.

(5) Only individuals enrolling under Subsection 31A-30-108(3) may be counted as uninsurable.

**R590-176-8. Individual Carrier Enrollment Cap Calculation and Certification.**

(1) Pursuant to Section 31A-30-110, an individual carrier may not decline enrollment until the carrier has:

(a) met its enrollment cap; and

(b) submitted a certification to the department in compliance with this section.

(2) An individual carrier may limit enrollment after submitting its certification.

(3) The commissioner may require additional enrollment after reviewing the certification.

(4) An officer of the individual carrier shall submit a certification that:

(a) lists the UC and CI as defined in Section 31A-30-103(27);

(b) lists the number of individual natural covered lives at the time of the certification;

(c) categorizes the UC into new applicants added to existing policies and newly issued policies;

(d) identifies the number of Comprehensive Health Insurance Pool participants; and

(e) identifies the qualifying condition listed on the Uninsurable Condition List.

(5) Carriers, whose coverage count exceeds 200% of the coverage count as of the end of the prior year, shall determine the uninsurable percentage using counts as of the end of the most recent calendar quarter.

#### **R590-176-9. Solvency Waiver.**

A carrier that expects the requirements of Chapter 30 to place the carrier in supervision, insolvency or liquidation shall, within 15 days of such determination, submit a report to the commissioner. The report shall detail the financial consequences of Chapter 30 and request the specific waivers or modifications required to prevent supervision, insolvency or liquidation.

#### **R590-176-10. Enforcement Date.**

The commissioner will begin enforcing the revised provisions of this rule 45 days from the rule's effective date.

#### **R590-176-11. Severability.**

If a provision of this rule or its application to any person or circumstance is for any reason held to be invalid, the remainder of the rule and the application of these provisions may not be affected.

#### **KEY: health insurance**

**2003**

**Notice of Continuation February 1, 2002**

**31A-2-201**

**31A-2-202**



Tax Commission, Administration  
**R861-1A-16**  
 Utah State Tax Commission  
 Management Plan Pursuant to Utah  
 Code Ann. Section  
 59-1-207

#### **NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 26514

FILED: 07/29/2003, 15:49

#### **RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** Section 59-1-207 requires the Commission to establish, by rule, the duties that will be delegated to the executive director.

**SUMMARY OF THE RULE OR CHANGE:** This proposed amendment updates the units that report to the Commission, and replaces the term "advisory opinion" with "private letter ruling."

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 59-1-207

#### **ANTICIPATED COST OR SAVINGS TO:**

❖ **THE STATE BUDGET:** None--The proposed amendment makes minor changes relating to internal reporting and modifies the name, but not the underlying process, of a procedure taxpayers use to resolve issues.

❖ **LOCAL GOVERNMENTS:** None--The proposed amendment makes minor changes relating to internal reporting and modifies the name, but not the underlying process, of a procedure taxpayers use to resolve issues.

❖ **OTHER PERSONS:** None--The proposed amendment makes minor changes relating to internal reporting and modifies the name, but not the underlying process, of a procedure taxpayers use to resolve issues.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** None--The amendment makes minor changes relating to internal reporting; in addition, a taxpayer may continue to request an answer to questions through a "private letter ruling" instead of an "advisory opinion" request; in all other respects, that process remains unchanged.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** There are no fiscal impacts on businesses.

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

TAX COMMISSION  
 ADMINISTRATION  
 210 N 1950 W  
 SALT LAKE CITY UT 84134-0002, or  
 at the Division of Administrative Rules.

#### **DIRECT QUESTIONS REGARDING THIS RULE TO:**

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

**INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 09/15/2003.**

**THIS RULE MAY BECOME EFFECTIVE ON: 09/16/2003**

**AUTHORIZED BY: Pam Hendrickson, Commissioner**

**R861. Tax Commission, Administration.****R861-1A. Administrative Procedures.****R861-1A-16. Utah State Tax Commission Management Plan Pursuant to Utah Code Ann. Section 59-1-207.**

A. The executive director reports to the commission. The executive director shall meet with the commission periodically to report on the status and progress of this agreement, update the commission on the affairs of the agency and seek policy guidance. The chairman of the commission shall designate a liaison of the commission to coordinate with the executive director in the execution of this agreement.

B. The structure of the agency is as follows:

1. The Office of the Commission, including the commissioners and the following units that report to the commission:

a) Internal Audit;

~~b) Administrative Secretary;~~

~~e) b) Appeals;~~

~~d) c) Economic and Statistical; and~~

~~e) d) [Community Relations; and] Public Information. [~~

~~f) Legal Counsel.]~~

2. The Office of the Executive Director, including the executive director's staff and the following divisions that report to the executive director:

a) Administration;

b) Taxpayer Services;

c) Motor Vehicle;

d) Auditing;

e) Property Tax;

f) Technology Management;

g) Processing; and

h) Motor Vehicle Enforcement.

C. The commission hereby delegates full authority for the following functions to the executive director:

1. general supervision and management of the day to day management of the operations and business of the agency conducted through the Office of the Executive Director and through the divisions set out in B.2;

2. management of the day to day relationships with the customers of the agency;

3. all original assessments, including adjustments to audit, assessment, and collection actions, except as provided in C.4. and D;

4. waivers of penalty and interest or offers in compromise agreements in amounts under \$10,000, in conformance with standards established by the commission;

5. except as provided in D.7., voluntary disclosure agreements with companies, including multilevel marketers;

6. determination of whether a county or taxing entity has satisfied its statutory obligations with respect to taxes and fees administered by the Tax Commission;

7. human resource management functions, including employee relations, final agency action on employee grievances, and development of internal policies and procedures; and

8. administration of Title 63, Chapter 2, Government Records Access and Management Act.

D. The executive director shall prepare and, upon approval by the commission, implement the following actions, agreements, and documents:

1. the agency budget;

2. the strategic plan of the agency;

3. administrative rules and bulletins;

4. waivers of penalty and interest in amounts of \$10,000 or more as per the waiver of penalty and interest policy;

5. offer in compromise agreements that abate tax, penalty and interest over \$10,000 as per the offer in compromise policy;

6. stipulated or negotiated agreements that dispose of matters on appeal; and

7. voluntary disclosure agreements that meet the following criteria:

a) the company participating in the agreement is not licensed in Utah and does not collect or remit Utah sales or corporate income tax; and

b) the agreement forgives a known past tax liability of \$10,000 or more.

E. The commission shall retain authority for the following functions:

1. rulemaking;

2. adjudicative proceedings;

3. ~~advisory opinions~~ private letter rulings issued in response to requests from individual taxpayers for guidance on specific facts and circumstances;

4. internal audit processes;

5. liaison with the governor's office;

a) Correspondence received from the governor's office relating to tax policy will be directed to the Office of the Commission for response. Correspondence received from the governor's office that relates to operating issues of the agency will be directed to the Office of the Executive Director for research and appropriate action. The executive director shall prepare a timely response for the governor with notice to the commission as appropriate.

b) The executive director and staff may have other contact with the governor's office upon appropriate notice to the commission; and

6. liaison with the Legislature.

a) The commission will set legislative priorities and communicate those priorities to the executive director.

b) Under the direction of the executive director, staff may be assigned to assist the commission and the executive director in monitoring legislative meetings and assisting legislators with policy issues relating to the agency.

F. Correspondence that has been directed to the commission or individual commissioners that relates to matters delegated to the executive director shall be forwarded to a staff member of the Office of the Executive Director for research and appropriate action. A log shall be maintained of all correspondence and periodically the executive director will review with the commission the volume, nature, and resolution of all correspondence from all sources.

G. The executive director's staff may occasionally act as support staff to the commission for purposes of conducting research or making recommendations on tax issues.

1. Official communications or assignments from the commission or individual commissioners to the staff reporting to the executive director shall be made through the executive director.

2. The commissioners and the Office of the Commission staff reserve the right to contact agency staff directly to facilitate a collegial working environment and maintain communications within the agency. These contacts will exclude direct commands, specific policy implementation guidance, or human resource administration.

H. The commission shall meet with the executive director periodically for the purpose of exchanging information and coordinating operations.

1. The commission shall discuss with the executive director all policy decisions, appeal decisions or other commission actions that affect the day to day operations of the agency.

2. The executive director shall keep the commission apprised of significant actions or issues arising in the course of the daily operation of the agency.

3. When confronted with circumstances that are not covered by established policy or by instances of real or potential conflicts of interest, the executive director shall refer the matter to the commission.

**KEY: developmentally disabled, grievance procedures, taxation, disclosure requirements**  
~~March 11,~~2003  
 Notice of Continuation April 22, 2002  
 59-1-207



**Tax Commission, Administration**  
**R861-1A-21**  
 Rulings by the Commission Pursuant to  
 Utah Code Ann. Section 59-1-205

**NOTICE OF PROPOSED RULE**  
 (Amendment)  
 DAR FILE NO.: 26517  
 FILED: 07/31/2003, 10:56

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Section 59-1-205, amended by S.B. 226 (2003), modifies the procedures for voting on adjudicative matters by the Commission.

SUMMARY OF THE RULE OR CHANGE: This section is removed. S.B. 226 (2003) codifies language that supercedes this section. (DAR NOTE: S.B. 226 is found at UT L 2003 Ch 80 and was effective May 5, 2003.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 59-1-205

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: None--Any impacts were taken into account by S.B. 226 (2003).
- ❖ LOCAL GOVERNMENTS: None--Any impacts were taken into account by S.B. 226 (2003).
- ❖ OTHER PERSONS: None--Any impacts were taken into account by S.B. 226 (2003).

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--While the statutory change did not alter the process a taxpayer must go through to adjudicate a matter, it may, on occasion, alter the outcome of a commission vote, to the advantage of the taxpayer.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no fiscal impacts on businesses.

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

TAX COMMISSION  
 ADMINISTRATION  
 210 N 1950 W  
 SALT LAKE CITY UT 84134-0002, or  
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 09/15/2003.

THIS RULE MAY BECOME EFFECTIVE ON: 09/16/2003

AUTHORIZED BY: Pam Hendrickson, Commissioner

**R861. Tax Commission, Administration.**  
**R861-1A. Administrative Procedures.**  
~~R861-1A-21. Rulings by the Commission Pursuant to Utah Code Ann. Section 59-1-205.~~

~~A. A quorum of the commission must participate in any order which constitutes final agency action on an adjudicative matter.~~

~~B. The party charged with the burden of proof or the burden of overcoming a statutory presumption shall prevail only if a majority of the participating commissioners rules in that party's favor.~~

**KEY: developmentally disabled, grievance procedures, taxation, disclosure requirements**  
~~March 11,~~2003  
 Notice of Continuation April 22, 2002  
 59-1-205



**Tax Commission, Auditing**  
**R865-4D-23**  
 State Participation in the International  
 Fuel Tax Agreement Pursuant to Utah  
 Code Ann. Section 59-13-501

**NOTICE OF PROPOSED RULE**  
 (Amendment)  
 DAR FILE NO.: 26519  
 FILED: 07/31/2003, 17:12

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Section 59-13-501 authorizes the commission to enter into the International Fuel Tax Agreement (IFTA).

SUMMARY OF THE RULE OR CHANGE: The proposed section indicates that the state is a member of IFTA and incorporates by reference the IFTA articles of agreement, procedures, and audit manual.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 59-13-501

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: None--The Commission entered IFTA on January 1, 1990, and has been bound by the articles of agreement, procedures, and audit manuals since that time.
- ❖ LOCAL GOVERNMENTS: None--The Commission entered IFTA on January 1, 1990, and has been bound by the articles of agreement, procedures, and audit manuals since that time.
- ❖ OTHER PERSONS: None--The Commission entered IFTA on January 1, 1990, and has been bound by the articles of agreement, procedures, and audit manuals since that time.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--The commission has followed the IFTA articles of agreement, procedures, and audit manual since January 1, 1990.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be no change for businesses.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 09/15/2003.

THIS RULE MAY BECOME EFFECTIVE ON: 09/16/2003

AUTHORIZED BY: Pam Hendrickson, Commissioner

#### **R865. Tax Commission, Auditing.**

##### **R865-4D. Special Fuel Tax.**

##### **R865-4D-23. State Participation in the International Fuel Tax Agreement Pursuant to Utah Code Ann. Section 59-13-501.**

A. Pursuant to Section 59-13-501, the commission entered into the International Fuel Tax Agreement ("IFTA") effective January 1, 1990.

B. Participation in IFTA is intended to comply with 49 U.S.C. 31705.

C. This rule incorporates by reference the 2003 edition of the IFTA:

1. Articles of Agreement;
2. Procedures Manual; and
3. Audit Manual.

**KEY: taxation, fuel, special fuel**  
~~December 11, 2004~~ **2003**  
**59-13-501**



## Tax Commission, Auditing **R865-9I-3** Credit for Income Tax Paid by an Individual to Another State Pursuant to Utah Code Ann. Section 59-10-106

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 26527

FILED: 08/01/2003, 13:34

### RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Section 59-10-106 requires the Commission to prescribe rules regarding computing and claiming the credit against Utah individual income tax for income tax paid to another state.

SUMMARY OF THE RULE OR CHANGE: This proposed amendment deletes language that required a taxpayer claiming credit for taxes paid to another state to attach to the Utah return a signed copy of each return filed in another state.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 59-10-106

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: None--The amendment repeals language relating to the procedures necessary for a taxpayer to claim the credit - not the criteria for eligibility for the credit.
- ❖ LOCAL GOVERNMENTS: None--The amendment repeals language relating to the procedures necessary for a taxpayer to claim the credit - not the criteria for eligibility for the credit.
- ❖ OTHER PERSONS: None--The amendment repeals language relating to the procedures necessary for a taxpayer to claim the credit - not the criteria for eligibility for the credit.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed amendment will provide a cost savings to qualified taxpayers as they will no longer be required to provide copies of other state returns on the Utah return in which they claim the Utah credit.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be a cost savings as indicated above.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 09/15/2003.

THIS RULE MAY BECOME EFFECTIVE ON: 09/16/2003

AUTHORIZED BY: Pam Hendrickson, Commissioner

#### **R865. Tax Commission, Auditing.**

##### **R865-91. Income Tax.**

##### **R865-91-3. Credit for Income Tax Paid by an Individual to Another State Pursuant to Utah Code Ann. Section 59-10-106.**

A. A Utah resident taxpayer is required to report his entire state taxable income pursuant to ~~[Utah Code Ann.]~~Section 59-10-106 even though part of the income may be from sources outside this state.

B. Except to the extent allowed in D., a resident taxpayer may claim the credit provided in Section 59-10-106 by:

1. filing a resident Utah return showing the computation of tax based on total income before any credit for taxes in another state;

2. ~~[attaching a schedule for each state to which taxes were due, properly filled in to determine each allowable credit]~~completing form TC-40A, Schedule A, Credit For Tax Paid To Another State, for each state for which a credit is claimed; and

3. ~~attaching [a signed copy of each return filed in another state for the same period]~~any schedule completed under B.2. to the individual income tax return.

C. A part-year resident taxpayer may claim credit on that portion of income subject to both Utah tax and tax in another state. The credit is claimed in the same manner as claimed by a full-year resident, but only for that portion of the year that the nonresident taxpayer was living in Utah. ~~[A]Form TC-40A, [s]Schedule [of income taxed in more than one state, apportioning income between resident and nonresident status, must be attached to the part-year resident return]~~A, Credit For Tax Paid To Another State, must be completed and attached to the individual income tax return for each state for which a credit is claimed.

D. For only those states in which a resident professional athlete has participated in his team's composite return or simplified withholding, a resident professional athlete may claim the credit provided in Section 59-10-106 by:

1. filing a resident Utah return showing the computation of tax based on total income before any credit for taxes in another state; and

2. attaching a summary, prepared by the team or the team's authorized representative, indicating both the amount of the athlete's income allocated to all other states in which the athlete has participated in his team's composite return or simplified withholding, and the amount of income tax paid by the athlete to those states.

E. The credit allowable on the Utah return for taxes paid to any other state shall be the smaller of the following:

1. the amount of tax paid to the other state; or

2. a percentage of the total Utah tax. This percentage is determined by dividing the total federal adjusted gross income into the amount of the federal adjusted gross income taxed in the other state.

F. A taxpayer claiming a credit under Section 59-10-106 shall retain records to support the credit claimed.

**KEY: historic preservation, income tax, tax returns, enterprise zones**

~~[March 11,]2003~~

Notice of Continuation April 22, 2002

59-10-106



## Tax Commission, Auditing **R865-91-16** Collection and Payment of Income Tax Pursuant to Utah Code Ann. Section 59-10-406

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 26522

FILED: 08/01/2003, 08:16

### RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Section 59-10-406 requires employers to collect withholding tax on the wages they pay their employees and remit those withheld amounts to the Commission.

SUMMARY OF THE RULE OR CHANGE: The proposed amendment deletes reference to form numbers, and makes technical changes.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 59-10-406

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: None--The proposed amendment deletes references to forms and makes technical amendments.

❖ LOCAL GOVERNMENTS: None--The proposed amendment deletes references to forms and makes technical amendments.

❖ OTHER PERSONS: None--The proposed amendment deletes references to forms and makes technical amendments.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--The proposed amendment makes no substantive changes to an employer's withholding obligations.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be no impact as a result of these technical changes.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 09/15/2003.

THIS RULE MAY BECOME EFFECTIVE ON: 09/16/2003

AUTHORIZED BY: Pam Hendrickson, Commissioner

#### R865. Tax Commission, Auditing.

##### R865-9I. Income Tax.

##### R865-9I-16. Collection and Payment of ~~Income Tax~~ Withholding Pursuant to Utah Code Ann. Section 59-10-406.

~~[A. Forms prescribed by the Tax Commission for the purposes specified in Section 59-10-406 are:~~

~~1. Form TC-96A, Utah Employer's Quarterly Income Withholding Return and~~

~~2. Form TC-96, Utah Employer's Withholding Tax Annual Reconciliation Return.~~

~~B. These forms shall be completed and used in accordance with the instructions provided by the Tax Commission.~~

~~C.]A. Legible copies of the federal Form W-2 must [show, in addition to] contain the following information:~~

~~1. the name and address of the [payee]employee and [payer]employer[;];~~

~~2. the [payer's]employer's Utah withholding tax account number[;];~~

~~3. the amount of [payments made]compensation[;];~~

~~4. the amounts of federal and Utah state income tax withheld[~~in each case~~];~~

~~5. the social security number of the [payee and such other data as is required by the Tax Commission. The form must carry]employee;~~

~~6. the word "Utah" either printed or stamped thereon in such a way as to clearly indicate the tax withheld was for Utah in accordance with [the]Utah [laws]law, as distinguished from any other state or jurisdiction; and~~

~~7. other information required by the commission.~~

~~D.]B. Sufficient copies of the W-2 form must be furnished to each [taxpayer]employee to enable attachment of a legible copy to the state income tax return.~~

~~E.]C. If [the employer fails to withhold the]a tax required under Section 59-10-402 is not withheld by an employer, but is later paid by the employee[; and thereafter, the income subject to withholding is reported and the resulting tax is paid by the recipient,]~~

~~1. [any]the tax required to be withheld under Section 59-10-402 shall not be collected from the employer[~~;~~ However,]; and~~

~~2. the employer shall remain subject to penalties and interest on the total amount of taxes that the employer should have [been]withheld under Section 59-10-402.~~

**KEY: historic preservation, income tax, tax returns, enterprise zones**

~~[March 11,]2003~~

**Notice of Continuation April 22, 2002  
59-10-406**

## Tax Commission, Auditing

# R865-9I-48

## Adoption Expenses Deduction Pursuant to Utah Code Ann. Section 59-10-114

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 26521

FILED: 08/01/2003, 07:22

### RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Section 59-10-114 provides a deduction for qualified adoption expenses.

SUMMARY OF THE RULE OR CHANGE: This proposed amendment deletes the requirement that qualified adoption expenses must be deducted in the tax year in which the expenses are incurred, as this is no longer required pursuant to S.B. 118 (2003). (DAR NOTE: S.B. 118 is found at UT L 2003 Ch 63 and was effective May 5, 2003.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 59-10-114

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: None--Any impacts were taken into account in S.B. 118 (2003).

❖ LOCAL GOVERNMENTS: None--Any impacts were taken into account in S.B. 118 (2003).

❖ OTHER PERSONS: None-- Any impacts were taken into account in S.B. 118 (2003).

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--The provisions of S.B. 118 (2003) for claiming this deduction will align the state deduction with the federal credit, making it easier for the taxpayer to take advantage of the state deduction.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no fiscal impacts to businesses since the amendment gives more flexibility to taxpayers.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 09/15/2003.

THIS RULE MAY BECOME EFFECTIVE ON: 09/16/2003

AUTHORIZED BY: Pam Hendrickson, Commissioner

### **R865. Tax Commission, Auditing.**

#### **R865-91. Income Tax.**

#### **R865-91-48. Adoption Expenses Deduction Pursuant to Utah Code Ann. Section 59-10-114.**

A. For purposes of the deduction for adoption expenses under Section 59-10-114, adoption expenses include:

1. medical expenses associated with prenatal care, childbirth, and neonatal care;
2. fees paid to reimburse the state under Section 35A-3-308;
3. fees paid to an attorney or placement service for arranging the adoption;
4. all actual travel costs incurred exclusively for the purpose of completing adoption arrangements; and
5. living expenses of the birth mother if paid by the adoptive parents as part of their adoption expenses and if in conformance with Section 76-7-203.

B. Adoption expenses do not include:

1. food, clothing, or other routine expenses associated with the child's care, other than necessary medical expenses, that arise before the adoption is final;
2. foster care expenses incurred prior to the application for adoption; or
3. legal expenses arising from custody actions subsequent to the finalization of the adoption.

C. Qualified adoption expenses may be deducted regardless of whether the adoption process is terminated.

D. The income tax deduction under Section 59-10-114 applies to the actual qualified adoption expenses of the birth mother, the legal guardian of the birth mother or another individual acting on behalf of the birth mother, or the adoptive parents.

E. ~~Qualified adoption expenses must be deducted in the tax year in which the expenses are paid by the party incurring the expenses.~~

~~F.]~~ Reimbursed adoption expenses for which a taxpayer has taken the state income tax deduction, must be added to the taxpayer's gross income in the tax year in which the expenses are reimbursed.

**KEY: historic preservation, income tax, tax returns, enterprise zones**

~~[March 11,]2003~~

Notice of Continuation April 22, 2002

59-7-3



## Tax Commission, Auditing **R865-19S-90** Telephone Service Pursuant to Utah Code Ann. Section 59-12-103

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 26523

FILED: 08/01/2003, 10:13

### RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This proposed amendment deletes charges for cable and satellite transmissions from the list of nontaxable telephone charges, as these transactions are not subject to sales tax pursuant to S.B. 213 (2003). (DAR NOTE: S.B. 213 is found at UT L 2003 Ch 318 and was effective July 1, 2003.)

SUMMARY OF THE RULE OR CHANGE: As of July 1, 2003, Section 59-12-103 imposes sales tax on cable and satellite transmissions.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 59-12-103

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: None--Any impacts would have been recognized in S.B. 213 (2003).
- ❖ LOCAL GOVERNMENTS: None--Any impacts would have been recognized in S.B. 213 (2003).
- ❖ OTHER PERSONS: None--Any impacts would have been recognized in S.B. 213 (2003).

COMPLIANCE COSTS FOR AFFECTED PERSONS: Providers of cable and satellite transmissions will now be required to collect sales tax on these transactions.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule clarifies statute. Any impact on businesses would have occurred as a result of the enactment of S.B. 213 (2003).

