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NOTICES OF PROPOSED RULES

A state agency may file a PROPOSED RULE when it determines the need for a new rule, a substantive change to an existing rule, or a repeal of an existing rule. Filings received between September 17, 2002, 12:00 a.m., and October 1, 2002, 11:59 p.m. are included in this, the October 15, 2002, 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 Rules being repealed are completely struck out.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 November 14, 2002. 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 February 12, 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.

The Proposed Rules Begin on the Following Page.

Administrative Services, Risk Management

R37-4

Adjusted Utah Governmental Immunity Act Limitations on Judgments

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 25406

FILED: 09/25/2002, 12:30

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Subsection 63-30-34(4)(b) requires the Utah State Risk Manager to calculate and establish, every other year, new limitations on judgments based on increases or decreases to the Consumer Price Index (CPI) and to submit these changes in administrative rule (S.B. 35, 2000 session). This rule reflects the calculations of the changes in the CPI. The increase in the CPI is reflected in an increase in the maximum dollar amounts that the court can award in cases involving Utah state and local government entities. A 6.5% increase in the CPI is reflected in this rule. (DAR NOTE: S.B. 35 is found at UT L 2000 Ch 157, and was effective July 1, 2001.)

SUMMARY OF THE RULE OR CHANGE: This rule will increase the maximum dollar amount that the courts can award in judgment against a Utah governmental entity. The CPI increased by 6.5%. This increase means that one person in any one occurrence can be awarded \$532,500. If the case involves two or more persons in any one occurrence the maximum amount that can be awarded is \$1,065,000.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 63-30-34(4)(b)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The implementation of this rule will result in the maximum amount that a court can award for one person in any one occurrence to increase by \$32,500 or a maximum of \$532,500. The implementation of this rule will also result in an increase of \$65,000 to the maximum that a court can award to two or more person in any one occurrence. The maximum will increase from \$1,000,000 to \$1,065,000. These changes will result in higher costs to the State.

❖ LOCAL GOVERNMENTS: The increases to local governments will be same as for State government. The caps on awards will increase from \$500,000 for one person in any one occurrence to \$532,500 and from \$1,000,000 to \$1,065,000 for two or more persons in any one occurrence. These changes will likely result in higher costs to local governments.

❖ OTHER PERSONS: No impact because the rule only applies to entities covered by the Utah Governmental Immunity Act.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No impact because the rule only applies to entities covered by the Utah Governmental Immunity Act.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule has no impact on business. Camille Anthony

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

ADMINISTRATIVE SERVICES
RISK MANAGEMENT
Room 5120 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:

Mike Sanders at the above address, by phone at 801-538-9560, by FAX at 801-538-9597, or by Internet E-mail at msanders@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 11/14/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 11/15/2002

AUTHORIZED BY: Alan Edwards, Director

R37. Administrative Services, Risk Management. **R37-4. Adjusted Utah Governmental Immunity Act Limitations on Judgments.**

R37-4-1. Authority and Calculation Process

Pursuant to UCA 63-30-34(4)(b) the Risk Manager hereby establishes a new limitation of judgment.

Accordingly, the Risk Manager has calculated the consumer price index for calendar years 1999 and 2001 using standards provided in Sections 1(f)(4) and 1(f)(5) of the Internal Revenue Code. Section 1(f)(4) has defined the CPI for any calendar year to mean the average of the consumer price index as of the close of the 12-month period ending on August 31 of such calendar year. Section 1(f)(5) has defined "consumer price index" to mean the index used for all-urban consumers published by the Department of Labor. By applying these standards, the consumer price index for calendar year 1999 is calculated to be 165.14 and the index for 2001 is 175.88. The percentage difference between the 1999 index and the 2001 index was then computed to be 6.5%.

R37-4-2. New Limitation of Judgement Amounts.

As a result of the above required calculations, the new limitation of judgment amounts currently required by UCA 63-30-34(1) has been increased as follows, and is effective September 23, 2002:

1) In accordance with UCA 63-30-34(1)(a), the limit for damages for personal injury against a governmental entity, or an employee whom a governmental entity has a duty to indemnify is \$532,500 for one person in any one occurrence (instead of \$500,000), or \$1,065,000 for two or more persons in any one occurrence (instead of \$1,000,000);

2) In accordance with UCA 63-30-34(1)(b), the limit for damages for injury or death to one person is \$532,500. (instead of

\$500,000) regardless of whether or not the function giving rise to the injury is characterized as governmental; and

3) In accordance with UCA 63-30-34(1)(c), the limit for property damages (excluding damages awarded as compensation when a governmental entity has taken or damaged private property for public use without just compensation) against a governmental entity, or an employee whom a governmental entity has a duty to indemnify is \$213,000 in any one occurrence (instead of \$200,000).

KEY: limitation on judgments, risk management, governmental immunity act caps

2002

63-30-34(4)(b)



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

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 25411

FILED: 09/30/2002, 11:46

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division is proposing amendments to eliminate outdated unprofessional conduct provision for building inspectors, adopt the current version of the National Electrical Code, make several technical amendments, and to implement the semi-annual proposed changes to building codes that have been approved by the Uniform Building Code Commission after review by the appropriate subcommittee.

SUMMARY OF THE RULE OR CHANGE: In Subsection R156-56-502(4): this subsection of unprofessional conduct for building inspectors is being deleted because it is outdated. The inspector trainees classification of licensure was eliminated a few years ago. This section makes it unprofessional conduct for failing to supervise inspector trainees. In Subsection R156-56-701(1)(b): adopts the current version of the National Electrical Code. Subsection R156-56-701(2) approves certain rehabilitation codes that the local jurisdictions may adopt. This subsection is being added under authority that was added to the statute (Subsection 58-56-4(4)) in the 2002 legislative session, S.B. 55. The rest of changes in Section R156-56-701 are renumbering as result of the addition. In Section R156-56-704: changes to the International Building Code include the following: [302.4] is a technical amendment to clarify the code requirement for when a room is used for multiple purposes. [310.1] is a technical amendment which clarifies residential occupancy definitions. [403.9.1] and (20) [707.14.1] clarifies when elevator lobbies shall be required in high rise buildings. This amendment puts back in elevator lobby requirements that were deleted when the IBC was adopted. The elevator lobby separation is vital to safety in

high rise buildings. [903.2.9] is a technical amendment to clarify automatic sprinkler requirements in R-4 buildings. [1003.3.3.3] is a technical amendment to clarify a prior amendment, to tread and riser requirements for stairs, which was adopted at the last code change. [1003.3.3.11] is a technical amendment regarding handrail requirements. [1109.7] clarifies requirements for wheelchair lifts and when they may be installed. This is a cost effective substitute for elevators which cost substantially more, or alternatively helps the building owner to choose against making the portion of the property not accessible to wheelchair access. [Table 1607.1] and [notes to table 1607.1] are technical amendment regarding factors used in load calculations. [Section 7.4.5 of ASE 7 in 1608.1] clarifies roofing requirements on overhanging portions of roofs. [1805.5.9] is an amendment to table 1805.9 adding requirements for 3-foot high walls. Since the revised table goes beyond what can be printed on a vertically oriented page, the table is being published separately and incorporated by reference. [2305.3.3] is a technical amendment to the maximum shear wall table. [3104.2] is a technical amendment to clarify a structure with multiple wings should be considered one structure. In Section R156-56-706: changes to the National Electrical Code include the following: [251-104(b)] is a technical amendment deleted an amendment that has now been incorporated into the National Electric Code and is no longer needed. In Section R156-56-707: changes to the International Plumbing Code include the following: [202] is a technical amendment defining the term trap arm. [304.3, 304.4] are a technical amendment regarding specifications for meter boxes and other openings to prevent rodents from entering a building. [305.8] is a technical amendment regarding shield plates to protect pipe concealed in a wall from being penetrated by nails. [311.11] is a technical amendment regarding temporary toilet facilities. [412.1] is a technical amendment regarding floor drain requirements. [504.7.2 and 504.7.3] are a technical amendment regarding pan drains. [803.2] is a amendment relaxing the requirement automatic neutralizing devices for corrosive wastes. [904.1] is a technical amendment regarding roof extensions. [1002.2 and 1002.8] are a technical amendment regarding design of traps. In Section R156-56-711: changes to the International Residential Code include the following: Subsection R156-56-711(1) is a technical amendment identifying codes amendments under other codes also apply to residential property under the residential code and clarifying if conflicts between codes exist that the National Electrical Code will apply. [R301.4] is a technical amendment regarding live loads. [R312.1.2] is a technical amendment regarding landings at doors. [R315.1] is a technical amendment regarding handrail requirements. [R703.6] is a technical amendment regarding exterior plaster requirements. [P2603.2.1] is a technical amendment regarding shield plates to protect pipe concealed in a wall from being penetrated by nails. [P2710.1] a technical amendment regarding shower stalls. In Section R156-56-712: Subsection R156-56-712(3) is a local amendment requested by Morgan County allowing certain work to small structures for farm animals or feed without obtaining a building permit. (DAR NOTE: S.B. 55 is found at UT L 2002 Ch 75, and was effective May 6, 2002.)

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

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: Deletes the 1999 edition of the National Electrical Code; and adds the following: 2002 edition of the National Electrical Code; 1997 edition of the Uniform Code for the Abatement of Dangerous Buildings (UCADB); 1997 edition of the Uniform Code for Building Conservation (UCBC); Guidelines for the Seismic Retrofit of Existing Buildings (GSREB); Guidelines for the Rehabilitation of Existing Buildings (GREB); and Table 1805.5.9 "Empirical Foundation Walls", dated September 1, 2002, published by the Division of Occupational and Professional Licensing

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There will be no cost to the Division of Occupational and Professional Licensing to print this rule once all proposed amendments are made effective as this rule is no longer printed by the Division; but the rule is available on the Division's website. There will be costs involved to obtain the new code books being incorporated by reference as follows: 2002 edition of the National Electrical Code \$53.50; 1997 edition of the Uniform Code for the Abatement of Dangerous Buildings \$12.75; 1997 edition of the Uniform Code for Building Conservation \$32.10; Guidelines for the Seismic Retrofit of Existing Buildings \$19.25; and Guidelines for the Rehabilitation of Existing Buildings \$24.75. Other than the costs identified above of obtaining the new code books, there should be no direct effect on the state budget as a result of the proposed amendments. However, there may be an indirect effect on the state budget, if the state were involved in construction projects which are subject to the particular code amendments. Overall the proposed amendments do not appear to add substantially to costs of construction other than the elevator lobbies, which is costly, but is needed for safety in high rise buildings. Many of the amendments will allow savings, in particular, the wheelchair lifts which may allow substantial savings to owners or more accessibility to persons using wheelchairs. The item by item impact to owners of building projects is estimated as follows: Subsection R156-56-502(4) = no impact; Subsection R156-56-701(1)(b) = cost of new codes books; and Subsection R156-56-701(2) = no impact from this change. However, if building owner is involved in rehabilitation of older buildings these codes could result in savings on the project. Changes to the International Building Code: [302.4] Multiple purpose rooms = little or no impact; [310.1] Residential occupancy definitions = little or no impact; [403.9.1] and (20) [70714.1] Elevator lobbies = wall and door assemblies would cost about \$2,000 per elevator lobby per floor in a high rise building (over 75 feet); [903.2.9] Automatic sprinkler requirements = little or no impact; [1003.3.3.3] Tread and risers for stairs = no impact; [1003.3.3.11] Handrail requirements = no impact; [1109.7] Wheelchair lifts = the alternative for elevators installation can cost as much as \$20,000 to \$50,000. This alternative can reduce costs substantially. Also, it allows property owners an alternative to an elevator that is not so cost prohibitive that building owners may choose to not make a portion of the property accessible to wheelchair access; [1607.1] and

(1607.1] Load calculations = little savings or no impact; [1608.1] Roofing requirements on overhangs = little or no impact. Additional cost will likely offset by damage prevented; [1805.5.9] Amend 1805.9 to add additional column for 3-foot high walls = little or no impact. Additional cost is about \$3.00 per bar and \$0.25 extra for labor per linear foot. [2305.3.3] Shear wall table = little no impact; and [3104.2] Multiple wings on one structure = little or not impact. Changes to the National Electrical Code (NEC): [251-104(b)] Delete amendment now in NEC = no impact. Changes to the International Plumbing Code: [202] Define trap arm = no impact; [304.3, 304.4] Openings to prevent rodents access = little or no impact. Additional cost to prevent rodent access would likely be offset by damage by rodents that is prevented; [305.8] Shield plates = cost under \$1 per nail plate could more than offset cost to repair damage = little or no impact; [311.1] Temporary toilet facilities = little or no impact; [412.1] Floor drain requirements = savings of \$5 to \$100 per floor drain; [504.7.2 and 504.7.3] Pan drains = little or no impact; [803.2] Devices for corrosive wastes = potential cost savings of not putting in automatic device is unknown; [904.1] Roof extensions = little or no impact; and [1002.2 and 1002.8] Design of traps = potential savings of \$25 to 150 per drain. Changes to the International Residential Code: Subsection R156-56-711(1) is a technical amendment identifying codes amendments under other codes also apply to residential property under the residential code and clarifying if conflicts between codes exist that the NEC will apply = no impact; [R301.4] Live loads = little or no impact; [R312.1.2] Landings at doors = little or no impact; [R315.1] Handrail requirements = no impact; [R703.6] Exterior plaster requirements = little or no impact; [P2603.2.1] Shield plates = cost under \$1 per nail plate could more than offset cost to repair damage, little or no impact; [P2710.1] Shower stalls = little or no impact; and in Subsection R156-56-712(3), Morgan County permit exemptions = savings to owner may be from \$100 to \$150; little or no impact on county.

❖ LOCAL GOVERNMENTS: The potential costs to local governments would be the same as shown above under state government.

❖ OTHER PERSONS: Costs to owners of building projects would be the same as shown above under state government. The aggregate costs or savings of all amendments is impossible to determine except on a project by project basis. Overall the proposed amendments do not appear to add substantially to costs of construction other than the elevator lobbies, which is costly, but is needed for safety in high rise buildings. Many of the amendments will allow savings, in particular, the wheelchair lifts may allow substantial savings to owners and more accessibility to persons using wheelchairs.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Unknown, see explanation of costs and savings under "State government" and "Other persons" as explained above.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The purpose of this rule change is to adopt the current version of the National Electrical Code, to implement the changes proposed by the Uniform Building Code Commission, and to remove outdated

provisions and make other technical amendments. The changes adopted by the Uniform Building Code Commission generally appear to create a positive fiscal impact to the construction business, and except for the elevator lobby requirement (which is necessary for safety in high rise buildings), specific provisions do not create a substantial negative fiscal impact. The amount of impact (positive or negative) will depend on the number of projects built in the state. Ted Boyer, 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 11/15/2002

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 11/15/2002 at 9:00 AM, State Office Building, Room 4112, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 11/16/2002

AUTHORIZED BY: J. Craig Jackson, Director

R156. Commerce, Occupational and Professional Licensing.

R156-56. Utah Uniform Building Standard Act Rules.

R156-56-502. Unprofessional Conduct - Building Inspectors.

"Unprofessional conduct" includes:

(1) knowingly failing to inspect or issue correction notices for code violations which when left uncorrected would constitute a hazard to the public health and safety and knowingly failing to require that correction notices are complied with;

(2) the use of alcohol or the illegal use of drugs while performing duties as a building inspector or at any time to the extent that the inspector is physically or mentally impaired and unable to effectively perform the duties of an inspector;

(3) gross negligence in the performance of official duties as an inspector;[

~~(4) failure to supervise an inspector trainee for which an inspector assumes responsibility in accordance with these rules or in a manner to ensure the public health, safety and welfare;]~~

(~~5~~)4) the personal use of information or knowingly revealing information to unauthorized persons when that information has been obtained by the inspector as a result of their employment, work, or position as an inspector;

(~~6~~)5) unlawful acts or acts which are clearly unethical under generally recognized standards of conduct of an inspector;

(~~7~~)6) engaging in fraud or knowingly misrepresenting a fact relating to the performance of duties and responsibilities as an inspector;

(~~8~~)7) knowingly failing to require that all plans, specifications, drawings, documents and reports be stamped by architects, professional engineers or both as established by law;

(~~9~~)8) knowingly failing to report to the Division any act or omission of a licensee under Title 58, Chapter 55, which when left uncorrected constitutes a hazard to the public health and safety;

(~~10~~)9) knowingly failing to report to the Division unlicensed practice by persons performing services who are required by law to be licensed under Title 58, Chapter 55;

(~~11~~)10) approval of work which materially varies from approved documents that have been stamped by an architect, professional engineer or both unless authorized by the licensed architect, professional engineer or both; and

(~~12~~)11) failing to produce verification of current licensure and current certifications for the codes adopted under these rules upon the request of the Division, any compliance agency, or any contractor or property owner whose work is being inspected.

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

(1) In accordance with Subsection 58-56-4(3), and subject to the limitations contained in Subsection [~~5~~](6), [~~and~~](7), and (8), the following codes are hereby incorporated by reference and adopted as the construction standards to be applied to building construction, alteration, remodeling and repair and in the regulation of building construction, alteration, remodeling and repair in the state:

(a) the 2000 edition of the International Building Code (IBC) as modified by Chapter 11 and Chapter 16 of the 2001 edition of the Supplement to the International Building Code, promulgated by the International Code Council, and amendments adopted under these rules together with standards incorporated into the IBC by reference, including but not limited to, the 2000 edition of the International Energy Conservation Code (IECC) promulgated by the International Code Council and the 2000 edition of the International Residential Code (IRC) promulgated by the International Code Council shall become effective on January 1, 2002;

(b) the [~~1999~~]2002 edition of the National Electrical Code (NEC) promulgated by the National Fire Protection Association, to become effective January 1, [~~2000~~]2003;

(c) the 2000 edition of the International Plumbing Code (IPC) promulgated by the International Code Council and amendments adopted under these rules in Section R156-56-707 shall become effective on January 1, 2001;

(d) the 2000 edition of the International Mechanical Code (IMC) together with all applicable standards set forth in the 2000 International Fuel Gas Code (IFGC) (formerly included as part of the IMC) and amendments adopted under these rules in Section R156-56-708 shall become effective on January 1, 2002;

(e) subject to the provisions of Subsection (4), the Federal Manufactured Housing Construction and Safety Standards Act (HUD Code) as promulgated by the Department of Housing and Urban Development and published in the Federal Register as set forth in 24 CFR parts 3280 and 3282 as revised April 1, 1990; and

(f) subject to the provisions of Subsection (4), the 1994 edition of NCSBCS A225.1 Manufactured Home Installations promulgated by the National Conference of States on Building Codes and Standards (NCSBCS).

(2) In accordance with Subsection 58-56-4(4), and subject to the limitations contained in Subsection 58-56-4(5), the following codes are hereby incorporated by reference and approved for use and adoption by a compliance agency as the construction standards which may be applied to existing buildings in the regulation of building alteration, remodeling, repair, removal and rehabilitation in the state:

(a) the 1997 edition of the Uniform Code for the Abatement of Dangerous Buildings (UCADB) promulgated by the International Conference of Building Officials;

(b) the 1997 edition of the Uniform Code for Building Conservation (UCBC) promulgated by the International Conference of Building Officials;

(c) Guidelines for the Seismic Retrofit of Existing Buildings (GSREB) promulgated by the International Conference of Building Officials;

(d) Guidelines for the Rehabilitation of Existing Buildings (GREB) promulgated by the International Conference of Building Officials.

~~(2)3~~ Amendments adopted by rule to prior editions of the Uniform Building Standards shall remain in effect until specifically amended or repealed.

~~(3)4~~ The manufacturer, dealer or homeowner shall be permitted to design for unusual installation of a manufactured home not provided for in the manufacturer's standard installation instruction or NCSBCS/ANSI 225.1, Manufactured Home Installations, provided the design is approved in writing by a professional engineer or architect licensed in Utah. Guidelines for Manufactured Housing Installation as promulgated by the International Conference of Building Officials may be used as a reference guide.

~~(4)5~~ Pursuant to the Federal Manufactured Home Construction and Safety Standards Section 604(d), a manufactured home may be installed in the state of Utah which does not meet the local snow load requirements as specified in Subsection R156-56-704; however all such homes which fail to meet the standards of Subsection R156-56-704 shall have a protective structure built over the home which meets the International Building Code and the snow load requirements under Subsection R156-56-704.

~~(5)6~~ To the extent that the building codes adopted under Subsection (1) establish local administrative functions or establish a method of appeal which pursuant to Section 58-56-8 are designated to be established by the compliance agency, such provisions are not included in the codes adopted hereunder but authority over such provisions are reserved to the compliance agency to establish such provisions.

~~(6)7~~ To the extent that the building codes adopted under Subsection (1) establish provisions, standards or references to other codes which by state statutes are designated to be established or administered by other state agencies or local city, town or county jurisdictions, such provisions are not included in the codes adopted herein but authority over such provisions are reserved to the agency or local government having authority over such provisions. Provisions excluded under this Subsection include but are not limited to:

(a) the International Property Maintenance Code;

(b) the International Private Sewage Disposal Code, authority over which would be reserved to the Department of Health and the Department of Environmental Quality;

(c) the International Fire Code which pursuant to Section 58-3-7 authority is reserved to the Utah Fire Prevention Board; and

(d) day care provisions which are in conflict with the Child Care Licensing Act, authority over which is designated to the Utah Department of Health.

~~(7)8~~ To the extent that the codes adopted under Subsection (1) establish provisions that exceed the authority granted to the Division, under the Utah Uniform Building Standards Act, to adopt codes or amendments to such codes by rulemaking procedures, such provisions, to the extent such authority is exceeded, are not included in the codes adopted.

R156-56-704. Statewide Amendments to the IBC.

The following are adopted as amendments to the IBC to be applicable statewide:

(1) All references to the International Electrical Code are deleted and replaced with the National Electrical Code adopted under Subsection R156-56-701(1)(b).

(2) Section 101.4.1 is deleted and replaced with the following: 101.4.1 Electrical. The provisions of the National Electrical Code (NEC) shall apply to the installation of electrical systems, including alterations, repairs, replacement, equipment, appliances, fixtures, fittings and appurtenances thereto.

(3) In Section 202, the following definition is added:

ASSISTED LIVING FACILITY. See Section 308.1.1.

(4) Section 302.3.3 is deleted and replaced with the following: 302.3.3 Separated uses. Each portion of the building shall be individually classified as to use and shall be considered separated from other occupancies when completely separated from adjacent areas by fire barrier walls or horizontal assemblies or both having a fire-resistance rating determined in accordance with this sections.

302.3.3.1 All occupancies. Each fire area shall be separated from other occupancies in other fire areas in accordance with Table 302.3.3 based on the occupancy in the fire areas, and shall comply with the height limitations based on the use of that space and the type of construction classification. In each story the building area shall be such that the sum or the ratios of the floor area of each use divided by the allowable area for each use shall not exceed 1.

Exceptions for R-3 and U Groups:

1. The private garage shall be separated from the residence and its attic area by means of materials approved for one-hour fire resistive construction applied to the garage side. Door openings between the garage and the residence shall be equipped with either solid wood doors not less than 1 3/8 inches (35 mm) thick or doors in compliance with Section 714.2.3. Openings from a private garage directly into a room used for sleeping purposes shall not be permitted.

2. Ducts in the private garage and ducts penetrating the walls or ceilings separating the dwelling from the garage shall be constructed of a minimum No. 26 gage (.48 mm) sheet steel and shall have no openings into the garage.

3. A separation is not required between a Group R-3 and Group U carport provided the carport is entirely open on two or more sides and there are not enclosed spaces above.

Where the building is equipped throughout with an automatic sprinkler system, the fire resistance ratings in Table 302.3.3 shall be reduced by one hour but not to less than one hour and to not less than that required for floor construction according to the type of construction. The one hour reduction shall not apply to fire area separations when H-1, H-2, H-3, or I-2 occupancies are included in the areas being separated.

Table 302.3.3 is deleted and replaced with:

Table 302.3.3, entitled "Required Separation of Occupancies", dated January 1, 2002, published by the Department of Commerce, Division of Occupational and Professional Licensing is hereby adopted and incorporated by reference. Table 302.3.3 identifies what type of separation of occupancies requirements are mandated in various types of property use classifications.

(5) A new Section 302.4 is added as follows:

302.4 Spaces used for different purposes. A room or space that is intended to be occupied at different times for different purposes shall comply with all requirements that are applicable to each of the purposes for which the room or space will be occupied.

(6) Section 305.2 is deleted and replaced with the following:

305.2 Day care. The building or structure, or portion thereof, for educational, supervision, child day care centers, or personal care services of more than four children shall be classified as a Group E occupancy. See Section 419 for special requirements for Group E child day care centers.

Exception: Areas used for child day care purposes with a Residential Certificate, Family License or Family Group License may be located in a Group R-2 or R-3 occupancy as provided in Section 310.1 and as applicable in Section 101.2.

Child day care centers providing care for more than 100 children 2 1/2 years or less of age shall be classified as Group I-4.

(~~6~~7) In Section 308 the following definitions are added:

308.1.1 Definitions. The following words and terms shall, for the purposes of this section and as used elsewhere in this code, have the meanings shown herein.

TYPE 1 ASSISTED LIVING FACILITY. A residential facility that provides a protected living arrangement for ambulatory, non-restrained persons who are capable of achieving mobility sufficient to exit the facility without the assistance of another person.

TYPE 2 ASSISTED LIVING FACILITY. A residential facility that provides an array of coordinated supportive personal and health care services to residents who meet the definition of semi-independent.

SEMI-INDEPENDENT. A person who is:

A. Physically disabled but able to direct his or her own care; or

B. Cognitively impaired or physically disabled but able to evacuate from the facility with the physical assistance of one person.

(~~7~~8) Section 308.2 is deleted and replaced with the following:

308.2 Group I-1. This occupancy shall include a building or part thereof housing more than 16 persons, on a 24-hour basis, who because of age, mental disability or other reasons, live in a supervised residential environment that provides personal care services. The occupants are capable of responding to an emergency situation without physical assistance from staff. This group shall include, but not be limited to, the following: residential board and care facilities, type 1 assisted living facilities, half-way houses, group homes, congregate care facilities, social rehabilitation facilities, alcohol and drug centers and convalescent facilities. A facility such as the above with five or fewer persons shall be classified as a Group R-3. A facility such as above, housing at least six and not more than 16 persons, shall be classified as a Group R-4.

(~~8~~9) Section 308.3 is deleted and replaced with the following:

308.3 Group I-2. This occupancy shall include buildings and structures used for medical, surgical, psychiatric, nursing or custodial care on a 24-hour basis of more than three persons who are not capable of self-preservation. This group shall include, but not be limited to the following: hospitals, nursing homes (both intermediate care facilities and skilled nursing facilities), mental hospitals,

detoxification facilities, ambulatory surgical centers with two or more operating rooms where care is less than 24 hours and type 2 assisted living facilities. Type 2 assisted living facilities with five or fewer persons shall be classified as a Group R-4. Type 2 assisted living facilities as defined in 308.1.1 with at least six and not more than sixteen residents shall be classified as a Group I-1 facility.

(~~9~~10) Section 308.3.1 is deleted and replaced with the following:

308.3.1 Child care facility. A child care facility that provides care on a 24 hour basis to more than four children 2 1/2 years of age or less shall be classified as Group I-2.

(1(~~0~~1) Section 308.5 is deleted and replaced with the following:

308.5 Group I-4, day care facilities. This group shall include buildings and structures occupied by persons of any age who receive custodial care less than 24 hours by individuals other than parents or guardians, relatives by blood, marriage, or adoption, and in a place other than the home of the person cared for. A facility such as the above with four or fewer persons shall be classified as an R-3. Places of worship during religious functions and Group E child day care centers are not included.

(1(~~4~~2) Section 308.5.2 is deleted and replaced with the following:

308.5.2 Child care facility. A facility that provides supervision and personal care on less than a 24 hour basis for more than 100 children 2 1/2 years of age or less shall be classified as Group I-4.

(1(~~2~~3) [~~4~~Section 310.1 [~~the R-3 section~~]] is deleted and replaced with the following:

310.1 Residential Group "R". Residential Group R includes, among others, the use of a building or structure, or a portion thereof, for sleeping purposes when not classed as an Institutional Group I. Residential occupancies shall include the following:

R-1 Residential occupancies where the occupants are primarily transient in nature (less than 30 days) including: Boarding Houses (transient), Hotels (transient), and Motels (transient).

R-2 Residential occupancies containing sleeping units or more than two dwelling units where the occupants are primarily permanent in nature, including: Apartment Houses, Boarding houses (not transient), Convents, Dormitories, Fraternities and Sororities, Monasteries, Vacation timeshare properties, Hotels (non transient), and Motels (non transient).

R-3 Residential occupancies where the occupants are primarily permanent in nature and not classified as R-1, R-2, ~~R-4~~ or I and where buildings do not contain more than two dwelling units, as applicable in Section 101.2, or adult and child care facilities that provide accommodations for ~~four~~ five or fewer persons of any age for less than 24 hours. Adult and child care facilities that are within a single family home are permitted to comply with the International Residential Code in accordance with Section 101.2. Areas used for day care purposes may be located in a Residential Group, R-3 occupancy provided the building substantially complies with the requirements for a dwelling unit and under all of the following conditions:

1. Compliance with the Utah Administrative Code, R710-8, Day Care Rules, as enacted under the authority of the Utah Fire Prevention Board.

2. Use is approved by the State Department of Health, as enacted under the authority of the Utah Child Care Licensing Act, UCA, Sections 26-39-101 through 26-39-110, and in any of the following categories:

- a. Utah Administrative Code, R430-50, Residential Certificate Child Care Standards.
- b. Utah Administrative Code, R430-90, Licensed Family Child Care.
- 3. Compliance with all zoning regulations of the local regulator.

R-4 Residential occupancies shall include buildings arranged for occupancy as Residential Care/Assisted Living Facilities including more than five but not more than 16 occupants, excluding staff.

Group R-4 occupancies shall meet the requirements for construction as defined for Group R-3 except as otherwise provided for in this code or shall comply with the International Residential Code in accordance with Section 101.2.

(1[3]4) A new section 310.4 is added as follows:

310.4 Floor-level exit signs. Where exit signs are required by section 1003.2.10.1, additional approved exit signs that are internally or externally illuminated, photoluminescent or self-luminous, shall be provided in all corridors serving guest rooms of R-1 occupancies. The bottom of such signs shall not be less than 6 inches (152 mm) nor more than 8 inches (203 mm) above the floor level and shall indicate the path of exit travel. For exit and exit access doors, the sign shall be on the door or adjacent to the door with the closest edge of the sign with 8 inches (203 mm) of the door frame.

(1[4]5) In section 403.10.1.1 the exception is deleted.

(16) A new Section 403.9.1 is added as follows:

403.9.1 Elevator lobby. Elevators on all floors shall open into elevator lobbies that are separated from the remainder of the building, including corridors and other means of egress by smoke partitions complying with Section 710. Elevator lobbies shall have at least one means of egress complying with Chapter 10 and other provisions within the code. Elevator lobbies separated from a fire resistance rated corridor shall have walls of not less than one-hour fire resistance rating and openings shall conform to Section 714.

Exceptions:

1. Separations are not required from a street floor elevator lobby.

2. In atria complying with the provisions of Section 404 elevator lobbies are not required.

(1[5]7) A new section 419 is added as follows:

Section 419 Group E Child Day Care Centers. Group E child day care centers shall comply with Section 419.

419.1 Location at grade. Group E child day care centers shall be located at the level of exit discharge.

Exception: Child day care spaces for children over the age of 24 months may be located on the second floor of buildings equipped with automatic fire protection throughout and an automatic fire alarm system.

419.2 Egress. All Group E child day care spaces with an occupant load of 10 or more shall have a second means of egress. If the second means of egress is not an exit door leading directly to the exterior, the room shall have an emergency escape and rescue window complying with Section 1009.

(1[6]8) Section 706.3.5 is deleted and replaced with the following:

706.3.5 Separation of mixed occupancies. Where the provisions of Section 302.3.3 are applicable, the fire barrier separating mixed occupancies shall have a fire-resistance rating of not less than that indicated in Section 302.3.3 based on the occupancies being separated.

(1[7]9) A new Section 706.3.6 is added as follows:

706.3.6. Single occupancy fire areas. The fire barrier separating a single occupancy into different fire areas shall have a fire resistance rating of not less than that indicated in Table 706.3.6.

TABLE 706.3.6
FIRE-RESISTANCE RATING REQUIREMENTS
FOR FIRE BARRIER ASSEMBLIES BETWEEN
FIRE AREAS

| OCCUPANCY GROUP | FIRE-RESISTANCE RATING (IN HOURS) |
|--|-----------------------------------|
| H-1, H-2 | 4 |
| F-1, H-3, S-1 | 3 |
| A, B, E, F-2, H-4, H-5, I M, R, S-2 | 2 |
| U | 1 |

(20) In Section 707.14.1 Exception 4 is deleted and replaced with the following:

4. See Section 403.9.1 for high rise buildings.

(1[8]21) Section 710.3 is deleted and replaced with the following:

710.3 Fire-resistance rating. The fire-resistance rating of floor and roof assemblies shall not be less than that required by the building type of construction. Where the floor assembly separates mixed occupancies, the assembly shall have a fire-resistance rating of not less than that required in Section 302.3.3 based on the occupancies being separated. Where the floor assembly separates a single occupancy into different fire areas, the assembly shall have a fire-resistance rating of not less than that required by Section 706.3.6. Floor assemblies separating dwelling units or guestrooms shall be a minimum of 1-hour fire-resistance-rated construction.

Exception: Dwelling unit and guestroom separations in buildings of Type IIB, IIIB and VB construction shall have fire-resistance ratings of not less than 1/2 hour in buildings equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1.

(1[9]22) In Section 902, the definition for record drawings is deleted and replaced with the following:

RECORD DRAWINGS. Drawings ("as built") that document all aspects of a fire protection system as installed.

(1[20]23) Section 903.2.5 is deleted and replaced with the following:

903.2.5 Group I. An automatic sprinkler system shall be provided throughout buildings with Group I fire areas. Listed quick response or residential sprinkler heads shall be installed in patient or resident sleeping areas.

(1[21]24) Section 903.2.9 Group R-4 is deleted and replaced with the following:

An automatic sprinkler system shall be provided throughout all buildings with Group R-4 fire areas that contain more than eight occupants. ~~Listed quick response or residential sprinkler heads shall be installed in patient or resident sleeping areas.~~

Exception:

1. An automatic sprinkler system installed in accordance with Section 903.3.1.2 or Section 903.3.1.3. shall be allowed in Group R-4 facilities.

2. Buildings not more than 4,500 gross square feet and not containing more than 16 residents, provided [that]the building is equipped throughout with an approved fire alarm system that is interconnected and receives its primary power from the building wiring and a commercial power system.

(2[2]5) Section 905.5.3 is deleted and replaced with the following:

905.5.3 Class II system 1-inch hose. A minimum 1-inch (25.4 mm) hose shall be permitted to be used for hose stations in light-hazard occupancies where investigated and listed for this service and where approved by the code official.

(2[3]6) In [s]Section 1002, the definition for exit discharge is deleted and replaced with the following:

EXIT DISCHARGE. That portion of a means of egress system between the termination of an exit and a public way or safe dispersal area.

(2[4]7) In [s]Section 1003.2.12.1 the exception is deleted and replaced with the following:

Exceptions:

1. For occupancies in Group R-3 and within individual dwelling units in occupancies in Group R-2, as applicable in Section 101.2, guards whose top rail serves as a handrail shall have a height not less than 34 inches (864 mm) and not more than 38 inches (965 mm) measured vertically from the leading edge of the stair tread nosing.

2. For occupancies in Group R-3 and within individual dwelling units in occupancies in Group R-2, as applicable in section 101.2, guards shall form a protective barrier not less than 36 inches (914 mm).

(2[5]8) Section 1003.2.12.2 is deleted and replaced with the following:

1003.2.12.2 Opening limitations. Open guards shall have balusters or ornamental patterns such that a 4-inch-diameter (102 mm) sphere cannot pass through any opening up to a height of 34 inches (864 mm). From a height of 34 inches (864 mm) to 42 inches (1067 mm) above the adjacent walking surface, a sphere 8 inches (203 mm) in diameter shall not pass. For occupancies in Group R-3 and within individual dwelling units in occupancies in Group R-2, as applicable in Section 101.2, required guards shall not be constructed with horizontal rails or other ornamental pattern that results in a ladder effect.

Exceptions:

1. The triangular openings formed by the riser, tread and bottom rail at the open side of a stairway shall be of a maximum size such that a sphere of 6 inches (152 mm) in diameter cannot pass through the opening.

2. At elevated walking surfaces for access to and use of electrical, mechanical, or plumbing systems or equipment, guards shall have balusters or be of solid materials such that a sphere with a diameter of 21 inches (533 mm) cannot pass through any opening.

3. In occupancies in Group I-3, F, H or S, balusters, horizontal intermediate rails or other construction shall not permit a sphere with a diameter of 21 inches (533 mm) to pass through any opening.

4. In assembly seating areas, guards at the end of aisles where they terminate at a fascia of boxes, balconies, and galleries shall have balusters or ornamental patterns such that a 4-inch-diameter (102 mm) sphere cannot pass through any opening up to a height of 26 inches (660 mm). From a height of 26 inches (660 mm) to 42 inches (1067 mm) above the adjacent walking surfaces, a sphere 8 inches (203 mm) in diameter shall not pass.

(2[6]9) Section 1003.3.3.3, Exception #5 is deleted and replaced with the following:

5. In occupancies in Group R-3, as applicable in Section 101.2, within dwelling units in occupancies in Group R-2, as applicable in Section 101.2, and in occupancies in Group U, which are accessory to an occupancy in Group R-3, as applicable in Section 101.2, the

maximum riser height shall be 8 inches (203 mm) and the minimum tread depth shall be 9 inches (229 mm). ~~[The riser height shall be measured vertically between leading edges of the adjacent treads. The tread depth shall be measured horizontally between the vertical planes of the foremost projection of the adjacent treads and at a right angle to the tread's leading edge. The walking surface of the treads and landings of a stairway shall be sloped no steeper than one unit vertical in 48 units horizontal (2 percent slope). The greatest riser height within any flight of stairs shall not exceed the smallest by more than 3/8 inch (9.5 mm). The greatest tread depth within any flight of stairs shall not exceed the smallest by more than 3/8 inch (9.5 mm).]~~ A nosing not less than 0.75 inch (19.1 mm) but not more than 1.25 inches (32 mm) shall be provided on stairways with solid risers where the tread depth is less than 10 inches (254 mm).

([27]30) Section 1003.3.3.11 Exemption #4 is deleted and replaced with the following:

4. ~~In occupancies in Group R-3, as applicable in Section 101.2 and in occupancies in Group U, which are accessory to an occupancy in Group R-3, as applicable in Section 101.2, [R315.4 Handrails. H]handrails shall be provided on at least one side of stairways consisting of four or more risers. [Handrails shall have a minimum height of 34 inches (864 mm) and a maximum height of 38 inches (965 mm) measured vertically from the nosing of the treads. All required handrails shall be continuous the full length of the stairs from a point directly above the top riser to a point directly above the lowest riser of the stairway. The ends of the handrail shall be returned into a wall or shall terminate in newel post or safety terminals. A minimum clear space of 1 1/2 inches (38 mm) shall be provided between the wall and the handrail.]~~

([28]31) Section 1003.3.3.11.3 is amended to include the following exception at the end of the section:

Exception. Non-circular handrails serving an individual unit in a Group R-1, Group R-2 or Group R-3 occupancy shall be permitted to have a maximum cross sectional dimension of 3.25 inches (83 mm) measured 2 inches (51 mm) down from the top of the crown. Such handrail is required to have an indentation on both sides between 0.625 inch (16 mm) and 1.5 inches (38 mm) down from the top or crown of the cross section. The indentation shall be a minimum of 0.25 inch (6 mm) deep on each side and shall be at least 0.5 (13 mm) high. Edges within the handgrip shall have a minimum radius of 0.0625 inch (2 mm). The handrail surface shall be smooth with no cusps so as to avoid catching clothing or skin.

([29]32) In Section 1004.3.2.5 Exception 2 is deleted.

(3[0]3) New [s]Sections 1006.2.3, 1006.2.3.1 and 1006.2.3.2 are added as follows:

1006.2.3 Safe dispersal areas. Where approved by the code official, the exit discharge is permitted to lead to a safe dispersal area on the same property as the structure being discharged. The proximity and size of such safe dispersal area shall be based on such factors as the occupant load served, the mobility of occupants, the type of construction of the building, the fire protection systems installed in the building, the height of the building and the degree of hazard of the occupancy. In any case, the entire safe dispersal area shall be located not less than 50 feet (15 420 mm) from the structure served.

1006.2.3.1 School ground fences and gates. School grounds shall be permitted to be fenced and gates therein equipped with locks, provided safe dispersal areas are located between the school and fence with the entire dispersal area no less than 50 feet (15 420mm) from school buildings. Safe dispersal area capacity shall be

determined by providing a minimum of 3 square feet (0.28 m²) of net clear area per occupant.

1006.2.3.2 Reviewing stands, grandstands and bleachers. Safe dispersal areas serving reviewing stands, grandstands and bleachers shall accommodate a number of persons equal to the total capacity of the stand or building served. Safe dispersal area capacity shall be determined by providing a minimum of 3 square feet (0.28 m²) of net clear area per occupant.

(34) Section 1109.7 of Chapter 11 in the 2001 Supplement to the International Building Code is deleted and replaced with the following:

Section 1109.7 Lifts. Platform (wheelchair) lifts shall not be a part of a required accessible route in new construction. Platform (wheelchair) lifts shall be installed in accordance with ASME A18.1.

Exceptions: (Platform (wheelchair) lifts are permitted for:

1. An accessible route to a performing area and speaker's platforms in occupancies in Group A.

2. An accessible route to wheelchair spaces required to comply with the wheelchair space dispersion and line-of-sight requirements of Section 1108.2.2.

3. An accessible route to space that are not open to the general public with an occupant load of not more than five.

4. An accessible route within a dwelling or sleeping unit.

5. An accessible route to wheelchair seating spaces located in outdoor dining terraces in A-5 occupancies where the means of egress from the dining terrace to a public way is open to the outdoors.

6. An accessible route to raised judges' benches, clerks' stations, jury boxes, witness stands and other raised or depressed areas in a court.

7. An accessible route where existing exterior site constraints make use of a ramp or elevator infeasible.

8. Wheelchair access where an accessible route is not required per the exceptions to Section 1104.4 and/or Section 1107.4.

All platform (wheelchair) lifts shall be capable of independent operation without a key.

Standby power shall be provided for platform lifts permitted to serve as part of the accessible means of egress.

(3[4]5) Section 1207.2 is deleted and replaced with the following:

1207.2 Minimum ceiling heights. Occupiable spaces, habitable spaces and corridors shall have a ceiling height of not less than 7 feet 6 inches (2286 mm). Rooms in one- and two-family dwellings, bathrooms, toilet rooms, kitchens, storage rooms and laundry rooms shall be permitted to have a ceiling height of not less than 7 feet (2134 mm).

Exceptions:

1. In one- and two-family dwellings, beams or girders spaced not more than 4 feet (1219 mm) on center or projecting not more than 6 inches (152 mm) below the required ceiling height.

2. Basement rooms without habitable spaces in one- and two-family dwellings having a ceiling height of not less than 6 feet 8 inches (2033mm) with not less than 6 feet 4 inches (1932 mm) of clear height under beams, girders, ducts and similar obstructions.

3. If any room in a building has a sloping ceiling, the prescribed ceiling height for the room is required in one-half the area thereof. Any portion of the room measuring less than 5 feet (1524 mm) from the finished floor to the finished ceiling shall not be included in any computation of the minimum area thereof.

4. Mezzanines constructed in accordance with Section 505.1. (3[2]6) Section 1207.3 is deleted and replaced with the following:

1207.3 Room area. Every dwelling unit shall have at least one room that shall have not less than 120 square feet (11.2 m²) of net floor area. Other habitable rooms shall have a net floor area of not less than 70 square feet (6.5 m²).

Exception: Every kitchen in a one- and two-family dwelling shall have not less than 50 square feet (4.64 m²) of gross floor area.

(3[3]7) Section 1207.4 subparagraph 1 is deleted and replaced with the following:

1. The unit shall have a living room of not less than 165 square feet (15.3 m) of floor area. An additional 100 square feet (9.3 m) of floor area shall be provided for each occupant of such unit in excess of two.

(3[4]8) Section 1604.5, footnote "c" is added to Table 1604.5 Classification of Buildings and Other Structures for Importance Factors:

c. For determining "W" per sections 1616.4.1, 1617.4.1, 1617.5.1, or 1618.4, the Snow Factor I, may be taken as 1.0.

(3[5]9) In Section 1605.2.1, the formula shown as "f₂ = 0.2 for other roof configurations" is deleted and replaced with the following:

f₂ = 0.20 + .025(A-5) for other configurations where roof snow load exceeds 30 psf

f₂ = 0 for roof snow loads of 30 psf (1.44kN/m²) or less.

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

([36]40) In Section 1605.3.1 and section 1605.3.2, Exception number 2 in each section is deleted and replaced with the following:

Flat roof snow loads of 30 pounds per square foot (1.44 kNm²) or less need not be combined with seismic loads. Where flat roofs exceed 30 pounds per square foot (1.44 kNm²), the snow loads may be reduced in accordance with the following in load combinations including both snow and seismic loads.

$$W_s = (0.20 + 0.025(A-5))P_f$$

Where

W_s = Weight of snow to be included, psf

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

P_f = Design roof snow load, psf

(41) In Table 1607.1 number 27 is deleted and replaced with the following:

| Occupancy or Use | TABLE 1607.1 NUMBER 27 | |
|--|------------------------|--------------------|
| | Uniform (psf) | Concentrated (lbs) |
| 27. Residential | | |
| Group R-3 as applicable in Section 101.2 | | - |
| Uninhabitable attics without storage | 10 | |
| Uninhabitable attics with storage | 20 | |
| Habitable attics and sleeping areas | 30 | |
| All other areas except balconies and decks | 40 | |
| Hotels and multifamily dwellings | | |
| Private rooms | 40 | |
| Public rooms & corridors serving them | 100 | |

(42) In Notes to Table 1607.1, Note i is added as follows:

i. This live load need not be considered as acting simultaneously with other live loads imposed upon the ceiling framing or its supporting structure.

~~(37)43~~ Section 1608.1 is deleted and replaced with the following:

Except as modified in section 1608.1.1, design snow loads shall be determined in accordance with Section 7 of ASCE 7, but the design roof load shall not be less than that determined by Section 1607.

(44) Section 7.4.5 of Section 7 of ASCE 7 referred to in Section 1608.1 of the IBC is deleted and replaced with the following:

Section 7.4.5 Ice Dams and Icicles Along Eaves. Where ground snow loads exceed 75 psf, eaves shall be capable of sustaining a uniformly distributed load of 2p_r on all overhanging portions. No other loads except dead loads shall be present on the roof when this uniformly distributed load is applied. All building exits under down-slope eaves shall be protected from sliding snow and ice.

~~(38)45~~ Section 1608.1.1 is added as follows:

1608.1.1 Utah Snow Loads. The ground snow load, P_g, to be used in the determination of design snow loads for buildings and other structures shall be determined by using the following formula: P_g = (P_o² + S²(A-A_o)²)^{0.5} for A greater than A_o, and P_g = P_o for A less than or equal to A_o.

WHERE

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

P_o = Base ground snow load (psf) from Table No. 1608.1.1(a)

S = Change in ground snow load with elevation (psf/100 ft.)

From Table No. 1608.1.1(a)

A = Elevation above sea level at the site (ft./1000)

A_o = Base ground snow elevation from Table 1608.1.1(a) (ft./1000)

The building official may round the roof snow load to the nearest 5 psf. The ground snow load, P_g, may be adjusted by the building official when a licensed engineer or architect submits data substantiating the adjustments. A record of such action together with the substantiating data shall be provided to the division for a permanent record.

The building official may also directly adopt roof snow loads in accordance with Table 1608.1.1(b), provided the site is no more than 100 ft. higher than the listed elevation.

Where the minimum roof live load in accordance with section 1607.11 is greater than the design roof snow load, such roof live load shall be used for design, however, it shall not be reduced to a load lower than the design roof snow load. Drifting need not be considered for roof snow loads less than 20 psf.

~~(39)46~~ Table 1608.1.1(a) and Table 1608.1.1(b) are added as follows:

TABLE NO. 1608.1.1(a)
STATE OF UTAH - REGIONAL SNOW LOAD FACTORS

| COUNTY | P _o | S | A _o |
|-----------|----------------|----|----------------|
| Beaver | 43 | 63 | 6.2 |
| Box Elder | 43 | 63 | 5.2 |
| Cache | 50 | 63 | 4.5 |
| Carbon | 43 | 63 | 5.2 |
| Daggett | 43 | 63 | 6.5 |
| Davis | 43 | 63 | 4.5 |
| Duchesne | 43 | 63 | 6.5 |
| Emery | 43 | 63 | 6.0 |
| Garfield | 43 | 63 | 6.0 |
| Grand | 36 | 63 | 6.5 |
| Iron | 43 | 63 | 5.8 |
| Juab | 43 | 63 | 5.2 |
| Kane | 36 | 63 | 5.7 |
| Millard | 43 | 63 | 5.3 |

| | | | |
|------------|----|----|-----|
| Morgan | 57 | 63 | 4.5 |
| Piute | 43 | 63 | 6.2 |
| Rich | 57 | 63 | 4.1 |
| Salt Lake | 43 | 63 | 4.5 |
| San Juan | 43 | 63 | 6.5 |
| Sanpete | 43 | 63 | 5.2 |
| Sevier | 43 | 63 | 6.0 |
| Summit | 86 | 63 | 5.0 |
| Tooele | 43 | 63 | 4.5 |
| Uintah | 43 | 63 | 7.0 |
| Utah | 43 | 63 | 4.5 |
| Wasatch | 86 | 63 | 5.0 |
| Washington | 29 | 63 | 6.0 |
| Wayne | 36 | 63 | 6.5 |
| Weber | 43 | 63 | 4.5 |

TABLE NO. 1608.1.1(b)
RECOMMENDED SNOW LOADS FOR SELECTED UTAH CITIES AND TOWNS

| | | Roof Snow Load (PSF) | Ground Snow Load (PSF) |
|------------------|----------|----------------------|------------------------|
| Beaver County | | | |
| Beaver | 5920 ft. | 43 | 62 |
| Box Elder County | | | |
| Brigham City | 4300 ft. | 30 | 43 |
| Tremonton | 4290 ft. | 30 | 43 |
| Cache County | | | |
| Logan | 4530 ft. | 35 | 50 |
| Smithfield | 4595 ft. | 35 | 50 |
| Carbon County | | | |
| Price | 5550 ft. | 30 | 43 |
| Daggett County | | | |
| Manila | 5377 ft. | 30 | 43 |
| Davis County | | | |
| Bountiful | 4300 ft. | 30 | 43 |
| Farmington | 4270 ft. | 30 | 43 |
| Layton | 4400 ft. | 30 | 43 |
| Fruit Heights | 4500 ft. | 40 | 57 |
| Duchesne County | | | |
| Duchesne | 5510 ft. | 30 | 43 |
| Roosevelt | 5104 ft. | 30 | 43 |
| Emery County | | | |
| Castledale | 5660 ft. | 30 | 43 |
| Green River | 4070 ft. | 25 | 36 |
| Garfield County | | | |
| Panguitch | 6600 ft. | 30 | 43 |
| Grand County | | | |
| Moab | 3965 ft. | 25 | 36 |
| Iron County | | | |
| Cedar City | 5831 ft. | 30 | 43 |
| Juab County | | | |
| Nephi | 5130 ft. | 30 | 43 |
| Kane County | | | |
| Kanab | 5000 ft. | 25 | 36 |
| Millard County | | | |
| Millard | 5000 ft. | 30 | 43 |
| Delta | 4623 ft. | 30 | 43 |
| Morgan County | | | |
| Morgan | 5064 ft. | 40 | 57 |
| Piute County | | | |
| Piute | 5996 ft. | 30 | 43 |
| Rich County | | | |
| Woodruff | 6315 ft. | 40 | 57 |
| Salt Lake County | | | |
| Murray | 4325 ft. | 30 | 43 |
| Salt Lake City | 4300 ft. | 30 | 43 |
| Sandy | 4500 ft. | 30 | 43 |
| West Jordan | 4375 ft. | 30 | 43 |
| West Valley | 4250 ft. | 30 | 43 |
| San Juan County | | | |
| Blanding | 6200 ft. | 30 | 43 |
| Monticello | 6820 ft. | 35 | 50 |
| Sanpete County | | | |
| Fairview | 6750 ft. | 35 | 50 |
| Mt. Pleasant | 5900 ft. | 30 | 43 |

| | | | |
|-------------------|----------|--------|-----|
| Manti | 5740 ft. | 30 | 43 |
| Ephraim | 5540 ft. | 30 | 43 |
| Gunnison | 5145 ft. | 30 | 43 |
| Sevier County | | | |
| Salina | 5130 ft. | 30 | 43 |
| Richfield | 5270 ft. | 30 | 43 |
| Summit County | | | |
| Coalville | 5600 ft. | 60 | 86 |
| Kamas | 6500 ft. | 70 | 100 |
| Park City | 6400 ft. | 85 | 121 |
| Summit Park | 7200 ft. | 90 | 128 |
| Tooele County | | | |
| Tooele | 5100 ft. | 30 | 43 |
| Uintah County | | | |
| Vernal | 5280 ft. | 30 | 43 |
| Utah County | | | |
| American Fork | 4500 ft. | 30 | 43 |
| Orem | 4650 ft. | 30 | 43 |
| Pleasant Grove | 5000 ft. | 30 | 43 |
| Provo | 5000 ft. | 30 | 43 |
| Spanish Fork | 4720 ft. | 30 | 43 |
| Wasatch County | | | |
| Heber | 5630 ft. | 60 | 86 |
| Washington County | | | |
| Central | 5209 ft. | 25 | 36 |
| Dameron | 4550 ft. | 25 | 36 |
| Leeds | 3460 ft. | 20 | 29 |
| Rockville | 3700 ft. | 25 | 36 |
| Santa Clara | 2850 ft. | 15 (1) | 21 |
| St. George | 2750 ft. | 15 (1) | 21 |
| Wayne County | | | |
| Loa | 7080 ft. | 30 | 43 |
| Hanksville | 4308 ft. | 25 | 36 |
| Weber County | | | |
| North Ogden | 4500 ft. | 40 | 57 |
| Ogden | 4350 ft. | 30 | 43 |

NOTES

(1) The IBC requires a minimum live load - See 1607.11.2.

(4[0]7) Section 1608.2 is deleted and replaced with the following:

1608.2 Ground Snow Loads. The ground snow loads to be used in determining the design snow loads for roofs in states other than Utah are given in Figure 1608.2 for the contiguous United States and Table 1608.2 for Alaska. Site-specific case studies shall be made in areas designated CS in figure 1608.2. Ground snow loads for sites at elevations above the limits indicated in Figure 1608.2 and for all sites within the CS areas shall be approved. Ground snow load determination for such sites shall be based on an extreme value statistical analysis of data available in the vicinity of the site using a value with a 2-percent annual probability of being exceeded (50-year mean recurrence interval). Snow loads are zero for Hawaii, except in mountainous regions as approved by the building official.

(4[4]8) Section 1614.2 is deleted and replaced with the following:

1614.2 Change in Occupancy. When a change of occupancy results in a structure being reclassified to a higher Seismic Use Group, or when such change of occupancy results in a design occupant load increase of 100% or more, the structure shall conform to the seismic requirements for a new structure.

Exceptions:

1. This is not required if the design occupant load increase is less than 25 persons and the Seismic Use Group does not change.

2. Specific detailing provisions required for a new structure are not required to be met where it can be shown an equivalent level of performance and seismic safety contemplated for a new structure is obtained. Such analysis shall consider the regularity, overstrength,

redundancy and ductility of the structure within the context of the specific detailing provided. Alternatively, the building official may allow the structure to be upgraded in accordance with the latest edition of the "Guidelines for Seismic Rehabilitation of Existing Buildings" or another nationally recognized standard for retrofit of existing buildings.

(4[2]9) In Section 1616.4.1, Definition of W, Item 4 is deleted and replaced with the following:

4. Roof snow loads of 30 psf or less need not be included. Where the roof snow load exceeds 30 psf, the snow load shall be included, but may be adjusted in accordance with the following formula: $W_s = (0.20 + 0.025(A-5))P_f$

WHERE:

W_s = Weight of snow to be included in seismic calculation;

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

P_f = Design roof snow load, psf

For the purposes of this section, snow load shall be assumed uniform on the roof footprint without including the effects of drift or sliding.

([43]50) In Section 1617.2.2, the fourth definition of r_{maxi} is deleted and replaced with the following:

=For shear walls, r_{maxi} shall be taken as the maximum value of the product of the shear in the wall or wall pier and $10/1_w$ ($3.3/1_w$ for SI), divided by the story shear, where 1_w is the length of the wall or wall pier in feet (m). The ratio $10/1_w$ need not be taken greater than 1.0 for buildings of light frame construction.

([44]51) In Section 1617.4.1, Definition of W, Item 4 is deleted and replaced with the following:

4. Roof snow loads to be included shall be as outlined in section 1616.4.1, Definition of W, Item 4, as amended.

([45]52) In Section 1617.5.1, Definition of W, Item 4 is deleted and replaced with the following:

4. Roof snow loads to be included shall be as outlined in section 1616.4.1, Definition of W, Item 4, as amended.

([46]53) In Section 1618.4, Definition of W, Item 4 is deleted and replaced with the following:

4. Roof snow loads to be included shall be as outlined in section 1616.4.1, Definition of W, Item 4, as amended.

([47]54) Section 1805.5 is deleted and replaced with the following:

1805.5 Foundation walls. Concrete and masonry foundation walls shall be designed in accordance with Chapter 19 or 21. Foundation walls that are laterally supported at the top and bottom and within the parameters of Tables 1805.5(1) through 1805.5(4) are permitted to be designed and constructed in accordance with Sections 1805.5.1 through 1805.5.4 and 1805.5.8 through 1805.5.8.2. Concrete foundation walls may also be constructed in accordance with Section 1805.5.9.

([48]55) New [s]Sections 1805.5.8, 1805.5.8.1 1805.5.8.2 and 1805.5.9 are added as follows:

1805.5.8 Seismic requirements. Tables 1805.5(1) through 1805.5(4) shall be subject to the following limitations based on the seismic design category assigned to the structure as defined in Section 1616.

1805.5.8.1 Seismic requirements for concrete foundation walls. Concrete foundation walls constructed using Tables 1805.5(1) through 1805.5(4) shall be subject to the following:

1. Seismic Design Category A and B. Provide two No. 5 bars around window and door openings. Such bars shall extend at least 24 inches (610 mm) beyond the corners of the openings.

2. Seismic Design Category C. Tables shall not be used except as permitted for plain concrete members in Section 1910.4.

3. Seismic Design Categories D, E and F. Tables shall not be used except as allowed for plain concrete members in ACI 318, Section 22.10.

1805.5.8.2 Seismic requirements for masonry foundation walls. Masonry foundation walls constructed using Tables 1805.5(1) through 1805.5(4) shall be subject to the following:

1. Seismic Design Category A and B. No additional seismic requirements.

2. Seismic Design Category C. The requirements of Section 2106.4 shall apply.

3. Seismic Design Category D. The requirements of Section 2106.5 shall apply.

4. Seismic Design Categories E and F. The requirements of Section 2106.6 shall apply.

1805.5.9 Empirical foundation design. Group R, Division 3 Occupancies three stories or less in height, and Group U Occupancies, which are constructed in accordance with Section 2308, or with other methods employing repetitive wood-frame construction or repetitive cold-formed steel structural member construction, shall be permitted to have concrete foundations constructed in accordance with Table 1805.5.9.

([49]56) Table 1805.5.9 is added as follows:

Table 1805.5.9, entitled "Empirical Foundation Walls, dated September 1, 2002, published by the Department of Commerce, Division of Occupational and Professional Licensing is hereby adopted and incorporated by reference. Table 1805.5.9 identifies foundation requirements for empirical walls.

[

| Max. Height | 2' (610 mm) | 4' (1219 mm) | 6' (1829 mm) | 8' (2438 mm) | 9' (2743 mm) | Over 9' |
|----------------------|---------------------|--------------------|------------------------------|--------------------------------------|--------------------------------------|------------------------|
| Top Edge Support | None | None | Floor or roof dia- phragm(6) | Same as floor or roof dia- phragm(6) | Same as floor or roof dia- phragm(6) | Engi- neering required |
| Minimum Thickness | 6" | 6" | 8" | 8" | 8" | Same as above |
| Vertical Steel(2) | Note (5) | #4 @ 32" | #4 @ 24" | #4 @ 24" | #4 @ 16" | Same as above |
| Horizontal Steel(3) | 2 #4 Bars | 4 #4 Bars | 5 #4 Bars | 6 #4 Bars | 7 #4 Bars | Same as above |
| Steel at Openings(4) | 2 #4 Bars | 2 #4 Bars | 2 #4 Bars | 2 #4 Bars | 2 #4 Bars | Same as above |
| | 1 #4 Bar each side | 1 #4 Bar each side | 1 #4 Bar each side | 1 #4 Bar each side | 1 #4 Bar each side | |
| | 1 #4 Bar below | 1 #4 Bar below | 1 #4 Bar below | 1 #4 Bar below | 1 #4 Bar below | |
| Max. Lintel Length | 2' (610mm) | 3' (914mm) | 6' (1829mm) | 6' (1829mm) | 6' (1829mm) | Same as above |
| Min. Lintel Depth | 2" for each opening | Same as opening | Same as opening | Same as opening | Same as opening | Same as opening |

width;
Min. 6"

Notes+

(1) Based on 3,000 psi (20.6 Mpa) concrete and 60,000 psi (414 Mpa) reinforcing steel.

(2) To be placed in the center of the wall, and extend from the footing to within three inches (76 mm) of the top of the wall; dowels of #4 bars to match vertical steel placement shall be provided in the footing, extending 24 inches (610 mm) into the foundation wall.

(3) One bar shall be located in the top four inches (102 mm), one bar in the bottom four inches (102 mm) and the other bars equally spaced between. Such bar placement satisfies the requirements of Section 1805.9. Corner reinforcing shall be provided so as to lap 24 inches (610 mm).

(4) Bars shall be placed within two inches (51 mm) of the openings and extend 24 inches (610 mm) beyond the edge of the opening; vertical bars may terminate three inches (76 mm) from the top of the concrete.

(5) Dowels of #4 bar at 32 inches on center shall be provided in the footing, extending 18 inches (457 mm) into the foundation wall.

(6) Diaphragm shall conform to the requirements of Section 2308.

(7) Footing shall be a minimum of nine inches thick by 20 inches wide.

(8) Soil backfill shall be soil classification types GW, GP, SW, or PS, per Table 1610.1. Soil shall be submerged or saturated in groundwater.

] (57) Table 2305.3.3 is deleted and replaced with the following:

TABLE 2305.3.3
MAXIMUM SHEAR WALL ASPECT RATIOS

| TYPE | MAXIMUM HEIGHT-WIDTH RATIO |
|---|--|
| Wood structural panels or particleboard, nailed edges | For wind: 3 1/2:1 For seismic: 2:1a |
| Diagonal sheathing, single | 2:1 |
| Fiberboard | 1 1/2:1 |

a. For design to resist seismic forces, shear wall aspect ratios greater than 2:1, but not exceeding 3 1/2:1, are permitted provided the allowable shear capacities in Table 2306.4.1 are multiplied by 2w/h.

(5[+8] A new section 2306.1.4 is added as follows:

2306.1.4 The allowable stress increase of 1.15 for snow load, shown in Table 2.3.2, Load Duration Factors, C_d , of the National Design Specifications, shall not be utilized at elevations above 5,000 feet (1524 M).

([52]59) Section 2308.6 is deleted and replaced with the following:

2308.6 Foundation plates or sills. Foundations and footings shall be as specified in Chapter 18. Foundation plates or sills resting on concrete or masonry foundations shall comply with Section 2304.3.1 and shall be bolted or anchored by one of the following:

1. Foundation plates or sill shall be bolted or anchored to the foundation with not less than 1/2 inch (12.7 mm) diameter steel bolts or approved anchors. Bolts shall be embedded at least 7 inches (178 mm) into concrete or masonry, and spaced not more than 6 feet (1829 mm) apart. There shall be a minimum of two bolts or anchor straps per piece with one bolt or anchor strap located not more than 12 inches (305 mm) or less than 4 inches (102 mm) from each end of each piece.

2. Foundation plates or sills shall be bolted or anchored to the foundation with not less than 1/2 inch (12.7 mm) diameter steel bolts or approved anchors. Bolts shall be embedded at least 7 inches (178 mm) into concrete or masonry, and spaced not more than 32 inches (816 mm) apart. There shall be a minimum of two bolts or anchor straps per piece located not less than 4 inches (102 mm) from each end of each piece.

A properly sized nut and washer shall be tightened on each bolt to the plate.

(~~50~~60) A new section 2902.1.1 is added as follows:

2902.1.1 Unisex toilets and bath fixtures. Fixtures located within unisex toilet and bathing rooms complying with section 2902 are permitted to be included in determining the minimum number of fixtures for assembly and mercantile occupancies.

(~~53~~61) Section 3006.5 Shunt Trip, the following exception is added:

Exception: Hydraulic elevators and roped hydraulic elevators with a rise of 50 feet or less.

(62) In Section 3104.2, a second exception is added as follows:

2. For the purposes of calculating the number of Type B units required by Chapter 11, structurally connected buildings and buildings with multiple wings shall be considered one structure.

(~~54~~63) A new section 3402.5 is added as follows:

3402.5 Parapets and other appendages. Building constructed prior to 1975 with parapet walls, cornices, spires, towers, tanks, signs, statuary and other appendages shall have such appendages evaluated by a licensed engineer to determine resistance to design loads specified in this code when said building is undergoing reroofing, or alteration of or repair to said feature.

EXCEPTION: Group R-3 and U occupancies.

Original Plans and/or structural calculations may be utilized to demonstrate that the parapet or appendages are structurally adequate.

When found to be deficient because of design or deteriorated condition, the engineer shall prepare specific recommendations to anchor, brace, reinforce or remove the deficient feature.

The maximum height of an unreinforced masonry parapet above the level of the diaphragm tension anchors or above the parapet braces shall not exceed one and one-half times the thickness of the parapet wall. The parapet height may be a maximum of two and one-half times its thickness in other than Seismic Design Categories D, E, or F. If the required parapet height exceeds this maximum height, a bracing system designed using the coefficients specified in Table 1621.2 shall support the top of the parapet. When positive diaphragm connections are absent, tension roof anchors shall be added. Approved alternative methods of equivalent strength will be considered when accompanied by engineer sealed drawings, details and calculations.

(~~55~~64) Section 3408.1 is deleted and replaced with the following:

3408.1 Scope: The provision of sections 3408.2 through 3408.5 apply to maintenance, change of occupancy, additions and alterations to existing buildings, including those identified as historic buildings.

Exceptions:

1. When maintenance, additions or alteration occur, Type B dwelling units required by section 1107.5.4 are not required to be provided in existing buildings and facilities.

2. When a change of occupancy in a building or portion of a building results in multiple dwelling units as determined in section 1107.5.4, not less than 20 percent of the dwelling units shall be Type B dwelling units. These dwelling units may be located on any floor

of the building provided with an accessible route. Two percent, but not less than one, of the dwelling units shall be Type A dwelling units.

(~~56~~65) Referenced standards number 1557-91 under ASTM in chapter 35 is deleted and replaced with the following:

| TABLE | | |
|-----------------|---|--------------------------------|
| Standard Number | Title | Code Section |
| D1557-91 E01 | Laboratory Compaction Characteristics of soil using Modified Effort | 1508.15.2 K1.1.2, K1.7.5 |

(~~57~~66) A new appendix K, Grading, is added as follows:

APPENDIX K - GRADING

K1.1 GENERAL

K1.1.1 Scope. The provisions of this chapter apply to grading, excavation and earthwork construction, including fills and embankments. Where conflicts occur between the technical requirements of this chapter and the soils report, the soils report shall govern.

K1.1.2 Standards. The following standards of quality shall apply:

1. ASTM D1557-91 E01, Test Method for Laboratory Compaction Characteristics of Soil Using Modified Effort (56,000 ft-lb/ft).

K1.2 DEFINITIONS

K1.2.1 Definitions. For the purposes of this appendix chapter, the terms, phrases and words listed in this section and their derivatives shall have the indicated meanings.

BENCH. A relatively level step excavated into earth material on which fill is to be placed.

COMPACTION. The densification of a fill by mechanical means.

CUT. See Excavation.

DOWN DRAIN. A device for collecting water from a swale or ditch located on or above a slope, and safely delivering it to an approved drainage facility.

EROSION. The wearing away of the ground surface as a result of the movement of wind, water or ice.

EXCAVATION. The removal of earth material by artificial means, also referred to as a cut.

FILL. Deposition of earth materials by artificial means.

GRADE. The vertical location of the ground surface.

GRADE, EXISTING. The grade prior to grading.

GRADE, FINISHED. The grade of the site at the conclusion of all grading efforts.

GRADING. An excavation or fill or combination thereof.

KEY. A compacted fill placed in a trench excavated in earth material beneath the toe of a slope.

SLOPE. An inclined surface, the inclination of which is expressed as a ratio of horizontal distance to vertical distance.

TERRACE. A relatively level step constructed in the face of a graded slope for drainage and maintenance purposes.

K1.3 PERMITS REQUIRED

K1.3.1 Permits required. Except as exempted in Section K1.3.2, no grading shall be performed without first having obtained a permit therefor from the building official. A grading permit does not include the construction of retaining walls or other structures.

K1.3.2 Exemptions. A grading permit shall not be required for the following:

1. Grading in an isolated, self-contained area, provided there is no danger to the public, and that such grading will not adversely affect adjoining properties.

2. Excavation for construction of a structure permitted under this code.

3. Cemetery graves.

4. Refuse disposal sites controlled by other regulations.

5. Excavations for wells, or trenches for utilities.

6. Mining, quarrying, excavating, processing or stockpiling rock, sand, gravel, aggregate or clay controlled by other regulations, provided such operations do not affect the lateral support of, or significantly increase stresses in, soil on adjoining properties.

7. Exploratory excavations performed under the direction of a registered design professional for the sole purpose of preparing a soils report.

Exemption from the permit requirements of this appendix shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances of this jurisdiction. The listed exemptions shall not apply to areas located in a floodway or floodplain regulated under Appendix G.

K1.4 PERMIT APPLICATION AND SUBMITTALS

K1.4.1 Submittal requirements. In addition to the provisions of Section 105.3, the applicant shall state the estimated quantities of excavation and fill.

K1.4.2 Site plan requirements. In addition to the provisions of Section 106, a grading plan shall show the existing grade and finished grade in contour intervals of sufficient clarity to indicate the nature and extent of the work and show in detail that it complies with the requirements of this code. The plans shall show the existing grade on adjoining properties in sufficient detail to identify how grade changes will conform to the requirements of this code.

K1.4.3 Soils report. A soils report prepared by registered design professionals shall be provided which shall identify the nature and distribution of existing soils; conclusions and recommendations for grading procedures; soil design criteria for any structures or embankments required to accomplish the proposed grading; and, where necessary, slope stability studies, and recommendations and conclusions regarding site geology.

Exception: A soils report is not required where the building official determines that the nature of the work applied for is such that a report is not necessary.

K1.4.4 Liquefaction study. For sites with mapped maximum considered earthquake spectral response accelerations at short period (S_s) greater than 0.5g as determined by Section 1615, a study of the liquefaction potential of the site shall be provided, and the recommendations incorporated in the plans.

Exception: A liquefaction study is not required where the building official determines from established local data that the liquefaction potential is low.

K1.5 INSPECTIONS

K1.5.1 General. Inspections shall be governed by Section 109 of this code.

K1.5.2 Special inspections. The special inspection requirements of Section 1704.7 shall apply to work performed under a grading permit where required by the building official.

K1.6 EXCAVATIONS

K1.6.1 Maximum slope. The slope of cut surfaces shall be no steeper than is safe for the intended use, and shall be no steeper than 2 horizontal to 1 vertical (50%) unless the applicant furnishes a soils report justifying a steeper slope.

Exceptions:

1. A cut surface may be at a slope of 1.5 horizontal to 1 vertical (67%) provided that all the following are met:

(a) it is not intended to support structures or surcharges;

(b) it is adequately protected against erosion;

(c) it is no more than 8 feet (2438 mm) in height; and

(d) it is approved by the building official.

2. A cut surface in bedrock shall be permitted to be at a slope of 1 horizontal to 1 vertical (100%)

K1.7 FILLS

K1.7.1 General. Unless otherwise recommended in the soils report, fills shall conform to provisions of this section.

K1.7.2 Surface preparation. The ground surface shall be prepared to receive fill by removing vegetation, topsoil and other unsuitable materials, and scarifying the ground to provide a bond with the fill material.

K1.7.3 Benching. Where existing grade is at a slope steeper than 5 horizontal to 1 vertical (20%) and the depth of the fill exceeds five feet (1524 mm) benching shall be provided in accordance with Figure K1.7.3 dated July 1, 2001, published by State and Local Building Codes Amendments, Department of Commerce, Division of Occupational and Professional Licensing, which is hereby adopted and incorporated by reference. A key shall be provided which is at least 10 feet (3048 mm) in width and two feet (610 mm) in depth.

K1.7.4 Fill material. Fill material shall not include organic, frozen or other deleterious materials. No rock or similar irreducible material greater than 12 inches (305mm) in any dimension shall be included in fills.

K1.7.5 Compaction. All fill material shall be compacted to 90% of maximum density as determined by ASTM D1557, Modified Proctor, in lifts not exceeding 12 inches (305 mm) in depth.

K1.7.6 Maximum slope. The slope of fill surfaces shall be no steeper than is safe for the intended use. Fill slopes steeper than 2 horizontal to 1 vertical (50%) shall be justified by soils reports or engineering data.

K1.8 SETBACKS

K1.8.1 General. Cut and fill slopes shall be set back from the property lines in accordance with this section. Setback dimensions shall be measured perpendicular to the property line and shall be as shown in Figure K1.8.1, dated July 1, 2001, published by State and Local Building Codes Amendments, Department of Commerce, Division of Occupational and Professional Licensing, which is hereby adopted and incorporated by reference, unless substantiating data is submitted justifying reduced setbacks.

K1.8.2 Top of slope. The setback at the top of a cut slope shall not be less than that shown in Figure K1.8.1, or than is required to accommodate any required interceptor drains, whichever is greater.

K1.8.3 Slope protection. Where required to protect adjacent properties at the toe of a slope from adverse effects of the grading, additional protection, approved by the building official, shall be included. Such protection may include but shall not be limited to:

1. Setbacks greater than those required by Figure K1.8.1.
2. Provisions for retaining walls or similar construction.
3. Erosion protection of the fill slopes.
4. Provision for the control of surface waters.

K1.9 DRAINAGE AND TERRACING

K1.9.1 General. Unless otherwise recommended by a registered design professional, drainage facilities and terracing shall be provided in accordance with the requirements of this section.

Exception: Drainage facilities and terracing need not be provided where the ground slope is not steeper than 3 horizontal to 1 vertical (33%).

K1.9.2 Terraces. Terraces at least six feet (1829 mm) in width shall be established at not more than 30-foot (9144 mm) vertical intervals on all cut or fill slopes to control surface drainage and debris. Suitable access shall be provided to allow for cleaning and maintenance.

Where more than two terraces are required, one terrace, located at approximately mid-height, shall be at least 12 feet (3658 mm) in width.

Swales or ditches shall be provided on terraces. They shall have a minimum gradient of 20 horizontal to 1 vertical (5%) and shall be paved with concrete not less than three inches (76 mm) in thickness, or with other materials suitable to the application. They shall have a minimum depth of 12 inches (305 mm) and a minimum width of five feet (1524 mm).

A single run of swale or ditch shall not collect runoff from a tributary area exceeding 13,500 square feet (1256 m²) (projected) without discharging into a down drain.

K1.9.3 Interceptor drains. Interceptor drains shall be installed along the top of cut slopes receiving drainage from a tributary width greater than 40 feet, measured horizontally. They shall have a minimum depth of one foot (305 mm) and a minimum width of three feet (915 mm). The slope shall be approved by the building official, but shall not be less than 50 horizontal to 1 vertical (2%). The drain shall be paved with concrete not less than three inches (76 mm) in thickness, or by other materials suitable to the application. Discharge from the drain shall be accomplished in a manner to prevent erosion and shall be approved by the building official.

K1.9.4 Drainage across property lines. Drainage across property lines shall not exceed that which existed prior to grading. Excess or concentrated drainage shall be contained on site or directed to an approved drainage facility. Erosion of the ground in the area of discharge shall be prevented by installation of non-erosive down drains or other devices.

K1.10 EROSION CONTROL

K1.10.1 General. The faces of cut and fill slopes shall be prepared and maintained to control erosion. This control shall be permitted to consist of effective planting.

Exception: Erosion control measures need not be provided on cut slopes not subject to erosion due to the erosion-resistant character of the materials.

Erosion control for the slopes shall be installed as soon as practicable and prior to calling for final inspection.

K1.10.2 Other devices. Where necessary, check dams, cribbing, riprap or other devices or methods shall be employed to control erosion and provide safety.

R156-56-706. Statewide Amendments to the NEC.

The following are adopted as amendments to the NEC to be applicable statewide: [

~~(1) Section 250.104(b) is deleted and replaced with the following:~~

~~Section 250.104(b) Metal Gas Piping. Each above-ground portion of a gas piping system upstream from the equipment shutoff valve shall be electrically continuous and bonded to the grounding electrode system.~~

~~The bonding jumper shall be sized in accordance with Table 250.122 using the rating of the circuit that may energize the piping. The equipment grounding conductor for the circuit that may energize the piping shall be permitted to serve as the bonding means. Where the circuit that may energize the piping cannot be identified~~

~~or where the bonding jumper is exposed to physical damage, the minimum size bonding jumper shall be No. 8 solid copper.]~~

R156-56-707. Statewide Amendments to the IPC.

The following are adopted as amendments to the IPC to be applicable statewide:

(1) In Section 202, the definition for "Backflow Backpressure, Low Head" is deleted in its entirety.

(2) In Section 202, the definition for "Backsiphonage" is deleted and replaced with the following:

Backsiphonage. The backflow of potentially contaminated, polluted or used water into the potable water system as a result of the pressure in the potable water system falling below atmospheric pressure of the plumbing fixtures, pools, tanks or vats connected to the potable water distribution piping.

(3) In Section 202, the following definition is added:

Certified Backflow Preventer Assembly Tester. A person who has shown competence to test Backflow prevention assemblies to the satisfaction of the authority having jurisdiction under Subsection 19-4-104(4), Utah Code Ann. (1953), as amended.

(4) In Section 202, the definition for "Cross Connection" is deleted and replaced with the following:

Cross Connection. Any physical connection or potential connection or arrangement between two otherwise separate piping systems, one of which contains potable water and the other either water of unknown or questionable safety or steam, gas or chemical, whereby there exists the possibility for flow from one system to the other, with the direction of flow depending on the pressure differential between the two systems (see "Backflow").

(5) In Section 202, the following definition is added:

Heat Exchanger (Potable Water). A device to transfer heat between two physically separated fluids (liquid or steam), one of which is potable water.

(6) In Section 202, the definition for "Potable Water" is deleted and replaced with the following:

Potable Water. Water free from impurities present in amounts sufficient to cause disease or harmful physiological effects and conforming to the Titles 19-4 and 19-5, Utah Code Ann. (1953), as amended and the regulations of the public health authority having jurisdiction.

(7) In Section 202, the following definition is added:

Trap Arm. That portion of a fixture drain between a trap weir and the vent fitting.

~~(7) In Section 202, the definition for "Water Heater" is deleted and replaced with the following:~~

Water Heater. A closed vessel in which water is heated by the combustion of fuels or electricity and is withdrawn for use external to the system at pressures not exceeding 160 psig (1100 kPa (gage)), including the apparatus by which heat is generated, and all controls and devices necessary to prevent water temperatures from exceeding 210 degrees Fahrenheit (99 degrees Celsius).

~~(9) Section 304.3 Meter Boxes is deleted.~~

~~(10) Section 304.4 is deleted and replaced with the following:~~

304.4 Opening of Pipes. In or on the exterior habitable envelop of structures where openings have been made in walls, floors, or ceilings for the passage of pipes, the annular space between the opening and the pipe shall not exceed 1/2 inch (12.7 mm). Openings exceeding 1/2 inch (12.7 mm) shall be closed and protected by the installation of approved metal collars that are securely fastened to the adjoining structure.

(11) Section 305.8 is deleted and replaced with the following:
305.8 Protection against physical damage. In concealed locations where piping, other than cast-iron or galvanized steel, is installed through holes or notches in studs, joists, rafters or similar members less than 1 1/2 inches (38 mm) from the nearest edge of the member, the pipe shall be protected by shield plates. Protective shield plates shall be minimum of 1/16 inch-thick (1.6 mm) steel, shall cover the area of the pipe where the member is notched or bored, and shall be at least the thickness of the framing member penetrated.

([8]12) Section 305.10 is added as follows:

Section 305.10 Improper Connections. No drain, waste, or vent piping shall be drilled and tapped for the purpose of making connections.

(13) Section 311.1 is deleted.

([9]14) Section 312.9 is deleted in its entirety and replaced with the following:

312.9 Backflow assembly testing. The premise owner or his designee shall have backflow prevention assemblies operation tested at the time of installation, repair and relocation and at least on an annual basis thereafter, or more frequently as required by the authority having jurisdiction. Testing shall be performed by a Certified Backflow Preventer Assembly Tester. The assemblies that are subject to this paragraph are the Spill Resistant Vacuum Breaker, the Pressure Vacuum Breaker Assembly, the Double Check Backflow Prevention Assembly, the Double Check Detector Assembly Backflow Preventer, the Reduced Pressure Principle Backflow Preventer, and Reduced Pressure Detector Assembly, and the spring loaded check valve assembly described in Section 608.16.4.

([10]15) A new section 403.7 is added as follows:

403.7 Hand sink location. Hand sinks in commercial food establishments shall be located accessible to food preparation areas, food service areas, dishwashing areas, and toilet rooms in accordance with Rule R392-100, Utah Administrative Code. Hand sinks in child care facilities shall be installed in accordance with R430-100-21, Utah Administrative Code.

(16) Section 412.1 is deleted and replaced with the following:

412.1 Approval. Floor drains shall be made of ABS, PVC, cast-iron, stainless steel, brass, or other approved materials that are listed for the use.

([11]17) Section 412.5 is added as follows:

412.5 Public toilet rooms. All public toilet rooms shall be equipped with at least one of the following:

1. one floor drain with a wall mounted hose bibb;
2. one floor drain with a deep seal trap; or
3. at least one emergency floor drain with trap primer.

([12]8) Section 418.1 is deleted and replaced with the following:

418.1 Approval. Sinks shall conform to ANSI Z124.6, ASME A112.19.1, ASME A112.19.2, ASME A112.19.3, ASME A112.19.4, ASME A112.19.9, CSA B45.1, CSA B45.2, CSA B45.3, CSA B45.4 or NSF 2.

([13]9) Section 502.4 is deleted in its entirety.

([14]20) Section 502.6 is deleted and replaced with the following:

502.6 Water Heater Seismic Bracing. Water heaters shall be anchored or strapped in the upper third of the appliance to resist a horizontal force equal to one third the operating weight of the water heater, acting in any horizontal direction, or in accordance with the appliance manufacturers recommendations.

([15]21) Section 504.6.2 is deleted and replaced with the following:

504.6.2 Material. Relief valve discharge piping shall be of those materials listed in Section 605.5 or shall be tested, rated and approved for such use in accordance with ASME A112.4.1. Piping from safety pan drains shall be of those material listed in Table 605.5 and Table 701.1.

([16]22) Section 504.7.1 is amended as follows:

The measurement of "3/4 inch" in the last sentence of the paragraph is replaced with the measurement "1 1/2 inch".

(23) Section 504.7.2 is deleted and replaced with the following:

504.7.2 Pan drain termination. The pan drain shall extend full-size and terminate over a suitably located indirect waste receptor, floor drain or extend to the exterior of the building and terminate not less than 6 inches (152 mm) and not more than 24 inches (610 mm) above the adjacent ground surface. When permitted by the administrative authority, the pan drain may be directly connected to a soil stack, waste stack, or branch drain. The pan drain shall be individually trapped and vented as required in Section 907.1. The pan drain shall not be directly or indirectly connected to any vent. The trap shall be provided with a trap primer conforming to ASSE 1018 or ASSE 1044.

(24) A new section 504.7.3 is added as follows:

504.7.3 Pan Designation. A water heater pan shall be considered an emergency receptor designated to receive the discharge of water from the water heater only and shall not receive the discharge from any other fixtures, devices or equipment.

([17]25) Section 602.3 is deleted and replaced with the following:

602.3 Individual water supply. Where a potable public water supply is not available, individual sources of potable water supply shall be utilized provided that the source has been developed in accordance with Sections 73-3-1, 73-3-3, and 73-3-25, Utah Code Ann. (1953), as amended, as administered by the Department of Natural Resources, Division of Water Rights. In addition, the quality of the water shall be approved by the local health department having jurisdiction. The source shall supply sufficient quantity of water to comply with the requirements of this chapter.

([18]26) Sections 602.3.1, 602.3.2, 602.3.3, 602.3.4, 602.3.5 and 602.3.5.1 are deleted in their entirety.

([19]27) Section 604.4.1 is added as follows:

604.4.1 Metering faucets. Self closing or metering faucets shall provide a flow of water for at least 15 seconds without the need to reactivate the faucet.

(2[9]8) Section 606.2 is deleted and replaced with the following:

606.2 Location of shutoff valves. Shutoff valves shall be installed in the following locations:

1. On the fixture supply to each plumbing fixture.

Exceptions:

A. bath tubs and showers.

B. in individual guest rooms that are provided with unit shutoff valves in hotels, motels, boarding houses and similar occupancies.

2. On the water supply pipe to each appliance or mechanical equipment.

(2[1]9) Section 606.5 is deleted and replaced with the following:

606.5 Water pressure booster systems. Water pressure booster systems shall be provided as required by Section 606.5.1 through 606.5.11.

(~~22~~30) Section 606.5.11 is added as follows:

606.5.11 Prohibited installation. In no case shall a booster pump be allowed that will lower the pressure in the public main to less than 20 psi.

(~~23~~31) In Section 608.1, the following sentence is added at the end of the paragraph:

Connection without an air gap between potable water piping and sewer-connected waste shall not exist under any condition.

(~~24~~32) Table 608.1 is deleted and replaced with the following:

TABLE 608.1
General Methods of Protection

| Assembly (applicable standard) | Degree of Hazard | Application | Installation Criteria |
|---|------------------|---|---|
| Air Gap | High or Low | Backsiphonage | See Table 608.15.1 |
| Reduced Pressure Backflow Preventer (AWWA C511, USC-FCCCHR, ASSE 1013 CSA CNA/CSA-B64.4) and Reduced Pressure Detector Assembly (ASSE 1047, USC-FCCCHR) | High or Low | Backpressure or Backsiphonage 1/2" - 16" | a. The bottom of each RP assembly shall be a minimum of 12 inches above the ground or floor. b. RP assemblies shall NOT be installed in a pit. c. The relief valve on each RP assembly shall not be directly connected to any waste disposal line, including sanitary sewer, storm drains, or vents. d. The assembly shall be installed in a horizontal position only unless listed or approved for vertical installation. |
| Double Check Backflow Prevention Assembly (AWWA C510, USC-FCCCHR, ASSE 1015) Double Check Backflow Preventer Detector Assembly (ASSE 1048, USC-FCCCHR) | Low | Backpressure or Backsiphonage 1/2" - 16" | a. If installed in a pit, the DC assembly shall be installed with a minimum of 12 inches of clearance between all sides of the vault including the floor and roof or ceiling with adequate room for testing and maintenance. b. Shall be installed in a horizontal position unless listed or approved for vertical installation. |
| Pressure Vacuum Breaker Assembly (ASSE 1020, USC-FCCCHR) | High or Low | Backsiphonage 1/2" - 2" | a. Shall not be installed in an area that could be subjected to backpressure or back drainage conditions. b. Shall be installed |

Spill Resistant Vacuum Breaker (ASSE 1056, USC-FCCCHR)

High or Low

Backsiphonage
1/4" - 2"

Atmospheric Vacuum Breaker (ASSE 1001 USC-FCCCHR, CSA CAN/CSA-B64.1.1)

High or Low

Backsiphonage

General Installation Criteria

- a minimum of 12 inches above all downstream piping and the highest point of use.
- c. Shall not be installed below ground or in a vault or pit.
- d. Shall be installed in a vertical position only.

- a. Shall not be installed in an area that could be subjected to backpressure or back drainage conditions.
- b. Shall be installed a minimum of 12 inches above all downstream piping and the highest point of use.
- c. Shall not be installed below ground or in a vault or pit.
- d. Shall be installed in a vertical position only.

- a. Shall not be installed in an area that could be subjected to backpressure or back drainage conditions.
- b. Shall not be installed where it may be subjected to continuous pressure for more than 12 consecutive hours at any time.
- c. Shall be installed a minimum of six inches above all downstream piping and the highest point of use.
- d. Shall be installed on the discharge (downstream) side of any valves.
- e. The AVB shall be installed in a vertical position only.

The assembly owner, when necessary, shall provide devices or structures to facilitate testing, repair, and/or maintenance and to insure the safety of the backflow technician. Assemblies shall not be installed more than five feet off the floor unless

a permanent platform is installed.

The body of the assembly shall not be closer than 12 inches to any wall, ceiling or incumbrance, and shall be accessible for testing, repair and/or maintenance.

In cold climates, assemblies shall be protected from freezing by a means acceptable to the code official.

Assemblies shall be maintained as an intact assembly.

All piping and hoses shall be installed below the atmospheric vacuum breaker.

~~(27)35~~ Section 608.7 is deleted in its entirety.

~~(28)36~~ In Section 608.8, the following sentence is added at the end of the paragraph:

In addition each nonpotable water outlet shall be labeled with the words "CAUTION: UNSAFE WATER, DO NOT DRINK".

~~(29)37~~ In Section 608.11, the following sentence is added at the end of the paragraph:

The coating shall conform to NSF Standard 61 and application of the coating shall comply with the manufacturers instructions.

~~(30)8~~ Section 608.13.3 is deleted and replaced with the following:

608.13.3 Backflow preventer with intermediate atmospheric vent. Backflow preventers with intermediate atmospheric vents shall conform to ASSE 1012 or CAS CAN/CAS-B64.3. These devices shall be permitted to be installed on residential boilers only where subject to continuous pressure conditions. The relief opening shall discharge by air gap and shall be prevented from being submerged.

~~(31)9~~ Section 608.13.4 is deleted in its entirety.

~~(32)40~~ Section 608.15.3 is deleted and replaced with the following:

608.15.3 Protection by a backflow preventer with intermediate atmospheric vent. Opening and outlets to residential boilers only shall be protected by a backflow preventer with an intermediate atmospheric vent.

~~(33)41~~ Section 608.15.4 is deleted and replaced with the following:

608.15.4 Protection by a vacuum breaker. Openings and outlets shall be protected by atmospheric-type or pressure-type vacuum breakers. The critical level of the atmospheric vacuum breaker shall be set a minimum of 6 inches (152 mm) above the flood level rim of the fixture or device. The critical level of the pressure vacuum breaker shall be set a minimum of 12 inches (304 mm) above the flood level rim of the fixture or device. Ball cocks shall be set in accordance with Section 425.3.1. Vacuum breakers shall not be installed under exhaust hoods or similar locations that will contain toxic fumes or vapors. Pipe-applied vacuum breakers shall be installed not less than 6 inches (152 mm) above the flood level rim of the fixture, receptor or device served. No valves shall be installed downstream of the atmospheric vacuum breaker.

~~(34)42~~ In Section 608.15.4.2, the following is added at the end of the paragraph:

In climates where freezing temperatures occur, a listed, self-draining frost proof hose bibb with an integral backflow preventer shall be used.

~~(35)43~~ Section 608.16.1 is deleted and replaced with the following:

608.16.1 Beverage dispensers. Potable water supply to carbonators shall be protected by a vented dual check valve meeting ASSE Standard 1022 and installed according to the requirements of this chapter.

~~(36)44~~ In Section 608.16.2, the first sentence of the paragraph is deleted and replaced as follows:

608.16.2 The potable water supply to the residential boiler shall be equipped with a backflow preventer with an intermediate atmospheric vent complying with ASSE 1012 or CSA CAN/CSA B64.3.

~~(25)33~~ Table 608.1.1 is added as follows:

| Device | Degree of Hazard | Application | Applicable Standard |
|---|------------------------|--|--------------------------------------|
| Antisiphon-type Water Closet Flush Tank Ball Cock | Low | Backsiphonage | ASSE 1002 CSA CAN/ CSA-B125 |
| Dual check valve Backflow Preventer | Low | Backsiphonage or Backpressure 1/4" - 1" | ASSE 1024 |
| Backflow Preventer with Intermediate Atmospheric Vent | Low Residential Boiler | Backsiphonage or Backpressure 1/4" - 3/4" | ASSE 1012 CSA CAN/ CSA-B64.3 |
| Dual check valve type Backflow Preventer for Carbonated Beverage Dispensers/Post Mix Type | Low | Backsiphonage or Backpressure 1/4" - 3/8" | ASSE 1032 |
| Hose-connection Vacuum Breaker | Low | Backsiphonage 1/2", 3/4", 1" | ASSE 1011 CSA CAN/ CSA-B64.2 |
| Vacuum Breaker Wall Hydrants, Frost-resistant, Automatic Draining Type | Low | Backsiphonage 3/4", 1" | ASSE 1019 CSA CAN/ CSA-B64.2.2 |
| Laboratory Faucet Backflow Preventer | Low | Backsiphonage | ASSE 1035 CSA CAN/ CSA-B64.7 |
| Hose Connection Backflow Preventer | Low | Backsiphonage 1/2" - 1" | ASSE 1052 |

Installation Guidelines: The above specialty devices shall be installed in accordance with their listing and the manufacturer's instructions and the specific provisions of this chapter.

~~(26)34~~ In Section 608.3.1, the following sentence is added at the end of the paragraph:

(~~37~~45) Section 608.16.3 is deleted and replaced with the following:

608.16.3 Heat exchangers. Heat exchangers shall be separated from potable water by double-wall construction. An air gap open to the atmosphere shall be provided between the two walls.

Exceptions:

1. Single wall heat exchangers shall be permitted when all of the following conditions are met:

a. Utilize a heat transfer medium of potable water or contains only substances which are recognized as safe by the United States Food and Drug Administration (FDA);

b. The pressure of the heat transfer medium is maintained less than the normal minimum operating pressure of the potable water system; and

c. The equipment is permanently labeled to indicate only additives recognized as safe by the FDA shall be used.

2. Steam systems that comply with paragraph 1 above.

3. Approved listed electrical drinking water coolers.

(~~38~~46) Section 608.16.4 is deleted and replaced with the following:

Section 608.16.4 Connections to automatic fire sprinkler systems and standpipe systems. The potable water supply to automatic fire sprinkler and standpipe systems shall be protected against backflow by an alarm check valve and spring loaded check valve assembly as shown on the diagram entitled "Riser Detail", dated July 1, 1999, published by State and Local Building Codes Amendments, Department of Commerce, Division of Occupational and Professional Licensing, which is hereby adopted and incorporated by reference.

EXCEPTIONS:

1. When systems are installed as a portion of the water distribution system in accordance with the requirements of this code and are not provided with a fire department connection, isolation of the water supply system shall not be required.

2. Isolation of the water distribution system is not required for deluge, preaction or dry pipe systems.

3. When the sprinkler supply line is less than four inches in diameter and a resilient seated spring loaded single check valve, approved and testable for back flow prevention is not available, then an alternate, approved for fire sprinkler system use, spring loaded check valve is allowed.

(~~39~~47) Section 608.16.4.1 is deleted and replaced with the following:

Section 608.16.4.1 Additives or nonpotable source. Where systems contain chemical additives or antifreeze, or where systems are connected to a nonpotable secondary water supply, the potable water supply shall be protected against backflow by a reduced pressure principle backflow preventor. Where chemical additives or antifreeze are added to only a portion of an automatic fire sprinkler or standpipe system, the reduced pressure principle backflow preventer shall be permitted to be located so as to isolate that portion of the system.

Exception:

1. For systems that use antifreeze only consisting of strictly pure glycerine (C.P. or U.S.P. 96.5 percent grade) or propylene glycol, equipment specified in Section 608.16.4 shall be used.

(4~~0~~8) Section 608.16.4.2 is added as follows:

Section 608.16.4.2 Testing Procedures. The testing procedures are as follows:

1. The check valves are to be tested by a currently certified Class II Backflow Technician in accordance with Rule R309-302 available from the Department of Environmental Quality.

2. All other mechanical devices attached to or part of a class I or class II fire sprinkler system shall be tested by a licensed fire sprinkler contractor.

(4~~1~~9) Section 608.16.6 is deleted and replaced with the following:

608.16.6 Connections to lawn irrigation systems. The potable water supply to lawn irrigation systems shall be protected against backflow by an atmospheric-type vacuum breaker, a pressure-type vacuum breaker, a double check valve backflow preventer or a reduced pressure principle backflow preventer. A valve shall not be installed downstream from an atmospheric vacuum breaker. Where chemicals are introduced into the system, the potable water supply shall be protected against backflow by a reduced pressure principle backflow preventer.

(~~42~~50) Section 608.16.7 is deleted and replaced with the following:

608.16.7 Chemical dispensers. Where chemical dispensers connect to the water distribution system, the water supply system shall be protected against backflow in accordance with Section 608.13.1, Section 608.13.2, Section 608.13.5, Section 608.13.6 or Section 608.13.8.

(~~43~~51) Section 608.16.8 is deleted and replaced with the following:

608.16.8 Portable cleaning equipment. Where the portable cleaning equipment connects to the water distribution system, the water supply system shall be protected against backflow in accordance with Section 608.13.1, Section 608.13.2 or Section 608.13.8.

(~~44~~52) Section 608.16.9 is deleted and replaced with the following:

608.16.9 Dental pump equipment or water syringe. Where dental pumping equipment or water syringes connects to the water distribution system, the water supply system shall be protected against backflow in accordance with Section 608.13.1, Section 608.13.2, Section 608.13.5, Section 608.13.6 or Section 608.13.8.

(~~45~~53) Section 608.16.10 is added as follows:

608.16.10 Automatic and coin operated car washes. The water supply to an automatic or coin operated car wash shall be protected in accordance with Section 608.13.1 or Section 608.13.2.

(~~46~~54) Section 608.17 is deleted in its entirety.

(~~47~~55) Section 701.2 is deleted and replaced with the following:

701.2 Sewer required. Every building in which plumbing fixtures are installed and all premises having drainage piping shall be connected to a public sewer where the sewer is within 300 feet of the property line in accordance with Section 10-8-38, Utah Code Ann., (1953), as amended; or an approved private sewage disposal system in accordance with Rule R317-5501 through R317-513 and Rule R317-5, Utah Administrative Code, as administered by the Department of Environmental Quality, Division of Water Quality.

(~~48~~56) Section 802.1.1 is deleted and replaced with the following:

802.1.1 Food handling. Equipment and fixtures utilized for the storage, preparation and handling of food shall discharge through an indirect waste pipe by means of an air gap.

Exception: This requirement shall not apply to dishwashing machines and dishwashing sinks. If used for dishwashing and food preparation, a minimum of one compartment of the dishwashing sink shall be drained through an indirect waste pipe by means of an air gap or an air break.

~~(49)57~~ Section 802.3 is amended as follows:

The term "waste receptors" in the last sentence of the paragraph is replaced with the term "floor sinks".

~~(50)8~~ Section 802.3.2 is deleted in its entirety and replaced with the following:

802.3.2 Open hub waste receptors. Waste receptors for clear water waste shall be permitted in the form of a hub or pipe extending not more than 1/2 inch above a water impervious floor and are not required to have a strainer.

~~(59) Section 803.2 is deleted and replaced with the following:~~

~~803.2 Neutralizing device required for corrosive wastes. Corrosive liquids, spent acids or other harmful chemicals that destroy or injure a drain, sewer, soil or waste pipe, or create noxious or toxic fumes or interfere with sewage treatment processes, shall not be discharged into the plumbing system without being thoroughly diluted, neutralized or treated by passing through an approved dilution or neutralizing device. Such devices shall be provided with a sufficient supply of diluting water or neutralizing medium as to make the contents non-injurious before discharge into the drainage system. The nature of the corrosive or harmful waste and the method of its treatment or dilution shall be approved prior to installation.~~

~~(60) Section 904.1 is deleted and replaced with the following:~~

~~904.1 Roof extensions. All open vent pipes that extend through a roof shall be terminated at least 12 inches (304.8 mm) above the roof, except that where a roof is to be used for any purpose other than weather protection, the vent extension shall be run at least 7 feet (2134 mm) above the roof.~~

~~(54)61~~ In Section 904.6, the following sentence is added at the end of the paragraph:

Vents extending through the wall shall terminate not less than 12 inches from the wall with an elbow pointing downward.

~~(52)62~~ In Section 905.4, the following sentence is added at the end of the paragraph:

Horizontal dry vents below the flood level rim shall be permitted for floor drain and floor sink installations when installed in accordance with Sections 702.2, 905.2 and 905.3 and provided with a wall clean out.

~~(63) Section 1002.2 is deleted and replaced with the following:~~

~~1002.2 Design of traps. Fixture traps shall be self-scouring. Fixture traps shall not have interior partitions, except where such traps are integral with the fixture or where such traps are constructed of an approved material that is resistant to corrosion and degradation. Slip joints shall be made with an approved elastomeric gasket and shall only be installed on the trap inlet, trap outlet and within the trap seal. One slip joint fitting shall be allowed to be installed downstream of the trap.~~

~~(64) Section 1002.8 is deleted and replaced with the following:~~

~~1002.8 Recess for trap connection. A recess provided for connection of the underground trap, such as one serving a bathtub in slab-type construction, shall have sides and a bottom of corrosion-resistant, insect- and vermin-proof construction. The annular space between the pipe and the penetration shall not exceed 1/2 inch (12.7 mm).~~

~~(53)65~~ Section 1002.4.1 is added as follows:

1002.4.1 Emergency floor drains. Each emergency floor drain shall be installed with a trap seal primer. Trap seal primer shall conform to ASSE 1018 or ASSE 1044.

~~(54)66~~ Section 1003.3.5 is added as follows:

1003.3.5 Grease trap restriction. Unless specifically required or permitted by the code official, no food waste grinder or dishwasher shall be connected to or discharge into any grease trap.

~~(55)67~~ Section 1104.2 is deleted and replaced with the following:

1104.2 Combining storm and sanitary drainage prohibited. The combining of sanitary and storm drainage systems is prohibited.

~~(56)68~~ Section 1108 is deleted in its entirety.

~~(57)69~~ Section 1204 is amended to read:

1204 Fuel gas piping systems. All fuel gas piping systems shall be sized, installed, tested and placed in operation in accordance with the requirements of the International Mechanical Code.

~~(58)70~~ Section 1205 is amended to read:

Section 1205 CNG GAS-DISPENSING SYSTEMS

1205.1 Dispenser protection. The gas dispenser shall have an emergency switch to shut off the power to the dispenser. An approved backflow device that prevents the reverse flow of gas shall be installed on the gas supply pipe or in the gas dispenser.

1205.2 Ventilation. Gas-dispensing systems installed inside the structure shall be ventilated by mechanical means in accordance with the 1998 International Mechanical Code.

1205.3 Compressed natural gas vehicular fuel systems. Compressed natural gas (CNG) fuel-dispensing systems for CNG-fueled vehicles shall be designed and installed in accordance with NFPA 52 and the fire code as adopted by the State Fire Marshal.

~~(59)71~~ Chapter 14, Referenced Standards, is amended as follows:

NSF - Standard Reference Number 61-99 - The following referenced in code section number is added: 608.11

The following reference standard is added:

TABLE

USC- Foundation for Cross-Connection Table 608.1
FCCCHR Control and Hydraulic Research
9th University of Southern California
Edition Kaprielian Hall 300
Manual Los Angeles CA 90089-2531
of Cross
Connection
Control

~~(60)72~~ Appendix C of the IPC, Gray Water Recycling Systems, shall not be adopted by any jurisdiction until approved by the Department of Health and the Department of Environmental Quality.

R156-56-711. Statewide Amendments to the IRC.

The following are adopted as amendments to the IRC to be applicable statewide:

(1) All amendments to the IBC under Section R156-56-704, local amendments under Section R156-56-705, the NEC under Section R156-56-708, the IPC under Section R156-56-707, the IMC under Section R156-56-708, the IFGC under Section R156-56-709 and the IECC under Section R156-56-710 which may be applied to detached one and two family dwellings and multiple single family dwellings shall be applicable to the corresponding provisions of the IRC. All references to the International Electrical Code are deleted and replaced with the National Electrical Code adopted under

Section R156-56-701(1)(b). Should there be any conflicts between the NEC and the IRC, the NEC shall prevail.

(2) In Section R202, the definition of "Backsiphonage" is deleted and replaced with the following:

BACKSIPHONAGE: The backflow of potentially contaminated, polluted or used water into the potable water system as a result of the pressure in the potable water system falling below atmospheric pressure of the plumbing fixtures, pools, tanks or vats connected to the potable water distribution piping.

(3) In Section R202 the following definition is added:

CERTIFIED BACKFLOW PREVENTER ASSEMBLY TESTER: A person who has shown competence to test Backflow prevention assemblies to the satisfaction of the authority having jurisdiction under Subsection 19-4-104(4), Utah Code Ann. (1953), as amended.

(4) In Section R202 the definition of "Cross Connection" is deleted and replaced with the following:

CROSS CONNECTION. Any physical connection or potential connection or arrangement between two otherwise separate piping systems, one of which contains potable water and the other either water of unknown or questionable safety or steam, gas or chemical, whereby there exists the possibility for flow from one system to the other, with the direction of flow depending on the pressure differential between the two systems(see "Backflow, Water Distribution").

(5) In Section R202 the following definition is added:

HEAT exchanger (Potable Water). A device to transfer heat between two physically separated fluids (liquid or steam), one of which is potable water.

(6) In section R202 the definition of "Potable Water" is deleted and replaced with the following:

POTABLE WATER. Water free from impurities present in amounts sufficient to cause disease or harmful physiological effects and conforming to the Titles 19-4 and 19-5, Utah Code Ann. (1953), as amended and the regulations of the public health authority having jurisdiction.

(7) In Section R202 the definition of "Water Heater" is deleted and replaced with the following:

WATER HEATER. A closed vessel in which water is heated by the combustion of fuels or electricity and is withdrawn for use externally to the system at pressures not exceeding 160 psig (1100 kPa (gage)), including the apparatus by which heat is generated, and all controls and devices necessary to prevent water temperatures from exceeding 210 degrees Fahrenheit (99 degrees Celsius).

(8) Section R301.4 is deleted and replaced with the following:

R301.4 Live Load. The minimum uniformly distributed live load shall be as provided in Table R301.4.

TABLE R301.4
MINIMUM UNIFORMLY DISTRIBUTED LIVE LOADS
(in pounds per square foot)

| USE | LIVE LOAD |
|--------------------------------------|-----------|
| Exterior balconies | 60 |
| Decks (f) | 40 |
| Fire escapes | 40 |
| Passenger vehicle garages (a) | 50(a) |
| Attics without storage (b), (e), (g) | 10 |
| Attics with storage (b), (e) | 20 |
| Rooms other than sleeping rooms | 40 |
| Sleeping rooms | 30 |
| Stairs | 40(c) |
| Guardrails and handrails (d) | 200 |

For SI: 1 pound per square foot = 0.0479kN/m², 1 square inch = 645 mm² 1 pound = 4.45N.

(a) Elevated garage floors shall be capable of supporting a 2,000-pound load applied over a 20-square-inch area.

(b) No storage with roof slope not over 3 units in 12 units.

(c) Individual stair treads shall be designed for the uniformly distributed live load or a 300-pound concentrated load acting over an area of 4 square inches, whichever produces the greater stresses.

(d) A single concentrated load applied in any direction at any point along the top.

(e) Attics constructed with wood trusses shall be designated in accordance with Section R802.10.1.

(f) See Section R502.2.1 for decks attached to exterior walls.

(g) This live load need not be considered as acting simultaneously with other live loads imposed upon the ceiling framing or its supporting structure.

([8]9) Section R304.3 is deleted and replaced with the following:

R304.3 Minimum dimensions. Habitable rooms shall not be less than 7 feet (2134 mm) in any horizontal dimension.

Exception: Kitchens shall have a clear passageway of not less than 3 feet (914 mm) between counter fronts and appliances or counter fronts and walls.

([9]10) Section R309.2 is deleted and replaced with the following:

R309.2 Separation required. The garage shall be separated from the residence and its attic area by installation of materials approved for one-hour fire-resistive construction applied to the garage side. Where the separation is a floor-ceiling assembly, the structure supporting the separation shall also be protected by installation of materials approved for one-hour fire-resistive construction.

(11) Section R312.1.2 is deleted and replaced with the following:

R312.1.2 Landings at doors. There shall be a floor or landing on each side of each exterior door.

Exception: At the exterior door of all non required exist doors. The floor or landing at a door shall not be more than 1.5 inches (38 mm) lower than the top of the threshold.

Exception: The landing of an exterior doorway shall not be more than 8 inches (197 mm) below the top of the threshold, provided that the door, other than an exterior storm or screen door, does not swing over the landing.

(1[0]2) Section R314.2 is deleted and replaced with the following:

R314.2 Trends and risers. The maximum riser height shall be 8 inches (203 mm) and the minimum tread depth shall be 9 inches (229 mm). The riser height shall be measured vertically between leading edges of the adjacent treads. The tread depth shall be measured horizontally between the vertical planes of the foremost projection of adjacent treads and at a right angle to the tread's leading edge. The walking surface of treads and landings of a stairway shall be sloped no steeper than one unit vertical in 48 units horizontal (2-percent slope). The greatest riser height within any flight of stairs shall not exceed the smallest by more than 3/8 inch (9.5 mm). The greatest tread depth within any flight of stairs shall not exceed the smallest by more than 3/8 inch (9.5 mm).

R314.2.1 Profile. The radius of curvature at the leading edge of the tread shall be no greater than 9/16 inch (14.3 mm). A nosing not less than 3/4 inch (19.1 mm) but not more than 1 1/4 inches (32 mm) shall be provided on stairways with solid risers. The greatest nosing

projection shall not exceed shall not exceed the smallest nosing projection by more than 3/8 inches (9.5 mm) between two stories, including the nosing at the level of floors and landings. Beveling of nosing shall not exceed 1/2 inch (12.7 mm). Risers shall be vertical or sloped from the underside of the leading edge of the tread above at an angle not more than 30 degrees from the vertical. Open risers are permitted, provided that the opening between treads does not permit the passage of a 4-inch diameter (102 mm) sphere.

Exceptions:

1. A nosing is not required where the tread depth is a minimum of 10 inches (254 mm).

2. The opening between adjacent treads is not limited on stairs with a total rise of 30 inches (762 mm) or less.

(1[4]3) Section R315.1 is deleted and replaced with the following:

R315.1 Handrails. Handrails shall be provided on at least one side of stairways consisting of four or more risers. Handrails shall have a minimum height of 34 inches (864 mm) and a maximum height of 38 inches (965 mm) measured vertically from the nosing of the treads. All required handrails shall be continuous the full length of the stairs from a point directly above the top riser to a point directly above the lowest riser of the stairway. The ends of the handrail shall be returned into a wall or shall terminate in newel post or safety terminals. A minimum clear space of 1 1/2 inches (38 mm) shall be provided between the wall and the handrail.

Exceptions:

1. Handrails shall be permitted to be interrupted by a newel post at a turn.

2. The use of a volute, turnout or starting easing shall be allowed over the lowest tread.

(1[2]4) Section R315.2 is deleted and replaced with the following:

R315.2 Handrail grip size. The handgrip portion of handrails shall have a circular cross section of 1 1/4 inches (32mm) minimum to 2 5/8 inches (67mm) maximum. Edges shall have a minimum radius of 1/8 inch (3.2mm).

Exception: Non-circular handrails shall be permitted to have a maximum cross sectional dimension of 3.25 inches (83mm) measured 2 inches (51 mm) down from the top of the crown. Such handrail is required to have an indentation on both sides between 0.625 inch (16mm) and 1.5 inches (38mm) down from the top or crown of the cross section. The indentation shall be a minimum of 0.25 inch (6mm) deep on each side and shall be at least 0.5 inch (13 mm) high. Edges within the handgrip shall have a minimum radius of 0.0625 inch (2 mm). The handrail surface shall be smooth with no cusps so as to avoid catching clothing or skin.

(1[3]5) In Section 321.3.2 Exception 1.1 is deleted and replaced with the following:

1.1 By a horizontal distance of not less than the width of a stud space regardless of stud spacing, or

(1[4]6) Section R403.1.6.1 is deleted and replaced with the following:

R403.1.6.1 Foundation anchorage in Seismic Design Categories D₁ and D₂. In addition to the requirements of Section R403.1.6, the following requirements shall apply to light-wood frame structures in Seismic Design Categories D₁ and D₂. Anchor bolts shall be located within 12 inches (305 mm) from the ends of each plate section at interior bearing walls, interior braced wall lines and at all exterior walls. Plate washers a minimum of 2 inches by 2 inches by 3/16 inch (51 mm by 4.8 mm) thick shall be used on each bolt.

Exceptions:

a. When anchor bolt spacing does not exceed 32 inches (816 mm) apart, anchor bolts may be placed with a minimum of two bolts per plate section located not less than 4 inches (102 mm) from each end of each plate section at interior bearing walls, interior braced wall lines and at all exterior walls.

b. When anchor bolt spacing does not exceed 32 inches (816 mm) apart, a properly sized round washer may be used.

The maximum anchor bolt spacing shall be 4 feet (1219 mm) for two-story structures.

(17) Section R703.6 is deleted and replaced with the following:

R703.6 Exterior plaster.

R703.6.1 Lath. All lath and lath attachments shall be of corrosion-resistant materials. Expanded metal or woven wire lath shall be attached with 1 1/2 inch-long (38 mm), 11 gage nails having 7/16 inch (11.1 mm) head, or 7/8-inch-long (22.2 mm), 16 gage staples, space at no more than 6 inches (152 mm), or as otherwise approved.

R703.6.2 Weather-resistant barriers. Weather-resistant barriers shall be installed as required in Section R703.2 and, where applied over wood-based sheathing, shall include a weather-resistive vapor permeable barrier with a performance at least equivalent to two layers of Grade D paper.

R703.6.3 Plaster. Plastering with portland cement plaster shall be not less than three coats when applied over metal lath or wire lath and shall be not less than two coats when applied over masonry, concrete or gypsum backing. If the plaster surface is completely covered by veneer or other facing material or is completed concealed, plaster application need be only two coats, provided the total thickness is as set forth in Table R702.1(1). On wood-frame construction with an on-grade floor slab system, exterior plaster shall be applied in such a manner as to cover, but not extend below, lath, paper and screed.

The proportion of aggregate to cementitious materials shall be as set forth in Table R702.1(3).

(1[5]8) In Section R703.7 Stone and masonry veneer, general the following exceptions are added:

Exceptions:

3. For detached one- or two-family dwellings with a maximum nominal thickness of 4 inches (102 mm) of exterior masonry veneer with a backing of wood frame located in Seismic Design Category D₁, the masonry veneer shall not exceed 20 feet (6096 mm) in height above a noncombustible foundation, with an additional 8 feet (2438 mm) permitted for gabled ends, or 30 feet (9144 mm) in height with an additional 8 feet (2438 mm) permitted for gabled ends where the lower 10 feet (3048 mm) has a backing of concrete or masonry wall, provided the following criteria are met:

(a) Braced wall panels shall be constructed with a minimum of 7/16 inch (11.1 mm) thick sheathing fastened with 8d common nails at 4 inches (102 mm) on center on panel edges and at 12 inches (305 mm) on center on intermediate supports.

(b) The bracing of the top story shall be located at each end and at least every 25 feet (7620 mm) on center but not less than 45% of the braced wall line. The bracing of the first story shall be as provided in Table R602.10.3.

(c) Hold down connectors shall be provided at the ends of braced walls for the second floor to first floor wall assembly with an allowable design of 2100 lbs (952.5 kg). Hold down connectors shall be provided at the ends of each wall segment of the braced walls for the first floor to foundation assembly with an allowable

design of 3700 lbs. (1678 kg). In all cases, the hold down connector force shall be transferred to the foundation.

(d) Cripple walls shall not be permitted.

4. For detached one- and two-family dwellings with a maximum actual thickness of 3 inches (76 mm) of exterior masonry veneer with a backing of wood frame located in Seismic Design Category D₂, the masonry veneer shall not exceed 20 feet (6096 mm) in height above a noncombustible foundation, with an additional 8 feet (2438 mm) permitted for gabled ends, or 30 feet (9144 mm) in height with an additional 8 feet (2438 mm) permitted for gabled ends where the lower 10 feet (3048 mm) has a backing of concrete on masonry wall, provided the following criteria are met:

(a) Braced wall panels shall be constructed with a minimum of 7/16 inch (11.1 mm) thick sheathing fastened with 8d common nails at 4 inches (102 mm) on center on panel edges and at 12 inches (305 mm) on center on intermediate supports.

(b) The bracing of the top story shall be located at each end and at least every 25 feet (7620 mm) on center but not less than 55% of the braced wall line. The bracing of the first story shall be as provided in Table R602.10.3.

(c) Hold down connectors shall be provided at the ends of braced walls for the second floor to first floor wall assembly with an allowable design of 2300 lbs (1043 kg). Hold down connectors shall be provided at the ends of each wall segment of the braced walls for the first floor to foundation assembly with an allowable design of 3900 lbs. (1769 kg). In all cases, the hold down connector force shall be transferred to the foundation.

(d) Cripple walls shall not be permitted.

(1[6]9) Section P2602.2 is added as follows:

P2602.2 Individual water supply. Where a potable public water supply is not available, individual sources of potable water supply shall be utilized provided that the source has been developed in accordance with Sections 73-3-1 and 73-3-25, Utah Code Ann. (1953), as amended, as administered by the Department of Natural Resources, Division of Water Rights. In addition, the quality of the water shall be approved by the local health department having jurisdiction.

(1[7]20) Section P2602.3 is added as follows:

P2602.3 Sewer required. Every building in which plumbing fixtures are installed and all premises having drainage piping shall be connected to a public sewer where the sewer is within 300 feet of the property line in accordance with Section 10-8-38, Utah Code Ann. (1953), as amended; or an approved private sewage disposal system in accordance with Rule R317-5501 through R317-513 and Rule R317-5, Utah Administrative Code, as administered by the Department of Environmental Quality, Division of Water Quality.

(21) Section P2603.2.1 is deleted and replaced with the following:

P2603.2.1 Protection against physical damage. In concealed locations where piping, other than cast-iron or galvanized steel, is installed through holes or notches in studs, joists, rafters, or similar members less than 1 1/2 inch (38 mm) from the nearest edge of the member, the pipe shall be protected by shield plates. Protective shield plates shall be a minimum of 1/16 inch-thick (1.6 mm) steel, shall cover the area of the pipe where the member is notched or bored, and shall be at least the thickness of the framing member penetrated.

(22) Section P2710.1 is deleted and replaced with the following:

P2710.1 Finished. Shower walls shall be finished in accordance with Section R307.2.

([18]23) Section P2801.2 is added as follows:

P2801.2 Water heater seismic bracing. Water heaters shall be anchored or strapped in the upper third of the appliance to resist a horizontal force equal to one third the operating weight of the water heater, acting in any horizontal direction, or in accordance with the appliance manufacturers recommendations.

([19]24) Section P2902.1.1 is added as follows:

P2902.1.1 Backflow assembly testing. The premise owner or his designee shall have backflow prevention assemblies operation tested at the time of installation, repair and relocation and at least on an annual basis thereafter, or more frequently as required by the authority having jurisdiction. Testing shall be performed by a Certified Backflow Preventer Assembly Tester. The assemblies that are subject to this paragraph are the Spill Resistant Vacuum Breaker, the Pressure Vacuum Breaker Assembly, the Double Check Backflow Prevention Assembly, the Double Check Detector Assembly Backflow Preventer, the Reduced Pressure Principle Backflow Preventer, and Reduced Pressure Detector Assembly, and the spring loaded check valve assembly described in amended Section 608.16.4 of the International Plumbing Code.

(2[0]5) Section P2903.9.3 is deleted and replaced with the following:

P2903.9.3 Valve requirements. Valves serving individual fixtures, appliances, risers, and branches shall be provided with access. An individual shutoff valve shall be required on the water supply pipe to each water closet, lavatory, kitchen sink, and appliance.

(2[4]6) Section P3003.2.1 is added as follows:

Section P3003.2.1 Improper Connections. No drain, waste, or vent piping shall be drilled and tapped for the purpose of making connections.

(2[2]7) In Section P3103.6, the following sentence is added at the end of the paragraph:

Vents extending through the wall shall terminate not less than 12 inches from the wall with an elbow pointing downward.

(2[3]8) In Section P3104.4, the following sentence is added at the end of the paragraph:

Horizontal dry vents below the flood level rim shall be permitted for floor drain and floor sink installations when installed below grade in accordance with Chapter 30, and Sections P3104.2 and P3104.3. A wall cleanout shall be provided in the vertical vent.

(2[4]9) Chapter 43, Referenced Standards, is amended as follows:

The following reference standard is added:

TABLE

| | | |
|------------|-----------------------------------|---------------|
| USC- | Foundation for Cross-Connection | Section P2902 |
| FCCCHR | Control and Hydraulic Research | |
| 9th | University of Southern California | |
| Edition | Kaprielian Hall 300 | |
| Manual | Los Angeles CA 90089-2531 | |
| of Cross | | |
| Connection | | |
| Control | | |

R156-56-712. Local Amendments to the IRC.

The following are adopted as amendments to the IRC to be applicable to the following jurisdictions:

(1) City of Farmington:

Sections R328.1 and R328.2 are added as follows:

R328.1 When required. An automatic sprinkler system shall be installed throughout every dwelling in accordance with NFPA 13-D, when any of the following conditions are present:

1. the structure is over two stories high, as defined by the building code;
2. the nearest point of structure is more than 150 feet from the public way;
3. the total floor area of all stories is over 5,000 square feet (excluding from the calculation the area of the basement and/or garage); or
4. the structure is located on a street constructed after March 1, 2000 that has a gradient over 12% and, during fire department response, access to the structure will be gained by using such street. (If the access is intended to be from a direction where the steep gradient is not used, as determined by the Chief, this criteria shall not apply).

R328.2 Installation requirements and standards. Such sprinkler system shall be installed in basements, but need not be installed in garages, under eaves or in enclosed attic spaces, unless required by the Chief. Such system shall be installed in accordance with NFPA 13-D.

(2) Morgan City Corp:

Section R105.2 Work Exempt From Permit, the following is added:

10. Structures intended to house farm animals, or for the storage of feed associated with said farm animals when all the following criteria is met:

- a. The parcel of property involved is zoned for the keeping of farm animals or has grand fathered animal rights.
- b. The structure is setback not less than 50 feet from the rear or side of dwellings, and not less than 10 feet from property lines and other structures.
- c. The structure does not exceed 1000 square feet of floor area, and is limited to 20 feet in height. Height is measured from the average grade to the highest point of the structure.
- d. Before construction, a site plan is submitted to, and approved by the building official.

Electrical, plumbing, and mechanical permits shall be required when that work is included in the structure.

(3) Morgan County:

Section R105.2 Work Exempt From Permit, the following is added:

10. Structures intended to house farm animals, or for the storage of feed associated with said farm animals when all the following criteria is met:

- a. The parcel of property involved is zoned for the keeping of farm animals or has grand fathered animal rights.
- b. The structure is set back not less than required by the Morgan County Zoning Ordinance for such structures, but not less than 10 feet from property lines and other structures.
- c. The structure does not exceed 1000 square feet of floor area, and is limited to 20 feet in height. Height is measured from the average grade to the highest point of the structure.
- d. Before construction, a Land Use Permit must be applied for, and approved, by the Morgan County Planning and Zoning Department.

Electrical, plumbing, and mechanical permits shall be required when that work is included in the structure.

([3]4) City of North Salt Lake:

Sections R328.1 and R328.2 are added as follows:

R328.1 When Required. An automatic sprinkler system shall be installed throughout every dwelling when the following condition is present:

1. The structure is over 6,200 square feet.

R328.2 Installation requirements and standards. Such sprinkler system shall be installed in basements, but need not be installed in garages, under eaves, or in enclosed attic spaces, unless required by the fire chief. Such system shall be installed in accordance with NFPA 13-D.

~~([4]5) Park City Corporation:~~

Section R905.7 is deleted and replaced with the following:

R905.7 Wood shingles. The installation of wood shingles shall comply with the provisions of this section.

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

TABLE
WILDFIRE HAZARD SEVERITY SCALE

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

PROHIBITION/EXEMPTION TABLE

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

Section R905.8 is deleted and replaced with the following:

R905.8 Wood Shakes. The installation of wood shakes shall comply with the provisions of this section. Wood roof covering is prohibited in areas with a combined rating of more than 11 using the following tables with a score of 9 for weather factors.

TABLE
WILDFIRE HAZARD SEVERITY SCALE

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

PROHIBITION/EXEMPTION TABLE

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

Appendix K is adopted.

KEY: contractors, building codes, building inspection, licensing
~~July 1, 2002~~

Notice of Continuation May 16, 2002

58-1-106(1)

58-1-202(1)(a)

58-56-1

58-56-4(2)

58-56-6(2)(a)



**Commerce, Occupational and
Professional Licensing
R156-56-704
Statewide Amendments to the IBC**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 25412

FILED: 09/30/2002, 11:47

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule filing is to implement changes proposed by the Uniform Building Code Commission regarding the removal of the requirements to prevent ice and snow build up on walkways.

SUMMARY OF THE RULE OR CHANGE: Sections 1003.3.3.5.2 and 1003.3.4.6.2 of the International Building Code (IBC) are being deleted. This proposed amendment deletes requirements that are not clear regarding water accumulating on walking surfaces.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-56-1, and Subsections 58-1-160(1), 58-1-202(1)(a), 58-56-4(2), and 58-56-6(2)(a)

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** There will be no cost to the Division of Occupational and Professional Licensing to print this rule once all proposed amendments are made effective as this rule is no longer printed by the Division; but it is available on the Division's website. Regarding the sections being deleted in the IBC, the Division has determined that there should be no impact on the state budget since no defined standard is identified in the requirements and property owners will likely continue their current construction practices regarding water accumulating on walking surfaces.

❖ **LOCAL GOVERNMENTS:** Regarding the sections being deleted in the IBC, the Division has determined that there should be no impact on local governments since no defined standard is identified in the requirements and property owners will likely continue their current construction practices regarding water accumulating on walking surfaces.

❖ **OTHER PERSONS:** Regarding the sections being deleted in the IBC, the Division has determined that there should be no impact on other persons since no defined standard is identified in the requirements and property owners will likely continue their current construction practices regarding water accumulating on walking surfaces.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Regarding the sections being deleted in the IBC, the Division has determined that there should be no impact on local governments since no defined standard is identified in the requirements and property owners will likely continue their current construction practices regarding water accumulating on walking surfaces.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The purpose of this rule filing is to implement the changes proposed by the Uniform Building Code Commission regarding the removal of the requirement for drainage to prevent ice and snow build up on walkways. This amendment could possibly create additional injuries to those who slip and fall on walkways. As a result, the costs to

the property owner and property owner's insurers could increase. The amount of such negative fiscal impact is undeterminable. Ted Boyer, 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 11/15/2002

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 11/15/2002 at 9:00 AM, State Office Building, Room 4112, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 11/16/2002

AUTHORIZED BY: J. Craig Jackson, Director

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

The following are adopted as amendments to the IBC to be applicable statewide:

(1) All references to the International Electrical Code are deleted and replaced with the National Electrical Code adopted under Subsection R156-56-701(1)(b).

(2) Section 101.4.1 is deleted and replaced with the following:
101.4.1 Electrical. The provisions of the National Electrical Code (NEC) shall apply to the installation of electrical systems, including alterations, repairs, replacement, equipment, appliances, fixtures, fittings and appurtenances thereto.

(3) In Section 202, the following definition is added:
ASSISTED LIVING FACILITY. See Section 308.1.1.

(4) Section 302.3.3 is deleted and replaced with the following:
302.3.3 Separated uses. Each portion of the building shall be individually classified as to use and shall be considered separated from other occupancies when completely separated from adjacent areas by fire barrier walls or horizontal assemblies or both having a fire-resistance rating determined in accordance with this sections.

302.3.3.1 All occupancies. Each fire area shall be separated from other occupancies in other fire areas in accordance with Table 302.3.3 based on the occupancy in the fire areas, and shall comply with the height limitations based on the use of that space and the type of construction classification. In each story the building area shall be such that the sum or the ratios of the floor area of each use divided by the allowable area for each use shall not exceed 1.

Exceptions for R-3 and U Groups:

1. The private garage shall be separated from the residence and its attic area by means of materials approved for one-hour fire resistive construction applied to the garage side. Door openings between the garage and the residence shall be equipped with either solid wood doors not less than 1 3/8 inches (35 mm) thick or doors in compliance with Section 714.2.3. Openings from a private garage directly into a room used for sleeping purposes shall not be permitted.

2. Ducts in the private garage and ducts penetrating the walls or ceilings separating the dwelling from the garage shall be constructed of a minimum No. 26 gage (.48 mm) sheet steel and shall have no openings into the garage.

3. A separation is not required between a Group R-3 and Group U carport provided the carport is entirely open on two or more sides and there are not enclosed spaces above.

Where the building is equipped throughout with an automatic sprinkler system, the fire resistance ratings in Table 302.3.3 shall be reduced by one hour but not to less than one hour and to not less than that required for floor construction according to the type of construction. The one hour reduction shall not apply to fire area separations when H-1, H-2, H-3, or I-2 occupancies are included in the areas being separated.

Table 302.3.3 is deleted and replaced with:

Table 302.3.3, entitled "Required Separation of Occupancies", dated January 1, 2002, published by the Department of Commerce, Division of Occupational and Professional Licensing is hereby adopted and incorporated by reference. Table 302.3.3 identifies what type of separation of occupancies requirements are mandated in various types of property use classifications.

(5) Section 305.2 is deleted and replaced with the following:

305.2 Day care. The building or structure, or portion thereof, for educational, supervision, child day care centers, or personal care services of more than four children shall be classified as a Group E occupancy. See Section 419 for special requirements for Group E child day care centers.

Exception: Areas used for child day care purposes with a Residential Certificate, Family License or Family Group License may be located in a Group R-2 or R-3 occupancy as provided in Section 310.1 and as applicable in Section 101.2.

Child day care centers providing care for more than 100 children 2 1/2 years or less of age shall be classified as Group I-4.

(6) In Section 308 the following definitions are added:

308.1.1 Definitions. The following words and terms shall, for the purposes of this section and as used elsewhere in this code, have the meanings shown herein.

TYPE 1 ASSISTED LIVING FACILITY. A residential facility that provides a protected living arrangement for ambulatory, non-restrained persons who are capable of achieving mobility sufficient to exit the facility without the assistance of another person.

TYPE 2 ASSISTED LIVING FACILITY. A residential facility that provides an array of coordinated supportive personal and health care services to residents who meet the definition of semi-independent.

SEMI-INDEPENDENT. A person who is:

A. Physically disabled but able to direct his or her own care; or
 B. Cognitively impaired or physically disabled but able to evacuate from the facility with the physical assistance of one person.

(7) Section 308.2 is deleted and replaced with the following:

308.2 Group I-1. This occupancy shall include a building or part thereof housing more than 16 persons, on a 24-hour basis, who

because of age, mental disability or other reasons, live in a supervised residential environment that provides personal care services. The occupants are capable of responding to an emergency situation without physical assistance from staff. This group shall include, but not be limited to, the following: residential board and care facilities, type 1 assisted living facilities, half-way houses, group homes, congregate care facilities, social rehabilitation facilities, alcohol and drug centers and convalescent facilities. A facility such as the above with five or fewer persons shall be classified as a Group R-3. A facility such as above, housing at least six and not more than 16 persons, shall be classified as a Group R-4.

(8) Section 308.3 is deleted and replaced with the following:

308.3 Group I-2. This occupancy shall include buildings and structures used for medical, surgical, psychiatric, nursing or custodial care on a 24-hour basis of more than three persons who are not capable of self-preservation. This group shall include, but not be limited to the following: hospitals, nursing homes (both intermediate care facilities and skilled nursing facilities), mental hospitals, detoxification facilities, ambulatory surgical centers with two or more operating rooms where care is less than 24 hours and type 2 assisted living facilities. Type 2 assisted living facilities with five or fewer persons shall be classified as a Group R-4. Type 2 assisted living facilities as defined in 308.1.1 with at least six and not more than sixteen residents shall be classified as a Group I-1 facility.

(9) Section 308.3.1 is deleted and replaced with the following:

308.3.1 Child care facility. A child care facility that provides care on a 24 hour basis to more than four children 2 1/2 years of age or less shall be classified as Group I-2.

(10) Section 308.5 is deleted and replaced with the following:

308.5 Group I-4, day care facilities. This group shall include buildings and structures occupied by persons of any age who receive custodial care less than 24 hours by individuals other than parents or guardians, relatives by blood, marriage, or adoption, and in a place other than the home of the person cared for. A facility such as the above with four or fewer persons shall be classified as an R-3. Places of worship during religious functions and Group E child day care centers are not included.

(11) Section 308.5.2 is deleted and replaced with the following:

308.5.2 Child care facility. A facility that provides supervision and personal care on less than a 24 hour basis for more than 100 children 2 1/2 years of age or less shall be classified as Group I-4.

(12) In Section 310.1 the R-3 section is deleted and replaced with the following:

R-3 Residential occupancies where the occupants are primarily permanent in nature and not classified as R-1, R-2 or I and where buildings do not contain more than two dwelling units, or adult and child care facilities that provide accommodations for four or fewer persons of any age for less than 24 hours. Areas used for day care purposes may be located in a Residential Group, R-3 occupancy provided the building substantially complies with the requirements for a dwelling unit and under all of the following conditions:

1. Compliance with the Utah Administrative Code, R710-8, Day Care Rules, as enacted under the authority of the Utah Fire Prevention Board.

2. Use is approved by the State Department of Health, as enacted under the authority of the Utah Child Care Licensing Act, UCA, Sections 26-39-101 through 26-39-110, and in any of the following categories:

a. Utah Administrative Code, R430-50, Residential Certificate Child Care Standards.

b. Utah Administrative Code, R430-90, Licensed Family Child Care.

3. Compliance with all zoning regulations of the local regulator.

(13) A new section 310.4 is added as follows:

310.4 Floor-level exit signs. Where exit signs are required by section 1003.2.10.1, additional approved exit signs that are internally or externally illuminated, photoluminescent or self-luminous, shall be provided in all corridors serving guest rooms of R-1 occupancies. The bottom of such signs shall not be less than 6 inches (152 mm) nor more than 8 inches (203 mm) above the floor level and shall indicate the path of exit travel. For exit and exit access doors, the sign shall be on the door or adjacent to the door with the closest edge of the sign with 8 inches (203 mm) of the door frame.

(14) In section 403.10.1.1 the exception is deleted.

(15) A new section 419 is added as follows:

Section 419 Group E Child Day Care Centers. Group E child day care centers shall comply with Section 419.

419.1 Location at grade. Group E child day care centers shall be located at the level of exit discharge.

Exception: Child day care spaces for children over the age of 24 months may be located on the second floor of buildings equipped with automatic fire protection throughout and an automatic fire alarm system.

419.2 Egress. All Group E child day care spaces with an occupant load of 10 or more shall have a second means of egress. If the second means of egress is not an exit door leading directly to the exterior, the room shall have an emergency escape and rescue window complying with Section 1009.

(16) Section 706.3.5 is deleted and replaced with the following:

706.3.5 Separation of mixed occupancies. Where the provisions of Section 302.3.3 are applicable, the fire barrier separating mixed occupancies shall have a fire-resistance rating of not less than that indicated in Section 302.3.3 based on the occupancies being separated.

(17) A new Section 706.3.6 is added as follows:

706.3.6. Single occupancy fire areas. The fire barrier separating a single occupancy into different fire areas shall have a fire resistance rating of not less than that indicated in Table 706.3.6.

TABLE 706.3.6
FIRE-RESISTANCE RATING REQUIREMENTS
FOR FIRE BARRIER ASSEMBLIES BETWEEN
FIRE AREAS

| OCCUPANCY GROUP | FIRE-RESISTANCE RATING (IN HOURS) |
|--|-----------------------------------|
| H-1, H-2 | 4 |
| F-1, H-3, S-1 | 3 |
| A, B, E, F-2, H-4, H-5, I M, R, S-2 | 2 |
| U | 1 |

(18) Section 710.3 is deleted and replaced with the following:

710.3 Fire-resistance rating. The fire-resistance rating of floor and roof assemblies shall not be less than that required by the building type of construction. Where the floor assembly separates mixed occupancies, the assembly shall have a fire-resistance rating of not less than that required in Section 302.3.3 based on the occupancies being separated. Where the floor assembly separates a single occupancy into different fire areas, the assembly shall have a fire-resistance rating of not less than that required by Section

706.3.6. Floor assemblies separating dwelling units or guestrooms shall be a minimum of 1-hour fire-resistance-rated construction.

Exception: Dwelling unit and guestroom separations in buildings of Type IIB, IIIB and VB construction shall have fire-resistance ratings of not less than 1/2 hour in buildings equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1.

(19) In Section 902, the definition for record drawings is deleted and replaced with the following:

RECORD DRAWINGS. Drawings ("as built") that document all aspects of a fire protection system as installed.

(20) Section 903.2.5 is deleted and replaced with the following:

903.2.5 Group I. An automatic sprinkler system shall be provided throughout buildings with Group I fire areas. Listed quick response or residential sprinkler heads shall be installed in patient or resident sleeping areas.

(21) Section 903.2.9 Group R-4 is deleted and replaced with the following:

An automatic sprinkler system shall be provided throughout buildings with Group R-4 fire areas that contain more than eight occupants. Listed quick response or residential sprinkler heads shall be installed in patient or resident sleeping areas.

Exception: Buildings not more than 4,500 gross square feet and not containing more than 16 residents, provided that building is equipped throughout with a fire alarm system that is interconnected and receives its primary power from the building wiring and a commercial power system.

(22) Section 905.5.3 is deleted and replaced with the following:

905.5.3 Class II system 1-inch hose. A minimum 1-inch (25.4 mm) hose shall be permitted to be used for hose stations in light-hazard occupancies where investigated and listed for this service and where approved by the code official.

(23) In section 1002, the definition for exit discharge is deleted and replaced with the following:

EXIT DISCHARGE. That portion of a means of egress system between the termination of an exit and a public way or safe dispersal area.

(24) In section 1003.2.12.1 the exception is deleted and replaced with the following:

Exceptions:

1. For occupancies in Group R-3 and within individual dwelling units in occupancies in Group R-2, as applicable in Section 101.2, guards whose top rail serves as a handrail shall have a height not less than 34 inches (864 mm) and not more than 38 inches (965 mm) measured vertically from the leading edge of the stair tread nosing.

2. For occupancies in Group R-3 and within individual dwelling units in occupancies in Group R-2, as applicable in section 101.2, guards shall form a protective barrier not less than 36 inches (914 mm).

(25) Section 1003.2.12.2 is deleted and replaced with the following:

1003.2.12.2 Opening limitations. Open guards shall have balusters or ornamental patterns such that a 4-inch-diameter (102 mm) sphere cannot pass through any opening up to a height of 34 inches (864 mm). From a height of 34 inches (864 mm) to 42 inches (1067 mm) above the adjacent walking surface, a sphere 8 inches (203 mm) in diameter shall not pass. For occupancies in Group R-3 and within individual dwelling units in occupancies in Group R-2, as

applicable in Section 101.2, required guards shall not be constructed with horizontal rails or other ornamental pattern that results in a ladder effect.

Exceptions:

1. The triangular openings formed by the riser, tread and bottom rail at the open side of a stairway shall be of a maximum size such that a sphere of 6 inches (152 mm) in diameter cannot pass through the opening.

2. At elevated walking surfaces for access to and use of electrical, mechanical, or plumbing systems or equipment, guards shall have balusters or be of solid materials such that a sphere with a diameter of 21 inches (533 mm) cannot pass through any opening.

3. In occupancies in Group I-3, F, H or S, balusters, horizontal intermediate rails or other construction shall not permit a sphere with a diameter of 21 inches (533 mm) to pass through any opening.

4. In assembly seating areas, guards at the end of aisles where they terminate at a fascia of boxes, balconies, and galleries shall have balusters or ornamental patterns such that a 4-inch-diameter (102 mm) sphere cannot pass through any opening up to a height of 26 inches (660 mm). From a height of 26 inches (660 mm) to 42 inches (1067 mm) above the adjacent walking surfaces, a sphere 8 inches (203 mm) in diameter shall not pass.

(26) Section 1003.3.3.3, Exception #5 is deleted and replaced with the following:

5. In occupancies in Group R-3, as applicable in Section 101.2, within dwelling units in occupancies in Group R-2, as applicable in Section 101.2, and in occupancies in Group U, which are accessory to an occupancy in Group R-3, as applicable in Section 101.2, the maximum riser height shall be 8 inches (203 mm) and the minimum tread depth shall be 9 inches (229 mm). The riser height shall be measured vertically between leading edges of the adjacent treads. The tread depth shall be measured horizontally between the vertical planes of the foremost projection of the adjacent treads and at a right angle to the tread's leading edge. The walking surface of the treads and landings of a stairway shall be sloped no steeper than one unit vertical in 48 units horizontal (2-percent slope). The greatest riser height within any flight of stairs shall not exceed the smallest by more than 3/8 inch (9.5 mm). The greatest tread depth within any flight of stairs shall not exceed the smallest by more than 3/8 inch (9.5 mm).

(27) Section 1003.3.3.5.2 is deleted.

(2[7]8) Section 1003.3.3.11 Exemption #4 is deleted and replaced with the following:

4. R315.1 Handrails. Handrails shall be provided on at least one side of stairways consisting of four or more risers. Handrails shall have a minimum height of 34 inches (864 mm) and a maximum height of 38 inches (965 mm) measured vertically from the nosing of the treads. All required handrails shall be continuous the full length of the stairs from a point directly above the top riser to a point directly above the lowest riser of the stairway. The ends of the handrail shall be returned into a wall or shall terminate in newel post or safety terminals. A minimum clear space of 1 1/2 inches (38 mm) shall be provided between the wall and the handrail.

(2[8]9) Section 1003.3.3.11.3 is amended to include the following exception at the end of the section:

Exception. Non-circular handrails serving an individual unit in a Group R-1, Group R-2 or Group R-3 occupancy shall be permitted to have a maximum cross sectional dimension of 3.25 inches (83 mm) measured 2 inches (51 mm) down from the top of the crown. Such handrail is required to have an indentation on both sides between 0.625 inch (16 mm) and 1.5 inches (38 mm) down from the top or

crown of the cross section. The indentation shall be a minimum of 0.25 inch (6 mm) deep on each side and shall be at least 0.5 (13 mm) high. Edges within the handgrip shall have a minimum radius of 0.0625 inch (2 mm). The handrail surface shall be smooth with no cusps so as to avoid catching clothing or skin.

(30) Section 1003.3.4.6.2 is deleted.

([29]31) In Section 1004.3.2.5 Exception 2 is deleted.

(3[0]2) New sections 1006.2.3, 1006.2.3.1 and 1006.2.3.2 are added as follows:

1006.2.3 Safe dispersal areas. Where approved by the code official, the exit discharge is permitted to lead to a safe dispersal area on the same property as the structure being discharged. The proximity and size of such safe dispersal area shall be based on such factors as the occupant load served, the mobility of occupants, the type of construction of the building, the fire protection systems installed in the building, the height of the building and the degree of hazard of the occupancy. In any case, the entire safe dispersal area shall be located not less than 50 feet (15 420 mm) from the structure served.

1006.2.3.1 School ground fences and gates. School grounds shall be permitted to be fenced and gates therein equipped with locks, provided safe dispersal areas are located between the school and fence with the entire dispersal area no less than 50 feet (15 420mm) from school buildings. Safe dispersal area capacity shall be determined by providing a minimum of 3 square feet (0.28 m²) of net clear area per occupant.