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

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

## DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 09/15/2003.

THIS RULE MAY BECOME EFFECTIVE ON: 09/16/2003

AUTHORIZED BY: Pam Hendrickson, Commissioner

**R865. Tax Commission, Auditing.****R865-19S. Sales and Use Tax.****R865-19S-90. Telephone Service Pursuant to Utah Code Ann. Section 59-12-103.**

## A. Definitions.

1. "Interstate" means a transmission that originates in this state but terminates in another state, or a transmission that originates in another state but terminates in this state.

2. "Intrastate" means a transmission that originates and terminates in this state, even if the route of the transmission signal itself leaves and reenters the state. Prepaid telephone services or service contracts are presumed to be used for intrastate telephone services unless the service contract is sold exclusively for use in interstate communications.

3. [~~"Private communication services" means a telephone service that entitles subscribers or users to use a communication line or channel or group of lines or channels.~~

~~4.] "Two-way transmission" includes any services provided over a public switched network.~~

## B. Taxable telephone service charges include:

1. subscriber access fees;
2. charges for optional telephone features, such as call waiting, caller ID, and call forwarding; and
3. nonrecurring charges that are ordinarily charged to subscribers only once or only under exceptional circumstances, including charges to:

a) establish, change, or disconnect telephone service or optional features; and

b) install or repair telephone equipment that retains its character as tangible personal property under R865-19S-58 and R865-19S-78.

## C. Nontaxable charges include:

1. refundable subscriber deposits, interest, and late payment penalties;
2. charges for interstate long distance or toll calls;
3. telephone answering services received or relayed by a human operator;
4. charges to install or repair subscriber equipment that is regarded as real property under R865-19S-58 and R865-19S-78;
5. charges levied on subscribers to fund or subsidize special telephone services, including 911 service, special communications services for the deaf, and special telephone service for low income subscribers;

~~[6. subscriber charges for cable or satellite television transmissions, unless those charges are considered user fees under R865-19S-108;~~

~~7.]6. contributions in aid of construction, land development fees, payments in lieu of land development fees, and special plant construction and relocation charges; and~~

~~[8.]7. charges for one-way pager services.~~

**KEY: charities, tax exemptions, religious activities, sales tax**  
~~May 17, 2002~~**2003**  
**59-12-103**

▼ ————— ▼

## Tax Commission, Property Tax

# R884-24P-26

## Requirements of the Farmland Assessment Act of 1969 Pursuant to Utah Code Ann. Sections 59-2-501 through 59-2-515

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 26518

FILED: 07/31/2003, 14:05

### RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Sections 59-2-501 through 59-2-515 provide for a reduced value on the assessment of real property that qualifies as farmland.

SUMMARY OF THE RULE OR CHANGE: This section is removed. All language in the rule has been superceded by H.B. 155 (2002) and S.B. 148 (2003). (DAR NOTES: H.B. 155 is found at UT L 2002 Ch 141 and was effective January 1, 2003. S.B. 148 is found at UT L 2003 Ch 208 and will be effective January 1, 2004.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 59-2-501 and 59-2-515

#### ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: None--Any impacts were taken into account in H.B. 155 (2002) and S.B. 148 (2003).

❖ LOCAL GOVERNMENTS: None--Any impacts were taken into account in H.B. 155 (2002) and S.B. 148 (2003).

❖ OTHER PERSONS: None--Any impacts were taken into account in H.B. 155 (2002) and S.B. 148 (2003).

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--This section is removed as it is replaced by statutory language.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no fiscal impacts on businesses as a result of this section being removed.

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

TAX COMMISSION  
PROPERTY TAX  
210 N 1950 W

SALT LAKE CITY UT 84134, or  
at the Division of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 09/15/2003.

THIS RULE MAY BECOME EFFECTIVE ON: 09/16/2003

AUTHORIZED BY: Pam Hendrickson, Commissioner

**R884. Tax Commission, Property Tax.**

**R884-24P. Property Tax.**

**~~R884-24P-26. Requirements of the Farmland Assessment Act of 1969 Pursuant to Utah Code Ann. Sections 59-2-501 through 59-2-515.~~**

~~— A. A parcel of land less than five acres in size may qualify for assessment under the provisions of the Farmland Assessment Act (FAA) if it:~~

- ~~— 1. has ownership identical to and is used in conjunction with a qualifying parcel of five or more acres;~~
- ~~— 2. is in close proximity to the primary farm;~~
- ~~— 3. has a direct relationship to the total agricultural enterprise;~~
- ~~— 4. makes a significant contribution to the enterprise's total production; and~~
- ~~— 5. meets all other requirements set forth in Section 59-2-503.~~

~~— B. FAA application forms shall provide for reporting of the current serial number, legal description, ownership, and all other pertinent information of the subject properties:~~

~~— 1. The assessor shall maintain all FAA records in the assessor's office. These records shall include the original year of application and clearly indicate the number of years these properties have been assessed and taxed under the FAA.~~

~~— 2. All parcels assessed and taxed under the provisions of the FAA shall be so designated on the assessment roll.~~

~~— 3. All FAA applications, including those resulting from changes in ownership, legal description, additions, or deletions, must be recorded.~~

~~— C. For FAA purposes, a property may be considered contiguous even though it is severed by a public highway, unimproved road, fence, canal, or waterway.~~

~~— D. Upon withdrawal or change in use of a parcel assessed under the provisions of the FAA, the assessor shall immediately calculate the amount of the roll back tax due and the county shall bill the roll back tax due.~~

~~— 1. The amount of the lien shall be shown on the recorded roll-back statement.~~

~~— 2. If the roll back tax is not paid to the county treasurer within 30 days after billing, the county treasurer shall proceed to collect the amount due.~~

~~— 3. If, after a period of being exempt, the property is used for a purpose that does not qualify for assessment under the FAA, the roll-back provisions of FAA shall apply to the time the property was under~~

~~the provisions of the FAA, up to a maximum of five years, less the number of years that the property was exempt.~~

~~— E. Land that becomes ineligible for farmland assessment solely as a result of amendments to Sections 59-2-501 through 59-2-515 is not subject to the roll back tax if the owner of that land notifies the county assessor of the land's ineligibility for farmland assessment on or before January 1, 1994.~~

~~— F. Applications for assessment and taxation under the FAA may be made only by the owner of farm property. A lessee or purchaser of any parcel may arrange with the owner to farm such land, but the lessee or purchaser may not make application for farmland assessment in the lessee's or purchaser's name.~~

~~— G. A leased parcel may be assessed under the FAA if it meets all of the eligibility requirements set forth in Section 59-2-503.~~

~~— H. All applications for assessment under the provisions of the FAA shall be accompanied by documentation verifying the agricultural production of the property for the two years immediately preceding the year of application. The county assessor or the commission may request any additional information needed to determine eligibility under Section 59-2-503.~~

**[KEY: taxation, personal property, property tax, appraisals  
~~December 9, 2002~~ 2003**

**Notice of Continuation April 5, 2002  
59-2-501**



**Transportation, Operations, Traffic and  
Safety**

**R920-5**

**Manual and Specifications on School  
Crossing Zones. Supplemental to Part  
VII of the Manual on Uniform Traffic  
Control Devices**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 26510

FILED: 07/28/2003, 17:37

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This amendment updates school crossing mandates in compliance with the federal government's recent adoption of a new version of the Manual on Uniform Traffic Control Devices.

SUMMARY OF THE RULE OR CHANGE: Creation of this supplement is required by Section 41-6-20 to implement changes needed by new federal standards.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 41-6-20; 23 U.S.C. 109(d) and 402(a); and 23 CFR 1204.4

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: Traffic Controls for School Zones, Part 7

Supplement to the Manual on Uniform Traffic Control Devices, Millenium Edition (2003)

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: There may be some increase in costs related to more detailed analyses and enforcement of school crossing regulations, but the amount is unknown.
- ❖ LOCAL GOVERNMENTS: School districts may face an increase in costs, but the amount is unknown.
- ❖ OTHER PERSONS: Since this rule only affects governmental organizations, there will be no costs or savings to private parties.

COMPLIANCE COSTS FOR AFFECTED PERSONS: School districts may see an increase in some of their costs, but it is impossible to quantify an amount.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: These standards have been developed with the concurrence of several school districts and other local governments. The interested parties agreed with the need for increased requirements and believe the costs are appropriate.

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

TRANSPORTATION  
OPERATIONS, TRAFFIC AND SAFETY  
CALVIN L RAMPTON COMPLEX  
4501 S 2700 W  
SALT LAKE CITY UT 84119-5998, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

James Beadles at the above address, by phone at 801-965-4168, by FAX at 801-965-4796, or by Internet E-mail at jbeadles@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 09/15/2003.

THIS RULE MAY BECOME EFFECTIVE ON: 09/16/2003

AUTHORIZED BY: John R. Njord, Executive Director

**R920. Transportation, Operations, Traffic and Safety.**  
**R920-5. Manual and Specifications on School Crossing Zones. Supplemental to Part VII of the Manual on Uniform Traffic Control Devices.**

**R920-5-1. [Purpose] Incorporation by Reference.**

In order to implement the federal government's adoption of the Millenium Edition of the Manual on Uniform Traffic Control Devices, the department adopts by reference Traffic Controls for School Zones, Part 7 Supplement to the Manual on Uniform Traffic Control Devices, Millenium Edition, 2003. Copies of this document are available at the department, 4501 South 2700 West, Salt Lake City, Utah 84114. [A. To assure uniform design and application of all types of traffic control devices, Section 41-6-20 (1), requires the Utah Transportation

Commission to adopt a manual and specifications for a uniform system of traffic control devices. The manual adopted (in R920-1-1, UAC) is the 1988 edition of the "Manual on Uniform Traffic Control Devices" (MUTCD), a Federal Highway Administration publication. In addition, Section 41-6-20(2), requires the Utah Transportation Commission to adopt a manual and specifications for a uniform system of traffic control devices and school crossing guards for school crossing zones, which shall supplement Part VII of the MUTCD. In compliance with Section 41-6-20(2), a document titled "Manual and Specifications on School Crossing Zones" was prepared to supplement Part VII of the MUTCD and is hereby adopted by reference. Copies of this document are available at the Division of Traffic and Safety of the Utah Department of Transportation.

— B. The intent of this supplement to the general guidelines contained in the MUTCD is to standardize, as much as possible, applications of traffic control devices and crossing guards at school areas on all public highways in the State of Utah.

— C. This supplement is divided into sections that correspond to the applicable sections in the MUTCD. Where differences occur in language or intent, the supplement shall take precedence.

— D. Reference to various Appendices found in R920-5 are Appendices to the supplement.

**R920-5-2. General.**

— A. Need for Standards.

— 1. Each elementary school shall prepare and update annually a routing plan. The plan shall show, as a minimum, the walking routes on the street system within the school boundaries, the school location, existing traffic controls, and established school crossings. The plan also shall address the loading/unloading areas for students who ride the bus or arrive at school by another method of transportation. An explanation of the plan, instruction to parents to walk the route with their children, and an outline of areas of concern shall also be included. The plan shall be reviewed annually by the School Traffic Safety Committee. After review by the Committee, the plan shall be sent to each parent whose children attend the elementary school, and to the local and state jurisdictions that have responsibility for highways within the elementary school boundaries.

— 2. Each middle and junior high school shall prepare and update annually a child access routing plan. The plan shall show, as a minimum, the school crossings on the major highways and may include the elementary school routing plans within the junior high school boundaries.

— 3. Each senior high school may also prepare a school route plan.

— 4. Each elementary school shall, as a minimum, present a traffic safety program to its students annually. The program shall include safe pedestrian behavior and limitations of drivers and traffic control devices.

— B. Application of Standards.

— 1. A School Crossing is defined as a marked crosswalk designated on the child access routing plan without a reduced school speed limit. Typical signing includes Advance School signs (S1-1) and School Crossing signs (S2-1) (See Appendix C, TYPICAL APPLICATIONS, Sheets 1 through 3).

— 2. The school speed zone may include a school crosswalk. A Reduced Speed School Zone is defined as an area in advance of a school crosswalk designated on the school routing plan extending from a school speed limit sign while the warning lights are operating to an end school zone sign. The Reduced Speed School Zone may abut school grounds or may be at a remote school crossing location, which may include signalized intersections. Typical signing includes

Advance School signs (S1-1), School Speed Limit signs (S5-1), School Crossing signs (S2-1), and End School Zone signs (S5-2) (See Appendix C, TYPICAL APPLICATIONS, Sheets 4 through 6).

— 3. A Narrow School Route is defined as a school route designated in a child access routing plan where there are no sidewalks and the paved shoulders of the existing highway are less than three feet wide. Typical signing includes Advance School sign (S1-1) and "Next Miles(s)" sign (See Appendix C, TYPICAL APPLICATIONS, Sheet 7). The distance shall be displayed in 1/4 mile increments up to a maximum of one mile in urban areas and in 1/2 mile increments up to a maximum of two miles in rural areas. An 8 inch solid white shoulder stripe may be placed on the edge of the outside lane for the length of the Narrow School Route.

— C. Engineering Study Required.

— 1. A School Crossing may be installed where the volume of school children exceeds 10 during a period extending from not earlier than 45 minutes before school starts until warranted demand ceases, or a period extending from the beginning of warranted demand until not later than 30 minutes after school ends. In addition, the street average daily traffic shall exceed 500 vehicles and the criteria shown in Appendix A, SCHOOL ZONE PROTECTION, shall be met.

— 2. A Reduced Speed School Zone may only be installed where the criteria is met for both a school crossing and Appendix A, SCHOOL ZONE PROTECTION. Existing Reduced Speed School Zones that do not meet these criteria shall be removed.

— 3. A School Crosswalk is normally not placed within 600 feet of the following:

- a. A signalized intersection or crosswalk
- b. A stop sign controlled intersection or crosswalk
- c. Another school or pedestrian crosswalk

— 4. School crossings may not be placed at any location that has inadequate stopping sight distance as indicated in the 1994 edition of "A Policy on Geometric Design of Highways and Streets", American Association of State Highway and Transportation Officials, which edition is incorporated by reference.

— 5. A Narrow School Route may be installed only after the School Traffic Safety Committee has determined that boundary changes, alternate school routes, or supplemental methods of transportation are not feasible. A Narrow School Route is not intended as a permanent substitute for sidewalks or pavement widening in urban areas. Narrow School Routes shall be a maximum length of one mile in urban and two miles in rural areas.

### **R920-5-3. Signs.**

— A. Position of Signs and Cones.

— 1. For location of signs, see Appendix C, Sheets 1 through 7.

— 2. Portable school signs shall not be placed within the roadway at any time.

— 3. Cones shall be used at all locations when adult crossing guards are present. The cones shall be placed on the centerline of the roadway between opposing traffic lanes at each approach to the school crosswalk (See Appendix C, TYPICAL APPLICATIONS, Sheets 4 through 6). Cones may not be placed on lane lines separating traffic in the same direction. The cones shall have a height of 28 inches and shall be orange in color. Auxiliary flags, signs, or lights may not be used on the cones.

— B. School Advance Sign (S1-1).

— 1. A School Advance sign (S1-1) shall be placed in advance of the School Crossing sign (S2-1) at school crossings (See Appendix C, TYPICAL APPLICATIONS, Sheets 1 through 3) and in advance of the School Speed Limit sign (S5-1) in Reduced Speed School Zones

(See Appendix C, TYPICAL APPLICATIONS, Sheets 4 through 6). The sign shall have a minimum height and width of 36 inches for new and replacement installations.

— 2. A School Advance sign (S1-1) may be placed in advance of abutting school grounds on any highway that does not have a School Crossing or a Reduced Speed School Zone.

— 3. A supplementary plate of the same width, color, and border shall be placed below the School Advance sign (S1-1) for year around schools. The plate shall display the legend "ALL YEAR" (See Appendix C, TYPICAL APPLICATIONS, Sheets 1 through 6). The plate shall be 36 inches by 12 inches with 5 inch series "C" lettering.

— 4. A School Advance sign (S1-1) shall be used for narrow school routes.

— 5. A supplementary plate of the same width, color, and border shall be placed below the School Advance sign (S1-1) for Narrow School Routes. The plate shall display the legend "NEXT\_MILE(S)" (See Appendix C, TYPICAL APPLICATIONS, Sheet 7). The plate shall be 36 inches by 24 inches with series "C" lettering.

— C. School Crossing Sign (S2-1).

— 1. A School Crossing sign (S2-1) shall be located as near as practical to the school crosswalk for each approach to the crosswalk, except that at crosswalks controlled by stop signs, the sign shall be omitted (See Appendix C, TYPICAL APPLICATIONS, Sheets 1 through 6). The sign shall have a minimum height and width of 36 inches for new and replacement installations.

— 2. A supplementary plate of the same width, color, and border shall be placed below the School Crossing sign (S2-1) for year around schools. The plate shall display the legend "ALL YEAR" (See Appendix C, TYPICAL APPLICATIONS, Sheets 1 through 6). The plate shall be 36 inches by 12 inches with 5 inch series "C" lettering.

— D. School Speed Limit Sign (S5-1, S5-2).

— 1. The School Speed Limit sign (S5-1) shall be used only in conjunction with reduced speed school zones and shall be located as near as practical to the required distance from the school crosswalk (See Appendix C, TYPICAL APPLICATIONS, Sheets 4 through 6). The school speed limit displayed shall be 20 mph. The in force periods of reduced speed in Reduced Speed School Zones shall be as short a duration as possible, with in force periods only during pronounced usage. The in force period shall be a time extending from not earlier than 45 minutes before school starts until warranted demand ceases, normally 15 minutes after school begins, and a period extending from the beginning of warranted demand, normally 15 minutes prior to the end of school, until not later than 30 minutes after school ends. These periods of operation may apply to all daily school programs. The School Speed Limit sign (S5-1) may not be flashed continuously throughout the school day.

— 2. At installations requiring an adult crossing guard, the School Speed Limit sign (S5-1) shall be operated manually and only while the crossing guard is present. Installations which do not require adult crossing guards shall be operated by an automatic timer with a programmable 365 day cycle. At such installations, the local authority shall be responsible to program and operate the automatic timer.

— 3. The Specific Periods of Operations panel (S4-1) and the When Children Are Present panel (S4-2) may not be used under any circumstances.

— 4. The End School Zone sign (S5-2) shall be located as near as practical to 50 feet on the far side of the school crosswalk in a Reduced Speed School Zone (See Appendix C, TYPICAL APPLICATIONS, Sheets 4 through 6).

— E. Parking and Stopping Signs (R7 Series)

— 1. Parking and stopping or standing restrictions during school hours, in approach to the crosswalk, are recommended (See Appendix C, TYPICAL APPLICATIONS, Sheets 1 through 6). Parking may also be restricted beyond the crosswalk and in approach to any of the school signs.

— 2. Parking may be restricted upon all streets immediately abutting the school grounds during school hours.

— 3. Parking may be restricted upon any street within a Narrow School Route during school hours.

#### **R920-5-4. Markings.**

##### **A. Crosswalk Lines.**

— 1. Ladder type crosswalk markings shall be reserved for School Crossings and Reduced Speed School Zones, and other high emphasis pedestrian crossings that may require special consideration as determined by an engineering study.

##### **B. Word and Symbol Markings**

— 1. The pavement adjacent to the School Advance signs (S1-1) shall be marked and maintained with the message "SCHOOL" across the traffic lane(s) (See Appendix C, TYPICAL APPLICATIONS, Sheets 1 through 6).

##### **C. Center Lines and Lane Lines**

— 1. The School Crossing or Reduced Speed School Zone shall be marked as a "no passing" and "no lane change" zone as follows (See Appendix C, TYPICAL APPLICATIONS, Sheets 1 through 6):

— a. The center line shall be a double yellow line between any two travel lanes moving in opposing directions, for the entire length of a School Crossing or Reduced Speed School Zone (between the S1-1 signs).

— b. Lane lines shall be solid white between any two travel lanes moving in the same direction approaching crosswalk.

— 2. A shoulder line, when placed along the edge of the outside lane for a narrow school route, shall be an 8 inch solid white line for the entire length of the route (See appendix C, TYPICAL APPLICATIONS, Sheet 7).

#### **R920-5-5. Crossing Supervision.**

##### **A. Adult Guards.**

— 1. Adult Crossing Guards shall be at all Reduced Speed School Zones for elementary schools. Crossing guards are optional at School Crossings and Reduced Speed School Zones for middle, junior high, and high schools, and at School Crossings for elementary schools.

— 2. See Appendix A, SCHOOL ZONE PROTECTION, for applications of crossing guards and signing.

##### **B. Legal Authority for Adult Guards.**

— 1. Adult crossing guards shall be provided, trained, and regulated by the local jurisdiction in the use of correct apparel/equipment, crossing techniques, pedestrian safety, and proper use of pedestrian crossing facilities.

##### **C. Uniform of Adult Guards.**

— 1. The minimum safety apparel/equipment for crossing guards shall be an orange vest with reflective white, or yellow, or yellow-orange striping and an 18 inch reflectorized "STOP" paddle.

##### **D. Operating Procedures for Adult Guards.**

— 1. Adult guards shall daily instruct elementary school children in safe crossing techniques while they are using the crosswalk.

##### **E. Minimum Training for Crossing Guards.**

— 1. Adult crossing guards shall be instructed, as a minimum, in the following:

— a. Qualifications for crossing guards.

— b. Safety apparel and equipment.

— c. Responsibilities and safety procedures.

— d. Traffic rules and regulations.

— e. Emergency procedures.

— The provisions of this rule shall become effective on July 1, 1992.

#### **R920-5-6. On Premise School Bus Loading Zones.**

##### **A. Authority and Purpose.**

— (1) This rule is enacted as required by Section 41-6-103.5.

— (2) The purpose of this rule is to define standards for the establishment of school bus loading zones located on school grounds.

##### **B. Responsibility.**

— It shall be the responsibility of each School District, at schools where busing of students occurs, to place school bus loading zones. These zones shall be identified with signs, and curb markings, and shown on the school zone routing plan.

##### **C. Parameters.**

— (1) New school construction shall comply with the following parameters:

— Unless it can be demonstrated that there are unusual conditions, existing schools shall also comply with the following parameters:

— (a) Bus Loading Zones shall be separate from private vehicle drop off areas;

— (b) Bus Loading Zones shall be located so that students are not required to cross roadways or parking lot areas to access the school building;

— (c) The location of a bus loading zone shall not require a bus to be backed up in reverse gear;

— (d) The bus loading zone shall have a width of at least 12 feet minimum.

— (2) The school bus loading zone shall be identified by posting standard signs at the beginning and end of the zone and approximately every 50 feet within the zone.

— (a) The signs shall conform with standard signs as are as shown in the "Manual and Specifications on School Crossing Zones", Appendix D, as published by the Utah Department of Transportation.

— (b) Where bus loading zones are placed, the roadway's curb face and top shall be painted yellow green to identify it as a bus loading zone area.]

**KEY:** pedestrians, traffic control, traffic safety, traffic signs

[April 1, 1998]2003

Notice of Continuation December 13, 2002

41-6-20(2)



## Transportation, Preconstruction

### **R930-6**

## Rules for the Accommodation of Utility Facilities and the Control and Protection of State Highway Rights-of-Way

### **NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 26501

FILED: 07/28/2003, 13:04

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This proposed rule updates a federally-mandated manual regarding utility placement and includes provisions on managing public access to the right-of-way.