1006.2.3.2 Reviewing stands, grandstands and bleachers. Safe dispersal areas serving reviewing stands, grandstands and bleachers shall accommodate a number of persons equal to the total capacity of the stand or building served. Safe dispersal area capacity shall be determined by providing a minimum of 3 square feet (0.28 m²) of net clear area per occupant.

(3[4]3) Section 1207.2 is deleted and replaced with the following:

1207.2 Minimum ceiling heights. Occupiable spaces, habitable spaces and corridors shall have a ceiling height of not less than 7 feet 6 inches (2286 mm). Rooms in one- and two-family dwellings, bathrooms, toilet rooms, kitchens, storage rooms and laundry rooms shall be permitted to have a ceiling height of not less than 7 feet (2134 mm).

Exceptions:

1. In one- and two-family dwellings, beams or girders spaced not more than 4 feet (1219 mm) on center or projecting not more than 6 inches (152 mm) below the required ceiling height.

2. Basement rooms without habitable spaces in one- and two-family dwellings having a ceiling height of not less than 6 feet 8 inches (2033mm) with not less than 6 feet 4 inches (1932 mm) of clear height under beams, girders, ducts and similar obstructions.

3. If any room in a building has a sloping ceiling, the prescribed ceiling height for the room is required in one-half the area thereof. Any portion of the room measuring less than 5 feet (1524 mm) from the finished floor to the finished ceiling shall not be included in any computation of the minimum area thereof.

4. Mezzanines constructed in accordance with Section 505.1.

(3[2]4) Section 1207.3 is deleted and replaced with the following:

1207.3 Room area. Every dwelling unit shall have at least one room that shall have not less than 120 square feet (11.2 m²) of net floor area. Other habitable rooms shall have a net floor area of not less than 70 square feet (6.5 m²).

Exception: Every kitchen in a one- and two-family dwelling shall have not less than 50 square feet (4.64 m²) of gross floor area. (3[3]5) Section 1207.4 subparagraph 1 is deleted and replaced with the following:

1. The unit shall have a living room of not less than 165 square feet (15.3 m) of floor area. An additional 100 square feet (9.3 m) of floor area shall be provided for each occupant of such unit in excess of two.

(3[4]6) Section 1604.5, footnote "c" is added to Table 1604.5 Classification of Buildings and Other Structures for Importance Factors:

c. For determining "W" per sections 1616.4.1, 1617.4.1, 1617.5.1, or 1618.4, the Snow Factor I, may be taken as 1.0.

(3[5]7) In Section 1605.2.1, the formula shown as "f₂ = 0.2 for other roof configurations" is deleted and replaced with the following:

f₂ = 0.20 + .025(A-5) for other configurations where roof snow load exceeds 30 psf

f₂ = 0 for roof snow loads of 30 psf (1.44kN/m²) or less.

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

(3[6]8) In Section 1605.3.1 and section 1605.3.2, Exception number 2 in each section is deleted and replaced with the following:

Flat roof snow loads of 30 pounds per square foot (1.44 kNm²) or less need not be combined with seismic loads. Where flat roofs exceed 30 pounds per square foot (1.44 kNm²), the snow loads may be reduced in accordance with the following in load combinations including both snow and seismic loads.

$$W_s = (0.20 + 0.025(A-5))P_f$$

Where

W_s = Weight of snow to be included, psf

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

P_f = Design roof snow load, psf

(3[7]9) Section 1608.1 is deleted and replaced with the following:

Except as modified in section 1608.1.1, design snow loads shall be determined in accordance with Section 7 of ASCE 7, but the design roof load shall not be less than that determined by Section 1607.

([38]40) Section 1608.1.1 is added as follows:

1608.1.1 Utah Snow Loads. The ground snow load, P_g, to be used in the determination of design snow loads for buildings and other structures shall be determined by using the following formula: P_g = (P_o² + S²(A-A_o)²)^{0.5} for A greater than A_o, and P_g = P_o for A less than or equal to A_o.

WHERE

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

P_o = Base ground snow load (psf) from Table No. 1608.1.1(a)

S = Change in ground snow load with elevation (psf/100 ft.)

From Table No. 1608.1.1(a)

A = Elevation above sea level at the site (ft./1000)

A_o = Base ground snow elevation from Table 1608.1.1(a) (ft./1000)

The building official may round the roof snow load to the nearest 5 psf. The ground snow load, P_g, may be adjusted by the building official when a licensed engineer or architect submits data substantiating the adjustments. A record of such action together with the substantiating data shall be provided to the division for a permanent record.

The building official may also directly adopt roof snow loads in accordance with Table 1608.1.1(b), provided the site is no more than 100 ft. higher than the listed elevation.

Where the minimum roof live load in accordance with section 1607.11 is greater than the design roof snow load, such roof live load shall be used for design, however, it shall not be reduced to a load lower than the design roof snow load. Drifting need not be considered for roof snow loads less than 20 psf.

([39]41) Table 1608.1.1(a) and Table 1608.1.1(b) are added as follows:

TABLE NO. 1608.1.1(a)
STATE OF UTAH - REGIONAL SNOW LOAD FACTORS

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

TABLE NO. 1608.1.1(b)
RECOMMENDED SNOW LOADS FOR SELECTED UTAH CITIES AND TOWNS

| | Roof Snow Load (PSF) | Ground Snow Load (PSF) |
|------------------|----------------------|------------------------|
| Beaver County | | |
| Beaver | 5920 ft., 43 | 62 |
| Box Elder County | | |
| Brigham City | 4300 ft., 30 | 43 |
| Tremonton | 4290 ft., 30 | 43 |
| Cache County | | |
| Logan | 4530 ft., 35 | 50 |
| Smithfield | 4595 ft., 35 | 50 |
| Carbon County | | |
| Price | 5550 ft., 30 | 43 |
| Daggett County | | |
| Manila | 5377 ft., 30 | 43 |
| Davis County | | |
| Bountiful | 4300 ft., 30 | 43 |
| Farmington | 4270 ft., 30 | 43 |
| Layton | 4400 ft., 30 | 43 |
| Fruit Heights | 4500 ft., 40 | 57 |
| Duchesne County | | |
| Duchesne | 5510 ft., 30 | 43 |
| Roosevelt | 5104 ft., 30 | 43 |

| | | | |
|-------------------|----------|--------|-----|
| Emery County | | | |
| Castledale | 5660 ft. | 30 | 43 |
| Green River | 4070 ft. | 25 | 36 |
| Garfield County | | | |
| Panguitch | 6600 ft. | 30 | 43 |
| Grand County | | | |
| Moab | 3965 ft. | 25 | 36 |
| Iron County | | | |
| Cedar City | 5831 ft. | 30 | 43 |
| Juab County | | | |
| Nephi | 5130 ft. | 30 | 43 |
| Kane County | | | |
| Kanab | 5000 ft. | 25 | 36 |
| Millard County | | | |
| Millard | 5000 ft. | 30 | 43 |
| Delta | 4623 ft. | 30 | 43 |
| Morgan County | | | |
| Morgan | 5064 ft. | 40 | 57 |
| Piute County | | | |
| Piute | 5996 ft. | 30 | 43 |
| Rich County | | | |
| Woodruff | 6315 ft. | 40 | 57 |
| Salt Lake County | | | |
| Murray | 4325 ft. | 30 | 43 |
| Salt Lake City | 4300 ft. | 30 | 43 |
| Sandy | 4500 ft. | 30 | 43 |
| West Jordan | 4375 ft. | 30 | 43 |
| West Valley | 4250 ft. | 30 | 43 |
| San Juan County | | | |
| Blanding | 6200 ft. | 30 | 43 |
| Monticello | 6820 ft. | 35 | 50 |
| Sanpete County | | | |
| Fairview | 6750 ft. | 35 | 50 |
| Mt. Pleasant | 5900 ft. | 30 | 43 |
| Manti | 5740 ft. | 30 | 43 |
| Ephraim | 5540 ft. | 30 | 43 |
| Gunnison | 5145 ft. | 30 | 43 |
| Sevier County | | | |
| Salina | 5130 ft. | 30 | 43 |
| Richfield | 5270 ft. | 30 | 43 |
| Summit County | | | |
| Coalville | 5600 ft. | 60 | 86 |
| Kamas | 6500 ft. | 70 | 100 |
| Park City | 6400 ft. | 85 | 121 |
| Summit Park | 7200 ft. | 90 | 128 |
| Tooele County | | | |
| Tooele | 5100 ft. | 30 | 43 |
| Uintah County | | | |
| Vernal | 5280 ft. | 30 | 43 |
| Utah County | | | |
| American Fork | 4500 ft. | 30 | 43 |
| Orem | 4650 ft. | 30 | 43 |
| Pleasant Grove | 5000 ft. | 30 | 43 |
| Provo | 5000 ft. | 30 | 43 |
| Spanish Fork | 4720 ft. | 30 | 43 |
| Wasatch County | | | |
| Heber | 5630 ft. | 60 | 86 |
| Washington County | | | |
| Central | 5209 ft. | 25 | 36 |
| Dameron | 4550 ft. | 25 | 36 |
| Leeds | 3460 ft. | 20 | 29 |
| Rockville | 3700 ft. | 25 | 36 |
| Santa Clara | 2850 ft. | 15 (1) | 21 |
| St. George | 2750 ft. | 15 (1) | 21 |
| Wayne County | | | |
| Loa | 7080 ft. | 30 | 43 |
| Hanksville | 4308 ft. | 25 | 36 |
| Weber County | | | |
| North Ogden | 4500 ft. | 40 | 57 |
| Ogden | 4350 ft. | 30 | 43 |

NOTES

(1) The IBC requires a minimum live load - See 1607.11.2.

(4[0]2) Section 1608.2 is deleted and replaced with the following:

1608.2 Ground Snow Loads. The ground snow loads to be used in determining the design snow loads for roofs in states other than Utah are given in Figure 1608.2 for the contiguous United States and Table 1608.2 for Alaska. Site-specific case studies shall be made in areas designated CS in figure 1608.2. Ground snow loads for sites at elevations above the limits indicated in Figure 1608.2 and for all sites within the CS areas shall be approved. Ground snow load determination for such sites shall be based on an extreme value statistical analysis of data available in the vicinity of the site using a value with a 2-percent annual probability of being exceeded (50-year mean recurrence interval). Snow loads are zero for Hawaii, except in mountainous regions as approved by the building official.

(4[+3]) Section 1614.2 is deleted and replaced with the following:

1614.2 Change in Occupancy. When a change of occupancy results in a structure being reclassified to a higher Seismic Use Group, or when such change of occupancy results in a design occupant load increase of 100% or more, the structure shall conform to the seismic requirements for a new structure.

Exceptions:

1. This is not required if the design occupant load increase is less than 25 persons and the Seismic Use Group does not change.

2. Specific detailing provisions required for a new structure are not required to be met where it can be shown an equivalent level of performance and seismic safety contemplated for a new structure is obtained. Such analysis shall consider the regularity, overstrength, redundancy and ductility of the structure within the context of the specific detailing provided. Alternatively, the building official may allow the structure to be upgraded in accordance with the latest edition of the "Guidelines for Seismic Rehabilitation of Existing Buildings" or another nationally recognized standard for retrofit of existing buildings.

(4[2]4) In Section 1616.4.1, Definition of W, Item 4 is deleted and replaced with the following:

4. Roof snow loads of 30 psf or less need not be included. Where the roof snow load exceeds 30 psf, the snow load shall be included, but may be adjusted in accordance with the following formula: $W_s = (0.20 + 0.025(A-5))P_f$

WHERE:

W_s = Weight of snow to be included in seismic calculation;

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

P_f = Design roof snow load, psf

For the purposes of this section, snow load shall be assumed uniform on the roof footprint without including the effects of drift or sliding.

(4[3]5) In Section 1617.2.2, the fourth definition of r_{maxi} is deleted and replaced with the following:

=For shear walls, r_{maxi} shall be taken as the maximum value of the product of the shear in the wall or wall pier and $10/l_w$ (3.3/ l_w for SI), divided by the story shear, where l_w is the length of the wall or wall pier in feet (m). The ratio $10/l_w$ need not be taken greater than 1.0 for buildings of light frame construction.

(4[4]6) In Section 1617.4.1, Definition of W, Item 4 is deleted and replaced with the following:

4. Roof snow loads to be included shall be as outlined in section 1616.4.1, Definition of W, Item 4, as amended.

(4[5]7) In Section 1617.5.1, Definition of W, Item 4 is deleted and replaced with the following:

4. Roof snow loads to be included shall be as outlined in section 1616.4.1, Definition of W, Item 4, as amended.

(4[6]8) In Section 1618.4, Definition of W, Item 4 is deleted and replaced with the following:

4. Roof snow loads to be included shall be as outlined in section 1616.4.1, Definition of W, Item 4, as amended.

(4[7]9) Section 1805.5 is deleted and replaced with the following:

1805.5 Foundation walls. Concrete and masonry foundation walls shall be designed in accordance with Chapter 19 or 21. Foundation walls that are laterally supported at the top and bottom and within the parameters of Tables 1805.5(1) through 1805.5(4) are permitted to be designed and constructed in accordance with Sections 1805.5.1 through 1805.5.4 and 1805.5.8 through 1805.5.8.2. Concrete foundation walls may also be constructed in accordance with Section 1805.5.9.

([48]50) New sections 1805.5.8, 1805.5.8.1 1805.5.8.2 and 1805.5.9 are added as follows:

1805.5.8 Seismic requirements. Tables 1805.5(1) through 1805.5(4) shall be subject to the following limitations based on the seismic design category assigned to the structure as defined in Section 1616.

1805.5.8.1 Seismic requirements for concrete foundation walls. Concrete foundation walls constructed using Tables 1805.5(1) through 1805.5(4) shall be subject to the following:

1. Seismic Design Category A and B. Provide two No. 5 bars around window and door openings. Such bars shall extend at least 24 inches (610 mm) beyond the corners of the openings.

2. Seismic Design Category C. Tables shall not be used except as permitted for plain concrete members in Section 1910.4.

3. Seismic Design Categories D, E and F. Tables shall not be used except as allowed for plain concrete members in ACI 318, Section 22.10.

1805.5.8.2 Seismic requirements for masonry foundation walls. Masonry foundation walls constructed using Tables 1805.5(1) through 1805.5(4) shall be subject to the following:

1. Seismic Design Category A and B. No additional seismic requirements.

2. Seismic Design Category C. The requirements of Section 2106.4 shall apply.

3. Seismic Design Category D. The requirements of Section 2106.5 shall apply.

4. Seismic Design Categories E and F. The requirements of Section 2106.6 shall apply.

1805.5.9 Empirical foundation design. Group R, Division 3 Occupancies three stories or less in height, and Group U Occupancies, which are constructed in accordance with Section 2308, or with other methods employing repetitive wood-frame construction or repetitive cold-formed steel structural member construction, shall be permitted to have concrete foundations constructed in accordance with Table 1805.5.9.

([49]51) Table 1805.5.9 is added as follows:

TABLE 1805.5.9
Empirical Foundation Walls (1,8)

| Max. Height | 2' (610 mm) | 4' (1219 mm) | 6' (1829 mm) | 8' (2438 mm) | 9' (2743 mm) | Over 9' (2743 mm) |
|------------------------|--|--|--|--|--|-----------------------|
| Top Edge Support | None | None | Floor or roof dia-phragm(6) | Same as 6' | Same as 6' | Engi-neering required |
| Minimum Thickness | 6" | 6" | 8" | 8" | 8" | Same as above |
| Vertical Note Steel(2) | (5) | #4 @ 32" | #4 @ 24" | #4 @ 24" | #4 @ 16" | Same as above |
| Horizontal Steel(3) | 2-#4 Bars | 4-#4 Bars | 5-#4 Bars | 6-#4 Bars | 7-#4 Bars | Same as above |
| Steel at Openings(4) | 2-#4 Bars above; 1-#4 Bar each side 1-#4 Bar below | 2-#4 Bars above; 1-#4 Bar each side 1-#4 Bar below | 2-#4 Bars above; 1-#4 Bar each side 1-#4 Bar below | 2-#4 Bars above; 1-#4 Bar each side 1-#4 Bar below | 2-#4 Bars above; 1-#4 Bar each side 1-#4 Bar below | Same as above |
| Max. Lintel Length | 2' (610mm) | 3' (914mm) | 6' (1829mm) | 6' (1829mm) | 6' (1829mm) | Same as above |
| Min. Lintel Depth | 2" for each ft. of opening width; Min. 6" | Same as 2' | Same as 2' | Same as 2' | Same as 2' | Same as above |

Notes:

(1) Based on 3,000 psi (20.6 Mpa) concrete and 60,000 psi (414 Mpa) reinforcing steel.

(2) To be placed in the center of the wall, and extend from the footing to within three inches (76 mm) of the top of the wall; dowels of #4 bars to match vertical steel placement shall be provided in the footing, extending 24 inches (610 mm) into the foundation wall.

(3) One bar shall be located in the top four inches (102 mm), one bar in the bottom four inches (102 mm) and the other bars equally spaced between. Such bar placement satisfies the requirements of Section 1805.9. Corner reinforcing shall be provided so as to lap 24 inches (610 mm).

(4) Bars shall be placed within two inches (51 mm) of the openings and extend 24 inches (610 mm) beyond the edge of the opening; vertical bars may terminate three inches (76 mm) from the top of the concrete.

(5) Dowels of #4 bar at 32 inches on center shall be provided in the footing, extending 18 inches (457 mm) into the foundation wall.

(6) Diaphragm shall conform to the requirements of Section 2308.

(7) Footing shall be a minimum of nine inches thick by 20 inches wide.

(8) Soil backfill shall be soil classification types GW, GP, SW, or PS, per Table 1610.1. Soil shall be submerged or saturated in groundwater.

(5[0]2) A new section 2902.1.1 is added as follows:
 2902.1.1 Unisex toilets and bath fixtures. Fixtures located within unisex toilet and bathing rooms complying with section 2902 are permitted to be included in determining the minimum number of fixtures for assembly and mercantile occupancies.

(5[+]3) A new section 2306.1.4 is added as follows:
 2306.1.4 The allowable stress increase of 1.15 for snow load, shown in Table 2.3.2, Load Duration Factors, C_d , of the National Design Specifications, shall not be utilized at elevations above 5,000 feet (1524 M).

(5[2]4) Section 2308.6 is deleted and replaced with the following:

2308.6 Foundation plates or sills. Foundations and footings shall be as specified in Chapter 18. Foundation plates or sills resting on concrete or masonry foundations shall comply with Section 2304.3.1 and shall be bolted or anchored by one of the following:

1. Foundation plates or sill shall be bolted or anchored to the foundation with not less than 1/2 inch (12.7 mm) diameter steel bolts or approved anchors. Bolts shall be embedded at least 7 inches (178 mm) into concrete or masonry, and spaced not more than 6 feet (1829 mm) apart. There shall be a minimum of two bolts or anchor straps per piece with one bolt or anchor strap located not more than 12 inches (305 mm) or less than 4 inches (102 mm) from each end of each piece.

2. Foundation plates or sills shall be bolted or anchored to the foundation with not less than 1/2 inch (12.7 mm) diameter steel bolts or approved anchors. Bolts shall be embedded at least 7 inches (178 mm) into concrete or masonry, and spaced not more than 32 inches (816 mm) apart. There shall be a minimum of two bolts or anchor straps per piece located not less than 4 inches (102 mm) from each end of each piece.

A properly sized nut and washer shall be tightened on each bolt to the plate.

(5[3]5) Section 3006.5 Shunt Trip, the following exception is added:

Exception: Hydraulic elevators and roped hydraulic elevators with a rise of 50 feet or less.

(5[4]6) A new section 3402.5 is added as follows:
 3402.5 Parapets and other appendages. Building constructed prior to 1975 with parapet walls, cornices, spires, towers, tanks, signs, statuary and other appendages shall have such appendages evaluated by a licensed engineer to determine resistance to design loads specified in this code when said building is undergoing reroofing, or alteration of or repair to said feature.

EXCEPTION: Group R-3 an U occupancies.

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

The maximum height of an unreinforced masonry parapet above the level of the diaphragm tension anchors or above the parapet braces shall not exceed one and one-half times the thickness of the parapet wall. The parapet height may be a maximum of two and one-half times its thickness in other than Seismic Design Categories D, E, or F. If the required parapet height exceeds this maximum height, a bracing system designed using the coefficients specified in Table 1621.2 shall support the top of the parapet. When positive diaphragm connections are absent, tension roof anchors shall be added. Approved alternative methods of equivalent strength

will be considered when accompanied by engineer sealed drawings, details and calculations.

(5[5]7) Section 3408.1 is deleted and replaced with the following:

3408.1 Scope: The provision of sections 3408.2 through 3408.5 apply to maintenance, change of occupancy, additions and alterations to existing buildings, including those identified as historic buildings.

Exceptions:

1. When maintenance, additions or alteration occur, Type B dwelling units required by section 1107.5.4 are not required to be provided in existing buildings and facilities.

2. When a change of occupancy in a building or portion of a building results in multiple dwelling units as determined in section 1107.5.4, not less than 20 percent of the dwelling units shall be Type B dwelling units. These dwelling units may be located on any floor of the building provided with an accessible route. Two percent, but not less than one, of the dwelling units shall be Type A dwelling units.

(5[6]8) Referenced standards number 1557-91 under ASTM in chapter 35 is deleted and replaced with the following:

| TABLE | | |
|-----------------|---|--------------------------------|
| Standard Number | Title | Code Section |
| D1557-91 E01 | Laboratory Compaction Characteristics of soil using Modified Effort | 1508.15.2 K1.1.2, K1.7.5 |

(5[7]9) A new appendix K, Grading, is added as follows:

APPENDIX K - GRADING

K1.1 GENERAL

K1.1.1 Scope. The provisions of this chapter apply to grading, excavation and earthwork construction, including fills and embankments. Where conflicts occur between the technical requirements of this chapter and the soils report, the soils report shall govern.

K1.1.2 Standards. The following standards of quality shall apply:

1. ASTM D1557-91 E01, Test Method for Laboratory Compaction Characteristics of Soil Using Modified Effort (56,000 ft-lb/ft).

K1.2 DEFINITIONS

K1.2.1 Definitions. For the purposes of this appendix chapter, the terms, phrases and words listed in this section and their derivatives shall have the indicated meanings.

BENCH. A relatively level step excavated into earth material on which fill is to be placed.

COMPACTION. The densification of a fill by mechanical means.

CUT. See Excavation.

DOWN DRAIN. A device for collecting water from a swale or ditch located on or above a slope, and safely delivering it to an approved drainage facility.

EROSION. The wearing away of the ground surface as a result of the movement of wind, water or ice.

EXCAVATION. The removal of earth material by artificial means, also referred to as a cut.

FILL. Deposition of earth materials by artificial means.

GRADE. The vertical location of the ground surface.

GRADE, EXISTING. The grade prior to grading.

GRADE, FINISHED. The grade of the site at the conclusion of all grading efforts.

GRADING. An excavation or fill or combination thereof.

KEY. A compacted fill placed in a trench excavated in earth material beneath the toe of a slope.

SLOPE. An inclined surface, the inclination of which is expressed as a ratio of horizontal distance to vertical distance.

TERRACE. A relatively level step constructed in the face of a graded slope for drainage and maintenance purposes.

K1.3 PERMITS REQUIRED

K1.3.1 Permits required. Except as exempted in Section K1.3.2, no grading shall be performed without first having obtained a permit therefor from the building official. A grading permit does not include the construction of retaining walls or other structures.

K1.3.2 Exemptions. A grading permit shall not be required for the following:

1. Grading in an isolated, self-contained area, provided there is no danger to the public, and that such grading will not adversely affect adjoining properties.
2. Excavation for construction of a structure permitted under this code.
3. Cemetery graves.
4. Refuse disposal sites controlled by other regulations.
5. Excavations for wells, or trenches for utilities.
6. Mining, quarrying, excavating, processing or stockpiling rock, sand, gravel, aggregate or clay controlled by other regulations, provided such operations do not affect the lateral support of, or significantly increase stresses in, soil on adjoining properties.
7. Exploratory excavations performed under the direction of a registered design professional for the sole purpose of preparing a soils report.

Exemption from the permit requirements of this appendix shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances of this jurisdiction. The listed exemptions shall not apply to areas located in a floodway or floodplain regulated under Appendix G.

K1.4 PERMIT APPLICATION AND SUBMITTALS

K1.4.1 Submittal requirements. In addition to the provisions of Section 105.3, the applicant shall state the estimated quantities of excavation and fill.

K1.4.2 Site plan requirements. In addition to the provisions of Section 106, a grading plan shall show the existing grade and finished grade in contour intervals of sufficient clarity to indicate the nature and extent of the work and show in detail that it complies with the requirements of this code. The plans shall show the existing grade on adjoining properties in sufficient detail to identify how grade changes will conform to the requirements of this code.

K1.4.3 Soils report. A soils report prepared by registered design professionals shall be provided which shall identify the nature and distribution of existing soils; conclusions and recommendations for grading procedures; soil design criteria for any structures or embankments required to accomplish the proposed grading; and, where necessary, slope stability studies, and recommendations and conclusions regarding site geology.

Exception: A soils report is not required where the building official determines that the nature of the work applied for is such that a report is not necessary.

K1.4.4 Liquefaction study. For sites with mapped maximum considered earthquake spectral response accelerations at short period (S_s) greater than 0.5g as determined by Section 1615, a study of the liquefaction potential of the site shall be provided, and the recommendations incorporated in the plans.

Exception: A liquefaction study is not required where the building official determines from established local data that the liquefaction potential is low.

K1.5 INSPECTIONS

K1.5.1 General. Inspections shall be governed by Section 109 of this code.

K1.5.2 Special inspections. The special inspection requirements of Section 1704.7 shall apply to work performed under a grading permit where required by the building official.

K1.6 EXCAVATIONS

K1.6.1 Maximum slope. The slope of cut surfaces shall be no steeper than is safe for the intended use, and shall be no steeper than 2 horizontal to 1 vertical (50%) unless the applicant furnishes a soils report justifying a steeper slope.

Exceptions:

1. A cut surface may be at a slope of 1.5 horizontal to 1 vertical (67%) provided that all the following are met:
 - (a) it is not intended to support structures or surcharges;
 - (b) it is adequately protected against erosion;
 - (c) it is no more than 8 feet (2438 mm) in height; and
 - (d) it is approved by the building official.
2. A cut surface in bedrock shall be permitted to be at a slope of 1 horizontal to 1 vertical (100%)

K1.7 FILLS

K1.7.1 General. Unless otherwise recommended in the soils report, fills shall conform to provisions of this section.

K1.7.2 Surface preparation. The ground surface shall be prepared to receive fill by removing vegetation, topsoil and other unsuitable materials, and scarifying the ground to provide a bond with the fill material.

K1.7.3 Benching. Where existing grade is at a slope steeper than 5 horizontal to 1 vertical (20%) and the depth of the fill exceeds five feet (1524 mm) benching shall be provided in accordance with Figure K1.7.3 dated July 1, 2001, published by State and Local Building Codes Amendments, Department of Commerce, Division of Occupational and Professional Licensing, which is hereby adopted and incorporated by reference. A key shall be provided which is at least 10 feet (3048 mm) in width and two feet (610 mm) in depth.

K1.7.4 Fill material. Fill material shall not include organic, frozen or other deleterious materials. No rock or similar irreducible material greater than 12 inches (305mm) in any dimension shall be included in fills.

K1.7.5 Compaction. All fill material shall be compacted to 90% of maximum density as determined by ASTM D1557, Modified Proctor, in lifts not exceeding 12 inches (305 mm) in depth.

K1.7.6 Maximum slope. The slope of fill surfaces shall be no steeper than is safe for the intended use. Fill slopes steeper than 2 horizontal to 1 vertical (50%) shall be justified by soils reports or engineering data.

K1.8 SETBACKS

K1.8.1 General. Cut and fill slopes shall be set back from the property lines in accordance with this section. Setback dimensions shall be measured perpendicular to the property line and shall be as shown in Figure K1.8.1, dated July 1, 2001, published by State and Local Building Codes Amendments, Department of Commerce, Division of Occupational and Professional Licensing, which is hereby adopted and incorporated by reference. unless substantiating data is submitted justifying reduced setbacks.

K1.8.2 Top of slope. The setback at the top of a cut slope shall not be less than that shown in Figure K1.8.1, or than is required to accommodate any required interceptor drains, whichever is greater.

K1.8.3 Slope protection. Where required to protect adjacent properties at the toe of a slope from adverse effects of the grading, additional protection, approved by the building official, shall be included. Such protection may include but shall not be limited to:

1. Setbacks greater than those required by Figure K1.8.1.
2. Provisions for retaining walls or similar construction.
3. Erosion protection of the fill slopes.
4. Provision for the control of surface waters.

K1.9 DRAINAGE AND TERRACING

K1.9.1 General. Unless otherwise recommended by a registered design professional, drainage facilities and terracing shall be provided in accordance with the requirements of this section.

Exception: Drainage facilities and terracing need not be provided where the ground slope is not steeper than 3 horizontal to 1 vertical (33%).

K1.9.2 Terraces. Terraces at least six feet (1829 mm) in width shall be established at not more than 30-foot (9144 mm) vertical intervals on all cut or fill slopes to control surface drainage and debris. Suitable access shall be provided to allow for cleaning and maintenance.

Where more than two terraces are required, one terrace, located at approximately mid-height, shall be at least 12 feet (3658 mm) in width.

Swales or ditches shall be provided on terraces. They shall have a minimum gradient of 20 horizontal to 1 vertical (5%) and shall be paved with concrete not less than three inches (76 mm) in thickness, or with other materials suitable to the application. They shall have a minimum depth of 12 inches (305 mm) and a minimum width of five feet (1524 mm).

A single run of swale or ditch shall not collect runoff from a tributary area exceeding 13,500 square feet (1256 m²) (projected) without discharging into a down drain.

K1.9.3 Interceptor drains. Interceptor drains shall be installed along the top of cut slopes receiving drainage from a tributary width greater than 40 feet, measured horizontally. They shall have a minimum depth of one foot (305 mm) and a minimum width of three feet (915 mm). The slope shall be approved by the building official, but shall not be less than 50 horizontal to 1 vertical (2%). The drain shall be paved with concrete not less than three inches (76 mm) in thickness, or by other materials suitable to the application. Discharge from the drain shall be accomplished in a manner to prevent erosion and shall be approved by the building official.

K1.9.4 Drainage across property lines. Drainage across property lines shall not exceed that which existed prior to grading. Excess or concentrated drainage shall be contained on site or directed to an approved drainage facility. Erosion of the ground in the area of discharge shall be prevented by installation of non-erosive down drains or other devices.

K1.10 EROSION CONTROL

K1.10.1 General. The faces of cut and fill slopes shall be prepared and maintained to control erosion. This control shall be permitted to consist of effective planting.

Exception: Erosion control measures need not be provided on cut slopes not subject to erosion due to the erosion-resistant character of the materials.

Erosion control for the slopes shall be installed as soon as practicable and prior to calling for final inspection.

K1.10.2 Other devices. Where necessary, check dams, cribbing, riprap or other devices or methods shall be employed to control erosion and provide safety.

KEY: contractors, building codes, building inspection, licensing
[July 1,]2002

Notice of Continuation May 16, 2002

58-1-106(1)

58-1-202(1)(a)

58-56-1

58-56-4(2)

58-56-6(2)(a)



Commerce, Occupational and Professional Licensing **R156-56-706** Statewide Amendments to the NEC

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 25413

FILED: 09/30/2002, 11:49

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule filing is to implement changes proposed by the Uniform Building Code Commission regarding arc-fault circuit interrupters.

SUMMARY OF THE RULE OR CHANGE: Section 210.12 regarding arc-fault circuit interrupters of the National Electrical Code (NEC) is being deleted.

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

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** This proposed amendment only affects residential property and therefore should have no impact on the state budget.

❖ **LOCAL GOVERNMENTS:** This proposed amendment only affects residential property and therefore should have no impact on local governments.

❖ **OTHER PERSONS:** The aggregate costs or savings of this amendment are impossible to determine except on a project-by-project basis, but are expected to be minimal. The cost of the protector is estimated to be under \$25 per affected circuit on residential property. The proposed amendment would eliminate this extra cost.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The aggregate costs or savings of this amendment are impossible to determine except on a project-by-project basis, but are expected to be minimal. The cost of the protector is estimated to be under \$25 per affected circuit on residential property. The proposed amendment would eliminate this extra cost.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The purpose of this rule change is to adopt provisions amended in the NEC, i.e., the deletion of arc-fault circuit interrupter protection in residential properties. There is an estimated \$25 savings per residence resulting from the removal of a protector requirement. Thus, there will be a positive fiscal impact to the construction business. The amount of savings will depend on the number of homes built in the state. Ted Boyer, 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 11/15/2002

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 11/15/2002 at 9:00 AM, State Office Building, Room 4112, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 11/16/2002

AUTHORIZED BY: J. Craig Jackson, Director

R156. Commerce, Occupational and Professional Licensing.
R156-56. Utah Uniform Building Standard Act Rules.
R156-56-706. Statewide Amendments to the NEC.

The following are adopted as amendments to the NEC to be applicable statewide:

(1) Section 250-104(b) is deleted and replaced with the following:

Section 250-104(b) Metal Gas Piping. Each above ground portion of a gas piping system upstream from the equipment shutoff valve shall be electrically continuous and bonded to the grounding electrode system.

The bonding jumper shall be sized in accordance with Table 250-122 using the rating of the circuit that may energize the piping. The equipment grounding conductor for the circuit that may energize the piping shall be permitted to serve as the bonding means.

Where the circuit that may energize the piping cannot be identified or where the bonding jumper is exposed to physical damage, the minimum size bonding jumper shall be No. 8 solid copper.

(2) Section 210.12 Arc-Fault Circuit Interrupter Protection is deleted.

KEY: contractors, building codes, building inspection, licensing [July 1, 2002]

Notice of Continuation May 16, 2002

58-1-106(1)
58-1-202(1)(a)
58-56-1
58-56-4(2)
58-56-6(2)(a)

Commerce, Real Estate
R162-102
Application Procedures

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 25407

FILED: 09/27/2002, 09:27

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Appraisal Qualifications Board of the federal Appraisal Foundation has mandated that states require certain changes in prelicensing and continuing education in the Uniform Standards of Professional Appraisal Practice (USPAP) beginning in January 2003. This rule change brings the current rule into harmony with those changes.

SUMMARY OF THE RULE OR CHANGE: Effective January 1, 2003, an applicant for an appraiser license or certification will be required to take a nationally certified USPAP course. Existing appraisers who apply to renew may take either the current USPAP course or the new nationally certified USPAP course until January 1, 2004, at which time the nationally certified course will be the only USPAP course acceptable for renewal. The total number of continuing education hours will not be increased.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 61-2b-6(1)(l)

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: The Division is already required to check whether applicants submit the correct number of hours of prelicensing and continuing education, so there will be no cost or savings.
- ❖ LOCAL GOVERNMENTS: Local government is not impacted by appraiser education rules and there would therefore be no cost or savings to local government.
- ❖ OTHER PERSONS: Approximately 1,000 licensed and certified appraisers may have to pay slightly more for their mandatory continuing education. The Division has no way to estimate how much more, if any, they will have to pay.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The cost of USPAP education may increase slightly since the courses and their instructors will now have to be approved by the Appraisal Qualifications Board (AQB) of the national Appraisal Foundation.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule change may increase the costs of taking the USPAP course because of the national certification requirement and it may increase the costs to instructors to receive training and certification. It also may decrease the number of USPAP instructors and courses offered in Utah.

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

COMMERCE
REAL ESTATE
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:

Shelley Wismer at the above address, by phone at 801-530-6761, by FAX at 801-530-6749, or by Internet E-mail at swismer@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 11/14/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 11/15/2002

AUTHORIZED BY: Ted Boyer Jr., Executive Director

R162. Commerce, Real Estate.

R162-102. Application Procedures.

R162-102-1. Application.

102.1.1 Initial Review - An applicant for licensure or certification as an appraiser will be required to submit, on forms provided by the Division, documentation indicating successful completion of the education and experience required by the state of Utah.

102.1.1.1 The application may be reviewed by an Appraiser Education Review Committee appointed by the Real Estate Appraiser Licensing and Certification Board to determine if the education requirement has been met.

102.1.1.2 The candidate will provide evidence of meeting the experience requirement by completing the form required by the Division.

102.1.1.3 The candidate will submit the appropriate license or certification fee at the time of submission of the education and experience forms.

102.1.2 Exam Application

102.1.2.1 Upon determining the candidate has completed the education and experience requirements, the Division will issue an examination application form to the candidate.

102.1.2.1.1 Effective January 1, 2003, as a prerequisite to sitting for the licensing/certification examination, the applicant will be required to submit proof of successful completion of the 15-hour National USPAP Course or its equivalent from an instructor or instructors, at least one of whom is a State-Certified Residential or State-Certified General Appraiser and has been certified by the Appraiser Qualifications Board (AOB) of the Appraisal Foundation. Equivalency to the 15-hour National USPAP Course will be

determined through the Course Approval Program of the Appraiser Qualifications Board (AOB) of the Appraisal Foundation.

102.1.2.2 The candidate will make application to take the examination by returning the application form and the appropriate testing fee to the testing service designated by the Division. If the applicant fails to take the examination, the fee will be forfeited.

102.1.3 Final Application

102.1.3.1 Within 90 days after successful completion of the exam, the appraiser applicant must return to the Division each of the following:

102.1.3.1.1 A report from the testing service indicating successful completion of the exam.

102.1.3.1.2 The license application form required by the Division. The application form shall include the applicant's business and home addresses. A post office box without a street address is unacceptable as a business or home address. The applicant may designate either address to be used as a mailing address.

102.1.3.1.3 The fee for the federal registry.

R162-102-2. Status Change.

102.2.1 A licensed or certified appraiser must notify the Division within ten working days of any status change. Status changes are effective on the date the properly executed forms and appropriate fees are received by the Division. Notice must be made in writing on the forms required by the Division.

102.2.1.1 Change of name requires submission of official documentation such as a marriage or divorce certificate, or driver's license.

102.2.1.2 Change of business, home address or mailing address requires written notification. A post office box without a street address is unacceptable as a business or home address. Any address may be designated as a mailing address.

102.2.2 State-licensed Appraisers, upon meeting the appropriate requirements for certification and upon filing a completed application within six months from their last renewal, will be allowed to transfer to the categories of either Certified Residential or Certified General by paying only a transfer fee.

102.2.2.1 Transfer to a certified category will not change the individual's expiration date.

R162-102-3. Renewal.

102.3.1 At least 30 days before expiration, a renewal notice shall be sent by the Division to the registered, licensed or certified appraiser at the mailing address shown on the Division records. The applicant for renewal must return the completed renewal notice and the applicable renewal fee to the Division on or before the expiration shown on the notice.

102.3.1.1 The licensed or certified appraiser must return proof of completion of 28 hours of continuing education taken during the preceding two years.

102.3.1.1.1 Even though the appraiser may have changed licensing categories, every third time the appraiser with a renewal date before January 1, 2004 renews, the appraiser will provide evidence of having completed, within the two years prior to the third renewal, a course in the Uniform Standards of Professional Appraisal Practice. This USPAP course may be either a 7-hour National USPAP course or [will be a] 15-hour USPAP course that includes [and will include] passing of a final exam. [This 15] The hours of credit from USPAP courses may be used to meet part of the continuing education requirement for that renewal period. The appraiser must obtain and study the Utah Real Estate Appraiser Licensing and Certification Act

and the rules promulgated thereunder and must sign an attestation that he understands and will abide by them. Appraisers with a renewal date after January 1, 2004 will be required to comply with Section 102.3.1.1.4.

102.3.1.1.2 Those State-Licensed Appraisers who were Senior Appraisers prior to May 3, 1999 and who completed a USPAP course after January 1, 1993 will not be required to complete the USPAP course again in order to renew until their third renewal following the date upon which they completed the USPAP course as long as their renewal date is before January 1, 2004. Those State-Licensed Appraisers who have a renewal date that is after January 1, 2004 will be required to comply with Section 102.3.1.1.4.

102.3.1.1.3 Those appraisers who were State-Registered Appraisers prior to May 3, 2001 and who completed a USPAP course after January 1, 1993 will not be required to complete the USPAP course again in order to renew until their third renewal following the date upon which they completed the USPAP course as long as their renewal date is before January 1, 2004. Those formerly State-Registered Appraisers who have a renewal date that is after January 1, 2004 will be required to comply with Section 102.3.1.1.4.

102.3.1.1.4 Effective January 1, 2004, all appraisers must take the 7-hour National USPAP Update Course or its equivalent at least once every two years in order to maintain a license or certification. In order to qualify as continuing education for renewal, the course must have been taken from an instructor or instructors, at least one of whom is a State-Certified Residential or State-Certified General Appraiser and has been certified by the Appraiser Qualifications Board (AOB) of the Appraisal Foundation. Equivalency to the 7-hour National USPAP Update Course will be determined through the Course Approval Program of the Appraiser Qualifications Board (AOB) of the Appraisal Foundation.

102.3.2 If the renewal fee and documentation are not received within the prescribed time period, the license or certification shall expire.

102.3.2.1 A license or certification may be renewed for a period of 30 days after the expiration date upon payment of a late fee in addition to the requirements of Section 102.3.1.

102.3.2.2 After this 30-day period and until six months after the expiration date, the license or certification may be reinstated upon payment of a reinstatement fee in addition to the requirements of Section 102.3.1. It shall be grounds for disciplinary sanction if, after the expiration date, the individual continues to perform work for which a license or certification is required.

102.3.2.3 A person who does not renew a license or certification within six months after the expiration date shall be relicensed or recertified as prescribed for an original application. The applicant will receive credit for previously credited prelicensing education. Applicants for a new license or certification will be required to complete a USPAP course and retake the examination for the classification for which they are applying.

102.3.3 If the Division has received renewal documents in a timely manner but the information is incomplete, the appraiser shall be extended a 15-day grace period to complete the application.

R162-102-4. Six-Month Temporary Permits.

102.4.1 A non-resident of this state may obtain a six-month temporary permit to perform one or more specific appraisal assignments in Utah. In order to qualify for a temporary permit, the specific appraisal assignments must be covered by a contract to provide appraisals. In order to obtain a temporary permit, an applicant must:

102.4.1.1 Submit an application in writing requesting temporary licensure or certification. The application shall include the name of the client, the specific property address(es) to be appraised, the type of property being appraised, and the estimated time to complete the assignment;

102.4.1.2 Answer and submit a "Utah Appraiser Qualifying Questionnaire" in the form designated by the Division;

102.4.1.3 Sign an irrevocable consent to service authorizing the Division to receive service of any lawful process on his behalf in any noncriminal proceeding arising out of his practice as an appraiser in this state;

102.4.1.4 Pay an application fee in the amount established by the Division; and

102.4.1.5 Provide the starting date of the appraisal assignment for which the temporary permit is being obtained.

102.4.2 A non-resident is limited to two temporary permits per calendar year, each of which may be extended one time for an additional six month period if the assignments have not been completed within the original six-month term of the temporary permit. A temporary permit may be extended by submitting any forms required by the Division.

R162-102-5. Reciprocity.

102.5.1 An individual who is licensed or certified as an appraiser by another state may be licensed or certified in Utah by reciprocity on the following conditions:

102.5.1.1 The other state must have required the applicant to satisfactorily complete classroom hours of appraisal education approved by that state which are substantially equivalent in number to the hours required for the class of licensure or certification for which he is applying in Utah;

102.5.1.2 The education must have included a course in the Uniform Standards of Professional Appraisal Practice. Effective January 1, 2003, the course must either be the 15-hour National USPAP Course or its equivalent. Equivalency to the 15-hour National USPAP Course will be determined through the Course Approval Program of the Appraiser Qualifications Board (AOB) of the Appraisal Foundation;

102.5.1.3 The applicant must obtain and study the Utah Real Estate Appraiser Licensing and Certification Act and the rules promulgated thereunder and must sign an attestation that he understands and will abide by them;

102.5.1.4 The applicant must have passed an examination which has been approved by the AOB for the class of licensure or certification for which he is applying;

102.5.1.5 If the applicant resides outside of the state of Utah, he must sign an irrevocable consent to service authorizing the Division to receive service of any lawful process on his behalf in any noncriminal proceeding arising out of his practice as an appraiser in this state;

102.5.1.6 The applicant must provide a complete licensing history sent directly to the Division by his home state and any other state in which he has been licensed, which shall include the applicant's full name, home and business addresses and telephone numbers, the date first licensed, the type or types of licenses or certifications held, the date the current license or certification expires, and a statement concerning whether disciplinary action has ever been taken, or is pending, against the individual;

102.5.1.7 The applicant shall not have been convicted of a criminal offense involving moral turpitude relating to his ability to provide services as an appraiser; and

102.5.1.8 The applicant must agree, as a condition of licensure or certification, that he will furnish to the Division upon demand all records requested by the Division relating to his appraisal practice in Utah. Failure to do so will be considered grounds for revocation of license or certification.

KEY: real estate appraisal, licensing
~~November 15, 2001~~ 2002
 Notice of Continuation March 27, 2002
 61-2b-23

▼ ————— ▼

**Community and Economic
 Development, Community
 Development, Energy Services**

R203-3

**Utah Commercial/Industrial Energy
 Loan Program**

NOTICE OF PROPOSED RULE

(Repeal)

DAR FILE No.: 25370

FILED: 09/20/2002, 17:18

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule is being repealed because the program has been discontinued.

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

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: 653 F. Supp. 108 (D. Kan. 1986)

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: There will be a savings of \$15,000 - \$20,000 to the State Budget due to discontinuation of the program and program administration. It should be noted that from 1996 through 2001, borrowers of funds from this program defaulted on \$166,063 in loans (or 11% of total funds loaned).
- ❖ LOCAL GOVERNMENTS: No cost to local government who had no participation in administration of program.
- ❖ OTHER PERSONS: Other persons will experience the loss of a funding mechanism that provided low-interest loans to commercial and industrial businesses for lighting and electric motor system retrofit projects that conserve energy. The full cost of energy audits sought by the commercial and industrial sector will be borne by the business, or neglected, as a result of this program discontinuation.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Affected persons will incur an increase in interest rates as a result of borrowing from commercial lenders rather than obtaining the low interest rates offered by this program. Program loans were made at the Public Treasurer's Investment Fund (PTIF) rate, which was, on average, 2.1% below prime rate from 1980 through 2002.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: At the statewide level, there will be little to no impact on businesses. This program is being discontinued because it is appropriate for the private sector to take responsibility for energy efficiency and energy saving strategies. In spite of higher finance costs and slightly longer payback periods, businesses will continue to realize life cycle energy cost savings by the installation of energy saving systems.

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

COMMUNITY AND ECONOMIC DEVELOPMENT
 COMMUNITY DEVELOPMENT, ENERGY SERVICES
 Room 3610
 1594 W NORTH TEMPLE
 SALT LAKE CITY UT 84111, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Lisa Yoder at the above address, by phone at 801-538-4761, by FAX at 801-538-4795, or by Internet E-mail at lisayoder@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 11/14/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 11/15/2002

AUTHORIZED BY: Michael Glenn, Financial Manager

R203. Community and Economic Development, Community Development, Energy Services.

~~**R203-3. Utah Commercial/Industrial Energy Loan Program.**~~
~~**R203-3-1. Authority.**~~

~~The promulgation of this rule is authorized under a negotiated settlement of litigation known as "In re The Department of Energy Stripper Well Exemption Litigation, 653 F. Supp. 108 (D. Kan. 1986)", which allows the State of Utah, Department of Community and Economic Development, Office of Energy Services to receive funds for and administer energy programs.~~

~~**R203-3-2. Purpose.**~~

~~The purpose of this rule is to:~~

- ~~(1) Establish procedures related to use of Office funds to promote commercial and industrial lighting and electric motor system retrofit projects.~~
- ~~(2) Establish criteria and conditions for advertisement of Program.~~
- ~~(3) Establish criteria and conditions for providing no cost auditing services.~~
- ~~(4) Establish criteria and conditions for loan application and application review processes.~~
- ~~(5) Establish criteria and conditions for loan disbursement process.~~
- ~~(6) Establish criteria and conditions for loan repayment and collection processes.~~

—(7) Establish criteria and procedures for project evaluation and reporting processes.

R203-3-3. Definitions.

—(1) "Program" means the Utah Commercial/Industrial Energy Loan Program.

—(2) "Fund" means the Revolving Industrial Loan Fund of \$1,000,000 obligated under the Alternative Energy Tech Demo Stripper Fund Program.

—(3) "Office" means the Utah Office of Energy Services, Utah Division of Community Development, Utah Department of Community and Economic Development.

—(4) "Applicant" means any owner/manager/lessee, representing a private for profit company or not for profit organization owning, managing or leasing a facility located within the boundaries of the state of Utah, that submits an application requesting Program funds.

—(5) "Owner/Manager/Lessee" means an entity that owns, manages or leases a commercial or industrial building, plant or facility.

—(6) "Loan Application" means the document submitted by an owner/manager/lessee to show interest in receiving a loan by notifying the Office in person, by postal service, by electronic mail, by FAX, or by telephone.

—(7) "Efficient Lighting System" means state-of-the-art lighting technologies that are energy efficient without compromising the quality of lighting.

—(8) "Lighting Audit" means a preliminary survey of a facility's existing lighting system that determines types and number of lighting technologies, including energy usage. The audit provides recommendations regarding installation of state-of-the-art technologies including energy savings.

—(9) "Efficient Electric Motor System" means state-of-the-art energy efficient technology which pertains to electric motors/drives and related components.

—(10) "Electric Motor Systems Audit" means a preliminary survey of a facility's existing motor systems and related components that determines the type, number, configuration and energy usage of related system. The audit provides recommendations regarding installation of state-of-the-art technologies including energy savings.

—(11) "Project Design" means the plans for installing Efficient Lighting or Efficient Electric Motor technology.

R203-3-4. Announcement.

—Office staff may notify Utah businesses of the availability of Program funds. This may be done in the following manner:

—(1) by issuing a state-wide news release announcing availability of Program; and

—(2) by issuing a direct mailing to Utah businesses found in the "Utah Directory of Businesses and Industry".

R203-3-5. Auditing Services.

—(1) An Owner/Manager/Lessee shall make its interest in securing auditing services known by notifying the Program Manager. Notification shall be made in person, by postal services, by electronic mail, by FAX or by telephone. The Office may log all requests based on date received.

—(2) Auditing Services shall be available to all Owners/Managers of for profit and not for profit organizations on a first come first serve basis.

—(3) Auditing Services shall be made available at least until November 1, 1997, and may continue to be available based on funding availability.

R203-3-6. Application.

—All Owners/Managers/Lessee wishing to receive Program funds shall apply in the following manner:

—(1) Complete and file an application provided by the Office. The following information may be necessary:

—(a) name of Applicant;

—(b) address phone and fax number of Applicant;

—(c) contact person;

—(d) cost of project;

—(e) federal identification number;

—(f) amount requested;

—(g) estimated electric savings per year in dollars;

—(h) estimated electric savings per year in KWH; and

—(i) audit results.

R203-3-7. Application Review.

—(1) The Program administrator shall, upon the proper submission of the application, make a determination of eligibility no later than 45 days from receipt of the application. This decision may be based upon the following:

—(a) Applicant's compliance with all aspects of the application process; and

—(b) Applicant's meeting of all project eligibility requirements defined in Section R203-3-8 and all program limitations defined in Section R203-3-9.

—(2) All applications may be numbered in order of their receipt by the Office and may be acted upon in that order. Resubmitted applications may be numbered in order of their resubmission.

—(3) If the application meets all Program criteria under Sections R203-3-8 and R203-3-9, the application may be granted approval and the Applicant shall be notified according to Section R203-3-10.

R203-3-8. Project Eligibility.

—(1) Once an application has been submitted to the Office, it may be analyzed to determine whether it meets Program eligibility criteria. Concurrently, the application may be analyzed to determine whether it meets the program limitations as specified in Section R203-3-9. This analysis may provide the basis for application approval.

—(2) The data provided by the Applicant under Section R203-3-6 may be used by the Office to establish program eligibility. Projected simple payback figures may be used to determine eligibility. Simple payback figures may be no longer than five years for lighting projects and five years for electric motor projects.

—(3) In determining the maximum loan payback period, the following data may be identified and used:

—(a) simple payback figures as determined by auditing figures.

—(4) Eligible projects shall:

—(a) reduce energy consumption; and

—(b) maintain or increase the quality of performance.

—(5) An Applicant may submit only one application and may be considered for only one loan per fiscal year. Multiple buildings or projects may be covered under one application.

—(6) One loan may be used to fund a project consisting of both Energy Efficient Lighting Systems and Energy Efficient Motor Systems.

—(7) Requested Loan amount may include Project Design costs and labor costs.

—(8) A credit check may be made by the Office on all Applicants.

—(9) The Office may request, at any time during the application approval process, additional information or data from the Applicant necessary for this evaluation.

— (10) The loan interest rate shall be equal to the annual return earned in the Utah State Treasurer's Public Treasurer's Pool as determined the month immediately preceding the closing date of the loan.

R203-3-9. Program Limitations.

— Under no circumstance shall the Program administrator approve an application if:

— (1) it would result in the Office's inability to fulfill its obligations under this Program or this rule;

— (2) the Applicant does not meet the application requirements of Section R203-3-8;

— (3) there would be no practical improvement in quality of lighting or electric motor system performance;

— (4) the total requested cost, including Project Design cost and labor cost, is less than \$5,000 or exceeds \$100,000;

— (5) if the requested amount of the loan exceeds an aggregate limit of \$400,000 awarded in any fiscal year.

— (6) the Fund balance is \$150,000 or less, or by awarding a loan to an Applicant would result in the Fund balance being equal to or less than \$150,000.

R203-3-10. Finalization of Loan Contract/Notification.

— After review of an application and determination of approval or rejection under this rule, the manager of the Office or the Program administrator shall notify that Applicant:

— (1) If approved, the Applicant may be notified of the maximum loan amount approved and shall begin to comply with the provisions of this rule and assurances outlined in the State loan agreement/promissory note.

— (2) If rejected at any stage of the process, the denied Applicant may file an application for reconsideration. An application for reconsideration may be reviewed only if it includes changes that correct or remove the reasons for denial of the original application.

— (3) A loan agreement, including budget, assurances, promissory note and repayment schedule may be finalized and signed by authorized representatives of the Office and Applicant.

R203-3-11. Fund Transfer Process.

— Once an application has been approved to receive a loan under this Program, notice of approval and loan document may be transmitted by the Office to the Applicant. The Applicant must submit to the Office a request for payment or reimbursement. Subsequently, the Division may issue the loan to the successful Applicant.

R203-3-12. Loan Repayment.

— (1) The annual energy savings computed under Subsection R203-3-8 may provide the basis for the quarterly loan repayment to the Division of Finance. Repayment period will be determined by adding 20-30 percent to the simple payback period estimated in the audit. Payment plus interest shall be sent to the Division of Finance and may be credited to the approved Applicant's account as provided in Section R203-3-11. The interest added to the quarterly payment may be determined based upon the annual return earned in the Utah State Treasurer's Public Treasurer's Pool as determined for the month immediately preceding the closing date of the loan.

— (2) Upon an individual's reimbursement account balance reaching zero, the payment may cease.

— (3) There may be no penalty for early repayment of the loan.

R203-3-13. Review.

— The Office reserves the right to review all data and Applicants for continuing compliance with this rule during the period the Applicant has an outstanding loan obligation. The Office further reserves the right to request supplemental information it may deem necessary from an Applicant in order to effectively administer the Program and this rule.

R203-3-14. Indemnification.

— The state government of Utah, any subdivision, or any agent of state government with responsibility for, or obligation to the Program, cannot be held liable for injury or damage to persons or property caused by or involved with any action related to retrofits in this Program.

R203-3-15. Notices.

— An application, notice, report or data submitted under this Program may be addressed in the following manner:

— Utah Office of Energy Services

— ATT: Utah Commercial/Industrial Energy Loan Program

— 324 S. State, Suite 500

— Salt Lake City, UT 84111

— (801) 538-8690

KEY: commercial, industrial, loan program

December 30, 1997

653 F. Supp. 108 (D. Kan. 1986)]

▼ ————— ▼

Community and Economic Development, Community Development, Energy Services

R203-5

Utah Energy Technology Demonstration Program

NOTICE OF PROPOSED RULE

(Repeal)

DAR FILE NO.: 25354

FILED: 09/19/2002, 17:32

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule is being repealed because the program has been discontinued.

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

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: 653 F. Supp. 108 (D. Kan. 1986)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: Assuming this program would receive additional funding, there would be a cost savings of \$5,000 - \$7,500 to the State Budget due to discontinuation of program administration.

❖ LOCAL GOVERNMENTS: No cost to local governments who had no participation in administration of program.

❖ OTHER PERSONS: The cost to other persons is a loss of a funding mechanism that once provided 50-50 matching funds and low-interest loans. However, the funds originally obligated under this rule have been spent.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Assuming this program would receive additional funding, the affected persons would incur 50% increased costs as a result of discontinuation of a 50-50 cash match and/or an increase in interest rates as a result of borrowing money from commercial lenders rather than obtaining the low interest rates available through this program.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This program is being discontinued because it is appropriate for the private sector to take responsibility for the commercialization of energy efficient technologies and demonstrations of energy efficiency. Moreover, the funds originally obligated under this rule have been spent.

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

COMMUNITY AND ECONOMIC DEVELOPMENT
COMMUNITY DEVELOPMENT, ENERGY SERVICES
Room 3610
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84111, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Lisa Yoder at the above address, by phone at 801-538-4761, by FAX at 801-538-4795, or by Internet E-mail at lisayoder@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 12/02/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 12/03/2002

AUTHORIZED BY: Michael Glenn, Financial Manager

R203. Community and Economic Development, Community Development, Energy Services.

~~R203-5. Utah Energy Technology Demonstration Program.~~

~~R203-5-1. Authority.~~

~~The promulgation of this rule is authorized under a negotiated settlement of litigation known as "Department of Energy Stripper Well Exemption Litigation, 653 F. Supp. 108 (D. Kan. 1986)", which allows the State of Utah, Department of Community and Economic Development, Office of Energy Services to receive funds for and administer energy programs.~~

R203-5-2. Purpose.

The purpose of this rule is to:

~~—(1) Establish procedures related to use of Office funds to promote energy efficiency and the commercialization of new energy technologies.~~

~~—(2) Establish criteria and conditions for advertisement of Programs.~~

~~—(3) Establish criteria and conditions for providing technical support.~~

~~—(4) Establish criteria and conditions for loan or grant application and application review processes.~~

~~—(5) Establish criteria and conditions for loan or grant disbursement process.~~

~~—(6) Establish criteria and conditions for loan repayment and collection processes.~~

~~—(7) Establish criteria and procedures for project evaluation and reporting processes.~~

R203-5-3. Definitions.

~~—(1) "Program" means the Utah Energy Technology Demonstration Program.~~

~~—(2) "Fund" means \$1,300,000 obligated under the petroleum violation cesrow spending plan approved by the U.S. Department of Energy on August 12, 1996.~~

~~—(3) "Office" means the Utah Office of Energy Services, Utah Division of Community Development, Utah Department of Community and Economic Development.~~

~~—(4) "Applicant" means any unit public or private entity that submits an application requesting Program funds.~~

~~—(5) "Payback" means the average simple payback calculated by taking project costs divided by the estimated annual energy savings.~~

~~—(6) "Loan or Grant Application" means the document submitted to the Office of Energy Services in person, by postal service, by electronic mail, by FAX, or by telephone and in response to an open solicitation request for proposal from the Office of Energy Services.~~

~~—(7) "Energy Technology Demonstration" means state-of-the-art energy efficiency technologies including biomass to energy digesters, solar photovoltaics, wind generation equipment, geothermal heat pumps, sulfur lamp technology, cogeneration, and alternate transportation fuel technology. Program funding shall be limited to those new technologies that are readily commercially available and demonstratable.~~

~~—(8) "Technology Support" means in-house or consulting engineering assistance to an Applicant in determining the applicability, reliability, sizing, and integration of a new technology into the Applicant's operation or facilities.~~

R203-5-4. Announcement.

~~Office staff will notify Utah public and private entities of the availability of Program loan or grant funds and specify targeted energy technologies and sectors. The notification will include a due date and a description of application processes. This may be done in the following manner:~~

~~—(1) by issuing a state-wide news release announcing availability of Program; or~~

~~—(2) by issuing a direct mailing~~

R203-5-5. Technigal Support Services.

~~—(1) An Applicant shall notify the Office regarding technical support needs. Notification shall be made in person, by postal services, by electronic mail, by FAX or by telephone. The Office may log and prioritize all requests based on date received.~~

~~— (2) Auditing Services shall be provided by the Office, its consultants, or other state agencies only as staff time and funding allows.~~

~~— (3) Applicants will be encouraged to secure technical support service from utility companies, vendors and suppliers, federal laboratories, and professional consulting engineers.~~

R203-5-6. Application.

~~— All Applicants wishing to receive Program funds shall apply in the following manner:~~

~~— (1) Complete and file an application provided by the Office. The following information may be necessary:~~

- ~~— (a) name of Applicant;~~
- ~~— (b) address and phone number of Applicant;~~
- ~~— (c) contact person;~~
- ~~— (d) name of facility/operation~~
- ~~— (e) cost of project;~~
- ~~— (f) technical performance data and project economics including estimated energy and energy cost savings with savings to investment ratio;~~
- ~~— (g) federal tax ID No.;~~
- ~~— (h) loan or grant amount requested (inclusive of project design costs if desired); and~~
- ~~— (i) brief description of proposed project.~~

R203-5-7. Application Review.

~~— (1) The Program administrator shall, upon the proper submission of the application, make a determination of eligibility no later than 45 days from receipt of the application. This decision may be based upon the following:~~

- ~~— (a) Applicant's compliance with all aspects of the application process; and~~
- ~~— (b) Applicant's meeting of all project eligibility requirements defined in Section R203-5-8 and all program limitations defined in Section R203-5-9.~~

~~— (2) All applications may be numbered in order of their receipt by the Office. This sequence may be used as a basis for prioritizing applicants for Program funding.~~

~~— (3) If the application meets all Program criteria under Sections R203-5-8 and R203-5-9, the application may be granted approval and the Applicant shall be notified according to Section R203-5-10.~~

R203-5-8. Project Eligibility.

~~— (1) Once an application has been submitted to the Office, it will be analyzed to determine Program eligibility. It should be noted that although an application is deemed "eligible", program limitations as specified in Section R203-5-9 may serve as the final basis for approving and obligating Program funds.~~

~~— (2) The data provided by the Applicant under Section R203-5-6 may be used by the Office to establish program eligibility. Project economics may be used to determine eligibility for grants and loans. Project savings to investment ratios should exceed 1.0 by year eight of project operation.~~

~~— (3) In determining eligibility, the Office reserves the right to review technical performance data and project economics and to independently assess the appropriateness and application of technologies proposed by the Applicant.~~

- ~~— (4) Eligible projects shall:~~
 - ~~— (a) reduce energy costs;~~
 - ~~— (b) increase facility life or improve operations; and~~

~~— (e) contribute to a better Utah environment by reducing pollutants.~~

~~— (5) Where applications for funding exceed the Office's balance of available funds, an Applicant may only receive one loan or grant per fiscal year.~~

~~— (6) Grant applications must include matching funds including in-kind and cash match of at least a 50-50 level. The Office may require federal partnering as a condition for Program eligibility.~~

~~— (7) Requested loan or grant amounts may include project design costs and labor costs.~~

~~— (8) The Office may check the Applicant's history of energy project management and history of loan repayments. Instances of gross mismanagement and unreliability may disqualify an Applicant.~~

~~— (9) The Office may request, at any time during the application approval process, additional information or data from the Applicant necessary for determining eligibility.~~

~~— (10) The loan interest rate shall be determined by the Office in conjunction with the Division of State Finance. Additional interest may be charged late repayments.~~

R203-5-9. Program Limitations.

~~— Under no circumstance shall the Program administrator approve an application if:~~

- ~~— (1) it would result in the Office's inability to fulfill its obligations under this Program or this rule;~~
- ~~— (2) the Applicant does not meet the application requirements of Section R203-5-8;~~
- ~~— (3) there is no energy cost savings from the measures funded with a loan or grant;~~
- ~~— (4) the total requested loan amount, including project design cost and labor cost, is less than \$5,000;~~
- ~~— (5) the annual energy cost savings is insufficient to justify a loan repayment of eight years or less..~~
- ~~— (6) the Fund balance is zero, or by awarding a loan to an Applicant, the Fund balance is overdrawn;~~
- ~~— (7) the Applicant's request for loan or grant funds exceeds fifteen percent of the Office's available funds and funding to the Applicant would limit funding to other applicants.~~

R203-5-10. Notification of Award and Executing Loan or Grant Contracts.

~~— After review of an application and approval or rejection under this rule, the manager of the Office or the Program administrator shall notify the Applicant in writing.~~

~~— (1) If approved, the Applicant may be notified of the maximum loan or grant amount approved.~~

~~— (2) If rejected, the denied Applicant may file an application for reconsideration. An application for reconsideration may be reviewed only if it includes changes that correct or remove the reasons for denial of the original application.~~

~~— The loan or grant agreement, including budget, assurances, scope of work and promissory note with repayment schedule (in the case of loan agreements) must be approved and signed by authorized representatives of the Utah Department of Community and Economic Development, the Division of State Finance, the Office, and Applicant.~~

R203-5-11. Fund Transfer and Payment Process.

~~— Once a loan or grant contract has been fully executed, the Applicant may proceed with energy efficiency measures authorized by the agreement. Applicants may request up to a 30 day advance for anticipated expenses from the Office for completion of energy~~

efficiency measures or may submit for requests for reimbursement of expenses. Full documentation of expenses must be provided to the Office. Advances and reimbursement payments will only be made to the Applicant, and cannot be assigned unless otherwise directed in writing by the Applicant.

R203-5-12. Loan Repayment.

~~—(1) The annual energy savings computed under Subsection R203-5-8 shall serve as the basis for calculating quarterly loan repayment. The repayment period will be determined by dividing the total of funds advanced and reimbursed to the Applicant by the total anticipated annual energy cost savings. Repayments shall be sent to the Division of Finance and will be credited to the approved Applicant's loan account.~~

~~—(2) As reimbursements occur and when an Applicant's loan account balance reaches zero, the repayments may cease, and the account closed.~~

~~—(3) Loan recipients may make early repayment of loans or can renegotiate the terms of repayment upon the mutual consent of the Division of Finance and the Office.~~

R203-5-13. Review.

~~—The Office reserves the right to review all data and monitor Applicant progress for compliance with these rules during the loan or grant contract period and for a period of three years after the loan or grant contract period has been closed. The Office further reserves the right to request supplemental information it may deem necessary from an Applicant in order to effectively administer the Program and to meet federal petroleum violation eserow account reporting requirements.~~

R203-5-14. Indemnification.

~~—The state government of Utah, any subdivision, or any agent of state government with responsibility for, or obligation to the Program, cannot be held liable for injury or damage to persons or property caused by or involved with any action related to retrofits in this Program.~~

R203-5-15. Notices.

~~—An application, notice, correspondence, payment requests, report or data submitted under this Program should be addressed in the following manner:~~

~~—Utah Office of Energy Services~~

~~—ATT: Utah Commercial/Industrial Energy Loan Program~~

~~—324 S. State, Suite 500~~

~~—Salt Lake City, UT 84111~~

~~—(801) 538-8690~~

KEY: public building, energy loan, grant program

December 30, 1997

653 F. Supp. 108 (D. Kan. 1986)]



Crime Victim Reparations,
Administration
R270-1
Award and Reparation Standards

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 25424

FILED: 10/01/2002, 14:55

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Proposed changes were authorized by the Crime Victim Reparations (CVR) Board: 1) clarification and definition of secondary victim, mental health licensing, and intern use; 2) deletion of Subsection R270-1-11(B) because it contradicts CVR statute; and 3) expanding eligibility criteria for residential and day treatment claims.

SUMMARY OF THE RULE OR CHANGE: Proposed changes: 1) corrects error in referenced statute regarding secondary victims and deletes last line of secondary victim rule; 2) deletes Subsection R270-1-11(B) to comply with CVR statute; 3) clarifies mental health licensing changes by the State of Utah Department of Commerce, Division of Professional and Occupational Licensing, and the use of student interns; and 4) expands eligibility criteria for residential and day treatment.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 63-25a-406(c)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: CVR derives its funding from surcharges. No State General Fund monies are appropriated. The proposed rule changes would have an offsetting effect in the aggregate with no changes in cost or savings.

❖ LOCAL GOVERNMENTS: CVR rules do not affect local government.

❖ OTHER PERSONS: There would be an increase in services for secondary victims which would mean a savings to them because of increased award payments on their behalf. There could be anticipated costs for residential and day treatment. Some student interns could be affected by proposed changes.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The CVR office does not have any compliance costs because the program does not impose fees on victims of crime for services provided. There would be an increase in services for secondary victims which would mean a savings to them because of increased award payments on their behalf. There could be anticipated costs for residential and day treatment. Some student interns could be affected by proposed changes.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There would not be a fiscal impact on businesses since funding comes from the existing CVR Trust Fund.

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

CRIME VICTIM REPARATIONS

ADMINISTRATION

Room 200

350 E 500 S

SALT LAKE CITY UT 84111-3347, or

at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Connie Wettlaufer at the above address, by phone at 801-238-2371, by FAX at 801-533-4127, or by Internet E-mail at cwettlaufer@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 11/14/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 11/15/2002

AUTHORIZED BY: Dan Davis, Director

R270. Crime Victim Reparations, Administration.

R270-1. Award and Reparation Standards.

R270-1-1. Authorization and Purpose.

As provided in Section 63-25a-406 the purpose of this rule is to provide interpretation and standards for the administration of crime victim reparations.

R270-1-2. Funeral and Burial Award.

A. Pursuant to Subsection 63-25a-411(4)(f), total award for funeral and burial expenses is \$7,000 for any reasonable and necessary charges incurred directly relating to the funeral and burial of a victim. This amount includes transportation of the deceased within the United States. Allowable expenses in this category may include the emergency acquisition of a burial plot for victims who did not previously possess or have available to them a plot for burial.

B. Transportation of secondary victims to attend a funeral and burial service shall be considered as an allowable expense in addition to the \$7,000.

C. Loss of earnings for secondary victims to attend a funeral and burial service shall be allowed as follows:

1. Three days in-state
2. Five days out-of-state

D. When a victim dies leaving no identifying information, claims made by a provider cannot be considered.

R270-1-3. Negligent Homicide and Hit and Run Claims.

A. Negligent homicide claims shall be considered criminally injurious conduct as defined in Subsection 63-25a-402(9).

B. Pursuant to Subsection 63-25a-402(9)(e), criminally injurious conduct shall not include victims of hit and run crimes.

R270-1-4. Counseling Awards.

A. Pursuant to Subsections 63-25a-402(20) and 63-25a-411(4)(c), out-patient mental health counseling awards are subject to limitations as follows:

1. The reparation officer shall approve a standardized treatment plan.

2. The cost of initial evaluation and testing may not exceed \$300 and shall be part of the maximum allowed for counseling. For purposes herein, an evaluation shall be defined as diagnostic interview examination including history, mental status, or disposition, in order to determine a plan of mental health treatment.

3. Primary victims of a crime shall be eligible for a \$2500 maximum mental health counseling award.

4. Secondary victims of a crime shall be eligible for a \$1000 maximum mental health counseling award.

5. Extenuating circumstances warranting consideration of counseling beyond the maximum may be submitted by the mental health provider after the maximum award has been reached.

6. Counseling costs will not be paid in advance but will be paid on an ongoing basis as victim is being billed.

7. In-patient hospitalization shall only be considered when the treatment has been recommended by a licensed therapist in life-threatening situations. In these cases the Crime Victim Reparations Board shall consider reimbursement of in-patient treatment or contract with a managed mental health care provider to make recommendations to the Reparations Officer regarding treatment. A direct relationship to the crime needs to be established. Acute in-patient hospitalization shall not exceed \$600 per day, which includes all ancillary expenses, and will be considered payment in full to the provider. Inpatient psychiatric visits will be limited to one visit per day with payment for the visit made to the institution at the highest rate of the individuals providing therapy as set by rule. Reimbursement for testing costs may also be allowed. Secondary victims shall not be considered for in-patient hospitalization.

8. Residential and day treatment shall only be considered when the treatment has been recommended by a licensed therapist to stabilize the victim's behavior and symptoms. Only facilities with 24 hour nursing care or 24 hour on call nursing care will be compensated for residential and day treatment. Residential and day treatment shall not be used for extended care of dysfunctional families and containment placements. A direct relationship to the crime needs to be established. ~~[Only facilities with 24 hour nursing care can be considered.]~~ Residential treatment shall not exceed \$300 per day and will be considered payment in full to the provider. Residential treatment shall be limited to 30 days, unless there are extenuating circumstances requiring extended care. All residential clients shall receive routine assessments from a psychiatrist and/or APRN at least once a week for medication management. Day treatment shall not exceed \$200 per day and will be considered payment in full to the provider. Secondary victims shall not be considered for residential or day treatment.

9. Child sexual abuse victims under the age of 13 who become perpetrators shall only be considered for mental health treatment awards directly related to the victimization. Perpetrators age 13 and over who have been child sexual abuse victims shall not be eligible for compensation. The CVR Board or contracting agency for managed mental health care shall help establish a reasonable percentage regarding victimization treatment for inpatient, residential and day treatment. Out-patient claims shall be determined by the Reparation Officer on a case by case basis upon review of the mental health treatment plan.

10. Payment for mental health counseling shall only be made to licensed therapists; or to individuals working towards a license ~~[registered]~~ that provide certified verification of satisfactory completion of an education and earned degree as required by [with] the State of Utah Department of Commerce, Division of Professional and Occupational Licensing ~~[and supervised by a licensed therapist.]~~, working under the supervision of a supervisor approved by the Division. Student interns otherwise eligible under 58-1-307(1)(b) Exceptions from licensure, and/or the institution/facility/agency responsible for the supervision of the student, shall not be eligible for payment under this rule for counseling services provided by the student.

11. Payment of hypnotherapy shall only be considered when treatment is performed by a licensed mental health therapist based upon an approved Treatment Plan.

12. The following maximum amounts shall be payable for mental health counseling:

(a) up to \$125 per hour for individual and family therapy performed by licensed psychiatrists, and up to \$62.50 per hour for group therapy;

(b) up to \$85 per hour for individual and family therapy performed by licensed psychologists and up to \$42.50 per hour for group therapy;

(c) up to \$65 per hour for individual and family therapy performed by an L.C.S.W., M.S.W. or marriage and family therapist, and up to \$32.50 per hour for group therapy. These rates shall also apply to therapists working towards a license and supervised by a licensed therapist;

(d) The above-mentioned rates shall apply to individuals performing treatment, and not those supervising treatment.

13. Chemical dependency specific treatment will not be compensated unless the Reparation Officer determines that it is directly related to the crime. The CVR Board may review extenuating circumstance cases.

R270-1-5. Attorney Fees.

Pursuant to Subsection 63-25a-424(2) attorney fees shall be made within the reparation award and not in addition to the award. If an award is paid in a lump sum, the attorney's fee shall not exceed 15% of the total award; if payments are awarded on an on going basis, attorney fees will be paid when warrants are generated but not to exceed 15%. When appeal hearing denials are overturned, attorney fees shall be calculated only on the appealed reparation issue.

R270-1-6. Reparation Awards.

Pursuant to Section 63-25a-403, reparation awards can be made to victims of violent crime where restitution has been ordered by the court but appears unlikely the restitution can be paid within a reasonable time period. However, notification of the award will be sent to the courts, prosecuting attorneys, Board of Pardons and probation and parole counselors indicating any restitution monies collected up to the amount of the award will be forwarded to the Crime Victim Reparations Trust Fund.

R270-1-7. Abortion.

Expenses for an abortion that is permitted pursuant to Sections 76-7-301 through 76-7-325 shall be eligible for a reparation award as long as all the requirements of Section 63-25a-411 have been met.

R270-1-8. Emergency Awards.

Pursuant to Section 63-25a-422, emergency awards up to \$1000 can be granted. No time limit is required for filing an emergency claim. Processing of emergency claims is three to five days.

R270-1-9. Loss of Earnings.

A. Pursuant to Subsection 63-25a-411(4)(d), the 66-2/3% of the person's weekly salary or wages is calculated on gross earnings.

B. Loss of earnings for primary and secondary victims may be reimbursed for up to a maximum of twelve (12) weeks work loss, at an amount not to exceed the maximum allowed per week by Worker's Compensation guidelines in effect at the time of work loss. Reference should be made to Section R270-1-11 for guidelines on sick leave, annual leave or bereavement leave as a collateral source. The Crime Victim Reparations Board may review extenuating circumstances on loss of earnings claims.

R270-1-10. Moving, Transportation Expenses.

A. Pursuant to Subsection 63-25a-411(4)(a), victims of violent crime who suffer a traumatic experience or threat of bodily harm are allowed moving expenses up to \$2000. Board approval is needed where extenuating circumstances exist.

B. Transportation expenses up to \$500 are allowed for court, medical or mental health visits for primary and secondary victims. Board approval is needed where extenuating circumstances exist.

R270-1-11. Collateral Source.

A. Pursuant to Section 63-25a-413, sick leave and annual leave shall be considered as a collateral source. If there are extenuating circumstances, the director may make an exception to this requirement.

~~B. [Only insurance policies that itemize specific coverages under the policy, such as funeral and burial expenses, shall be considered as a collateral source.~~

~~—C.]~~ Crime Victim Reparations Trust Fund monies shall be used before State Social Services contract monies when considering out-of-pocket expenses in child sexual abuse cases, if the individuals qualify as victims. If the victim qualifies for Medicaid, the contract monies should be used first.

~~[D.]~~ Crime Victim Reparations Trust Fund monies shall be used before the Utah Medical Assistance Program funds when considering allowable benefits for victims of violent crime.

R270-1-12. Record Retention.

A. Pursuant to Section 63-25a-401, retention of Crime Victim Reparations annual report and crime victim case files shall be as follows:

1. Annual reports and other statistical information shall be retained in office for a period of three years and then transferred to State Archives.

2. Crime victim case files shall be retained in office as needed for administrative use. After closure or denial of a case file, case file shall be retained in office for one year and then transferred to State Archives. Case files will be retained in the State Records Center for eleven years and then destroyed.

R270-1-13. Awards.

A. Pursuant to Section 63-25a-421, when billing from the providers exceeds the maximum allowed, the Reparation Officer shall pay the bills by the date of service. The Reparation Officer shall solicit input from the victim when making this determination. When the services and the billings have occurred at the same time, the Reparation Officer shall determine payment on a percentage basis.

R270-1-14. Essential Personal Property.

Pursuant to Subsection 63-25a-411(4)(h), essential personal property covers all personal articles necessary and essential for the health and safety of the victim. The Reparation Officer may allow up to \$1500 for replacement of such items as eyeglasses, hearing aids, burglar alarms, door locks, crime scene cleanup, repair of walls and broken windows, etc. The board shall review any exceptions over \$1500.

R270-1-15. Subrogation.

Pursuant to Section 63-25a-419, subrogation monies collected from the perpetrator, insurance, etc., will be placed in the Crime

Victim Reparations Trust Fund and will not be credited toward a particular victim or claimant award amount.

R270-1-16. Unjust Enrichment.

A. Pursuant to Subsection 63-25a-410(1)(d), the following criteria shall be used when considering claims involving possible unjust enrichment of an offender:

1. Unjust enrichment determination shall not be based solely on the presence of the offender in the household at the time of the award.

2. Awards shall not be denied on the basis that the offender would be unjustly enriched, if the victim cooperates with investigation and prosecution of the crime and does what is possible to prevent access by the offender to substantial compensation.

3. Payment to third party providers shall be made to prevent monies intended for victim expenses be used by or on behalf of the offender.

4. Collateral resources such as court-ordered restitution and medical insurance that are available to the victim from the offender shall be examined. However, the victim shall not be penalized for failure of an offender to meet legal obligations to pay for the cost of the victim's recovery.

5. Factors to be considered in determining whether enrichment is substantial or inconsequential include the amount of the award and whether a substantial portion of the compensation award will be used directly by or on behalf of the offender. If the offender has direct access to a cash award and/or if a substantial portion of it will be used to pay for his living expenses, that portion of the award that will substantially benefit the offender may be reduced or denied. When enrichment is inconsequential or minimal, the award shall not be reduced or denied.

R270-1-17. Prescription or Over-the-Counter Medications.

A. Reimbursement of prescription or over-the-counter medications used in conjunction with mental health therapy shall be considered only for the duration of an approved Treatment Plan.

B. Reimbursement of prescription or over-the-counter medications used in conjunction with medical treatment shall be considered only during the course of treatment by the physician.

C. Medication management rates shall be limited to a maximum of \$62.50 per thirty minute session.

R270-1-18. Peer Review Committee.

A. A volunteer Peer Review Committee may be established to review issues and/or provide input to Crime Victim Reparations staff on out-patient mental health counseling claims. The composition, duties, and responsibilities of this Committee shall be defined by the Crime Victim Reparations Board by written internal policy and procedure.

R270-1-19. Medical Awards.

A. Pursuant to Subsection 63-25a-411(4)(b), medical awards are subject to limitations as follows:

1. All medical costs must be related directly to the victimization and all treatment must be considered usual and customary.

2. The reparation officer reserves the right to audit any and all billings associated with medical care.

3. The reparation officer will not pay any interest, finance, or collection fees as part of the award.

4. After the effective date of this rule, in-patient hospital medical bills shall be reimbursed at a rate established between the CVR office and individual hospitals and shall be considered payment in full. A Memorandum of Agreement shall be signed and kept on file.

R270-1-20. Misconduct.

Pursuant to Subsections 63-25a-402(21) and 63-25a-412(1)(b) misconduct shall be considered conduct which contributed to the victim's injury or death or engaged in conduct in which the victim could have reasonably foreseen could lead to injury or death. In determining whether the victim engaged in misconduct, the CVR staff shall consider any behavior of the victim that may have directly or indirectly contributed to the victim's injury or death including consent, provocation, verbal utterance, gesture, incitement, prior conduct of the victim or the ability of the victim to have reasonably avoided the incident upon which the claim is based.

R270-1-21. Three Year Limitation.

Pursuant to Subsections 63-25a-406(1)(c) and 63-25a-428(2) a claim for benefits expires and no further payments will be made with regard to the claim after three years have elapsed from the date of application with the CVR office. All claimants who have filed a claim for benefits with the CVR office prior to the effective date of this rule shall be notified in writing of the three year limitation for payment of benefits. Any claimant who filed a claim for benefits more than two and one-half years prior to the effective date of this rule, other than a claim for benefits for permanent disability or loss of support, shall be notified in writing that they have six months in which to submit any remaining expenses before the three year limitation is imposed and the claim is closed. Claims for benefits for permanent disability or loss of support filed prior to the effective date of this rule shall not be subject to the three year limitation. The Crime Victim Reparations Board may review extenuating circumstances on claims that have been closed because of the Three Year Limitation rule.

R270-1-22. Sexual Assault Forensic Examinations.

A. Pursuant to Subsections 63-25a-402(19) and 63-25a-411(4)(i), the cost of sexual assault forensic examinations for gathering evidence and providing treatment may be paid by the CVR office in an amount not to exceed \$300.00. The CVR office may also pay for the cost of medication and up to 85% of the hospital expenses. The following agency guidelines need to be adhered to when making payments for sexual assault forensic examinations:

1. A sexual assault forensic examination shall be reported to law enforcement.

2. Victims shall not be charged for sexual assault forensic examinations.

3. The agency may reimburse any licensed health care facility that provides services for sexual assault forensic examinations.

4. The agency may reimburse licensed medical personnel trained to gather evidence of sexual assaults who perform sexual assault forensic examinations.

5. CVR may pay for the collection of evidence and not attempt to prove or disprove the allegation of sexual assault.

6. A request for reimbursement shall include the law enforcement case number or be signed by a law enforcement officer, victim/witness coordinator or medical provider.

7. The application or billing for the sexual assault forensic examination must be submitted to CVR within one year of the examination.

8. The billing for the sexual assault forensic examination shall:

a. identify the victim by name, address, date of birth, Social Security number, telephone number, patient number;

b. indicate the claim is for a sexual assault forensic examination; and

c. itemize services and fees for services.

9. All collateral sources that are available for payment of the sexual assault forensic examination shall be considered before CVR Trust Fund monies are used. Pursuant to Subsection 63-25a-411(i), the Director may determine that reimbursement for a sexual assault forensic examination will not be reduced even though a claim could be recouped from a collateral source.

10. Evidence will be collected only with the permission of the victim or the legal guardian of the victim. Permission shall not be required in instances where the victim is unconscious, mentally incapable of consent or intoxicated.

11. Restitution for the cost of the sexual assault forensic examination may be pursued by the CVR office.

12. Payment for sexual assault forensic examinations shall be considered for the following:

a. Fees for the collection of evidence, for forensic documentation only, to include:

i. history;

ii. physical;

iii. collection of specimens and wet mount for sperm; and

iv. treatment for the prevention of sexually transmitted disease up to four weeks.

b. Emergency department services to include:

i. emergency room, clinic room or office room fee;

ii. cultures for gonorrhea, chlamydia, trichomonas, and tests for other sexually transmitted disease;

iii. serum blood test for pregnancy; and

iv. morning after pill or high dose oral contraceptives for the prevention of pregnancy.

13. The victim of a sexual assault that is requesting payment by CVR for services needed or rendered beyond the sexual assault forensic examination needs to submit an application for compensation to the CVR office.

R270-1-23. Loss of Support Awards.

A. Pursuant to Subsection 63-25a-411(4)(g), loss of support awards shall be covered on death claims only.

R270-1-24. Rent Awards.

A. Pursuant to Subsection 63-25a-411(4)(a), victims of domestic violence or child abuse may be awarded a one time only rental award for actual rent expenses of \$1800 for a maximum of three months if the following conditions apply:

1. The perpetrator was living with the victim at the time of the crime or the rent assistance appears directly related to the victim's ability to distance herself/himself from the perpetrator.

2. It appears reasonable that the perpetrator was assisting or was solely responsible for rent.

3. The victim agrees that the perpetrator is not allowed on the premises.

R270-1-25. Secondary Victim.

Secondary victims who are not primary victims pursuant to Subsections 63-25a-402(37)~~[(39)]~~ and who are traumatically affected by criminally injurious conduct shall be eligible for compensation as prescribed by the CVR Board. Secondary victims include only immediate family members (spouse, father, mother, stepparents, child, brother, sister, stepchild, stepbrother, stepsister, or legal guardian) and anyone residing in the household at the time of the crime who was traumatically affected by the crime. The CVR Board may review requests by other individuals who are not immediate family members or do not reside in the household~~[if their involvement is essential to the well being and treatment of the primary victim]~~.

R270-1-26. Victim Services.

Pursuant to Subsection 63-25a-406(1)(j), the CVR Board may approve victim service requests following receipt of an application or request for proposal. Applications or requests for proposals shall be submitted on a form approved by the CVR Board. Application requests for one time funding will be submitted to the CVR Board for their review and decision. Requests for ongoing funding may be approved by the CVR Board and then forwarded to the CVR grants program for administration and monitoring purposes. All requests for ongoing funding shall be reviewed annually to determine if additional funding is warranted. This process may be implemented in conjunction with the annual Victims of Crime Act (VOCA) request for proposal program. Each request shall comply with all CVR grant program guidelines, certifications and assurances as determined by the director. There is no commitment by the CVR office that once a grant has been funded that there will be any subsequent funding. Continuation of funding for new and existing projects is contingent on the availability of funds and a determination that a sufficient reserve has been established for reparation claims. Awards may be denied or limited as determined appropriate by the Board. Decisions by the CVR Board are final and may not be appealed. The CVR office shall review expenditures by award recipients to insure compliance with the provisions of the request. Recipients shall be required to provide the CVR office with all documentation and receipts requested.

KEY: victim compensation, victims of crimes

~~[April 3, 2001]~~ **November 15, 2002**

Notice of Continuation December 10, 2001

63-25a-401 et seq.



**Health, Health Systems Improvement,
Emergency Medical Services**

R426-12

**Emergency Medical Services Training
and Certification Standards**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 25372

FILED: 09/23/2002, 08:57

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Bureau adopted new Training and Certification Standards in October 1999. At that time, a Task Force was organized to review the rules and make suggested changes. These changes are the suggestions of that Task Force.

SUMMARY OF THE RULE OR CHANGE: The proposed changes include a number of housekeeping changes, plus the following: 1) the Department may release test results and other pertinent information only to the person who took the test; 2) the proposed change clarifies who must have fingerprint/Federal Bureau of Identification (FBI) checks; 3) Emergency Medical Technician-Basic certification challengers must have a favorable recommendation from a certified course coordinator; 4) Cardio Pulmonary Resuscitation certification for Emergency Medical Dispatchers, EMT-B, EMT-IV, and EMT-I must be current; 5) EMT-B and EMT-IV's requesting recertification must have completed 100 hours of Continuing Medical Education in the previous four years; 6) provides for third test for EMD, EMT-B, EMT-IV, and EMT-I, if recommended by hearing officer and approved by the Department; 7) lists break down of required CME hours for recertification requirements for EMT-B, EMT-IV, EMT-I, EMD, and paramedics; 8) lists what has been adopted in the curriculum for EMT-IV; 9) lists Paramedic Training Institution Standards; 10) levels of certification for EMD, EMT-B, EMT-IV, EMT-I, and paramedic have been standardized wherever possible; 11) provides for lapsed certification for Dispatchers; 12) Emergency Medical Services Instructor contracts are to be submitted biennially rather than annually; 13) Medical Directors must complete a medical director training course every four years; 14) the Department may suspend a certification for felony or misdemeanor arrest and when an active criminal or administrative investigation is being conducted; 15) misrepresentation of the level of certification may be cause for suspending, revoking, or placing a certification on probation; and 16) failure to display state-approved emblem with level of certification during any Emergency Medical Services (EMS) response may be cause for suspending, revoking, or placing a certification on probation.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 26, Chapter 8a

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** There are no costs or savings to the state budget. The proposed changes to the rule will clarify the Bureau's responsibilities.

❖ **LOCAL GOVERNMENTS:** Local government could benefit from the proposed change that clarifies "permanent residency" in Utah. Each FBI check is \$39 a person, versus \$10 for a Utah name check. This is a potential savings to the local government agencies. If they have 20 people who have been in the military or on a religious mission within the past five years, they would save \$19 for each, or a total of \$380 annually. These monies are pass-through monies to the FBI. There will be a charge for EMS agencies to send their medical directors to training. This charge is \$50 per person every 4 years. The aggregate cost to EMS agencies would be

approximately \$1,450 per year. There are no other costs or savings from the changes that are requested.

❖ **OTHER PERSONS:** There is a potential savings to private ambulance services. If they have 4 people who have been in the military or on a religious mission within the past 5 years, they would save \$19 each, or a total of \$76 annually. These monies are pass-through monies to the FBI. There will be a charge for private EMS agencies to send their medical directors to training. This charge is \$50 per person every 4 years. The aggregate cost to private EMS agencies would be approximately \$100 per year. There are no other costs or savings from the changes that are requested.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Medical directors from each EMS agency must be trained. That cost will be \$50 per medical director every 4 years. EMS agencies only have one medical director each. Agencies will save \$19 for any applicant for licensure that was temporarily out of Utah, but did not change permanent residence.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This proposed rule updates many aspects of the certification and training standards for emergency medical services personnel as recommended by a task force of affected parties. The fiscal impacts on business will be small and the benefits to residents in need of this service will be large. Rod L. Betit

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

HEALTH
HEALTH SYSTEMS IMPROVEMENT,
EMERGENCY MEDICAL SERVICES
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:

Leslie Johnson at the above address, by phone at 801-538-6292, by FAX at 801-538-6808, or by Internet E-mail at lesliejohnson@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 11/14/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 11/15/2002

AUTHORIZED BY: Rod Betit, Executive Director

R426. Health, Health Systems Improvement, Emergency Medical Services.

R426-12. Emergency Medical Services Training and Certification Standards.

R426-12-100. Authority and Purpose.

This Rule is established under Title 26, Chapter 8a to provide uniform minimum standards to be met by those providing emergency medical services in the State of Utah; and for the

training, certification, and recertification of individuals who provide emergency medical service and for those providing instructions and training to prehospital emergency medical care providers.

R426-12-101. Written and Practical Test Requirements.

- (1) The Department shall:
- (a) develop written and practical tests for each certification; and
 - (b) establish the passing score for certification and recertification written and practical tests.
- (2) The Department may administer the tests or delegate the administration of any test to another entity.
- (3) The Department may release only to the individual who took the test and to persons who have a signed release from the individual who took the test:
- (a) whether the individual passed or failed a written or practical test; and
 - (b) the subject areas where items were missed on a written or practical test.

R426-12-102. Emergency Medical Care During Clinical Training.

A student enrolled in a ~~[department]~~Department-approved training program may, under the direct supervision of the course coordinator, an instructor in the course, or a preceptor for the course, perform activities delineated within the training curriculum that otherwise require the certification to perform those activities.

~~**R426-12-103. Temporary Certification for 2002 Winter Olympics.**~~

- ~~— (1) The Department may issue temporary certifications, valid from January 1 to March 20, 2002, to individuals to work or volunteer with the Salt Lake Organizing Committee or a specific EMS provider organization that provides EMS services for the 2002 Winter Olympics or Paralympics.~~
- ~~— (2) An individual certified and in good standing in another state, seeking Utah certification during the 2002 Winter Olympics or Paralympics under this section must:~~
- ~~— (a) submit the applicable fees and a completed application, including social security number and signature, to the Department;~~
 - ~~— (b) submit to a background investigation; and~~
 - ~~— (c) submit documentation of having completed a course in cardiopulmonary resuscitation offered by the National Safety Council, the American Red Cross, or the American Heart Association or a course that the applicant can demonstrate to the Department to be equivalent.]~~

R426-12-200. [EMT-B]Emergency Medical Technician-Basic (EMT-B) Requirements and Scope of Practice.

- (1) The Department may certify as an EMT-~~[Basic (EMT-B)]~~B an individual who meets the initial certification requirements in R426-12-201.
- (2) The Committee adopts the 1994 United States Department of Transportation's "EMT-Basic Training Program: National Standard Curriculum" (EMT-B Curriculum) except for Module 8, Advanced Airway, Appendix C, D, J, and K, as the standard for EMT-B training and competency in the state, which is ~~[adopted and]~~incorporated by reference.
- (3) An EMT-B may perform the skills as described in the EMT-~~[Basic Training Program: National Standard]~~B Curriculum, as adopted in this section.

R426-12-201. EMT-B Initial Certification.

- (1) The Department may certify an EMT-B for a four year period.
- (2) An individual who wishes to become certified as an EMT-B must:
- (a) maintain and submit documentation of having completed within the prior two years a CPR course offered by the National Safety Council, the American Red Cross, or the American Heart Association or a course that the applicant can demonstrate to the Department to be equivalent or greater;
 - ~~— (b) successfully complete a Department-approved EMT-B course;~~
 - ~~[(b)](c)~~ be able to perform the functions listed in the EMT-[Basic Training Program: National Standard]B Curriculum as verified by personal attestation and successful accomplishment during the course of all cognitive, affective, and psychomotor skills and objectives ~~[and all psychomotor skills and objectives]~~ listed in the ~~[curriculum;]~~adopted EMT-B Curriculum;
 - ~~[(c)](d)~~ achieve a favorable recommendation from the course coordinator and course medical director stating technical competence during field and clinical training and successful completion of all training requirements for EMT-B certification;
 - ~~[(d)](e)~~ be 18 years of age or older;
 - ~~[(e)](f)~~ submit the applicable fees and a completed application, including social security number and signature, to the Department;
 - ~~[(f)](g)~~ submit to a background investigation, including an FBI background investigation if not a Utah resident for the past consecutive five years; however a Utah resident whose reason for being out of state was due to being a foreign exchange student or serving a religious mission, in the military, as a Peace Corps volunteer, or the like need not submit to the FBI background investigation;
 - ~~[(g)](h)~~ submit to the Department a statement from a physician, confirming the applicant's results of a TB examination conducted within one year prior to completing the EMT-B course; and
 - ~~[(h)](i)~~ within 90 days after completing the EMT-B course, successfully complete the Department written and practical EMT-B examinations, or reexaminations, if necessary.
- (3) The Department may extend the time limit in Subsection (2)~~[(h)](i)~~ for an individual who demonstrates that the inability to meet the requirements within the 90 days was due to circumstances beyond ~~[his-]the applicant's control.~~

R426-12-202. EMT-B Certification Challenges.

- (1) The Department may certify as an EMT-B, a registered nurse licensed in Utah, a physician assistant licensed in Utah, ~~[and]~~ or a physician licensed in Utah who:
- (a) is able to demonstrate knowledge, proficiency and ~~[competence-]competency~~ to perform all the functions listed in the EMT-~~[Basic Training Program: National Standard]~~B Curriculum as verified by personal attestation and successful demonstration to a currently certified course coordinator and an off-line medical director of all cognitive, affective, and psychomotor skills and objectives ~~[and all psychomotor skills and objectives]~~ listed in the ~~[curriculum]~~EMT-B Curriculum;
 - (b) has a knowledge of:
 - (i) medical control protocols;
 - (ii) state and local protocols;
 - (iii) the role and responsibilities of an EMT-B;

(c) maintains and submits documentation of having completed within the prior two years, a CPR course [~~in cardiopulmonary resuscitation~~] offered by the National Safety Council, the American Red Cross, or the American Heart Association or a course that the applicant can demonstrate to the Department to be equivalent or greater; and

(d) is 18 years of age or older.

(2) To become certified, the applicant must:

(a) submit three letters of recommendation from health care providers attesting to the applicant's patient care skills and abilities;

(b) submit a favorable recommendation from a currently certified course coordinator attesting to competency of all knowledge and skills contained within the EMT-B Curriculum.

(c) submit an application, including social security number, signature, and documentation of compliance with this section, and [~~pay~~] all required fees;

(~~e~~)(d) within 90 days after submitting the challenge application, successfully complete the Department written and practical EMT-B examinations, or reexaminations, if necessary;

(~~d~~) submit the applicable fees and a completed application, including social security number and signature, to the Department;

(e) submit to a background investigation, including an FBI background investigation if not a Utah resident for the past consecutive five years; however a Utah resident whose reason for being out of state was due to being a foreign exchange student or serving a religious mission, in the military, as a Peace Corps volunteer, or the like need not submit to the FBI background investigation; and

(f) submit a statement from a physician, confirming the applicant's results of a TB examination conducted within one year prior to submitting the application.

R426-12-203. EMT-B Reciprocity.

(1) The Department may certify as an EMT-B an individual certified outside of the State of Utah if the applicant can demonstrate the applicant's out-of-state training and experience [~~is~~] requirements are equivalent or greater to what is required in Utah.

(2) An individual seeking reciprocity for certification in Utah based on out-of-state training and experience must submit the applicable fees and a completed application, including social security number and signature, to the Department and within one year of submitting the application must:

(a) submit to a background investigation, including an FBI background investigation if not a Utah resident for the past consecutive five years; however a Utah resident whose reason for being out of state was due to being a foreign exchange student or serving a religious mission, in the military, as a Peace Corps volunteer, or the like need not submit to the FBI background investigation;

(b) submit a statement from a physician, confirming the applicant's results of a TB examination conducted within the prior year;

(c) successfully complete the Department written and practical EMT-B examinations, or reexaminations, if necessary;

(d) maintain and submit documentation of having completed within the prior two years, a CPR course [~~in cardiopulmonary resuscitation~~] offered by the National Safety Council, the American Red Cross, or the American Heart Association or a course that the applicant can demonstrate to the Department to be equivalent or greater;

(e) submit a current certification from one of the states of the United States or its possessions, or current registration and the name of the training institution if registered with the National Registry of EMTs; and

(f) provide documentation of completion of 25 hours of continuing medical education (CME) within the prior year.

R426-12-204. EMT-B Recertification Requirements.

(1) The Department may recertify an EMT-B for a four year period or for a shorter period as modified by the Department to standardize recertification cycles.

(2) An individual seeking recertification must:

(a) submit the applicable fees and a completed application, including social security number and signature, to the Department;

(b) submit to a background investigation, including an FBI background investigation if not a Utah resident for the past consecutive five years; however a Utah resident whose reason for being out of state was due to being a foreign exchange student or serving a religious mission, in the military, as a Peace Corps volunteer, or the like need not submit to the FBI background investigation;

(c) maintain and submit documentation of having completed within the prior two years, a CPR course [~~in cardiopulmonary resuscitation~~] offered by the National Safety Council, the American Red Cross, or the American Heart Association or a course that the applicant can demonstrate to the Department to be equivalent or greater;

(d) successfully complete the Department applicable written and practical recertification examinations, or reexaminations if necessary, within one year prior to expiration of the certification to be renewed; [~~and~~]

(e) submit a statement from the applicant's EMS provider organization or a physician, confirming the applicant's results of a TB examination[-]; and

(f) provide documentation of completion of 100 hours of Department-approved CME meeting the requirements of subsections (3), (4), (5), (6) and (7).

(3) The EMT-B must complete the CME throughout each of the prior four years.

(4) The EMT-B must take at least 25 elective hours and the following 75 required CME hours by subject:

(a) Well being of the EMT - 2 hours;

(b) Infection Control - 2 hours;

(c) Airway - 4 hours;

(d) Patient Assessment - 10 hours;

(e) Communications and Documentation - 4 hours;

(f) Pharmacology and Patient Assisted Medications - 8 hours;

(g) Medical Emergencies: Cardiac and Automatic External Defibrillation - 6 hours;

(h) Medical Emergencies - 7 hours;

(i) Trauma (must include simulated bleeding, shock, soft tissue, burns, kinetics, musculoskeletal, head and spine, eyes, face, chest, splinting and bandaging; -12 hours;

(j) Pediatric Patients - 8 hours;

(k) Obstetrics and Gynecology - 4 hours;

(l) Operations (must include lifting and moving, ambulance operations, extrication, triage - 4 hours; and

(m) HAZMAT awareness - 4 hours.

(5) An EMT-B may complete CME hours through the methodologies listed in this subsection. All CME must be related to the required skills and knowledge of an EMT. Instructors need not

be EMS instructors, but must be knowledgeable in the field of instruction. Limitations and special requirements are listed with each methodology.

(a) Workshops and seminars related to the required skills and knowledge of an EMT and approved for CME credit by the Department or the Continuing Education Coordinating Board for EMS (CECBEMS).

(b) Local medical training meetings.

(c) Demonstration or practice sessions.

(d) Medical training meetings where a guest speaker presents material related to emergency medical care.

(e) Actual hours the EMT-B is involved in community emergency exercise and disaster drills. Up to 20 hours are creditable during a recertification period for participation in exercises and drills.

(f) Teaching the general public (schools, scouts, clubs, or church groups) on any topic within the scope of the EMT-B practice. Up to 15 hours are creditable during a certification period for teaching classes.

(g) Viewing audiovisuals (films, videotapes, etc.) which illustrate and review proper emergency care procedures. The EMT-B must view the audiovisual material in the presence of a training officer. Up to 10 hours are creditable during a certification period using audiovisuals.

(h) Completing college courses in topics such as biology, chemistry, anatomy and physiology. Other college courses relating to the scope and practice of an EMT-B may be creditable, but only with the approval of the Department. If in doubt, the EMT-B should contact the Department. Up to 10 hours are creditable during a certification period for college courses.

(i) Up to 16 hours of CPR training are creditable during a certification period.

(j) Computer and internet-based training that illustrates, drills, provides interactive use, or demonstrates proper emergency care procedures. The training must be approved by the Continuing Education Coordinating Board of Emergency Medical Services or the Department. Up to 25 hours are creditable during a certification period using computer and internet-based training.

(k) Completing tests related to the EMT-B scope of practice in EMS-related journals or publications. Up to 5 hours are creditable during a certification period for completing tests from journals and publications.

(6) The EMT-B must complete the following skills at least two times as part of the CME training listed in subsections (4) and (5):

(a) bandaging of the arm, elbow, shoulder, neck, top of head, cheek, protruding eye, ear, and open chest wound;

(b) splinting using hare traction or sager splint (choice based upon availability of equipment);

(c) splinting of at least one upper and lower extremity;

(d) cervical and spinal immobilization using c-collar, long board, head stabilization equipment (utilize available equipment) and straps;

(e) patient assisted medications: nitroglycerin, pre-loaded epinephrine, inhaler, glucose, activated charcoal, and aspirin;

(f) pediatric immobilization: in a car seat and backboard;

(g) insertion of nasopharyngeal and oropharyngeal airways; and

(h) defibrillation of a simulated patient in cardiac arrest using an AED.

(7) An EMT-B who is affiliated with an EMS organization should have the training officer from the EMS organization submit a

letter verifying the EMT-B's completion of the recertification requirements. An EMT-B who is not affiliated with an agency must submit verification of all recertification requirements directly to the Department.

(8) Each EMT-B is individually responsible to complete and submit the required recertification material to the Department. Each EMT-B should submit all recertification materials to the Department at one time and no later than 30 days prior to the EMT-B's current certification expiration date. If the Department receives incomplete or late recertification materials, the Department may not be able to process the recertification before the certification expires. The Department processes recertification material in the order received. An EMS provider or an entity that provides CME may compile and submit recertification materials on behalf of an EMT-B; however, the EMT-B remains responsible for a timely and complete submission.

(9) The Department may shorten recertification periods. An EMT-B whose recertification period is shortened must meet the CME requirements in each of the required and elective subdivisions on a prorated basis by the expiration of the shortened period.

R426-12-205. EMT-B Lapsed Certification.

(1) An individual whose EMT-B certification has expired for less than one year may, within one year after expiration, complete all recertification requirements and pay a ~~lapsed~~ late recertification fee to become certified.

(2) An individual whose certification has expired for more than one year must take an EMT-B course and reapply as if there were no prior certification.

R426-12-206. EMT-B Testing Failures.

(1) ~~[Except as provided in Subsection (2):~~

~~—(a)—~~ An individual who fails any part of the EMT-B certification written or practical examination may retake the EMT-B examination once without further course work.

~~[(b)](a)~~ If the individual fails on the re-examination, he must take a complete EMT-B training course to be eligible for further examination.

~~[(c)](b)~~ The individual may retake the course as many times as he desires, but may only take the examinations twice for each completed course.

(2) ~~[An]If an EMT-B [who] fails [any part of] the [recertification] written or practical recertification examination after two attempts, he may, [may retake the examinations once without retaking the course. If the EMT-B fails on the reexaminations, he may:~~

~~—(a) retake the course; or~~

~~—(b) request a meeting with department staff to evaluate reasons for the failure and suggest methods for remediation.~~

~~—(3) The Department may offer the examination one additional time if:~~

~~—(a) the Department allows remediation;~~

~~—(b) the Department determines that the individual would likely pass the examination after completion of any suggested remediation; and~~

~~—(c) the EMT-B completes the remediation.~~

~~—(4) If the Department does not allow the third examination, the EMT-B may seek review before the EMS Committee by filing a request for agency action—]within 30 days [if issuance of the Department's—]following mailing of written notification of this second failure, submit a written request to take the test a third time.~~

(3) Within 30 days of receipt of the request, the Department shall convene a review panel consisting of:

(a) the training officer of the individual's EMS provider organization or a certified EMS training officer or certified EMS instructor who would take responsibility for a remediation plan; and

(b) one or more representatives from the Department.

(4) The review panel shall allow the individual to appear and provide information.

(5) The Department shall determine whether a program of re-education and reexamination would likely result in successful completion of the examinations and shall recommend a course of action to the Department.

(6) The Department shall consider the review panel's recommendation and provide one opportunity for reexamination if it determines that re-education and reexamination within that time would likely result in successful completion of the examinations.

(7) If the Department does not allow the third examination, the EMT-B may file a request for agency action within 30 days of issuance of the Department's determination.

R426-12-300. EMT-B-IV Requirements and Scope of Practice.

(1) The Department may certify an EMT-B as an EMT-Basic with IV capabilities (EMT-B-IV) who:

(a) meets the requirements of this section;

(b) meets the initial certification requirements in R426-12-301; and

(c) has 12 months of field experience as a certified EMT-B, six months of which the Department may ~~be waived~~ waive upon a written request from the off-line medical director showing that there is a shortage of EMT-B-IVs to serve the area.

(2) The Committee adopts as the standard for EMT-B-IV training and competency in the state the following affective, cognitive, and psychomotor objectives for IV therapy, from the 1999 United States Department of Transportation's "Emergency Medical Technician-Intermediate Training Program: National Standard Curriculum" [as the standard for EMT-B-IV training and competency in the state.] (EMT-I Curriculum): 1-1, 1-2, 1-4, 3-5, 3-6, 4-2, 6-3, 7-1, which is [adopted and] incorporated by reference, with the exception of the following objectives: 1-1.18-24, 1-1.27, 1-1.54, 1-2.10-12, 1-2.19-30, 1-2.35, 1-2.37-41, 1-2.43, 1-2.50-51, 1-2.55-59, 1-4.5-6, 1-4.9, 1-4.15-21, 1-4.25, 1-4.35-39, 3-5.29, 3-6.5, 6-3.1, 6-3.13-15, 6-3.19-48, 6-3.55-83, 6-3.87-106, 6-3.122-124, 6-3.126, 6-3.128-140, 7-1.13-15, 7-1.17-18, 7-1.20, and 7-1.26 a,b,c,e,f,g,i, and j.

(3) In addition to the skills that an EMT-B may perform, an EMT-B-IV may perform the ~~IV-adopted~~ skills described in ~~[the EMT-Intermediate Training Program: National Standard Curriculum] section R426-12-300(2).~~

R426-12-301. EMT-B-IV Initial Certification.

(1) ~~The [Department may certify an EMT-B-IV for a four year period. The] expiration for the IV certification shall correlate with the expiration date for the EMT-B certification. If the EMT-B expiration date is less than one year after the date of the IV certification, the individual need not re-[test for] take the IV [module] test. Thereafter, recertification requirements must be completed every four years in conjunction with recertification as an EMT-B.~~

(2) An individual who wishes to become certified as an EMT-B-IV must:

(a) successfully complete a Department-approved EMT-B-IV course;

~~(b) be able to perform the functions listed in the [EMT-IV module of the Emergency Medical Technician-Intermediate: National Standard] objectives of the EMT-I Curriculum adopted in R426-12-300(2) as verified by personal attestation and successful accomplishment during the course of all cognitive, affective, and psychomotor skills and objectives [and all psychomotor skills and objectives listed in the curriculum] in the adopted EMT-I Curriculum;~~

~~(c) achieve a favorable recommendation from the course coordinator and course medical director stating technical competence during field and clinical training and successful completion of all training requirements for EMT-B-IV certification; [and]~~

~~(d) be [18 years of age or older;] currently certified as an EMT-Basic;~~

~~(e) [submit the applicable fees and a completed application, including social security number and signature, to the Department;~~

~~(f) submit to a background investigation;~~

~~(g) submit to the Department a statement from a physician, confirming the applicant's results of a TB examination conducted within one year prior to completing the EMT-B-IV course; and~~

~~(h) [within 90 days after completing the EMT-B-IV course, successfully complete the Department written and practical EMT-B-IV examinations, or reexaminations, if necessary[-]; and~~

~~(f) demonstrate clinical proficiency by successfully gaining venous access on at least eight live patients during the EMT-IV course or within 90 days after the completion of the course.~~

(3) The Department may extend the time limit in Subsection (2) ~~(h) (e)~~ for an individual who demonstrates that the inability to meet the requirements within the 90 days was due to circumstances beyond ~~[his] the applicant's~~ control.

R426-12-302. EMT-B-IV Reciprocity.

(1) The Department may certify as an EMT-B-IV an individual certified outside of the State of Utah if the applicant can demonstrate the applicant's out-of-state training and experience ~~[is] requirements are equivalent or greater~~ to what is required in Utah.

(2) An individual seeking reciprocity for certification in Utah based on out-of-state training and experience must submit the applicable fees and a completed application, including social security number and signature, to the Department and within one year of submitting the application must:

(a) submit to a background investigation, including an FBI background investigation if not a Utah resident for the past consecutive five years; however a Utah resident whose reason for being out of state was due to being a foreign exchange student or serving a religious mission, in the military, as a Peace Corps volunteer, or the like need not submit to the FBI background investigation;

(b) submit a statement from a physician, confirming the applicant's results of a TB examination conducted within the prior year;

(c) successfully complete the Department written and practical EMT-B-IV examinations, or reexaminations, if necessary;

(d) maintain and submit documentation of having completed within the prior two years, a CPR course [in cardiopulmonary resuscitation] offered by the National Safety Council, the American Red Cross, or the American Heart Association or a course that the applicant can demonstrate to the Department to be equivalent or greater;

(e) submit a current certification from one of the states of the United States or its possessions, or current registration and the name of the training institution if registered with the National Registry of EMTs; and

(f) provide documentation of completion of 25 hours of continuing medical education within the prior year.

R426-12-303. EMT-B-IV Recertification Requirements.

(1) The Department may recertify an ~~individual as an~~ EMT-B-IV for a four year period or for a shorter period as modified by the Department to standardize recertification cycles.

(2) An individual seeking recertification must:

(a) complete all EMT-B recertification requirements;

(b) submit the applicable fees and a completed application, including social security number and signature, to the Department;

(c) submit a letter from the off-line medical director recommending the individual for recertification and verifying the individual's demonstrated proficiency in the following EMT-B-IV skills:

(i) initiating and terminating intravenous infusion;

(ii) successful completion of the Department's pediatric vascular access skills station; and

(iii) insertion and removal of intraosseous needles; and

(d) successfully complete the Department's IV written recertification examination, or reexamination if necessary, within one year prior to expiration of the IV certification.

(e) In addition to meeting the CME requirements in R426-12-204, submit verification of eight of the 25 elective hours of CME in topics in advanced EMT-IV subjects, such as IV fluid challenges, acid base balance, pathophysiology of shock. If in doubt that a particular CME is IV related the EMT-IV should contact the Department.

R426-12-304. EMT-B-IV Lapsed Certification.

(1) An individual whose EMT-B-IV certification has expired for less than one year, may, within one year after expiration, complete all recertification requirements and pay a ~~lapsed~~ late recertification fee to become certified.

(2) An individual whose EMT-B-IV certification has expired for more than one year must ~~take~~ retake the IV training and reapply as if there were no prior IV certification.

R426-12-305. EMT-B-IV Testing Failures.

(1) ~~Except as provided in Subsection (2):~~

~~(a)~~ An individual who fails any part of the EMT-B-IV certification written or practical examination may retake the EMT-B-IV examination once without further course work.

~~(b)~~ (a) If the individual fails on the re-examination, he must take a complete EMT-B-IV training course to be eligible for further examination.

~~(c)~~ (b) The individual may retake the course as many times as he desires, but may only take the examinations twice for each completed course.

(2) ~~An~~ If an EMT-B-IV ~~who~~ fails ~~any part of~~ the ~~recertification~~ written or practical recertification examination after two attempts, he may, [may retake the examinations once without retaking the course. If the EMT-B-IV fails on the reexaminations, he may:

~~(a) retake the course; or~~

~~(b) request a meeting with department staff to evaluate reasons for the failure and suggest methods for remediation.~~

~~(3) The Department may offer the examination one additional time if:~~

~~(a) the Department allows remediation;~~

~~(b) the Department determines that the individual would likely pass the examination after completion of any suggested remediation; and~~

~~(c) the EMT-B-IV completes the remediation.~~

~~(4) If the Department does not allow the third examination, the EMT-B-IV may seek review before the EMS Committee by filing a request for agency action within 30 days [if issuance of the Department's] following mailing of written notification of this second failure, submit a written request to take the test a third time.~~

(3) Within 30 days of receipt of the request, the Department shall convene a review panel consisting of:

(a) The training officer of the individual's EMS provider organization or a certified EMS training officer or certified EMS instructor who would take responsibility for a remediation plan; and

(b) one or more representatives from the Department.

(4) The review panel shall allow the individual to appear and provide information.

(5) The hearing officer shall determine whether a program of re-education and reexamination would likely result in successful completion of the examinations and shall recommend a course of action to the Department.

(6) The Department shall consider the review panel's recommendation and provide one opportunity for reexamination if it determines that re-education and reexamination within that time would likely result in successful completion of the examinations.

(7) If the Department does not allow the third examination, the EMT-B-IV may file a request for agency action within 30 days of issuance of the Department's determination.

R426-12-400. EMT-I Requirements and Scope of Practice.

(1) The Department may certify an individual as an EMT-Intermediate (EMT-I) who:

(a) meets the initial certification requirements in R426-12-401;

(b) is currently certified as an EMT-B or EMT-B-IV; and

(c) has 12 months of field experience as a certified EMT-B or EMT-B-IV; however, the 12 month period may be reduced to six months with special authorization from the Department based upon a written request from the off-line medical director that there is a shortage of EMT-Is to serve the area.

(2) The Committee adopts the 1999 United States Department of Transportation's "EMT-~~Intermediate Training Program: National Standard~~"] Curriculum" as the standard for EMT-I training and competency in the state, which is ~~adopted and~~ incorporated by reference.

(3) An EMT-I may perform the skills described in the EMT-~~Intermediate Training Program: National Standard~~"] Curriculum.

R426-12-401. EMT-I Initial Certification.

(1) The Department may certify an EMT-I for a four year period.

(2) An individual who wishes to become certified as an EMT-I must:

(a) successfully complete a Department-approved EMT-I course;

(b) be able to perform the functions listed in the ~~[EMT-Intermediate Training Program: National Standard]~~ objectives of the EMT-I Curriculum adopted in R426-12-400 as verified by personal attestation and successful accomplishment during the course of all

cognitive, affective, and psychomotor skills and objectives [~~and all psychomotor skills and objectives~~] listed in the [~~curriculum~~] adopted EMT-I Curriculum;

(c) achieve a favorable recommendation from the course coordinator and course medical director stating technical competence during field and clinical training and successful completion of all training requirements for EMT-I certification; [~~and~~]

(d) be 18 years of age or older;

(e) submit the applicable fees and a completed application, including social security number and signature, to the Department;

(f) submit to a background investigation, including an FBI background investigation if not a Utah resident for the past consecutive five years; however a Utah resident whose reason for being out of state was due to being a foreign exchange student or serving a religious mission, in the military, as a Peace Corps volunteer, or the like need not submit to the FBI background investigation;

(g) submit to the Department a statement from a physician, confirming the applicant's results of a TB examination conducted within one year prior to completing the EMT-I course; [~~and~~]

(h) within 90 days after completing the EMT-I course, successfully complete the Department [~~written and practical EMT-B~~] EMT-I examinations, or reexaminations, if necessary[-]; and

~~(i) maintain and submit documentation of having completed within the prior two years a CPR course offered by the National Safety Council, the American Red Cross, or the American Heart Association or a course that the applicant can demonstrate to the Department to be equivalent or greater;~~

(3) The Department may extend the time limit in Subsection (2)(h) for an individual who demonstrates that the inability to meet the requirements within the 90 days was due to circumstances beyond [~~his~~] the applicant's control.

R426-12-402. EMT-I Reciprocity.

(1) The Department may certify as an EMT-I an individual certified outside of the State of Utah if the applicant can demonstrate the applicant's out-of-state training and experience [~~is~~] requirements are equivalent or greater to what is required in Utah.

(2) An individual seeking reciprocity for certification in Utah based on out-of-state training and experience must submit the applicable fees and a completed application, including social security number and signature, to the Department and within one year of submitting the application must:

(a) submit to a background investigation, including an FBI background investigation if not a Utah resident for the past consecutive five years; however a Utah resident whose reason for being out of state was due to being a foreign exchange student or serving a religious mission, in the military, as a Peace Corps volunteer, or the like need not submit to the FBI background investigation;

(b) submit a statement from a physician, confirming the applicant's results of a TB examination conducted within the prior year;

(c) successfully complete the Department written and practical EMT-I examinations, or reexaminations, if necessary;

(d) maintain and submit documentation of having completed within the prior two years a CPR course [~~in cardiopulmonary resuscitation~~] offered by the National Safety Council, the American Red Cross, or the American Heart Association or a course that the

applicant can demonstrate to the Department to be equivalent or greater;

(e) submit a current certification from one of the states of the United States or its possessions, or current registration and the name of the training institution if registered with the National Registry of EMTs; and

(f) provide documentation of completion of 25 hours of continuing medical education within the prior year.

R426-12-403. EMT-I Recertification Requirements.

(1) The Department may recertify an individual as an EMT-I for a four year period or for a shorter period as modified by the Department to standardize recertification cycles.

(2) An individual seeking recertification must:

(a) submit the applicable fees and a completed application, including social security number and signature, to the Department;

(b) submit to a background investigation, including an FBI background investigation if not a Utah resident for the past consecutive five years; however a Utah resident whose reason for being out of state was due to being a foreign exchange student or serving a religious mission, in the military, as a Peace Corps volunteer, or the like need not submit to the FBI background investigation;

(c) maintain and submit documentation of having completed within the prior two years, a CPR course [~~in cardiopulmonary resuscitation~~] offered by the National Safety Council, the American Red Cross, or the American Heart Association or a course that the applicant can demonstrate to the Department to be equivalent or greater;

(d) successfully complete the Department applicable written and practical recertification examinations, or reexaminations if necessary, within one year prior to expiration of the certification to be renewed;

(e) submit a statement from the applicant's EMS provider organization or a physician, confirming the applicant's results of a TB examination[?]

~~(f) complete the specific recertification requirements for the certification level.~~

~~(g) complete a minimum of 25 hours of Department approved continuing medical education in each of the prior four years and submit to the Department evidence of completion; and~~

~~(h) submit a letter from the off-line medical director recommending the individual for recertification and verifying the individual's demonstrated proficiency in the following EMT-I skills:~~

(i) initiating and terminating intravenous infusion;

(ii) completion of pediatric vascular access skills station;

(iii) insertion and removal of intraosseous needle;

(iv) insertion and removal of endotracheal tube;

(v) administration of medications via intramuscular, subcutaneous, and intravenous routes; and

(vi) EKG rhythm recognition; and

~~(g) provide documentation of completion of 100 hours of Department-approved CME meeting the requirements of subsections (3), (4), (6), (7) and (8).~~

~~(3) The EMT-I must complete the CME throughout each of the prior four years.~~

~~(4) The EMT-I must take at least 25 elective hours and the following 75 required CME hours by subject:~~

~~(a) Foundations of EMT-Intermediate - 4 hours;~~

~~(b) Pharmacology - 5;~~

(c) Venous Access and Medication Administration - 5 hours;
(d) Airway - 8 hours;
(e) Techniques of Physical Examination - 4 hours;
(f) Patient Assessment - 2 hours;
(g) Clinical Decision Making - 4 hours
(h) Trauma Systems and Mechanism of Injury - 3 hours;
(i) Hemorrhage and Shock - 4 hours;
(j) Burns - 3 hours;
(k) Thoracic Trauma - 3 hours;
(l) Respiratory - 2 hours;
(m) Cardiac - 6 hours;
(n) Diabetic - 2 hours;
(o) Allergic Reactions - 2 hours;
(p) Poisoning - 2 hours;
(q) Environmental Emergencies - 2 hours;
(r) Gynecology - 2 hours;
(s) Obstetrics - 2 hours;
(t) Neonatal resuscitation - 4 hours; and
(u) Pediatrics - 6 hours.

(5) The Department strongly suggests that the 25 elective hours be in the following topics:
(a) Anatomy & Physiology;
(b) Assessment Based Management;
(c) Behavioral Emergencies;
(d) Communication;
(e) Documentation;
(f) Geriatrics;
(g) HAZMAT;
(h) History Taking;
(i) Mass Casualty Incident;
(j) Medical Incident Command;
(k) Neurological Emergencies;
(l) Non-Traumatic Abdominal Emergencies; and
(m) Trauma Practical Lab.

(6) An EMT-I may complete CME hours through the methodologies listed in this subsection. All CME must be related to the required skills and knowledge of an EMT. Instructors need not be EMS instructors, but must be knowledgeable in the field of instruction. Limitations and special requirements are listed with each methodology.
(a) Workshops and seminars related to the required skills and knowledge of an EMT and approved for CME credit by the Department or the CECBEMS.
(b) Local medical training meetings.
(c) Demonstration or practice sessions.
(d) Medical training meetings where a guest speaker presents material related to emergency medical care.
(e) Actual hours the EMT-I is involved in community emergency exercise and disaster drills. Up to 20 hours are creditable during a recertification period for participation in exercises and drills.
(f) Teaching the general public (schools, scouts, clubs, or church groups) on any topic within the scope of the EMT-I practice. Up to 15 hours are creditable during a certification period for teaching classes.
(g) Viewing audiovisuals (films, videotapes, etc.) which illustrate and review proper emergency care procedures. The EMT-I must view the audiovisual material in the presence of a training officer. Up to 10 hours are creditable during a certification period using audiovisuals.

(h) Completing college courses in topics such as biology, chemistry, anatomy and physiology. Other college courses relating to the scope and practice of an EMT-I may be creditable, but only with the approval of the Department. If in doubt, the EMT-I should contact the Department. Up to 10 hours are creditable during a certification period for college courses.
(i) Up to 16 hours of CPR training are creditable during a certification period.
(j) Computer and internet-based training that illustrates, drills, provides interactive use, or demonstrates proper emergency care procedures. The training must be approved by the Continuing Education Coordinating Board of Emergency Medical Services or the Department. Up to 25 hours are creditable during a certification period using computer and internet-based training.
(k) Completing tests related to the EMT-I scope of practice in EMS-related journals or publications. Up to 5 hours are creditable during a certification period for completing tests from journals and publications.

(7) The EMT-I must complete the following skills at least two times as part of the CME training listed in subsections (4) and (6):
(a) bandaging of the arm, elbow, shoulder, neck, top of head, cheek, protruding eye, ear, and open chest wound;
(b) splinting using hare traction or sager splint (choice based upon availability of equipment);
(c) splinting of at least one upper and lower extremity;
(d) cervical and spinal immobilization using c-collar, long board, head stabilization equipment (utilize available equipment) and straps;
(e) patient assisted medications: nitroglycerin, pre-loaded epinephrine, inhaler, glucose, activated charcoal, and aspirin;
(f) pediatric immobilization: in a car seat and backboard;
(g) insertion of nasopharyngeal and oropharyngeal airways; and
(h) defibrillation of a simulated patient in cardiac arrest using an AED.

(8) An EMT-I who is affiliated with an EMS organization should have the training officer from the EMS organization submit a letter verifying the EMT-I's completion of the recertification requirements. An EMT-I who is not affiliated with an agency must submit verification of all recertification requirements directly to the Department.
(9) Each EMT-I is individually responsible to complete and submit the required recertification material to the Department. Each EMT-I should submit all recertification materials to the Department at one time and no later than 30 days prior to the EMT-I's current certification expiration date. If the Department receives incomplete or late recertification materials, the Department may not be able to process the recertification before the certification expires. The Department processes recertification material in the order received. An EMS provider or an entity that provides CME may compile and submit recertification materials on behalf of an EMT-I; however, the EMT-I remains responsible for a timely and complete submission.
(10) The Department may shorten recertification periods. An EMT-I whose recertification period is shortened must meet the CME requirements in each of the required and elective subdivisions on a prorated basis by the expiration of the shortened period.

R426-12-404. EMT-I Lapsed Certification.

(1) An individual whose EMT-I certification has expired for less than one year, may, within one year after expiration, complete

all recertification requirements and pay a ~~lapsed~~ late recertification fee to become certified.

(2) An individual whose certification has expired for more than one year must take the EMT-B and EMT-I courses and reapply as if there were no prior certification.

R426-12-405. EMT-I Testing Failures.

(1) ~~Except as provided in Subsection (2):~~

~~(a)~~ An individual who fails any part of the EMT-I certification written or practical examination may retake the EMT-I examination once without further course work.

~~(b)~~(a) If the individual fails on the re-examination, he must take a complete EMT-I training course to be eligible for further examination.

~~(c)~~(b) The individual may retake the course as many times as he desires, but may only take the examinations twice for each completed course.

(2) ~~An~~ If an EMT-I ~~who~~ fails ~~any part of~~ the ~~EMT-I recertification~~ written or practical recertification examination after two attempts, he may, [may retake the examinations once without retaking the course. If the EMT-I fails on the reexamination, he may:

~~(a) retake the course; or~~
~~(b) request a meeting with department staff to evaluate reasons for the failure and suggest methods for remediation.~~

~~(3) The Department may offer the examination one additional time if:~~

~~(a) the Department allows remediation;~~
~~(b) the Department determines that the individual would likely pass the examination after completion of any suggested remediation; and~~

~~(c) the EMT-I completes the remediation.~~

~~(4) If the Department does not allow the third examination, the EMT-I may seek review before the EMS Committee by filing a request for agency action within 30 days [if issuance of the Department's] following mailing of written notification of this second failure, submit a written request to take the test a third time.~~

(3) Within 30 days of receipt of the request, the Department shall convene a review panel consisting of:

(a) The training officer of the individual's EMS provider organization or a certified EMS training officer or certified EMS instructor who would take responsibility for a remediation plan; and
(b) one or more representatives from the Department.

(4) The review panel shall allow the individual to appear and provide information.

(5) The Department shall determine whether a program of re-education and reexamination would likely result in successful completion of the examinations and shall recommend a course of action to the Department.

(6) The Department shall consider the review panel's recommendation and provide one opportunity for reexamination if it determines that re-education and reexamination within that time would likely result in successful completion of the examinations.

(7) If the Department does not allow the third examination, the EMT-I may file a request for agency action within 30 days of issuance of the Department's determination.

R426-12-500. Paramedic Requirements and Scope of Practice.

(1) The Department may certify an individual as a paramedic who:

(a) meets the initial certification requirements in R426-12-501;

(b) has 12 months of field experience as a certified EMT-B, EMT-B-IV, or EMT-I; however, the 12 month period may be reduced to six months with special authorization from the Department based upon a written request from the off-line medical director that there is a shortage of paramedics to serve the area.

(2) The Committee adopts the 1998 United States Department of Transportation's "EMT-Paramedic Training Program: National Standard Curriculum" (Paramedic Curriculum) as the standard for paramedic training and competency in the state, which is ~~adopted and~~ incorporated by reference.

(3) A paramedic may perform the skills described in the ~~EMT-Paramedic~~ ~~National Standard~~ Curriculum.

R426-12-501. Paramedic Initial Certification.

(1) The Department may certify a paramedic for a four year period.

(2) An individual who wishes to become certified must:

(a) successfully complete a Department-approved paramedic course;

(b) be able to perform the functions listed in the ~~EMT-Paramedic~~ ~~Training Program: National Standard~~ Curriculum as verified by personal attestation and successful accomplishment during the course of all cognitive, affective, and psychomotor skills and objectives ~~and all psychomotor skills and objectives~~ listed in the ~~curriculum~~ adopted paramedic Curriculum;

(c) achieve a favorable recommendation from the course coordinator and course medical director stating technical competence during field and clinical training and successful completion of all training requirements for paramedic certification;

(d) be 18 years of age or older;

(e) submit the applicable fees and a completed application, including social security number and signature, to the Department;

(f) submit to a background investigation, including an FBI background investigation if not a Utah resident for the past consecutive five years; however a Utah resident whose reason for being out of state was due to being a foreign exchange student or serving a religious mission, in the military, as a Peace Corps volunteer, or the like need not submit to the FBI background investigation;~~and~~

(g) submit verification of completion of a Department-approved course in adult and pediatric advanced cardiac life support and maintain current status as set by the entity sponsoring the course;

(h) submit to the Department a statement from a physician, confirming the applicant's results of a TB examination conducted within one year prior to completing the paramedic course; and

~~(i)~~(i) within 90 days after completing the paramedic course, successfully complete the Department written and practical paramedic examinations, or reexaminations, if necessary.

(3) The Department may extend the time limit in Subsection (2)~~(i)~~(i) for an individual who demonstrates that the inability to meet the requirements within the 90 days was due to circumstances beyond ~~his~~ the applicant's control.

R426-12-502. Paramedic Reciprocity.

(1) The Department may certify as a paramedic an individual certified outside of the State of Utah if the applicant can demonstrate the applicant's out-of-state training and experience ~~is~~ requirements are equivalent or greater to what is required in Utah.

(2) An individual seeking reciprocity for certification in Utah based on out-of-state training and experience must submit the applicable fees and a completed application, including social security number and signature, to the Department and within one year of submitting the application must:

(a) submit to a background investigation, including an FBI background investigation if not a Utah resident for the past consecutive five years; however a Utah resident whose reason for being out of state was due to being a foreign exchange student or serving a religious mission, in the military, as a Peace Corps volunteer, or the like need not submit to the FBI background investigation;

(b) submit a statement from a physician, confirming the applicant's results of a TB examination conducted within the prior year;

(c) successfully complete the Department written and practical paramedic examinations, or reexaminations, if necessary;

(d) maintain and submit verification of current ~~department~~ Department-approved course completion in Adult and Pediatric Advanced Cardiac Life Support;

(e) submit a current certification from one of the states of the United States or its possessions, or current registration and the name of the training institution if registered with the National Registry of EMTs; and

(f) provide documentation of completion of 25 hours of continuing medical education within the prior year.

R426-12-503. Paramedic Recertification Requirements.

(1) The Department may recertify a paramedic for a four year period or for a shorter period as modified by the Department to standardize recertification cycles.

(2) An individual recertifying before June 30, 2003, shall be tested from the 1984 curriculum. An individual recertifying after June 30, 2003, will test to the 1998 curriculum.

(3) An individual seeking recertification must:

(a) submit the applicable fees and a completed application, including social security number and signature, to the Department;

(b) submit to a background investigation, including an FBI background investigation if not a Utah resident for the past consecutive five years; however a Utah resident whose reason for being out of state was due to being a foreign exchange student or serving a religious mission, in the military, as a Peace Corps volunteer, or the like need not submit to the FBI background investigation;

(c) successfully complete the applicable Department recertification examinations, or reexaminations if necessary, within one year prior to expiration of the certification to be renewed;

(d) submit a statement from the applicant's EMS provider organization or a physician, confirming the applicant's results of a TB examination;

(e) ~~[complete the specific recertification requirements for the certification level;~~

~~(f) complete a minimum of 25 hours of Department approved continuing medical education in each of the prior four years and submit to the Department evidence of completion;~~

~~(g)~~ maintain and submit verification of current ~~department~~ Department-approved course completion in Adult and Pediatric Advanced Cardiac Life Support; and

~~(h)~~ (f) submit an evaluation of clinical competency and a recommendation for recertification from an off-line medical director.

(g) provide documentation of completion of 100 hours of Department-approved CME meeting the requirements of subsections (4), (5), (7), and (8).

(4) The Paramedic must complete the CME throughout each of the prior four years.

(5) The Paramedic must take at least 20 elective hours and the following 80 required CME hours by subject:

(a) EMS system roles and responsibilities - 2 hours;

(b) Well being of the paramedic - 2 hours;

(c) Pathophysiology - 1 hour;

(d) Medical legal - 1 hour;

(e) Pharmacology - 1 hour;

(f) Venous access and medication administration - 1 hour;

(g) Airway management and ventilation - 5 hours;

(h) Patient assessment - 3 hours;

(i) Communication - 1 hour;

(j) Documentation - 1 hour;

(k) Trauma Systems and Mechanism of injury - 1 hour;

(l) Hemorrhage & shock - 2 hours;

(m) Burns - 3 hours;

(n) Head and facial - 3 hours;

(o) Spinal trauma - 1 hour;

(p) Thoracic trauma - 2 hours;

(q) Abdominal trauma - 2 hours;

(r) Pulmonary - 1 hour;

(s) Cardiology - 9 hours;

(t) Neurology - 4 hours;

(u) Endocrinology - 3 hours;

(v) Allergies and anaphylaxis - 1 hour;

(w) Gastroenterology - 4 hours;

(x) Toxicology - 2 hours;

(y) Environmental emergencies - 4 hours;

(z) Infectious and communicable diseases - 3 hours;

(aa) Behavioral/psychiatric disorders - 1 hour;

(bb) Obstetrics & gynecology - 2 hours;

(cc) Neonatology - 3 hours;

(dd) Pediatrics - 5 hours;

(ee) Geriatrics - 2 hours;

(ff) Assessment based management - 1 hour;

(gg) Medical incident command - 2 hours;

(hh) Hazardous materials incidents - 1 hour;

(6) The Department strongly suggests that the 25 elective hours be in the following topics:

(a) Ethics, Illness & injury prevention;

(b) Therapeutic communications;

(c) Life span development;

(d) Clinical decision making;

(e) Soft tissue trauma;

(f) Renal/urology;

(g) Hematology;

(h) Abuse & assault;

(i) Patients with special challenges;

(j) Acute intervention for chronic care patients;

(k) Ambulance operations;

(l) Rescue awareness and operations; and

(m) Crime scene awareness.

(7) A Paramedic may complete CME hours through the methodologies listed in this subsection. All CME must be related to the required skills and knowledge of a paramedic. Instructors need not be EMS instructors, but must be knowledgeable in the field of

instruction. Limitations and special requirements are listed with each methodology.

(a) Workshops and seminars related to the required skills and knowledge of a paramedic and approved for CME credit by the Department or the CECBEMS.

(b) Local medical training meetings.

(c) Demonstration or practice sessions.

(d) Medical training meetings where a guest speaker presents material related to emergency medical care.

(e) Actual hours the Paramedic is involved in community emergency exercise and disaster drills. Up to 20 hours are creditable during a recertification period for participation in exercises and drills.

(f) Teaching the general public (schools, scouts, clubs, or church groups) on any topic within the scope of the Paramedic practice. Up to 15 hours are creditable during a certification period for teaching classes.

(g) Viewing audiovisuals (films, videotapes, etc.) which illustrate and review proper emergency care procedures. The Paramedic must view the audiovisual material in the presence of a training officer. Up to 10 hours are creditable during a certification period using audiovisuals.

(h) Completing college courses in topics such as biology, chemistry, anatomy and physiology. Other college courses relating to the scope and practice of a paramedic may be creditable, but only with the approval of the Department. If in doubt, the Paramedic should contact the Department. Up to 10 hours are creditable during a certification period for college courses.

(i) Up to 16 hours of CPR training are creditable during a certification period.

(j) Computer and internet-based training that illustrates, drills, provides interactive use, or demonstrates proper emergency care procedures. The training must be approved by the Continuing Education Coordinating Board of Emergency Medical Services or the Department. Up to 25 hours are creditable during a certification period using computer and internet-based training.

(k) Completing tests related to the Paramedic scope of practice in EMS-related journals or publications. Up to 5 hours are creditable during a certification period for completing tests from journals and publications.

(8) A Paramedic who is affiliated with an EMS organization should have the training officer from the EMS organization submit a letter verifying the Paramedic's completion of the recertification requirements. A Paramedic who is not affiliated with an agency must submit verification of all recertification requirements directly to the Department.

(9) Each Paramedic is individually responsible to complete and submit the required recertification material to the Department. Each paramedic should submit all recertification materials to the Department at one time and no later than 30 days prior to the Paramedic's current certification expiration date. If the Department receives incomplete or late recertification materials, the Department may not be able to process the recertification before the certification expires. The Department processes recertification material in the order received. An EMS provider or an entity that provides CME may compile and submit recertification materials on behalf of a Paramedic; however, the Paramedic remains responsible for a timely and complete submission.

(10) The department may shorten recertification periods. A paramedic whose recertification period is shortened must meet the

CME requirements in each of the required and elective subdivisions on a prorated basis by the expiration of the shortened period.

R426-12-504. Paramedic Lapsed Certification.

(1) An individual whose paramedic certification has ~~expired~~ lapsed for less than one year, and who wishes to become ~~certified~~ recertified as a paramedic must complete all recertification requirements and pay a recertification late fee.

(2) An individual whose paramedic certification has expired for more than one year, and who wishes to become recertified as a paramedic may:

~~(4)~~(a) submit a completed application, including social security number and signature to the ~~department~~ Department;

~~(2)~~(b) submit to a background investigation, including an FBI background investigation if not a Utah resident for the past consecutive five years; however a Utah resident whose reason for being out of state was due to being a foreign exchange student or serving a religious mission, in the military, as a Peace Corps volunteer, or the like need not submit to the FBI background investigation;

~~(3)~~(c) submit to the Department evidence of having completed 100 hours of Department-approved continuing medical education within the prior four years.

~~(4)~~(d) submit a statement from a physician, confirming the applicant's results of a TB examination;

~~(5)~~(e) submit verification of current completion of a ~~department~~ Department-approved course in adult and pediatric advanced life support;

~~(6)~~(f) submit a letter of recommendation including results of an oral examination, from a certified off-line medical director, verifying proficiency in paramedic skills;

~~(7)~~(g) successfully complete the applicable Department written and practical examinations.

~~(8)~~(h) pay all applicable fees.

R426-12-505. Paramedic Testing Failures.

(1) If an individual fails the written or practical certification or recertification examination after two attempts, he may, within 30 days following mailing of written notification ~~in writing~~ of this second failure, submit a written request to take the test a third time.

(2) Within thirty days of receipt of the request, the Department shall convene a review ~~board~~ panel consisting of:

(a) the chairman of the Paramedic Advisory Sub-Committee;

(b) the off-line medical director for the individual's EMS provider ~~organization, if the individual is employed by or is associated with an EMS provider~~ organization ~~as an EMS personnel~~ or a certified EMS training officer or certified EMS instructor who would take responsibility for a remediation plan;

(c) ~~a~~ one or more representatives ~~of~~ from the Department; and

(d) a representative from the entity that provided training, but if the training was not provided in-state, then a representative of an in-state paramedic training ~~entity that provides paramedic training~~ program.

(3) The review ~~board~~ panel shall allow the individual to appear and provide information.

(4) The ~~board~~ panel shall review whether a program of re-education and reexamination ~~within 30 days~~ would likely result in successful completion of the examinations and shall recommend a course of action to the ~~department~~ Department.

(5) The Department shall consider the review ~~[board's]~~panel's recommendation and provide one opportunity for reexamination ~~[within 30 days of its decision]~~ if it determines that re-education and reexamination within that time would likely result in successful completion of the examinations.

R426-12-600. Emergency Medical Dispatcher (EMD).

(1) The Department may certify as an EMD an individual who meets the initial certification requirements in R426-12-601.

(2) The Committee adopts the 1995 United States Department of Transportation's "EMD Training Program: National Standard Curriculum" (EMD Curriculum) as the standard for EMD training and competency in the state, which is ~~[adopted and]~~ incorporated by reference.

R426-12-601. EMD Initial Certification.

(1) The Department may certify EMD for a four year period.

(2) An individual who wishes to become certified as an EMD must:

(a) successfully complete a Department-approved EMD course;

(b) be able to perform the functions listed in the EMD ~~[Training Program: National Standard-]~~Curriculum as verified by personal attestation and successful accomplishment of all skills listed in the ~~[curriculum-]~~adopted EMD Curriculum;

(c) achieve a favorable recommendation from the course coordinator and course medical director stating technical competence ~~[during-]~~and successful completion of all training~~[s-]~~ requirements for EMD certification;

(d) maintain and submit documentation of having completed within the prior two years a CPR course offered by the National Safety Council, the American Red Cross, or the American Heart Association or a course that the applicant can demonstrate to the Department to be equivalent or greater;

~~(e)~~ be 18 years of age or older;

~~(e)~~~~(f)~~ submit the applicable fees and a completed application, including social security number and signature, to the Department;

~~(f)~~~~(g)~~ submit to a background investigation, including an FBI background investigation if not a Utah resident for the past consecutive five years; however a Utah resident whose reason for being out of state was due to being a foreign exchange student or serving a religious mission, in the military, as a Peace Corps volunteer, or the like need not submit to the FBI background investigation; and

~~(g)~~~~(h)~~ within 90 days after completing the EMD course, successfully complete the Department written and practical EMD examinations, or reexaminations, if necessary.

(3) The Department may extend the time limit in Subsection (2)(h) for an individual who demonstrates that the inability to meet the requirements within the 90 days was due to circumstances beyond ~~[his-]~~the applicant's control.

R426-12-602. EMD Reciprocity.

(1) The Department may certify as an EMD an individual certified outside of the State of Utah if the applicant can demonstrate the applicant's out-of-state training and experience ~~[is-]~~requirements are equivalent or greater to what is required in Utah.