SUMMARY OF THE RULE OR CHANGE: The primary change in this rule is the addition of a chapter on access management.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 72-1-201, 72-3-109, and 72-6-116; and 23 CFR 645

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: Manual of Accommodation of Utility Facilities and the Control and Protection of State Highway Rights-of-Way (2003 ed.)

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: The access management program, which this manual implements, will cost the state additional funds because it will require a closer, more detailed analysis of the impact that an access request will have on the safety and traffic flow of the highway system.
- ❖ LOCAL GOVERNMENTS: Local governments do not need to apply for access on state highways, therefore there will be no direct costs or savings to them.
- ❖ OTHER PERSONS: The manual neither decreases nor increases fees for permits, but may increase the requirements private persons may face when applying for a permit. Consequently, there may be increased indirect costs.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be no increased fees, but the costs to comply with the requirements may increase. It is impossible to say how much.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The department is required by state and federal law to manage access on state rights-of-way. Because of this management responsibility, it is impossible to avoid a fiscal impact of some type.

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

TRANSPORTATION  
PRECONSTRUCTION  
CALVIN L RAMPTON COMPLEX  
4501 S 2700 W  
SALT LAKE CITY UT 84119-5998, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

James Beadles at the above address, by phone at 801-965-4168, by FAX at 801-965-4796, or by Internet E-mail at jbeadles@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 09/15/2003.

THIS RULE MAY BECOME EFFECTIVE ON: 09/16/2003

AUTHORIZED BY: John R. Njord, Executive Director

**R930. Transportation, Preconstruction.**

~~R930-6. [Rules for the Accommodation of Utility Facilities and the Control and Protection of State Highway Rights-of-Way]Manual of Accommodation of Utility Facilities and the Control and Protection of State Highway Rights-of-Way.~~

**R930-6-1. [Policy]Incorporation by Reference.**

~~In order to implement its federally-mandated responsibility to ensure the safe use and protection of federal-aid highways, the department incorporates by reference the Manual of Accommodation of Utility Facilities and the Control and Protection of State Highway Rights-of-Way, 2003 ed., copies of which are available at the department's headquarters, 4501 South 2700 West, Salt Lake City, Utah 84114, and on the department's Internet site, www.dot.utah.gov. The provisions of this Manual also apply to non-federal aid state highways. (1) The policy of the Utah Department of Transportation (UDOT) is to accommodate utility facilities installations on federal aid and non-federal aid highway rights of way, to the extent that these facilities may be accommodated without compromising the safety or integrity of the highway and without interference with the normal operation and maintenance activities as required for state highways in accordance with Title 72, Chapter 1.~~

~~(2) The Utah Department of Transportation shall allow utilities to place utility facilities on highway rights-of-way which receive federal funds subject to their compliance with the 23 Code of Federal Regulations, Part 645, Subpart B, "Accommodation of Utilities".~~

**R930-6-2. Authority.**

~~The provisions of this rule are authorized by the following grants of rulemaking authority: Section 72-3-109; Section 72-6-116; Section 72-6-117; Section 72-7-102; and Section 72-7-503.~~

**R930-6-3. Purpose.**

~~Control of State Highway right-of-way is necessary to provide for the safe and efficient operation of highways and to utilize the full potential of the highway investment. Owners of property fronting on a highway have certain rights of access unless such access has been restricted by purchase or by legal action. Utility facilities shall be accommodated for public service. Road users should also be able to expect reasonably safe highways for travel. These rules are necessary to provide efficient use of the right-of-way to satisfy all of these needs.~~

~~These rules and procedures are promulgated to achieve traffic safety and to provide reasonable convenience to the traveling public and adjoining property owners, and to provide guidelines for accommodation of utilities facilities within or across the highway rights-of-way and access management.~~

**R930-6-4. Incorporations by Reference.**

~~The following federal law, Federal agency manuals, national organizations and associations standards, and UDOT illustrations standard specifications technical manuals with tables, and technical requirements are adopted and incorporated by reference:~~

- (1) 23 CFR, Part 645, Subpart B, Accommodation of Utilities, May 2000 edition.
- (2) Federal Pipeline Safety Act, 49 USCA Section 60101 et seq., July 1994 Edition.
- (3) Transportation of Natural Gas and Other Gas by Pipeline, 49 CFR, Part 192, Edition March 20, 1995.
- (4) AASHTO's Roadside Design Guide, edition of 1996.
- (5) AASHTO's, "A Policy On the Accommodation of Utilities within Freeway Right of Way", February, 1989 edition.
- (6) AASHTO's, "Policy on Geometric Design of Highways and Streets", 1994 edition.
- (7) AASHTO's "Standard Specifications for Highway Materials and Methods of Sampling and Testing Part II", 1993 edition, AASHTO Designation T 99.
- (8) American National Standards Institute (ANSI) B31.3 1993 edition.
- (9) American Petroleum Institute (API) 1104 for Piping, 18th edition 1994.
- (10) American Society of Testing and Materials (ASTM), A53 93a, and A134, A135 and A139, 1993 edition.
- (11) American Water Works Association (AWWA), specifications C200-86, 1987 edition.
- (12) Manual on Uniform Traffic Control Devices, MUTCD, Federal Highway Administration.
- (13) National Electrical Safety Code, C-2 Section 232, 1993 edition.
- (14) UDOT Standard Plans.
- (15) Standard Specification for Road and Bridge Construction, 1994 edition.

#### **R930-6-5. Definitions.**

- (1) AASHTO—American Association of State Highway and Transportation Officials.
- (2) ANSI—National Standards Institute.
- (3) API—American Petroleum Institute.
- (4) Arterial Highway—A general term denoting a highway primarily for through traffic, usually on a continuous route.
- (5) ASTM—American Society of Testing and Materials.
- (6) Average Daily Traffic (ADT)—The estimated average 24-hour volume, being the estimated total annual volume during a stated period divided by 365 estimated days annually.
- (7) Backfill—Replacement of soil around and over a pipe or utility line.
- (8) Bury—Depth of top of pipe or utility line below grade of roadway or natural ground or the bottom of a stream channel.
- (9) Cap—Rigid structural element surmounting a pipe or utility line.
- (10) Carrier—Pipe directly enclosing a transmitted fluid (liquid or gas).
- (11) Casing—A larger pipe enclosing a carrier.
- (12) Clear Roadside Policy—The policy employed by UDOT to increase safety, improve traffic operations and enhance the appearance of highways by designing, constructing, and maintaining highway roadsides as wide, flat and rounded as practical and as free as practical from physical obstructions above the ground, within the clear zone as defined in AASHTO's "Roadside Design Guide".
- (13) Company—The utility company either publicly, privately or municipally owned who is making application to occupy highway right-of-way.
- (14) Conduit or Duct—An enclosed casing for protecting wires or cables.
- (15) Control of Access—The condition where the right of owners of abutting land or any other persons having access to highway right of way is controlled by the appropriate public authority.
- (16) Contiguous Property—A parcel of land which has two or more frontages abutting highway rights of way.
- (17) Drain—A facility to accommodate the discharge of fluids from a conduit, culvert or casing.
- (18) Driveway—A driveway is an access constructed within the public way, connecting the public roadway with the adjacent property.
- (19) Encasement—Structural element surrounding a pipe.
- (20) Encroachment—Unauthorized use of highway right-of-way.
- (21) Encroachment Permit—Document which specifies the requirements and conditions under which work on the highway right of way may be performed.
- (22) Expressway—A divided arterial highway for through traffic with full or partial control of access.
- (23) Freeway—An expressway with full control of access.
- (24) Easement—An interest in real property that conveys use, but not ownership, of a portion of an owner's property.
- (25) Frontage Road—A local street or road auxiliary to and located on the side of an arterial highway for service to abutting and adjacent properties.
- (26) Galleries—An underpass for two or more underground utilities.
- (27) Highway Prism—The portion of a highway within the construction limits of roadway between the top of cut or toe of fills.
- (28) Highway, Street or Road—A general term denoting a public area way for purposes of vehicular travel, including the entire area within the right of way.
- (29) Industrial and Commercial—Areas designated as industrial and commercial under local government zoning ordinances.
- (30) Intersection—The general area where two or more highways join or cross at grade.
- (31) Limited (Partial) Control of Access—preference is given to through traffic to a degree that, in addition to access connections with selected public roads, there may be some crossings at grade and some private driveway connections.
- (32) Manhole—An access opening in an underground system which workers or others may enter for the purpose of making installations, repairs or maintenance.
- (33) Median—The portion of a divided highway separating the traveled ways for traffic in opposite directions.
- (34) MUTCD—Manual on Uniform Traffic Control Devices.
- (35) Normal and Routine Maintenance Activities—Normal maintenance operations are those not requiring excavations in excess of the minimum horizontal clearance and depth of bury.
- (36) Pavement Structure—The combination of subbase, base course, and surface course placed on a subgrade to support the traffic load.
- (37) Permit—See Encroachment Permit.
- (38) Person—"Person" means any individual, partnership, corporation, association, government entity, or public or private organization or any character other than an agency, as noted in Subsection 63-46a-2(10).
- (39) Pressure—Relative internal pressure in pascal (PA).
- (40) Public Authority—A public administrative agency or corporation authorized to administer a public enterprise.

—(41) Rest Area—A roadside area with parking and other facilities, separated from the roadway, provided for motorists to stop and rest.

—(42) Roadside—A general term denoting the area adjoining the outer edge of the roadway.

—(43) Roadway—The portion of a highway, including shoulders, for vehicular use.

—(44) Rural—Areas incorporated, or census designated of under 2,500 population.

—(45) Shoulder—The paved or unpaved portion of the roadway contiguous with the traveled way for accommodation of stopped vehicles.

—(46) Structure—Any device used to convey vehicles, pedestrians, animals, waterways or other materials over highways, streams, canyons, or other obstacles. A major structure is a highway structure with a span or multiple span length of 20 feet or more measured along the center line of the roadway and a minor structure is the same as a major structure except it is less than 20 feet.

—(47) Subbase—A layer or layers of specified or selected material of designed thickness placed on a subgrade to support a base course.

—(48) Traveled Way—The portion of the roadway for the movement of vehicles exclusive of shoulders and auxiliary lanes.

—(49) Trenched—Installed in a narrow open excavation.

—(50) UDOT—The Utah Department of Transportation.

—(51) Untrenched—Installed without breaking ground or pavement surface such as boring, jacking or augering.

—(52) Urban—A census designated area with a population of 2,500 or more or any portion of a designated Metropolitan Planning Organization planning boundary.

—(53) Utility—Privately, publicly, cooperatively or municipally owned pipe lines, facilities or systems for producing, transmitting or distributing communications, power, electricity, light, heat, gas, oil, petroleum products, cable television, water, sewer, steam, waste, storm water not connected with highway drainage, and other similar commodities, which directly or indirectly service the public or any part thereof.

—(54) Utility Facility—Pipe lines, installations or systems for transmitting or distributing communications, power, electricity, light, heat, gas, oil, petroleum products, cable television, water, sewer, steam, waste, storm water not connected with highway drainage, and other similar commodities.

—(55) Utility Line Agreement—Document by which UDOT approves the use and occupancy of highway rights of way by utility facilities or private lines.

—(56) Vent—Appurtenance to discharge gaseous accumulations from casings.

—(57) View Area—A roadside area provided for motorists to stop and view the scenery in safety.

#### **R930-6-6. Right of Way Use: Conditions and Requirements.**

—(1) General Conditions.—The following provisions are applicable to all commercial and industrial establishments, service areas, utility companies, private residences, farms, or any other property.

—(a) Transferability. No permitted interest or right of way shall be transferred to another utility or person except by written consent of UDOT.

—(b) Recognition of existing interests. UDOT recognizes that pre-existing property interests within UDOT rights of way exist. Proof of a pre-existing property interest within a public right of way

shall be accepted in the form of either a duly executed deed, grant or other document establishing the same, or at least two affidavits sufficient to establish prior right or title of the utility or person.

—In the absence of such proof, it shall be assumed that the utility or person occupies the right of way as a permittee (i.e. by permission), and enjoys no vested interest.

—In those instances when UDOT requires a utility or person with a pre-existing property interest to move completely or partially off the right of way, UDOT shall make appropriate remuneration for the relinquishment of that interest.

—(c) Indemnification.—Applicants to whom permits may be granted shall at all times indemnify and hold harmless UDOT, its employees and the State of Utah from responsibility for any damage or liability arising from their construction, maintenance, repair, operation, or use of any pole line, surface or subsurface line or other facility. The permit holder shall be responsible for the maintenance of the excavation for a period of three years in accordance with applicable specifications for excavations across State Highway rights of way.

—The adoption of these rules by UDOT does not constitute an acceptance or recognition of pre-existing property interests. UDOT assumes no liability associated with these interests and uses, either for the safety to users or the traveling public, damage to property, or for the continued use thereof.

—(d) Notice of damage.—Notification of damage to any underground utility facility by UDOT or by another utility shall be made to the affected utility as specified in Title 54, Chapter 8a and Section 72-7-102.

—(e) Installation of New Utilities, and Upgrading or Relocating of Existing Utilities.

—(i) UDOT acquires rights of way which are adequate not only for the construction of the highway facility, but also for its safe operation and maintenance. The rights of way shall be devoted exclusively to public highway purposes, except that certain nonhighway uses of rights of way may be allowed which are in the public interest provided such uses do not impair or interfere with the free and safe flow of traffic and highway maintenance.

—(ii) UDOT recognizes that it is in the public interest for utilities to jointly use the right of way of public roads and streets when such use does not interfere with the primary purpose of the highway. The opportunity for joint use avoids the additional cost of acquiring separate right of way for the exclusive accommodation of utilities.

—(iii) UDOT may require the relocation of utilities located on any highway right of way when highway changes are required to provide for the free and safe flow of traffic.

—(iv) Utility facilities owned by political subdivisions may occupy state highway rights of way to provide services to abutting residents, but utilities may not interfere with the free and safe flow of the traffic. When highway improvements require the relocation of facilities, they shall be moved at the owner's sole expense unless UDOT has agreed to pay or share in the cost of relocation as is required under Section 72-6-116.

—(v) Utility facilities owned by political subdivisions may be placed in highway rights of way that do not directly serve abutting owners. However, the relocation costs may not be funded with highway funds, and shall be totally paid for by the owner unless UDOT has agreed to pay or share in the cost of relocation as is required under Section 72-6-116.

—(vi) Reimbursement to a utility for expenses incurred in relocating its facility shall be waived as a condition of obtaining a

permit when requests are made to install new facilities within the highway right of way under any of the following circumstances:

— (A) When the installation of such facilities is to be by attachment to a highway structure. See Section R930-6-10.

— (B) When the installation is to be longitudinally along the highway under the highway prism or under a cut ditch adjacent to such highway and it does not meet the 60" inch depth requirement. See Section R930-6-6(1)(g).

— (C) When the installation is within a highway right of way in an area that is designated for construction by UDOT on its five or ten year highway improvement planning documents.

— (vii) These rules shall apply only to state highways as defined in Section 72-3-102.

— (f) Severability. If any part or parts of these rules shall be held to be unlawful, such unlawfulness may not affect the validity of the remaining parts of these rules. Nothing in these rules shall be construed to disqualify UDOT from receiving Federal participation on any Federal aid Highway Project.

— (g) Depth of Bury. Depth of bury shall be at least 0.91m (3 feet). When facilities are installed within 6.10m (20 feet) from the edge of pavement, the depth requirement is 1.52m (5 feet) in order to clear signs of delineators installed by UDOT.

#### **R930-6-7. Utility Line Agreements, Permits and Utility Installation Requirements.**

— (1) Utility line agreements. Any utility company or political subdivision desiring to use a right of way for the construction, maintenance, repair, operation, or use of any pole line, surface or subsurface line or other facility shall be licensed to do so by entering into a utility line agreement with UDOT.

— A licensing agreement may not be required for service connections after a main line has been installed.

— (2) Permits—Reasonableness and Requirements of Issuance.

— (a) Permits issued shall contain reasonable terms and conditions pertaining to crossing, digging up, or the placement, construction, and maintenance of approach roads, driveways, structures, poles, pipelines, conduits, sewers, ditches, culverts, facilities, or any other structures or objects on rights of way.

— (b) No utility or person shall work in or from, dig up, disturb, or alter the land surface or the roadway surface within the right of way of any State Highway under any utility line agreement until a permit, in writing, has first been obtained from UDOT except in emergency situations as provided in Section V.C.9 of this manual.

— The UDOT Region Director or his authorized representative shall issue permits for locating or relocating of any utility facility on rights of way. Permit applicants shall comply with all applicable environmental laws before the UDOT Region/District Director or his authorized representative shall issue a permit to proceed with any work.

— (c) Permit Process

— (i) Submit two (2) sets of plans with application. The plans shall show the right of way, all existing utilities, depth of proposed line, location of new facility in relation to center line of road, and location of manholes.

— (ii) Plans are reviewed by UDOT staff taking into consideration any future projects. If plans are approved, the permit officer will stamp them approved and give the utility company a copy and will retain an approved copy to give to the inspector.

— (iii) The utility contractor will come in and obtain the permit in the name of the utility company. The contractor will notify UDOT's inspector prior to beginning any work.

— (iv) If an inspector is not needed on the job, the contractor will notify UDOT when work is completed.

— (d) For each permit issued, UDOT shall recover the cost for:

— (i) Planning coordination;

— (ii) Administration support cost;

— (iii) Review of plans by UDOT staff;

— (iv) Field review by UDOT staff;

— (v) Inspection cost.

— (3) Utility Facility Installation Requirements.

— (a) Surety Bonds. Unless otherwise provided by prior written agreement, pursuant to Section 72-7-102, the following bonding requirements are to be met by each utility or person applying for a permit.

— (i) A minimum performance bond of \$10,000 for each project shall be required for all excavation permits except from counties and municipalities, except that the UDOT Region Director shall have power to require a bond of any county or municipality that fails to live up to the terms and conditions of any previous permit issued. Larger bonds may be required at the option of the UDOT Region Director for extensive work. Bonds shall run for a term of three (3) years after completion of the work to guarantee satisfactory performance. The UDOT may proceed against the bond to recover all expenses incurred by UDOT, its employees or representatives, in bringing the section of roadway interfered with to required standards.

— (ii) A payment bond to ensure payment of costs incurred by UDOT for planning coordination, administration and support, plan review, field review, and inspection costs. UDOT may proceed against the bond to recover all expenses incurred by UDOT.

— (b) Location.

— (i) Utility facilities shall be located in such a manner so as to:

— (A) eliminate or at least minimize need for later adjustment to accommodate future highway improvements, and

— (B) permit access for servicing with minimum interference to highway traffic.

— (ii) Longitudinal utility facility installations shall be located on uniform alignment within 0.91m (3 feet) to the right of way line so as to provide a safe environment for traffic operation and preserve space for future highway improvements or other utility installations.

— (iii) New transverse utility facility installations permitted under highways shall be placed by boring. Open excavation shall be allowed only when prior knowledge of ground conditions or demonstrated attempts to bore prove impossible.

— (iv) To the extent feasible and practicable, utility facility highway crossings shall be on a line generally 90 degrees to the highway alignment.

— (v) The horizontal and vertical location of utility facilities within the highway right of way limits shall conform with the clear zone policies as defined in the AASHTO "Roadside Design Guide", current edition. Above ground utility facilities are roadside obstacles and their location shall be consistent with the clearances applicable to all roadside obstacles for the type of highway involved. Any above ground utilities installed behind barrier curb and gutter shall be placed a minimum of 460 mm (18 inches) behind the front face of the curb when no sidewalk exists or preferably 460 mm (18 inches) behind the sidewalk when both barrier curb and gutter and sidewalk exist when right of way is available. Installation shall meet vertical clearance of electrical power lines as defined in V.2.b. "Power and Communication Lines." When a new utility pole is approved to be installed in the sidewalk area, the pole shall be

installed to allow ADA requirements for sidewalk clearance past the pole.

—(vi) It is the utility company's responsibility to maintain a set of certified reproducible plans and an electronic file showing the location of utility facilities. The utility company shall use Global Positioning System to survey their facilities in order to establish its location and maintain an accurate file to be used by UDOT. These plans shall include appropriate vertical and horizontal ties to the highway control point in order that the exact location of the facility may be established as the need may arise.

— If the utility company does not have the utility location plans and files available to give to UDOT when requested, then it is the responsibility of the utility company to obtain the actual location of their facilities at their own expense. If the utility fails to provide the information requested by UDOT within the schedule established by UDOT, UDOT will hire a Subsurface Utility Engineering consultant out of the pool and bill the utility company for the cost of locating their facilities.

—(e) Design.

—(i) Utilities shall be required to design distribution or service line crossings of freeways, spaced as needed to serve consumers in a general area along either or both sides so as to minimize the need for crossings by utility service connections. In areas where utility services are not available within a reasonable distance along the side of freeways, crossings of freeways by utility service connections may be permitted.

—(ii) All utility installations on, over, or under the rights of way of UDOT and utility attachments to highway structures shall as a minimum meet the following requirements:

—(A) Electric power and communication facilities shall conform with the most current edition of the National Electrical Safety Code.

—(B) Waterlines shall conform with the American Water Works Association (AWWA), specifications C200-86, 1987 edition and any local restrictions by political subdivisions.

— Pressure pipelines shall conform with the current American National Standards Institute (ANSI) B31.3 1993 edition including addenda B31.3a 1993, B31.3b 1994 and B31.3c 1995; American Petroleum Institute (API) 1104 for Piping, 18th edition 1994 including addenda B31.3a 1993, B31.3b 1994, and B31.3c 1995; American Society of Testing and Materials (ASTM), A53-93a and A134, A135 and A139, 1993 edition.

—(C) Liquid petroleum pipelines shall conform with the ANSI and API specifications.

—(D) Unpressurized sanitary sewer system shall conform to the ASTM specifications.

—(E) Federal Pipeline Safety Act, 49 USCA Section 60101 et. seq., July 1994 edition and Transportation of Natural Gas and Other Gas by Pipeline 49 CFR Part 192, 1995 edition.

—(iii) Pipelines located in casings, galleries or utility tunnels shall be designed to withstand expected internal pressure and to resist internal and external corrosion. Uncased pipelines shall be designed to withstand stresses due to external loading.

—(iv) Joints for carrier line pipes operating under pressure shall be of leak proof type of construction.

—(v) Ground mounted utility facilities shall be of a design compatible with the scenic quality of the specific highway section being traversed.

—(vi) All utility facilities on, over, or under on highway rights-of-way and attachments to highway structures shall be of durable materials designed for long service life expectancy reasonably free from servicing and maintenance.

—(vii) On new installations or adjustments of existing utility facilities, provision shall be made for known or planned expansion of the facilities. They shall be planned so as to avoid interference when additional overhead or underground lines are installed at some future date.

—(viii) The utility shall be responsible for the design of the facility to be installed within the highway rights of way or attached to a highway structure. UDOT shall be responsible for review and acceptance of the company's proposal particularly the manner in which the utility facility is to be installed including the measures to preserve the safe and free flow of traffic, structural integrity of the roadway or highway structure, and ease of highway maintenance and appearance of the highway.

—(g) Appurtenances.

—(i) Where pipeline carriers of hazardous transmittants are to be encased, each location shall be individually analyzed to determine the need for venting. Where vents are required, they shall be located at the high end of casings less than 46 m (150 feet) in length. Where casings are more than 46 m (150 feet) in length and vents are to be installed, they shall be placed at both ends of the casing. Vent stand pipes shall be located so as to conform with the Department's clear roadside policy and so as not to interfere with highway maintenance operations nor to be concealed by vegetation. Vent stand pipes shall preferably be located at fences or right of way lines.

—(ii) Where drains are required for tunnels, casings, or galleries enclosing carriers of liquid, liquefied gas, or heavy gas, the drains may outfall into roadside ditches or natural drainage courses approved by UDOT. When such hazardous materials are discharged into UDOT's roadside ditches or natural drainage courses, the owner of the carrier shall remove the material from UDOT's right-of-way and restore the site to its original condition at their own expense. These outfalls may not be used as a wasteway for purging the carrier unless prior written approval is obtained from the UDOT Region/District Director or his authorized representative after clearance with the Office of Loss Control.

—(iii) Utilities shall be required to install readily identifiable and suitable markers at the right of way line where it is crossed by pipelines carrying transmittants which are flammable, corrosive, expansive, energized, or unstable. Vents shall be allowed to serve as markers where possible. Markers are desirable and are encouraged by UDOT for all other pipelines.

—(iv) Location of manholes in the pavement or shoulders of major highways, including urban highways, shall be avoided. Exceptions may be made on streets at those locations where manholes are necessary to access existing utility facilities. Insofar as practicable, every effort shall be made to minimize these installations and to avoid their location at street intersections.

— Manholes shall be designed and located in such a manner that shall cause the least interference to other utilities and future highway expansion. Adjustment of manholes to fit new or reconstructed highway paving, grading or slope flattening shall be made by the utility at its own expense. To restore the highway pavement riding surface around the manhole, the utility shall pour a concrete collar around the manhole ring and cover to a width and depth approved by the UDOT Region/District Office.

—(v) Shut off valves shall be installed in lines at or near ends of structures and near areas where there may be unusual hazards unless hazardous segments can be isolated by other sectionalizing devices within a reasonable distance.

~~—(h) Inspection.~~

~~UDOT shall routinely inspect the work of the utility or their contractor to assure compliance with the agreement and to insure proper compliance with State and Federal rules and regulations. These construction inspections shall be made by the UDOT Region Director or an authorized representative. All costs of construction inspection shall be paid by the company and may be paid in advance. If the inspection costs exceed the original amount deposited by the utility, the utility shall reimburse the additional funds to UDOT within thirty (30) days of billing. Failure to do so shall be cause to revoke the permit, review the utility license and remove the utility from the right of way. UDOT shall refund any inspection fee surplus when the inspection costs underrun.~~

~~—(i) Date of Completion.~~

~~The work covered by the agreement shall be completed within a specified number of days. Failure to complete the work within the specified time shall give UDOT the option of extending the time or revoking the permit and using the bond to pay for completion of the work. Any time extension shall be in writing and approved by UDOT.~~

~~—(j) Costs.~~

~~On new installations, the entire costs of the utility facility shall be paid for by the utility. In the event a highway is reconstructed requiring adjustment of manholes or relocation of the utility on the right of way, reimbursement for the relocation shall occur pursuant to Section 72-6-116.~~

~~—(k) Beginning Construction.~~

~~All excavations and/or other operations on UDOT property or right of way may not be commenced by the utility until and after forty eight hours (48 hrs) notice is given by the utility to the UDOT Region Director or his authorized representative and a permit obtained. Construction shall be carried forward to completion in the manner required by the UDOT Region/District Director or his authorized representative.~~

~~—(l) Excavation and Backfill.~~

~~All excavation and backfill shall be made in compliance with R930-6-16 "the Specifications for Excavation on State Highway Right of way". No excavation shall be made without first obtaining and posting the required permit. The permittee shall also be cleared on a variety of environmental laws, as outlined in letter dated October 9, 1997 issued by UDOT's Deputy Director before the permit is issued. An emergency excavation may be made without prior permit if there is imminent danger or loss of life or severe damage to property. In such emergency situations, the excavating parties shall contact UDOT not later than the end of the first working day following the excavation. None of the provisions of these rules are waived for emergency situations except for the prior permit requirement. In all cases the permittee shall comply with the State Law requiring notification of all utility owners prior to excavation.~~

~~—(m) Traffic Control.~~

~~The permittee shall conduct their operation so there shall be a minimum of interference to highway traffic. The utility shall provide a traffic control plan in conformance with the current Federal Highway Administration "Manual on Uniform Traffic Control Devices", "MUTCD", during all operations of the utility, in constructing said line. No lane closure shall be made without prior approval of the UDOT Region Director or his authorized representative. Traffic control plans showing detours and signing operations shall be required in advance for review and approval for all lane closures. Peak hour lane closures may be prohibited.~~

~~—(n) Restoration of Existing Pavement.~~

~~(i) The permittee shall at their own expense replace any pavement removed or damaged with pavement of a type and depth approved by the UDOT Region Director or his authorized representative, including gravel base material. The restoration shall be accomplished within 48 hours after completion of excavation and backfill, unless additional time is granted in writing by the UDOT Region Director or his authorized representative.~~

~~(ii) New or replaced pavement shall be constructed in conformity with Section R930-6-16, the "Specifications for Excavation on State Highway Right of way", and shall be subject to the inspection and approval of the UDOT Region Director or his authorized representative. If weather conditions do not permit immediate placing of permanent pavement, a temporary pavement shall be placed. As soon as weather shall permit, the temporary pavement shall be removed and replaced with a permanent pavement. If the gravel surface, gravel shoulders or gravel surfaced approach roads becomes contaminated and is not consistent with UDOT specifications, gravel surfacing material shall be entirely removed and replaced with new gravel surfacing material. The repairs to pavement or surface shall include pavements which are damaged with construction equipment or construction operations. UDOT shall have the option of restoring the roadbed at the expense of the permittee.~~

~~—(o) Restoration of Traffic Signal Equipment.~~

~~Any traffic signal equipment or facilities which are disturbed or relocated as a result of the utility work shall be restored in accordance with plans approved by UDOT. Restoration of traffic signal equipment shall be done at the permittee's expense by a UDOT approved electrical contractor experienced in signal installation, retained by the permittee and approved in advance by UDOT. Work shall be scheduled to ensure that disruption of any traffic signal operation is kept to a minimum.~~

~~—(p) Cleaning Up Highway Right of way.~~

~~(i) Upon completion of the work, all material shall be removed from within the limits of the highway, including mud tracks on paved roads. The disturbed surface shall be carefully graded to the lines and grades established. Seeding shall be required to restore vegetation damaged or destroyed.~~

~~(ii) Any highway features or facilities such as paint stripes, signs, culverts, etc., disturbed or damaged during the progress of the work shall be properly restored to satisfy current standards and rules.~~

~~—(q) Maintenance.~~

~~The utility facility shall at all times be maintained, repaired, renewed and operated by and at the expense of the utility. The utility shall be serviced without access from any interstate highway or ramp. UDOT reserves the right, without relieving the utility of their obligation, to reconstruct or make emergency repairs to the utility as it may consider necessary. UDOT will give a utility company reasonable time to maintain their facility, but if UDOT is required to make the repairs, the utility shall reimburse UDOT its cost.~~

~~—(r) Future Highway Construction.~~

~~As a condition of permitting a new utility facility in a state right of way, UDOT will retain the right to cross such facility at any point within UDOT's right of way, necessary for future construction, expansion or improvement of it's highway system provided that UDOT uses due care in protecting the utility facility.~~

~~—(s) Liability.~~

~~Unless otherwise provided by prior written agreement, the utility or permittee is required to post a performance bond, running~~

for a term of three years after completion of the work, to guarantee satisfactory performance as provided in the agreement, license, or permit. UDOT may proceed against said bond to recover all expenses incurred by UDOT, their employees or representatives in the sections of roadway interfered with by the permittee to restore to UDOT standards. These expenses refer to all expenses incurred in the repairing of portions of the roadway determined by UDOT inspectors to be inadequately restored or maintained by the utility. The liability of the utility or permittee shall not be limited to the amount of the bond. The utility or permittee shall protect and indemnify and save harmless UDOT for any and all claims including claims from third parties for damage and/or injuries caused by construction or use of the utility facility, and from all costs and expenses, including attorney's fees.

— (t) Cancellation of License and/or Permit.

— If the utility shall fail to construct, repair or remove said utility in accordance with the terms of the agreement to the entire satisfaction of UDOT, or shall fail to pay UDOT any sum of money for the inspection, reconstruction, repair or maintenance of said utility, UDOT retains the right to cancel the permit and remove said utility and restore the highway at the sole expense of the utility. Before UDOT cancels the agreement, it may notify the utility in writing, setting forth violations and shall give the utility a reasonable time to fully correct the same.

— (u) UDOT Maintenance Operations.

— Underground facilities must be buried to the proper depth to avoid conflict with UDOT's normal and routine maintenance activities. In entering into a utility line agreement with the UDOT and obtaining an encroachment permit for the work, the utility will be required to avoid conflicts by placing its facilities to the required horizontal clearance and minimum depth of bury. The utility owner by the terms of the permit will be required to protect, indemnify and hold harmless the UDOT for damages to lines not in conformance with the horizontal or vertical clearances. Any noncompliance to the above may result in annulment of the utility company's agreement or permit.

### **R930-6.8. Pipelines.**

— (1) Location.

— (a) To the extent feasible and practicable, UDOT shall require pipeline crossings normal to the highway alignment thereby minimizing interference with traffic during construction and conflict with other highway facilities.

— (b) Conditions which are generally unsuitable or undesirable for pipeline crossings shall be avoided. These include locations in deep cuts, across cuts and fills, on steep slopes, locations near footings of bridges and retaining walls and across intersections at grade or ramp terminals. Also, locations shall be avoided at cross drains where flow of water, drift or stream bedload may be obstructed and in wet or rocky terrain where it shall be expensive to provide minimum bury.

— (c) All locations shall be subject to a plan or field review by the UDOT's Region Director or an authorized representative to insure that the proposed pipeline installation may not interfere with existing or planned highway facilities or with highway operation and maintenance processes. Installation of privately owned pipelines for the purpose of draining wetlands will not be allowed on highway rights of way.

— (2) Depth of Bury.

— (a) The critical control for bury on a pipeline crossing shall be the low point in the highway cross-section. In establishing the depth

of bury below an unpaved ditch, allowances shall be made for potential increase in ditch depth resulting from scour, ditch maintenance operations or from the need to increase the capacity of the ditch. On longitudinal installations, bury shall be controlled by the depths of lateral drainage facilities, buried cable, bridge structures, and likely highway maintenance operations.

— (b) In cold climates the depth of frost penetration shall be taken into consideration in determining the depth of bury. The use and occupancy permits and utility line agreements shall require the utility company to keep accurate records as to location and depth of bury and provide the information to UDOT as per V.C.2.f. Controls for the bury of pipelines shall be as follows:

— (i) Within the highway right of way, the grade of the top of a pipe shall be at least 0.91 m (3 feet) under the pavement surface. In areas within 6.10m (20 feet) from the edge of pavement where signs or delineators are located, utilities shall be buried to a depth of not less than 1.52 m (5 feet). Place utilities at least 600 mm (2 feet) under sidewalks, paved ditches, unlined ditches or gutters. The UDOT Region/District Director or his authorized representative may require a greater depth of bury when it is decided necessary to avoid known conflicts, the depth of bury and conflict shall be noted in the permit.

— (ii) For flexible pipe under pavement, minimum depth of bury shall be 1 m (3 feet) or 1/2 the outside diameter of the pipe whichever is greater.

— (c) Depth of bury less than the above may be permitted only when it can be shown by the company that compliance would be unreasonably costly and written approval has been obtained from the UDOT Region/District Director or his authorized representative.

— (d) Where less than minimum depth of bury is essential to avoid the laying of pipelines below the permanent water table, the top of pipe must not project into the pavement subbase. The depth of the pipe shall be approved by the UDOT Region/District Director or an authorized representative and shall be protected with a casing or capping acceptable to the Department.

— (e) Cover for pipelines carrying materials which are flammable, corrosive, expansive, energized, or unstable (particularly as carried at high or potentially high pressures) may not be reduced below acceptable safety limits.

— (3) Encasement.

— (a) Utilities and persons shall use casings for all pipes carrying hazardous transmittants which are flammable, corrosive, expansive, energized or unstable. The wall thickness of the casing shall be reviewed and approved by UDOT's Structures Division based on depth of bury, diameter of the casing and other local conditions at the site. Lines shall avoid highway structures especially those at depressed grade.

— (b) A casing shall be required for jacked or bored installations of coated carrier pipe unless there is reasonable assurance against damage to the protective coating. Rigid encasement or capping shall be required if support of pavement might be impaired by a change in shape of a flexible pipe. Encasement shall be required for any pipeline located within minimum clearances or near bridge footings or other elements of unusual hazard.

— Where federal regulations including 49 CFR Part 192 require, UDOT will allow the use of heavy wall, extra strength pipe approved by the UDOT Region Director or his authorized representative in lieu of casings as required by the two paragraphs above.

— (c) Where casings are used to cross a non-Interstate highway, the casing pipe shall extend a minimum of 10 m (30 feet) beyond the

traveled way and at least 1.5 m (5 feet) beyond the toe of fill slopes whichever is greater. This shall be the case except when the utility is located longitudinal to the highway and outside the roadway prism and longitudinal to the highway under the surfacing when permitted. Encasements will not be required in these instances. On curbed sections, the casing shall extend outside the outer curb. On freeways, expressways and other controlled access highways, easings shall extend to the access control lines.

(d) Where there is a concentration of utility crossings at any one location, utility galleries shall be considered. Utility galleries may consist of concrete box structures or large diameter reinforced concrete or corrugated steel pipe.

(e) Vent stand pipes shall be located and constructed so as not to interfere with maintenance of the highway and shall preferably be located at the fence or right of way line. Vents shall be required for galleries enclosing carriers of fuel.

(f) Casings shall be considered for pipeline crossings of a highway as follows:

(i) As an expediency in the insertion of a carrier pipe crossing where casing is necessary in order to avoid open-trenched construction.

(ii) As protection to the carrier pipe from external loads or excessive vibrations either during or after construction of the highway.

(iii) It is considered advisable to provide a means for conveying leaking fluids or gases away from the area directly beneath the traveled way to the point of venting at or near the right-of-way line.

(iv) Consideration for encasement or other suitable protection for any pipeline shall be given where there shall be less than minimum bury, the facility shall be located near footings of bridges or other highway structures where the utility shall be located in an area of unstable or subsiding ground or at any other location when there may be hazards.

(4) Installation:

Installation or replacement of pipelines along or crossing existing highways shall be controlled by the Department's specifications as described under Pipelines above. Trenched construction, when allowed, shall be accomplished in accordance with R930-6-16, UDOT specification for "Specifications for Excavation on State Highway Rights-of-way".

#### **R930-6-9. Power and Communication Lines.**

(1) Underground Electric Power and Communication Lines.

In general, controls previously outlined for pipelines as related to depth of burial, encasement and installation, shall be applied to underground installations of electric power and communication lines see Section V.D.2.a. Other controls shall be as follows: longitudinal installations shall be located on uniform alignment, preferably parallel to the roadway at or adjacent to the highway right-of-way line and beyond the clear zone and, as a minimum, 1.5 m (5 feet) beyond the fill slope, ditch or curb lines. On conventional highways, crossings of underground lines shall be suitably encased in protective conduit extending beyond the recovery and clear zone area, or 10 m (30 feet) beyond the edge of traveled way or 1.5 m (5 feet) beyond the slope, ditch or curb lines, whichever is the greater distance. On urban curbed sections conduit shall extend outside of the outer curbs of the roadway. On freeways, expressways, and other controlled access highways, longer encasement shall be required to extend to the access control lines and where appropriate under frontage roads for a sufficient distance to allow future

widening of the highway facilities. Installation parallel to the highway right-of-way shall be located a minimum distance away from the highway right-of-way line to allow room for installation equipment. However, loops shall be provided which will allow placement of above-ground appurtenances such as splice box closures, underground distribution terminals, etc., as close to the highway right-of-way as is possible, or outside of the right-of-way on private right-of-way as determined by the UDOT Region Director or his authorized representative.

(2) Overhead Power and Communication Lines:

The type of construction, vertical clearance above pavement and location of poles, guys and related ground-mounted utility appurtenances along the roadway are considered to be factors of major importance to preserve a safe traffic environment, the appearance of the highway and the efficiency and economy of highway maintenance. Careful consideration shall, therefore, be given in determining proper location for overhead utility facilities. Where ground-mounted utilities are to occupy the space between the edge of pavement and the right-of-way line, they shall be placed as far as possible from the traveled way and beyond the recovery and clear zone area. In the interest of preserving a safe roadside, highway appearance and efficiency of highway maintenance operations, the following controls shall be used for installation of overhead electric power and communication lines.

(a) Type of Construction:

(i) Longitudinal installations on the highway right-of-way shall be limited to single pole construction.

(ii) Joint use single pole construction shall be encouraged at locations where more than one utility or type of facility is involved. Particular emphasis shall be placed on this requirement at locations where the right-of-way widths approach the minimum needed for safe operations.

(b) Vertical Clearance for Power Lines, Communication Lines and Other Lines:

(i) The vertical clearance for overhead lines above the highway and the vertical and lateral clearance from bridges shall conform with the current edition of the National Electrical Safety Code, except the minimum vertical clearance above highway pavement shall exceed the National Electrical Safety Code minimum by 3.91 m (13 feet) at highway intersection and 2.44 m (8 feet) at all other locations.

(ii) Companies planning on attaching a cable to other utility company poles shall obtain a variance from UDOT by completing the "Communication Cable Release Form" (No. T-600) before a permit shall be issued by UDOT's District Permits Officer.

(iii) For Buried Cable see Section V.D.2.

(c) Location:

(i) The location of poles, guys and related ground-mounted utility facilities on freeways and other highways having partial control of access shall conform with AASHTO's "A Policy On the Accommodation of Utilities within Freeway Right of Way" February, 1989 edition.

(ii) On and along non Interstate highways, poles and related facilities shall be located at or as near as possible to the right-of-way line. As a minimum the poles shall be located outside the recovery and clear zone area for the highway section involved. Pole locations should provide for the least conflicts with highway maintenance. There is no single dimension for the width of a clear zone, but shall be based upon the 1990 Edition of the AASHTO "Policy on Geometric Design of Highways and Streets" and the AASHTO "Roadside Design Guide".

— (iii) Where there are barrier curbed sections, the utility poles shall be located as far as practicable behind the face of outer barrier curbs with a minimum of 460 mm (18 inches) and preferably behind the sidewalk section.

— (iv) Location of overhead utility installations on highways with exceptionally narrow rights of way or on urban streets with abutting improvements may be given a special consideration and shall be resolved in a manner consistent with prevailing limitations and conditions. Techniques permitted by governmental or industry codes that are conducive to a safe traffic environment shall be employed.

— (v) Guy wires to ground anchors and stub poles may not be placed between a pole and the traveled way where they encroach upon the clear zone area. Exceptions may be allowed by the UDOT Region/District Director or his authorized representative. Guy wires within the right of way may require delineation.

— (vi) Longitudinal installations of poles, guys or other related facilities may not be located in a highway median. When crossing a highway, facilities may not be located in a highway median less than 30 m (100 feet) in width. Poles and other appurtenances for highway lighting may be located in the median if other alternatives are determined to be impractical and when suitable protection can be provided to the highway user.

#### **R930-6-10. Installation on Highway Structures.**

— (1) Attaching utility lines to a highway structure can materially affect the safe operation of traffic and the efficiency of maintenance.

— (2) Utility lines will not be permitted to be installed on bridges except in extreme cases where there is a showing that any other utility location is extremely difficult and unreasonably costly to the utility consumer. In order to be considered "extremely difficult" or "unreasonable cost", the total cost of alternate routing shall exceed the cost of attaching to the structure by four times and comply with R930-6-6(1)(e)(VI).

— (3) In extreme cases covered by the paragraph above, the location and design of utility installation on bridges shall be subject to review and approval or denial by the UDOT Structures Department. Appeal to the UDOT Deputy Director may be requested if the utility disagrees with the decision of the UDOT Region/District Director or his authorized representative.

— (4) This does not apply to utility lines serving facilities required for operating the highway.

— (5) Attachment of a pipeline carrying a hazardous transmittant shall be avoided whenever possible. When allowed and the pipeline attachment is cased, the casing shall be opened or vented at each end to prevent possible buildup of pressure and to detect leakage of gases or fluids. When located near a live stream the casing shall be constructed so that leakage of the transmittant will not enter the stream.

— (6) Attachment of a utility may not be considered unless the structure is of a design that is adequate to support the additional load and can accommodate the utility without compromise of highway features.

— (7) Manholes for utility access may not be allowed in a bridge deck.

— (8) The entire utility installation on the structure shall be mounted so as not to reduce the vertical clearance otherwise available.

— (9) Utility facilities which shall occupy a position beneath the structure floor preferably shall be located between the outer girders

or beams or within a cell and at an elevation above the lowest superstructure steel or masonry.

— (10) Attachments of utility facilities to the outside of a structure may not be permitted unless there is no reasonable alternative.

— (11) Utility facility mountings shall be of a type which may not rattle due to vibrations caused by traffic. Communication and electrical power line attachments shall be suitably insulated, grounded, and preferably carried in protective conduit or pipe from the point of exit from the ground to re entry. The cable shall preferably be carried to a manhole located beyond the back wall of the structure. Carrier pipe and casing pipe shall be suitably insulated from electrical power line attachments.

— (12) Acceptable utility attachment methods are hangers and/or roller assemblies suspended either from inserts from the underside of the bridge floor or from the hanger rods clamped to the flange of some superstructure member. Bolting through the bridge floor may not be permitted.

— (13) Clearances of the utility facility from structure members shall conform to all governing codes and may not render any portion of the structure inaccessible for any maintenance function.

— (14) The utility shall be required to make satisfactory provisions for the lineal expansion and contraction of its facility due to temperature variations.

— (15) The permit shall make the utility responsible for restoration or repair of any portion of a structure or highway damaged by utility facility use.

— (16) Where a casing is not provided for a utility pipeline attachment to a structure additional protective measures shall be taken. These measures shall employ a higher factor of safety in the design, construction and testing of the pipeline than would normally be required for cased construction.

#### **R930-6-11. Utility Facility Locations Within Scenic Enhancement Areas.**

— (1) New utility facility shall be avoided whenever possible within scenic corridor strips, overlooks, rest areas, recreation areas, public parks and historical sites and adjacent rights of way.

— (2) New underground utility installations may be permitted within such areas where they do not require extensive removal or alteration of trees visible to the highway user or do not impair the appearance of the area.

— (3) New overhead installations of communication and aerial power lines shall be permitted only when other utility locations are not available or are extremely difficult and unreasonably costly, or are less desirable from the standpoint of scenic appearance. Installations may be allowed when the placing of the utility facility underground is not technically or economically feasible or is more detrimental to the scenic appearance of the area.

— (4) Overhead installations may be allowed where the proposed installation can be made at a location and in a manner that may not significantly detract from the scenic quality of the area being traversed and the facility can be designed in such a manner which shall give adequate attention to aesthetic values.

— (5) Utility installations that are needed for highway purposes, such as for continuous highway lighting, to serve a weigh station, rest or recreational area, shall be located and designed to conform with the above requirements.