(2) An individual seeking reciprocity for certification in Utah based on out-of-state training and experience must submit the applicable fees and a completed application, including social

security number and signature, to the Department and within one year of submitting the application must:

(a) submit to a background investigation, including an FBI background investigation if not a Utah resident for the past consecutive five years; however a Utah resident whose reason for being out of state was due to being a foreign exchange student or serving a religious mission, in the military, as a Peace Corps volunteer, or the like need not submit to the FBI background investigation;

(b) successfully complete the Department written EMD examination, or reexamination, if necessary;

(c) maintain and submit documentation of having completed within the prior two years a CPR course~~[in cardiopulmonary resuscitation]~~ offered by the National Safety Council, the American Red Cross, or the American Heart Association or a course that the applicant can demonstrate to the Department to be equivalent or greater;

(d) submit a current certification from one of the states of the United States or its possessions or the National Academy of EMDs; and

(e) provide documentation of completion of 12 hours of continuing medical education within the prior year.

(3) The Department may certify as an EMD an individual certified by the National Academy of Emergency Medical Dispatch (NAEMD).

(4) An individual seeking reciprocity for certification in Utah based on NAEMD certification must submit the applicable fees and a completed application, including social security number and signature, to the Department and within one year of submitting the application must:

(a) submit to a background investigation, including an FBI background investigation if not a Utah resident for the past consecutive five years; however a Utah resident whose reason for being out of state was due to being a foreign exchange student or serving a religious mission, in the military, as a Peace Corps volunteer, or the like need not submit to the FBI background investigation;

(b) as part of meeting the the EMD's continuing medical education requirements, take a minimum of a two-hour course in critical incident stress management (CISM);

(c) if the individual's NAEMD certification is based on a course offered in Utah, successfully pass a class that follows the CISM section of the Department-established EMD curriculum;

(d) maintain and submit documentation of having completed within the prior two years:

(i) a CPR course offered by the National Safety Council, the American Red Cross, or the American Heart Association or a course that the applicant can demonstrate to the Department to be equivalent or greater; and

(ii) a course in CISM; and

(e) submit documentation of current NAEMD certification.

R426-12-603. EMD Recertification.

(1) The Department may recertify an EMD for a four year period or for a shorter period as modified by the Department to standardize recertification cycles.

(2) An individual seeking recertification must:

(a) submit the applicable fees and a completed application, including social security number and signature, to the Department;

(b) submit to a background investigation, including an FBI background investigation if not a Utah resident for the past

consecutive five years; however a Utah resident whose reason for being out of state was due to being a foreign exchange student or serving a religious mission, in the military, as a Peace Corps volunteer, or the like need not submit to the FBI background investigation;

(c) maintain and submit documentation of having completed within the prior two years a CPR course~~[in cardiopulmonary resuscitation]~~ offered by the National Safety Council, the American Red Cross, or the American Heart Association or a course that the applicant can demonstrate to the Department to be equivalent~~[;]~~ or greater;

(d) ~~[submit to the]~~successfully complete the applicable Department ~~[evidence of having completed 12]~~recertification examinations, or reexaminations if necessary, within one year prior to expiration of the certification to be renewed.

(e) provide documentation of completion of 48 hours of Department-approved ~~[continuing medical education in each of the previous]~~CME meeting the requirements of subsections (3), (4), and (5).

(3) The EMD must complete the CME throughout each of the prior four years.

(4) The EMD must take at least 8 elective hours and the following 40 required CME hours by subject:

(a) Roles and Responsibilities - 5 hours;

(b) Obtaining Information from callers - 7 hours;

(c) Resource allocation - 4 hours;

(d) Providing emergency care instruction - 2 hours;

(e) Legal and Liability Issues - 5 hours;

(f) Critical Incident Stress Management - 5 hours;

(g) Basic Emergency Medical Concepts - 5 hours; and

(h) Chief complaint types - 7 hours.

(5) An EMD may~~(e) successfully~~ complete CME hours through the methodologies listed in this subsection. All CME must be related to the required skills and knowledge of an EMD. Instructors need not be EMS instructors, but must be knowledgeable in the field of instruction. Limitations and special requirements are listed with each methodology.

(a) Workshops and seminars related to the required skills and knowledge of an EMD and approved for CME credit by the Department ~~[EMD written]~~or the CECBEMS.

(b) Local medical training meetings.

(c) Demonstration or practice sessions.

(d) Medical training meetings where a guest speaker presents material related to emergency medical care.

(e) Actual hours the EMD is involved in community emergency exercise and disaster drills. Up to 8 hours are creditable during a recertification ~~[examination, or reexamination if necessary, within one year prior to]~~period for participation in exercises and drills.

(f) Teaching the general public (schools, scouts, clubs, or church groups) on any topic within the scope of the EMD practice.

(g) Viewing audiovisuals (films, videotapes, etc.) which illustrate and review proper emergency care procedures. The EMD must view the audiovisual material in the presence of a training officer. Up to 10 hours are creditable during a certification period using audiovisuals.

(h) Completing college courses relating to the scope and practice of an EMD may be creditable, but only with the approval of the Department. Up to 8 hours are creditable during a certification period for college courses.

(i) Telephone scenarios of practical training and role playing.

(j) Riding with paramedic or ambulance units to understand the EMS system as a whole. Up to 6 hours are creditable during a certification period for ride-alongs.

(k) Computer and internet-based training that illustrates, drills, provides interactive use, or demonstrates proper emergency care procedures. The training must be approved by the Continuing Education Coordinating Board of Emergency Medical Services or the Department. Up to 12 hours are creditable during a certification period using computer and internet-based training.

(6) Notwithstanding the provisions of subsections (2), (3), (4), and (5), an EMD who has been certified or recertified by the National Academy of Emergency Medical Dispatch (NAEMD) may be recertified by the Department upon the following conditions:

(a) the EMD must, as part of meeting the the EMD's continuing medical education requirements, take a minimum of a two-hour course in critical incident stress management (CISM);

(b) an individual who takes a NAEMD course offered in Utah must successfully pass a class that follows the CISM section of the Department-established EMD curriculum;

(c) the individual must:

(i) submit the applicable fees and a completed application, including social security number and signature, to the Department;

(ii) submit to a background investigation, including an FBI background investigation if not a Utah resident for the past consecutive five years; however a Utah resident whose reason for being out of state was due to being a foreign exchange student or serving a religious mission, in the military, as a Peace Corps volunteer, or the like need not submit to the FBI background investigation;

(iii) maintain and submit documentation of having completed within the prior two years a CPR course offered by the National Safety Council, the American Red Cross, or the American Heart Association or a course that the applicant can demonstrate to the Department to be equivalent or greater; and

(iv) submit documentation of current NAEMD certification.

(7) Each EMD is individually responsible to complete and submit the required recertification material to the Department. Each EMD should submit all recertification materials to the Department at one time and no later than 30 days prior to the EMD's current certification expiration ~~[of the certification to be renewed]~~date. If the Department receives incomplete or late recertification materials, the Department may not be able to process the recertification before the certification expires. The Department processes recertification material in the order received. An EMS provider or an entity that provides CME may compile and submit recertification materials on behalf of an EMD; however, the EMD remains responsible for a timely and complete submission.

R426-12-604. EMD Lapsed Certification.

(1) An ~~[EMD]~~individual whose EMD certification has expired for less than one year may complete all recertification requirements and pay a late recertification fee to become recertified.

(2) An individual whose certification has expired for more than one year must take ~~[the]~~an EMD course and reapply as if there were no prior certification.

R426-12-605. EMD Testing Failures.

(1) An individual who fails any part of the EMD certification ~~[or recertification]~~written or practical examination~~[;]~~ may retake the EMD examination once without ~~[retaking the]~~further course~~[;]~~ work.

(a) If the individual fails on the re-examination, he must take a complete EMD training course to be eligible for further examination.

(b) The individual may retake the course as many times as he desires, but may only take the examinations twice for each completed course.

(2) If an EMD fails the written or practical recertification examination after two attempts, he may, within 30 days following notification in writing of this second failure, submit a written request to take the test a third time.

(3) Within 30 days of receipt of the request, the Department shall convene a review panel consisting of:

(a) The training officer of the individual's EMS provider organization or a certified training officer who would take responsibility for a remediation plan; and

(b) one or more representatives from the Department.

(4) The review panel shall allow the individual to appear and provide information regarding a remediation plan.

(5) The hearing panel shall review whether a program of re-education and reexamination within 30 days would likely result in successful completion of the examinations and shall recommend a course of action to the Department.

(6) The Department shall consider the review panel's recommendation and provide one opportunity for reexamination within 30 days of its decision if it determines that re-education and reexamination within that time would likely result in successful completion of the examinations.

(7) If the Department does not allow the third examination, the EMD may file a request for agency action within 30 days of issuance of the Department's determination.

R426-12-700. Emergency Medical Services Instructor Requirements.

(1) The Department may certify as an EMS Instructor an individual who:

(a) meets the initial certification requirements in R426-12-701; and

(b) has been certified in Utah EMS as an EMT-Basic, EMT-IV, EMT-Intermediate, Paramedic, or Dispatcher for 12 months.

(2) The Committee adopts the 1995 United States Department of Transportation's "EMS Instructor Training Program: National Standard Curriculum" (EMS Instructor Curriculum) as the standard for EMS Instructor training and competency in the state, which is adopted and incorporated by reference.

(3) An EMS instructor may only teach up to the certification level to which the instructor is certified. An EMS instructor who is only certified as an EMD may only teach EMD courses.

(4) An EMS instructor must abide by the terms of the "EMS Instructor Contract," teach according to the contract, and comply with the teaching standards and procedures in the EMS Instructor Manual or EMD Instructor Manual as incorporated into the respective "EMS Instructor Contract" or "EMD Instructor Contract."

(5) An EMS instructor must maintain the EMS certification for the level that the instructor is certified to teach.

(6) The Department may waive a particular instructor certification requirement if the applicant can demonstrate that the applicant's training and experience requirements are equivalent or greater to what are required in Utah.

R426-12-701. EMS Instructor Certification.

(1) The Department may certify an individual who is an EMT-B, EMT-B-IV, EMT-I, paramedic, or EMD as an EMS Instructor for a two year period.

(2) An individual who wishes to become certified as an EMS Instructor must:

~~(b)~~(a) submit an application and pay all applicable fees;

~~(e)~~(b) submit three letters of recommendation regarding EMS skills and teaching abilities;

~~(d)~~(c) submit documentation of 15 hours of teaching experience;

~~(e)~~(d) successfully complete all required examinations; and

~~(f)~~(e) submit ~~annually~~ biennially a completed and signed "EMS Instructor Contract" to the ~~department~~ Department agreeing to abide by the standards and procedures in the then current EMS Instructor Manual or EMD Instructor Manual.

(3) An individual who wishes to become certified as an EMS Instructor to teach EMT-B, EMT-B-IV, EMT-I, or paramedic courses must also:

(a) provide documentation of 30 hours of patient care within the prior year;

(b) submit verification that the individual is recognized as a CPR instructor by the National Safety Council, the American Red Cross, or the American Heart Association; and

(c) successfully complete the ~~department~~ Department-sponsored initial EMS instructor training course.

(4) An individual who wishes to become certified as an EMS Instructor to teach EMD courses must also successfully complete the ~~department~~ Department-sponsored initial EMS instructor training course.

(5) The Department may waive portions of the initial EMS instructor training courses for previously completed ~~department~~ Department-approved instructor programs.

R426-12-702. EMS Instructor Recertification.

An EMS instructor who wishes to recertify as an instructor must:

(1) maintain current EMS certification;

(2) attend the required ~~department~~ Department-approved recertification training;

(3) submit verification of 30 hours of EMS teaching experience in the prior two years;

(4) if teaching an EMT-B, EMT-B-IV, EMT-I, or paramedic course, submit verification that the instructor is currently recognized as a CPR instructor by the National Safety Council, the American Red Cross, or the American Heart Association;

(5) submit an application and pay all applicable fees;

(6) successfully complete any Department-required examination; and

(7) submit ~~annually~~ biennially a completed and signed "EMS Instructor Contract" to ~~the department~~ the Department agreeing to abide by the standards and procedures in the ~~then~~ current EMS Instructor Manual.

R426-12-703. EMS Instructor Lapsed Certification.

(1) An EMS instructor whose instructor certification has expired for less than two years may again become certified by completing the recertification requirements in R426-12-702.

(2) An EMS instructor whose instructor certification has expired for more than two years must complete all initial instructor certification requirements and reapply as if there were no prior certification.

R426-12-800. Emergency Medical Services Training Officer Requirements.

(1) The Department may certify an individual as a training officer for a one year period.

(2) A training officer must abide by the terms of the "Training Officer Contract" and comply with the standards and procedures in the Training Officer Manual as incorporated into the "Training Officer Contract."

R426-12-801. Emergency Medical Services Training Officer Certification.

(1) An individual who wishes to be certified as a training officer must:

- ~~(1)~~(a) be currently certified as an EMS instructor;
- ~~(2)~~(b) successfully complete the ~~[Department's seminar]~~Department's course for new training officers;
- ~~(3)~~(c) successfully complete any Department examinations;
- ~~(4)~~(d) submit an application and pay all applicable fees; and
- ~~(5)~~(e) submit annually a completed and signed "Training Officer Contract" to the ~~[department]~~Department agreeing to abide by the standards and procedures in the then current Training Officer Manual.

(2) A training officer must maintain EMS instructor certification to retain training officer certification.

R426-12-802. Emergency Medical Services Training Officer Recertification.

A training officer who wishes to recertify as a training officer must:

- (1) attend a training officer seminar every year;
- (2) ~~[be currently certified as an]~~maintain current EMS instructor certification;
- (3) submit an application and pay all applicable fees;
- (4) successfully complete any Department-examination requirements; and
- (5) submit annually a completed and signed new "Training Officer Contract" to the ~~[department]~~Department agreeing to abide to the standards and procedures in the then current training officer manual.

R426-12-803. Emergency Medical Services Training Officer Lapsed Certification.

A training officer whose training officer certification has expired must complete all initial training officer certification requirements and reapply as if there were no prior certification.

R426-12-900. Course Coordinator Certification.

(1) The Department may certify an individual as a course coordinator for a one year period.

(2) A course coordinator must abide by the terms of the "Course Coordinator Contract" and comply standards and procedures in the Course Coordinator Manual as incorporated into the "Course Coordinator Contract."

R426-12-901. Course Coordinator Certification.

An individual who wishes to certify as a course coordinator must:

- (1) be certified as an EMS instructor for one year;
- (2) be an instructor of record for at least one Department-approved course;
- (3) have taught a minimum of 15 hours in a Department-approved course;
- (4) have co-coordinated one Department-approved course with a certified course coordinator;
- (5) submit a written evaluation and recommendation from the course coordinator in the co-coordinated course;
- (6) complete certification requirements prior to application to the Department's course for new course coordinators;
- (7) submit an application and pay all applicable fees;
- (8) complete the Department's course for new course coordinators;
- (9) successfully complete all examination requirements;~~and~~
- (10) sign and submit annually the "Course Coordinator Contract" to the Department agreeing to abide to the standards and procedures in the then current Course Coordinator Manual; and
- (11) maintain EMS instructor certification.

R426-12-902. Course Coordinator Recertification.

A course coordinator who wishes to recertify as a course coordinator must:

- (1) ~~[be currently certified as an]~~maintain current EMS instructor certification;
- (2) coordinate or co-coordinate at least one Department-approved course every two years;
- (3) attend a course coordinator seminar every year;
- (4) submit an application and pay all applicable fees;
- (5) successfully complete all examination requirements; and
- (6) sign and submit annually a Course Coordinator Contract to the Department agreeing to abide to the policies and procedures in the then current Course Coordinator Manual.

R426-12-903. Emergency Medical Services Course Coordinator Lapsed Certification.

A course coordinator whose course coordinator certification has expired must complete all initial course coordinator certification requirements and reapply as if there were no prior certification.

R426-12-1000. Paramedic Training Institutions Standards Compliance.

(1) A person must be authorized by the Department to provide training leading to the certification of a paramedic.

(2) To become authorized and maintain authorization to provide paramedic training, a person must:

(a) enter into the Department's standard paramedic training contract; and

(b) adhere to the terms of the contract, including the requirement to provide training in compliance with the Course Coordinator Manual and the Utah Paramedic Training Program Accreditation Standards Manual.

R426-12-1100. Course Approvals.

A course coordinator offering EMS training to individuals to become certified must obtain Department approval prior to initiating an EMS training course. The Department shall approve a course if:

(1) the applicant submits the course application and fees no earlier than 90 days and no later than 30 days prior to commencing the course;

(2) the applicant has sufficient equipment available for the training or if the equipment is available for rental from the Department;

(3) the Department finds that the course meets all the Department rules and contracts governing training;

(4) the course coordinators and instructors hold current respective course coordinator and EMS instructor certifications; and

(5) the Department has the capacity to offer the applicable examinations in a timely manner after the conclusion of the course.

R426-12-~~1100~~1200. Off-line Medical Director Requirements.

(1) The Department may certify an off-line medical director for a four year period.

(2) An off-line medical director must be:

(a) a physician actively engaged in the provision of emergency medical care;

(b) familiar with the Utah EMS Systems Act, Title 26, Chapter 8a, and applicable state rules; and

(c) familiar with medical equipment and medications required under "R426 Equipment, Drugs and Supplies List."

R426-12-~~1101~~1201. Off-line Medical Director Certification.

(1) An individual who wishes to certify as an off-line medical director must:

~~[(1)](a)~~ have completed ~~[a]~~an American College of Emergency Physicians or National Association of Emergency Medical Services Physicians medical director training course or the Department's medical director training course ~~[or the Department's medical director training course or complete one within six-]~~within twelve months ~~[after-]~~of becoming a medical director;~~[and]~~

~~[(2)](b)~~ submit an application and;

~~(c)~~ pay all applicable fees.

(2) An individual who wishes to recertify as an off-line medical director must:

(a) retake the medical director training course every four years;

(b) submit an application; and

(c) pay all applicable fees.

R426-12-~~1200~~1300. Refusal, Suspension or Revocation of Certification.

(1) The Department shall exclude from EMS certification an individual who may pose an unacceptable risk to public health and safety, as indicated by his criminal history. The Department shall conduct a background check on each individual who seeks to certify or recertify as an EMS personnel, including an FBI background investigation if not a Utah resident for the past consecutive five years; however a Utah resident whose reason for being out of state was due to being a foreign exchange student or serving a religious mission, in the military, as a Peace Corps volunteer, or the like need not submit to the FBI background investigation.

(a) An individual convicted of certain crimes presents an unreasonable risk and the Department shall deny all applications for certification or recertification from individuals convicted of the following crimes:

(i) Sexual misconduct if the victim's failure to affirmatively consent is an element of the crime, such as forcible rape.

(ii) Sexual or physical abuse of children, the elderly or infirm, such as sexual misconduct with a child, making or distributing child

pornography or using a child in a sexual display, incest involving a child, assault on an elderly or infirm person.

(iii) Abuse, neglect, theft from, or financial exploitation of a person entrusted to the care or protection of the applicant, if the victim is an out-of-hospital patient or a patient or resident of a health care facility.

(iv) Crimes of violence against persons, such as aggravated assault, murder or attempted murder, manslaughter except involuntary manslaughter, kidnaping, robbery of any degree; or arson; or attempts to commit such crimes.

(b) Except in extraordinary circumstances, established by clear and convincing evidence that certification or recertification will not jeopardize public health and safety, the Department shall deny applicants for certification or recertification in the following categories:

(i) Persons who are convicted of any crime not listed in (a) and who are currently incarcerated, on work release, on probation or on parole.

(ii) Conviction of crimes in the following categories, unless at least three years have passed since the conviction or at least three years have passed since release from custodial confinement, whichever occurs later:

(A) Crimes of violence against persons, such as assault

(B) Crimes defined as domestic violence under Section 77-36-1;

(C) Crimes involving controlled substances or synthetics, or counterfeit drugs, including unlawful possession or distribution, or intent to distribute unlawfully, Schedule I through V drugs as defined by the Uniform Controlled Dangerous Substances Act; and

(D) Crimes against property, such as grand larceny, burglary, embezzlement or insurance fraud.

(c) The Department ~~[shall]~~may deny certification or recertification to individuals convicted of crimes, including DUIs, but not including minor traffic violations chargeable as infractions after consideration of the following factors:

(i) The seriousness of the crime.

(ii) Whether the crime relates directly to the skills of prehospital care service and the delivery of patient care.

(iii) Amount of time that has elapsed since the crime was committed.

(iv) Whether the crime involved violence to or abuse of another person.

(v) Whether the crime involved a minor or a person of diminished capacity as a victim.

(vi) Whether the applicant's actions and conduct since the crime occurred are consistent with the holding of a position of public trust.

(vii) Total number of arrests and convictions.

(viii) Whether the applicant was truthful regarding the crime on his/her application.

(2) Certified EMS personnel must notify the Department of any arrest, charge, or conviction within 30 days of the arrest, charge or conviction.

(3) The Department may require EMS personnel to submit to a background examination or a drug test upon Department request.

(4) The Department may refuse to issue a certification or recertification, or suspend or revoke a certification, or place a certification on probation, for any of the following causes:

(a) any of the reasons for exclusion listed in Subsection (1);

(b) a violation of Subsection (2);

(c) a refusal to submit to a background examination pursuant to Subsection (3);

(d) habitual or excessive use or addiction to narcotics or dangerous drugs;

(e) refusal to submit to a drug test administered by the individual's EMS provider organization or the Department;

(f) habitual abuse of alcoholic beverages or being under the influence of alcoholic beverages while on call or on duty as an EMS personnel or while driving any Department-permitted vehicle;

(g) failure to comply with the training, certification, or recertification requirements for the certification;

(h) failure to comply with a contractual agreement as an EMS instructor, a training officer, or a course coordinator;

(i) fraud or deceit in applying for or obtaining a certification;

(j) fraud, deceit, incompetence, patient abuse, theft, or dishonesty in the performance of duties and practice as a certified individual;

(k) unauthorized use or removal of narcotics, drugs, supplies or equipment from any emergency vehicle or health care facility;

(l) performing procedures or skills beyond the level of certification or agency licensure;

(m) violation of laws pertaining to medical practice, drugs, or controlled substances;

(n) conviction of a felony, misdemeanor, or a crime involving moral turpitude, excluding minor traffic violations chargeable as infractions;

(o) mental incompetence as determined by a court of competent jurisdiction;

(p) demonstrated inability and failure to perform adequate patient care;

(q) inability to provide emergency medical services with reasonable skill and safety because of illness, drunkenness, use of drugs, narcotics, chemicals, or any other type of material, or as a result of any other mental or physical condition, when the individual's condition demonstrates a clear and unjustifiable threat or potential threat to oneself, coworkers, or the public health, safety, or welfare that cannot be reasonably mitigated; and

(r) misrepresentation of an individual's level of certification;

(s) failure to display state-approved emblem with level of certification during an EMS response, and

(t) other or good cause, including conduct which is unethical, immoral, or dishonorable to the extent that the conduct reflects negatively on the EMS profession or might cause the public to lose confidence in the EMS system.

(5)(a) The Department may suspend an individual for a felony or misdemeanor arrest or charge pending the resolution of the charge if the nature of the charge is one that, if true, the Department could revoke the certification under subsection (1); and

(b) The Department may order EMS personnel not to practice when an active criminal or administrative investigation is being conducted.

R426-12-~~1201~~1400. Penalties.

As required by Subsection 63-46a-3(5): Any person that violates any provision of this rule may be assessed a civil money penalty not to exceed the sum of \$5,000 or be punished for violation of a class B misdemeanor for the first violation and for any subsequent similar violation within two years for violation of a class A misdemeanor as provided in Section 26-23-6.

KEY: emergency medical services

~~October 1, 1999~~2002

26-8a-302

▼ ————— ▼

Health, Health Systems Improvement, Licensing **R432-40** Long-Term Care Facility Immunizations

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE No.: 25371

FILED: 09/23/2002, 08:37

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Influenza and pneumococcal immunizations are recommended for persons aged 65 years and older and for persons of any age who have medical conditions that place them at high risk for complications of influenza. The purpose of this rule is to require long-term care facilities to have policies and procedures in place to protect vulnerable patients and residents from vaccine preventable illnesses.

SUMMARY OF THE RULE OR CHANGE: Section R432-40-1 contains the authority and Section R432-40-2 is the purpose section. Section R432-40-3 contains the definitions and Section R432-40-4 requires facilities to implement written policies and procedures. Section R432-40-5 provides for exemption clause for individuals to not require immunizations and Section R432-40-6 requires an annual report to the Department on numbers of persons who have received immunizations. Section R432-40-7 includes the penalty language as required by statute.

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

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** The cost includes the copying of the rule and distributing the rule to affected facilities which is less than \$1,000.

❖ **LOCAL GOVERNMENTS:** Long-term care facilities operated by local government will incur about five hours per year in employee expense to comply with the mandated reporting. It is believed that this cost can be absorbed with existing personnel. There will be a small cost to implement the policy and procedure, but Medicare will reimburse the cost of the vaccinations as preventative care. Facilities may realize an overall savings due to reductions in illness and deaths in the facilities.

❖ **OTHER PERSONS:** Long-term care facilities will incur about five hours per year in employee expense to comply with the mandated reporting. It is believed that this cost can be absorbed with existing personnel. There will be a small cost

to implement the policy and procedure, but Medicare will reimburse the cost of the vaccinations as preventative care. Facilities may realize an overall savings due to reductions in illness and deaths in the facilities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: It is believed that the cost of mandated reporting can be covered with existing personnel and that any compliance costs will be negligible. The cost to an individual facility for writing policies and procedures is estimated to be \$150. Technical assistance will be provided by the Utah Immunization Program.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: It is important that long-term care facilities have a policy for immunization of vulnerable residents. It appears that the cost will be minimal and more than off-set by the savings in unnecessary illness and death. Rod L. Betit

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

HEALTH
HEALTH SYSTEMS IMPROVEMENT, 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:

Linda Abel at the above address, by phone at 801-538-9450, by FAX at 801-538-9440, or by Internet E-mail at label@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 11/14/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 11/15/2002

AUTHORIZED BY: Rod Betit, Executive Director

R432. Health, Health Systems Improvement, Licensing.

R432-40. Long-Term Care Facility Immunizations.

R432-40-1. Legal Authority.

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

R432-40-2. Purpose.

Influenza and pneumococcal immunizations are recommended for persons aged 65 years and older and for persons of any age who have medical conditions that place them at high risk for complications of influenza. The purpose of this rule is to require long term care facilities to have policies and procedures in place to protect vulnerable patients and residents from vaccine preventable illnesses.

R432-40-3. Definitions.

As used in this rule:

"Long-term care facility" means a nursing care facility, small health care facility, assisted living type I and type II, intermediate

care facility for the mentally retarded, and swing bed unit of a general acute care hospital

"Pneumococcal immunization" means an immunization using the 23-valent pneumococcal polysaccharide vaccine (PPV23).

R432-40-4. Policy and Procedures.

Each long-term health care facility shall implement written policies and procedures that include:

(1) a comprehensive assessment and immunization program for residents and employees;

(2) how and when to provide the influenza and pneumococcal immunizations;

(3) standing orders from a qualified health care practitioner to ensure residents obtain influenza and pneumococcal immunizations;

(4) collection and recording of resident-specific immunization history information for each resident admitted to the facility;

R432-40-5. Immunization Offer and Exemptions.

(1) Each long-term health care facility shall make available to all employees an influenza immunization during the recommended vaccine season. The facility shall be deemed to have made influenza immunization available if the facility documents that each employee on staff had the opportunity to receive an influenza immunization under their existing health plan coverage. If the employee does not have health plan coverage for influenza immunization, then the facility shall be deemed to have made influenza immunization available if the facility documents that each employee on staff had the opportunity to receive an influenza immunization at a cost to the employee that is at or below that charged by their local health department.

(2) Each long-term health care facility shall document circumstances beyond its control that prevent it from providing immunizations, such as non-availability of vaccine. If the facility is unable to obtain the necessary vaccines, it shall provide documentation and request an alternative plan from the local health department or Utah Department of Health.

(3) The following are exempt from influenza and pneumococcal immunizations:

(a) a resident, or the resident's responsible person if the resident is unable to act for himself, who has refused the immunization(s) after having been given the opportunity to be immunized and;

(b) an employee who has refused the immunization(s) after having been given the opportunity to be immunized;

(c) a resident or employee who has a condition contraindicated for immunization according to the Centers for Disease Control and Prevention's Advisory Committee on Immunization Practice (ACIP) recommendations for influenza vaccine or for pneumococcal vaccine.

(2) For each resident and employees who is not immunized, the facility shall document in the resident's or employee's respective files the reason for not becoming immunized. The long-term care facility shall annually make influenza and pneumococcal immunizations available to all residents and employees who have claimed an exemption. The long-term care facility shall document each refusal to receive and medical contraindication to influenza and pneumococcal immunizations.

R432-40-7. Reporting of Data.

By January 31 of each year, each long-term care facility shall report to the Utah Department of Health the number of residents

who have received influenza and pneumococcal immunizations from May 1 to December 31 of the prior year, even if the resident is no longer in the facility.

R432-40-8. Civil Money Penalty.

The Department may assess up to a \$500 civil money penalty for failure to maintain and report annual immunization data to the Utah Department of Health, Immunization Program, by January of each year. The Department may assess up to a \$100 civil money penalty per resident or employee who, for reasons under the control of the facility, does not obtain an appropriate immunization(s) or if the facility does not have documentation of a refusal or medical contraindication.

KEY: health facilities, vaccination

2002
26-21

▼ ————— ▼

**Human Services, Aging and Adult
Services**
R510-302
Adult Protective Services

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 25351

FILED: 09/19/2002, 11:42

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To reflect changes in statute as a result of the legislature passing H.B. 25. (DAR NOTE: H.B. 25 is found at UT L 2002 Ch 108, and was effective May 6, 2002.)

SUMMARY OF THE RULE OR CHANGE: The Adult Protective Services (APS) statute at Section 62A-3-301 was repealed and re-enacted by the legislature with significant changes. The term "disabled adult" was replaced by the term "vulnerable adult" and services provided by APS were changed in statute to "short-term services." The rule change reflects the changes made in the statute. Numbering is being changed to be consistent with the numbering system recommended by the Division of Administrative Rules.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 62A-3-301 et al.

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: The proposed changes do not affect the budget for the program because the amendments are just changing definitions to comply with the new last passed this last session.
- ❖ LOCAL GOVERNMENTS: Local government costs are not affected by this rule change.
- ❖ OTHER PERSONS: There will be no compliance costs to other persons because the changes are only in the definitions.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be no compliance costs to other persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The changes allow APS to provide services to the most vulnerable of our citizens without increasing costs to businesses.

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

HUMAN SERVICES
AGING AND ADULT SERVICES
Room 325
120 N 200 W
SALT LAKE CITY UT 84103-1500, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Lee Ann Whitaker at the above address, by phone at 801-538-3915, by FAX at 801-538-4395, or by Internet E-mail at lwhitaker@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 11/14/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 11/15/2002

AUTHORIZED BY: Helen Goddard, Director

R510. Human Services, Aging and Adult Services.

R510-302. Adult Protective Services.

R510-302-1. Authority and Purpose.

~~[1-1]~~(1) This rule is promulgated in accordance with the provisions of Section 62A-3-301, et seq. This purpose is to define services provided by the ~~[Office of]~~ Adult Protective Services Unit in the Division of Aging and Adult Services, which may be provided to eligible clients.

~~[1-2]~~(2) Definitions:

~~[A-]~~(a) ~~["Abuse, neglect or exploitation"]~~ "Abuse", "neglect" or "exploitation" as defined in Section 62A-3-301, et seq.

~~[B-]~~(b) "Adult Day Care" means providing daily care and supervision designed to meet the needs of functionally impaired adults through a comprehensive program that provides a variety of social, recreational and related support services in a protective setting which allows for the maximum functioning of ~~[disabled]~~ vulnerable adults.

~~[C-]~~(c) "Adult Foster Care" means the provision of family-based care for ~~[disabled]~~ vulnerable adults who are unable to live independently.

~~[D-]~~(d) "Family Support" means the provision of services or payments to increase the capabilities of families to care for ~~[disabled or elder]~~ vulnerable adults in the natural home setting.

~~[E-]~~(e) ~~["Office" means the Office of]~~ "Adult Protective Services" means the unit within the Division of Aging and Adult Services within the Department of Human Services responsible to investigate abuse, neglect and exploitation of vulnerable adults and provide appropriate protective services.

[F-](f) "Protective Payee" means a person who is eligible for adult protective services, is having difficulty managing their own funds, and voluntarily requests assistance in managing those funds.

[G-](g) "Protective Supervision" means the provision of services to assist a ~~[disabled or elder]~~vulnerable adult to remain in a safe community setting through coordination with concerned agencies, families, or individuals, and may include such services as short-term counseling, assistance in money management, and~~[-or]~~ crisis intervention.

h. "Short-Term Services" means limited protective services provided with the permission of the affected vulnerable adult or the guardian of the vulnerable adult, as outlined in a service agreement for the purpose of resolving a protective need found during an APS investigation. Services provided under Short-Term Services may include protective supervision, adult day care, adult foster care, or family support.

i. "Vulnerable Adult" as defined in 62A-3-301.

[1-3](3) Procedure, Services and Assistance:

[A-](a) Pursuant to Section 62A-3-301, et seq., this rule establishes the procedure by which the Division of Aging and Adult Services will operate the ~~[adult protective service program]~~Adult Protective Services Program as authorized by law.

[B-](b) ~~[The Office of]~~Adult Protective Services shall ~~[accept referrals]~~receive calls from any person who has reason to believe that a ~~[disabled or elder]~~vulnerable adult ~~[(as defined in Section 62A-3-301)]~~has been ~~[harmed or threatened with harm, including]~~the subject of abuse, neglect or exploitation.

[C-](c) Adult Protective Services' aid and assistance is available, on a voluntary basis, to all eligible ~~[disabled or elder]~~vulnerable adults who are being or have been abused, neglected, or exploited, but shall be limited to the availability of budgetary resources being sufficiently allocated to ~~[the office]~~Adult Protective Services. Vulnerable adults whose income and assets exceed the Adult Protective Services income guidelines, may be assessed a fee by the Division for services based on the Adult Protective Services Payment Schedule established by the Division, pursuant to Section 62A-3-316(1).

[D-](d) ~~[The office of]~~Adult Protective Services shall, through ~~their~~its intake system ~~[by]~~via telephone communication, ~~[accept referrals]~~receive calls which are intended to enlist ~~[the office]~~Adult Protective Services to provide ~~[the client]~~a vulnerable adult with protection from abuse, neglect, or exploitation. Adult Protective Services may be accessed for and in behalf of any eligible citizen of the State.

[E-](e) In order for ~~[the office of]~~Adult Protective Services to take action, ~~[those]~~ persons ~~[supplying]~~who make appropriate referrals~~[-]~~ shall include the following information:

[1-](i) The approximate age of the ~~[alleged victim]~~vulnerable adult. [f]Note: a ~~[victim]~~vulnerable adult must be 18 years of age, or older, to be eligible.[g]

[2-](ii) A description ~~[or specific name of the disabling condition which the victim appears to have]~~of the mental and/or physical impairment which substantially affects the person's ability to do one or more of the following: provide personal protection or necessities, obtain services, carry out activities of daily living, manage one's own resources, or comprehend the nature and consequences of remaining in a situation of abuse, neglect or exploitation. (62A-3-301(26)).

[3-](iii) A statement of a specific allegation of abuse, neglect or exploitation being perpetrated or inflicted upon the victim.

[F-](f) ~~[The Office of]~~Adult Protective Services shall make a record of each ~~[referral]~~report received. ~~[The office]~~Adult Protective

Services shall then evaluate each ~~[referral]~~report for possible follow-up and investigation. Some ~~[referrals]~~reports may not be ~~[approved]~~accepted for~~[-further]~~ investigation if ~~[other relevant conditions are determined to be non-existent]~~the vulnerable adult is not currently at risk of abuse, neglect, or exploitation.

[G-](g) Adult Protective Services investigations will be conducted on all screened and ~~[approved]~~accepted referrals. Under normal conditions, investigations will begin within ~~[3]~~three working days of receipt of the referral. Investigations will be completed within 60 days unless ~~[an]~~a case extension ~~[waiver]~~policy exception has been obtained.

[H-](h) To obtain ~~[an]~~a case extension ~~[waiver]~~policy exception:

[1-](i) The caseworker shall, with or without being requested by the client, submit a ~~["Investigation Policy Waiver"]~~Policy Exception form to the Supervisor for approval.

[2-](ii) The form shall document the reasons for the case extension request, and how the extension will assist in protecting the client.

[I-](i) Eligible Adult Protective Services clients may receive emergency placements in a safe environment until a resolution of the immediate problem/crisis can be made.

[J-](j) Private homes used as emergency shelter homes must meet the same standards as Adult Foster Care providers. Facilities used as emergency shelter placements shall be either certified or licensed as a residential facility or have a current business license.

[K-](k) ~~[If the victim has lost or stands to lose a significant level of such activities as are involved in daily living, the protective service staff may determine that the victim is eligible to receive Adult Protective Supervision to assure that a reasonable amount of the activities of daily living are maintained.]~~If the protective need identified during an investigation cannot be resolved by the investigation due date, the investigator may request a Short-Term Services Review Committee meeting for consultation, recommendations, and approval to continue efforts to resolve the protective need under the Short-Term Services Program. After closure of an investigation, no services can be provided without approval from the committee for Short-Term Services. That review committee may approve short-term services in 90-day increments, with subsequent reviews as needed to continue the service. Nevertheless, the ~~[person]~~vulnerable adult receiving these services, or the vulnerable adult's guardian or conservator, must~~[-be capable of]~~ voluntarily ~~[consenting to and accepting]~~consent to and accept the services. If consent is withdrawn by the ~~[person]~~vulnerable adult, or the vulnerable adult's guardian or conservator, the services will cease unless a court order is obtained for such services to continue.

[L-](l) Eligible Adult Protective Services clients may receive Protective Payee services to assure that basic living needs are being met and money management skills are being learned at a level appropriate to the client's level of functioning. Protective payee services may be provided to clients who:

[1-](i) Have a ~~[protective need and a disabling condition]~~physical or mental impairment which directly relates to the need for payee services, and are assessed by the worker to be incapable of handling their own funds.

[2-](ii) Have no other ~~[person/institution]~~appropriate person or institution to assume payee responsibility.

[3-](iii) Are capable of consenting to the obtaining of services, and are then able to accept the services. [f]Note: If consent is withdrawn, the payee services will cease unless court ordered.[g]

[4-](iv) Do not reside in a health care facility as defined in Section 26-21-2, residential treatment program, or other facility that is capable of providing payee services. Have an income which falls within the Adult Services income guidelines. The Client may be

assessed a fee for services based on the Adult Protective Services Payment Schedule.

~~[M-](m)~~ Eligible Adult Protective Services clients, or the service provider, may receive an immediate payment of funds in emergency situations. These funds will be issued through an Over-the-Counter-Check, or a one-time payment to the service provider, ~~[and]~~ These funds may be issued for such purposes as shelter, food, clothing, medicine or other emergencies which are needed immediately and cannot be funded from any other source. The worker is authorized to request that an agreement-for-repayment of the funds document be signed by the client, if appropriate.

~~[N-](n)~~ Eligible Adult Protective Services clients may receive Adult Day Care to assist them in improving their ability to personally function and provide self-care. Adult Day Care may also be provided as respite for eligible caregivers. Clients may qualify for Adult Day Care if they require one or more of the following:

~~[1-](i)~~ Assistance with activities of daily living.

~~[2-](ii)~~ ~~[24 hour]~~ 24-hour supervision.

~~[3-](iii)~~ Assistance due to significant loss of memory or cognitive function.

~~[4-](iv)~~ Assistance due to developmental disabilities.

~~[5-](v)~~ Assistance in overcoming isolation related to their disability or to support the transition from independent living to group care or vice versa.

~~[6-](vi)~~ Assistance to prevent premature institutionalization.

~~[O-](o)~~ Eligible Adult Protective Services clients may receive Adult Foster Care to enable them to remain in a community setting and prevent premature institutionalization. Individuals who are unable to live alone or whose mental, emotional and physical conditions are such that the care given by a foster care provider will meet the person's needs may be appropriate for adult foster care. Individuals with the following medical, mental and behavioral problems will not be normally considered appropriate for Adult Foster Care assistance:

~~[1-](i)~~ Require medication which they are unable to manage and administer themselves.

~~[2-](ii)~~ Are considered by the ~~[Office]~~ Adult Protective Services to be a danger to themselves ~~[of]~~ or others.

~~[3-](iii)~~ Are incontinent, unless they are capable of self care.

~~[4-](iv)~~ Are bedridden or confined to wheelchairs without having sufficient transfer skills from the wheelchair.

~~[5-](v)~~ Have mental or neurological problems requiring professional supervision and treatment.

~~[6-](vi)~~ Require constant assistance with toileting, dressing, grooming, hygiene or bathing.

~~[7-](vii)~~ Exhibit destructive verbal and behavioral problems under normal living conditions.

~~[8-](viii)~~ Require supervision at night time due to wandering or agitated behavior.

~~[P-](p)~~ Adult Foster Care services will only be provided in homes which are licensed in accordance with State standards.

~~[Q-](q)~~ Eligible Adult Protective Services clients may receive Family Support payments to increase the capabilities of families to care for them in the natural home setting when no other services are available. These services are intended to help maintain the individual in a family member's home and prevent premature institutionalization. ~~[Disabled]~~ Vulnerable adult clients are eligible for this service when:

~~[1-](i)~~ The client is unable to live unassisted due to mental, emotional and physical conditions and requires assistance or care in order to be able to safely remain ~~[safely]~~ in the community.

~~[2-](ii)~~ A ~~[P]~~ physician's statement indicates that the ~~[disabled]~~ vulnerable adult is able to remain in his own home or the home of a relative and would benefit from Family Support Services.

~~[3-](iii)~~ The ~~[disabled]~~ vulnerable adult meets income eligibility guidelines established by the Division.

~~[R-](r)~~ ~~[The Office of]~~ Adult Protective Services may petition the courts for legal authority to intervene when it has determined that the ~~[disabled]~~ vulnerable adult cannot be protected in any less restrictive manner and there is evidence that the ~~[disabled]~~ vulnerable adult lacks the capacity to consent to services.

~~[S-](s)~~ Services provided by Adult Protective Services will be terminated when:

~~[1-](i)~~ ~~[the]~~ The circumstances which directly or indirectly caused, or were primary reasons for the abuse, neglect or exploitation, no longer exist; and the ~~[disabled or elder]~~ vulnerable adult is protected, or

~~[2-](ii)~~ ~~[when the]~~ The ~~[disabled or elder]~~ vulnerable adult receiving voluntary services requests that those services be terminated.

KEY: ~~[elderly]~~ vulnerable adults, domestic violence, shelter care facilities, ~~[adult protective services]~~ short-term services

May 16, 2000

Notice of Continuation January 24, 2000

62A-3-301 et seq.

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Human Services, Services for People with Disabilities **R539-3-1** Waiting List

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 25428

FILED: 10/01/2002, 21:52

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule has been updated to reflect changes made to policy by the Division's Policy Board.

SUMMARY OF THE RULE OR CHANGE: The revised rule clarifies responsibilities for completing needs assessment, standardization of scoring methodology, and the protocol used to rank order people waiting for service based upon needs assessment score.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 62A-5-102

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The cost of scoring one needs assessment is estimated to be \$85; this includes the cost of staff time, copy costs, scheduling meetings, and completing data entry. This expense allows the Division to meet Medicaid requirements and avoid the risk of bringing people into service who do not have verified needs. The amendment will not require staff to complete new activities. The amendment

clarifies practices that have been in place for the past four years.

❖ LOCAL GOVERNMENTS: No local government funding is used in the prioritization of the waiting list, therefore, the cost to local governments is not applicable.

❖ OTHER PERSONS: People who are seeking services and their families will be asked questions during a 30 minute to 1 hour intake interview that will allow assessment of need and needs assessment scores to be calculated. In some cases, families may be asked to travel from home to region offices in their communities to complete the assessment.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Cost to people seeking services and their families in terms of time. Cost to Division in terms of staff time, copying, arranging for meetings, scheduling committees and standardizing, entering, tracking, and ranking needs scores.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Businesses are not involved in the assessment of needs, thus the fiscal impact on businesses is nil.

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:
Paul Day at the above address, by phone at 801-538-4118, by FAX at 801-538-4279, or by Internet E-mail at pday@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 11/18/2002

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 10/18/2002 at 10:00 AM, Room 129, 120 North 200 West, SLC, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 11/19/2002

AUTHORIZED BY: Robin Arnold-Williams, Executive Director

R539. Human Services, Services for People with Disabilities.

R539-3. Service Coordination.

R539-3-1. Waiting List.

A. Policy.

[~~If no services are currently available, an applicant will be placed on a waiting list following the eligibility determination for Division of Services for People with Disabilities services. The case manager will determine the array of needed services with the individual applicant and legal representatives. If an appropriate service is not available and the person accepts a more restrictive placement, the person will be maintained on the waiting list for placement in a less restrictive and~~

~~more appropriate setting of their choice. When services become available, the region shall inform the individual on the waiting list most in need of service. Individuals with disabilities residing out of state cannot be put on the waiting list for services in Utah. Applicants or their legal guardian must be a resident of the State.](1) The Division shall determine a person's eligibility for service, followed by a determination of that person's priority relative to others who are also eligible. Each region shall use a standardized needs assessment to score and prioritize the Person's level of need. Persons with the highest scores shall receive support first. The support coordinator shall assess with the person or representative the array of supports that may be needed. If funding is not immediately available, the person will be placed on a waiting list for the support. If a support needed by the person is not available, the person may accept an available support while waiting for the necessary support. Persons who have been determined eligible for the division's Medicaid Waiver can choose to wait for division support services or seek services available through Medicaid in an Intermediate Care Facility for Persons with Mental Retardation (ICF/MR).~~

B. Procedures.

~~[1. Region offices will develop and maintain prioritized waiting lists for services based on rational criteria. A prioritization of the individual's need for the identified service will be rated as having a (1) critical, (2) immediate, or (3) future level of need, according to the following criteria:~~

- ~~— a. Severity of the disabling condition;~~
- ~~— b. Critical needs of the individual and/or family;~~
- ~~— c. Length of time on the waiting list;~~
- ~~— d. Appropriate alternatives available; and~~
- ~~— e. Other factors determined by the region to reflect accurately on individual need.~~

~~2. Persons who are 20 years of age and currently in a school district special education program may be placed on the waiting list for application to day training/supported work programs.](1) If the person requires and could use support services on the day of intake, the person has an immediate need; otherwise, the person has a future need.~~

~~(2) A needs assessment form 2-2 shall be completed for all persons with an immediate need for support services. The needs assessment determines the score of each person in accordance with subsection 62A-5-102(3)~~

~~(3) The region needs assessment committee determines the Person's score, rank orders the scores within each region to determine the order in which each person receives funding, and enters the person's name and score on the waiting list.~~

~~(4) A person's ranking may change as needs assessments are completed for new applicants.~~

~~(5) A child, upon reaching age 16, who is in a school district special education program and meets all eligibility requirements for division services shall be entered on the waiting list as having a future need for supported employment or day training. No age limitations apply to a person placed on the waiting list for community living support or family support.~~

**KEY: social services, disabled persons[²]
[October 16, 1995]2002
Notice of Continuation September 6, 2002
62A-5-103**



Human Services, Youth Corrections
R547-2
 Juvenile Detention Standards

NOTICE OF PROPOSED RULE

(Repeal)

DAR FILE NO.: 25423

FILED: 10/01/2002, 13:30

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: During the course of the Five-Year Review process, the agency determined that the rule is no longer necessary as it is covered in the Division's Policy and Procedures. All detention facilities are either under contract or run by the division with policy and procedure in place to handle the operation.

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

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 62A, Chapter 7

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: Because all items in this rule are currently covered in the Division's Policy and Procedure Manual, there will be no change to division budget.
- ❖ LOCAL GOVERNMENTS: Because all items in this rule are currently covered in the Division's Policy and Procedure Manual, there will be no change to local government budget.
- ❖ OTHER PERSONS: Because all items in this rule are currently covered in the Division's Policy and Procedure Manual, there will be no change to other budgets.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Because all items in this rule are currently covered in the Division's Policy and Procedure Manual, there will be no compliance costs for other persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Because all items in this rule are currently covered in the Division's Policy and Procedure Manual, there is no anticipated fiscal impact to businesses.

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

HUMAN SERVICES
 YOUTH CORRECTIONS
 Room 419
 120 N 200 W
 SALT LAKE CITY UT 84103-1500, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Judy Hammer at the above address, by phone at 801-538-4098, by FAX at 801-538-4334, or by Internet E-mail at judyhammer@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 11/14/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 11/15/2002

AUTHORIZED BY: Blake Chard, Director

{**DAR Note:** Because of publication constraints, the text of this rule is not printed in this *Bulletin*, but is published by reference to a copy on file at the Division of Administrative Rules. The text may also be inspected at the agency (address above) or in the *Utah Administrative Code* which is available at any state depository library.}

Human Services, Youth Corrections
R547-3
 Juvenile Jail Standards

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 25426

FILED: 10/01/2002, 15:20

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To clarify definitions, wording, and standards within the rule that more succinctly depict the business of the division.

SUMMARY OF THE RULE OR CHANGE: The proposed definitions and wording changes bring the rule closer to the policies and operations functions of the division.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 62A-7-201

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: Because the changes are definitional in nature as opposed to substantive, there is no anticipated change to division budget.
- ❖ LOCAL GOVERNMENTS: Because the changes are definitional in nature as opposed to substantive, there is no anticipated change to local government budgets.
- ❖ OTHER PERSONS: Because the changes are definitional in nature as opposed to substantive, there is no anticipated change to the budget of other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Because the changes are definitional in nature as opposed to substantive, there is no anticipated change to the budget of other persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Because the changes are definitional in nature as opposed to substantive, there are no anticipated fiscal impacts to businesses.

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

HUMAN SERVICES
YOUTH CORRECTIONS
Room 419
120 N 200 W
SALT LAKE CITY UT 84103-1500, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Judy Hammer or Vanessa Thompson at the above address, by phone at 801-538-4098 or 801-538-9877, by FAX at 801-538-4334 or (n/a), or by Internet E-mail at judyhammer@utah.gov or vthompson@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 11/14/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 11/15/2002

AUTHORIZED BY: Blake Chard, Director

R547. Human Services, Youth Corrections.

R547-3. Juvenile Jail Standards.

R547-3-1. Definitions and References.

(1) Definitions.

(a) "Low density population" means ten or less people per square mile.

(b) "Nonoffenders" means abused, neglected, or dependent youth.

(c) "Sight and sound separation" means that juvenile detainees must be located or arranged as to be completely separated from incarcerated adults by sight and sound barriers such that the adult inmates cannot see juvenile detainees and vice versa. Also, ~~[normal]~~ conversation is not possible between juvenile detainees and adult inmates.

(d) ~~["Status Offenders" means juveniles being charged with offenses that are unique to juveniles.]~~ "Status offense" means a violation of the law that would not be a violation but for the age of the offender.

(2) References.

(a) Standards from the Manual of Standards for Juvenile Detention Facilities and Services, also referred to as American Correctional Association (ACA) Standards, revision date of February 1979, ~~[are referred to in these rules and]~~ were researched as background for the rules. This manual can be located at the Division of Youth Corrections Administrative Office.

R547-3-2. Standards for Six Hour Juvenile Detention in Jail.

(1) Juveniles under the age of 18 shall not be confined in a county operated jail used for ~~[ordinary]~~ accused or convicted adult offenders ~~[criminals charged with crime]~~ except:

(a) when the juvenile is 14 years of age or older and, in a hearing before a magistrate, has been certified an adult, Section 78-3a-603 and Subsection 78-3a-502(3);

(b) when the juvenile is being held on a traffic offense, Subsection 78-3a-104(2), and the facility has been certified by the Division of Youth Corrections to detain juveniles beyond six hours;

(c) when the juvenile is 16 years of age or older and is being held under a valid Juvenile Court order, Subsection 78-3a-114(8)(b), and the facility has been certified by the Division of Youth Corrections to detain juveniles beyond six hours;

(d) in areas characterized by low density population. The state Youth Corrections agency may promulgate regulations providing for specific approved juvenile holding accommodations within adult facilities which have acceptable sight and sound separation to be utilized for short-term holding purposes with a maximum confinement of six hours to allow adequate time to evaluate needs and circumstances regarding transportation, detention, or release of the juvenile in custody, Section 62A-7-201.

(2) The Division of Youth Corrections may certify a jail to hold juveniles who are alleged to have committed ~~[an act which would be a criminal offense if committed by an adult]~~ a non-status offense or are accused of juvenile handgun possession for up to six hours if the following criteria are met:

(a) in areas characterized by low density population;

(b) no existing acceptable alternative placement exists which will protect the juvenile and the community;

(c) the county is not served by a local or regional certified juvenile detention facility~~[-]~~;

(d) no juvenile under ten years of age will be held by holding authorities, as set forth in the following standards, for any length of time.

(3) Any jail or adult holding facility intended for use for juveniles must be certified by the State Division of Youth Corrections.

(4) There shall be acceptable sight and sound separation from adult inmates. Written policy and procedure shall exist to assure supervision is maintained so that both visual contact ~~[or]~~ and verbal communication between juvenile detainees and adult inmates is prohibited.

(5) The jail's juvenile detention room(s) shall conform to all applicable zoning laws.

(6) The jail's juvenile detention room(s) shall conform to all applicable local and state safety, fire, and building codes.

(7) The jail's juvenile detention room(s) shall conform to all applicable local and state health codes.

(8) The juvenile population shall not exceed the jail's certified capacity for juveniles.

(9) All juvenile housing and activity areas provide for, at a minimum:

(a) toilet and wash basin accessibility;

(b) hot and cold running water in wash basin and drinking water;

(c) adequate shelter, heat, light, and ventilation that does not compromise security or enable escape;

(d) seventy square feet of floor space per resident and in multiple bed room construction, a minimum of 40 square feet of floor space per resident;

(e) eight feet of clear floor to ceiling height for occupants;

(f) a bed at least two feet three inches wide and six feet four inches long in each room if the jail was designed after 1979. If there is more than one bed per room, there must be a minimum of 18 inches vertical clearance from all overhead obstructions.

(10) Whenever juveniles are detained, there shall be at a minimum:

(a) Removal of all property from the juvenile that could compromise the juvenile's safety, such as belts, shoelaces and suspenders, prior to placing a juvenile in a holding room;

(~~(a)~~^(b)) constant on-site supervision through visual or TV monitoring and audio two way communication;

(~~(b)~~^(c)) frequent personal checks to maintain communication with the juvenile and prevent panic and feelings of isolation;

(~~(e)~~^(d)) a written record of significant incidents and activities of the juvenile.

(11) The written policies and procedures providing for specific rules governing the supervision of inmates by jail staff of the opposite sex shall specifically provide for the following when the inmates are juveniles:

(a) An adult staff member of the same sex as the juvenile shall be present when a juvenile is securely held.

(b) Except in an emergency the staff member entering a juvenile's sleeping room shall be of the same sex. If there are two staff members entering the sleeping room, there may be one male and one female. When an emergency prevents the same sex staff member from entering the juvenile's room, then at least two opposite sex staff members must be present and a written report must be completed and kept on file justifying the necessity for the deviation from same sex supervision.

(c) When procedures require physical contact or examination, such as strip searches, these shall be done by a staff member of the same sex in private without TV monitoring. Procedures for body cavity searches shall conform to jail standards.

(d) A staff member of the same sex shall supervise the personal hygiene activities and care such as showers, toilet, and related activities.

(e) The use of restraints or physical force are restricted to instances of justifiable self-defense, protection of juveniles and others, protection of property and prevention of escapes, and only when it is necessary to control juveniles and in accordance with the principle of least restrictive action. In no event is physical force justifiable as punishment. A written report is prepared following all uses of force and is submitted to the facility administrator.

(12) Male and female residents shall not occupy the same sleeping room at the same time.

(13) There shall be no viewing devices, such as peep holes, mirrors, of which the juvenile is not aware.

(14) No inmate, juvenile or adult, shall be allowed to have authority or disciplinary control over, be permitted to supervise, or provide direct services of any nature to other detained juveniles.

(15) The juvenile's health and safety while jailed shall be safeguarded. The jail administration shall:

(a) have services available to provide 24 hours a day emergency medical care;

(b) provide for immediate examination and treatment, if necessary, of juveniles injured on the jail premises;

(c) not accept juveniles who are unconscious, obviously seriously injured, a suicide risk, obviously emotionally disturbed, or obviously under the influence of alcohol or drugs and are unable to care for themselves, until they have been examined by a qualified medical practitioner or have been taken to a medical facility for appropriate diagnosis and treatment and released back to the jail;

(d) train all jail staff members to recognize symptoms of mental illness or retardation;

(e) provide for the detoxification of a juvenile in the jail only when there is no community health facility to transfer the juvenile to for detoxification;

(~~(i)~~^(f)) require that any medical services provided while the juvenile is held be recorded.

(16) As long as classification standards are met, juvenile detainees may be housed together if age, compatibility, dangerousness, and other relevant factors are considered.

(17) Adult jails that are certified to hold juveniles for up to six hours must have written procedures which govern the acceptance of such juveniles. These procedures must include the following:

(a) When an officer or other person takes a juvenile into custody, the officer shall without unnecessary delay notify the parents, guardian, or custodian.

(b) The jail staff shall verify with the officer or other person taking the juvenile into custody that the juvenile's parents, guardian, or custodian have been notified of the juvenile's detention in jail. If notification did not occur, jail staff will contact the juvenile's parents, guardian, or custodian.

(c) The officer shall also promptly file with the detention or shelter facility a brief written report stating the facts which appear to bring the juvenile within the jurisdiction of the Juvenile Court and give the reason why the juvenile was not released.

(18) There must be written policy and procedures that require that the decision to detain the juvenile for up to six hours or to release the juvenile from jail be in accordance with the following principles:

(a) A juvenile shall not be detained by policy any longer than is reasonably necessary to obtain the juvenile's name, age, residence, and any other necessary information, and to contact the juvenile's parents, guardian, or custodian.

(b) The juvenile shall then be released to the care of the parent or other responsible adult unless the immediate welfare or the protection of the community requires that the juvenile be detained or that it is unsafe for the juvenile or the public to leave the juvenile in the care of the parents, guardian, or custodian. On release from jail, the parent or other person to whom the juvenile is released may be required to sign a written promise on forms supplied by the court to bring the juvenile to court at a time set, or to be set, by the court, Subsection 78-3a-113(3)(b).

(19) The written procedures for admitting juvenile detainees will include completion of an admission form on all juveniles that includes, as a minimum, the following information:

(a) date and time of admission and release;

(b) name, nicknames, and aliases;

(c) last known address;

(d) law enforcement jurisdiction, ~~[and]~~ name, and title, ~~[and signature]~~ of delivering officer;

(e) specific charge(s);

(f) sex;

(g) date of birth and place of birth;

(h) race or nationality;

(i) medical problems, if any;

(j) parents, guardian, or responsible person to notify in case of emergency, including addresses and telephone numbers;

(k) space for remarks, to include notation of any open wounds or sores requiring treatment, evidence of disease or body vermin, or tattoos;

(l) probation officer or caseworker assigned, if any;

~~[(m) signature of person recording data.]~~

(20) ~~[The screening procedure prohibits status offenders and nonoffenders from being detained in the facility.] Juvenile processing procedures shall include written safeguards to prohibit nonoffenders from being detained in the facility and to ensure youth are held in accordance with R547-3-2.~~

(21) There must be a written procedure governing the transfer of a juvenile to an ~~[approved detention center]~~ appropriate juvenile facility which includes the following:

(a) If the juvenile is to be transferred to a ~~[n approved detention center]~~ juvenile facility, the juvenile must be transported there without unnecessary delay, but in no case more than six hours after being taken into custody. A copy of the report stating the facts which appear to bring the juvenile within the jurisdiction of the court and giving the reason for not releasing the juvenile shall be transmitted with the juvenile when transported.

(b) A written record shall be retained on file of all juveniles released, stating as a minimum to whom they were released, the release date, time, and authority.

(c) Procedures for releasing juvenile detainees shall include at a minimum:

- (i) verification of identity;
- (ii) verification of release papers;
- (iii) completion of release arrangements;
- (iv) return of juvenile detainee's personal effects and funds;
- (v) verification that no jail property or other resident property leaves the jail with the juvenile.

(22) The written procedures governing the stay of a juvenile shall include:

(a) A juvenile, while held in a certified jail, shall have the same legal and civil rights as an adult inmate.

(b) A juvenile, while held in a certified jail, shall have the right to the same number of telephone calls as an adult inmate held the same amount of time. ~~[-The juvenile should be allowed to write and mail letters.]~~

(c) Unless the juvenile is to be transferred to an approved detention facility, visits should be limited to the juvenile's attorney, clergyman, and officers of the court. If the juvenile is to be transferred, an effort shall be made to provide for visitation by the juvenile's parents, guardian, or custodian prior to the transfer.

(d) If a juvenile is held during daylight hours the juvenile should be allowed access to reading materials. Where feasible the juvenile should be provided access to physical exercise and recreation, such as radio and TV.

(23) A case record shall be maintained on each juvenile admitted to a certified jail. Policies and procedures concerning the case records and the information in them shall be established which meet the following as a minimum:

(a) The contents of case records shall be identified and separated according to an established format.

(b) Case records shall be safeguarded from unauthorized and improper disclosure, in accordance with written policies and in compliance with Rule 38 of the Juvenile Court Rules of Practice and Rule 7-201 of the Code of Judicial Administration.

(c) The facility shall assure that no information shall be entered into a case record that is incomplete, inaccurate, or unsubstantiated. At any point that it becomes apparent that this has occurred, the facility shall immediately make the necessary correction.

(24) A case record shall be maintained on each juvenile, as appropriate, and kept in a secure place. It shall contain as a minimum the following information and documents:

- (a) initial intake information form;
- (b) documented legal authority to accept, detain, and release juveniles;
- (c) current detention medical/health care record;

(d) consent for necessary medical or surgical care, signed by parent, person acting in loco parentis, Juvenile Court judge, or facility official;

(e) record of medication administered;

(f) record of incident reports;

(g) a record of cash and valuables held;

(h) visitors' names, if any, personal and professional, and dates of visits;

(i) final discharge or transfer report.

(25) The jail facility director shall submit to the state Division of Youth Corrections agency a monthly accurate report of the numbers of juveniles confined during the preceding month and provide information on each juvenile in the categories indicated on the report form as provided by the State.

R547-3-3. Standards for Juveniles Detained in Jail beyond Six Hours.

(1) The following standards must be met in addition to the standards in Section R547-3-2 when a facility is certified under Section 62A-7-201 beyond a six hour hold. See Subsection R547-3-2(1)(b) and (c).

(2) There is a written statement that describes the philosophy, goals, or purposes of the facility, which is reviewed at least annually and updated if necessary. ~~[-(ACA 2-8003)]~~

(3) Written policy and procedure provide that all employees who have juvenile contact receive an additional 20 hours of specialized juvenile training during their first year of employment, and 40 hours integrated with training requirements for each subsequent year of employment provided or approved by Youth Corrections. ~~[-(ACA 2-8092)]~~

(4) Single sleeping cells have at least 70 square feet of floor space, and juveniles are provided activities and services outside their rooms at least 14 hours a day, except in disciplinary cases. (ACA 2-8138)

(5) The total indoor activity area outside the cell area provides space of at least 100 square feet per juvenile. (ACA 2-8143)

(6) Educational space and instruction shall be provided in conformity with local or state educational requirements. (ACA 2-8146)

(7) Space is available for religious services. (ACA 2-8149)

(8) There is a day room for each cell cluster. The room has a minimum of 35 square feet of floor space per juvenile and is separate and distinct from the sleeping area, which is immediately adjacent and accessible. (ACA 2-8169)

(9) Written policy precludes the use of food as a disciplinary measure. (ACA 2-8225)

(10) Clean clothing is provided for juveniles--clean socks, underwear and towels on a daily basis, and other clothing at least twice a week. (ACA 2-8244)

(11) Written policy and procedure provide an approved shower schedule that allows daily showers and showers after strenuous exercise. (ACA 2-8246)

(12) A history of the juvenile's immunizations will be obtained within 30 days of admission and at the time the health appraisal data are collected. Immunizations are updated, as required, within legal constraints. (ACA 2-8266)

(13) Written policy and procedure provide for the prompt notification of the juvenile's parents/guardian, or legal custodian in case of serious illness, surgery, injury or death. (ACA 2-8271)

(14) Written policy and procedure ensure a special program for juveniles requiring close medical supervision. A physician develops a written medical treatment plan for each of these patients that includes directions to medical and nonmedical personnel regarding their roles in the care and supervision of these patients. (ACA 2-8277)

(15) Under no circumstances is a stimulant, tranquilizer or psychotropic drug to be administered for purposes of program management and control or for purposes of experimentation and research. (ACA 2-8282)

(16) Programs and training are provided residents as needed within 72 hours for the development of sound habits and practices regarding personal hygiene. (ACA 2-8285)

(17) Written policy and procedure provide that when a juvenile is in need of hospitalization, a staff member accompanies him or her and stays with the juvenile at least during admission. (ACA 2-8286)

(18) Written policy and procedure provide that all informed consent standards in the jurisdiction are observed and documented for medical care. The informed consent of parent, guardian or legal custodian applies when required by law. When health care is rendered against the patient's will, it is in accord with state and federal laws and regulations. (ACA 2-8287)

(19) Written policy and procedure grant juveniles access to recreational opportunities and equipment, including, when the climate permits, outdoor exercise if detained more than 24 hours. (ACA 2-8298)

(20) Written policy and procedure provide that juveniles are not subjected to corporal or unusual punishment, humiliation, mental abuse or punitive interference with the daily functions of living, such as eating or sleeping. (ACA 2-8301)

(21) Juveniles are not required to participate in uncompensated work assignments unless the work is related to housekeeping, maintenance of the facility or grounds, or personal hygienic needs, or the work is part of an approved vocational training program or court approved work. (ACA 2-8302)

(22) There are no restrictions on the right of juveniles to determine the length and style of their hair, except in individual cases where such restrictions are necessary for reasons of health and safety. (ACA 2-8306)

(23) Written policy and procedure authorize juveniles to keep facial hair, if desired, except in individual cases where such restrictions are necessary for reasons of health and safety. (ACA 2-8307)

(24) Written policy and procedure specify that cell restriction for minor misbehavior serves only a "cooling off" purpose, is short in time duration, with the time period--fifteen minutes to sixty minutes--specified at the time of assignment. (ACA 2-8314)

(25) During room restriction, personal contact or observation is made by staff with the juvenile at least every 15 minutes, depending on the juvenile's emotional state. The juvenile assists in determining the end of the restriction period. (ACA 2-8316)

(26) Whenever juveniles are removed from the regular program, they are seen by a counselor or probation officer as soon as possible, but not more than 24 hours after removal. (ACA 2-8319)

(27) Juveniles placed in confinement separate from their living unit are visually checked by staff at least every 15 minutes and visited at least once each day by personnel from administrative, clinical, social work, religious or medical units; a log is kept stating who authorized the confinement, persons visiting the juvenile, the person authorizing release from confinement, and the time of release. (ACA 2-8321)

(28) The facility provides or makes available the following minimum services and programs to adjudicated and preadjudicated juveniles: (ACA 2-8354)

- (a) visiting with parents/guardians;
- (b) private communication with visitors and staff;
- (c) counseling;
- (d) continuous supervision of living units;
- (e) medical services;
- (f) food services;
- (g) recreation and exercises;
- (h) reading materials.

(29) Educational opportunities are available to all juveniles within 72 hours of admittance, excluding weekends and holidays. (ACA 2-8356)

(30) Educational programs in facilities are designed to assist detained juveniles in keeping up with their studies and are initiated within 72 hours. (ACA 2-8357)

(31) Written policy and procedure provide a recreation and leisure time plan that includes, at a minimum, at least one hour per day of large muscle activity and one hour of structured leisure time activities. (ACA 2-8363)

(32) The facility has a staff member or trained volunteer who coordinates and supervises the recreation program. (ACA 2-8364)

(33) Library services are available to all detained juveniles. (ACA 2-8366)

(34) Written policy defines the principles, purposes and criteria used in the selection and maintenance of library materials. (ACA 2-8367)

(35) There is a social services program that makes available a range of resources to meet the needs of juveniles, including individual and family counseling and community services. (ACA 2-8369)

(36) The social services program is administered and supervised by a person qualified and trained in the social or behavioral services. (ACA 2-8370)

(37) Each juvenile is assigned a counselor, jail or probation officer at intake. (ACA 2-8374)

(38) Work assignments do not conflict with education programs. (ACA 2-8378)

(39) Written policy and procedure provide for securing citizen involvement in programs, including roles as advisors and interpreters between the program and the public, direct services and cooperative endeavors with juveniles under supervision. (ACA 2-8408)

(40) Written policy and procedure provide for the screening and selection of volunteers, allowing for recruitment from cultural and socioeconomic segments of the community. (ACA 2-8411)

(41) Prior to assignment, each volunteer completes an orientation and training program appropriate to the nature of the assignment. (ACA 2-8412)

(42) Written policy and procedure ensure that consultants, contract personnel and volunteers who work with juveniles comply with the facility's policies on confidentiality of information. (ACA 2-8085)

(43) Service personnel other than facility staff perform work in the facility only under direct and continuous supervision of facility staff in those areas permitting contact with juveniles. (ACA 2-8007)

(44) There is a written description of the facility that specifies its mission within the context of the system of which it is a part. This description is reviewed at least annually and updated if necessary. (ACA 2-8008)

(45) Where statute permits, the juvenile work plan provides for juvenile work assignments in public works projects. (ACA 2-5360)

(46) Where statute permits, the juvenile work plan includes provision for juveniles to work in various nonprofit and community service projects. (ACA 2-5361)

(47) Where statute permits, written policy and procedure allow for juvenile participation in work or educational release programs. (ACA 2-5381)

(48) Temporary release programs are required to have the following elements: (ACA 2-5382)

- (a) written operational procedures;
- (b) careful screening and selection procedures;
- (c) written rules of juvenile conduct;
- (d) a system of supervision;
- (e) a complete recordkeeping system;
- (f) a system for evaluating program effectiveness;
- (g) efforts to obtain community cooperation and support.

KEY: juvenile corrections

1993

Notice of Continuation May 31, 2002

62A-7-201



Human Services, Youth Corrections **R547-4** Youth Detention/Group Shelter Standards

NOTICE OF PROPOSED RULE

(Repeal)

DAR FILE NO.: 25414
FILED: 09/30/2002, 14:53

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: During the course of the Five-Year Review process, the agency determined that the rule is no longer necessary as it is covered in the Division's Policy and Procedures. All detention facilities are either under contract or run by the division with policy and procedure in place to handle the operation.

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

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 62A, Chapter 7

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: Because all items in this rule are currently covered in the Division's Policy and Procedure Manual, there will be no change to division budget.
- ❖ LOCAL GOVERNMENTS: Because all items in this rule are currently covered in the Division's Policy and Procedure Manual, there will be no change to local government budget.
- ❖ OTHER PERSONS: Because all items in this rule are currently covered in the Division's Policy and Procedure Manual, there will be no change to other budgets.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Because all items in this rule are currently covered in the Division's Policy and Procedure Manual, there will be no compliance costs for other persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Because all items in this rule are currently covered in the Division's Policy and Procedure Manual, there will be no fiscal impact on businesses.

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

HUMAN SERVICES
YOUTH CORRECTIONS
Room 419
120 N 200 W
SALT LAKE CITY UT 84103-1500, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Judy Hammer at the above address, by phone at 801-538-4098, by FAX at 801-538-4334, or by Internet E-mail at judyhammer@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 11/14/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 11/15/2002

AUTHORIZED BY: Blake Chard, Director

{**DAR Note:** Because of publication constraints, the text of this rule is not printed in this *Bulletin*, but is published by reference to a copy on file at the Division of Administrative Rules. The text may also be inspected at the agency (address above) or in the *Utah Administrative Code* which is available at any state depository library.}



Human Services, Youth Corrections **R547-7** Juvenile Holding Room Standards

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 25425
FILED: 10/01/2002, 15:15

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To clarify definitions, wording, and standards within the rule that more succinctly depict the business of the division.

SUMMARY OF THE RULE OR CHANGE: The proposed definitions and wording changes bring the rule closer to the policies and operational functions of the division.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 62A-7-201

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: Because the changes are definitional in nature as opposed to substantive, there is no anticipated change to division budget.
- ❖ LOCAL GOVERNMENTS: Because the changes are definitional in nature as opposed to substantive, there is no anticipated change to local government budgets.
- ❖ OTHER PERSONS: Because the changes are definitional in nature as opposed to substantive, there is no anticipated change to the budget of other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Because the changes are definitional in nature as opposed to substantive, there is no anticipated change to the budget of other persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Because the changes are definitional in nature as opposed to substantive, there is no anticipated fiscal impact to businesses.