**R930-6-12. Miscellaneous.**~~—(1) Preservation, Restoration and Cleanup.~~

~~The size of a disturbed area shall be kept to a minimum. Construction methods shall be in accordance with UDOT specifications and in compliance with the conditions of the utility line agreements and permits. Unsatisfactory restoration work shall be promptly repaired by the Company.~~

~~—(2) Spraying, Cutting and Trimming of Trees.~~

~~The Company shall be required to obtain written permission from the Department before disturbing trees which are located within the highway right of way. UDOT shall give written permission for only light trimming. When the removal of a tree is permitted, the stump shall be removed and the hole properly backfilled. The UDOT Region Director or his authorized representative may require replacement with several trees of the same species to assure equal restoration and mitigation in compliance with federal requirements.~~

~~—(3) Servicing, Maintenance and Repairs.~~

~~All utility facilities shall be kept in a good state of repair both structurally and from a standpoint of appearance.~~

**R930-6-13. Signs, Signals, Lighting, Crosswalks, Curb, Gutter and Sidewalks.**

~~(1) This section describes UDOT policies regarding traffic signs and street name signs, traffic signals, highway lighting, crosswalks, curb, gutter and sidewalks located within the rights of way of any State highway. Requests for the installation of and permission to install any of these facilities shall be made by permit from the appropriate UDOT Region/District Director or his authorized representative.~~

~~—(a) Community Name Signs.~~

~~UDOT shall install all community name signs. Signs for communities shown on the official highway map shall be installed by UDOT with the official community name in conformance with the Federal Highway Administration's "Manual on Uniform Traffic Control Devices" (MUTCD) and UDOT's Safety Standards. Signs shall be installed on or as close as possible to corporate boundaries. If the community desires to provide a more elaborate notice or identification of the community and/or other information, it shall be done outside the existing right of way and in accordance with the rules for outdoor advertising.~~

~~—(b) Street Name Signs.~~

~~The installation and maintenance of street name signs are not functions of UDOT. Local authorities may install street name signs within the rights of way of State highways. All signs placed within the right of way shall conform to "MUTCD" standards.~~

~~—(c) Traffic Signs, Signals, Lighting and Crosswalks.~~

~~The installation and maintenance of these items conform to "MUTCD" and UDOT standards.~~

~~—(d) Modification of Existing Traffic Control Devices.~~

~~When it is necessary to relocate traffic control signs, traffic signal poles, circuitry and appurtenant equipment or other traffic control devices as part of the permitted work, the utility shall accomplish said relocation at its expense according to a design approved by UDOT. These modifications require the applicant to provide a traffic study to evaluate the impact.~~

~~—(e) Damage to Existing Traffic Control Equipment.~~

~~Any damage to existing traffic control equipment shall be repaired or restored at permittee's expense in accordance with plans approved by UDOT.~~

~~—(f) Sidewalks.~~

~~Except as outlined in UDOT's Policy 08A-2, "Pedestrian Safety Facilities on Construction Projects" 1998, the installation of sidewalks is not normally the responsibility of UDOT. However, when a road is reconstructed and existing sidewalks are removed or destroyed, or when obligated to do so, UDOT shall construct or reconstruct said sidewalks to current standards.~~

~~—(g) Curb and Gutter.~~

~~In the interest of vehicle and pedestrian safety, efficient movement and regulation of traffic, and the more effective and economical maintenance of highway surface and drainage, UDOT may, install new curb and gutter when one or more of the conditions listed below exist.~~

~~—(i) Traffic volumes require the utilization of the entire right of way.~~

~~—(ii) Intersection channelization is needed.~~

~~—(iii) Additional right of way is necessary to provide:~~

~~—(A) standard or bituminous ditch treatment to prevent scour;~~

~~—(B) the proper and safe roadway width and slopes; and~~

~~—(C) the cost of curb and gutter, plus any additional cost made necessary by curb and gutter and installation are less than right of way costs.~~

~~—(D) Ponding occurs in an unpaved ditch because of extremely flat grades (normally less than 0.3%), and drainage does not function properly except in paved concrete gutter.~~

~~—(E) Traffic needs to flow through a narrower than normal structure.~~

~~—(F) Restriction of access and parking is necessary to protect pedestrian traffic and to obtain full utilization of the street for required capacity.~~

~~—(G) In order to control highway runoff after curb and gutter is installed, UDOT should pave full width between the curbs to be in compliance with UDOT's Policy 06A-43 "Widening Pavements to Curb and Gutter" 1999.~~

**R930-6-14. Driveways.**~~—(1) General Provisions.~~

~~(a) Control of driveway connections is necessary to provide efficient and safe operation of highways and to utilize full potential of the highway investment. Abutting landowners have rights of access consistent with their needs and the safe and efficient operation of the highway. Road users are to be provided reasonably safe highways for travel and efficient expenditure of public highway funds. UDOT is responsible to regulate and control the location, design, construction and operation of access driveways, to reconcile and, to the extent feasible, to satisfy the needs and rights of both the road user and abutting landowners.~~

~~—(b) UDOT shall utilize the whole of the right of way to the best advantage for highway purposes, by controlling the number, location, width and design of driveways from the adjacent private property.~~

~~—(c) Driveway design and location should assure reasonably good service to driveway users and at the same time minimize interference to highway traffic.~~

~~—(d) When there are several adjacent roadway establishments or when the probability of commercial development exists, consideration of a frontage road shall be given to reduce the number of connections to the highways. If impossible, the minimum number of driveways shall be allowed so that all the establishments can be served. Several businesses may share one driveway. Encroachment on the adjacent property frontage may be permitted only when an~~

agreement is entered into by the adjoining property owners for joint usage of the driveway.

— (e) UDOT will employ the following six applicable access management techniques in the review of driveway permits:

- (i) Unsignalized Access Spacing;
- (ii) Corner Clearance;
- (iii) Signalized Access Spacing;
- (iv) Medial Placement and Design;
- (v) Access Separation from Interchanges; and
- (vi) Speed Change Lanes.

— New or modified access permits may be denied based on traffic engineering standards associated with each of the six primary access management techniques, if, in the judgment of the Region Team, new or modified access points will negatively affect the safety or the efficiency of the highway users.

— (2) Provisions Governing the Location, Design and Construction of Driveways.

— (a) General

— The following directives shall apply in relation to the construction of driveways within the rights of way of any highway controlled by these regulations:

— (i) Control spacing is an integral part of these regulations. A single set of values would not be suitable for all situations. Accordingly, a range of values is given for each control dimension within which actual dimensions shall conform. Where total site traffic volumes exceed 500 ADT or projected highway traffic volumes exceed 5,000 ADT, a more detailed evaluation shall be required based upon Figures for "Access Management of Streets and Highways".

— (ii) Driveways or access points by a railroad at grade crossing must be 76.20m (250 feet) from the railroad crossing pursuant to rule R930.5.

— (b) Permits.

— (i) Anyone intending to construct a driveway from the main traveled way of the right of way line shall make written application to and secure a permit from the appropriate UDOT District office before commencing construction. Permit applicants must also comply with all environmental laws before the UDOT Region/District Director or his authorized representative can issue a permit to proceed with any work.

— (ii) The type of driveway with approved dimensions shall be clearly stated in the permit.

— Two copies of the permit shall be issued. One copy is for the applicant, and the other shall be prominently displayed at the construction site during the period of construction. Failure to properly display the permit in compliance with this regulation may result in the cancellation of the permit.

— (c) Buffer Area.

— If the buffer area between the traveled way and the right of way line requires regrading by cutting or filling work shall be done in a manner to insure adequate sight distance for traffic operation, proper drainage, suitable slopes for maintenance operations and good appearance. Trees, shrubs, ground cover or other landscape features may need to be removed, replaced or suitably adjusted. The buffer area must be free of any encroachment that would hinder traffic. The buffer area between driveways shall be graded or landscaped to prevent use by vehicles. This may be accomplished by appropriate physical barriers such as curbing, fencing, etc. in a manner that does not impair clear sight across the area.

— (d) Parking.

— (i) Each roadside business establishment shall provide sufficient private parking or storage space to handle the needs of that business. Parking or storage of vehicles on the highway right of way is not allowed unless approved by the Region/District Director. Traffic circulation on these areas must be arranged to restrict backing onto the highway. When the parking or storage area is deemed to either be inadequate or buildings or other installations do not conform to the required setback dimensions as outlined in these rules, the driveway or driveways shall be located and constructed so as to prevent the illegal storage or backing of vehicles onto the highway right of way (Section 72-7-105 "Obstructing Traffic on Sidewalks or Highways Prohibited" and Section 41-6-106 "Backing When Permissible").

— (ii) Where business establishments are located on the corner of an intersection, parking shall be prohibited for 10 m (30 feet) from the corner in each direction.

— (e) Sight Distance.

— (i) Driveways shall be located to optimize sight distance along the highway. Any encroachment on sight distance shall be allowed only when approved by the UDOT Region/District Director or his authorized representative prior to construction. Sight distances shall be in accordance with current AASHTO guidelines for Decision Sight Distance.

— The Intersection Sight Distance for Passenger Cars is based on information taken from the 1994 edition of the AASHTO Policy on Geometric Design of Highways and Streets, Chapter 9, At Grade Intersections, Case III - Stop Control on Minor Roads.

— (ii) Driveways with less than the required minimum sight distance may require changes to existing highway conditions such as right and/or left turning lanes, use of frontage roads, or other changes as required by the UDOT Region/District Director or his authorized representative.

— (iii) Additional sight distance may be required for multilane highways. In these instances, a UDOT traffic engineer shall make a traffic safety evaluation. Findings from the evaluation shall be used in designing the driveway for safe ingress and egress.

— (iv) Parking lane space shall be restricted to provide adequate radii and sight distance for turning into and out of a driveway with vehicles that are expected to use the driveway.

— (f) Setback.

— Improvements on private property adjacent to the right of way shall be so located that parking, stopping and maneuvering of vehicles on the right of way may not be necessary. Setback is normally controlled by the local government agency through its planning and zoning ordinances. However, a careful evaluation shall be conducted so that commercial operations do not service vehicles on highway right of way and so that parking operation does not require backing onto the highway.

— (g) Location and Type.

— (i) The effect of driveway location on traffic capacity and operation as well as safety should be considered. Factors to be considered may include acceleration, deceleration, weaving, blocking of driveway due to queuing at intersections, sight distance, impact on traffic signal operations, signal coordination and railroad crossings.

— (ii) Driveways generally fall into two categories. See UDOT Standard Drawing No. 715-1 Concrete Driveways and Sidewalks.

— (A) Open driveway with radius curve on returns.

— (B) For flared driveways on each side of drive.

The type of driveway with approved dimensions shall be clearly stated in the permit. Any change of the driveway type (residential, industrial, commercial, farm etc., and appropriate dimensions) shall not occur until a permit is issued by the appropriate UDOT Region office.

(h) ~~Driveways Allowed, Minimum Distances.~~  
 The number of driveways allowed and the minimum distance between driveways shall be determined to be either of the following options as determined by the Region Traffic Engineer:

(i) ~~Speed / Spacing Option:~~

TABLE 1

Posted Speed Limit Km/hr (MPH)	Driveway Spacing m (Feet)
40 Km/hr (25 mph)	32 m (105 feet)
50 Km/hr (30 mph)	38 m (125 feet)
60 Km/hr (35 mph)	46 m (150 feet)
70 Km/hr (45 mph)	70 m (230 feet)
80 Km/hr (50 mph)	84 m (275 feet)

(ii) ~~Frontage / Spacing Option:~~

(A) ~~Frontages of less than 30 m (100 feet) shall be limited to one (1) two directional driveway or two (2) one directional driveways with minimum spacing as shown:~~

TABLE 2

	Urban	Rural
Farm and Residential:	3.6 meters (12 feet) minimum	6 meters (20 feet) minimum
Industrial and Commercial:	9 meters (30 feet) minimum	9 meters (30 feet) minimum

(B) ~~Frontages of 30 m (100 feet) to 150 m (500 feet) shall be allowed not more than 2 driveways and the minimum distance between double driveways shall be as follows:~~

TABLE 3

	Urban	Rural
Farm and Residential:	15 meters (50 feet) minimum	30 meters (100 feet) minimum
Industrial and Commercial:	9 meters (30 feet) minimum	15 meters (50 feet) minimum
	15 meters (50 feet) desirable	

(C) ~~Frontages with excess of 150 m (500 feet) shall be allowed not more than 3 driveways and the minimum distance between them shall not be less than 30 m (100 feet).~~

(D) ~~Contiguous property which has more than one (1) frontage abutting State Highways shall have a maximum of two (2) driveways per frontage.~~

(i) ~~Driveway Geometries.~~

Many factors must be considered in the location and placement of driveways. Factors to be considered include: the driveway width

shall be adequate to properly handle the anticipated type and volume of traffic, and shall be within the limits specified for the particular conditions and type of roadside establishment. Requests for deviations shall be made to the Region/District Director or his authorized representative and approval of deviations may not compromise traffic flow or safety. The width and radii treatment is specified below:

(i) ~~Width of Driveway (Urban and Rural):~~

TABLE 4

Farm:	4.8 m (16 ft) minimum to 9.6 m (32 ft) maximum
Residential:	3.6 m (12 ft) minimum to 6 m (20 ft) maximum
Industrial and Commercial:	One directional: 4.6 m (15 ft) minimum to 9 m (30 ft) maximum Two directional: 7.6 m (25 ft) minimum to 15 m (50 ft)* maximum

Exceptions to driveway widths based on safety must be approved by the UDOT Region Director.

\*To be supported by traffic study.

(ii) ~~Edge Clearance.~~

Edge clearance is the distance from the edge of the driveway to the adjacent property. All portions of the driveway shall be within the frontage boundary line and its location will be determined based on either a traffic study or the following minimum standards, at the discretion of the region traffic engineer:

TABLE 5

	Urban	Rural
Farm and Residential:	4.6 m (15 ft) desirable minimum	6.0 m (20 ft) desirable minimum
Industrial and Commercial:	3.0 m (10 ft) minimum	4.6 m (15 ft) desirable minimum

Exceptions to edge clearance width based on safety must be approved by the UDOT Region/District Director or his authorized representative.

(iii) ~~Radius of Curvature (if open concrete drive is used).~~

At junction of driveway and pavement, radius of curvature may not encroach in the edge clearance or corner clearance. Requests for deviations shall be made to the Region/District Director or his authorized representative and approval of deviations may not compromise traffic flow or safety.

TABLE 6

	Urban	Rural
Farm and Residential:	3.0 m (10 ft) min. to 4.6 m (15 ft) max.	6.0 m (20 ft) min. to 9.0 m (30 ft) max.
Industrial and Commercial:	3.0 m (10 ft) min. to 18 m (60 ft) max.	7.6 m (25 ft) min. to 19.8 m (65 ft) max.
		9.0 m (30 ft) desirable

(iv) ~~Driveway Profile.~~

(A) ~~Driveway gradients shall be within the following minimum and maximum ranges, with the minimum percent grade being desirable:~~

TABLE 7

Recommended Grade Changes (D)			
	(D)	(D)	(D)
	ADT	Minimum	Maximum
Low Volume Driveway	(0-500)	6 percent (plus or minus)	Controlled by Vehicle Clearance
Medium Volume Driveway	(500-1500)	3 percent (plus or minus)	6 percent (plus or minus)
High Volume Driveway	(greater than 1500)	0 percent (plus or minus)	3 percent (plus or minus)

VERTICAL GEOMETRICS FOR DRIVEWAY  
(Refer to Figure C)

- (B) Without highway edge curb, negative slope.
- (I) From edge of traveled way to outer edge of shoulder, gradient same as shoulder slope.
- (II) From outer edge of shoulder continue gradient same as shoulder slope. If downward gradient is necessary, it should be not more than 6 percent.
- (III) At all slope changes make sure that a standard automobile can pass without dragging.
- (C) Without highway edge curb, positive slope.
- (I) From the edge of traveled way to outer edge of shoulder, gradient same as shoulder slope.
- (II) From the outer edge of shoulder continue same gradient as shoulder. If upward gradient is necessary, not more than 6 percent.
- (III) At all slope changes check for vehicle clearance at front and rear overhang.
- (D) With highway edge curbs.
- (I) Gutter line to sidewalk (if any), maximum slope difference of 6 percent between downward cross slope of traveled way and upward slope of driveway. Lower the profile of the sidewalk if necessary.
- (II) Beyond outer edge of sidewalk maintain a gradient of 6 percent.
- (v) Vertical Curves.
- (A) Vertical curves shall be as flat as feasible and at least 6 m (20 feet) long. To prevent vehicle center or overhang drag, vertical curves shall avoid a hump or dip greater than 150 mm (6 inches) within a wheelbase of 3 m (10 feet). To prevent center or overhang drag with some allowance for load and bounce, crest vertical curves should not exceed a 75 mm (3 inch) hump in a 3 m (10 foot) chord and sag vertical curves may not exceed a 50 mm (2 inch) depression in a 3 m (10-foot) chord. Rolled gutters crossed by traffic may not be deeper than 50 mm (2 inches).
- (B) Deviations from these specifications may only be permitted after written approval is obtained from the UDOT Region/District Director or his authorized representative.
- (C) Single driveways shall intersect the roadway at right angles. Where two driveways are used on one frontage and are to be used for access to and from both directions of travel on the highway, each driveway may be placed at an angle other than a right angle with the roadway edge, but the driveway angle may not be less than the specified minimum.
- (D) On uncurbed sections of highway the gradient of the driveway shall conform to the slope of the shoulder from the edge of the traveled way to the outer edge of shoulder and thence slope

downward on a suitable grade to the gutter or low point over a culvert (swale where a culvert is not used). Thereafter, it shall continue downward or upward to match the abutting property. In some cases, it may be necessary to build an uncurbed gutter of a special design to prevent drainage onto adjacent private land.

(E) Where curbs are used along the roadway and sidewalks are provided or contemplated, the gradient of the driveway usually should fit the plane of the sidewalk. If the difference in elevation of the gutter and the sidewalk is such that this is not practical, then the sidewalk shall be lowered to provide a suitable gradient for the driveway. In such case, the surface of the sidewalk shall be sloped gently from either side of the driveway. Vertical curves onto driveways shall be flat enough to prevent dragging of central or overhang portions of passenger vehicles.

- (j) Other Criteria.
- (i) Driveway Angle.

TABLE 8

Farm and Residential	90 degrees required except in special cases where minimum is 80 degrees
Industrial and Commercial	90 degrees required except in special cases where minimum is 80 degrees
For two directional use:	
For one directional use (right turns only)	
Entrance:	90 degrees maximum, 60 degrees minimum
Exit:	90 degrees maximum, 60 degrees minimum

- (A) Requests for deviations shall be made to the Region/District Director or his authorized representative and approval of deviations may not compromise traffic flow or safety.
- (B) Corner Clearances at Intersection:
- Urban 18 m (60 ft) minimum
- Rural 30 m (100 ft) minimum
- At signalized intersections increase to 30 m (100 feet).
- Requests for deviations shall be made to the Region/District Director or his authorized representative and approval of deviations may not compromise traffic flow or safety.
- (iii) Surfacing.
- Driveways shall be appropriately surfaced between the traveled way and the service area. On paved highways, the driveway shall be hard surfaced to the right of way line or 15 m (50 feet) with concrete or bituminous surfacing of suitable quality unless otherwise authorized by the UDOT Region/District Director or his authorized representative.
- (iv) Drainage.
- All driveways and buffer areas shall be constructed to maintain a positive drainage system within the highway right of way and may not alter the stability of the roadway subgrade. Surface run off originating on property under development shall be disposed of in accordance with the master drainage plan of the cities and counties. If the city or county does not have a master plan, anything in excess will be retained on site. The State is not liable for the quality of drainage waters originating at service stations or special industrial processing plants which are directed into irrigation canals through highway drainage system. Such drainage concerns should be the subject of separate agreements and permits by the developers and irrigation companies. All culverts, catch basins, drainage channels and other drainage structures required within the buffer area and

under the driveways as the result of the property being developed, shall be installed in accordance with UDOT Standard Plans and the state and/or local health ordinance specifications when applicable.

—(v) Lighting.

—Directing light beams toward the eyes of approaching drivers on the highway is prohibited. All lighting equipment for the roadside development shall be located off the highway right-of-way.

—(k) Control Signing.

—(i) The relocation or installation of highway signs, signals, lighting devices or other traffic control devices necessitated by a proposed driveway shall be by UDOT or its agent at the permittee's expense.

—(ii) The owner shall pay the cost of the original sign and installation by UDOT, after which UDOT shall be responsible for normal maintenance.

—(l) Drive-in Business.

—A permit for access to a drive-in business may not be granted unless adequate on-premise parking and storage space is provided. Parking or storing of vehicles on the State right-of-way may not be permitted. Access to the business should be from a local street system wherever possible. When the business is adjacent to a state highway, the local agency shall require the business owner to coordinate with UDOT prior to issuing a building permit.

—(m) Disabled Pedestrians.

—Work to be done shall comply with applicable federal law and UDOT Standard Drawing No. 715-2A "Disabled Pedestrian Access".

—(n) Inspection

—See Section R930-6-7(3)(h).

—(o) Standards.

—All features such as curbs, gutters, driveways, sidewalks, drainage structures and grates, etc., which are constructed on highway right-of-way as allowed by these rules, shall conform to current UDOT Standard Plans.

**R930-6-15. Right of Way Encroachments.**

—(1) Highway Encroachments.

—(a) No building or structure of any type shall be placed upon State Highway rights of way unless authorized by a permit obtained from UDOT.

—(b) No part of the right-of-way shall be used for servicing vehicles or equipment, displays, sales, exhibits, business overhang signs, parking areas, banners, or any other form of advertising, or the conduct of private business. Requests for deviations, however, may be made to the Region/District Director or his authorized representative and approval of deviations may not compromise traffic flow or safety and shall be in the public interest.

—(2) Limited Time, Special Highway Encroachments.

—Permanent private advertising or business endeavors on federally funded or other state highway rights of way is prohibited. The use of the right-of-way on a limited time basis for special advertising purposes may be allowed. A permitted encroachment is to occupy the right-of-way for a time not to exceed one week. These authorized encroachments may not compromise traffic flow or safety and shall be in the public interest.

—(3) Permits.

—For special encroachments, such as parades, Christmas decorations, handbills, banners advertising special events, etc., any individual, political entity, partnership or corporation may apply for a special permit. Requests for encroachments may be made to the Region/District Director or his authorized representative and

approval may not compromise traffic flow or safety and shall be in the public interest.

—(4) Special Limitations.

—All permits issued for special encroachments shall be subject to the following conditions:

—(a) Red or Reddish Colored Lights.

—Red or reddish colored decorations or advertising lights may not be permitted within the right-of-way.

—(b) Clearance Over Highway Surface.

—Any decoration, display, flag, banner, colored light, handbill, structure or other advertising or decoration item placed within the right-of-way shall have a minimum clearance of 6 m (20 feet).

—(c) Utility Poles.

—No decoration, display, flag, banner, colored light, handbill, structure or other advertising or decoration item shall be attached to a utility facility without written permission of the appropriate utility company.

—(d) Signs and Other Devices.

—(i) No decoration, display, flag, banner, colored light, handbill, structure or other advertising or decoration item shall block the normal view of any official highway sign or other traffic control device and signals.

—(ii) Advertising signs placed on owners real property within 90 m (300 feet) of highway rights of way may require a permit from the UDOT Region Director or an authorized representative in accordance with Section 72-7-503 "Advertising Permit Required -Penalty for Violation".

—(iii) No decoration, display, flag, banner, colored light, handbill, structure or other advertising or decoration item shall be of such shape, size, color or design to any UDOT traffic control sign, signal, marking or device.

—(iv) No attachments of any type will be allowed on traffic signals.

—(e) Sight Obstructions.

—(i) No decoration, display, flag, banner, colored light, handbill, structure or other advertising or decoration item shall obstruct the normal view of traffic.

—(ii) In accordance with Utah Code Section 41-6-19 "Removal of Plants or Other Obstructions Impairing View, Notice to Owner -Penalty", owners of real property next to highway rights of way can be ordered to remove any trees, plants, shrubs or any other obstructions that obstruct the view of motorists and thereby constitute a hazard.

—(f) Obstructing Traffic.

—No decoration, display structure or other advertising or decoration item shall be placed within the right-of-way that may obstruct, impede or endanger the normal flow of traffic.

—(g) Insurance.

—Permittee shall be required to have in force a liability insurance policy, naming UDOT as an additional insured, the amount of which shall be determined by the UDOT Region/District Director or his authorized representative.

—(h) Construction Zone.

—To assure the safe placement of the encroachment, the permittee shall provide to and have approved by UDOT a traffic control plan for the construction site.

—(5) Mailboxes.

—(a) New Mailboxes.

—(i) Application to install a new mailbox within the right-of-way of State Highways shall be made to the UDOT Region Director or his authorized representative.

—(ii) All new mailboxes placed within the right-of-way of State Highways shall be constructed in conformance with UDOT's Standard Plan Drawings 725-1 "Newspaper and Mailbox Stop Layout" 1999 and 725-1A "Newspaper and Mailbox Support Hardware" 1999.

—(b) Existing Mailboxes.

—(i) Owners of existing mailboxes which constitute a traffic hazard shall be notified in writing by the UDOT Region Director or his authorized representative. The owner shall correct any deficiencies to be in conformance with current safety standards and regulations of the Department of Transportation at his own expense within thirty (30) days of the receipt of the notice. A copy of the notice shall also be sent to the local postmaster.

—(ii) If the owner fails to comply with the notice, a Region/District representative shall contact the postmaster to stop the delivery of mail until the owner complies with UDOT's policy.

—(iii) Mailboxes and supports which are in poor repair and detract from the appearance of the highway, or if any part of the mailbox is within the shoulder of the road or is over 1270 mm (50 inches) high, it shall be considered as nonconforming and shall be reconstructed or replaced at the owner's expense.

—(iv) Mailbox supports which do not comply with the following shall be considered nonconforming and shall be reconstructed or replaced at the owner's expense.

—(A) Mailbox supports of wood with over 10,322 mm<sup>2</sup> (16 square inches) cross-sectional area.

—(B) Mailbox supports of metal shapes if the supports are over 90 mm (3.5 inches) in greatest dimension, or on a pipe of over 50 mm (2 inches) in diameter. (If such metal supports are deemed to be a hazard by the UDOT Region Director or his authorized representative, they shall be considered as nonconforming.)

#### **~~R930-6-16. Specifications for Excavation on State Highway Right-of-Way.~~**

—(1) Purpose and Scope. These specifications are to provide uniform guidance for excavation within highway rights-of-way for gas, oil, telephone, power, sewer, water, signal or television and similar facilities. These specifications are implemented to cover special requirements of work contemplated in general maintenance, improvements and additions to utility systems.

—(2) Except for emergencies no excavation shall be made without agreement or authorization from the Utah Department of Transportation.

—(3) An emergency excavation may be made by a bonded contractor, public agencies or utility companies without prior approval if the excavation is to prevent loss of life or damage to property, and the company cannot contact the Utah Department of Transportation officials. In such emergency situations the excavating party shall contact the Utah Department of Transportation on the first working day following the excavation and obtain a formal permit. Except for the prior permit requirement none of the provisions of these specifications shall be waived for emergency situations.

—(4) Transfer of Work.

—Authorized excavation work covered hereunder shall not be subcontracted or otherwise transferred to others without prior written approval of the UDOT Region Director.

—(5) Protection of Public During Construction.

—(a) The contractor shall comply with all federal, state and local laws, and ordinances, including the "Manual on Uniform Traffic Control Devices" (MUTCD).

—(b) The utility company or its contractor shall include a traffic control plan in its application for a permit. This plan shall define the limitations on contractor vehicle parking and materials storage within the clear zone unless protected by curb and gutter or other approved barrier. Access control during construction shall be described as well as protection of the public from any open excavation or other hazards. The traffic control plan shall be in conformance with the "Manual on Uniform Traffic Control Devices" (MUTCD).

—(c) Construction operations shall be conducted so that a minimum amount of interference or interruption of highway traffic results. Inconvenience to residents and businesses shall be minimized. Safe and proper connections with all intersecting public or private roads or driveways shall be maintained at all times. These roads shall be kept in usable condition, except when approval is obtained for minimum closure from the governing official having jurisdiction over the street, or the property owner of private driveway.

—(d) The contractor shall provide, erect and maintain all necessary barricades, warning lights, signals and signs, and provide watch persons and flaggers and take all reasonable and necessary precautions for the protection of the work and the safety of the public. Highways closed to traffic shall be protected by effective barricades. Suitable warning signs, illuminated at night, or other approved means shall be provided to mark the places where surfacing ends or is not compacted, or where there are other obstructions. All lights for this purpose shall be kept illuminated from sunset to sunrise. The contractor shall erect warning signs in advance of and at any place on the project where operations interfere with the use of the road by the public. Such warning signs shall be constructed and erected in accordance with the plans. Signs not required during non-work periods shall be removed or covered.

—(e) Except in cases of emergency, full road closures may not be permitted unless authorized in advance by the UDOT Region/District Director or his authorized representative. Emergency services (e.g., police, fire and ambulance) shall be advised of the closure and proposed detour routes. No work, except emergency work, shall be done at night without prior approval of the UDOT Region/District Director or his authorized representative. Flaggers shall wear colored vests and hard hats and shall be provided with hand signs clearly recognizable by motorists. All flagging and traffic protection for the work shall conform to the requirements of the Federal Highway Administration's "Manual on Uniform Traffic Control Devices" (MUTCD).

—(6) Methods of Crossing.

—Jacking or boring is preferred to open trench excavation, and shall be required in all cases of utility facilities crossing under and not parallel to paved surfaces, unless this is not feasible due to soil conditions, other utilities, substructures, or other conditions. Jetting by means of water or compressed air may not be permitted.

—(7) Removal of Pavement, Sidewalks, Curbs, Etc.

—The pavement, sidewalk, curb and gutter, driveway, etc. shall be cut vertically along the lines forming the trench so that the adjoining pavement is not damaged. The portion to be removed shall be broken up in a manner that does not cause damage to the pavement outside the limits of the trench. Any pavement damaged by operations outside the limits of the trench shall be replaced. Large broken paving materials shall be removed immediately from the site of the work.

—(8) Repairs.

—Only qualified and skilled workers shall make repairs to utility facilities.

—(9) Flowable Fill.

—(a) Unless otherwise agreed to by prior written agreement in all urban areas and on rural highways with high volume traffic as determined by UDOT, flowable fill shall be used for backfill under paved areas and shall be in conformance with the requirements of Section 03575 for "Flowable Fill" of the UDOT's "Metric Standard Specifications for Road and Bridge Construction," 1999 edition.

—(b) Flowable Fill shall be discharged from the ready mix truck by safe and reasonable means into the trench to be filled. The fill shall be brought up to the bottom of the surface course and shall be finished to provide a uniform surface.

—(c) When Flowable Fill is used for backfill the excavated materials shall be disposed of by the utility in an area outside of the highway right of way satisfactory to UDOT's Region permits officer or inspector and shall comply with environmental requirements. In rural areas or location when its use would be impractical Flowable Fill may not be required. In such cases backfill shall be in conformance with the requirements of Section 02056-2 for "Borrow, Granular Borrow and Granular Backfill Borrow" of the UDOT's "Metric Standard Specifications for Road and Bridge Construction," 1999 edition.

—(10) Compaction of Backfill.

—Materials for backfill under paved or adjacent areas used by traffic shall be sand. All large broken concrete, peat, topsoil, loam, decomposed vegetable matter and similar materials obtained from excavation shall be removed from the site prior to beginning of backfilling. All backfill shall be placed in layers not over 150 mm (6 inch) loose measure in thickness. Compaction shall be obtained by mechanical rollers, tampers, or other approved means. Material for backfilling shall be properly moistened or watered to the correct moisture content to ensure proper compaction. Jetting or internal vibrating methods of compacting sand fill or similar materials shall be permitted. No frozen material shall be used for backfill under paved surfaces. The UDOT Region/District Director or his authorized representative may require that the "dry" density of the backfill under pavements, sidewalks, curbs or other structures shall be not less than 96 percent of the laboratory standard maximum soil "dry" density as determined by compaction tests made in conformity with AASHTO, "Standard Specifications for Highway Materials and Methods of Sampling and Testing Part II," 1993 edition (AASHTO Designation T 99). The UDOT Region Director or his authorized representative may require the density of the backfill on road shoulders to be not less than 90 percent by the same standards.

—(11) Restoration of Surfaces.

—All street surfacing, curbs, gutters, sidewalks, driveways, or other hard surfaces that shall be removed in the performance of the work shall be restored in kind by the contractor in accordance with the specifications. Deviations of more than 6 mm (1/4 inch) between old and new work or within new construction shall be corrected. Such measurement shall be made from a 3 m (10 foot) minimum length straight edge.

—(12) Protection of Paved Surfaces.

—Track equipment shall use rubber cleats or paving pads when operating on or crossing paved surfaces.

—(13) Time Limit and Other Requirements.

—The contractor shall provide a paved surface on all locations remaining overnight at his own expense for all permanent pavement

removed or damaged due to excavation, unless additional time is granted in writing by the UDOT Region Director representative. If weather conditions do not permit immediate placing of permanent pavement, a temporary 80 mm (3 inch) cold mulch shall be placed. When weather conditions are favorable, the temporary pavement shall be removed and replaced with a permanent pavement. If the gravel surface, gravel shoulders, or gravel surfaced approach roads become fouled with clay or other materials, the entire surfacing shall be removed and replaced with new gravel surfacing material. The repairs to pavement or surface shall include pavements which have been damaged with construction equipment. If the utility fails to restore the roadbed to a satisfactory condition, UDOT shall restore the roadbed to a satisfactory condition. The utility shall be charged the cost of the restoration.

—(14) Restoring Concrete, or Asphalt Surfaces.

—(a) Temporary Surface

—When trenches are excavated in paved traffic lanes and the surface is replaced overnight with a temporary 80 mm (3 inch) cold mulch surface. The gravel below the cold mulch shall be placed deep enough to provide 230 mm (9 inches) of gravel for asphalt surfaces, and 305 mm (12 inches) of gravel for concrete, and concrete base asphalt wearing surfaces.

—(i) Gravel shall be placed in the trench at the time it is backfilled. The temporary cold mulch surface shall be maintained by rolling, adding cold mulch, etc., to maintain a safe, uniform surface until the final surface is placed. Excess material shall be removed immediately.

—(ii) Material for use on gravel surfaces shall be obtained from sound, tough, durable gravel or rock meeting the following requirements for grading:

TABLE 9

Passing No. 25 mm (1 inch) sieve	100 percent	100 percent
Passing No. 12.5 mm (1/2 inch) sieve	70 percent	100 percent
Passing No. 100 mm (4 inch) sieve	41 percent	68 percent
Passing No. 210 mm (16 inch) sieve	21 percent	41 percent
Passing No. 300 mm (50 inch) sieve	10 percent	27 percent
Passing No. 675 mm (200 inch) sieve	4 percent	13 percent

—(b) Asphaltic Concrete Surface.

—The subbase material and exposed edges of existing pavement shall be primed with a tack coat material. Asphaltic Concrete Mix meeting the requirements of Section 02741 "Hot Mix Asphalt" of the UDOT's 1999 Edition of the "Metric Standard Specifications for Road and Bridge Construction" shall be used. The thickness shall be equal to the adjacent surface thickness but not less than 75 mm (3 inches). On trenches crossing a highway, a Plant Mix Seal Coat shall be applied with a minimum width of 1.5 m (5 feet) on either side of the excavation. If longitudinal trench excavation is permitted under a paved road, a plant mix seal coat meeting the requirements of Section 02786 "Plant Mix Seal Coat" of the UDOT's 1999 edition of the "Metric Standard Specification for Road and Bridge Construction" shall be applied to a minimum width of 1.5 m (5 feet) over the trench or at least to the edge of the traveled lane on either side of the trench. If the trench is located in the shoulder area, a Plant Mix Seal Coat shall be placed from the edge of the traveled way to the outside edge of the shoulder. An alternative method shall be acceptable in cases where the asphalt is cut to straight uniform lines. This method shall use underlap joints and tack coat overlapping road surface in place of seal coat. Minimum thickness of asphalt patch shall be 125 mm (5 inches) when this method is used. Materials and methods shall conform to Division 02747

"Road-Mix Asphalt Surface Course" of the UDOT's 1999 Edition of the "Metric Standard Specifications for Road and Bridge Construction".

— (c) Concrete Surface.

— The subbase shall be pre-wetted just before placing the concrete. Joints and surfaces shall be made to match the original surfaces. The thickness of concrete shall be equal to the adjacent concrete, but in no case less than 180 mm (7 inches) thick. Concrete shall meet Section 505 and be placed in accordance with (Portland Cement concrete pavement) Section 408 "Portland Cement Concrete Pavement" of the State of Utah 1994 Edition of the "Standard Specifications for Road and Bridge Construction".

— (d) Concrete Base Asphaltic Wearing Surfaces.

— This type of surfacing shall be constructed as described in 2. and 3. above.

— (e) Gravel Surfaces.

— Trenches excavated through gravel surfaced areas such as gravel roads and gravel shoulders, unpaved driveways, etc., shall have the gravel surface restored and maintained, except that the gravel shall be a minimum of 25 mm (1 inch) more than the thickness of the existing gravel.

— (15) Cleanup.

— At the completion of work all equipment, barricades and other items shall be removed from the right of way. All excess material shall be removed. Adjacent borrow pits and road shoulders used for storage of excavated material shall be smoothed and graded to their original contour.

— (16) Seeding.

— Any plant growth within the highway right of way that is disturbed or removed by the utility construction operations shall be restored by him through seeding or replanting as directed by the UDOT Region/District Director or his authorized representative.

— (17) Records.

— Construction plan drawings or sketches shall be submitted before proposed work shall be approved. Construction revisions shall be documented with as constructed plans. The proposed installation shall be tied by survey to nearest permanent type marker, such as right of way, street intersection, section corners, U. S. Geological Survey, and Coast and Geodetic Triangulation Stations. Ties to highway stations when survey work has been completed shall also be accepted. The tolerance of error in these ties may not exceed one minute in direction and 30 mm (0.1 feet) in distance. Any field changes made during construction shall be noted and corrected prints furnished the UDOT Region/District Director or his authorized representative within twelve calendar days after completion of construction.

— (18) Liability

— Any individual or organization performing work within the state highway right of way shall hold the Utah Department of Transportation and its employees, and the owners and employees of any other utility company within said right of way, free and harmless from all damages caused through such operations. Any defective workmanship discovered within three years of the completion of the job shall be immediately corrected.

#### **R930-6-17. Longitudinal Access to Interstate Highway Right-of-Way for Telecommunication Facilities.**

— (1) General Provisions

— (a) The provisions of this section are authorized by the Utah Code Section 72-7-108 Longitudinal telecommunication access in

the Interstate highway system — Definitions — Agreements — Compensation — Restrictions — Rulemaking.

— (b) UDOT acquires rights of way which are adequate not only for the construction of the Interstate highway, but also for its safe operation and maintenance.

— (i) The rights of way are devoted exclusively to public highway purposes, except that certain non-highway uses of rights-of-way are allowed which are in the public interest, provided the uses do not impair or interfere with the free and safe flow of traffic and highway maintenance.

— (ii) UDOT recognizes that it is in the public interest for Providers to use the Interstate highway when it does not interfere with the primary purpose of the highway.

— (c) The term "Provider" in this chapter includes the telecommunication entity applying for permits, conducting the work, hiring subcontractors the Provider hires to complete permitted work. All references to the Provider are inclusive.

— (d) The Term "UDOT" in this chapter includes all authorized representatives of the Utah Department of Transportation.

— (e) UDOT routinely inspects the work of the Provider for compliance with the license agreement, the permit, and State and Federal regulations. UDOT bills all costs of construction inspection to the Provider, and receives the funds from the Provider.

— (i) The Provider notifies UDOT 24 hours in advance of conducting any construction.

— (ii) Failure to notify revokes the permit, causes Provider to default the telecommunication provider license, and removes the Provider from the Interstate right of way.

— (2) Permit Process

— (a) Publication of Notice of the Opportunity: UDOT advertises the availability of opportunities for constructing and installing telecommunications facilities in Interstate System highway rights-of-way.

— (b) The License Agreement. UDOT grants a license to any Provider who enters into a License Agreement with UDOT to use a right of way for construction, maintenance, repair, operation, subsurface line, and/or wireless towers.

— (c) UDOT's review team consists of the Chief Utility Engineer or his/her representative, Region Permit Officer, Region Operating Engineer, Region Environmental Engineer, Region Right of Way Engineer, Region Hydraulics Engineer, Region Traffic Engineer, ITS manager, Preconstruction Engineer, Structural Engineer and other technical expert required to properly review planned facility installation.

— (i) When the proposed project crosses several regions, a team from each region reviews the section of the project within their region.

— (ii) The review teams submit their comments and recommendation for approval to the Chief Utility Engineer or designee.

— (d) Permit application: The Provider performs work under a permit after the execution of a License Agreement.

— (i) The Provider desiring a permit to use UDOT's right of way submits to the UDOT review team a detailed set of plans showing:

— (A) proposed work

— (B) all existing facilities within the UDOT right of way

— (C) a traffic control plan

— (ii) The Provider submits a copy of the Environmental document and all required environmental permits to UDOT. Provider is responsible for complying with all environmental requirements as outlined in:

~~—(A) UDOT's Metric Specifications For Road and Bridge Construction CSI Format, Section 01355 Environmental Protection.~~

~~—(B) Letter dated October 9, 1997 issued by UDOT's Deputy Director.~~

~~—The review and approval of the Environmental Document by UDOT does not relieve the Provider from any liability due to errors or omissions in the Document.~~

~~—(iii) Except in emergency situations as provided in Section IX.8.A of this manual, UDOT does not allow any Provider or person to dig up, disturb, or alter the land surface or the roadway surface within the right-of-way of any Interstate Highway under any License Agreement until Provider or person first obtains a written permit from UDOT.~~

~~—(iv) Permits contain reasonable terms and conditions pertaining to crossing, excavating, placing, constructing, and maintaining conduits, facilities, or any other structures or objects on rights-of-way.~~

~~—(v) For each permit issued, UDOT recovers the cost of the plan reviews.~~

~~—(e) UDOT requires both a Payment Bond and a Performance Bond from the Provider at the time of the execution of the permit, and determines the amount of the bonds at the time the permit is issued.~~

~~—(i) Bonds run for three (3) years after completion of the work to guarantee satisfactory performance. The Provider's liability is not limited to the amount of the bonds.~~

~~—(ii) UDOT may proceed against the Performance Bond to recover all expenses incurred by UDOT, its employees or representatives, in bringing the section of Interstate right-of-way interfered with to required standards.~~

~~—(iii) UDOT may proceed against the Payment Bond to recover all expenses incurred by UDOT for plan review, permit issuance, and inspection costs.~~

~~—(f) The Provider may not begin excavations and/or other operations on UDOT property or right-of-way until the Provider gives notice to UDOT and obtains a permit. The Provider completes the construction in accordance with approved plans.~~

~~—(g) The Provider completes work covered by the permit as specified in the license agreement.~~

~~—(i) Failure to complete the work within the specified time gives UDOT the option of extending the time or revoking the permit and using the bond to restore UDOT's right-of-way to its original condition.~~

~~—(ii) Time extensions shall be in writing and approved by UDOT.~~

~~—(h) UDOT retains the right to cancel the permit and remove the facility and restore the Interstate right-of-way at the sole expense of the Provider.~~

~~—(i) If the Provider fails to:~~

~~—(A) Construct, maintain or remove said telecommunication facility in accordance with the terms of the permit to the entire satisfaction of UDOT, or~~

~~—(B) Pay UDOT any sum of money for the inspection, or reconstruction of UDOT's right-of-way to its original condition.~~

~~—(ii) Before UDOT cancels the permit, it notifies the Provider in writing, discloses violations, and gives the Provider a reasonable time to make full corrections.~~

~~—(3) Right of Way Use Conditions and Requirements~~

~~—The following provisions apply to all telecommunication facilities:~~

~~—(a) Do not transfer permitted interest to another Provider or person except by written consent of UDOT.~~

~~—(b) Providers to whom permits may be granted:~~

~~—(i) Shall at all times indemnify and hold harmless UDOT, its employees and the State of Utah from responsibility for any damage or liability arising from their construction, maintenance, repair, operation, or use of their facilities.~~

~~—(ii) Shall be responsible for maintaining the excavation for a period of three years in accordance with applicable specifications for excavations on Interstate highway rights-of-way.~~

~~—(c) UDOT and Provider shall comply with Utah Code 54-8a before beginning any excavations.~~

~~—(d) UDOT may require the Provider to relocate the telecommunication facilities located on any Interstate right-of-way when highway changes are required to provide for the free and safe flow of traffic.~~

~~—(4) Telecommunication Facility Installation Requirements~~

~~—(a) Provider shall locate telecommunication facilities to:~~

~~—(i) Eliminate or minimize need for later adjustment to accommodate future highway improvements, and;~~

~~—(ii) Permit access for servicing with minimum interference to highway traffic.~~

~~—(b) Providers shall locate longitudinal telecommunication facility installations on a uniform alignment no closer than 0.91 meters (3 feet) from the right-of-way fence at a location approved by UDOT to provide a safe environment for traffic operation, and preserve space for future highway improvements or other telecommunication facility provider installations.~~

~~—(c) Place by boring, new transverse telecommunication facility installations permitted under highways. Open excavation is not allowed under the Interstate pavement or within the Interstate clear zone.~~

~~—(d) To the extent feasible and practical, place telecommunication facility highway crossings on a line generally 90 degrees to the highway alignment.~~

~~—(e) Place the horizontal and vertical location of above ground telecommunication facilities within the highway right-of-way limits to conform with the clear zone policies as defined in the 1996 edition of the AASHTO "Roadside Design Guide."~~

~~—(f) Keep on file and make available to UDOT upon request, reproducible plans (including electronic plans) showing the location of the telecommunication facilities.~~

~~—(i) Electronic as-build plans available within 60 days of completion of installation.~~

~~—(ii) Redline drawings available immediately upon completion of installation at the request of UDOT.~~

~~—(iii) Files must be in format compatible with Intergraph and Microstation in accordance with UDOT CADD standards.~~

~~—(iv) The Provider maintains plans and electronic files updated with horizontal and vertical ties to the center line of the highway, so that the exact location of the facility may be established as the need arises.~~

~~—(g) In general, providers shall apply controls previously outlined for pipelines as related to burial depth, encasement, and installation to underground installations of communication lines. Other controls are as follow:~~

~~—Provide loops which will allow placement of above ground appurtenances such as splice box closures, underground distribution terminals, etc., as close to the highway right-of-way as is possible, or outside of the right-of-way on private right-of-way as determined by a UDOT authorized representative.~~

~~—(5) Design~~

~~—(a) The Provider is responsible for the design of the facility to be installed within the highway rights of way. UDOT is responsible for reviewing and accepting the Provider's proposal, particularly the installation method used including the measures to preserve the safe and free flow of traffic, structural integrity of the highway, ease of highway maintenance, and appearance of the highway.~~

~~—(b) Provider designs distribution or service line crossings of Interstate highways such that the need for crossings by telecommunication service connections is minimized.~~