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

HUMAN SERVICES
YOUTH CORRECTIONS
Room 419
120 N 200 W
SALT LAKE CITY UT 84103-1500, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Judy Hammer or Vanessa Thompson at the above address, by phone at 801-538-4098 or 801-538-9877, by FAX at 801-538-4334 or (n/a), or by Internet E-mail at judyhammer@utah.gov or vthompson@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 11/14/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 11/15/2002

AUTHORIZED BY: Blake Chard, Director

R547. Human Services, Youth Corrections.

R547-7. Juvenile Holding Room Standards.

R547-7-1. Definitions.

- (1) "Nonoffenders" means abused, neglected, or dependent youth.
- (2) "Sight and sound separation" means that juvenile detainees must be located or arranged as to be completely separated from incarcerated adults by sight and sound barriers such that the adult inmates cannot see juvenile detainees and vice versa. Also, ~~normal~~ conversation is not possible between juvenile detainees and adult inmates.
- (3) ~~["Status Offenders" means juveniles being charged with offenses that are unique to juveniles.]"Status offense" means a violation of the law that would not be a violation but for the age of the offender.~~

R547-7-2. Standards for Two Hour Juvenile Detention in Local Law Enforcement Facilities.

- (1) Criteria by which juveniles may be held:
 - (a) The maximum holding period will be two hours as provided for by Subsection 62A-7-201(4).
 - (b) Extensive efforts will be made by holding authorities during these two hours to contact the juvenile's parents, guardian, or other responsible adult and arrange for the juvenile's release.
 - (c) No juvenile under ten years of age will be held by holding authorities, as set forth in the following standards, for any length of time. ~~[-, but are to be immediately transferred to nonjudicial authorities.]~~
 - (d) Only juveniles who are alleged to have committed ~~[an act which would be a criminal offense if committed by an adult]~~ a non-status offense or are accused of juvenile handgun possession may be detained for identification or interrogation or while awaiting release to a parent or other responsible adult. ~~[-, Subsection 62A-7-201(4).]~~
 - (e) Despite the authorization to hold a juvenile in a certified holding room for up to two hours, no juvenile shall be held in such a room unless there is no other alternative which will protect the juvenile and the community.
 - (2) Any holding facility intended for use for juveniles must be certified by the state Division of Youth Corrections, Subsection 62A-7-201(4).
 - (3) There shall be acceptable sight and sound separation from adult inmates Subsection 62A-7-201(4). Written policy and procedure shall exist to assure supervision is maintained so that both visual contact ~~[or]~~ and verbal communication between juvenile detainees and adult inmates is prohibited.
 - (4) The juvenile holding rooms and the building in which they are located shall conform to all applicable:
 - (a) zoning laws;
 - (b) local and state safety, fire, and building codes;
 - (c) local and state health codes.
 - (5) All two hour holding room areas provide for, at a minimum:
 - (a) access to a toilet and wash basin;
 - (b) adequate shelter, heat, light, and ventilation that does not compromise security or enable escape;
 - (c) access to a drinking fountain;
 - (d) adequate utilitarian furnishings, including suitable chairs or benches.
 - (6) Whenever juveniles are detained, there shall be at a minimum:
 - (a) Removal of all property from the juvenile that could compromise the juvenile's safety, such as belts, shoelaces, and suspenders, prior to placing a juvenile in a holding room;
 - (~~a~~) ~~[There shall be]~~ constant on-site supervision, through visual monitoring and audio two way communication, Subsection 62A-7-201(4). ~~[-];~~
 - (~~b~~) ~~[c]~~ [A] P.O.S.T. certified or qualified staff must be available to intervene within 60 seconds should a problem or medical emergency arise with a juvenile ~~[-];~~
 - (~~e~~) ~~[f]~~ frequent personal checks must occur with the juvenile to maintain communication and prevent panic and feelings of isolation ~~[-];~~
 - (~~d~~) ~~[e]~~ [A] a written record of significant incidents and activities of the juvenile ~~[must be maintained].~~
 - (7) A staff member of the same sex shall supervise the personal hygiene activities and care such as toilet related activities.
 - (8) When procedures require physical contact or examination, such as strip searches, these shall be done by a staff member of the same sex in private without TV monitoring. Body cavity searches shall be performed only when there is probable cause to believe that weapons or contraband will be found. With the exception of the

mouth, all body cavity searches performed visually will be done by two personnel of the same sex as the youth. Manually performed body cavity searches will be performed by medically trained personnel, at least one of which will be the same sex as the youth being examined.

(9) There shall be no viewing devices, such as peep holes or mirrors, of which the juvenile is not aware.

(10) No detainee, juvenile or adult, shall be allowed to have authority or disciplinary control over, be permitted to supervise, or provide services of any nature to other detained juveniles.

(11) The juvenile's health and safety while in the holding room shall be safeguarded by following standard elements on medical and health service. In order to assure this, the holding room administration shall:

(a) have services available to provide 24 hours a day emergency medical care;

(b) provide for immediate examination and treatment, if necessary, of juveniles injured on the holding room premises;

(c) not accept juveniles who are unconscious, obviously seriously injured, a suicide risk, obviously emotionally disturbed, or obviously under the influence of alcohol or drugs and are unable to care for themselves, until they have been examined by a qualified medical practitioner or have been taken to a medical facility for appropriate diagnosis and treatment and released back to the holding room;

(d) train all holding room staff members to recognize symptoms of mental illness or retardation;

(e) require that any medical services provided while the juvenile is held be recorded.

(12) As long as classification standards are met, juveniles may be detained together if age, compatibility, dangerousness, and other relevant factors are considered. Juveniles of opposite genders may not be detained together.

(13) There must be written procedures in holding rooms governing the acceptance of juveniles, which include the following:

(a) When an officer or other person takes a juvenile into custody, they shall without unnecessary delay notify the parents, guardian, or custodian.

(b) The holding room staff shall verify with the officer or other person taking the juvenile into custody that the juvenile's parents, guardian, or custodian have been notified of the juvenile's detention. If notification did not occur, agency staff will contact the juvenile's parents, guardian, or custodian.

(14) There must be written policy and procedure that require that the decision to detain the juvenile for up to two hours or release the juvenile be in accordance with the following principles: Sections 78-3a-113, 78-3a-114, and 62A-7-205

(a) A juvenile shall not be detained any longer than is reasonably necessary to obtain their name, age, residence and any other necessary information, and to contact the juvenile's parents, guardian, or custodian.

(b) The juvenile shall then be released to the care of the parent or other responsible adult unless the immediate welfare or the protection of the community requires that the juvenile be detained or that it is unsafe for the juvenile or the public to leave the juvenile in the care of the parents, guardian or custodian. If after interrogation it is found that the juvenile should be detained, transfer to [a juvenile detention center with an appropriate juvenile facility shall occur [immediately] without unnecessary delay.

(c) A release record must be maintained which includes:

(i) information regarding physical and emotional condition of juvenile;

(ii) relationship of adult assuming release responsibility to juvenile;

(iii) means of proof of adult identification;

(iv) signature of said adult assuming responsibility regarding juvenile's physical and emotional condition and understanding of reason for holding the juvenile in custody.

(15) An admission or referral form must be completed on each juvenile detained which includes, as a minimum, the following information:

(a) date and time of admission and release;

(b) name, nicknames, and aliases;

(c) last known address;

(d) law enforcement jurisdiction, ~~[and]~~ name, and title, ~~[and signature]~~ of delivering officer;

(e) specific charges;

(f) sex;

(g) date of birth and place of birth;

(h) race or nationality;

(i) medical problems, if any;

(j) parents, guardian, or responsible person to notify in case of emergency, including addresses and telephone numbers;

(k) space for remarks, to include notation of any open wounds or sores requiring treatment, evidence of disease or body vermin, or tattoos;

(l) probation officer or caseworker assigned, if any. ~~;~~

~~[(m) signature of person recording data.]~~

(16) The written procedures governing the stay of a juvenile shall include:

(a) A juvenile, while held in a certified holding room, shall have the same legal and civil rights as an adult detainee.

(b) A juvenile, while held in a certified holding room, shall have the right to the same number of telephone calls as an adult detainee held the same amount of time.

(17) A case record shall be maintained on each juvenile and shall be kept in a secure place. It shall contain, as a minimum, the following information and documents:

(a) initial intake information form;

(b) documented legal authority to accept, detain, and release youth;

(c) record of incident reports;

(d) a record of cash and valuables held;

(e) visitors' names, if any, personal and professional, and dates of visits;

(f) final release or transfer report.

(18) The holding room facility director shall submit to the state Division of Youth Corrections a monthly accurate report of the numbers of juveniles confined during the preceding month and provide information on each juvenile in the categories indicated on the report form as provided by the state.

(19) Written policy and procedure provide that when a juvenile is in need of hospitalization, a staff member accompanies and stays with the juvenile [at least during] until admission[-], if permitted by medical personnel, or until an adult family member or legal guardian arrives to remain with the juvenile.

(20) All informed consent standards in the jurisdiction are observed and documented for medical care. The informed consent of parent, guardian, or legal custodian applies when required by law. When health care is rendered against the patient's will, it is ordered by a standing magistrate or deemed an emergency as defined by Section 26A-1.

(21) Written policy and procedure provide that juveniles are not subjected to corporal or unusual punishment, humiliation, or mental abuse.

(22) Written policy and procedure restrict the use of restraints or physical force to instances of justifiable self-defense, protection of juveniles and others, protection of property and prevention of escapes, and only when it is necessary to control juveniles and in accordance with the principle of least restrictive action. In no event is physical force justifiable as punishment. A written report is prepared following all uses of force and is submitted to the facility administrator.

(23) At intake, each juvenile detained is informed of the steps in the detention process.

(24) ~~[The screening procedure prohibits status offenders and nonoffenders from being detained in the facility.]~~ Juvenile processing procedures shall include written safeguards to prohibit nonoffenders from being detained in the facility and to ensure youth are held in accordance with R547-7-2(1)(c)(d).

**KEY: juvenile corrections, licensing
1993
Notice of Continuation May 31, 2002
62A-7-201**



**Labor Commission, Safety
R616-3
Elevator Rules**

**NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 25409
FILED: 09/27/2002, 13:44**

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The proposed rule change is to update the elevator rules to incorporate the most current standards as set by the American Society of Mechanical Engineers (ASME).

SUMMARY OF THE RULE OR CHANGE: This rule change adopts: 1) the ASME A17.1, 2000 edition along with the 2002 addenda; 2) the ASME A17.3, 2002 edition; and 3) the ASME A18-1a, 2001 addenda. It also states that local building officials are responsible for hoistway ventilation regulations. This rule amendment changes who certifies elevator inspectors. There are also changes to bring the Utah rules into compliance with the adopted standards

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 34A-1-101 et seq.

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: ASME A17.1, 2000 edition issued March 2001 with the 2002 addenda issued April 2002; ASME A17.3, 2002 issued July 2002; and ASME A18.1a, 2001 addenda issued March 2001

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** There should be no cost or savings to the state budget. The National standards have already been purchased and new elevator equipment is already being designed to meet the above standards.

❖ **LOCAL GOVERNMENTS:** There should be no cost or savings to local government. New elevators are already being built to these national standards and existing elevators are not required to meet these new standards.

❖ **OTHER PERSONS:** There should be no cost or savings to other persons. New elevators are already being built to these national standards and existing elevators are not required to meet these new standards.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The affected industries include regulating agencies, contractors, and building owners. The change to this code should not affect industries any more than normal business costs would.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Because the standards being adopted in this rule change are already being incorporated into new elevators, there should be no cost or savings impact to businesses.

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

**LABOR COMMISSION
SAFETY
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: Sara Danielson, Pete Hackford, or Alan Hennebold at the above address, by phone at 801-530-6953, 801-530-7605, or 801-530-6937, by FAX at 801-530-6390, 801-530-6390, or 801-530-6390, or by Internet E-mail at sdanielson@utah.gov, phackford@utah.gov, or ahennebold@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 11/14/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 11/15/2002

AUTHORIZED BY: R Lee Ellertson, Commissioner

**R616. Labor Commission, Safety.
R616-3. Elevator Rules.
R616-3-1. Authority.**

This rule is established pursuant to Section 34A-7-201 for the purpose of the Labor Commission ascertaining, fixing, and enforcing reasonable standards regarding elevators for the protection of life, health, and safety of the general public and employees.

R616-3-2. Definitions.

A. "ANSI" means the American National Standards Institute, Inc.

B. "ASME" means the American Society of Mechanical Engineers.

C. "Commission" means the Labor Commission created in Section 34A-1-103.

D. "Division" means the Division of Safety of the Labor Commission.

E. "Elevator" means a hoisting and lowering mechanism equipped with a car or platform and that moves in guides in a substantially vertical direction.

F. "Escalator" means a stairway, moving walkway, or runway that is power driven, continuous and used to transport one or more individuals.

R616-3-3. Safety Codes for Elevators.

The following safety codes are adopted and incorporated by reference within this rule:

A. ASME A17.1, Safety Code for Elevators and Escalators, [1996]2000 ed., with [1997 Addenda issued December 31, 1996, 1998 Addenda issued February 19, 1998, 1999 Addenda issued June 30, 1999 and 2000 Addenda issued November 30, 2000]2002 Addenda issued May 4, 2002, and amended as follows:

1. Delete 2.2.2.5;

2. Amend 8.6.5.8 as follows: Existing hydraulic cylinders installed below ground when found to be leaking shall be replaced with cylinders conforming to 3.18.3.4 or the car shall be provided with safeties conforming to 3.17.1 and guide rails, guide rail supports and fastenings conforming to 3.23.1. This code is issued every three years with annual addenda. New issues and addenda become mandatory only when a formal change is made to these rules. Elevators are required to comply with the A17.1 code in effect at the time of installation. [~~The latest effective version of A17.1 is the 1996 edition with the 1997 addenda, 1998 addenda, 1999 addenda and 2000 addenda.~~]

B. ASME A17.3 - [1996]2002 Safety Code for Existing Elevators and Escalators [~~with 2000 addenda issued February 29, 2000~~]. This code is adopted for regulatory guidance only for elevators classified as remodeled elevators by the Division of Safety.

C. ASME A90.1-1992, Safety Standard for Belt Manlifts.

D. ANSI A10.4-1990, Safety Requirements for Personnel Hoists and Employee Elevators for Construction and Demolition Operations.

E. 2000 International Building Code.

F. ICC/ANSI A117.1-1998 Accessible and Usable Buildings and Facilities, sections 407 and 408, approved February 13, 1998.

G. ASME A18.1-1999 Safety Standard For Platform Lifts And Stairway Chairlifts, issued July 26, 1999, with A18.1a 2001 addenda issued March 26, 2001.

R616-3-4. Inspector Qualification.

A. Any person who performs elevator safety inspections must have a current certification as a Qualified Elevator Inspector [~~from the National Association of Elevator Safety Authorities~~] as outlined in ASME QEI-1, Qualifications for Elevator Inspectors.

R616-3-5. Modifications and Variances to Codes.

A. In a case where the Division finds that the enforcement of any code would not materially increase the safety of employees or general public, and would work undue hardships on the owner/user,

the Division may allow the owner/user a variance. Variances must be in writing to be effective and can be revoked after reasonable notice is given in writing.

B. Persons who apply for a variance to a safety code requirement must present the Division with the rationale as to how their elevator installation provides safety equivalent to the applicable safety code.

C. No errors or omissions in these codes shall be construed as permitting any unsafe or unsanitary condition to exist.

D. The Commission may, by rule, add or delete from the applicable safety codes for any good and sufficient safety reason.

E. In the event that adopted safety codes are in conflict with one another, the ASME A17.1, Safety Code for Elevators and Escalators will take precedence. The exception to this is for compliance with the accessibility guidelines of Pub. L. No. 101-336 "The Americans with Disability Act of 1990". In this instance, the [Uniform]International Building Code standards adopted in R616-3-3 for accessibility as applied to elevators take precedence over ASME A17.1.

R616-3-6. Exemptions.

A. These rules apply to all elevators in Utah with the following exemptions:

1. Private residence elevators installed inside a single family dwelling. Common elevators which serve multiple private residences are not exempt from these rules.

2. Elevators in buildings owned by the Federal government.

B. Owners of elevators exempted in R616-3-5.A. may request a safety inspection by Division of Safety inspectors. Code non-compliance items will be treated as recommendations by the inspector with the owner having the option as to which, if any, are corrected. Owners requesting these inspections will be invoiced at the special inspection rate. If the owner requests a State of Utah Certificate to Operate for the elevator, all of the recommendations must be completed to the satisfaction of the inspector and the owner will be invoiced the appropriate certificate fee.

R616-3-7. Inspection of Elevators, Permit to Operate, Unlawful Operations.

A. It shall be the responsibility of the Division to make inspections of all elevators when deemed necessary or appropriate.

B. Elevator inspectors shall examine conditions in regards to the safety of the employees, public, machinery, [~~ventilation,~~] drainage, methods of lighting, and into all other matters connected with the safety of persons using or in close proximity to each elevator, and when necessary give directions providing for the better health and safety of persons in or about the same. The owner/user is required to freely permit entry, inspection, examination and inquiry, and to furnish a guide when necessary.

C. If the Division finds that an elevator complies with the applicable safety codes and rules, the owner/user shall be issued a Certificate of Inspection and Permit to Operate.

1. The Certificate of Inspection and Permit to Operate is valid for 24 months.

2. The Certificate of Inspection and Permit to Operate shall be displayed in a conspicuous location [~~near the elevator~~] for the entire validation period. If the certificate is displayed where accessible to the general public, as opposed to being in the elevator machine room, it must be protected under a transparent cover.

D. If the Division finds an elevator is not being operated in accordance with the safety codes and rules, the owner/user shall be

notified in writing of all deficiencies and shall be directed to make specific improvements or changes as are necessary to bring the elevator into compliance.

E. Pursuant to Section 34A-7-204, if the improvements or changes are not made within a reasonable time, by agreement of the division and the owner, the elevator is being operated unlawfully.

F. If the owner/user refuses to allow an inspection to be made, the elevator is being operated unlawfully.

G. If the owner/user refuses to pay the required fee, the elevator is being operated unlawfully.

H. If the owner/user operates an elevator unlawfully, the Commission may order the elevator operation to cease pursuant to Section 34A-1-104.

I. If, in the judgment of an elevator inspector, the lives or safety of employees or public are, or may be, endangered should they remain in the danger area, the elevator inspector shall direct that they be immediately withdrawn from the danger area, and the elevator removed from service until repairs have been made and the elevator has been brought into compliance.

R616-3-8. Inclined Wheelchair Lift Headroom Clearance.

~~[A. Since the incorporated safety standard (ASME A17.1) does not specify the minimum headroom clearance requirements for the installation of an inclined wheelchair lift, the following requirements must be met for inclined wheelchair lifts installed in Utah.~~

~~—B]A.~~ Headroom clearance for inclined wheelchair lifts throughout the range of travel shall be not less than 80 inches (2032 mm) as measured vertically from the leading edge of the platform floor.

~~[C]B.~~ For existing facilities only, in the event that it is not technically or economically feasible to provide other means of access for disabled persons, inclined wheelchair lifts may be installed if all of the following conditions are met:

1. The appropriate building inspection jurisdiction approves the use of an inclined wheelchair lift for the specific application.

2. Headroom clearance throughout the range of travel shall be not less than 60 inches as measured vertically from the leading edge of the platform floor.

3. The passenger restriction sign as required by ASME ~~[A17.1 Rule 2001.7e]~~A18.1 3.1.2.3 shall be amended as follows: "PHYSICALLY DISABLED PERSONS ONLY. NO FREIGHT. HEADROOM CLEARANCE IS LIMITED. USE ONLY IN THE SITTING POSITION".

R616-3-9. Valves in Hydraulic Elevator Operating Fluid Systems.

A. Due to the potential loss of pressure retaining capability when over torqued, bronze-bodied valves shall not be installed in the hydraulic systems of a hydraulic elevator.

B. This requirement is in effect for all new installations and remodel installations involving the hydraulic system.

C. If a bronze-bodied valve installed on an existing elevator begins to leak, that valve shall be replaced by a steel-bodied valve.

R616-3-10. Hydraulic Elevator Piping.

A. This rule establishes minimum standards for hydraulic fluid piping in hydraulic elevators. The piping specifications referred to in this rule are governed by ASME or ASTM piping specifications (e.g. ASME Specification SA-53 Table X2.4).

B. Hydraulic elevators not incorporating a safety valve may use schedule 40 piping.

C. For newly installed hydraulic elevators that do incorporate a safety valve:

1. Where piping is protected by the safety valve, schedule 40 piping may be used;

2. Where grooved or threaded connections are used in piping that is unprotected by the safety valve, i.e. between the safety valve and the hydraulic jack(s), nominal pipe size (NPS)3 or schedule 80 piping may be used;

3. Where piping is unprotected by the safety valve, but welded or bolted flange connections are used, schedule 40 piping may be used.

R616-3-11. Shunt Trips in Elevator Systems.

A. The means (shunt trip) to automatically disconnect the main line power supply to the elevator discussed in ~~[Rule 402.2(e)(3)]~~2.8.2.3.2 of A17.1 is not required for hydraulic elevators with a rise of 50 feet or less.

R616-3-12. Hoistway Vents.

~~[A. With regard to hoistway vents, the Division will assure that elevators meet Rule 100.4 of ASME A17.1 and the minimum area of the vent required by the Uniform Building Code. Requirements for the operation of the vent are defined by the local jurisdiction's fire marshal or building inspector.]~~Hoistway ventilation as outlined in the International Building Code is under the jurisdiction of the local building official.

R616-3-13. Hand Line Control Elevators.

A. Operation of a hand line control elevator is not permitted.

B. Owners of hand line control elevators are required to render the elevator electrically and mechanically incapable of operation.

R616-3-14. Remodeled Elevators.

A. When an elevator is classified as a remodeled (modernized) elevator by the Division, the components of the elevator involved in the modernization must comply with the standards of the latest version of A17.1 and A17.3 in effect at the time the remodeling of the elevator commences.

R616-3-15. Fees.

A. Fees to be charged as provided by Section 34A-1-106 and 63-38-3.2 shall be adopted by the Labor Commission and approved by the Legislature pursuant to Section 63-38-3(2).

B. The fee for the initial certification permit shall be invoiced to and paid by the company or firm installing the elevator.

C. The renewal certification permit shall be invoiced to and paid by the owner/user.

D. Any request for a special inspection shall be invoiced to and paid by the person/company requesting the inspection, at the hourly rate plus mileage and expenses.

R616-3-16. Notification of Installation, Revision or Remodeling.

A. Before any elevator covered by this rule is installed or a major revision or remodeling begins on the elevator, the Division must be advised at least one week in advance of such installation, revision, or remodeling unless emergency dictates otherwise.

R616-3-17. Initial Agency Action.

Issuance or denial of a Certificate of Inspection and Permit to Operate by the Division, and orders or directives to make changes or

improvements by the elevator inspector are informal adjudicative actions commenced by the agency per Section 63-46b-3.

R616-3-18. Presiding Officer.

The elevator inspector is the presiding officer referred to in Section 63-46b-3. If an informal hearing is requested pursuant to R616-3-18, the Commission shall appoint the presiding officer for that hearing.

R616-3-19. Request for Informal Hearing.

Within 30 days of issuance, any aggrieved person may request an informal hearing regarding the reasonableness of a permit issuance or denial or an order to make changes or improvements. The request for hearing shall contain all information required by Sections 63-46b-3(a) and 63-46b-3(b).

R616-3-20. Classification of Proceeding for Purpose of Utah Administrative Procedures Act.

Any hearing held pursuant to R616-3-18 shall be informal and pursuant to the procedural requirements of Section 63-46b-5 and any agency review of the order issued after the hearing shall be per Section 63-46b-13. An informal hearing may be converted to a formal hearing pursuant to Subsection 63-46b-4(3).

KEY: elevators[[±]], certification, safety

[~~January 15,~~ 2002

Notice of Continuation January 10, 2002

34A-1-101 et seq.



Natural Resources, Wildlife Resources

R657-6

Taking Upland Game

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 25361

FILED: 09/20/2002, 07:59

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended pursuant to Wildlife Board meetings conducted annually for taking public input and reviewing the division's wild turkey program.

SUMMARY OF THE RULE OR CHANGE: Subsection R657-6-2(2)(i) is being amended to clarify the definition of "immediate family." Provisions of this rule are being amended to: a) add that applicants may select up to three hunt choices when applying for limited entry turkey permits; b) implement a waiting period for persons who are successful in obtaining a Merriam's turkey permit; and c) implement a turkey bonus point system consistent with other Division programs. Provisions are being added to allow a youth turkey hunting opportunity. Other changes are being made for consistency and clarity.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 23-14-18 and 23-14-19

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 50 CFR 20 2002 ed.

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: This amendment clarifies the procedures and requirements for obtaining wild turkey permits through the limited entry wild turkey drawing, and provides additional hunting opportunity. The Division of Wildlife Resources (DWR) determines that these amendments will create an initial cost for programming to administer the wild turkey drawing by implementing a three-year waiting period, refining the bonus point system, and implementing a youth hunting opportunity. The cost is estimated to be less than \$5,000 for programming. Otherwise, this amendment does not create a cost or savings impact to the state budget or DWR's budget.

❖ LOCAL GOVERNMENTS: None--This filing does not create any direct cost or savings impact to local governments because they are not directly affected by the rule. Nor are local governments indirectly impacted because the rule does not create a situation requiring services from local governments.

❖ OTHER PERSONS: The amendments provide procedures and requirements for obtaining permits to hunt wild turkey and provide additional hunting opportunity, therefore, the amendments do not impose any additional requirements on other persons, nor generate a cost or savings impact to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: These amendments are for clarification and providing procedures for obtaining wild turkey permits, and providing additional hunting opportunity. DWR determines that there are no additional compliance costs associated with this amendment.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The amendments to this rule do not create an impact on businesses.

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

NATURAL RESOURCES
WILDLIFE RESOURCES
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Debbie Sundell at the above address, by phone at 801-538-4707, by FAX at 801-538-4745, or by Internet E-mail at debbiesundell@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 11/14/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 11/15/2002

AUTHORIZED BY: Kevin Conway, Director

R657. Natural Resources, Wildlife Resources.**R657-6. Taking Upland Game.****R657-6-1. Purpose and Authority.**

(1) Under authority of Sections 23-14-18 and 23-14-19 and in accordance with 50 CFR 20, [~~2004~~]2002 edition, which is incorporated by reference, the Wildlife Board has established this rule for taking upland game.

(2) Specific season dates, bag and possession limits, areas open, number of permits and other administrative details that may change annually are published in the Upland Game Proclamation and the Turkey Addendum to the Upland Game Proclamation of the Wildlife Board for taking upland game.

R657-6-2. Definitions.

(1) Terms used in this rule are defined in Section 23-13-2.

(2) In addition:

(a) "Bait" means shelled, shucked or unshucked corn, wheat or other grain, salt or other feed that lures, attracts or entices birds.

(b) "Baited area" means any area on which shelled, shucked or unshucked corn, wheat or other grain, salt or other feed has been placed, exposed, deposited, distributed or scattered, if that shelled, shucked or unshucked corn, wheat or other grain, salt or other feed could serve as a lure or attraction for migratory game birds to, on, or over areas where hunters are attempting to take migratory game birds. Any such area will remain a baited area for ten days following the complete removal of all such shelled, shucked or unshucked corn, wheat or other grain, salt or other feed.

(c) "Baiting" means the direct or indirect placing, depositing, exposing, distributing, or scattering of shelled, shucked or unshucked corn, wheat or other grain, salt or other feed that could serve as a lure or attraction for migratory game birds to, on, or over any areas where hunters are attempting to take migratory game birds.

(d) "CFR" means the Code of Federal Regulations.

(e) "Closed season" means the days on which upland game shall not be taken.

(f) "Commercial hunting area" means private land operated under Rule R657-22, where hatchery or artificially raised or propagated game birds are released for the purpose of hunting during a specified season and where a fee is charged.

(g) "Falconry" means the sport of taking quarry by means of a trained raptor.

(h) "Field possession limit" means no person may possess, have in custody, or transport, whichever applies, more than the daily bag limit of migratory game birds, tagged or not tagged, at or between the place where taken and either:

(i) his or her automobile or principal means of land transportation;

(ii) his or her personal abode or temporary or transient place of lodging;

(iii) a migratory bird preservation facility; or

(iv) a post office or common carrier facility.

(i) "Immediate family" means the landowner's or lessee's spouse, children, son-in-law, daughter-in-law, father, mother, father-in-law, mother-in-law, brother, sister, brother-in-law, sister-in-law, stepchildren, and grandchildren.

(j) "Landowner" means any individual, family or corporation who owns property in Utah and whose name appears on the deed as the owner of eligible property or whose name appears as the purchaser on a contract for sale of eligible property.

(k) "Migratory game bird" means, for the purposes of this rule, Mourning Dove, Band-tailed Pigeon, and Sandhill Crane.

(l) "Nontoxic shot" means soft iron, steel, copper-plated steel, nickel-plated steel, zinc-plated steel, bismuth, and any other shot types approved by the U.S. Fish and Wildlife Service. Lead, nickel-plated lead, copper-plated lead, copper and lead/copper alloy shot have not been approved.

(m) "Open season" means the days when upland game may lawfully be taken. Each period prescribed as an open season shall include the first and last days thereof.

(n) "Personal abode" means one's principal or ordinary home or dwelling place, as distinguished from a temporary or transient place of abode or dwelling, such as a hunting club, cabin, tent, or trailer house used as a hunting club or any hotel, motel, or rooming house used during a hunting, pleasure, or business trip.

(o) "Cooperative Wildlife Management Unit" means a generally contiguous area of private land open for hunting small game, waterfowl, or big game by permit that is registered in accordance with Rules R657-21 and R657-37.

(p) "Possession limit" means, for purposes of this rule, the number of upland game birds one individual may have in possession at any one time.

(q) "Transport" means to ship, carry, export, import, receive or deliver for shipment, conveyance, carriage, exportation or importation.

(r) "Upland game" means pheasant, quail, Chukar Partridge, Hungarian Partridge, Sage-grouse, Ruffed Grouse, Blue Grouse, Sharp-tailed Grouse, cottontail rabbit, snowshoe hare, White-tailed Ptarmigan, wild turkey, and the following migratory game birds: Mourning Dove, Band-tailed Pigeon, and Sandhill Crane.

R657-6-3. Migratory Game Bird Harvest Information Program.

(1) A person must obtain a Migratory Game Bird Harvest Information Program (HIP) registration number to hunt migratory game birds (Band-tailed Pigeon, Mourning Dove and Sandhill Crane).

(2)(a) A person may call the telephone number published in the proclamation of the Wildlife Board for taking upland game or register online at www.wildlife.utah.gov to obtain their HIP registration number. Use of a public pay phone will not allow access to the telephone number published in the proclamation of the Wildlife Board for taking upland game.

(b) A person must write their HIP registration number on their current year's hunting license.

(3) Any person obtaining a HIP registration number will be required to provide their:

(a) hunting license number;

(b) hunting license code key;

(c) name;

(d) address;

(e) phone number;

(f) birth date; and

(g) information about the previous year's migratory game bird hunts.

(4) Lifetime license holders will receive a sticker every three years from the Division to write their HIP number on and place on their lifetime license card.

(5) Any person hunting migratory game birds will be required, while in the field, to prove that they have registered and provided information for the HIP program.

R657-6-4. Permits for Band-tailed Pigeon, Sage-grouse, Sharp-tailed Grouse and White-tailed Ptarmigan.

- (1)(a) A person may not take or possess:
- (i) Band-tailed Pigeon without first obtaining a Band-tailed Pigeon permit;
 - (ii) Sage-grouse without first obtaining a Sage-grouse permit;
 - (iii) Sharp-tailed Grouse without first obtaining a Sharp-tailed Grouse permit; or
 - (iv) White-tailed Ptarmigan without first obtaining a White-tailed Ptarmigan permit.
- (b) A person may obtain only one permit for each species listed in Subsection (1)(a), except a falconer with a valid Falconry Certificate of Registration may obtain one additional two-bird Sage-grouse permit beginning on the date published in the proclamation of the Wildlife Board for taking upland game, if any permits are remaining.
- (2)(a) A limited number of two-bird Sage-grouse permits are available in the areas published in the proclamation of the Wildlife Board for taking upland game.
- (b) A Sage-grouse permit may only be used in one of the open areas as published in the proclamation of the Wildlife Board for taking upland game.
- (c) Sage-grouse permits will be issued on a first-come, first-served basis beginning on the date published in the proclamation of the Wildlife Board for taking upland game free of charge.
- (d) Sage-grouse permit request forms must be submitted with a handling fee.
- (3)(a) A limited number of two-bird, Sharp-tailed Grouse permits are available.
- (b) A Sharp-tailed Grouse permit may only be used in one of open areas as published in the proclamation of the Wildlife Board for taking upland game.
- (c) Sharp-tailed Grouse permits will be issued on a first-come, first-served basis beginning on the date published in the proclamation of the Wildlife Board for taking upland game free of charge.
- (d) Sharp-tailed Grouse permit request forms must be submitted with a handling fee.
- (4)(a) Band-tailed Pigeon and White-tailed Ptarmigan permits are available from Division offices, through the mail, and through the Division's Internet address by the first week in August, free of charge.
- (5) Sage-grouse, Sharp-tailed Grouse, Band-tailed Pigeon and White-tailed Ptarmigan permit forms are available from Division offices and through the Division's Internet address.

R657-6-5. Application Procedure for Sandhill Crane.

- (1)(a) Applications will be available from Division offices and license agents. Applications must be mailed by the date prescribed in the proclamation of the Wildlife Board for taking upland game.
- (b) Residents and nonresidents may apply.
- (c) The application period for Sandhill Crane is published in the proclamation of the Wildlife Board for taking upland game.
- (2)(a) Applications completed incorrectly or received after the date prescribed in the upland game proclamation may be rejected.
- (b) If an error is found on the application, the applicant may be contacted for correction.
- (3)(a) Late applications, received by the date published in the proclamation of the Wildlife Board for taking upland game, will not

be considered in the drawing, but will be processed for the purpose of entering data into the Division's draw database to provide:

- (i) future pre-printed applications;
 - (ii) notification by mail of late application and other draw opportunities; and
 - (iii) re-evaluation of Division or third-party errors.
- (b) The handling fee will be used to process the late application. Any license fees submitted with the application will be refunded.
- (c) Late applications, received after the date published in the proclamation of the Wildlife Board for taking upland game, shall not be processed and shall be returned to the applicant.
- (4) Group applications for Sandhill Crane will not be accepted.
- (5)(a) A person may obtain only one Sandhill Crane permit each year.
- (b) A person may not apply more than once annually.
- (6) Each application must include:
- (a) a \$5 nonrefundable handling fee; and
 - (b) the small game or combination license fee, if it has not yet been purchased.
- (7) A small game license or combination license may be purchased before applying, or the small game license or combination license will be issued upon successfully drawing a permit. Fees must be submitted with the application.
- (8) The posting date of the drawing results is published in the proclamation of the Wildlife Board for taking upland game.
- (9) Any permits remaining after the drawing are available by mail-in application on a first-come, first-served basis beginning on the date published in the proclamation of the Wildlife Board for taking upland game.
- (10) To apply for a resident permit or license, a person must establish residency at the time of purchase.
- (11) The posting date of the drawing shall be considered the purchase date of a permit.
- (12)(a) An applicant may withdraw their application for the Sandhill Crane Drawing by requesting such in writing by the date published in the proclamation of the Wildlife Board for taking upland game.
- (b) The applicant must send their notarized signature with a statement requesting that their application be withdrawn to the Salt Lake Division office.
 - (c) An applicant may reapply in the Sandhill Crane Drawing provided:
 - (i) the original application is withdrawn;
 - (ii) the new application is submitted with the request to withdraw the original application;
 - (iii) both the new application and request to withdraw the original application are received by the initial application deadline; and
 - (iv) both the new application and request to withdraw the original application are submitted to the Salt Lake Division office.
 - (d) Handling fee will not be refunded.
- (13)(a) An applicant may amend their application for the Sandhill Crane Drawing by requesting such in writing by the initial application deadline.
- (b) The applicant must send their notarized signature with a statement requesting that their application be amended to the Salt Lake Division office.
 - (c) The applicant must identify in their statement the requested amendment to their application.

R657-6-6. Application Procedure, Waiting Period and Bonus Points for Wild Turkey.

(1)(a) Applications are available from Division offices, license agents, and the Division's Internet address. Applications must be mailed by the date prescribed in the Turkey Addendum to the Upland Game Proclamation of the Wildlife Board for taking upland game.

(b) Residents and nonresidents may apply.

(c) The application period for wild turkey is published in the Turkey Addendum to the Upland Game Proclamation of the Wildlife Board for taking upland game.

(2)(a) Applications completed incorrectly or received after the date prescribed in the Turkey Addendum to the Upland Game Proclamation may be rejected.

(b) If an error is found on the application, the applicant may be contacted for correction.

(3)(a) Late applications, received by the date published in the Turkey Addendum to the Upland Game Proclamation of the Wildlife Board for taking upland game, will not be considered in the drawing, but will be processed for the purpose of entering data into the Division's draw database to provide:

(i) future preprinted applications;

(ii) notification by mail of late application and other draw opportunities; and

(iii) reevaluation of Division and third-party errors.

(b) The \$5 handling fee will be used to process the late application. Any permit fees submitted with the application will be refunded.

(c) Late applications, received after the date published in the Turkey Addendum to the Upland Game Proclamation of the Wildlife Board for taking upland game shall not be processed and shall be returned to the applicant.

(4)(a) Group applications for wild turkey will not be accepted.

(b) ~~[Applications mailed in the same envelope will be accepted, but will be processed and drawn individually.]~~ Applicants may select up to three hunt choices when applying for limited entry turkey permits. Hunt unit choices must be listed in order of preference.

(5)(a) A person may obtain only one wild turkey permit each year, except a person may obtain wild turkey conservation permits in addition to obtaining a limited entry or remaining wild turkey permit.

(b) A person may not apply for wild turkey more than once annually.

(c) A turkey permit allows a person using any legal weapon to take one male turkey within the area and season specified on the permit.

(6) A small game license or combination license may be purchased before applying or the small game license or combination license will be issued upon successfully drawing a permit. Fees must be submitted with the application.

(7) Each application must include:

(a) the nonrefundable handling fee;

(b) the limited entry turkey permit fee; and

(c) the small game or combination license fee, if it has not yet been purchased.

(8) The posting date of the drawing results is published in the Turkey Addendum to the Upland Game Proclamation of the Wildlife Board for taking upland game.

(9)(a) Any permits remaining after the drawing are available only by mail-in request.

(b) Requests for remaining permits must include:

(i) full name, complete mailing address, phone number, date of birth, weight, height, sex, color of hair and eyes, Social Security number, and driver's license number (if available);

(ii) proof of hunter education certification, if applicable;

(iii) small game or combination license number or fees; and

(iv) the permit fee.

(c) Requests must be submitted to the Salt Lake Division office as published in the Turkey Addendum to the Upland Game proclamation of the Wildlife Board for taking upland game.

(d) Requests shall be filled on a first-come, first-served basis beginning on the date published in the Turkey Addendum to the Proclamation of the Wildlife Board for taking upland game.

(10) Unsuccessful applicants will receive a refund in March.

(11) Any person who obtained a Rio Grande turkey permit during the preceding two years may not apply for or obtain a Rio Grande or Merriam's turkey permit for the current year. Any person who obtains a Rio Grande or Merriam's turkey permit in the current year, may not apply for or obtain a Rio Grande or Merriam's turkey permit for a period of two years, except:

(a) Waiting periods do not apply to the purchase of turkey permits remaining after the drawing. However, waiting periods are incurred as a result of purchasing remaining permits. Therefore, if a remaining permit is purchased in the current year, waiting periods will be in effect when applying in the drawing in the following two years.

(b) Waiting periods do not apply to conservation permits or landowner permits.

(12)(a) A bonus point is awarded for:

(i) a valid unsuccessful application when applying for a permit in the turkey drawing; or

(ii) a valid application when applying for a bonus point in the turkey drawing.

~~(b)(i) A person may not apply for a bonus point if that person is ineligible to apply for a permit.~~

~~(ii) A person may apply for one turkey bonus point each year, except a person may not apply in the drawing for both a turkey permit and a turkey bonus point in the same year.~~

~~(iii) Group applications will not be accepted when applying for bonus points.~~

(c) A bonus point shall not be awarded for an unsuccessful landowner application.

(d) Each applicant receives a random drawing number for:

(i) the current valid turkey application; and

(ii) each ~~wild turkey~~ bonus point accrued.

(iii) The applicant will retain the lowest random number for the drawing.

~~(e)(i) Fifty percent of the permits for each hunt unit will be reserved for applicants with bonus points.~~

~~(ii) Based on the applicant's first choice, the reserved permits will be designated by a random drawing number to eligible applicants with the greatest number of bonus points.~~

~~(iii) If reserved permits remain, the reserved permits will be designated by random number to eligible applicants with the next greatest number of bonus points.~~

~~(iv) The procedure in Subsection (iii) will continue until all reserved permits have been issued or no applications for that hunt unit remain.~~

~~(v) Any reserved permits remaining and any applicants who were not selected for reserved permits will be returned to the drawing.~~

(e) Bonus points are forfeited if a person obtains a wild turkey permit, except as provided in Subsection ~~[(43)(e)]~~ [(f)].

(f) Bonus points are not forfeited if:

(i) a person is successful in obtaining a Conservation Permit or Sportsman Permit;

~~(ii) a person obtains a Landowner Permit; or~~

~~[(ii)]~~ [(iii)] a person obtains a Poaching-Reported Reward Permit.

(g) Bonus points are not transferable.

(h) Bonus points are tracked using social security numbers or Division-issued hunter identification numbers.

(13)(a) An applicant may withdraw their application for the wild turkey permit drawing by requesting such in writing by the date published in the Turkey Addendum to the Proclamation of the Wildlife Board for taking upland game.

(b) The applicant must send their notarized signature with a statement requesting that their application be withdrawn to the Salt Lake division office.

~~(c) [An applicant may reapply in the wild turkey permit drawing provided:~~

~~—(i) the original application is withdrawn;~~

~~—(ii) the new application is submitted with the request to withdraw the original application;~~

~~—(iii) both the new application and request to withdraw the original application are received by the initial application deadline; and~~

~~—(iv) both the new application and request to withdraw the original application are submitted to the Salt Lake Division office.~~

~~—(d) Handling fees will not be refunded.~~

(14)(a) An applicant may amend their application for the wild turkey permit drawing by requesting such in writing by the initial application deadline.

(b) The applicant must send their notarized signature with a statement requesting that their application be amended to the Salt Lake Division office.

(c) The applicant must identify in their statement the requested amendment to their application.

R657-6-7. Landowner Permits.

(1)(a) Up to an additional 20 percent of the limited entry permits authorized for taking Merriam's and Rio Grande turkeys are available to private landowners through a drawing.

(b) Landowners interested in obtaining landowner permits must contact the regional Division office in their area November 15 through December 15 to be eligible for the landowner permit drawing and to obtain an application.

(c) Landowner permit applications that are not signed by the local Division representative will be rejected.

(d) Landowner permit applications must be received by the date published in the Turkey Addendum to the Upland Game Proclamation of the Wildlife Board for taking upland game.

(2)(a) A landowner who owns at least 640 acres of essential habitat that supports wild Merriam's turkeys or at least 20 acres of essential habitat that supports wild Rio Grande turkey within any of the open limited entry areas for wild turkeys is eligible to participate in the drawing for available landowner turkey permits.

(b) Land qualifying as essential habitat and owned by more than one landowner may qualify for a landowner permit. However, the landowners who own the qualifying land must determine the landowner who will be participating in the drawing.

(c) "Essential habitat" means areas where wild turkeys regularly and consistently roost, feed, loaf, nest or winter.

(3)(a) A landowner who applies for a landowner permit may:

(i) be issued the permit; or

(ii) designate a member of the landowner's immediate family or landowner's regular full-time employee to receive the permit.

(b) The landowner permit may be used only on the open limited entry area in which the landowner's property is located during the open season established for hunting wild turkeys.

(4) The posting date of the drawing results for landowner permits is published in the Turkey Addendum to the Upland Game Proclamation of the Wildlife Board for taking upland game.

(5)(a) Any landowner permits remaining after the landowner drawing shall be converted to public limited entry permits for that specific unit.

(b) These permits shall be issued through the limited entry drawing. Therefore, the number of public permits listed in the Turkey Addendum to the Upland Game Proclamation of the Wildlife Board for taking upland game, may increase.

(6)(a) A waiting period does not apply to landowners applying for landowner permits.

(b) A landowner may apply once annually for a landowner permit and a limited entry permit, but may only draw or obtain one permit.

R657-6-8. Purchase of License, or Permit by Mail.

(1) A person may obtain a license by mail by sending the following information to any Division office: full name, complete mailing address, phone number, date of birth, weight, height, sex, color of hair and eyes, Social Security number, driver's license number (if available), proof of hunter education certification and fees.

(2) A person may obtain a Band-tailed Pigeon, Sage-grouse, Sharp-tailed Grouse, or White-tailed Ptarmigan permit by mail by sending the following information to any Division office: full name, complete mailing address, phone number, and hunting license number.

(3)(a) Personal checks, cashier's checks, or money orders are accepted.

(b) Personal checks drawn on an out-of-state account are not accepted.

(4) Checks must be made payable to Utah Division of Wildlife Resources.

R657-6-9. Firearms and Archery Tackle.

(1) A person may not use any weapon or device to take upland game except as provided in this section.

(2)(a) Upland game may be taken with archery equipment, a shotgun no larger than 10 gauge, or a handgun. Loads for shotguns and handguns must be one-half ounce or more of shot size between no. 2 and no. 8, except:

(i) migratory game birds may not be taken with a shotgun capable of holding more than three shells, unless it is plugged with a one-piece filler, incapable of removal without disassembling the gun, so its total capacity does not exceed three shells;

(ii) wild turkey may be taken only with a bow and broadhead tipped arrows or a shotgun no larger than 10 gauge and no smaller than 20 gauge, firing shot sizes between BB and no. 6;

(iii) cottontail rabbit and snowshoe hare may be taken with any firearm not capable of being fired fully automatic;

(iv) a person hunting upland game on a temporary game preserve as defined in Rule R657-5 may not use or possess any

broadheads unless that person possesses a valid big game archery permit for the area being hunted;

(v) only shotguns, firing shot sizes no. 4 or smaller, may be used on temporary game preserves as specified in the Big Game Proclamation; and

(vi) Sandhill Crane may be taken with any size of nontoxic shot.

(b) Crossbows are not legal archery equipment for taking upland game.

(3) A person may not use:

(a) a firearm capable of being fired fully automatic; or

(b) any light enhancement device or aiming device that casts a beam of light.

R657-6-10. Nontoxic Shot.

(1) Only nontoxic shot may be used to take Sandhill Crane.

(2) Except as provided in Subsection (3), nontoxic shot is not required to take any species of upland game, except Sandhill Crane.

(3) A person may not possess or use lead shot or any other shot that has not been approved by the U.S. Fish and Wildlife Service for taking migratory game birds while hunting Sandhill Crane or while on federal refuges or the following state wildlife management areas: Bicknell Bottoms, Blue Lake, Brown's Park, Clear Lake, Desert Lake, Farmington Bay, Harold S. Crane, Howard Slough, Locomotive Springs, Manti Meadows, Mills Meadows, Ogden Bay, Powell Slough, Public Shooting Grounds, Salt Creek, Scott M. Matheson Wetland Preserve, Stewart Lake, and Timpie Springs.

R657-6-11. Use of Firearms and Archery Tackle on State Wildlife Management Areas.

(1) A person may not possess a firearm or archery tackle, except during the specified hunting seasons or as authorized by the Division on the following wildlife management areas: Bear River Bottoms, Bud Phelps, Castle Dale, Huntington, Cedar, Goshen Warm Springs, James Walter Fitzgerald, Logan, Mallard Springs, Manti Meadows, Milford, Montez Creek, Nephi, Pahvant, Redmond Marsh, Richfield, Roosevelt, Scott M. Matheson Wetland Preserve, Vernal, and Willard Bay.

(2) The firearm restrictions set forth in this section do not apply to a person licensed to carry a concealed weapon in accordance with Title 53, Chapter 5, Part 7 of the Utah Code, provided the person is not utilizing the concealed firearm to hunt or take wildlife.

R657-6-12. Use of Firearms and Archery Tackle on State Waterfowl Management Areas.

(1) A person may not possess a firearm or archery tackle, except during the specified waterfowl hunting seasons or as authorized by the Division on the following waterfowl management areas: Bicknell Bottoms, Brown's Park, Clear Lake, Desert Lake, Farmington Bay, Harold S. Crane, Howard Slough, Locomotive Springs, Mills Meadows, Ogden Bay, Powell Slough, Public Shooting Grounds, Salt Creek, Stewart Lake, and Timpie Springs.

(2) During the waterfowl hunting seasons, a shotgun is the only firearm that may be held in possession.

(3) The firearm restrictions set forth in this section do not apply to a person licensed to carry a concealed weapon in accordance with Title 53, Chapter 5, Part 7 of the Utah Code, provided the person is not utilizing the concealed firearm to hunt or take wildlife.

R657-6-13. Shooting Hours.

(1)(a) Except as provided in Subsection (b), shooting hours for upland game are as follows:

(i) Band-tailed Pigeon, Mourning Dove and Sandhill Crane may be taken only between one-half hour before official sunrise through official sunset.

(ii) Sage-grouse, Ruffed Grouse, Blue Grouse, Sharp-tailed Grouse, White-tailed Ptarmigan, Chukar Partridge, Hungarian Partridge, pheasant, quail, wild turkey, cottontail rabbit, and snowshoe hare may be taken only between one-half hour before official sunrise through one-half hour after official sunset.

(b) A person must add to or subtract from the official sunrise and sunset depending on the geographic location of the state. Specific times are provided in a time zone map in the proclamation of the Wildlife Board for taking upland game.

(2) Pheasant and quail may not be taken prior to 8 a.m. on the opening day of the pheasant and quail seasons.

(3) A person may not discharge a firearm on state owned lands adjacent to the Great Salt Lake, state waterfowl management areas or on federal refuges between official sunset through one-half hour before official sunrise.

R657-6-14. State Parks.

(1) Hunting of any wildlife is prohibited within the boundaries of all state park areas, except those areas designated open to hunting by the Division of Parks and Recreation in Rule R651-614-4.

(2) Hunting with rifles and handguns in park areas designated open is prohibited within one mile of all park facilities including buildings, camp or picnic sites, overlooks, golf courses, boat ramps, and developed beaches.

(3) Hunting with shotguns or archery tackle is prohibited within one quarter mile of the above stated areas.

R657-6-15. Falconry.

(1)(a) Falconers must obtain an annual small game or combination license and a valid falconry certificate of registration or license to hunt upland game and must also obtain:

(b) a Band-tailed Pigeon permit before taking Band-tailed Pigeon;

(c) a Sage-grouse permit before taking Sage-grouse;

(d) a Sharp-tailed Grouse permit before taking Sharp-tailed Grouse;

(e) a White-tailed Ptarmigan permit before taking White-tailed Ptarmigan; or

(f) a Sandhill Crane permit before taking Sandhill Crane.

(2) Areas open and bag and possession limits for falconry are provided in the proclamation of the Wildlife Board for taking upland game.

R657-6-16. Live Decoys and Electronic Calls.

A person may not take a wild turkey by the use or aid of live decoys, records or tapes of turkey calls or sounds, or electronically amplified imitations of turkey calls.

R657-6-17. Baiting.

(1) A person may not hunt upland game by the aid of baiting, or on or over any baited area where a person knows or reasonably should know that the area is or has been baited. This section does not prohibit:

(a) the taking of any migratory game bird on or over the following lands or areas that are not otherwise baited areas:

(i) standing crops or flooded standing crops (including aquatics), standing, flooded or manipulated natural vegetation, flooded harvested croplands, or lands or areas where seeds or grains have been scattered solely as the result of a normal agricultural planting, harvesting, post-harvest manipulation or normal soil stabilization practice;

(ii) from a blind or other place of concealment camouflaged with natural vegetation;

(iii) from a blind or other place of concealment camouflaged with vegetation from agricultural crops, as long as such camouflaging does not result in the exposing, depositing, distributing or scattering of grain or other feed; or

(iv) standing or flooded standing agricultural crops where grain is inadvertently scattered solely as a result of a hunter entering or exiting a hunting area, placing decoys or retrieving downed birds.

(b) The taking of any migratory game bird, except waterfowl, coots and cranes, on or over lands or areas that are not otherwise baited areas, and where grain or other feed has been distributed or scattered solely as the result of manipulation of an agricultural crop or other feed on the land where grown or solely as the result of a normal agricultural operation.

R657-6-18. Turkeys.

A person may not take or attempt to take any turkey sitting or roosting in a tree.

R657-6-19. Use of Motorized Vehicles.

Motorized vehicle travel on all state wildlife management areas is restricted to county roads and improved roads that are posted open.

R657-6-20. Possession of Live Protected Wildlife.

A person may not possess live, protected wildlife. Protected wildlife that is wounded must be immediately killed and shall be included in the hunter's bag limit.

R657-6-21. Tagging Requirements.

(1) The carcass of a Sandhill Crane, Sharp-tailed Grouse, or turkey must be tagged in accordance with Section 23-20-30.

(2) A person may not hunt or pursue Sandhill Crane, Sharp-tailed Grouse or turkey after any of the notches have been removed from the tag or the tag has been detached from the permit.

R657-6-22. Identification of Species and Sex.

(1) One fully feathered wing must remain attached to each upland game bird and migratory game bird taken, except wild turkey, while it is being transported to allow species identification.

(2) The head must remain attached to the carcass of wild turkey while being transported to permit species and sex identification.

R657-6-23. Waste of Upland Game.

A person shall not kill or cripple any upland game without making a reasonable effort to retrieve the animal.

R657-6-24. Utah Pheasant Project.

(1) Boy Scouts, Girl Scouts, or youth enrolled in 4-H or FFA may collect and rear pheasants from eggs in nests destroyed by normal hay mowing operations. The 4-H club leader, FFA adviser or Scout Master shall first apply for and obtain a certificate of registration for this activity.

(2) Landowners or operators of mowing equipment may collect the eggs and possess them for no more than 24 hours for pick up by a person with a certificate of registration.

(3) Pheasants must be released by 16 weeks of age.

(4) These pheasants remain the property of the state of Utah.

R657-6-25. Use of Dogs.

(1) Dogs may be used to locate and retrieve upland game during open hunting seasons.

(2) Dogs are not allowed on state wildlife management or waterfowl management areas, except during open hunting seasons or as posted by the Division.

(3) State wildlife management and waterfowl management areas are listed under Sections R657-6-11 and R657-6-12.

R657-6-26. Closed Areas.

A person may not hunt upland game in any area posted closed by the Division or any of the following areas:

(1) Salt Lake Airport boundaries as posted.

(2) Incorporated municipalities: Most of the incorporated areas of Alta, Garland City, Layton, Logan, Pleasant View City, West Jordan, and West Valley City are closed to the discharge of firearms. Check with the respective city officials for specific boundaries. Other municipalities may have additional firearm restrictions.

(3) Wildlife Management Areas:

(a) Waterfowl management areas are open for hunting upland game only during designated waterfowl hunting seasons, including: Bear River National Wildlife Refuge, Bicknell Bottoms, Blue Lake, Brown's Park, Clear Lake, Desert Lake, Farmington Bay, Harold S. Crane, Howard Slough, Locomotive Springs, Mills Meadows, Ogden Bay, Ouray National Wildlife Refuge, Powell Slough, Public Shooting Grounds, Salt Creek, Stewart Lake, and Timpie Springs.

(b) Fish Springs National Wildlife Refuge is closed to upland game hunting.

(c) Goshen Warm Springs is closed to upland game hunting.

(4) Military installations, including Camp Williams, are closed to hunting and trespassing unless otherwise authorized.

R657-6-27. Live Decoys and Electronic Calls.

A person may not take migratory game birds by the use or aid of live decoys, records or tapes of migratory bird calls or sounds, or electronically amplified imitations of bird calls.

R657-6-28. Baiting Migratory Game Birds.

Migratory game birds may not be taken by the aid of baiting, or on or over any baited area. However, nothing in this paragraph shall prohibit:

(1) the taking of Sandhill Crane, Mourning Dove, and Band-tailed Pigeon on or over standing crops, flooded standing crops (including aquatics), flooded harvested croplands, grain crops properly shucked on the field where grown, or grains found scattered solely as the result of normal agricultural planting or harvesting; or

(2) the taking of Band-tailed Pigeon, Mourning Dove, and Sandhill Crane on or over any lands where feed has been distributed or scattered solely as the result of bona fide agricultural operations or procedures, or as a result of manipulation of a crop or other feed on the land where grown for wildlife management purposes.

R657-6-29. Transporting Another Person's Birds.

(1) No person may receive, transport, or have in custody any migratory game birds belonging to another person unless such birds

have a tag attached that states the total number and species of birds, the date such birds were killed, and the address, signature, and license number of the hunter.

(2) No person shall import migratory game birds belonging to another person.

R657-6-30. Gift of Migratory Game Birds.

No person may receive, possess, or give to another, any freshly killed migratory game birds as a gift, except at the personal abodes of the donor or donee, unless such birds have a tag attached, signed by the hunter who took the birds, stating such hunters address, the total number and species of birds and the date such birds were taken.

R657-6-31. Shipping or Exporting.

(1) No person may transport upland game by the Postal Service or a common unless the package or container has the name and address of the shipper and the consignee and an accurate statement of the numbers of each species of birds contained therein clearly and conspicuously marked on the outside of the container.

(2) A shipping permit issued by the Division must accompany each package containing upland game within or from the state.

(3) A person may export upland game or their parts from Utah only if:

(a) the person who harvested the upland game accompanies it and possess a valid license or permit corresponding to the tag, if applicable; or

(b) the person exporting the upland game or its parts, if it is not the person who harvested the upland game, has obtained a shipping permit from the Division.

R657-6-32. Importation Limits.

No person shall import during any one calendar week beginning on Sunday more than 25 doves, singularly or in the aggregate, or ten Band-tailed Pigeons from any foreign country, except Mexico. Importation of doves and Band-tailed Pigeons from Mexico may not exceed the maximum number permitted by Mexican authorities to be taken in any one day.

R657-6-33. Transfer of Possession.

(1) A person may not put or leave any migratory game bird at any place other than at his personal abode or in the custody of another person for picking, cleaning, processing, shipping, transporting, or storing, including temporary storage, or for the purpose of having taxidermy services performed unless there is attached to the birds a disposal receipt, donation receipt, or transportation slip signed by the hunter stating his address, the total number and species of birds, and the date such birds were killed.

(2) A migratory bird preservation facility may not receive or have in custody any migratory game bird without the documents required in Subsection (1).

R657-6-34. Spotlighting.

(1) Except as provided in Section 23-13-17:

(a) a person may not use or cast the rays of any spotlight, headlight or other artificial light to locate protected wildlife while having in possession a firearm or other weapon or device that could be used to take or injure protected wildlife; and

(b) the use of a spotlight or other artificial light in a field, woodland or forest where protected wildlife are generally found is prima facie evidence of attempting to locate protected wildlife.

(2) The provisions of this section do not apply to:

(a) the use of the headlights of a motor vehicle or other artificial light in a usual manner where there is no attempt or intent to locate protected wildlife; or

(b) a person licensed to carry a concealed weapon in accordance with Title 53, Chapter 5, Part 7 of the Utah Code, provided the person is not utilizing the concealed firearm to hunt or take wildlife.

R657-6-35. Wild Turkey Poaching Reported Reward Permits.

(1) Any person who provides information leading to another person's arrest and successful prosecution for wanton destruction of a wild turkey under Section 23-20-4, within any limited entry area may receive a permit from the Division to hunt wild turkey in the following year on the same limited entry area where the violation occurred, except as provided in Subsection (2).

(2)(a) In the event that issuance of a Poaching-Reported Reward Permit would exceed 5 percent of the total number of limited entry permits issued in the following year for the respective area, a permit shall not be issued for that respective area. As an alternative, the Division may issue a permit as outlined in Subsection (b).

(b) A permit for a wild turkey, on an alternative limited entry area that has been allocated more than 20 permits, may be issued.

(3)(a) The Division may issue only one Poaching-Reported Reward Permit for any one wild turkey illegally taken.

(b) No more than one Poaching-Reported Reward Permit shall be issued to any one person per successful prosecution.

(c) No more than one Poaching-Reported Reward Permit shall be issued to any one person in any one calendar year.

(4)(a) Poaching-Reported Reward permits may only be issued to the person who provides the most pertinent information leading to a successful prosecution. Permits are not transferrable.

(b) If information is received from more than one person, the director of the Division shall make a determination based on the facts of the case, as to which person provided the most pertinent information leading to the successful prosecution in the case.

(c) The person providing the most pertinent information shall qualify for the Poaching-Reported Reward Permit.

(5) Any person who receives a Poaching-Reported Reward Permit must be eligible to hunt and obtain wild turkey permits as provided in all rules and regulations of the Wildlife Board and the Wildlife Resources Code.

(6) For purposes of this section, "successful prosecution" means the screening, filing of charges and subsequent adjudication for the poaching incident.

R657-6-36. Invalid Permits.

(1) A license or permit received by a person shall be deemed invalid if payment for that license or permit is not received, or a check is returned unpaid from the bank, or the credit card is invalid or refused.

(2) Hunting with a permit where payment has not been received for that permit constitutes a violation of hunting without a valid permit.

R657-6-37. Season Dates, Bag and Possession Limits, and Areas Open.

(1) Season dates, bag and possession limits, areas open, and number of permits for taking upland game are provided in the proclamation of the Wildlife Board for taking upland game.

(2) Season dates, bag and possession limits, areas open, and number of permits for taking wild turkey are provided in the Turkey Addendum of the proclamation of the Wildlife Board for taking upland game.

R657-6-38. Youth Hunting.

(1)(a) Up to 15 percent of the limited entry permits authorized for taking Merriam's and Rio Grande turkeys are available to youth hunters.

(b) For purposes of this section "youth" means any person 12 to 18 years of age on the posting date of the wild turkey drawing.

(2) Youth hunters who wish to participate in the youth limited entry wild turkey permit drawing must submit an application in accordance with Section R657-6-6.

(3)(a) Bonus points shall be used when applying for youth turkey permits in accordance with Section R657-6-6.

(b) Waiting periods will be incurred in accordance with Section R657-6-6.

KEY: wildlife, birds, rabbits, game laws

~~August 5,~~2002

Notice of Continuation June 16, 2002

23-14-18

23-14-19



Natural Resources, Wildlife Resources
R657-12

Authorization to Hunt From a Vehicle
and Fishing License for the Disabled

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 25356

FILED: 09/20/2002, 07:55

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended pursuant to Regional Advisory Council and Wildlife Board meetings conducted for taking public input and reviewing the division's program for hunting and fishing accommodations for disabled people.

SUMMARY OF THE RULE OR CHANGE: Provisions are being added to this rule to provide more accommodations or opportunity for disabled people to obtain a certificate of registration to: a) participate in companion hunting for deer and elk; b) receive a limited entry season extension for any limited entry hunt; or c) use a crossbow to hunt big game, cougar, bear, turkey, waterfowl, or small game during the respective archery or any weapon hunting seasons. Clarification is being made to the definition of "lower extremity," and being changed to "loss of either or both lower extremities." "Quadriplegic" is being defined as a person who has a permanent physical impairment due to injury or disease, congenital or acquired,

which renders the person so severely disabled as to be physically unable to utilize a legal weapon. Other changes are being made for consistency and clarity.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 23-14-18, 23-19-1, 23-19-36, 23-20-12, and 63-46a-3

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: This amendment allows more accommodations or opportunity for disabled people to participate in hunting and fishing, and makes clarification. The Division of Wildlife Resources (DWR) has determined that this amendment does not create a cost or savings impact to the division's budget or the state budget.

❖ LOCAL GOVERNMENTS: None--This filing does not create any direct cost or savings impact to local governments because they are not directly affected by the amendment. Nor are local governments indirectly impacted because the amendment does not create a situation requiring services from local governments.

❖ OTHER PERSONS: This amendment allows more accommodations or opportunity for disabled people to participate in hunting and fishing, and makes clarification. The amendment does not impose any additional requirements on other persons, nor generate a cost or savings impact to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--This amendment allows more accommodations or opportunity for disabled people to participate in hunting and fishing, and makes clarification. There are not any additional compliance costs associated with this amendment.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The amendments to this rule do not create an impact on businesses.

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

NATURAL RESOURCES
WILDLIFE RESOURCES
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Debbie Sundell at the above address, by phone at 801-538-4707, by FAX at 801-538-4745, or by Internet E-mail at debbiesundell@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 11/14/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 11/15/2002

AUTHORIZED BY: Kevin Conway, Director

R657. Natural Resources, Wildlife Resources.**R657-12. [~~Authorization to Hunt from a Vehicle~~] Hunting and Fishing License Accommodations for the Disabled People.****R657-12-1. Purpose and Authority.**

Under authority of ~~Section~~ Sections 23-14-18, 23-19-1, 23-19-36, 23-20-12 and Subsection 63-46a-3, this rule provides the standards and procedures for a disabled person to:

- (1) ~~obtaining~~ obtain a certificate of registration for taking wildlife from a vehicle; ~~and~~
- (2) ~~obtaining~~ obtain a fishing license as authorized under Section 23-19-36(1)~~[-]~~;
- (3) obtain a certificate of registration to participate in companion hunting;
- (4) obtain a certificate of registration to receive a limited entry season extension; or
- (5) obtain a certificate of registration to hunt with a crossbow.

R657-12-2. Definitions.

- (1) Terms used in this rule are defined in Section 23-13-2.
- (2) In addition:
 - (a) "Blind" means the person:
 - (i) has no more than 20/200 visual acuity in the better eye when corrected; or
 - (ii) has, in the case of better than 20/200 central vision, a restriction of the field of vision in the better eye which subtends an angle of the field of vision no greater than 20 degrees.
 - (b) "Crutch" means any mobility aid or assistive technology device, including a cane, crutch, walker, long or short braces, or other prosthetic or orthotic device which aids in mobility.
 - (c) ~~"Lower extremity" means the~~ "Loss of either or both lower extremities" means the permanent loss of use or the physical loss of one or both legs or a part of either or both legs which materially impedes a person's mobility.
 - (d) "Quadriplegic" means a person who has a permanent physical impairment due to injury or disease, congenital or acquired, which renders the person so severely disabled as to be physically unable to utilize a legal weapon.

R657-12-3. Providing ~~Proof~~ Evidence of Disability for Obtaining a Fishing License.

- (1) A ~~person~~ resident may receive a free fishing license under Section 23-19-36(1) by providing ~~proof~~ evidence the person is blind, paraplegic, or otherwise permanently disabled so as to be permanently confined to a wheelchair or the use of crutches, or who has lost either or both lower extremities.
- (2) A person may ~~purchase~~ obtain this license at any division office.
- (3) The division shall accept the following as ~~proof~~ evidence of disability:
 - (a) obvious physical impediment;
 - (b) use of any mobility device described in Section R657-12-2(b);
 - (c) a signed statement by a licensed ophthalmologist, optometrist, or a physician verifying the person is blind as defined under Section R657-12-2(a); or
 - (d) a signed statement by a licensed physician verifying the person is paraplegic, or otherwise permanently disabled so as to be permanently confined to a wheelchair or the use of crutches, or has lost either or both lower extremities.

R657-12-4. Obtaining Authorization to Hunt from a Vehicle.

(1) A person ~~may receive a certificate of registration to take wildlife from a vehicle~~ who is paraplegic, or otherwise permanently disabled so as to be permanently confined to a wheelchair or the use of crutches, or who has lost either or both lower extremities, and who possesses a valid license or permit to hunt protected wildlife may receive a certificate of registration to take protected wildlife from a vehicle pursuant to Section 23-20-12.

(2)(a) Applicants for the certificate of registration must appear in person at a division office and provide ~~proof~~ evidence of disability as provided in Subsections R657-12-3(3)(a), (b), or (d).

(b) Certificates of registration may be renewed annually.

(3) Wildlife may be taken from a vehicle under the following conditions:

(a) Only those persons with a valid hunting license or permit and a certificate of registration ~~in possession~~ allowing them to hunt from a vehicle may discharge a firearm or bow from, within, or upon any motorized terrestrial vehicle;

(b) Shooting from a vehicle on or across any established roadway is prohibited;

(c)(i) Firearms must be carried in an unloaded condition, and a round may not be placed in the firearm until the act of firing begins, except as authorized in Title 53, Chapter 5, Part 7 of the Utah Code; and

(ii) Arrows must remain in the quiver until the act of shooting begins; and

(d) Certificate of registration holders must be accompanied by, and hunt with, a ~~licensed hunter~~ person who is physically capable of assisting the certificate of registration holder in recovering wildlife.

(4) Certificate holders must comply with all other laws and rules pertaining to hunting wildlife, including state, federal, and local laws regulating or restricting the use of motorized vehicles.

R657-12-5. Companion Hunting.

(1) A person may take a deer or elk for a person who is blind or quadriplegic provided the blind or quadriplegic person:

(a) satisfies hunter education requirements as provided in Section 23-19-11 and Rule R657-23;

(b) possesses the appropriate permit and tag;

(c) obtains a Certificate of Registration from the division authorizing the companion to take a deer or elk for the blind or quadriplegic person; and

(d) is accompanied by a companion who has satisfied the hunter education requirements provided in Section 23-19-11 and Rule R657-23.

(2) A person who is blind may obtain a Certificate of Registration from the Division by submitting a signed statement by a licensed ophthalmologist, optometrist or physician verifying that the applicant is blind as defined in Section R657-12-2(a).

(3)(a) A person who is quadriplegic may obtain a Certificate of Registration from the division upon submitting evidence of the disability.

(b) The division shall accept the following as evidence of an applicant's disability:

(i) obvious physical disability demonstrating the applicant is quadriplegic as defined in Section R657-12-2(2)(d); or

(ii) a signed statement by a licensed physician verifying that the applicant is quadriplegic as defined in Section R657-12-2(2)(d).

(4) The blind or quadriplegic person must be accompanied by the companion at all times while hunting, at the time of take, and while transporting the deer or elk.

R657-12-6. Special Season Extension for Disabled Persons

(1) A person may obtain a Certificate of Registration from a division office requesting an extension of 30 days for any limited entry hunt, provided the person requesting the extension:

(a) is blind, quadriplegic, paraplegic, or otherwise permanently disabled so as to be permanently confined to a wheelchair or the use of crutches, or who has lost either or both lower extremities;

(b) satisfies the hunter education requirements as provided in Section 23-19-11 and Rule R657-23; and

(c) obtains the appropriate license, permit, and tag.

(2) The division shall not issue a Certificate of Registration for a 30-day extension on any limited entry hunt where the extension will violate federal law.

R657-12-7. Crossbows.

(1)(a) A person who has a permanent physical impairment due to injury or disease, congenital or acquired, which renders the person so severely disabled as to be unable to use conventional archery equipment may receive a certificate of registration to use a crossbow to hunt big game, cougar, bear, turkey, waterfowl or small game during the respective archery or any weapon hunting seasons as provided in the applicable proclamations of the Wildlife Board for taking protected wildlife.

(b) The division shall accept the following as evidence of eligibility to use a crossbow:

(i) obvious physical disability, as provided in Subsection (1)(a), demonstrating the applicant is eligible to use a crossbow; or

(ii) provides a physician's statement confirming the disability as defined in Subsection (1)(a).

(2)(a) Any crossbow used to hunt big game, cougar, bear, turkey, waterfowl or small game must have:

(i) a stock that is at least 18 inches long;

(ii) a minimum draw weight of 125 pounds for big game, bear and cougar, or 60 pounds for turkey, waterfowl and small game;

(iii) a draw length that is at least 18 inches from the front of the crossbow to the back of the string in a cocked position; and

(iv) a positive safety mechanism.

(b) Arrows or bolts used must be:

(i) at least 18 inches long; and

(ii) must have a broadhead with two or more sharp cutting edges that cannot pass through a 7/8 inch ring for big game, cougar, bear or turkey.