~~—(c) As a minimum, meet the requirements of the 1993 edition of the National Electrical Safety Code for all telecommunication facility installations on, over, or under the UDOT rights of way.~~

~~—(d) Design ground-mounted telecommunication facilities to be compatible with the scenic quality of the specific Interstate highway section in question.~~

~~—(e) Design all telecommunication facilities on, over, or under on highway right of way of durable materials and for long service life expectancy reasonably free from servicing and maintenance.~~

~~—(f) On new installations or adjustments of existing telecommunication facilities, make known any provisions for planned expansion of the facilities. Plan to avoid interference when additional underground lines are installed at some future date.~~

~~6. Appurtenances~~

~~—(a) The Provider is required to install readily identifiable and suitable markers at 500-foot intervals or line of sight as near as practical to UDOT's right of way line.~~

~~—(b) Do not locate handholes in the pavement or shoulders of Interstate highways, unless approved by UDOT. Design and locate handholes to cause the least interference to other utilities and future highway expansion. Provider bears the cost of adjusting handholes to fit new or reconstructed highway paving, grading or slope flattening.~~

~~—(7) Costs~~

~~—(a) On new installations, the Provider pays for the entire costs of the telecommunication facility. If a highway is reconstructed requiring adjustment of handholes or relocation of the telecommunication facility on the right of way, the telecommunication facility provider assumes and pays all costs incident to adjusting handholes or relocating any part of the telecommunication facility.~~

~~—(8) Excavation and Backfill~~

~~—(a) Conduct all excavation and backfill to comply with UDOT's current edition of Metric Specifications For Road and Bridge Construction CSI Format Section 02316 Roadway Excavation, Section 03575 Flowable Fill, and Section 02317, Subsection 3.3 Backfill and Compaction (see Appendix B).~~

~~—(i) Do not excavate without first obtaining and posting the required permit.~~

~~—(ii) An emergency excavation may be made without prior permit if there is imminent danger or loss of life or severe damage to property.~~

~~—(iii) In emergency situations, contact UDOT not later than the end of the first working day following the excavation.~~

~~—(iv) No provision of this manual is waived for emergency situations except for the prior permit requirement.~~

~~—(v) In all cases, the permittee complies with the State Law requiring notification of all utilities owners prior to excavation.~~

~~—(9) Traffic Control~~

~~—(a) Conduct operations to minimize interruption to highway traffic.~~

~~—(i) Conform to the instructions of UDOT representatives, and maintain flaggers, watch persons, barricades, lights, and other measures in conformance with the current Federal Highway Administration's "Manual on Uniform Traffic Control Devices" (MUTCD) during maintenance and construction.~~

~~—(ii) Do not close lanes or shoulders without prior written approval from UDOT. Traffic control plans showing detours and signing operations are required in advance for review and approval. Peak hour lane closures are prohibited.~~

~~—(10) Restoration of Traffic Signal and Advance Traffic Management System (ATMS) Equipment~~

~~—(a) Restore any traffic signal equipment or any facilities which are disturbed or relocated as a result of the telecommunication provider work in accordance with plans approved by UDOT.~~

~~—(i) At the Provider's expense by a qualified electrical contractor experienced in signal installation, retained by the permittee and approved in advance by UDOT.~~

~~—(ii) Schedule work to minimize disruption of any traffic signal operation.~~

~~—(11) Cleaning Highway Right of Way~~

~~—(a) Upon completion of the work, remove all material from within the limits of the highway. Carefully grade the disturbed surface to the lines and grades existing prior to the excavation. Seeding and/or replacing sod and/or plants may be required to restore damaged or destroyed vegetation. Accomplish all seeding and replacing activities following UDOT's Metric Standard Specifications For Road and Bridge Construction CSI Format, Section 02922 Seed, Turf seed, and Turf Sod, and Section 02936 Vegetation Establishment Period.~~

~~—(b) Properly restore any highway features or facilities such as paint striping, signs, culverts, etc., disturbed or damaged during the progress of the work to satisfy UDOT current standards and regulations.~~

~~—(12) Maintenance~~

~~—(a) At all times maintain, repair, renew, and operate the telecommunication facility at the Provider's expense.~~

~~—(i) If the telecommunication facility interferes with the operation of the highway, UDOT will notify the telecommunication provider in writing or verbally setting forth the violations and will request that the problem be corrected.~~

~~—(ii) If the telecommunication provider does not correct the problem, UDOT reserves the right, without relieving the telecommunication provider of their obligation, to reconstruct or make emergency repairs to the telecommunication facility as it may consider necessary at the expense of the telecommunication provider.~~

~~—(13) As a condition of being given a permit for a new telecommunication facility, the Provider grants UDOT the perpetual right to cross the telecommunication facility and all associated property if UDOT needs to do so for construction, expansion, improvement or maintenance of the highway system. UDOT shall use due care in crossing the telecommunication facility.~~

~~14. Liability~~

~~The Provider shall indemnify UDOT, its officers, employees, and agents, and hold them harmless for any and all claims, including claims from third parties, arising out of the construction or use of the telecommunication facility, and from all costs or expenses, including attorneys' fees of preparing for and defending against that claim.~~

~~—(15) UDOT Maintenance Operations~~

~~—(a) Bury underground facilities to the minimum depth of 60 inches when located within 20 feet of the edge of pavement and 36~~

inches on all other locations. Obtain approval from UDOT for any deviations in depth.

— (i) In entering into the License Agreement with UDOT and obtaining an encroachment permit for the work, the Provider is required to avoid conflicts by placing its facilities to the required horizontal clearance and minimum burial depth.

— (ii) The Provider is required by the terms of the permit to protect, indemnify and hold UDOT harmless for damages to lines within the right of way, which are not in compliance with the horizontal and vertical clearances. Any noncompliance to the above may result in annulment of the Provider's agreement or permit.

— (16) Overhead Telecommunication Lines

— (a) Avoid the following except where the Executive Director or his or her designee finds hardship or impracticality:

— (i) Above ground installations

— (ii) Huts, pedestals, boxes, or other equipment and devices within the highway right of way

— (iii) Use of through traffic roadways, lanes and ramps for construction or maintenance activities

— (17) Installation on Highway Structures

— (a) Attaching telecommunication facility provider lines to a highway structure can materially affect the safe operation of traffic and the efficiency of maintenance.

— (b) Telecommunication facility may not be permitted to be installed on bridges, except in extreme cases where it is shown that any other location is extremely difficult.

— (i) The location and design of telecommunication facility installation on bridges is subject to review and approval or denial by UDOT before the Provider proceeds.

— (ii) Does not apply to telecommunication facilities required for operating the highway.

— (c) Do not consider attachment of a telecommunication facility unless the structure is of a design that is adequate to support the additional load and can accommodate the telecommunication facility without compromise of Interstate highway features.

— (d) Handholes for telecommunication provider access are not allowed in a bridge deck.

— (e) Mount the entire telecommunication facility installation on the structure so as not to reduce the vertical clearance otherwise available.

— (f) Locate telecommunication facilities which will be positioned beneath the structure floor preferably:

— (i) Between the outer girders or beams

— (ii) Or within a cell and at an elevation above the lowest superstructure steel or masonry.

— (g) Attachments of telecommunication facilities to the outside of a structure is not permitted unless there is no reasonable alternative.

— (h) Install telecommunication facility mountings which will not rattle due to vibrations caused by traffic.

— (i) Suitably insulate and ground communication line attachments, and preferably carry them in protective conduit or pipe from the point of exit from the ground to reentry.

— (ii) Preferably carry the cable to a handhole located beyond the backwall of the structure.

— (iii) Suitably insulate carrier pipe and casing pipe from electrical power line attachments.

— (i) Acceptable telecommunication facility attachment methods are hangers and/or roller assemblies suspended either from inserts from the underside of the bridge floor or from the hanger rods clamped to the flange of some superstructure member. Bolting through the bridge floor is not permitted.

— (j) Clearances of the telecommunication facility from structure members:

— (i) Conform to all governing codes.

— (ii) Do not render any portion of the structure inaccessible for any maintenance function.

— (k) Provider makes satisfactory provisions for the linear expansion and contraction of its facility due to temperature variations.

— (L) The Provider is responsible for restoration or repair of any portion of a structure or highway damaged by telecommunication facility use.

— (18) Telecommunication Facility Locations Within Scenic Enhancement Areas

— New underground telecommunication facility provider installations may be permitted within such areas where they do not require extensive removal or alteration of trees visible to the highway user or do not impair the appearance of the area.

— (19) Miscellaneous

— (a) Minimize the size of a disturbed area. Use construction methods in accordance with UDOT specifications and in compliance with the conditions of the License Agreements and permits. Promptly repair unsatisfactory restoration work.

— (b) The telecommunication provider is required to obtain written permission from UDOT before disturbing trees which are located within the Interstate right of way. When the removal of a tree is permitted, remove the stump and properly backfill the hole. UDOT may require replacement with several trees as appropriate and approved by UDOT to assure equal restoration and mitigation.

— (c) Keep all telecommunication facilities in a good state of repair both structurally and in appearance.]

**KEY: utility rules**

**[January 19, 2001]2003**

**Notice of Continuation January 22, 2002**

**72-3-109**

**72-6-116**

**72-7-102**

**72-7-108**



## NOTICES OF CHANGES IN PROPOSED RULES

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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 September 15, 2003. At its option, the agency may hold public hearings.

From the end of the waiting period through December 13, 2003, the agency may notify the Division of Administrative Rules that it wants to make the CHANGE IN PROPOSED RULE effective. When an agency submits a NOTICE OF EFFECTIVE DATE for a CHANGE IN PROPOSED RULE, the PROPOSED RULE as amended by the CHANGE IN PROPOSED RULE becomes the effective rule. The agency sets the effective date. The date may be no fewer than 30 days nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file another CHANGE IN PROPOSED RULE in response to additional comments received. If the Division of Administrative Rules does not receive a NOTICE OF EFFECTIVE DATE or another CHANGE IN PROPOSED RULE, the CHANGE IN PROPOSED RULE filing, along with its associated PROPOSED RULE, lapses and the agency must start the process over.

CHANGES IN PROPOSED RULES are governed by *Utah Code* Section 63-46a-6 (2001); and *Utah Administrative Code* Rule R15-2, and Sections R15-4-3, R15-4-5, R15-4-7, and R15-4-9.

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**The Changes in Proposed Rules Begin on the Following Page.**

**Insurance, Administration**  
**R590-157**  
**Surplus Lines Insurance Premium Tax**  
**and Stamping Fee**

**NOTICE OF CHANGE IN PROPOSED RULE**

DAR File No.: 26131  
 Filed: 07/29/2003, 12:48

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: As a result of comments received during the previous comment period, additional changes have been made to this rule.

SUMMARY OF THE RULE OR CHANGE: The substantive changes being made to this rule are: 1) Subsection R590-157-4(B) now allows, rather than requires, a late fee on a late stamping fee payment; 2) Subsection R590-157-6(H)(1) requires surplus lines producers and insurers to report monthly the fees as well as premiums and taxes on surplus lines policies, and 3) Subsection R590-157-6(H)(3) replaces the wording "profit and losses" with "income and expenses." (DAR NOTE: This change in proposed rule has been filed to make additional changes to a proposed amendment that was published in the April 15, 2003, issue of the Utah State Bulletin, on page 32. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the change in proposed rule and the proposed amendment together to understand all of the changes that will be enforceable should the agency make this rule effective.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 31A-2-201, 31A-3-303, and 31A-15-103

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: The changes made to this rule will create no cost or savings to the state's budget. It will not result in a change in revenue or the number of employees needed to do the work of the department.
- ❖ LOCAL GOVERNMENTS: This rule will have no fiscal impact on local government. The rule only deals with the relationship between surplus lines insurers, their agents and the department.
- ❖ OTHER PERSONS: The change in Subsection R590-157-4(B) will allow for the waiving of a late fee for producers submitting late filings to the Surplus Lines Association. There will be no other costs or saving to consumers or the insurance industry as a result of these changes.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The change in Subsection R590-157-4(B) will allow for the waiving of a late fee for producers submitting late filings to the Surplus Lines Association. There will be no other costs or savings to consumers or the insurance industry as a result of these changes.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: These rule changes will have very little fiscal impact on the insurance industry.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 09/16/2003.

THIS RULE MAY BECOME EFFECTIVE ON: 09/17/2003

AUTHORIZED BY: Jilene Whitby, Information Specialist

**R590. Insurance, Administration.**

**R590-157. Surplus Lines Insurance Premium Tax and Stamping Fee.**

**R590-157-1. Authority.**

This rule is promulgated pursuant to the general rulemaking authority vested in the commissioner by Section 31A-2-201, which authorizes rules to implement the Insurance Code. Specific rulemaking authority is granted by Subsection 31A-3-303(2) to prescribe accounting and reporting forms and procedures to be used in calculating and paying the surplus lines premium tax, and Subsection 31A-15-103(11)(d) to specify the stamping fee amount and how it is to be collected.

This rule supersedes Rule R590-119 Surplus Lines Stamping Fee.

**R590-157-2. Purpose and Scope.**

- A. The purpose of this rule is to prescribe:
- (1) the amount of the stamping fee and;
  - (2) the accounting and reporting forms and procedures to be used in calculating surplus lines premium taxes and stamping fees; and
  - (3) the authorized entities to examine the transaction and collect and receive the tax and fee.
- B. This rule applies to:
- (1) insurers, surplus lines producers, and policyholders who are jointly and severally liable for the payment of the premium taxes and stamping fee;
  - (2) the advisory organization authorized to examine surplus transactions; and
  - (3) the commissioner's authorized agent to collect the stamping fee and premium tax and remit the premium tax to the commissioner.

**R590-157-3. Definitions.**

For the purpose of this rule the commissioner adopts the definitions set forth in Section 31A-1-301, and the following:

A. "Stamping fee" means a percentage of policy premium payable for the examination of a surplus lines transaction as required in Subsection 31A-15-103(11).

B. "Surplus Line Association" or "Association" means the Surplus Lines Association of Utah.

C. "Surplus lines producer" means a person licensed under Subsection 31A-23-204(3) to place insurance with eligible unauthorized insurers in accordance with Section 31A-15-103.

D. "Surplus lines insurer" means an unauthorized foreign or alien insurer subject to the limitations and requirements of Section 31A-15-103, doing business in this state through surplus lines producers, and included on the commissioner's "recognized" list.

E. "Surplus lines premium" means the monetary consideration for an insurance policy procured from an unauthorized insurer, and includes policy fees, membership fees, required contributions, or monetary consideration, however designated.

F. "Surplus lines premium tax" means, as prescribed by Section 31A-3-301, a tax of 4-1/4% of gross surplus lines premiums, less 4-1/4% of return premiums paid to insureds by reason of policy cancellations or premium reductions.

G. "Surplus lines transaction" means the placement with a surplus lines insurer of an insurance policy or certificate of insurance. It also means any cancellation, endorsement, audit, or other adjustment to the insurance policy that affects the premium.

#### **R590-157-4. Stamping Fee Amounts.**

A. The surplus lines stamping fee is 1/4 of 1% of the policy premium payable for the examination of a surplus lines transaction as required in Subsection 31A-15-103(11)(d).

B. Late surplus lines stamping fee payments ~~are~~ may be subject to late fees of 25% of the stamping fee due plus 1 1/2% per month from the time of default until full payment of the fee.

#### **R590-157-5. Authorized Agency.**

A. The commissioner hereby authorizes the Surplus Line Association of Utah to act as his agent for:

(1) collecting and remitting the premium tax imposed by Section 31A-3-301 on insurance transactions described in Sections 31A-15-103, 31A-15-104, and 31A-15-106.

(2) examining surplus lines transactions under Section 31A-15-111; and

(3) collecting the stamping fee authorized under Section 31A-15-103(11).

B. The Surplus Line Association shall remit all premium taxes it collects in accordance with the procedures of Section 6.

#### **R590-157-6. Accounting Procedures.**

A. Within 60 days of the effective date of a surplus lines transaction, the surplus lines producer must file with the Surplus Line Association a copy of the policy, binder, certificate, endorsement, or other documentation sufficient to identify the subject of the insurance; the coverage, conditions, and term of insurance; the type of transaction; the effective date; the premium charged; the premium taxes payable; the name and address of the policyholder and the insurer.

B. The Surplus Line Association may prescribe the forms and procedures to be used by surplus lines producers in fulfilling Section R590-157-5.

C. The Surplus Line Association shall prepare a monthly statement of surplus lines transactions reported during the preceding 30 days for each surplus lines producer. This statement shall list the

transactions and premium amounts reported, the surplus lines premium taxes due under 31A-3-301, and the stamping fee due under Subsection 31A-15-103(11)(d).

D. The monthly statement shall be mailed to the surplus lines producers by the 5th day of each month.

E. By the 25th day of each month the surplus lines producer shall remit payment in full to the Surplus Line Association amounts due shown on the monthly statement. Premium taxes and stamping fees shall be held in trust by the surplus lines producer until remitted to the Surplus Lines Association.

F. Within three days of the date received, the Surplus Line Association shall deposit in a qualified depository approved by the Office of the State Treasurer, for the credit of the Utah Insurance Department, all funds received as payment of the surplus lines premium tax.

G. For tax credits for return premiums, which are not offset by charges in the monthly statement, the Surplus Line Association shall submit a request for payment to the Insurance Department. A reimbursement will be issued to the designated person by the Insurance Department pursuant to the Division of Finance's policies and procedures.

H. The Surplus Line Association shall prepare the following reports for the benefit of the commissioner.

(1) A monthly report shall be prepared listing the surplus lines producers reporting premiums written during the month and the amount of the premiums, taxes and fees reported. The report shall also list the names of surplus lines insurers and the amount of written premium attributed to them for the month. ~~[on the basis of both surplus lines producers and surplus lines insurers and shall list all premiums reported and taxes paid during the previous month.]~~

This report shall be submitted by the 15<sup>th</sup> of the subsequent month.

(2) An annual report shall be prepared on the basis of both surplus lines producers and surplus lines insurers and shall list all premiums reported and taxes paid during the previous calendar year. This report shall be submitted to the commissioner by January 31 of each year.

(3) An annual financial report including [profit and loss] income and expense and balance sheet for the Surplus Lines Association shall be submitted to the commissioner within 30 days of the end of the Association's fiscal year.

#### **R590-157-7. Enforcement Date.**

The commissioner will begin enforcing the revised provision of this rule 45 days from the rule's effective date.

#### **R590-157-8. Severability.**

If any provision of this rule of the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of the rule and the application of such provision to other persons or circumstances shall not be affected thereby.

#### **KEY: insurance fee, taxes**

**2003**

**Notice of Continuation March 27, 1998**

**31A-2-201**

**31A-3-303**

**31A-15-103**



## NOTICES OF 120-DAY (EMERGENCY) RULES

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An agency may file a 120-DAY (EMERGENCY) RULE when it finds that the regular rulemaking procedures would:

- (a) cause an imminent peril to the public health, safety, or welfare;
- (b) cause an imminent budget reduction because of budget restraints or federal requirements; or
- (c) place the agency in violation of federal or state law (*Utah Code* Subsection 63-46a-7(1) (2001)).

As with a PROPOSED RULE, a 120-DAY RULE is preceded by a RULE ANALYSIS. This analysis provides summary information about the 120-DAY RULE including the name of a contact person, justification for filing a 120-DAY RULE, anticipated cost impact of the rule, and legal cross-references. A row of dots in the text (. . . .) indicates that unaffected text was removed to conserve space.

A 120-DAY RULE is effective at the moment the Division of Administrative Rules receives the filing, or on a later date designated by the agency. A 120-DAY RULE is effective for 120 days or until it is superseded by a permanent rule.

Because 120-DAY RULES are effective immediately, the law does not require a public comment period. However, when an agency files a 120-DAY RULE, it usually files a PROPOSED RULE at the same time, to make the requirements permanent. Comment may be made on the proposed rule. Emergency or 120-DAY RULES are governed by *Utah Code* Section 63-46a-7 (2001); and *Utah Administrative Code* Section R15-4-8.

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### Environmental Quality, Drinking Water **R309-535**

#### Facility Design and Operation: Miscellaneous Treatment Methods

##### NOTICE OF 120-DAY (EMERGENCY) RULE

DAR FILE No.: 26503  
FILED: 07/28/2003, 14:00

##### RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This emergency rule provides specific requirements for miscellaneous water treatment methods which are primarily intended to remove chemical contaminants from drinking water or adjust the chemical composition of drinking water.

SUMMARY OF THE RULE OR CHANGE: This rule prohibits the use of lead weights to keep pump suction lines at the bottom of day or bulk storage tanks containing fluoride chemical solutions. (DAR NOTE: A corresponding proposed amendment is under DAR No. 26505 in this issue.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-4-104

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: None--There is no increase or reduction to the State budget as a result of this action.
- ❖ LOCAL GOVERNMENTS: None--There is no increase or reduction to Local governmental agencies budgets as result of this action.
- ❖ OTHER PERSONS: Little to None--Persons drinking water from systems that utilized lead weights would realize a very slight

reduction in the lead content of their water. This might have some minor savings in their long term health care expenses.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--Even if communities or public water systems changed existing lead weights for other material or methods for keeping the suction tube near the bottom the cost would be so insignificant that increased budgets would not be required.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The department agrees that this emergency action will have little to no fiscal impact on water systems presently adding fluoride chemicals to their drinking water or to those systems now being required by public vote to add fluoride chemicals.

EMERGENCY RULE REASON AND JUSTIFICATION: REGULAR RULEMAKING PROCEDURES WOULD cause an imminent peril to the public health, safety, or welfare.

Certain fluoride chemical solutions react with lead, dissolving it and thereby increasing the lead content in the drinking water jeopardizing the public health in the long term.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Bill Birkes at the above address, by phone at 801-536-4201, by FAX at 801-536-4211, or by Internet E-mail at [bbirkes@utah.gov](mailto:bbirkes@utah.gov)

THIS RULE IS EFFECTIVE ON: 08/01/2003

AUTHORIZED BY: Kevin Brown, Director

**R309. Environmental Quality, Drinking Water.**

**R309-535. Facility Design and Operation: Miscellaneous Treatment Methods.**

**R309-535-5. Fluoridation.**

Sodium fluoride, sodium silicofluoride and fluorosilicic acid shall conform to the applicable AWWA standards and/or ANSI/NSF Standard 60. Other fluoride compounds which may be available must be approved by the Executive Secretary.

(1) Fluoride compound storage.

Fluoride chemicals should be isolated from other chemicals to prevent contamination. Compounds shall be stored in covered or unopened shipping containers and should be stored inside a building. Unsealed storage units for fluorosilicic acid should be vented to the atmosphere at a point outside any building. Bags, fiber drums and steel drums should be stored on pallets.

(2) Chemical feed equipment and methods.

In addition to the requirements in R309-525-11 "Chemical Addition", fluoride feed equipment shall meet the following requirements:

(a) scales, loss-of-weight recorders or liquid level indicators, as appropriate, accurate to within five percent of the average daily change in reading shall be provided for chemical feeds,

(b) feeders shall be accurate to within five percent of any desired feed rate,

(c) fluoride compound shall not be added before lime-soda softening or ion exchange softening,

(d) the point of application of fluorosilicic acid, if into a horizontal pipe, shall be in the lower half of the pipe,

(e) a fluoride solution shall be applied by a positive displacement pump having a stroke rate not less than 20 strokes per minute,

(f) a spring opposed diaphragm type anti-siphon device shall be provided for all fluoride feed lines and dilution water lines,

(g) a device to measure the flow of water to be treated is required,

(h) the dilution water pipe shall terminate at least two pipe diameters above the solution tank,

(i) water used for sodium fluoride dissolution shall be softened if hardness exceeds 75 mg/l as calcium carbonate,

(j) fluoride solutions shall be injected at a point of continuous positive pressure or a suitable air gap provided,

(k) the electrical outlet used for the fluoride feed pump should have a nonstandard receptacle and shall be interconnected with the well or service pump,

(l) saturators should be of the upflow type and be provided with a meter and backflow protection on the makeup water line.

(m) lead weights shall not be used in fluoride chemical solutions to keep pump suction lines at the bottom of a day or bulk storage tank.

(3) Secondary controls.

Secondary control systems for fluoride chemical feed devices shall be provided as a means of reducing the possibility for overfeed; these may include flow or pressure switches or other devices.

(4) Protective equipment.

Personal protective equipment as outlined in R309-525-11(10) shall be provided for operators handling fluoride compounds. Deluge

showers and eye wash devices shall be provided at all fluorosilicic acid installations.

(5) Dust control.

(a) Provision must be made for the transfer of dry fluoride compounds from shipping containers to storage bins or hoppers in such a way as to minimize the quantity of fluoride dust which may enter the room in which the equipment is installed. The enclosure shall be provided with an exhaust fan and dust filter which place the hopper under a negative pressure. Air exhausted from fluoride handling equipment shall discharge through a dust filter to the outside atmosphere of the building.

(b) Provision shall be made for disposing of empty bags, drums or barrels in a manner which will minimize exposure to fluoride dusts. A floor drain should be provided to facilitate the hosing of floors.

(6) Testing equipment.

Equipment shall be provided for measuring the quantity of fluoride in the water. Such equipment shall be subject to the approval of the Executive Secretary.

**KEY: drinking water, miscellaneous treatment, stabilization, iron and manganese control**

**August 1, 2003**

**Notice of Continuation September 16, 2002**

**19-4-104**



**Environmental Quality, Drinking Water**  
**R309-545**  
**Facility Design and Operation: Drinking**  
**Water Storage Tanks**

**NOTICE OF 120-DAY (EMERGENCY) RULE**

DAR FILE NO.: 26507

FILED: 07/28/2003, 14:03

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This emergency rule provides specific requirements for public drinking water storage tanks and emphasize the requirement of a referenced standard that steel tanks be constructed from new, previously unused plates.

SUMMARY OF THE RULE OR CHANGE: This rule adds text that requires steel tanks to be constructed from new, previously unused plates and designed in accordance with AWWA Standard D-100. (DAR NOTE: A corresponding proposed amendment is under DAR No. 26506 in this issue.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-4-104

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: None--There is no increase or reduction to the State budget as a result of this action.

❖ LOCAL GOVERNMENTS: None--There is no increase or reduction to Local governmental agencies budget as result of this action.

❖ OTHER PERSONS: Little to None--Consulting Engineering firms may have to seek an "exception to rule" as well as provide slight modifications in their specifications concerning the preparation of used plates prior to being used in addition to justification for their use over new plates.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Little to None--Public water systems may be required to take greater precautions in the preparation of used plates than before as well as justify to the Executive Secretary why they should be allowed to utilize used plates rather than new plates.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The department agrees that this emergency action will have little to no fiscal impact on water systems presently installing drinking water tanks utilizing used plates and that the cost for systems in the future that wish to utilize such lies more in the justification than in the slight additional cost associated with greater precautions in the preparation of used plates.

EMERGENCY RULE REASON AND JUSTIFICATION: REGULAR RULEMAKING PROCEDURES WOULD cause an imminent peril to the public health, safety, or welfare.

Some public water systems have or are now installing drinking water tanks utilizing plates from tanks previously used in the petroleum industry with minimal preparation. We want such systems to be: 1) aware of the AWWA requirement; and 2) if they must utilize such tanks, we want justification and more precautions taken in the preparation of such plates which could be accomplished under review and application for an "exception to rule" allowed by Subsection R309-105-6(2)(b).

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Bill Birkes at the above address, by phone at 801-536-4201, by FAX at 801-536-4211, or by Internet E-mail at bbirkes@utah.gov

THIS RULE IS EFFECTIVE ON: 08/01/2003

AUTHORIZED BY: Kevin Brown, Director

**R309. Environmental Quality, Drinking Water.**  
**R309-545. Facility Design and Operation: Drinking Water Storage Tanks.**

**R309-545-6. Tank Material and Structural Adequacy.**

(1) Materials.

The materials used in drinking water storage structures shall provide stability and durability as well as protect the quality of the stored water. Steel tanks shall be constructed from new, previously

unused, plates and designed in accordance with AWWA Standard D-100.

(2) Structural Design.

The structural design of drinking water storage structures shall be sufficient for the environment in which they are located. The design shall incorporate a careful analysis of potential seismic risks.

**KEY: drinking water, storage tanks, access, overflow and drains**  
**August 1, 2003**  
**Notice of Continuation September 16, 2002**  
**19-4-104**



## Human Services, Services for People with Disabilities

# R539-1-6

### Reductions and/or Discharge

#### NOTICE OF 120-DAY (EMERGENCY) RULE

DAR FILE NO.: 26508

FILED: 07/28/2003, 15:43

#### RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This emergency rule clarifies the authority of the Division to reduce or terminate services.

SUMMARY OF THE RULE OR CHANGE: The Division is adding a statement to clarify that due to budget shortfalls, reduced legislative allocations and/or reevaluations of eligibility, Non-Waiver Persons or Waiver Persons receiving non-Waiver services may have reductions in service packages or be discharged from services completely. (DAR NOTE: A corresponding proposed amendment is under DAR No. 26520 in this issue.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 62a-5-105

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The implementation of this new section is one of the many processes the Division is taking to clarify the eligibility process. Any monies saved will be used toward balancing the budget deficits.

❖ LOCAL GOVERNMENTS: No local government funding is used in any of these activities, therefore it is expected that there is no cost to local governments.

❖ OTHER PERSONS: Non-Waiver Persons or Waiver Persons receiving non-Waiver services may have reductions in service packages or be discharged from services completely.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Non-Waiver Persons or Waiver Persons receiving non-Waiver services may have reductions in service packages or be discharged from services completely.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Providers may lose funding if a

Person is discharged from services due to budget reductions or a reevaluation of eligibility.

EMERGENCY RULE REASON AND JUSTIFICATION: REGULAR RULEMAKING PROCEDURES WOULD cause an imminent budget reduction because of budget restraints or federal requirements.

Due to budget deficits the Division must reevaluate service packages and individual eligibility.

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

HUMAN SERVICES  
SERVICES FOR PEOPLE WITH DISABILITIES  
Room 411  
120 N 200 W  
SALT LAKE CITY UT 84103-1500, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
Meredith Mannebach at the above address, by phone at 801-538-4197, by FAX at 801-538-4279, or by Internet E-mail at [mmannebach@utah.gov](mailto:mmannebach@utah.gov)

THIS RULE IS EFFECTIVE ON: 07/28/2003

AUTHORIZED BY: Robin Arnold-Williams, Executive Director

**R539. Human Services, Services for People with Disabilities.**

**R539-1. Eligibility.**

**R539-1-6. Reductions and/or Discharge.**

(1) Persons not participating in a Waiver or Persons participating in a Waiver but are receiving non-Waiver services may have reductions in service packages or be discharged from services completely, due to budget shortfalls, reduced legislative allocations and/or reevaluations of eligibility.

**KEY: disabled persons, social services**

**July 28, 2003**

**Notice of Continuation December 18, 2002**

**62A-5-103**

**62A-5-105**



**End of the Notices of 120-Day (Emergency) Rules Section**

# FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

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Within five years of an administrative rule's original enactment or last five-year review, the responsible agency is required to review the rule. This review is designed to remove obsolete rules from the *Utah Administrative Code*.

Upon reviewing a rule, an agency may: repeal the rule by filing a PROPOSED RULE; continue the rule as it is by filing a NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (NOTICE); or amend the rule by filing a PROPOSED RULE and by filing a NOTICE. By filing a NOTICE, the agency indicates that the rule is still necessary.

NOTICES are not followed by the rule text. The rule text that is being continued may be found in the most recent edition of the *Utah Administrative Code*. The rule text may also be inspected at the agency or the Division of Administrative Rules. NOTICES are effective when filed. NOTICES are governed by *Utah Code* Section 63-46a-9 (1998).

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## Agriculture and Food, Administration **R51-5** Grazing Advisory Boards

### FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 26515  
FILED: 07/30/2003, 08:36

### NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsections 4-2-2(1)(f) and 4-2-2(1)(j) authorize the department to administer and enforce rules. Section 4-20-9 authorizes the department commission to supervise distribution of undistributed funds if the United States alters or discontinues funding, leaving funds or resources available.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is established for the purpose of reinstating the Grazing Advisory Boards and should be continued. The reinstated boards will direct the expenditure of the funds collected by the Secretary of the Interior under the Taylor Grazing Act.

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

AGRICULTURE AND FOOD  
ADMINISTRATION  
350 N REDWOOD RD  
SALT LAKE CITY UT 84116-3087, or  
at the Division of Administrative Rules.

### DIRECT QUESTIONS REGARDING THIS RULE TO:

Kyle Stephens at the above address, by phone at 801-538-7102, by FAX at 801-538-7126, or by Internet E-mail at [kylestephens@utah.gov](mailto:kylestephens@utah.gov)

AUTHORIZED BY: Cary G. Peterson, Commissioner

EFFECTIVE: 07/30/2003



## Environmental Quality, Air Quality **R307-325** Davis and Salt Lake Counties and Ozone Nonattainment Areas: Ozone Provisions.

### FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 26525  
FILED: 08/01/2003, 12:40

### 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: Rule R307-325 requires that sources of volatile organic compounds and nitrogen oxides, precursors to ozone, reduce those emissions in counties where ozone levels exceed the federal health-based standard. 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 contaminants source..." Subsection 19-2-101(2) states "It is the policy of this state and the purpose of this chapter to achieve and maintain levels of air quality which will protect human health and safety..."

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS

SUPPORTING OR OPPOSING THE RULE: No written comments have been received in the last five years.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: These requirements have been in place since 1981, and are a required component of Utah's Ozone Maintenance Plan and should be continued.

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

ENVIRONMENTAL QUALITY  
 AIR QUALITY  
 150 N 1950 W  
 SALT LAKE CITY UT 84116-3085, 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 janmiller@utah.gov

AUTHORIZED BY: M. Cheryl Heying, Planning Branch Manager

EFFECTIVE: 08/01/2003



Environmental Quality, Air Quality  
**R307-326**  
 Davis and Salt Lake Counties and  
 Ozone Nonattainment Areas: Control  
 of Hydrocarbon Emissions in  
 Refineries.

**FIVE YEAR NOTICE OF REVIEW AND  
 STATEMENT OF CONTINUATION**

DAR FILE No.: 26526  
 FILED: 08/01/2003, 12:47

**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: RuleR307-326 requires that refineries limit their emissions of volatile organic compounds, a precursor to ozone, in counties where ozone levels may exceed the federal health-based standard. 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 contaminants source..." Subsection 19-2-101(2) states "It is the policy of this state and the purpose of this chapter to achieve and maintain levels of air quality which will protect human health and safety..."

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received in the last five years.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: These requirements are a required component of Utah's Ozone Maintenance Plan and should be continued.

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

ENVIRONMENTAL QUALITY  
 AIR QUALITY  
 150 N 1950 W  
 SALT LAKE CITY UT 84116-3085, 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 janmiller@utah.gov

AUTHORIZED BY: M. Cheryl Heying, Planning Branch Manager

EFFECTIVE: 08/01/2003



Environmental Quality, Air Quality  
**R307-327**  
 Davis and Salt Lake Counties and  
 Ozone Nonattainment Areas:  
 Petroleum Liquid Storage

**FIVE YEAR NOTICE OF REVIEW AND  
 STATEMENT OF CONTINUATION**

DAR FILE No.: 26528  
 FILED: 08/01/2003, 13:35

**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: Rule R307-327 requires that refineries have measures in place to reduce emissions of volatile organic compounds, a precursor to ozone, from their large storage tanks in counties where ozone levels may exceed the federal health-based standard. 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 contaminants source..." Subsection 19-2-101(2) states "It is the policy of this state and the purpose of this chapter to achieve and maintain levels of air quality which will protect human health and safety..."

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received in the last five years.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: These requirements are a required component of Utah's Ozone Maintenance Plan, and the rule should be continued.

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

ENVIRONMENTAL QUALITY  
AIR QUALITY  
150 N 1950 W  
SALT LAKE CITY UT 84116-3085, 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 janmiller@utah.gov

AUTHORIZED BY: M. Cheryl Heying, Planning Branch Manager

EFFECTIVE: 08/01/2003

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**Environmental Quality, Air Quality**  
**R307-413**  
**Permits: Exemptions and Special Provisions**

**FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

DAR FILE NO.: 26524  
FILED: 08/01/2003, 12:22

**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: Rule R307-413 specifies exemptions and special provisions to the requirements of Rule R307-401 that sources of air contaminants receive an approval order before constructing sources of air pollution. Each approval order includes any necessary limitations on the operation and emissions of the source. 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 contaminants source...." Subsection 19-2-108 authorizes the Board to require a notice of intent to construct from each source of air pollutants.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received in the last five years.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Without the exemptions in Rule R307-413, all sources of air contaminants would be required to obtain approval orders. This is not necessary for the protection of public health from air pollution, and would be a burden to small sources and small businesses, therefore this rule should be continued.

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

ENVIRONMENTAL QUALITY  
AIR QUALITY  
150 N 1950 W  
SALT LAKE CITY UT 84116-3085, 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 janmiller@utah.gov

AUTHORIZED BY: M. Cheryl Heying, Planning Branch Manager

EFFECTIVE: 08/01/2003

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**Health, Health Systems Improvement,  
Child Care Licensing**

**R430-90**

**Licensed Family Child Care**

**FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

DAR FILE NO.: 26511  
FILED: 07/29/2003, 11:22

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 26, Chapter 39, creates the Child Care Licensing Act and requires the Department to make and enforce rules. Section 26-39-104 requires the following rulemaking: 1) With regard to child care programs licensed pursuant to this chapter, the department may: a) make and enforce rules to implement the provisions of this chapter and, as necessary to protect children's common needs for a safe and healthy environment, to provide for: i) adequate facilities and equipment; and ii) competent caregivers considering the age of the children and the type of program offered by the licensee.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: This rule became effective August 20, 1998. In 1997 H.B. 113 transferred the authority to license child care programs from the Department of Human Services to the Utah Department of Health, Bureau of Licensing. There have been three amendments to the rule after the licensed family child care standards were extracted from Rule R430-100. In September 1999, the rule was modified to implement changes with the passage of S.B. 167 Child Care Licensing Amendments and the changes to Title R388. These changes eliminated the tuberculosis (TB) testing every two years and clarified that caregivers' children under the age of four count toward ratios and all children under age 14 count in licensed capacity. No comments were received. In October 2000, comments were received from Karen Silver, Salt Lake Community Action Program, regarding the number of children under age four as provided in S.B. 167. Ms. Silver requested that the Department adopt a standard where "school age children should be seen and heard." January 14, 2002, the rule was amended to coordinate standards to match Rule R430-100 changes. The final rule amendment was February 15, 2002, when the Administrative Rules Review Committee and the Attorney General's Office issued an opinion which required Licensed Family Child Care providers to comply with the Section 53-5-701, Concealed Weapons Permit. No written comments were received. (DAR NOTES: H.B. 113 is found at UT L 1997 Ch 196 and was effective July 1, 1997. S.B. 167 is found at UT L 1999 Ch 77 and was effective May 3, 1999. The changes to Rule R430-100 were published in the January 15, 2002, Bulletin under DAR No. 24348, and the April 15, 2002, Bulletin under DAR No. 24638 and were effective February 15, 2002, and May 31, 2002, respectively.)

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R430-90 is the rule establishing the minimum health and safety standards for operating a licensed family child care home. Continuation of the rule is required to ensure that the public is able to understand the minimum standards to expect in a licensed family child care home to provide a safe environment for children. The Department replied to public comments by letter to ensure that the providers and public understand the limits to the authority to regulate providers. In licensing and regulating child care programs, the department shall reasonably balance the benefits and burdens of each regulation and, by rule, provide for a range of licensure, depending upon the needs and different levels and types of child care provided.

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

HEALTH  
HEALTH SYSTEMS IMPROVEMENT,  
CHILD CARE LICENSING  
CANNON HEALTH BLDG  
288 N 1460 W  
SALT LAKE CITY UT 84116-3231, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Debra Wynkoop at the above address, by phone at 801-538-6152, by FAX at 801-538-6325, or by Internet E-mail at debwynkoop@utah.gov

AUTHORIZED BY: Rod L. Betit, Executive Director

EFFECTIVE: 07/29/2003



## Human Services, Mental Health, State Hospital **R525-6**

### Prohibited Items and Devices

#### FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 26516  
FILED: 07/30/2003, 11:05

#### NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized under Subsection 62A-15-603(4), Section 76-8-311.1, and Subsection 76-8-311.3(2).

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received during the past five years.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Utah State Hospital (USH) continues to require a secure campus for the safety of the patients, the employees, and the public. This rule informs the public of items that are prohibited, for safety reasons, on the USH campus and should be continued. This rule complies with Utah law.

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

HUMAN SERVICES  
MENTAL HEALTH, STATE HOSPITAL  
UTAH STATE HOSPITAL  
PROVO UT 84603-0270, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Danette Faretta-Brady at the above address, by phone at 801-344-4217, by FAX at 801-344-4225, or by Internet E-mail at dfaretta@utah.gov

AUTHORIZED BY: Mark Payne, Superintendent

EFFECTIVE: 07/30/2003



Regents (Board Of), University of Utah,  
Administration

**R805-2**

Government Records Access and  
Management Act Procedures

**FIVE YEAR NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

DAR FILE No.: 26499

FILED: 07/23/2003, 16:31

**NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 63-2-204(2) (1992) authorizes Rule R805-2 by allowing a governmental entity to make rules on access to government records, in accordance with Title 63, Chapter 46a, the Utah Administrative Rulemaking Act. Subsection 63-2-904(2) (1992) authorizes Rule R805-2 because a governmental entity under Title 63 may specify by rule how the GRAMA requirements will be undertaken. Subsection 63-46a-3(3) (2001) requires Rule R805-2 because the University is effectively issuing a written interpretation of the procedural mandates of Government Records and Management Act (GRAMA).

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS

SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R805-2 presents clear and precise procedures for access to government records at the University of Utah in compliance with the GRAMA. Rule R805-2 considers the University of Utah a single governmental entity, and establishes a single Records Officer who acts as the presiding officer for appeals, classification, designation determinations, or denied requests to amend records. Rule R805-2 also provides that all requests for access to records must be in writing, and presents a useful list of the contact persons for all different types of records. The University's ability to respond efficiently to GRAMA requests has been facilitated by this rule and it should be continued.

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

REGENTS (BOARD OF)  
UNIVERSITY OF UTAH, ADMINISTRATION  
Room 309 PARK BLDG  
201 S PRESIDENTS CIR  
SALT LAKE CITY UT 84112-9009, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
Robert W. Payne at the above address, by phone at 801-585-7002, by FAX at 801-585-7007, or by Internet E-mail at robert.payne@legal.utah.edu

AUTHORIZED BY: Phil Johnson

EFFECTIVE: 07/23/2003



**End of the Five-Year Notices of Review and Statements of Continuation Section**

## NOTICES OF RULE EFFECTIVE DATES

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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.

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### Abbreviations

AMD = Amendment  
CPR = Change in Proposed Rule  
NEW = New Rule  
R&R = Repeal and Reenact  
REP = Repeal

### Alcoholic Beverage Control

#### Administration

No. 26322 (AMD): R81-1. Scope, Definitions, and General Provisions.

Published: June 15, 2003

Effective: August 1, 2003

No. 26323 (AMD): R81-3. Package Agencies.

Published: June 15, 2003

Effective: August 1, 2003

No. 26324 (AMD): R81-4A. Restaurants.

Published: June 15, 2003

Effective: August 1, 2003

No. 26325 (AMD): R81-4B. Airport Lounges.

Published: June 15, 2003

Effective: August 1, 2003

No. 26326 (NEW): R81-4C. Limited Restaurant Licenses.

Published: June 15, 2003

Effective: August 1, 2003

No. 26327 (NEW): R81-4D. On-Premise Banquet License.

Published: June 15, 2003

Effective: August 1, 2003

No. 26328 (AMD): R81-5. Private Clubs.

Published: June 15, 2003

Effective: August 1, 2003

No. 26329 (AMD): R81-6-4. Public Service Permittee Operating Guidelines.

Published: June 15, 2003

Effective: August 1, 2003

No. 26330 (AMD): R81-7. Single Event Permits.

Published: June 15, 2003

Effective: August 1, 2003

No. 26332 (AMD): R81-10. On-Premise Beer Retailer.

Published: June 15, 2003

Effective: August 1, 2003

No. 26336 (NEW): R81-10B. Temporary Special Event Beer Permits.

Published: June 15, 2003

Effective: August 1, 2003

No. 26333 (AMD): R81-12. Manufacturer Representative (Distillery, Winery, Brewery).

Published: June 15, 2003

Effective: August 1, 2003

### Commerce

No. 26260 (AMD): R151-33-102. Definitions.

Published: June 1, 2003

Effective: July 23, 2003

### Occupational and Professional Licensing

No. 26297 (AMD): R156-26a-302a. Qualifications for CPA licensure - Education Requirements.

Published: June 15, 2003

Effective: July 17, 2003

No. 26153 (CPR): R156-56. Utah Uniform Building Standard Act Rules.

Published: June 15, 2003

Effective: July 17, 2003

### Crime Victim Reparations

#### Administration

No. 26381 (AMD): R270-1. Award and Reparations Standards.

Published: July 1, 2003

Effective: August 1, 2003

### Insurance

No. 26283 (AMD): R590-152. Medical Discount Programs Rule.

Published: June 1, 2003

Effective: July 16, 2003

### Regents (Board Of)

No. 26391 (AMD): R765-685. Utah Educational Savings Plan Trust.

Published: July 1, 2003

Effective: August 1, 2003

**RULES INDEX  
BY AGENCY (CODE NUMBER)  
AND  
BY KEYWORD (SUBJECT)**

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The *Rules Index* is a cumulative index that reflects all effective changes to Utah's administrative rules. The current *Index* lists changes made effective from January 2, 2003, including notices of effective date received through August 1, 2003, the effective dates of which are no later than August 15, 2003. The *Rules Index* is published in the *Utah State Bulletin* and in the annual *Index of Changes*. Nonsubstantive changes, while not published in the *Bulletin*, do become part of the *Utah Administrative Code (Code)* and are included in this *Index*, as well as 120-Day (Emergency) rules that do not become part of the *Code*. The rules are indexed by Agency (Code Number) and Keyword (Subject).

DAR NOTE: Because of publication constraints neither index is included in this *Bulletin*. These difficulties with the index are related to a software package used by the Division to create the *Bulletin* and related publications; we hope to have them resolved as soon as possible. If you have any questions regarding the index, please contact Nancy Lancaster (801 538-3218), Mike Broschinsky (801 538-3003), or Kenneth A. Hansen (801 538-3777).

A copy of the *Rules Index* is available for public inspection at the Division of Administrative Rules (4120 State Office Building, Salt Lake City, UT), or may be viewed online at the Division's web site (<http://www.rules.utah.gov/>).

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