(3) The following equipment or devices may not be used:

(a) arrows with chemically treated or explosive arrowheads; or

(b) a bow with an attached electronic range finding device or a magnifying aiming device.

(4) Arrows or bolts carried in or on a vehicle where a person is riding must be in an arrow quiver or a closed case.

(5) A cocked crossbow may not be carried in or on a vehicle.

KEY: wildlife, wildlife law, disabled persons[*]

[March 5, 2002

Notice of Continuation September 26, 1997

23-20-12

63-46a-3



Natural Resources, Wildlife Resources

R657-13

Taking Fish and Crayfish

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 25360

FILED: 09/20/2002, 07:58

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended pursuant to Wildlife Board meetings conducted annually for taking public input and reviewing the Division of Wildlife Resources' (DWR) fish and crayfish management program.

SUMMARY OF THE RULE OR CHANGE: Section R657-13-3 is being amended pursuant to the 2002 Utah Legislature, H.B. 81 and Section 23-19-18, which will allow a person under 14 years of age to fish without a license and take a full bag and possession limit. Section R657-13-21 is being amended to allow both residents and nonresidents to purchase one-day fishing stamps to extend a one-day or seven-day fishing license. Other changes are being made for consistency. (DAR NOTE: H.B. 81 is found at UT L 2002 Ch 215, and was effective May 6, 2002.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 23-14-18 and 23-14-19

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: This amendment clarifies existing requirements, therefore, DWR determines that this amendment will not create any cost or savings impact to the state budget or DWR's budget.

❖ LOCAL GOVERNMENTS: None--This filing does not create any direct cost or savings impact to local governments because they are not directly affected by the amendment. Nor are local governments indirectly impacted because the amendment does not create a situation requiring services from local governments.

❖ OTHER PERSONS: The amendments are for clarification, therefore, the amendments do not impose any additional requirements on other persons, nor generate a cost or savings impact to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The amendments are for clarification. DWR determines that there are no additional compliance costs associated with this amendment.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The amendments to this rule do not create an impact on businesses.

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

NATURAL RESOURCES
WILDLIFE RESOURCES
1594 W NORTH TEMPLE

SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Debbie Sundell at the above address, by phone at 801-538-4707, by FAX at 801-538-4745, or by Internet E-mail at debbiesundell@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 11/14/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 11/15/2002

AUTHORIZED BY: Kevin Conway, Director

R657. Natural Resources, Wildlife Resources.

R657-13. Taking Fish and Crayfish.

R657-13-1. Purpose and Authority.

(1) Under authority of Sections 23-14-18 and 23-14-19 of the Utah Code, the Wildlife Board has established this rule for taking fish and crayfish.

(2) Specific dates, areas, methods of take, requirements and other administrative details which may change annually and are pertinent are published in the proclamation of the Wildlife Board for taking fish and crayfish.

R657-13-2. Definitions.

(1) Terms used in this rule are defined in Section 23-13-2.

(2) In addition:

(a) "Aggregate" means the combined total of two or more species of fish or two or more size classes of fish which are covered by a limit distinction.

(b) "Angling" means fishing with a rod, pole, tipup, handline, or trollboard that has a single line with legal hooks, baits, or lures attached to it, and is held in the hands of, or within sight (not to exceed 100 feet) of, the person fishing.

(c)(i) "Artificial fly" means a fly made by the method known as fly tying.

(ii) "Artificial fly" does not mean a weighted jig, lure, spinner, attractor blade, or bait.

(c) "Artificial lure" means a device made of rubber, wood, metal, glass, fiber, feathers, hair, or plastic with a hook or hooks attached. Artificial lures, including artificial flies, do not include fish eggs or other chemically treated or processed natural baits or any natural or human-made food, or any lures that have been treated with a natural or artificial fish attractant or feeding stimulant.

(d) "Bag limit" means the maximum limit, in number or amount, of protected wildlife that one person may legally take during one day.

(e) "Bait" means a digestible substance, including worms, cheese, salmon eggs, marshmallows, or manufactured baits including human-made items that are chemically treated with food stuffs, chemical fish attractants or feeding stimulants.

(f) "Chumming" means dislodging or depositing in the water any substance not attached to a hook, line, or trap, which may attract fish.

(g) "Fishing contest" means any organized event or gathering where anglers are awarded prizes, points or money for their catch.

(h) "Float tube" means an inflatable floating device less than 48 inches in any dimension, capable of supporting one person.

(i) "Gaff" means a spear or hook, with or without a handle, used for holding or lifting fish.

(j) "Game fish" means Bonneville cisco; bluegill; bullhead; channel catfish; crappie; green sunfish; largemouth bass; northern pike; Sacramento perch; smallmouth bass; striped bass, trout (rainbow, albino, cutthroat, brown, golden, brook, lake/mackinaw, kokanee salmon, and grayling or any hybrid of the foregoing); tiger muskellunge; walleye; white bass; whitefish; wiper; and yellow perch.

(k) "Handline" means a piece of line held in the hand and not attached to a pole used for taking fish or crayfish.

(l) "Immediately Released" means that the fish should be quickly unhooked and released back into the water where caught. Fish that must be immediately released cannot be held on a stringer, or in a live well or any other container or restraining device.

(m) "Lake" means the standing water level existing at any time within a lake basin. Unless posted otherwise, a stream flowing inside or within the high water mark is not considered part of the lake.

(n) "Length measurement" means the greatest length between the tip of the head or snout and the tip of the caudal (tail) fin when the fin rays are squeezed together. Measurement is taken in a straight line and not over the curve of the body.

(o) "Motor" means an electric or internal combustion engine.

(p) "Nongame fish" means species of fish not listed as game fish.

(q) "Possession limit" means, for purposes of this rule only, one bag limit, including fish at home, in a cooler, camper, tent, freezer, or any other place of storage.

(r) "Protected aquatic wildlife" means, for purposes of this rule only, all species of fish, crustaceans, or amphibians.

(s) "Reservoir" means the standing water level existing at any time within a reservoir basin. Unless posted otherwise, a stream flowing inside or within the high water mark is not considered part of the reservoir.

(t) "Second pole" means fishing with one additional rod, pole, tipup, handline, or trollboard that has a single line with legal hooks, bait, or lures attached to it and is held in the hands of, or within sight of the person fishing.

(u) "Setline" means a line anchored to a non-moving object and not attached to a fishing pole.

(v) "Single hook" means a hook or multiple hooks having a common shank.

(w) "Snagging" or "gaffing" means to take a fish in a manner that the fish does not take the hook voluntarily into its mouth.

(x) "Tributary" means a stream flowing into a larger stream, lake, or reservoir.

(y)(i) "Trout" means species of the family Salmonidae, including rainbow, albino, cutthroat, brown, golden, brook, tiger, lake (mackinaw), splake, kokanee salmon, and grayling or any hybrid of the foregoing.

(ii) "Trout" does not include whitefish or Bonneville cisco.

(z) "Underwater Spearfishing" means, fishing by a person swimming or diving and using a mechanical device held in the hand which uses a rubberband, spring, or pneumatic power to propel a spear to take fish.

R657-13-3. Fishing License Requirements and Free Fishing Day.

(1) A license is not required on free fishing day, the second Saturday of June, annually. All other laws and rules apply.

(2) A person 14 years of age or older shall purchase a fishing license before engaging in any regulated fishing activity pursuant to Section 23-19-18.

(3) A person under 14 years of age may fish without a license and take a full bag and possession limit.

R657-13-4. Fishing Contests.

(1)(a) A certificate of registration from the division is required for fishing contests:

- (i) with 50 or more contestants; or
- (ii) any fishing contest offering \$500 or more in prizes.

(b)(i) Application for certificates of registration are available from division offices and must be submitted at least 60 days prior to the date of the fishing contest.

(ii) The division may take public comment before issuing a certificate of registration if, in the opinion of the division, the proposed fishing contest has potential impacts to the public or substantially impacts a public fishery.

(c) A certificate of registration may cover more than one fishing contest.

(d) The division may deny issuing a certificate of registration or impose stipulations or conditions on the issuance of the certificate of registration in order to achieve a management objective, to adequately protect a fishery or to offset impacts on a fishery or heavy uses of other public resources.

(e) A report must be filed with the division within 30 days after the fishing contest is held. The information required shall be listed on the certificate of registration.

(f)(i) Only one fishing contest may be held on a given water at any time. Each fishing contest is restricted to being held on only one water at a time.

(ii) Fishing contests may not be held on a holiday weekend, state or federal holiday, or free fishing day, except as provided in Subsection (g).

(g) A fishing contest may be held on free fishing day and a certificate of registration is not required if:

(i) contestants are limited to persons 13 years of age or younger; and

(ii) less than \$500 are offered in prizes.

(2) Fishing contests conducted for cold water species of fish such as trout and salmon may not be conducted:

(a) if the fishing contest offers \$500 or more in total prizes, except on Flaming Gorge Reservoir there is no limit to the amount that may be offered in prizes;

(b) those waters where the Wildlife Board has imposed special harvest rules as provided in the annual proclamation of the Wildlife Board for taking fish and crayfish.

(3) Contests for warm water species of fish shall be conducted as follows:

(a) all contests as provided in Subsection (1)(a) must be:

(i) authorized by the division through the issuance of a certificate of registration; and

(ii) carried out consistent with any requirements imposed by the division;

(b) Fish brought in to be weighed or measured may not be released within 1/2 mile of a marina, boat ramp, or other weigh-in

site and must be released back into suitable habitat for that species; and

(c) If tournament rules allow larger or smaller fish to be entered in the contest than the size allowed for possession under the proclamation of the Wildlife Board for taking fish and crayfish, the fish must be weighed or measured immediately and released where they were caught.

R657-13-5. Interstate Waters.

(1) Lake Powell and Flaming Gorge Reservoir:

(a) The purchase of a reciprocal fishing stamp allows a person to fish across state boundaries of interstate waters.

(b) Reciprocal fishing stamps are offered for Lake Powell and Flaming Gorge Reservoir.

(c) Any person qualifying as an Arizona resident and having in their possession a valid Arizona resident fishing license and a Utah reciprocal fishing stamp for Lake Powell, is permitted to fish within the Utah boundaries of Lake Powell.

(d) Any person possessing a valid Wyoming fishing license and a Utah reciprocal fishing stamp for Flaming Gorge is permitted to fish within the Utah waters of Flaming Gorge Reservoir.

(e) Utah residents may obtain reciprocal fishing stamps by contacting the state of Arizona for Lake Powell, and the state of Wyoming for Flaming Gorge.

(f) Nonresidents may obtain reciprocal fishing stamps from division offices and selected license agents.

(g) The reciprocal fishing stamp must be:

(i) used in conjunction with a valid unexpired fishing or combination license from a reciprocating state;

(ii) signed across the face by the holder as the holder's name appears on the valid unexpired fishing or combination license from the reciprocating state; and

(iii) attached to the fishing or combination license from the reciprocating state.

(h) Reciprocal fishing stamps are valid on a calendar year basis.

(i) Anglers are subject to the laws and rules of the state in which they are fishing.

(j) Only one bag limit may be taken and held in possession even if licensed in both states.

(2) Bear Lake

(a) The holder of a valid Utah or Idaho fishing or combination license may fish within both the Utah and Idaho boundaries of Bear Lake.

(b) Only one bag limit may be taken and held in possession even if licensed in both states.

R657-13-6. Angling.

(1) While angling, the angler shall be within sight (not to exceed 100 feet) of the equipment being used at all times, except setlines.

(2) Angling with more than one line is unlawful, except while fishing for crayfish without the use of fish hooks and on selected waters with a valid second pole permit. A second pole permit is not required when fishing for crayfish with lines without hooks.

(3) No artificial lure may have more than three hooks.

(4) A person may not use or possess hooks, single or multipoint, larger than 9/16 inches at the shortest point, between the shank and the point on specific waters as specified in the proclamation of the Wildlife Board for taking fish and crayfish.

(5) No line may have attached to it more than two baited hooks, two artificial flies, or two artificial lures, except for a setline or while fishing at Flaming Gorge Reservoir.

(6) When angling through the ice, the hole may not exceed 12 inches across at the widest point, except at Bear Lake, Flaming Gorge Reservoir, and Fish Lake where specific limitations apply.

R657-13-7. Fishing With a Second Pole.

(1) A person may use a second pole to take fish only in the:

(a) Bear River from the Idaho state line downstream, including Cutler Reservoir and the outlet canals;

(b) Little Bear River below Valley View highway (SR-130);

(c) Malad River;

(d) Newton Reservoir;

(e) Hyrum Reservoir;

(f) Willard Bay Reservoir;

(g) Pine View Reservoir;

(h) Flaming Gorge Reservoir;

(i) Pelican Lake;

(j) Starvation Reservoir;

(k) Utah Lake;

(l) Yuba Reservoir;

(m) D.M.A.D.;

(n) Gunnison Bend;

(o) Lake Powell; and

(p) Gunlock Reservoir.

(2)(a) A second pole permit may be obtained at license agents and any division office.

(b) A second pole permit is required in addition to a valid Utah one day, seven day or season fishing license, or combination license.

(c) A second pole permit is an annual permit, but may only be used in conjunction with an unexpired Utah one day, seven day or season fishing or combination license.

(3) Anglers under 14 years of age must purchase a valid fishing or combination license and second pole permit in order to use a second pole.

(4) A second pole permit shall only be used by the person to whom the second pole permit was issued.

R657-13-8. Setline Fishing.

(1) A person may use a setline to take fish only in the Bear River proper downstream from the Idaho state line, including Cutler Reservoir and outlet canals; Little Bear River below Valley View Highway (SR-30); Malad River; and Utah Lake.

(2)(a) Angling with one pole is permitted while setline fishing, except as provided in Subsection (b).

(b) A person who obtains a second pole permit may fish with two poles while setline fishing.

(3) No more than one setline per angler may be used and it may not contain more than 15 hooks.

(4)(a) A setline permit may be obtained at any division office.

(b) A setline permit is required in addition to a valid Utah one day, seven day or season fishing or combination license.

(c) A setline permit is an annual permit, but may only be used in conjunction with an unexpired Utah one day, seven day or season fishing or combination license.

(5) When fishing with a setline, the angler shall be within 100 yards of the surface or bank of the water being fished.

(6) A setline shall have one end attached to a nonmoving object, not attached to a fishing pole, and shall have attached a

legible tag with the name, address, and setline permit number of the angler.

(7) Anglers under 14 years of age must purchase a valid Utah one day, seven day or season fishing or combination license and setline permit in order to use a setline.

R657-13-9. Underwater Spearfishing.

(1) Underwater spearfishing is permitted from official sunrise to official sunset.

(2) Use of artificial light is unlawful while underwater spearfishing.

(3) Causey Reservoir, Deer Creek Reservoir, Fish Lake, Flaming Gorge Reservoir, Joe's Valley Reservoir, Ken's Lake, Lost Creek, Red Fleet Reservoir, Steinaker Reservoir, Starvation Reservoir, and Willard Bay Reservoir are open to taking game fish by means of underwater spearfishing from June 1 through September 30. These are the only waters open to underwater spearfishing for game fish.

(4) The bag and possession limit is two game fish. No more than one fish greater than 20 inches may be taken, except at Flaming Gorge Reservoir only one lake trout (mackinaw) greater than 28 inches may be taken.

(5) Nongame fish may be taken by underwater spearfishing only in the waters listed in Subsection (3) above and as provided in Section R657-13-14.

R657-13-10. Dipnetting.

(1) Hand-held dipnets may be used to take Bonneville cisco only at Bear Lake.

(2) The opening of the dipnet may not exceed 18 inches.

(3) When dipnetting through the ice, the size of the hole is unrestricted.

R657-13-11. Restrictions on Taking Fish and Crayfish.

(1) Artificial light is permitted, except when underwater spearfishing.

(2) A person may not obstruct a waterway, use a chemical, explosive, electricity, poison, crossbow, firearm, pellet gun, or archery equipment, except as provided in Subsection R657-13-14(1)(c) to take fish or crayfish.

(3) A person may not take protected aquatic wildlife by snagging or gaffing; however, a gaff may be used to land fish caught by lawful means, except at Flaming Gorge Reservoir and Fish Lake.

(4) Chumming is prohibited, on all waters except Lake Powell where dead anchovies only may be used for taking striped bass.

(5) The use of a float tube or a boat, with or without a motor, for fishing is unlawful on some waters. Boaters should be aware that other agencies may have additional restrictions on the use of float tubes, boats, or boats with motors on some waters.

(6) Nongame fish and crayfish may be taken only as provided in Sections R657-13-14 and R657-13-15.

R657-13-12. Bait.

(1)(a) Fishing is permitted with any bait, except corn, hominy, or live fish.

(b) Possession or use of corn or hominy while fishing is unlawful.

(2) Use or possession of any bait while fishing on waters designated artificial fly and lure only is unlawful.

(3) Game fish or their parts may not be used, except for the following:

(a) Dead Bonneville cisco may be used as bait only in Bear Lake.

(b) Dead yellow perch may be used as bait only in: Deer Creek, Echo, Fish Lake, Gunnison, Hyrum, Johnson, Jordanelle, Newton, Pineview, Rockport, Sevier Bridge (Yuba), Utah Lake and Willard Bay reservoirs.

(c) Dead white bass may be used as bait only in Utah Lake.

(d) The eggs of any species of fish, except prohibited fish, may be used. However, eggs may not be taken or used from fish that are being released.

(4) Use of live crayfish for bait is legal only on the water where the crayfish is captured. It is unlawful to transport live crayfish away from the water where captured.

(5) Manufactured, human-made items that may not be digestible, that are chemically treated with food stuffs, chemical fish attractants, or feeding stimulants may not be used on waters where bait is prohibited.

R657-13-13. Prohibited Fish.

(1) The following species of fish are classified as prohibited and may not be taken or held in possession:

- (a) Bonytail ~~chub~~ (*Gila elegans*);
- (b) Bluehead sucker (*Catostomus discobolus*);
- (c) Colorado pikeminnow (*Ptychocheilus lucius*);
- (d) Flannelmouth sucker (*Catostomus latipinnis*);
- (e) Gizzard shad (*Dorosoma cepedianum*);
- (f) Grass carp (*Ctenopharyngodon idella*);
- (g) Humpback chub (*Gila cypha*);
- (h) June sucker (*Chasmistes liorus*);
- (i) Least chub (*Iotichthys phlegethontis*);
- (j) Leatherside chub (*Gila copei*);
- (k) Razorback sucker (*Xyrauchen texanus*);
- (l) Roundtail chub (*Gila robusta*);
- (m) Virgin River chub (*Gila robusta seminuda*);
- (n) Virgin spinedace (*Lepidomeda mollispinis*); and
- (o) Woundfin (*Plagopterus argentissimus*).

(2) Any of these species taken while attempting to take other legal species shall be immediately released.

R657-13-14. Taking Nongame Fish.

(1)(a) Except as provided in Subsections (b) and (c), a person possessing a valid Utah fishing or combination license may take nongame fish for personal, noncommercial purposes during the open fishing season set for the given body of water.

(b) A person may not take any species of fish designated as prohibited in Section R657-13-13.

(c) Nongame fish may not be taken in the following waters, except carp may be taken by angling, archery, spear, or underwater spearfishing:

- (i) San Juan River;
- (ii) Colorado River;
- (iii) Green River (from confluence with Colorado River upstream to Colorado state line in Dinosaur National Monument);
- (iv) Green River (from Colorado state line in Brown's Park upstream to Flaming Gorge Dam, including Gorge Creek, a tributary entering the Green River at Little Hole);
- (v) White River (Uintah County);
- (vi) Duchesne River (from Myton to confluence with Green River);
- (vii) Virgin River (Main stem, North, and East Forks).
- (viii) Ash Creek;

(ix) Beaver Dam Wash;

(x) Fort Pierce Wash;

(xi) La Verkin Creek;

(xii) Santa Clara River (Pine Valley Reservoir downstream to the confluence with the Virgin River);

(xiii) Diamond Fork;

(xiv) Thistle Creek;

(xv) Main Canyon Creek (tributary to Wallsburg Creek);

(xvi) South Fork of Provo River (below Deer Creek Dam); and

(xvii) Snake Valley waters (west and north of US-6 and that part of US-6 and US-50 in Millard and Juab counties).

(2) Nongame fish, except those species listed in Section R657-13-13, may be taken by spear or underwater spearfishing in the waters specified in Subsection R657-13-9(3), angling, traps, bow and arrow, liftnets, or seine.

(3) Seines shall not exceed 10 feet in length or width.

(4) Lawfully taken nongame fish shall be either released or killed immediately upon removing them from the water, however, they may not be left or abandoned on the shoreline.

R657-13-15. Taking Crayfish.

(1) A person possessing a valid Utah fishing or combination license may take crayfish for personal, noncommercial purposes during the open fishing season set for the given body of water.

(2) Crayfish may be taken by hand or with a trap, pole, liftnet, handline, or seine, provided that:

(a) game fish or their parts, or any substance unlawful for angling, is not used for bait;

(b) seines shall not exceed 10 feet in length or width;

(c) no more than five lines are used, and no more than one line may have hooks attached (bait is tied to the line so that the crayfish grasps the bait with its claw); and

(d) live crayfish are not transported from the body of water where taken.

R657-13-16. Possession and Transportation of Dead Fish and Crayfish.

(1) Fish held in possession in the field or in transit shall be kept in such a manner that:

(a) the species of fish can be readily identified;

(b) the number of fish can be readily counted;

(c) the size of the fish can be readily measured when the fish are taken from waters where size limits apply and the fish taken from those waters may not be filleted and the heads or tails may not be removed; and

(d) fillets shall have attached sufficient skin to include the conspicuous markings so species may be identified.

(2) A legal limit of game fish or crayfish may accompany the holder of a valid fishing or combination license within Utah or when leaving Utah.

(3) A person may possess or transport a legal limit of game fish or crayfish for another person when accompanied by a donation letter.

(4) A person may not take more than one bag limit in any one day or possess more than one bag limit of each species or species aggregate regardless of the number of days spent fishing.

(5) A person may possess or transport dead fish on a receipt from a registered commercial fee fishing installation, a private pond owner, or a short-term fishing event. This receipt shall specify:

(a) the number and species of fish;

(b) date caught;

- (c) the certificate of registration number of the installation, pond, or short-term fishing event; and
 (d) the name, address, telephone number of the seller.

R657-13-17. Possession of Live Fish and Crayfish.

(1) A person may not possess or transport live protected aquatic wildlife except as provided by the Wildlife Code or the rules and proclamation of the Wildlife Board.

(2) For purposes of this rule, a person may not transport live fish or crayfish away from the water where taken.

(3) This does not preclude the use of live fish stringers, live wells, or hold type cages as part of normal angling procedures while on the same water in which the fish or crayfish are taken.

R657-13-18. Release of Tagged or Marked Fish.

Without prior authorization from the division, a person may not:

- (1) tag, mark, or fin-clip fish for the purpose of offering a prize or reward as part of a contest;
 (2) introduce a tagged, marked, or fin-clipped fish into the water; or
 (3) tag, mark, or fin-clip a fish and return it to the water.

R657-13-19. Season Dates and Bag and Possession Limits.

(1) All waters of state fish rearing and spawning facilities are closed to fishing.

(2) State waterfowl management areas are closed to fishing except as specified in the proclamation of the Wildlife Board for taking fish and crayfish.

(3) The season for taking fish and crayfish is January 1 through December 31, 24 hours each day. Exceptions are specified in the proclamation of the Wildlife Board for taking fish and crayfish.

(4)(a) Bag and possession limits are specified in the proclamation of the Wildlife Board for taking fish and crayfish and apply statewide unless otherwise specified.

(b)(i) A person may not fish in waters that have a specific bag or size limit while possessing fish in violation of that limit.

(ii) Fish not meeting the size, bag, or species provisions on specified waters shall be returned to the water immediately.

(c)(i) Trout, salmon and grayling that are not immediately released and are held in possession, dead or alive, are included in the person's bag and possession limit.

(ii) Once a trout, salmon or grayling is held in or on a stringer, fish basket, livewell, or by any other device, a trout, salmon or grayling may not be released.

(5) A person may not take more than one bag limit in any one day or have in possession more than one bag limit of each species or species aggregate regardless of the number of days spent on fishing.

R657-13-20. Variations to General Provisions.

Variations to season dates, times, bag and possession limits, methods of take, use of a float tube or a boat for fishing, and exceptions to closed areas are specified in the proclamation of the Wildlife Board for taking fish and crayfish.

R657-13-21. ~~Nonresident~~ One-Day Fishing ~~Stamp~~ Stamps.

(1)(a) A ~~nonresident~~ person may purchase a one-day fishing stamp to extend a one-day or seven-day fishing license provided the ~~nonresident~~ person has obtained a valid Utah ~~nonresident~~ one-day or seven-day fishing license.

(b) A ~~nonresident~~ person must present the one-day or seven-day fishing license to the Division or license agent upon purchasing a one-day fishing stamp.

(2) A one-day fishing stamp will extend the one-day or seven-day fishing license within the current year for one additional day.

(3) The effective date shall be indicated on the one-day fishing stamp.

KEY: fish, fishing, wildlife, wildlife law

~~January 2, 2002~~ 2003

Notice of Continuation September 20, 2002

23-14-18

23-14-19

23-19-1

23-22-3



Natural Resources, Wildlife Resources

R657-16

Aquaculture and Fish Stocking

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 25358

FILED: 09/20/2002, 07:57

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended pursuant to Regional Advisory Council and Wildlife Board meetings conducted for taking public input and reviewing the division's program by which live aquatic wildlife may be possessed or transported.

SUMMARY OF THE RULE OR CHANGE: Provisions of this rule are being amended to provide criteria and requirements when fish are being stocked in the Upper Colorado River Basin. Provisions are being amended to include "live aquatic wildlife" for displaying purposes. Other changes are being made for consistency and clarity.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 23-15-9 and 23-15-10

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** This amendment provides criteria and requirements when fish are being stocked in the Upper Colorado River Basin, to include "live aquatic wildlife" for displaying purposes, and make other changes for consistency and clarity. The Division of Wildlife (DWR) has determined that this amendment does not create a cost or savings impact to the division's budget or the state budget.

❖ **LOCAL GOVERNMENTS:** None--This filing does not create any direct cost or savings impact to local governments because they are not directly affected by the amendment. Nor are local governments indirectly impacted because the amendment does not create a situation requiring services from local governments.

❖ **OTHER PERSONS:** This amendment provides criteria and requirements when fish are being stocked in the Upper

Colorado River Basin, to include "live aquatic wildlife" for displaying purposes, and make other changes for consistency and clarity. There may be a minimal cost for providing screening or other anti-escapement devices to private fish pond owners or operators who wish to stock fish in the Upper Colorado River Basin. Otherwise, the amendment does not impose any additional requirements on other persons, nor generate a cost or savings impact to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This amendment provides criteria and requirements when fish are being stocked in the Upper Colorado River Basin, to include "live aquatic wildlife" for displaying purposes, and make other changes for consistency and clarity. There may be a minimal cost for providing screening or other anti-escapement devices to private fish pond owners or operators who wish to stock fish in the Upper Colorado River Basin. There are not any additional compliance costs associated with this amendment.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The amendments to this rule do not create an impact on businesses.

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

NATURAL RESOURCES
WILDLIFE RESOURCES
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Debbie Sundell at the above address, by phone at 801-538-4707, by FAX at 801-538-4745, or by Internet E-mail at debbiesundell@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 11/14/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 11/15/2002

AUTHORIZED BY: Kevin Conway, Director

R657. Natural Resources, Wildlife Resources.

R657-16. Aquaculture and Fish Stocking.

R657-16-1. Purpose and Authority.

(1) Under the authority of Sections 23-15-9 and 23-15-10 of the Utah Code, this rule provides the standards and procedures for:

- (a) institutional aquaculture;
- (b) private fish ponds;
- (c) short-term fishing events;
- (d) private fish stocking; and
- (e) displaying aquaculture products or aquatic wildlife in aquaria.

(2) This rule does not cover fee fishing and commercial aquaculture as provided in Title 4, Chapter 37, Parts 2 and 3; and the Department of Agriculture Rule R58-17.

(3) A person engaging in any activity provided in Subsection (1) must also comply with the provisions set forth in Rule R657-3 and the Department of Agriculture Rule R58-17.

(4) Any violation of, or failure to comply with, any provision of this rule or any specific requirement contained in a certificate of registration issued pursuant to this rule may be grounds for revocation or suspension of the certificate of registration or denial of future certificates of registration, as determined by a division hearing officer.

R657-16-2. Definitions.

(1) Terms used in this rule are defined in Section 23-13-2.

(2) In addition:

(a) "Aquaculture" means the husbandry, production, harvest, and use of aquatic organisms under controlled, artificial conditions.

(b) "Aquaculture facility" means any facility used for propagating, rearing, or producing aquatic wildlife or aquaculture products. Facilities that are separated by more than 1/2 mile, or facilities that drain to, or are modified to drain to, different drainages are considered to be separate aquaculture facilities, regardless of ownership.

(c)(i) "Aquaculture product" means privately purchased aquatic wildlife or their gametes.

(ii) "Aquaculture product" does not include aquatic wildlife obtained from the wild.

(d) "Aquarium" means any container located in an indoor facility that is used to hold fish from which no water is discharged, except during periodic cleaning, and which discharged water is passed through a filtering system capable of removing all fish and fish eggs and is disposed of only in a septic tank approved by the county or in a municipal wastewater treatment system approved by either the state or local health department.

(e) "Display" means to hold live aquaculture products or aquatic wildlife in an aquarium for the purpose of viewing for commercial or noncommercial purposes.

(f) "FEMA" means Federal Emergency Management Administration.

~~(g)~~ (g) "Institutional aquaculture" means aquaculture engaged in by any institution of higher learning, school, or other educational program, or public agency.~~[-]~~

~~(h)~~ (h) "Ornamental fish" means fish that are raised or held for their beauty rather than use, or that arouse interest for their uncommon or exotic characteristics, including tropical fish, goldfish, and koi, but not including those species listed as prohibited or controlled in Rule R657-3-34.

~~(i)~~ (i) "Private fish pond" means a pond, reservoir, or other body of water, or any fish culture system which is contained on privately owned land and used for holding or rearing fish for a private, noncommercial purpose.

~~(j)~~ (j) "Private stocking" means noncommercial stocking of live aquaculture products in waters of the state not covered by a certificate of registration for a private fish pond or other private fish facility.

~~(k)~~ (k) "Purchase" means to buy, or otherwise acquire or obtain through barter, exchange, or trade for pecuniary consideration or advantage.

~~(l)~~ (l) "Short-term fishing event" means any event where privately acquired fish are held or confined for a period not to exceed seven days for the purpose of providing fishing or recreational opportunity and where no fee is charged as a requirement to fish.

R657-16-3. Certificate of Registration Required.

(1) A certificate of registration is required before any person may engage in any of the following activities:

(a) produce, propagate, rear, or culture any aquatic wildlife or aquaculture product;

(b) privately stock fish;

(c) acquire aquaculture products for a short-term fishing event; or

(d) display aquaculture products in an aquarium, except a certificate of registration is not required for ornamental fish held in an aquarium.

(2) Only species approved by the division and listed on the certificate of registration may be possessed and used in conjunction with the activities covered by this rule. ~~[-Only species listed on a certificate of registration may be possessed or transported within Utah.]~~

(3) No aquaculture facility shall be developed on natural lakes or natural flowing streams, or reservoirs constructed on natural stream channels as provided in Section 23-15-10. Other waters, including canals, off-stream reservoirs or ponds, and excavated ponds or raceways, may be considered for an aquacultural use.

R657-16-4. Application for Certificates of Registration.

(1) An application for a certificate of registration must be submitted to the Wildlife Registration Office, Utah Division of Wildlife Resources, ~~[4596]~~1594 West North Temple, Salt Lake City, Utah ~~[84116]~~84114.

(2) The application ~~[requires]~~may require up to 45 days for processing, except for a short-term fishing event, which ~~[requires]~~may require up to 10 days for processing.

(3) Application forms are available at all division offices and at the division's Internet address.

(4) Applications that are incomplete, filled out incorrectly, or submitted without the appropriate fee may be returned to the applicant.

R657-16-5. Renewal of Certificates of Registration.

(1) Certificates of registration are valid for the dates identified on the certificate of registration.

(2) Certificates of registration are renewable on or before the expiration date as identified on the certificate of registration.

R657-16-6. Failure to Renew Certificates of Registration Annually.

(1) If an operator of an aquaculture facility, or private fish pond fails to renew the certificate of registration annually, or the hearing officer suspends the certificate of registration, all live aquatic wildlife or aquaculture products permitted under the certificate of registration shall be disposed of as follows:

(a) Unless the Wildlife Board orders otherwise, all aquatic wildlife or aquaculture products must be removed within 30 days of revocation or the expiration date of the certificate of registration, or within 30 days after ice-free conditions on the water; or

(b) At the discretion of the division, aquatic wildlife or aquaculture products may remain in the waters at the facility, but shall only be taken as prescribed within Rule R657-13 for Taking Fish and Crayfish.

(2) Aquatic wildlife or aquaculture products from a facility not health approved under Section 4-37-501 may not be moved alive.

(3) Aquatic wildlife or aquaculture products from an aquatic facility infected with any of the pathogens specified in the

Department of Agriculture Rule R58-17 must be disposed of as directed by the division to prevent further spread of such diseases.

R657-16-7. Importation.

(1)(a) To import live aquatic wildlife or aquaculture products into Utah, a certificate of registration is required.

(b) Species of aquatic wildlife or aquaculture products that may be imported are provided in Rule R657-3-34.

(2)(a) To import live grass carp (*Ctenopharyngodon idella*), ~~[the]~~each fish must be verified as being triploid by the U.S. Fish and Wildlife Service.

(b) The form verifying triploidy must be obtained from the supplier and be on file with the Wildlife Registration Office of the division in Salt Lake City prior to importation.

(c) A copy of this form must also accompany the fish during transport.

(3) Applications to import aquatic wildlife or aquaculture products are available from all division offices and must be submitted to the division's Wildlife Registration Office in Salt Lake City. Applications may require up to 45 days for action.

R657-16-8. Acquiring and Transferring Aquaculture Products.

(1) Live aquatic wildlife or aquaculture products, other than ornamental fish, may be:

(a) purchased or acquired only from sources that have a valid certificate of registration from the Utah Department of Agriculture and Food to sell such products or from a person located outside Utah if both the species and the source are approved on a certificate of registration for importation or by the Utah Department of Agriculture and Food; and

(b) acquired, purchased or transferred only from sources which have been health approved by the Utah Department of Agriculture and Food and assigned a fish health approval number as provided in Section 4-37-501. This also applies to separate facilities owned by the same individual, because each facility is treated separately, regardless of ownership.

(2)(a) Any person who has been issued a valid certificate of registration may transport live aquatic wildlife or aquaculture products as specified on the certificate of registration to the facility or approved stocking site.

(b) Except as provided in Subsection (3), all transfers or shipments of live aquatic wildlife or aquaculture products must be accompanied by documentation of the source and destination of the fish, including:

(i) name, address, certificate of registration number, and fish health approval number of the source;

(ii) number and weight being shipped, by species; and

(iii) name, address, and certificate of registration number of the destination, if the destination is a fish hatchery or private water; or

(iv) name, address, county, and division water identification number if the destination is a public water.

(3)(a) Live aquatic wildlife or aquaculture products may be shipped through Utah without a certificate of registration provided that:

(i) the aquatic wildlife or aquaculture products are not sold or transferred;

(ii) the aquatic wildlife or aquaculture products remain in the original container;

(iii) the water is not exchanged or discharged; and

(iv) the shipment is in Utah no longer than 72 hours.

(b) Proof of legal ownership and destination must accompany the shipment.

R657-16-9. Inspection of Records and Facilities.

(1) The following records and information must be maintained for a period of two years and must be available for inspection by a division representative during reasonable hours:

- (a) records of purchase, acquisition, distribution, and production histories of aquatic wildlife or aquaculture products;
 - (b) certificates of registration; and
 - (c) valid identification of stocks.
- (2) Division representatives may conduct pathological, fish culture, or physical investigations at any facility, pond, or holding facility during reasonable hours.

R657-16-10. Private Fish Ponds.

(1) A certificate of registration is required to produce, propagate, rear, or possess any aquatic wildlife or aquaculture product in a private fish pond for private, noncommercial purposes. A separate certificate of registration is required for each private fish pond as defined under aquaculture facility.

(2) A private fish pond owner or operator may not sell, donate, or transfer live fish or live fish eggs, except approved species may be transferred to the private fish pond from an approved source.

(3) A fishing license is not required to take fish from a certificated private fish pond.

(4)(a) To transport dead fish without a license, a person must have a receipt which contains the following information:

- (i) species and number of fish;
- (ii) date caught;
- (iii) certificate of registration number of the private fish pond; and
- (iv) name, address, and telephone number of the owner of the private fish pond.

(b) Any person that has a valid fishing license may transport up to a legal limit of dead fish from a private fish pond without further documentation.

(5)(a) A certificate of registration for a private fish pond may be obtained by submitting an application and paying a fee in the amount established by the Wildlife Board.

(b) A certificate of registration may be issued after a division representative inspects the private fish pond, and confirms that the pond:

- (i) meets all requirements stipulated in this rule and Title 23 of the Utah Code; and
- (ii) poses no identifiable adverse threat to other wildlife species or their habitat.

(c) The following conditions apply to the stocking of nonnative fish in the Upper Colorado River Basin:

(i) private ponds within the 50-year flood plain may be stocked with largemouth bass, bluegill, mosquitofish, or triploid grass carp provided the pond is bermed in accordance with FEMA standards; and

(ii) outlets must be screened with 1/4 inch or smaller mesh, or other anti-escapement device acceptable to the division, to prevent the escape of fish; or

(iii) isolated fish ponds, having no connection to the river that are above the 50-year flood plain, may be stocked with largemouth bass, bluegill, mosquitofish, or triploid grass carp; or

(iv) isolated private ponds, having no connection to the river that are above 6,500-foot mean sea level (msl) and above the 100-

year flood plain may be stocked with fathead minnow or channel catfish; and

(v) outlets must be screened with 1/4 inch or smaller mesh, or other anti-escapement device acceptable to the division, to prevent the escape of fish.

(d) A certificate of registration may be renewed annually for six consecutive years by submitting an application each year, paying a fee in the amount established by the Wildlife Board and submitting the records described in Subsection (6). After a period of six years, or in the event the annual renewals are not maintained for any reason, the water shall again undergo original application, inspection, and payment of a fee in the amount established by the Wildlife Board.

(6)(a) Any person that possesses a certificate of registration for a private fish pond must submit to the division a report of all live fish purchased or acquired during the year. This report must contain the following information:

- (i) name, address, and certificate of registration number of the seller or supplier;
- (ii) number and weight, by species;
- (iii) date of sale or transfer; and
- (iv) name, address, and certificate of registration number of the receiver.

(b) A form for this information is provided by the division.

(c) This record must be sent to the division no later than January 30, and must be received before the certificate of registration may be renewed.

R657-16-11. Short-Term Fishing Events.

(1) A person sponsoring a short-term fishing event must obtain a certificate of registration prior to holding the event, except the division may conduct short-term fishing events for educational purposes without a certificate of registration.

(2)(a) A certificate of registration for a short-term fishing event may be obtained by applying to the Wildlife Registration Office at the division's Salt Lake City office a minimum of 10 days prior to the event.

(b) Application forms are available at all division offices.

(c) After review and confirmation by the division that the event poses no identifiable adverse threats to other fish or wildlife species, a certificate of registration may be issued.

(d) The certificate of registration may cover multiple events, which must be requested on the application form.

(3) A fishing license and bag limit is not required of participants in a short-term fishing event unless stated otherwise on the certificate of registration.

(4) For short-term fishing events where fishing licenses and bag limits under Rule R657-13 do not apply, a receipt must be given to participants transporting dead aquaculture products or aquatic wildlife away from the event. Such receipt must include the following information:

- (a) name of event sponsor;
- (b) date caught;
- (c) certificate of registration number; and
- (d) species and number of dead aquaculture products or aquatic wildlife being transported.

(5) Live fish remaining at the end of the event may not be transported alive, released, or stocked.

(6) A certificate of registration for a short-term fishing event may be obtained by submitting an application and paying a fee in the amount established by the Wildlife Board.

R657-16-12. Private Stocking.

(1) An individual wishing to stock fish for private, noncommercial purposes in a body of water not covered by a certificate of registration as a private fish pond must first obtain a certificate of registration for private stocking.

(2) Fish released in a state water which is not covered by a certificate of registration as a private fish pond are considered wild aquatic wildlife and may be taken only as provided in Rule R657-13 and the fishing proclamation.

(3) A water that does not qualify as a private fish pond may not be screened to contain fish stocked (pursuant to a certificate of registration for private stocking), except that a water stocked with grass carp to control aquatic weeds must be adequately screened to prevent the grass carp from escaping.

(4)(a) Private stocking is limited only to those species approved on the certificate of registration.

(b) Species approval will be based on the biological suitability of the requested species compared to the needs of the fish and other wildlife in the drainage.

(c) An amendment to the certificate of registration is required each time fish are stocked, except the division may allow a person to stock fish more than once if the request is made on the application, and is approved by the division.

(d) Fish may be acquired only from a source that has a valid fish health approval number assigned by the Department of Agriculture.

(5)(a) An application for a certificate of registration for private stocking to stock fish other than grass carp may be approved only if:

(i) on privately owned land;

(ii) the body of water is a reservoir, the reservoir is wholly contained on the land owned by the applicant; and

(iii) the body of water is not stocked or otherwise actively managed by the division.

(b) An application for a certificate of registration for private stocking of fish other than grass carp shall not be approved if:

(i) the fish to be stocked are for a commercial purpose; or

(ii) in the opinion of the division, stocking would cause harm to other species of fish or wildlife.

(6) An application for a certificate of registration for private stocking of triploid grass carp for control of aquatic weeds will be evaluated based upon:

(a) the severity of the weed problem;

(b) availability of other suitable means of weed control;

(c) adequacy of screening to contain the grass carp; and

(d) potential for conflict or detrimental interactions with other species of fish or wildlife.

(7) A certificate of registration for private stocking may be issued after review of the appropriateness of the requested species and inspection of the water to be stocked by a division representative to ensure compliance with the stipulations of this rule and the absence of any threat to other fish or wildlife species.

(8) A certificate of registration for private stocking may be obtained by submitting an application and paying a fee in the amount established by the Wildlife Board.

R657-16-13. Institutional Aquaculture.

(1) A certificate of registration is required for any public agency, institution of higher learning, school, or educational program to engage in aquaculture.

(2) Aquatic wildlife or aquaculture products produced by institutional aquaculture may not be:

(a) sold;

(b) stocked; or

(c) transferred into waters of the state unless specifically authorized by the certificate of registration.

(3) The fish health approval requirements of Section 4-37-501 apply.

(4)(a) A certificate of registration for institutional aquaculture may be obtained by submitting an application to the division.

(b) A certificate of registration may be renewed on or before July 31 each year by submitting an application and the records described in Subsection (5).

(5)(a) A person possessing a valid certificate of registration for institutional aquaculture must submit to the division a report of each acquisition, distribution, transfer, or stocking of live aquatic wildlife or aquaculture products.

(b) This report must be sent to the division no later than June 30, and must be received before the certificate of registration may be renewed.

(c) Documentation of source, quantity, species, health approval status, and destination of all live aquatic wildlife or aquaculture products must accompany all shipments or transfers.

R657-16-14. Display.

(1)(a) A certificate of registration is required to hold live aquatic wildlife or aquaculture products in an aquarium for the purpose of viewing or displaying for commercial or noncommercial purposes, except the division may hold live aquatic wildlife or aquaculture products in an aquarium for educational viewing or display without a certificate of registration. A certificate of registration is not required to display ornamental fish.

(b) Live aquatic wildlife or aquaculture products that are displayed must meet the health approval standards described in Section 4-37-501.

(2) Aquatic wildlife taken from the wild may not be displayed or held in an aquarium.

(3) Live aquaculture products held in an aquarium for display may not be transferred, sold alive, released, or stocked. They may be sold as long as they are first killed and prepared for consumption.

(4)(a) A certificate of registration for display of live aquaculture products in an aquarium may be obtained by submitting an application and paying a fee in the amount established by the Wildlife Board.

(b) The certificate of registration is renewable every five years on or before the renewal date as specified on the certificate of registration by submitting an application, paying a fee in the amount established by the Wildlife Board, and submitting the records described in Subsection (5).

(5)(a) A person possessing a certificate of registration for display must submit to the division an annual report of each purchase or acquisition of live aquaculture products. This report must include the following information:

(i) name, address, certificate of registration number, and health approval number of the source; and

(ii) number and weight acquired, by species.

(b) This record must be submitted to the division no later than January 30 each year, and must be received before the certificate of registration can be renewed.

KEY: wildlife, aquaculture, fish

[April 15, 1996]2002

Notice of Continuation September 20, 2002
23-15-9
23-15-10



Pardons (Board Of), Administration
R671-102
Americans with Disabilities Act
Complaint Procedure Rule

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE No.: 25345
FILED: 09/18/2002, 06:51

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To update the authority reference related to the Americans with Disabilities Act.

SUMMARY OF THE RULE OR CHANGE: This rule defines the Board of Pardons compliance with procedures related to the Americans with Disabilities Act.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 67-19-32

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: None--The changes are updates only and have no effect on the process outcome or the costs.
- ❖ LOCAL GOVERNMENTS: None--The changes are updates only and have no effect on the process outcome or the costs.
- ❖ OTHER PERSONS: None--The changes are updates only and have no effect on the process outcome or the costs.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--The changes are updates only and have no effect on the process outcome or the costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: None--This is a housekeeping change with no additional fiscal impact.

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

PARDONS (BOARD OF)
ADMINISTRATION
Room 300
448 E 6400 S
SALT LAKE CITY UT 84107-8530, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Nannette Johnson at the above address, by phone at 801-261-6485, by FAX at 801-261-6481, or by Internet E-mail at njohnson@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 11/14/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 11/15/2002

AUTHORIZED BY: Mike Sibbett, Chairman

R671. Pardons (Board of), Administration.

R671-102. Americans with Disabilities Act Complaint Procedure Rule.

R671-102-1. Purpose and Authority.

A. This rule is promulgated pursuant to Section 63-46a-3 (2) of the State Administrative Rulemaking Act. The Board of Pardons Office adopts, defines, and publishes within this rule complaint procedures to provide for prompt and equitable resolution of complaints filed in accordance with Title II of the Americans with Disabilities Act, pursuant to [~~29 CFR 35.107.1992~~]2002 ed.

B. No qualified individual with a disability, by reason of such disability, shall be excluded from participation in or be denied the benefits of the services, programs, or activities of this office, or be subjected to discrimination by this office.

R671-102-2. Definitions.

A. "The ADA Coordinator" means the Office of the Board of Pardons' coordinator or designee, who has responsibility for investigating and providing prompt and equitable resolution of complaints filed by qualified individuals with disabilities in accordance with the Americans With Disabilities Act, or provisions of this rule.

B. "The ADA State Coordinating Committee" means that committee with representatives designated by the directors of the following agencies:

- (1) Office of Planning and Budget;
- (2) Department of Human Resource Management;
- (3) Division of Risk Management;
- (4) Division of Facilities Construction Management; and
- (5) Office of Attorney General.

C. "Disability" means, with respect to an individual with a disability, a physical or mental impairment that substantially limits one or more of the major life activities of such an individual; a record of such an impairment; or being regarded as having such an impairment.

D. "Major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

E. "Individual with a disability" (hereafter individual) means a person who has a disability which limits one of his/her major life activities and who meets the essential eligibility requirement for the receipt of services or the participation in programs or activities provided by the Office of the Board of Pardons, or who would otherwise be an eligible applicant for vacant state positions, as well as those who are employees of the state.

F. "Board" means the Board of Pardons and Parole.

G. "Chairman" or "Chairman of the Board" means Chairman of the Board of Pardons and Parole.

R671-102-3. Filing of Complaints.

A. A complaint shall be filed in a timely manner to assure prompt, effective assessment and consideration of the facts, but no later than 60 days from the date of the alleged act of discrimination. However, any complaint alleging an act of discrimination occurring between January 26, 1992 and the effective date of this rule may be filed within 60 days of the effective date of this rule.

B. The Complaint shall be filed with the Board's ADA Coordinator in writing or in another accessible format suitable to the individual.

C. Each complaint shall:

- (1) include the individual's name and address;
- (2) include the nature and extent of the individual's disability;
- (3) describe the office's alleged discriminatory action in sufficient detail to inform the office of the nature and date of the alleged violation;
- (4) describe the action and accommodation desired; and
- (5) be signed by the individual or by his/her legal representative.

D. Complaints filed on behalf of classes of third parties shall describe or identify by name, if possible, the alleged victims of discrimination.

R671-102-4. Investigation of Complaint.

A. The ADA coordinator shall conduct an investigation of each complaint received. The investigation shall be conducted to the extent necessary to assure all relevant facts are determined and documented. This may include gathering all information listed in Section 3 (C) of this rule if it is not made available by the individual.

B. When conducting the investigation, the coordinator may seek assistance from the Board's legal, human resource and budget staff in determining what action, if any, shall be taken on the complaint. Before making any decision that would involve:

- (1) an expenditure of funds which is not absorbable within the agency's budget and would require appropriation authority;
- (2) facility modifications which require an expenditure of funds which is not absorbable within the agency's budget and would require appropriation authority; or
- (3) reclassification or reallocation in grade; the coordinator shall consult with the ADA State Coordinating Committee.

R671-102-5. Issuance of Decision.

A. Within 15 working days after receiving the complaint, the ADA Coordinator shall issue a decision outlining in writing, or in another suitable format, stating what action, if any, shall be taken on the complaint.

B. If the coordinator is unable to reach a decision within the 15 day period, he shall notify the individual in writing or by another suitable format why the decision is being delayed and what additional time is needed to reach a decision.

R671-102-6. Appeals.

A. The individual may appeal the decision of the ADA Coordinator by filing an appeal within five working days from the receipt of the decision.

B. The appeal shall be filed in writing with the Chairman of the Board or a designee other than the Board's ADA Coordinator.

C. The filing of an appeal shall be considered as authorization to the Board's Chairman or designee, by the individual, to allow review of all information, including information classified as private or controlled.

D. The appeal shall describe in sufficient detail why the coordinator's decision is in error, is incomplete or ambiguous, is not supported by the evidence, or is otherwise improper.

E. The Chairman of the Board or designee shall review the factual findings of the investigation and the individual's statement regarding the inappropriateness of the coordinator's decision and arrive at an independent conclusion and recommendation. Additional investigations may be conducted if necessary to clarify questions of fact before arriving at an independent conclusion. Before making any decision that would involve the Chairman or designee to:

- (1) an expenditure of funds which is not absorbable and would require appropriation authority;
- (2) facility modifications which require an expenditure of funds which is not absorbable and would require appropriation authority; or
- (3) reclassification or reallocation in grade; he/she shall also consult with the State ADA Coordinating Committee.

F. The decision shall be issued within ten working days after receiving the appeal and shall be in writing or in another suitable format to the individual.

G. If the Chairman or designee is unable to reach a decision within the ten working day period, he/she shall notify the individual in writing or by another suitable format why the decision is being delayed and the additional time needed to reach a decision.

R671-102-7. Classification of Records.

A. The record of each complaint and appeal, and all written records produced or received as part of such actions, shall be classified as protected as defined under Section 63-2-304 until the ADA Coordinator, the Chairman of the Board or their designees issue the decision, at which time any portions of the record which may pertain to the individual's medical condition shall remain classified as private as defined under Section 63-2-302 or controlled as defined in Section 63-2-303. All other information gathered as part of the complaint record shall be classified as private information. Only the written decision of the coordinator, Chairman of the Board or designees shall be classified as public information.

R671-102-8. Relationship to Other Laws.

A. This rule does not prohibit or limit the use of remedies available to individuals under the State Anti-Discrimination Complaint Procedures Section (67-19-32); the Federal ADA Complaint Procedures (~~[28 CFR Subpart F]~~ 2002 Edition, beginning with Part 35.170, 1992 Edition); or any other Utah State of Federal law that provides equal or greater protection for the rights of individuals with disabilities.

R671-102-9. Interpreters.

The Board will provide interpreters for the hearing impaired.

KEY: disabilities

[February 18, 1998]2002

**Notice of Continuation December 12, 1997
67-19-32**



Pardons (Board Of), Administration
R671-202
 Notification of Hearings

NOTICE OF PROPOSED RULE
 (Amendment)

DAR FILE No.: 25350
 FILED: 09/18/2002, 07:12

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To define the timeline for inmate and public notice of hearings.

SUMMARY OF THE RULE OR CHANGE: Changes are simply grammatical corrections.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 77-27-7

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: None--The changes are grammatical corrections and have not effect on the process outcome or the costs.
- ❖ LOCAL GOVERNMENTS: None--The changes are grammatical corrections and have not effect on the process outcome or the costs.
- ❖ OTHER PERSONS: None--The changes are grammatical corrections and have not effect on the process outcome or the costs.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--The changes are grammatical corrections and have not effect on the costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: None--These changes are minimal and have no fiscal impact.

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

PARDONS (BOARD OF)
 ADMINISTRATION
 Room 300
 448 E 6400 S
 SALT LAKE CITY UT 84107-8530, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Nannette Johnson at the above address, by phone at 801-261-6485, by FAX at 801-261-6481, or by Internet E-mail at njohnson@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 11/14/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 11/15/2002

AUTHORIZED BY: Mike Sibbett, Chairman

R671. Pardons (Board of), Administration.
R671-202. Notification of Hearings.
R671-202-1. Notification.

An offender will be notified at least seven calendar days in advance of any hearing where personal appearance is involved, except in extraordinary circumstances, and will be specifically advised as to the purpose of the hearing.

In extraordinary circumstances, the hearing may be conducted without the seven day notification, or the offender may waive this notice requirement.

A public notice of hearings will also be posted one week in advance at the Board.

Open public hearings are regularly scheduled by the Board at the various correctional facilities throughout the state.

KEY: parole, inmates
~~February 18, 1998~~ **2002**
Notice of Continuation December 12, 1997
 77-27-7
 77-27-9

Pardons (Board Of), Administration
R671-206
 Competency of Offenders

NOTICE OF PROPOSED RULE
 (Amendment)

DAR FILE No.: 25382
 FILED: 09/25/2002, 09:26

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Provides statutory reference and clarification of rule.

SUMMARY OF THE RULE OR CHANGE: The changes provide reference to the statute and other clarification of the process.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 77-15-2 and 77-15-3

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: None--The changes are for clarification only and have no effect on the process outcome or the costs.
- ❖ LOCAL GOVERNMENTS: None--The changes are for clarification only and have no effect on the process outcome or the costs.
- ❖ OTHER PERSONS: None--The changes are for clarification only and have no effect on the process outcome or the costs.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--The changes are for clarification only and have no effect on the process outcome or the costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Changes are for housekeeping purposes only and have no effect on the process costs.

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

PARDONS (BOARD OF)
ADMINISTRATION
Room 300
448 E 6400 S
SALT LAKE CITY UT 84107-8530, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Nannette Johnson at the above address, by phone at 801-261-6485, by FAX at 801-261-6481, or by Internet E-mail at njohnson@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 11/14/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 11/15/2002

AUTHORIZED BY: Mike Sibbett, Chairman

R671. Pardons (Board of), Administration.

R671-206. Competency of Offenders.

R671-206-1. General.

If a [B]board member or staff presiding at a hearing has reason to believe that an offender may be mentally incompetent as defined in UCA 77-15-2, all proceedings will be stayed [~~pursuant to 77-15-5(6)~~]. [~~The Board's Mental Health Advisor shall notify the Department of Corrections of the Board's concern.~~] The Board shall request a mental health evaluation to assist in determining whether the offender is competent, or is likely to become competent while housed in the custody of the Department of Corrections.

If there is reason to believe that the inmate or parolee is incompetent, the Board may request the Attorney General file a petition with the district court for a competency hearing pursuant to UCA 77-15-3.

If the district court determines the offender is mentally competent, the Board shall proceed with scheduled hearings or other actions.

~~[— The Prison Bureau of Medical Services will conduct a screening evaluation regarding the issue of competency. If there is reason to believe that the inmate or parolee may be incompetent, the Department of Corrections will request the Attorney General to file a petition with the district court for a competency hearing pursuant to UCA 77-15-3~~

~~— If the Department determined incompetency requirements cannot be met, or if the district court determines the offender is mentally competent, the Board shall proceed with scheduled hearings/actions.]~~

KEY: criminal competency

[February 18, 1998]2002

Notice of Continuation December 12, 1997

77-15-3

77-15-5

77-27-2

77-27-7

Pardons (Board Of), Administration

R671-301

Personal Appearance

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 25384

FILED: 09/25/2002, 09:27

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Wording change for clarification.

SUMMARY OF THE RULE OR CHANGE: The change is simply a wording change for more descriptive text.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 77-27-2, 77-27-7, 77-27-9, and 77-27-29

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: None--The changes are for clarification only and have no effect on the process outcome or the costs.
- ❖ LOCAL GOVERNMENTS: None--The changes are for clarification only and have no effect on the process outcome or the costs.
- ❖ OTHER PERSONS: None--The changes are for clarification only and have no effect on the process outcome or the costs.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--The changes are for clarification only and have no effect on the process outcome or the costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Changes are for clarification and have no effect on the process costs.

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

PARDONS (BOARD OF)
ADMINISTRATION
Room 300
448 E 6400 S
SALT LAKE CITY UT 84107-8530, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Nannette Johnson at the above address, by phone at 801-261-6485, by FAX at 801-261-6481, or by Internet E-mail at njohnson@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 11/14/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 11/15/2002

AUTHORIZED BY: Mike Sibbett, Chairman

R671. Pardons (Board of), Administration.

R671-301. Personal Appearance.

R671-301-1. Personal Appearance.

By statute, the Board or its designee is required to convene at least one public hearing for all offenders except those serving life without parole or death. In rehearings, the offender is afforded all the rights and considerations afforded in the initial hearing except as provided by other Board rules because the setting of a parole date is still at issue.

An offender has the right to be present at a parole grant, rehearing, or parole violation hearing if in the state (UCA 77-27-7). The offender may speak present documents, ask, and answer questions. In the event an offender waives this right, or refuses to personally attend the hearing the Board may proceed with the hearing and [a decision-making process]issuance of a decision.

If an offender is housed out of state the Board may elect one of the following procedures:

1. The offender may waive the right to be present.
2. Request the Warden to return the offender to the state for the hearing.
3. A courtesy hearing may be conducted by the appropriate paroling authority of the custodial state. A request along with a complete copy of Utah's record shall be forwarded for the hearing. All reports, a record of the hearing, and a recommendation shall be returned to the Utah Board for final action.
4. An individual Board member or designee may travel to the custodial facility and conduct the hearing, record the proceeding, and make a recommendation for the Board's final decision.
5. A hearing may be conducted by way of conference telephone call.

KEY: inmates, parole

~~February 18, 1998~~2002

Notice of Continuation December 12, 1997

77-27-2

77-27-7

77-27-9

77-27-29



Pardons (Board Of), Administration

R671-302

News Media and Public Access to Hearings

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 25385

FILED: 09/25/2002, 09:27

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To provide clarification of the process which allows the public and media to access Board hearings.

SUMMARY OF THE RULE OR CHANGE: Wording changes to provide clarification of public hearing process.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 77-27-9

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: None--The changes are for clarification only and have no effect on the process outcome or the costs.
- ❖ LOCAL GOVERNMENTS: None--The changes are for clarification only and have no effect on the process outcome or the costs.
- ❖ OTHER PERSONS: None--The changes are for clarification only and have no effect on the process outcome or the costs.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--The changes are for clarification only and have no effect on the process outcome or the costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Changes provide clarification only and have no effect on the costs.

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448 E 6400 S
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THIS RULE MAY BECOME EFFECTIVE ON: 11/15/2002

AUTHORIZED BY: Mike Sibbett, Chairman



R671. Pardons (Board of), Administration.**R671-302. News Media and Public Access to Hearings.****R671-302-1. Open Hearings.**

According to state law and subject to fairness and security requirements, Board hearings shall be open to the public, including representatives of the news media.

R671-302-2. Limited Seating.

When the number of people wishing to attend a hearing exceeds the seating capacity of the room where the hearing will be conducted, priority shall be given to:

1. Individuals involved in the hearing
2. Victim(s) of record.
3. Up to five people selected by the victim(s) of record.
4. Up to five people selected by the offender
5. Up to five members of the news media as allocated by the Board or its designee (see RESERVED MEDIA SEATING)

6. Members of the public and media on a first-come, first served basis.

R671-302-3. Security and Conduct.

All attendees are subject to prison security requirements and must conduct themselves in a manner which does not interfere with the orderly conduct of the hearing. Any individual causing a disturbance or engaging in behavior deemed by the Board to be disruptive of the proceeding may be ordered to leave and security personnel may be requested to escort the individual from the premises. All persons granted admission to a hearing must have a picture identification and subject themselves to the security regulations of the custodial facility.

R671-302-4. Executive Session.

Executive sessions are closed sessions with no access. No filming, recording or transmitting of executive session portions of any hearing will be allowed.

R671-302-5. News Media Equipment.

Subject to prior approval by the Board or its designee (see APPROVING EQUIPMENT), the news agency representatives will be permitted to operate photographic, recording or transmitting equipment during the public portions of any hearing. When more than one news agency requests permission to use photographic, recording or transmitting equipment, a pooling arrangement may be required.

When it is determined by the Board or its designee, that any such equipment or operators of that equipment have the potential to cause a disturbance or interfere with the holding of a fair and impartial hearing, or are causing a disturbance or interfering with the holding of a fair and impartial hearing, restrictions may be imposed to eliminate those problems.

Photographing, recording and/or transmitting the image of a victim testifying before the Board will be prohibited unless approved by the victim and the individual presiding over the hearing.

R671-302-6. Prior Approval.

News media representatives wishing to use photographic, recording or transmitting equipment or to be considered for one of the five reserved media seats shall submit a request in writing to the Board or its designee. Such requests must be submitted in

compliance with the policy and procedures of the Department of Corrections. If requesting the use of equipment, the request must specify by type, all the pieces of equipment to be used.

R671-302-7. Approving Equipment.

If the request is to use photographic, recording or transmitting equipment, at least 48 hours prior to a regularly scheduled hearing and 96 hours prior to a Commutation Hearing, it will be the responsibility of a representative of the news agency making the request to confer with the designated staff member of the Board to work out the details. If the designated staff member is unfamiliar with the equipment proposed to be used, he may require that a demonstration be performed to determine if it is likely to be intrusive, cause a disturbance or will inhibit the holding of a fair and impartial hearing in any way. Any equipment causing a disturbance or distraction will be removed from the premises.

Video tape or "on air" type cameras [~~mounted on a tripod~~] and still cameras [~~encased in a soundproof box and mounted on a tripod~~] shall be deemed to be approved equipment.

If the equipment is approved for use at a hearing, its location and mode of operation shall be approved in advance by the Board's designated staff member and it will remain in a stationary position during the entire hearing and will be operated as unobtrusively as possible.

There will be no artificial light used.

If there are multiple request for the same type of equipment, the news agencies will be required to make pool arrangements, as no more than one piece of the same type of equipment will be allowed. If no agreement can be reached on who the pool representative will be, the Board, or its designee, will draw a name at random. All those wishing to be a pool representative must make their request known in advance, identifying the specific hearing and agree to fully cooperate with all pool arrangements.

R671-302-8. Reserved Media Seating.

If there are five or fewer requests received prior to the deadline, the request will be approved. If more than five requests are made, the Board's designee will allocate the seating based on a pool arrangement. Each category will select its own representative(s). If no agreement can be reached on who the representative(s) will be, the Board's designee will draw names at random. All those wishing to be a pool representative must agree in advance to fully cooperate with all pool arrangements.

One seat will be allocated to each of the following categories:

1. Local daily newspapers with statewide circulation
2. Major wire services with local bureaus
3. Local television stations with regularly scheduled daily newscasts
4. Local radio stations with regularly scheduled daily newscasts
5. Daily, weekly or monthly publications (in that order) with priority given to the area where the offense occurred.
6. If the requests submitted do not fill all of the above categories, a seat will be allocated to a representative of a major wire service with no local bureau or a national publication (in that order).

If seats remain unfilled, one additional seat will be allocated to the categories in the above order until all seats are filled. No news agency will have more than one individual assigned to reserved media seating unless all other requests have been satisfied.

R671-302-9. Violations.

Any news agency found to be in violation of this policy may have its representatives restricted in or banned from covering future Board hearings.

KEY: news agencies~~February 18, 1998~~

Notice of Continuation December 12, 1997

77-27-9



Pardons (Board Of), Administration

R671-303

Offender Access to Information

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 25386

FILED: 09/25/2002, 09:27

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: For clarification of the process of providing information to offenders.

SUMMARY OF THE RULE OR CHANGE: Changes to this rule provide clarification of the process and additional information to improve the process.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 63, Chapter 2

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: None--The changes are for clarification only and have no effect on the process outcome or the costs.
- ❖ LOCAL GOVERNMENTS: None--The changes are for clarification only and have no effect on the process outcome or the costs.
- ❖ OTHER PERSONS: None--The changes are for clarification only and have no effect on the process outcome or the costs.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--The changes are for clarification only and have no effect on the process outcome or the costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Changes provide clarification only and have no effect on the costs.

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

PARDONS (BOARD OF)

ADMINISTRATION

Room 300

448 E 6400 S

SALT LAKE CITY UT 84107-8530, or

at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Nannette Johnson at the above address, by phone at 801-261-6485, by FAX at 801-261-6481, or by Internet E-mail at njohnson@utah.gov

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THIS RULE MAY BECOME EFFECTIVE ON: 11/15/2002

AUTHORIZED BY: Mike Sibbett, Chairman

R671. Pardons (Board of), Administration.**R671-303. Offender Access to Information.****R671-303-1. Offender Access to Information.**

Absent a legitimate security or safety concern, an offender will be provided access to the information being considered by the Board and given an opportunity to respond whenever the Board fixes or extends the offender's parole or release date. If a security or safety concern is an issue, the offender will be provided a written summary of the material information being considered.

The Board, upon request or ~~[sua sponte]~~ upon its own motion, may continue a hearing to allow submission of additional documentation or information. The Board will consider any ~~[material]~~ relevant facts obtained at the hearing or later submitted by the offender.

The Board will also provide an offender with a copy of the records contained in the offender's file at least three days prior to any personal appearance hearing in which parole or an early-release date may be fixed or extended by the Board. Any additional information obtained by the Board after this initial disclosure will be provided to the offender at the beginning of the hearing. In such event, the offender will be given an opportunity to review the supplemental information before proceeding. If no additional time is requested by the offender, the hearing will proceed as scheduled.

For administrative routings to fix an original hearing date, the board will only consider information available to the court at the time of sentencing. This information will not be disclosed to the offender until the time of his/her original hearing, as it has already been disclosed in court.

KEY: inmates' rights, inmates, parole, records~~February 18, 1998~~ 2002

Notice of Continuation December 12, 1997

63-2



Pardons (Board Of), Administration

R671-304

Hearing Record

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 25390

FILED: 09/25/2002, 09:28

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: New language provides clarification on a process already in practice.

SUMMARY OF THE RULE OR CHANGE: The new language provides clarification of the process.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 77-27-8 and 77-27-9

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: None--The changes are for clarification only and have no effect on the process outcome or the costs.
- ❖ LOCAL GOVERNMENTS: None--The changes are for clarification only and have no effect on the process outcome or the costs.
- ❖ OTHER PERSONS: None--The changes are for clarification only and have no effect on the process outcome or the costs.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--The changes are for clarification only and have no effect on the process outcome or the costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Changes provide clarification only and have no effect on costs.

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ADMINISTRATION
Room 300
448 E 6400 S
SALT LAKE CITY UT 84107-8530, or
at the Division of Administrative Rules.

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THIS RULE MAY BECOME EFFECTIVE ON: 11/15/2002

AUTHORIZED BY: Mike Sibbett, Chairman

R671. Pardons (Board of), Administration.**R671-304. Hearing Record.****R671-304-1. Hearing Record.**

The Board will cause a record to be made of all public hearings and dispositions.

R671-304-2. Procedure.

[A record (verbatim transcript, tape recording or written summary) will be made of all hearings. The record will be retained

~~by the Board for future reference or transcription upon request at cost. However, copies may be provided at no cost to the petitioner in accordance with UCA 77-27-8 (3). A record will be made of all board hearings pursuant to UCA 77-27-8 (1). The record will be kept at the Board of Pardons and Parole offices for five (5) years. Upon written request a copy of the record may be purchased. Copies will be provided at no cost to petitioner in accordance with ACA 77-28.8 (3).~~

KEY: government hearings

~~[February 18, 1998]2002~~

Notice of Continuation December 12, 1997

77-27-8

77-27-9

▼ ————— ▼

Pardons (Board Of), Administration **R671-305** Notification of Board Decision

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 25393

FILED: 09/25/2002, 09:29

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The changes to the text provide clarification of a process already in place.

SUMMARY OF THE RULE OR CHANGE: The wording changes provide clarification of the process.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 77-27-9.7

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: None--The changes are for clarification only and have no effect on the process outcome or the costs.
- ❖ LOCAL GOVERNMENTS: None--The changes are for clarification only and have no effect on the process outcome or the costs.
- ❖ OTHER PERSONS: None--The changes are for clarification only and have no effect on the process outcome or the costs.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--The changes are for clarification only and have no effect on the process outcome or the costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Changes provide clarification only and have no effect on costs.

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

PARDONS (BOARD OF)
ADMINISTRATION
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448 E 6400 S

SALT LAKE CITY UT 84107-8530, or
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THIS RULE MAY BECOME EFFECTIVE ON: 11/15/2002

AUTHORIZED BY: Mike Sibbett, Chairman

**R671. Pardons (Board of), Administration.
R671-305. Notification of Board Decision.
R671-305-1. Notification of Board's Decision.**

The decision of the Board will be reached by a majority vote and reduced to writing, including a rationale for the decision. Copies of the written decision are sent to the offender, the institution and Field Operations. The Board will publish written results of Board decisions.

The Board should ~~[be reasonably]~~ take reasonable steps to assured that the offender has been notified before the information is released to the public.

**KEY: government hearings
2002**

**Notice of Continuation March 8, 2002
77-27-9.7**



Pardons (Board Of), Administration
R671-308
Offender Hearing Assistance

NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE No.: 25394
FILED: 09/25/2002, 09:29

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule defines the process associated with identifying offenders who cannot represent themselves at a Board hearing.

SUMMARY OF THE RULE OR CHANGE: The changes to this rule clarify the process already in practice.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 77-27-9, 77-27-11, and 77-27-29

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: None--The changes are for clarification only and have no effect on the process outcome or the costs.

❖ LOCAL GOVERNMENTS: None--The changes are for clarification only and have no effect on the process outcome or the costs.

❖ OTHER PERSONS: None--The changes are for clarification only and have no effect on the process outcome or the costs.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--The changes are for clarification only and have no effect on the process outcome or the costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Changes provide clarification only and have no effect on costs.

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THIS RULE MAY BECOME EFFECTIVE ON: 11/15/2002

AUTHORIZED BY: Mike Sibbett, Chairman

**R671. Pardons (Board of), Administration.
R671-308. Offender Hearing Assistance.
R671-308-1. Offender Hearing Assistance.**

~~[The Board will allow an offender to have such assistance from other persons as may be required in preparation for a Board hearing.]~~ An offender who is deemed by the Board to be unable to effectively represent them at a Board hearing will be allowed to have assistance from another person. The person who is assisting must be approved by the Board.

R671-308-2. Offender Hearing Legal Council.

~~[Family, friends, professionals, interpreters, case workers, and minority representatives are allowed to be present at hearings and may assist the offender in preparing his case.~~

~~—An]~~ At parole violation hearings where there are no new criminal convictions, an attorney may be retained by the State to represent parolees on a case by case basis. However, an alleged parole violator may choose to have a private attorney represent the offender at his/her own expense.

Except as otherwise provided by law, no person other than the offender may address the Board at any hearing except for the offender's attorney at a Parole Revocation hearing, or such persons

as the Board may find necessary to the orderly conducting of any hearing.

KEY: parole, inmates

[February 18, 1998]2002

Notice of Continuation December 12, 1997

77-27-9

77-27-11

77-27-29

Pardons (Board Of), Administration

R671-309

Impartial Hearings

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 25389

FILED: 09/25/2002, 09:28

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The changes to this rule provide clarification to the impartial hearing process.

SUMMARY OF THE RULE OR CHANGE: Changes are clarification on the process already in practice.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 77-27-7

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** None--The changes are for clarification only and have no effect on the process outcome or the costs.
- ❖ **LOCAL GOVERNMENTS:** None--The changes are for clarification only and have no effect on the process outcome or the costs.
- ❖ **OTHER PERSONS:** None--The changes are for clarification only and have no effect on the process outcome or the costs.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--The changes are for clarification only and have no effect on the process outcome or the costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Changes provide clarification only and have no effect on costs.

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THIS RULE MAY BECOME EFFECTIVE ON: 11/15/2002

AUTHORIZED BY: Mike Sibbett, Chairman

R671. Pardons (Board of), Administration.

R671-309. Impartial Hearings.

R671-309-1. Impartial Hearings.

Offenders are entitled to an impartial hearing before the Board.

The Board discourages any direct outside contact with individual Board Members regarding specific cases. This also applies to Hearing Officers designated to conduct the hearing. Any such contact should be made with the Board's designated staff member.

All contacts by offenders, victims of crime, their family members or any other person outside the staff of the Board regarding a specific case shall be referred, whenever possible, to the staff member designated by the Board who may not be directly involved in hearing the case. If circumstances dictate, the designated Board staff member shall prepare a memorandum for the file containing the substance of the contact. If the contact is by a victim wishing to make a statement for the Board's consideration, the Board's rule on Victim Input and Notification shall apply.

If a contact, or prior knowledge of a case or individuals involved, is such that it may affect the ability of a Board Member or designated Hearing Officer to make a fair and impartial decision in a case, the Board Member or designated Hearing Officer shall decide whether to participate in the hearing. ~~[If the decision is to participate, the offender shall be informed of the contact or prior knowledge and be given the opportunity to request that the Board Member or Hearing Officer not participate. Such]~~ Should the offender request that a board member or hearing officer not participate, such a request is not binding in any way, but shall be weighed along with all other factors in making a final decision regarding participation in the hearing.

This rule shall not preclude contact regarding procedural matters so long as such contact is not for the purpose of influencing the decision of an individual Board Member on any particular case or hearing.

KEY: parole, inmates

[February 18, 1998]2002

Notice of Continuation December 12, 1997

77-27-7

77-27-9

Pardons (Board Of), Administration
R671-311
 Special Attention Hearings and
 Reviews

NOTICE OF PROPOSED RULE

(Amendment)
 DAR FILE NO.: 25398
 FILED: 09/25/2002, 09:37

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Changes to this rule are for clarification purposes.

SUMMARY OF THE RULE OR CHANGE: The changes to this rule provide clarification on the process of conducting special attention hearings and reviews.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 77-27-7, 77-27-5, 77-27-6, 77-27-10, and 77-27-11

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: None--The changes are for clarification only and have no effect on the process outcome or costs.
- ❖ LOCAL GOVERNMENTS: None--The changes are for clarification only and have no effect on the process outcome or costs.
- ❖ OTHER PERSONS: None--The changes are for clarification only and have no effect on the process outcome or costs.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--The changes are for clarification only and have no effect on the process outcome or costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Changes provide clarification only and have no effect on costs.

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THIS RULE MAY BECOME EFFECTIVE ON: 11/15/2002

AUTHORIZED BY: Mike Sibbett, Chairman

R671. Pardons (Board of), Administration.
R671-311. Special Attention Hearings and Reviews.
R671-311-1. General.

This type of consideration is used to grant relief in special circumstances requiring action by the Board. This action is initiated by the receipt of a written request indicating that special circumstances exist for which a change in status may be warranted. These circumstances could include, but are not limited to, illness of the offender requiring extensive medical attention, exceptional performance or progress in the institution, exceptional opportunity for employment, exceptional family circumstances, and involves information that was not previously considered by the Board. For Special Attentions that have not originated from or been processed through the Department of Corrections, the Board ~~will~~ may request the Department review and make recommendations before taking action.

Special Attention requests that are considered to be repetitive, frivolous or lacking in substantial merit may be placed in the offenders file without formal action or response.

R671-311-2. Special Attention Hearing.

A Special Attention Hearing will be convened or conducted when, in the opinion of the Board, a personal appearance is in the best interest to resolve the issue. Special Attention Hearings are open to the public, are hearings of record and the offender should receive 7 days notice of the purpose, place, date and time of the hearing.

R671-311-3. Special Attention Review.

A Special Attention Review will be processed administratively based on written reports supplied to the Board without the personal appearance of the offender.[]

~~R671-311-4. Special Conditions Hearing.~~

~~The Board will order special conditions as part of a parole agreement on an individual basis only if such conditions can be reasonably related to rehabilitation of the offender, the protection of society, or the compensation of victims. The offender will be given an opportunity to respond to proposed special conditions.~~

~~At any time, the Board may review an offender on its own initiative or upon recommendation by the Department of Corrections or others and add special conditions it deems appropriate. The offender may be afforded a personal appearance hearing before a Board Hearing Officer to discuss the proposed condition(s) unless that appearance is waived by the offender.]~~

KEY: parole, inmates

[February 18, 1998]2002

Notice of Continuation December 12, 1997

77-27-7

77-27-5

77-27-6

77-27-10

77-27-11



Tax Commission, Property Tax
R884-24P-62
 Valuation of State Assessed Utility and
 Transportation Properties Pursuant to
 Utah Code Ann. Section 59-2-201

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 25408

FILED: 09/27/2002, 12:06

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: All property, when exempt, listed under Section 59-2-201 is to be assessed by the commission at 100% of fair market value.

SUMMARY OF THE RULE OR CHANGE: This rule establishes appraisal and valuation methodologies to be used in assessing certain types of properties assessed by the Tax Commission.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 59-2-201

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: None--Property tax is not distributed to the state.
- ❖ LOCAL GOVERNMENTS: None--The proposed changes do not materially affect assessments.
- ❖ OTHER PERSONS: None--The proposed changes do not materially affect assessments.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--No material change from existing procedures.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be minimal impact on businesses since these amendments do not change existing valuation practice. These amendments clarify methodology to be used in unitary valuation.

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 cle@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 11/14/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 11/15/2002

AUTHORIZED BY: Pam Hendrickson, Commissioner

R884. Tax Commission, Property Tax.

R884-24P. Property Tax.

R884-24P-62. Valuation of State Assessed ~~Utility and Transportation~~ Unitary Properties Pursuant to Utah Code Ann. Section 59-2-201.

A. Purpose. The purpose of this rule is to:

1. specify consistent mass appraisal methodologies to be used by the Property Tax Division (Division) in the valuation of tangible property assessable by the Commission; and

2. identify preferred valuation methodologies to be considered by any party making an appraisal of an individual unitary property.

[A.]B. Definitions:

~~[1. "Attributes" of property include all defining characteristics inseparable from real property and tangible personal property, such as size, location and other attributes inherent in the property itself.~~

~~—2.]1. "Cost regulated utility" means any public utility assessable by the Commission [pursuant to Section 59-2-201,] whose allowed [rates]revenues are determined by a rate of return applied to a rate base set by a state or federal regulatory commission[by reference to a rate of return applied to rate base where the rate of return and rate base are set by the regulatory body].~~

~~[3. "Depreciation" is the loss in value from any cause. There are two distinct types of depreciation encountered in the appraisal of properties subject to this rule: accounting depreciation and appraisal depreciation. Accounting depreciation is often called "book depreciation" and is generally calculated in accordance with generally accepted accounting principles or regulatory guidelines. Appraisal depreciation is the total loss in property value from any cause. There are three recognized types of appraisal depreciation: physical deterioration, functional obsolescence and external obsolescence. Physical deterioration is the physical wearing out of the property evidenced by wear and tear, decay and structural defects. Physical deterioration includes the loss in value due to normal aging. Functional obsolescence includes the loss in value due to functional deficiencies or inadequacies within the property depicted as the inability of the property to perform adequately the functions for which it was originally designed. External (economic) obsolescence is the loss in value from causes outside the boundaries of the property and is generally incurable. Appraisal depreciation is often called "accrued depreciation."~~

~~—4.]2. "Fair market value" means the amount at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of the relevant facts. Fair market value reflects the value of property at its highest and best use, subject to regulatory constraints.~~

~~[5. "Property which operates as a unit" or "unitary property" means property that is functionally or physically integrated in operation or construction and functions as an economic unit or "one thing."~~

~~—6.]3. "Rate [Base]base" means the aggregate account balances reported as such by the cost regulated utility to the applicable state or federal regulatory commission.~~

4. "Unitary property" means operating property that is assessed by the Commission pursuant to Section 59-2-201(1)(a) through (c).

a)[7. "State Assessed Utility and Transportation Properties"] Unitary properties include:

~~(1) all property [which]that operates as a unit across county lines, if the values must be apportioned among more than one county or state; [all operating property of an airline, air charter service, and air contract service;]and~~

~~(2) all property of public utilities as defined in [Utah Code Ann.]Section 59-2-102[(24)].~~

~~b) [For property tax valuation purposes, these]These properties, some of which may be cost regulated utilities, [may generally be classified as telecommunication properties, energy properties, and transportation properties, some of which may be cost regulated utilities]are defined under one of the following categories.~~

~~a)-(1) "Telecommunication properties" [means all telephone properties, including]include the operating property of local exchange carriers, local access providers, long distance carriers, cellular telephone or personal communication service (PCS) providers and pagers, and other similar [type]properties[that operate as a unit across county lines and are assessable by the Commission pursuant to Section 59-2-204].~~

~~b)-(2) "Energy properties" include the operating property of natural gas pipelines, natural gas distribution companies, liquid petroleum products pipelines, and electric corporations, including electric generation, transmission, and distribution companies, and other similar [type]entities[and are assessable by the Commission pursuant to Section 59-2-204].~~

~~e)-(3) "Transportation properties" [means]include the operating property of all airlines, air charter services, air contract services, including major and small passenger carriers and major and small air freighters, long haul and short line railroads, and other similar [type]properties[that operate as a unit across county lines and are assessable by the Commission pursuant to Section 59-2-204].~~

~~8.—"Taxable Property" means property that is subject to assessment and taxation according to its value but does not include intangible property. Intangible property is property that is capable of private ownership separate from tangible property and includes moneys, credits, bonds, stocks, representative property, franchises, licenses, trade names, copyrights, and patents.]C. All tangible operating property owned, leased, or used by unitary companies is subject to assessment and taxation according to its fair market value as of January 1, and as provided in Utah Constitution Article XIII, Section 2. Intangible property as defined under Section 59-2-102 is not subject to assessment and taxation.~~

~~[B]D. General Valuation Principles. [State assessed utility and transportation]Unitary properties shall be assessed at fair market value [for property tax purposes]based on generally accepted appraisal theory [and the provisions of]as provided under this rule.~~

~~1. [Taxable Property and Unit Methodologies. All taxable property, as defined in this rule, is subject to assessment, and if the property operates together as a unit, the]The assemblage or enhanced value attributable to the [taxable]tangible property [operating together]should be included in the assessed value. See *Beaver County v. WilTel, Inc.*, 995 P.2d 602 (Utah 2000). The value attributable to intangible property must, when possible, be identified and removed from value when using any valuation method and before that value is used in the [correlation]reconciliation process.~~

~~a)-(2) The preferred methods to determine [the]fair market value [for all state assessed utility and transportation property]are [a]the cost [indicator]approach and a yield capitalization income indicator as set forth in E.~~

~~b)-(a) Other generally accepted appraisal methods may also be used when it can be demonstrated that such methods are necessary [in order]to more accurately estimate [the]fair market value[, which~~

~~includes assemblage or enhanced value, of properties that operate together as a unit].~~

~~[e.]b) [The direct]Direct capitalization[.income method]and the stock and debt [market]method [may tend to]typically capture the value of intangible property[, as defined in this rule,]at higher levels than other methods. To the extent [such]intangible property cannot be identified and removed, relatively less weight shall be given to such methods in the [correlation]reconciliation process, as set forth in [Section B-5]E.4.~~

~~[d. No final estimate of value will be imposed or considered unless the weighting percentages of the various value indicators used to correlate the final estimate of value are disclosed in writing. Disclosure of the weighting percentages also includes a written explanation describing why a party weighted the particular indicators of value by the percentages so indicated.~~

~~e.)c) Preferred valuation methods as set forth in this rule are, unless otherwise stated, rebuttable presumptions, established for purposes of consistency in mass appraisal. [A]Any party [may challenge]challenging a [final estimate of value by proposing changes to the application of a methodology, by proposing a different valuation methodology or weighting formula, or by presenting any other evidence or argument that establishes a more accurate final estimate of value. A challenge to a final estimate of value will be considered effective only if the proposed valuation methodology or weighting formula demonstrates,]preferred valuation method must demonstrate, by a preponderance of [the]evidence, that [it]the proposed alternative establishes a more accurate estimate of fair market value.~~

~~3. Non-operating Property. Property that is not necessary to the operation of unitary properties and is assessed by a local county assessor, and property separately assessed by the Division, such as registered motor vehicles, shall be removed from the correlated unit value or from the state allocated value.~~

~~E. Appraisal Methodologies.~~

~~[2.]1. Cost [Indicator]Approach. Cost is relevant to value under the principle of substitution, which states that no prudent investor would pay more for a property than the cost to construct a substitute property of equal desirability and utility without undue delay. [Generally a]A cost indicator may be developed under one or more of the following [approaches;]methods: replacement cost new less depreciation (["]RCNLD["]), reproduction cost less depreciation (["]Reproduction Cost["]reproduction cost), and historic cost less depreciation (["]HCLD["]).~~

~~a) "Depreciation" is the loss in value from any cause. Different professions recognize two distinct definitions or types of depreciation.~~

~~(1) Accounting. Depreciation, often called "book" or "accumulated" depreciation, is calculated according to generally accepted accounting principles or regulatory guidelines. It is the amount of capital investment written off on a firm's accounting records in order to allocate the original or historic cost of an asset over its life. Book depreciation is typically applied to historic cost to derive HCLD.~~

~~(2) Appraisal. Depreciation, sometimes referred to as "accrued" depreciation, is the difference between the market value of an improvement and its cost new. Depreciation is typically applied to replacement or reproduction cost, but should be applied to historic cost if market conditions so indicate. There are three types of depreciation:~~

~~(a) Physical deterioration results from regular use and normal aging, which includes wear and tear, decay, and the impact of the elements.~~

~~(b) Functional obsolescence is caused by internal property characteristics or flaws in the structure, design, or materials that diminish the utility of an improvement.~~

(c) External, or economic, obsolescence is an impairment of an improvement due to negative influences from outside the boundaries of the property, and is generally incurable. These influences usually cannot be controlled by the property owner or user.

[a-]b] [RCNLD-] Replacement cost is the estimated cost to construct, at current prices, a property with utility equivalent to that being appraised, using modern materials, current technology and current standards, design, and layout. The use of replacement cost instead of reproduction cost eliminates the need to estimate some forms of functional obsolescence.

[b-]c] [Reproduction Cost-] Reproduction cost is the estimated cost to construct, at current prices, an exact duplicate or replica of the property being assessed, using the same materials, construction standards, design, layout and quality of workmanship, and embodying [all the deficiencies, superadequacies, and any functional obsolescence] of the subject property. [Reproduction cost shall be adjusted for appropriate depreciation.]

[e-]d] [HCLD- The HCLD approach is the historic] Historic cost [less depreciation] is the original construction or acquisition cost as recorded on a firm's accounting records. Depending upon the industry, it may be appropriate to trend HCLD to current costs. Only trending indexes commonly recognized by the specific industry may be used [as a trending adjustment] to adjust HCLD.

[d-]e] [In the mass appraisal environment for state assessed utility and transportation property-] RCNLD [is] may be impractical to implement [The]; therefore the preferred cost indicator of value in a mass appraisal environment for unitary property is HCLD. A party may challenge the use of HCLD by proposing a different cost indicator that establishes a more accurate cost estimate of value. [A challenge to the use of HCLD as the cost indicator of value will be considered effective only if the proposed cost indicator of value demonstrates, by a preponderance of the evidence, that it establishes a more accurate cost estimate of value.]

[3-]2. Income [Indicator] Capitalization Approach. [An income indicator recognizes that value is created by the expectation of future benefits to be derived from the property-] Under the principle of anticipation, benefits from income in the future may be capitalized into an estimate of present value.

[a-]a] Yield Capitalization [Approach]. [This income indicator shall be determined by converting future cash flows to present value as of the lien date by capitalizing future estimated cash flows at an appropriate discount rate-] The yield capitalization formula is $CF/(k-g)$, where "CF" is a single year's normalized cash flow, "k" is the nominal, risk adjusted discount or yield rate, and "g" is the expected [future] growth rate of the cash flow [in the numerator]. [Each of these terms is defined below. A discounted cash flow method in which (i) individual years' cash flow are projected, (ii) the formula $CF/(k-g)$ is used to compute terminal value, and (iii) the projected cash flows and terminal value are discounted back to present value; may be used as a substitute income valuation approach for the above yield capitalization approach when the use of a single representative annual cash flow is clearly inappropriate.]

(1) [Cash Flow ("CF")-] Cash flow is restricted to [cash flows provided by-] the operating property in existence on the lien date, together with any replacements intended to maintain, [and] but not expand or modify, [the-] existing capacity or function [thereof]. Cash flow is calculated as net operating income (NOI) plus non-cash charges (e.g., depreciation and deferred income taxes), less capital expenditures and additions to [net-] working capital necessary to achieve the expected growth "g". [The cash flows should reflect the cash flows available to pay sources of financing for the assets in existence on the lien date or

an equivalent pool of assets. The capital expenditures should include only those expenditures necessary to replace or maintain existing plant and should not include any expenditures intended for expansion or productivity and capacity enhancements. If a taxpayer is unable to separate replacement capital expenditures with reasonable accuracy from expansion capital expenditures, the taxpayer must provide the Property Tax Division sufficient data to adjust the "g" in the yield capitalization formula appropriately. If the taxpayer is unable to provide data to adjust the "g", the Property Tax Division will estimate an adjustment to cash flows or "g" based on the best information available, including industry specific cost indices.] Information necessary for the [Property Tax-] Division to calculate the [appropriate] cash flow shall be summarized and submitted to the [Property Tax-] Division by March 1 on a form provided by the [Property Tax-] Division. [The calculation of Cash Flow may be illustrated by the following formula: $CF = NOI + \text{Nonecash Charges} - \text{Replacement Capital Expenditures} - \text{Additions to Net Working Capital}$]

(a) NOI is defined as net income plus interest.

(b) Capital expenditures should include only those necessary to replace or maintain existing plant and should not include any expenditure intended primarily for expansion or productivity and capacity enhancements.

[(a)]c] Cash flow is [the] to be projected [cash flow-] for the [next] year immediately following the lien date, and may be estimated by reviewing [the last five years'] historic cash flows, forecasting future cash flows, or a combination of both.

[(b)]i] If cash flows for a subsidiary company are not available or are not allocated [between subsidiary companies-] on the parent company's cash flow statements, [then-] a method of allocating total cash flows must be developed based on sales, fixed assets, or other reasonable criteria. [Which ever criterion is chosen, the] The subsidiary's total is divided by the parent's total to [produce a] derive the allocation percentage [that is applied to the parent's total cash flow-] to estimate the subsidiary's cash flow.

[(e)]ii] If the subject company does not provide the Commission with its most recent cash flow statements by March 1 of the assessment year, the [Property Tax-] Division may estimate cash flow using the best information available.

(2) [Discount Rate ("k")-] The discount rate (k) shall be based upon a weighted average cost of capital (WACC) considering current market debt rates and equity yields [determined by recognized market measurements such as capital asset pricing model ("CAPM"), Risk Premium, Dividend Growth models, or other recognized models]. [The weighting of debt and equity] WACC should reflect [the market value weightings of comparable companies in] a typical capital structure for comparable companies within the industry.

(a) [Cost of Debt-] The cost of debt should reflect the current market rate (yield to maturity) of debt with the same credit rating as the subject company.

(b) [Cost of Equity- In the discount rate, the] The cost of equity is estimated using standard methods such as the capital asset pricing model (CAPM), the Risk Premium and Dividend Growth models, or other recognized models.

i] The CAPM is the preferred method to estimate the cost of equity. More than one method may be used to correlate a cost of equity, but only if the CAPM method is weighted at least 50% in the correlation.

[(e)]ii] [CAPM-] The CAPM formula is $k(e) = R(f) + (\text{Beta} \times \text{Risk Premium})$, where $k(e)$ is the cost of equity and $R(f)$ is the risk free rate.

(i) a. Risk Free Rate ("R(f)"). The risk free rate shall be the current market rate on 20-year Treasury bonds.

(ii) b. Beta. The beta should reflect an average or value-weighted average of comparable companies. ~~The beta of the comparable companies and should be drawn consistently from Value Line or a comparable equivalent source. Once a source is chosen, beta should be drawn consistently from this source. However, the~~ The beta of the specific assessed property should also be considered.

(iii) c. Risk Premium. The risk premium shall be the arithmetic average of the spread between the return on stocks and the income return on long term bonds for the entire historical period contained in the Ibbotson ~~study that summarizes information for the calendar year immediately preceding~~ Yearbook published immediately following the lien date.

(3) Growth Rate ("g"). The growth rate "g" is the expected future growth of the cash flow ~~in the numerator of the formula given in CF/(k-g)~~ attributable to assets in place on the lien date, and any future replacement assets.

(a) If insufficient information is available to the ~~Property Tax~~ Division, either from public sources or from the taxpayer, to determine ~~an appropriate "g", then a rate, "g" will be the expected inflationary rate as given by~~ in the Gross Domestic Product Price Deflator obtained in Value Line. The ~~inflationary~~ growth rate and the methodology used to produce it shall be disclosed in a capitalization rate study published by the Commission by February 15 of the assessment year.

b) A discounted cash flow (DCF) method is impractical to implement in a mass appraisal environment, but may be used to value individual properties.

b. c. Direct Capitalization Approach. This is an income approach technique that converts an estimate of a single year's income expectancy into an indication of value in one direct step, either by dividing the normalized income estimate by ~~an appropriate income~~ a capitalization rate or by multiplying the normalized income estimate by an ~~appropriate~~ income factor.

4. 3. Market Indicator or Sales Comparison Approach. The market value of property is directly related to the prices of comparable, competitive properties ~~or the sale of the specific assessed property when such information is available~~. The market ~~or sales comparison~~ approach is estimated by comparing the subject property to similar properties that have recently sold.

a) Sales of comparable property must, to the extent possible, be adjusted for elements of comparison, including market conditions, financing, location, physical characteristics, and economic characteristics. When considering the sales of stock, business enterprises, or other properties that include intangible assets, adjustments must be made for those intangibles.

b) Because sales of ~~state-assessed utility and transportation~~ unitary properties are infrequent, ~~the~~ a stock and debt approach indicator may be ~~used~~ viewed as a surrogate ~~to~~ for the market approach. The stock and debt method is based on the accounting principle which holds that the market value of assets equal the market value of liabilities plus shareholder's equity.

5. 4. Correlation Reconciliation. When reconciling value indicators into a final estimate of value, the appraiser shall take into consideration the availability, quantity, and quality ~~or reliability~~ of data, ~~and~~ as well as the strength and weaknesses of each value indicator. ~~The percentage weight assigned to each indicator in the correlation process shall be established, disclosed and explained as set forth in Section B.1.~~ Weighting percentages used to correlate the value approaches will generally vary by industry, and may vary by company

if evidence exists to support a different weighting. The Division must disclose in writing the weighting percentages used in the reconciliation for the final assessment. Any departure from the prior year's weighting must be explained in writing.

~~6. Non-operating property.~~ Property that is not necessary to the operation of the state assessed utility or transportation properties and is assessed by the local county assessor, and property separately assessed by the Property Tax Division, such as registered motor vehicles, shall be removed from the correlated unit value or from the state allocated value.

~~7. Leased property.~~ All tangible operating property owned, leased, or used by state assessed utilities and transportation companies is subject to assessment.

~~8. F. Property Specific Considerations.~~ ~~The Commission recognizes that because~~ Because of unique ~~differences between certain types~~ characteristics of properties and industries, modifications or alternatives to ~~these~~ the general ~~cost and yield income~~ value indicators ~~as set forth in Sections C., D., and E.,~~ may be required for ~~the following~~ specific industries: ~~(a) cost regulated utilities, (b) telecommunications properties, and (c) transportation properties~~.

~~C. 1. Cost regulated utilities~~ Regulated Utilities ~~[-].~~

~~1. a. Cost Indicator.~~ The HCLD approach is the preferred cost indicator of value for cost regulated utilities because it represents an approximation of the basis upon which the investor can earn a return. ~~The~~ HCLD approach is calculated by taking the historic cost less ~~depreciation~~ depreciation as reflected in the ~~state-assessed~~ utility's net plant accounts, and ~~by~~ then:

(1) subtracting intangible property ~~[-];~~

(2) subtracting any items not included in the ~~state-assessed~~ utility's rate base (e.g., deferred ~~federal~~ income taxes ~~(("DFIT"))~~ and, if appropriate, acquisition adjustments) ~~[-];~~ and

(3) adding any taxable items not included in the ~~state assessed~~ utility's net plant account or ~~in~~ rate base.

~~a. b. Deferred Federal Income Taxes[-], also referred to as DFIT,~~ is an accounting entry that ~~reflects a timing difference for reporting income and expenses.~~ Accumulated DFIT ~~reflects the difference between the use of accelerated depreciation for income tax purposes and the use of straight-line depreciation for financial statements. For traditional rate base regulated companies, regulators generally exclude DFIT deferred income taxes from rate base, recognizing it as ratepayer contributed capital. Where rate base is reduced by DFIT deferred income taxes for rate base regulated companies, DFIT may they shall be removed from HCLD as one type of economic obsolescence~~.

c) Items excluded from rate base under F.1.a(2) or b) should not be subtracted from HCLD to the extent it can be shown that regulators would likely permit the rate base of a potential purchaser to include a premium over existing rate base.

~~b. DFIT can be one type of economic obsolescence. If a study is prepared that authenticates actual economic obsolescence and is approved by the Commission, the amount of the actual economic obsolescence will be subtracted from HCLD to develop the cost indicator of value.~~

~~2. Income indicator.~~ The yield capitalization approach set forth in Section B.3. is the preferred method to derive the income indicator of value.

~~D. Telecommunications Properties:~~

~~1. Cost Indicator.~~ The HCLD approach, which may, if appropriate, be trended as set forth in Section B.2., is the preferred method to derive the cost indicator of value

~~—2. Income Indicator. The yield capitalization approach set forth in Section B.3. is the preferred method to derive the income indicator of value.~~

~~—E. Transportation Properties.~~

~~—1.]2. Railroads.~~

~~a. [Cost Indicator. The Railroad industry is not rate base regulated and does not typically have a majority of its investment in property of recent vintage. Accordingly, for Railroads, the]The cost indicator should generally be given little or no weight because there is no observable relationship between cost and fair market value.[Cost valuation should be based on trended historical costs less depreciation. Additions should be made for material and supplies and operating leased equipment. Deductions should be made for all capitalized intangible property such as customized computer software. All forms of depreciation should be measured and appropriately deducted.~~

~~—b. Income Indicator. The yield capitalization approach set forth in Section B.3. is the preferred method to derive the income indicator of value.~~

~~—2. Commercial airlines.~~

~~a. Cost Indicator. The HCLD approach, appropriately trended as set forth in Section B.2., is the preferred method to derive the cost indicator of value.~~

~~b. Income Indicator. The yield capitalization approach set forth in Section B.3. is the preferred method to derive the income indicator of value.~~

~~—F. The provisions of this rule are retrospective to January 1, 2001.]~~

KEY: taxation, personal property, property tax, appraisals 2002

Notice of Continuation April 5, 2002

59-2-201

▼ ————— ▼

**Workforce Services, Employment
Development
R986-700-703
Client Rights and Responsibilities**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 25427

FILED: 10/01/2002, 16:42

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To make clear when an overpayment will occur in child care cases when there has been a material change in circumstances.

SUMMARY OF THE RULE OR CHANGE: If a client experiences a change in circumstances which would result in a decrease in the child care payment, the client is required to report the change within 10 days. Under the current rule, the change does not become effective until the following month. The Department is addressing the situation where a change occurs so late in the month that the change cannot be made to the next month's child care payment or the 10-day time limit

for reporting the change does not expire until the next month. In those cases, the client must return the child care payment even if the 10-day time limit has not expired. For instance: if a client loses her job on April 25, 2003, she would have until May 5 to report the change. The client's child care payment will be made on May 1 so that if the client waits the full 10 days to report the change, she will have received a payment on May 1 which she does not need and for which she is not eligible. In the current rule, the payment made on May 1 would not have been an overpayment. Under this rule change, the client is on notice that she must return the payment made on May 1 or an overpayment will issue.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 35A-3-310

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: This is a federally-funded program and there will be no costs or savings to the State budget.
- ❖ LOCAL GOVERNMENTS: This rule does not affect local government so there will be no costs or savings to local governments.
- ❖ OTHER PERSONS: There will be no costs or savings to any persons since the Department is merely making it an overpayment for a client to accept a child care payment to which they are not entitled.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for any persons associated with this rule change. Clients receiving benefits to which they are not entitled or have no need will be required to return the payment or an overpayment will issue.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule change will have no fiscal impact on businesses because the change only affects individuals who have received an overpayment of child care.

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

WORKFORCE SERVICES
EMPLOYMENT DEVELOPMENT
140 E 300 S
SALT LAKE CITY UT 84111-2333, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Suzan Pixton at the above address, by phone at 801-526-9645, by FAX at 801-526-9211, or by Internet E-mail at spixton@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 11/15/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 12/01/2002

AUTHORIZED BY: Raylene G. Ireland, Executive Director

R986. Workforce Services, Employment Development.**R986-700. Child Care Assistance.****R986-700-703. Client Rights and Responsibilities.**

In addition to the client rights and responsibilities found in R986-100, the following client rights and responsibilities apply:

(1) A client has the right to select the type of child care which best meets the family's needs.

(2) If a client requests help in selecting a provider, the Department will refer the client to the local Child Care Resource and Referral agency.

(3) A client is responsible for monitoring the child care provider. The Department will not monitor the provider.

(4) A client is responsible to pay all costs of care charged by the provider. If the child care assistance payment is less than the amount charged by the provider, the client is responsible for paying the provider the difference.

(5) In addition to the requirements for reporting other material changes that might affect eligibility, outlined in R986-100-113, a client is responsible for reporting a change in the client's need for child care, a change in the client's child care provider, and a change in the amount a provider charges for child care, to the Department within 10 days of the change.

(6) If a material change which would result in a decrease in the amount of the CC payment is reported within 10 days the decrease will be made effective beginning the next month and sums received in the month in which the change ~~was reported~~ occurred will not be treated as an overpayment. If it is too late to make the change to the next month's CC payment, the client is responsible for repayment even if the 10 days for reporting the change has not expired. If the client fails to report the change within 10 days, the decrease will occur as soon as the Department learns of the change and the overpayment will be assessed back to the date of the change.

(7) A client is responsible for payment to the Department of any overpayment made in CC.

(8) Any client receiving any type of CC who is not receiving full court ordered child support must cooperate with ORS in obtaining child support from the absent parent. Child support payments received by the client count as unearned income. If a client's case was closed for failure to cooperate with ORS it cannot be reopened until ORS notifies the Department that the client is cooperating.

(9) All clients receiving CC must cooperate in good faith with the Department in establishing paternity unless there is good cause for not cooperating.

(10) If the client has failed to provide all necessary information and the child care provider requests information about payment of CC to the client, the Department is authorized to inform the provider that further information is needed before payment can be determined.

(11) The Department may also release general information to a provider regarding the status of or a delay in the payment of CC.

(12) If child care funds are issued on the Horizon Card (electronic benefit transfer) unused child care funds will be removed from the Horizon Card 60 days after the last child care transaction/transfer occurred ("aged off") and will no longer be available to the client. The Department cannot replace child care payments which have been aged off the horizon card.

KEY: child care

[July 4], 2002

35A-3-310



End of the Notices of Proposed Rules Section

NOTICES OF CHANGES IN PROPOSED RULES

After an agency has published a PROPOSED RULE in the *Utah State Bulletin*, it may receive public comment that requires the PROPOSED RULE to be altered before it goes into effect. A CHANGE IN PROPOSED RULE allows an agency to respond to comments it receives.

As with a PROPOSED RULE, a CHANGE IN PROPOSED RULE is preceded by a RULE ANALYSIS. This analysis provides summary information about the CHANGE IN PROPOSED RULE including the name of a contact person, anticipated cost impact of the rule, and legal cross-references.

Following the RULE ANALYSIS, the text of the CHANGE IN PROPOSED RULE is usually printed. The text shows only those changes made since the PROPOSED RULE was published in an earlier edition of the *Utah State Bulletin*. Additions made to the rule appear underlined (e.g., example). Deletions made to the rule appear struck out with brackets surrounding them (e.g., [example]). A row of dots in the text (.) indicates that unaffected text was removed to conserve space. If a CHANGE IN PROPOSED RULE is too long to print, the Division of Administrative Rules will include only the RULE ANALYSIS. A copy of rules that are too long to print is available from the agency or from the Division of Administrative Rules.

While a CHANGE IN PROPOSED RULE does not have a formal comment period, there is a 30-day waiting period during which interested parties may submit comments. The 30-day waiting period for CHANGES IN PROPOSED RULES published in this issue of the *Utah State Bulletin* ends November 14, 2002. At its option, the agency may hold public hearings.

From the end of the waiting period through February 12, 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.

The Changes in Proposed Rules Begin on the Following Page.

**Commerce, Occupational and
Professional Licensing
R156-31b
Nurse Practice Act Rules**

NOTICE OF CHANGE IN PROPOSED RULE

DAR File No.: 25120
Filed: 09/24/2002, 10:32

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: As a result of testimony received during a rules hearing and written comments received by the Division, additional changes to the proposed rule are being made.

SUMMARY OF THE RULE OR CHANGE: In Section R156-31b-102: added the word "assistants" to the definition in Subsection R156-31b-102(22) which was inadvertently left out in the previous rule filing. In Section R156-31b-302b: made stylistic changes to make the section read more clearly regarding the number of clinical hours needed. In Section R156-31b-601: deletes the previously proposed amendment to Subsection R156-31b-601(3) which was to become effective July 1, 2003. (DAR NOTE: This change in proposed rule has been filed to make additional changes to a proposed amendment that was published in the August 15, 2002, issue of the Utah State Bulletin, on page 6. 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: Section 58-31b-101, and Subsections 58-1-106(1) and 58-1-202(1)(a)

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** The Division has determined that these additional amendments will have no impact on the state budget as the change in Subsection R156-31b-102(22) is only adding one word and the changes in Section R156-31b-302b are rewritten in an easier to understand format. The cost to the Division to reprint this rule was identified in the original rule filing.

❖ **LOCAL GOVERNMENTS:** These additional proposed amendments do not apply to local governments.

❖ **OTHER PERSONS:** Three proprietary schools in Utah who claim to offer a tutorial program for students enrolled at Excelsior College Nursing Program have claimed that implementation of clinical experience as originally proposed under Subsection R156-31b-601(3) would have had a great financial impact on their businesses because Excelsior graduates would not be eligible for licensure in Utah. Thus, by the Division deleting Subsection R156-31b-601(3), there is no fiscal impact.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No costs for compliance are associated with these additional proposed amendments.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There appears to be no fiscal impact to businesses as a result of these changes to the proposed rule. Ted Boyer, 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:

Laura Poe at the above address, by phone at 801-530-6789, by FAX at 801-530-6511, or by Internet E-mail at lpoe@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 11/14/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 11/15/2002

AUTHORIZED BY: J. Craig Jackson, Director

**R156. Commerce, Occupational and Professional Licensing.
R156-31b. Nurse Practice Act Rules.
R156-31b-102. Definitions.**

In addition to the definitions in Title 58, Chapters 1 and 31b, as defined or used in these rules:

(1) "Activities of daily living (ADLs)" means those personal activities in which individuals normally engage or are required for an individual's well-being whether performed by them alone, by them with the help of others, or for them by others, including eating, dressing, mobilizing, toileting, bathing, and other acts or practices to which an individual is subjected while under care in a regulated facility or under the orders of a licensed health care practitioner in a private residence.

(2) "APRN" means an advanced practice registered nurse.

(3) "Approved continuing education" in Subsection R156-31b-303(3) means:

(a) continuing education that has been approved by a professional nationally recognized approver of health related continuing education;

(b) nursing education courses taken from an approved education program as defined in Section R156-31b-601; and

(c) health related course work taken from an educational institution accredited by a regional institutional accrediting body identified in the "Accredited Institutions of Postsecondary Education", 1997-98 edition, published for the Commission of Recognition of Postsecondary Accreditation of the American Council on Education.

(4) "Approved education program" as defined in Subsection 58-31b-102(3) is further defined to include any nursing education program published in the documents entitled "State-Approved Schools of Nursing RN", 1998, and "State-Approved Schools of Nursing LPN/LVN", 1998, published by the National League for Nursing Accrediting Commission, which are hereby adopted and incorporated by reference as a part of these rules.

(5) "CCNE" means the Commission on Collegiate Nursing Education.

(6) "Contact hour" means 50 minutes.

(7) "CGFNS" means the Commission on Graduates of Foreign Nursing Schools.

(8) "CRNA" means a certified registered nurse anesthetist.

(9) "Delegation" means transferring to an individual the authority to perform a selected nursing task in a selected situation. The nurse retains accountability for the delegation.

(10) "Direct supervision" is the supervision required in Subsection 58-31b-306(1)(a)(iii) and means:

(a) the person providing supervision shall be available on the premises at which the supervisee is engaged in practice; or

(b) if the supervisee is specializing in psychiatric mental health nursing, the supervisor may be remote from the supervisee if there is personal direct voice communication between the two prior to administering or prescribing a prescription drug.

(11) "Disruptive behavior", as used in these rules, means conduct, whether verbal or physical, that is demeaning, outrageous, or malicious and that places at risk patient care or the process of delivering quality patient care. Disruptive behavior does not include criticism that is offered in good faith with the aim of improving patient care.

(12) "Generally recognized scope and standards of advanced practice registered nursing" means the scope and standards of practice set forth in the "Scope and Standards of Advanced Practice Registered Nursing", 1996, published by the American Nurses Association, which is hereby adopted and incorporated by reference, or as established by the professional community.

(13) "Generally recognized scope of practice of licensed practical nurses" means the scope of practice set forth in the "Model Nursing Administrative Rules", 1994, published by the National Council of State Boards of Nursing, which is hereby adopted and incorporated by reference, or as established by the professional community.

(14) "Generally recognized scope of practice of registered nurses" means the scope of practice set forth in the "Standards of Clinical Nursing Practice", 2nd edition, 1998, published by the American Nurses Association, which is hereby adopted and incorporated by reference, or as established by the professional community.

(15) "Licensure by equivalency" as used in these rules means licensure as a licensed practical nurse after successful completion of course work in a registered nurse program which meets the criteria established in Section R156-31b-601.

(16) "LPN" means a licensed practical nurse.

(17) "NLNAC" means the National League for Nursing Accrediting Commission.

(18) "NCLEX" means the National Council Licensure Examination of the National Council of State Boards of Nursing.

(19) "Non-approved education program" means any foreign nurse education program.

(20) "Other specified health care professionals", as used in Subsection 58-31b-102(12), who may direct the licensed practical nurse means:

(a) advanced practice registered nurse;

(b) certified nurse midwife;

(c) chiropractic physician;

(d) dentist;

(e) osteopathic physician;

(f) physician assistant;

(g) podiatric physician;

(h) optometrist;

(i) certified registered nurse anesthetist.

(21) "Patient surrogate", as used in Subsection R156-31b-502(4), means an individual who has legal authority to act on behalf of the patient when the patient is unable to act or decide for himself, including a parent, foster parent, legal guardian, or a person designated in a power of attorney.

(22) "Personal assistance and care", as used in Subsection 58-31b-102(11), means acts or practices by an individual to personally assist or aid another individual in activities of daily living. These activities do not include those services provided by physical therapy, occupational therapy, or recreational therapy aides/assistants.

(23) "Psychiatric mental health nursing specialty", as used in Subsection 58-31b-302(3)(g), includes psychiatric mental health nurse specialists and psychiatric mental health nurse practitioners.

(24) "RN" means a registered nurse.

(25) "Supervision" in Section R156-31b-701 means the provision of guidance or direction, evaluation and follow up by the licensed nurse for accomplishment of a task delegated to unlicensed assistive personnel or other licensed individuals.

(26) "Unprofessional conduct" as defined in Title 58, Chapters 1 and 31b, is further defined in Section R156-31b-502.

R156-31b-302b. Qualifications for Licensure - Experience Requirements for APRNs Specializing in Psychiatric Mental Health Nursing.

(1) In accordance with Subsection 58-31b-302(3)(g), the supervised clinical practice in mental health therapy and psychiatric and mental health nursing shall consist of a minimum of 4,000 hours of psychiatric mental health nursing education and clinical practice (including mental health therapy). ~~including 1,000 hours of mental health therapy and one hour of face to face supervision for every 20 hours of mental health therapy services, provided.]~~

(a) 1,000 hours shall be credited for completion of clinical experience in an approved education program in psychiatric mental health nursing.

(b) The remaining 3,000 hours shall:

(i) include a minimum of 1,000 hours of mental health therapy and one hour of face to face supervision for every 20 hours of mental therapy services provided;

(ii) be completed while an employee, unless otherwise approved by the board and division, under the supervision of an approved supervisor; and

(iii) be completed under a program of supervision by a supervisor who meets the requirements under Subsection (3).

(c) At least 2,000 hours must be under the supervision of an APRN specializing in psychiatric mental health nursing. An APRN working in collaboration with a licensed mental health therapist may delegate selected clinical experiences to be supervised by that mental health therapist with general supervision by the APRN.

(2) An applicant who has obtained all or part of the clinical practice hours outside of the state, may receive credit for that experience if it is demonstrated by the applicant that the training completed is equivalent to and in all respects meets the requirements under this section.

(3) An approved supervisor shall verify practice as a licensee engaged in the practice of mental health therapy for not less than 4,000 hours in a period of not less than two years.

(4) Duties and responsibilities of a supervisor include:

(a) being independent from control by the supervisee such that the ability of the supervisor to supervise and direct the practice of the supervisee is not compromised;

(b) supervising not more than three supervisees unless otherwise approved by the division in collaboration with the board; and

(c) submitting appropriate documentation to the division with respect to all work completed by the supervisee, including the supervisor's evaluation of the supervisee's competence to practice.

(5) An applicant for licensure by endorsement as an APRN specializing in psychiatric mental health nursing under the provisions of Section 58-1-302 shall demonstrate compliance with the clinical practice in psychiatric and mental health nursing requirement under Subsection 58-31b-302(3)(g) by demonstrating that the applicant has successfully engaged in active practice in

psychiatric mental health nursing for not less than 4,000 hours in the three years immediately preceding the application for licensure.

R156-31b-601. Nursing Education Program Standards.

In accordance with Subsection 58-31b-601(2), the minimum standards that a nursing education program must meet to qualify graduates for licensure under this chapter, which are hereby adopted and incorporated by reference, are respectively:

(1) the "Standards of Accreditation of Baccalaureate and Graduate Nursing Education Programs", August 1998, published by the CCNE; or

(2) the standards found in the "Accreditation Manual and Interpretative Guidelines by Program Type for Post Secondary, Baccalaureate, and Higher Degree Programs in Nursing", 2001 Revised, published by the NLNAC[~~and~~

~~—(3) by July 1, 2003, have qualified faculty supervised clinical experiences distributed throughout the curriculum].~~

KEY: licensure, nurses

2002

58-31b-101

58-1-106(1)

58-1-202(1)(a)



End of the Notices of Changes in Proposed Rules Section

NOTICES OF 120-DAY (EMERGENCY) RULES

An agency may file a 120-DAY (EMERGENCY) RULE when it finds that the regular rulemaking procedures would:

- (a) cause an imminent peril to the public health, safety, or welfare;
- (b) cause an imminent budget reduction because of budget restraints or federal requirements; or
- (c) place the agency in violation of federal or state law (*Utah Code* Subsection 63-46a-7(1) (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.

Administrative Services, Risk Management **R37-4**

Adjusted Utah Governmental Immunity Act Limitations on Judgments

NOTICE OF 120-DAY (EMERGENCY) RULE

DAR FILE No.: 25377
FILED: 09/23/2002, 16:43

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Subsection 63-30-34(4)(b) requires the Utah State Risk Manager to calculate and establish, every other year, new limitations on judgments based on increases or decreases to the Consumer Price Index (CPI) and to submit these changes in administrative rule (S.B. 35, 2000 session). This rule reflects the calculations of the changes in the CPI. The increase in the CPI is reflected in an increase in the maximum dollar amounts that the court can award in cases involving Utah state and local government entities. A 6.5% increase in the CPI is reflected in this rule. (DAR NOTE: S.B. 35 is found at UT L 2000 Ch 157, and was effective July 1, 2001.)

SUMMARY OF THE RULE OR CHANGE: This rule will increase the maximum dollar amount that the courts can award in judgment against a Utah governmental entity. The CPI increased by 6.5%. This increase means that one person in any one occurrence can be awarded \$532,500. If the case involves two or more persons in any one occurrence the maximum amount that can be awarded is \$1,065,000.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 63-30-34(4)(b)

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: The implementation of this rule will result in the maximum amount that a court can award for one person in any one occurrence to increase by \$32,500 for a maximum of \$532,500. The implementation of this rule will also result in an increase of \$65,000 to the maximum that a court can award to two or more person in any one occurrence. The maximum will increase from \$1,000,000 to \$1,065,000. These changes will result in higher costs to the State.
- ❖ LOCAL GOVERNMENTS: The increases to local governments will be same as for State government. The caps on awards will increase from \$500,000 for one person in any one occurrence to \$532,500; and from \$1,000,000 to \$1,065,000 for two or more persons in any one occurrence. These changes will likely result in higher costs to local governments.
- ❖ OTHER PERSONS: No impact because the rule only applies to entities covered by the Utah Governmental Immunity Act.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No impact because the rule only applies to entities covered by the Utah Governmental Immunity Act.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule has no impact on business. Camille Anthony

EMERGENCY RULE REASON AND JUSTIFICATION: REGULAR RULEMAKING PROCEDURES WOULD place the agency in violation of federal or state law.

The first filing for Rule R37-4 was filed on April 30, 2002. In that filing, the intended effective date was July 1, 2002, as required by Subsection 63-30-34(4)(b). Through an inadvertent clerical error, the Division of Risk Management did not, after the public comment period, provide the Division of Administrative Rules the subsequent notice of effective date as required by statute so it was not made effective. From September 23, 2002, this emergency rule brings the Division

of Risk Management into compliance with the statute. (DAR NOTE: The proposed new Rule R37-4 is under DAR No. 25406 in this Bulletin.)

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

ADMINISTRATIVE SERVICES
RISK MANAGEMENT
Room 5120 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:

Mike Sanders at the above address, by phone at 801-538-9560, by FAX at 801-538-9597, or by Internet E-mail at msanders@utah.gov

THIS RULE IS EFFECTIVE ON: 09/23/2002

AUTHORIZED BY: Alan Edwards, Director

R37. Administrative Services, Risk Management.

R37-4. Adjusted Limitation of Judgments.

R37-4-1. Authority and Calculation Process.

Pursuant to UCA 63-30-34(4)(b) the Risk Manager hereby establishes a new limitation of judgment.

Accordingly, the Risk Manager has calculated the consumer price index for calendar years 1999 and 2001 using standards provided in Sections 1(f)(4) and 1(f)(5) of the Internal Revenue Code. Section 1(f)(4) has defined the CPI for any calendar year to mean the average of the consumer price index as of the close of the 12-month period ending on August 31 of such calendar year. Section 1(f)(5) has defined "consumer price index" to mean the index used

for all-urban consumers published by the Department of Labor. By applying these standards, the consumer price index for calendar year 1999 is calculated to be 165.14 and the index for 2001 is 175.88. The percentage difference between the 1999 index and the 2001 index was then computed to be 6.5%.

R37-4-2. New Limitation of Judgement Amounts.

As a result of the above required calculations, the new limitation of judgment amounts currently required by UCA 63-30-34(1) has been increased as follows, and is effective September 23, 2002:

1) In accordance with UCA 63-30-34(1)(a), the limit for damages for personal injury against a governmental entity, or an employee whom a governmental entity has a duty to indemnify is \$532,500 for one person in any one occurrence (instead of \$500,000), or \$1,065,000 for two or more persons in any one occurrence (instead of \$1,000,000);

2) In accordance with UCA 63-30-34(1)(b), the limit for damages for injury or death to one person is \$532,500, (instead of \$500,000) regardless of whether or not the function giving rise to the injury is characterized as governmental; and

3) In accordance with UCA 63-30-34(1)(c), the limit for property damages (excluding damages awarded as compensation when a governmental entity has taken or damaged private property for public use without just compensation) against a governmental entity, or an employee whom a governmental entity has a duty to indemnify is \$213,000 in any one occurrence (instead of \$200,000).

KEY: limitation on judgments, risk management, governmental immunity act caps

2002

63-30-34(4)(b)



End of the Notices of 120-Day (Emergency) Rules Section

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the responsible agency is required to review the rule. This review is designed to remove obsolete rules from the *Utah Administrative Code*.

Upon reviewing a rule, an agency may: repeal the rule by filing a PROPOSED RULE; continue the rule as it is by filing a NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (NOTICE); or amend the rule by filing a PROPOSED RULE and by filing a NOTICE. By filing a NOTICE, the agency indicates that the rule is still necessary.

NOTICES are not followed by the rule text. The rule text that is being continued may be found in the most recent edition of the *Utah Administrative Code*. The rule text may also be inspected at the agency or the Division of Administrative Rules. NOTICES are effective when filed. NOTICES are governed by *Utah Code* Section 63-46a-9 (1998).

Agriculture and Food, Administration

R51-2

Administrative Procedures for Informal Proceedings Before the Utah Department of Agriculture and Food

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 25342
FILED: 09/17/2002, 15:12

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 63-46b-5 states the proceedings for informal adjudicative proceedings. Section 4-1-3.5 states that the Department of Agriculture and Food and its divisions shall comply with the procedures and requirements of Title 63, Chapter 46b, in their adjudicative proceedings.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments 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 establishes and governs the administrative proceedings before the Utah Department of Agriculture and Food, as required by Section 4-1-3.5 and Title 63, Chapter 46b and should be continued.

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:

Marolyn Leetham, Kyle Stephens, or Renee Matsuura at the above address, by phone at 801-538-7114, 801-538-7150, or 801-538-7110, by FAX at 801-538-7126, 801-538-7126, or 801-538-7126, or by Internet E-mail at mleetham@utah.gov, kylestephens@utah.gov, or rmatsuura@utah.gov

AUTHORIZED BY: Cary G. Peterson, Commissioner

EFFECTIVE: 09/17/2002



Agriculture and Food, Animal Industry

R58-19

Compliance Procedures

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 25362
FILED: 09/20/2002, 09:25

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 4-2-2(1)(j) authorizes the Department of Agriculture and Food to make and enforce rules.

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 establishes the procedures for issuing Emergency Orders or Citations as a result of information that is known by the division, which identifies an immediate and significant danger to the public's health, animal health, safety or welfare and should be continued. Citations are issued to immediately remedy a

violation of Agricultural statutes or rules by a person, business, operator, etc.

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

AGRICULTURE AND FOOD
ANIMAL INDUSTRY
350 N REDWOOD RD
SALT LAKE CITY UT 84116-3087, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Earl Rogers or Mike Marshall at the above address, by phone at 801-538-7162 or 801-538-7160, by FAX at 801-538-7169 or 801-538-7169, or by Internet E-mail at erogers@utah.gov or mmarshall@utah.gov

AUTHORIZED BY: Cary G. Peterson, Commissioner

EFFECTIVE: 09/20/2002

▼ ————— ▼

Agriculture and Food, Marketing and Conservation

R65-11

Utah Sheep Marketing Order

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 25363
FILED: 09/20/2002, 09:36

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: Subsection 4-2-2(1)(e) authorizes the Department of Agriculture and Food to issue marketing orders to promote orderly market conditions for agricultural products.

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 to assure an effective and coordinated program to maintain and expand the Utah sheep industry's market position and should be continued.

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

AGRICULTURE AND FOOD
MARKETING AND CONSERVATION

350 N REDWOOD RD
SALT LAKE CITY UT 84116-3087, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Marolyn Leetham or Randy Parker at the above address, by phone at 801-538-7114 or 801-538-7108, by FAX at 801-538-7126 or 801-538-7126, or by Internet E-mail at mleetham@utah.gov or rparker@utah.gov

AUTHORIZED BY: Cary G. Peterson, Commissioner

EFFECTIVE: 09/20/2002

▼ ————— ▼

Agriculture and Food, Plant Industry

R68-15

Quarantine Pertaining to Japanese Beetle, (Popillia Japonica)

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 25366
FILED: 09/20/2002, 10:09

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 4-2-2(1)(j) authorizes the Department of Agriculture and Food to make and enforce rules. Subsection 4-2-2(1)(1)(ii) authorizes the Department of Agriculture and Food to establish and enforce quarantines.

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 was established to prevent the spread of the Japanese Beetle through out the State of Utah and should be continued.

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

AGRICULTURE AND FOOD
PLANT INDUSTRY
350 N REDWOOD RD
SALT LAKE CITY UT 84116-3087, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Marolyn Leetham, Ed Bianco, or Dick Wilson at the above address, by phone at 801-538-7114, 801-538-7184, or 801-538-7180, by FAX at 801-538-7126, 801-538-7126, or 801-

538-7126, or by Internet E-mail at mleetham@utah.gov,
ebianco@utah.gov, or dwilson@utah.gov

AUTHORIZED BY: Cary G. Peterson, Commissioner

EFFECTIVE: 09/20/2002

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Agriculture and Food, Plant Industry R68-19 Compliance Procedures

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 25365
FILED: 09/20/2002, 09:59

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 4-2-2(1)(j) authorizes the Department of Agriculture and Food to make and enforce rules.

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 establishes the procedures for issuing Emergency Orders, when the division determines that there is an immediate and significant danger to public health, safety, or welfare and should be continued. Orders are intended to protect the public from unlawful agricultural and food products and services.

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

AGRICULTURE AND FOOD
PLANT INDUSTRY
350 N REDWOOD RD
SALT LAKE CITY UT 84116-3087, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Marolyn Leetham or Dick Wilson at the above address, by phone at 801-538-7114 or 801-538-7180, by FAX at 801-538-7126 or 801-538-7126, or by Internet E-mail at mleetham@utah.gov or dwilson@utah.gov

AUTHORIZED BY: Cary G. Peterson, Commissioner

EFFECTIVE: 09/20/2002

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Agriculture and Food, Regulatory Services R70-201 Compliance Procedures

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 25367
FILED: 09/20/2002, 10:20

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 4-2-2(1)(j) authorizes the Department of Agriculture and Food to make and enforce rules.

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 establishes the procedures for issuing Emergency Orders and should be continued. When the division determines that there is an immediate and significant danger to public health, animal health, safety, or welfare, emergency orders may be issued to secure the well-being, safety, or removal of danger to state citizens. Orders are intended to protect the public from unlawful agricultural and food products and services.

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

AGRICULTURE AND FOOD
REGULATORY SERVICES
350 N REDWOOD RD
SALT LAKE CITY UT 84116-3087, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Marolyn Leetham or Kyle Stephens at the above address, by phone at 801-538-7114 or 801-538-7150, by FAX at 801-538-7126 or 801-538-7126, or by Internet E-mail at mleetham@utah.gov or kylestephens@utah.gov

AUTHORIZED BY: Cary G. Peterson, Commissioner

EFFECTIVE: 09/20/2002

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Community and Economic
Development, Community
Development, Energy Services

R203-3

Utah Commercial/Industrial Energy
Loan Program

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 25369
FILED: 09/20/2002, 16:52

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 63-34-101 created the Utah Energy Office to administer federally funded state programs regarding renewable energy, energy efficiency, and energy conservation in accordance with applicable federal program guidelines. This rule governing this federally funded state program was enacted per the Utah Administrative Rulemaking Act, Title 63, Chapter 46a (2002).

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: One written comment was received that expressed the importance and favorable support of the program under this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The agency has elected to repeal this rule because the program has been discontinued but will continue the rule until the repeal is made effective. (DAR NOTE: The proposed repeal of Rule R203-3 is found under DAR No. 25370 in this Bulletin.)

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

COMMUNITY AND ECONOMIC DEVELOPMENT
COMMUNITY DEVELOPMENT, ENERGY SERVICES
Room 3610
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84111, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Lisa Yoder at the above address, by phone at 801-538-4761, by FAX at 801-538-4795, or by Internet E-mail at lisayoder@utah.gov

AUTHORIZED BY: Thomas Brill, Director

EFFECTIVE: 09/20/2002



Community and Economic
Development, Community
Development, Energy Services

R203-4

Utah Public Building Energy Loan and
Grant Programs

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 25368
FILED: 09/20/2002, 10:55

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 63-34-101 created the Utah Energy Office to administer federally funded state programs regarding renewable energy, energy efficiency, and energy conservation in accordance with applicable federal program guidelines. This rule governing this federally funded state program was enacted per the Utah Administrative Rulemaking Act, Title 63, Chapter 46a (2002).

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: Governor Michael O. Leavitt has committed state facilities to achieve \$20,000,000 in energy savings by 2010. The Public Building Loan Program is a vital component for meeting that goal. Although a variety of funding mechanisms are used to achieve this goal including state appropriations and private sector funding through energy service companies, the loan program services a unique array of projects that often go unfunded under either appropriations or Energy Service Companies(ESCO). A history of the Public Building Loan Program shows 100% on-time repayments by state facilities and a keen interest in continued loans under the program. Therefore, this rule should be continued.

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

COMMUNITY AND ECONOMIC DEVELOPMENT
COMMUNITY DEVELOPMENT, ENERGY SERVICES
Room 3610
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84111, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Lisa Yoder at the above address, by phone at 801-538-4761, by FAX at 801-538-4795, or by Internet E-mail at lisayoder@utah.gov

AUTHORIZED BY: Thomas Brill, Director

EFFECTIVE: 09/19/2002

EFFECTIVE: 09/20/2002

Community and Economic
Development, Community
Development, Energy Services

R203-5

Utah Energy Technology
Demonstration Program

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 25353
FILED: 09/19/2002, 17:27

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 63-34-101 created the Utah Energy Office to administer federally funded state programs regarding renewable energy, energy efficiency, and energy conservation in accordance with applicable federal program guidelines. This rule governing this federally-funded state program was enacted per the Utah Administrative Rulemaking Act, Title 63, Chapter 46a (2002).

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 were received during or since the last five-year review of the rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The agency has elected to repeal this rule because the program has been discontinued but will continue the rule until the repeal is made effective. (DAR NOTE: The proposed repeal of Rule R203-5 is found under DAR No. 25354 in this Bulletin.)

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

COMMUNITY AND ECONOMIC DEVELOPMENT
COMMUNITY DEVELOPMENT, ENERGY SERVICES
Room 3610
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84111, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Lisa Yoder at the above address, by phone at 801-538-4761, by FAX at 801-538-4795, or by Internet E-mail at lisayoder@utah.gov

AUTHORIZED BY: Thomas Brill, Director

Financial Institutions, Administration

R331-3

Rule to Govern Persons Soliciting
Savings or Share Accounts, Deposit
Accounts, or Similar Evidence of
Indebtedness or Participation Interests
Therein from Residents of this State

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 25402
FILED: 09/25/2002, 11:49

**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 7-1-501(8) lists the persons and institutions subject to the jurisdiction of the department. Subsection 7-1-401(5) requires persons and institutions under the jurisdiction of the department to pay annual fees and fees for examinations. Section 7-1-505 authorizes the commissioner to issue appropriate rules and regulations governing the regulation, supervision, and examination of persons or institutions under the jurisdiction of the department.

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 supporting or opposing written comments have been received by the agency concerning this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule regulates persons soliciting savings or share accounts, deposit accounts, or similar evidence of indebtedness or participation interests therein from residents of this state and to protect the deposits of the residents of this state and should be continued.

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

FINANCIAL INSTITUTIONS
ADMINISTRATION
Room 201
324 S STATE ST
SALT LAKE CITY UT 84111-2393, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Sonja Long at the above address, by phone at 801-538-8761, by FAX at 801-538-8894, or by Internet E-mail at slong@utah.gov

AUTHORIZED BY: Edward Leary, Commissioner

EFFECTIVE: 09/25/2002

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Financial Institutions, Administration **R331-17**

Publication and Disclosure of Acquisition of Control, Merger, or Consolidation Applications to the Department of Financial Institutions

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 25403
FILED: 09/25/2002, 11:51

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 7-1-301(5) authorizes the commissioner to grant applications of approval for new institutions, branches, relocations, mergers, consolidations, changes of control, and other applications. Section 7-1-703 places restrictions on acquisition of institutions and holding companies. Section 7-1-704 states that an institution subject to the jurisdiction of the department may maintain an office in this state or engage in activities of a financial institution in this state only if it is authorized to do so by the department. Section 7-1-705 lists the criteria necessary to file an application with the department as well as what is required for approval and grounds for disapproval.

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 supporting or opposing written comments were received by the agency concerning this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule applies to all applicants to the department for change of control, acquisition of, merger, or consolidation with any financial institution chartered by the state and should be continued.

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

FINANCIAL INSTITUTIONS
ADMINISTRATION
Room 201
324 S STATE ST
SALT LAKE CITY UT 84111-2393, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Sonja Long at the above address, by phone at 801-538-8761, by FAX at 801-538-8894, or by Internet E-mail at slong@utah.gov

AUTHORIZED BY: Edward Leary, Commissioner

EFFECTIVE: 09/25/2002

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Financial Institutions, Administration **R331-23**

Lending Limits for Banks and Industrial Loan Corporations

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 25421
FILED: 10/01/2002, 11:04

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 7-1-301 confers rulemaking powers and duties to the Commissioner with respect institutions, persons, or businesses subject to the jurisdiction of the department. Section 7-3-19 authorizes limitations on loans and extensions of credit. Section 7-8-20 lists limitations on loans to one borrower, the exceptions, and the rules.

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 supporting or opposing written comments have been received by the agency concerning this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule is intended to prevent one person from borrowing an unduly large amount of a given bank's or industrial loan corporation's funds, thereby exposing the bank's or industrial loan corporation's depositors, creditors, and stockholders to excessive risk and should be continued.

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

FINANCIAL INSTITUTIONS
ADMINISTRATION
Room 201
324 S STATE ST
SALT LAKE CITY UT 84111-2393, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Sonja Long at the above address, by phone at 801-538-8761,

by FAX at 801-538-8894, or by Internet E-mail at
slong@utah.gov

AUTHORIZED BY: Edward Leary, Commissioner

EFFECTIVE: 10/01/2002



Financial Institutions, Banks
R333-5
Discount Securities Brokerage Service
by Banks

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 25376
FILED: 09/23/2002, 14:34

**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 7-1-301(3)(a) grants the commissioner power to authorize a state chartered depository institution all rights, powers, privileges, benefits, or immunities it would possess if it were chartered under the laws of the United States; and Section 7-3-3.2 authorizes banks to engage in the business of purchasing, selling, underwriting, and dealing in securities subject to the limitations of this section.

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 supporting or opposing written comments have been received by the agency concerning this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule limits securities activities to "discount brokerage" services and gives state chartered banks competitive equality with national banks which have their principal office in this state by granting the same rights and privileges to state chartered bank as are enjoyed by Utah's national banks and should be continued.

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

FINANCIAL INSTITUTIONS
BANKS
Room 201
324 S STATE ST
SALT LAKE CITY UT 84111-2393, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Sonja Long at the above address, by phone at 801-538-8761,

by FAX at 801-538-8894, or by Internet E-mail at
slong@utah.gov

AUTHORIZED BY: Edward Leary, Commissioner

EFFECTIVE: 09/23/2002



Financial Institutions, Banks
R333-8
Authority for Banks to Issue
Subordinated Capital Notes or
Debentures

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 25375
FILED: 09/23/2002, 14:32

**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 7-1-301(8)(v) authorizes the Commissioner to put "limitations on the amount and type of borrowings by each class of financial institution in relation to the amount of its capital and the character and condition of its assets and its deposits and other liabilities"; and Section 7-3-28 covers the issuance of capital notes or debentures, when they shall be subordinated, that they may not exceed certain limitations, that the amount for not maturing within one year will be added to the capital of the bank, and other regulations for protection.

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 supporting or opposing written comments have been received by the agency concerning this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule establishes the criteria and procedures for issuance of subordinated capital notes or debentures and limitations on the total amount of such instruments which may be outstanding in order to protect the bank's depositors and shareholders and should be continued.

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

FINANCIAL INSTITUTIONS
BANKS
Room 201
324 S STATE ST
SALT LAKE CITY UT 84111-2393, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Sonja Long at the above address, by phone at 801-538-8761, by FAX at 801-538-8894, or by Internet E-mail at slong@utah.gov

AUTHORIZED BY: Edward Leary, Commissioner

EFFECTIVE: 09/23/2002

DIRECT QUESTIONS REGARDING THIS RULE TO:

Sonja Long at the above address, by phone at 801-538-8761, by FAX at 801-538-8894, or by Internet E-mail at slong@utah.gov

AUTHORIZED BY: Edward Leary, Commissioner

EFFECTIVE: 09/23/2002

Financial Institutions, Banks

R333-9

Indemnification of Directors, Officers and Employees

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 25373
FILED: 09/23/2002, 14:27

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 7-1-301(4) authorizes the commissioner to safeguard the interest of shareholders, members, depositors, and other customers of institutions; and Section 7-3-13 restricts changes in the articles of incorporation if the change would result in the impairment of the rights, remedies, or securities of depositors and other creditors.

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 supporting or opposing written comments have been received by the agency concerning this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rules defines, clarifies, and limits the extent to which a state chartered bank may provide in its articles of incorporation or bylaws for the indemnification of directors, officers, and employees; the rule also deters acts that could threaten the safety and soundness of banks by specifically prohibiting the indemnification of directors, officers, and employees and should be continued.

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

FINANCIAL INSTITUTIONS
BANKS
Room 201
324 S STATE ST
SALT LAKE CITY UT 84111-2393, or
at the Division of Administrative Rules.

Financial Institutions, Banks

R333-10

Securities Activities of Subsidiaries and Affiliates of State-Chartered Banks

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 25374
FILED: 09/23/2002, 14:31

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: Section 7-3-3.2 authorizes banks to engage in the business of purchasing, selling, underwriting, and dealing in securities subject to the limitations of this section; and Section 7-3-21 outlines the conditions of stock ownership by banks.

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 supporting or opposing written comments have been received by the agency concerning this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule establishes safeguards to ensure that subsidiaries or affiliates engaged in securities activities do not endanger the safeness and soundness of the state chartered banks and should be continued.

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

FINANCIAL INSTITUTIONS
BANKS
Room 201
324 S STATE ST
SALT LAKE CITY UT 84111-2393, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Sonja Long at the above address, by phone at 801-538-8761, by FAX at 801-538-8894, or by Internet E-mail at slong@utah.gov

AUTHORIZED BY: Edward Leary, Commissioner

EFFECTIVE: 09/23/2002



Financial Institutions, Banks

R333-12

Investment by State-Chartered Bank in
Real Property Other Than Bank
Premises

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 25404
FILED: 09/25/2002, 11:54

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 7-1-301 authorizes rulemaking authority to the Commissioner. Section 7-3-18 permits a bank to purchase, hold, and convey real estate, other than bank premises, only for those purposes and in a manner prescribed by the commissioner by regulation.

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 supporting or opposing written comments have been received by the agency concerning this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule authorizes state-chartered banks with sufficient capital to invest in real property other than bank premises and prescribed by commissioner by regulation and should be continued.

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

FINANCIAL INSTITUTIONS
BANKS
Room 201
324 S STATE ST
SALT LAKE CITY UT 84111-2393, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Sonja Long at the above address, by phone at 801-538-8761, by FAX at 801-538-8894, or by Internet E-mail at slong@utah.gov

AUTHORIZED BY: Edward Leary, Commissioner

EFFECTIVE: 09/25/2002



Financial Institutions, Consumer Credit
R335-1
Rule Prohibiting Negative Amortizing
Wrap Loans

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 25379
FILED: 09/24/2002, 14:24

**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 70C-8-102(1)(e) adopts, amends, and repeals rules to supplement, interpret, or carry out the provisions of this title; this rule applies to all extensions of credit subject to Title 70C, Utah Consumer Credit Code, which furthers consumer understanding of credit transactions, prohibits certain unfair practices, and avoids duplication of laws and regulations pertaining to consumer credit between state and federal authorities.

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 supporting or opposing written comments have been received by the agency concerning this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The purpose for this rule is to prohibit wrap loans that will not fully service all obligations wrapped by the loan and should be continued.

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

FINANCIAL INSTITUTIONS
CONSUMER CREDIT
Room 201
324 S STATE ST
SALT LAKE CITY UT 84111-2393, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Sonja Long at the above address, by phone at 801-538-8761, by FAX at 801-538-8894, or by Internet E-mail at slong@utah.gov

AUTHORIZED BY: Edward Leary, Commissioner

EFFECTIVE: 09/24/2002



Financial Institutions, Consumer Credit
R335-2

Rule Prescribing Allowable Terms and
 Disclosure Requirements for Variable
 and Adjustable Interest Rates in
 Consumer Credit Contracts

**FIVE YEAR NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**

DAR FILE No.: 25405
 FILED: 09/25/2002, 12:16

**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 70C-8-102(1)(e) adopts, amends, and repeals rules to supplement, interpret or carry out the provisions of this title; this rule applies to all extensions of credit subject to Title 70C, Utah Consumer Credit Code, which furthers consumer understanding of credit transactions, prohibits certain unfair practices, and avoids duplication of laws and regulations pertaining to consumer credit between state and federal authorities.

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 supporting or opposing written comments have been received by the agency concerning this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The purpose for this rule is to distinguish variable or adjustable interest rates from other kinds of rate formulas or provisions, to specify what must be included in rate formulas represented to be variable or adjustable and to specify certain disclosure requirements under state and federal law applicable to variable or adjustable rate and other formulas and should be continued.

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

FINANCIAL INSTITUTIONS
 CONSUMER CREDIT
 Room 201
 324 S STATE ST
 SALT LAKE CITY UT 84111-2393, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 Sonja Long at the above address, by phone at 801-538-8761, by FAX at 801-538-8894, or by Internet E-mail at slong@utah.gov

AUTHORIZED BY: Edward Leary, Commissioner

EFFECTIVE: 09/25/2002



Financial Institutions, Consumer Credit
R335-4

Notice Concerning Refund of Unearned
 Credit Insurance Premiums Upon
 Prepayment of a Consumer Debt

**FIVE YEAR NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**

DAR FILE No.: 25378
 FILED: 09/24/2002, 14:21

**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 70C-8-102(1)(e) adopts, amends, and repeals rules to supplement, interpret, or carry out the provisions of this title; this rule applies to all extensions of credit subject to Title 70C, Utah Consumer Credit Code, which furthers consumer understanding of credit transactions, prohibits certain unfair practices, and avoids duplication of laws and regulations pertaining to consumer credit between state and federal authorities.

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 supporting or opposing written comments have been received by the agency concerning this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The purpose for this rule is to require all consumer creditors, including assignees or other successors in interest, to notify a borrower when a debtor may be entitled to a separate refund of unearned credit insurance premiums and should be continued.

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

FINANCIAL INSTITUTIONS
 CONSUMER CREDIT
 Room 201
 324 S STATE ST
 SALT LAKE CITY UT 84111-2393, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 Sonja Long at the above address, by phone at 801-538-8761, by FAX at 801-538-8894, or by Internet E-mail at slong@utah.gov

AUTHORIZED BY: Edward Leary, Commissioner

EFFECTIVE: 09/24/2002



Financial Institutions, Credit Unions
R337-7

Discount Securities Brokerage Service
by State-Chartered Credit Unions

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR File No.: 25419
FILED: 10/01/2002, 11:02

**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 7-1-301(3) authorizes the Commissioner with powers, duties, and responsibilities of all institutions subject to the jurisdiction of the Department and he may authorize the activities state chartered depository institutions may engage in as if they were chartered under the laws of the United States.

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 supporting or opposing written comments have been received by the agency concerning this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule allows securities activities limited to "discount brokerage" services by state chartered credit unions, similar to the discount brokerage services allowed state chartered banks and industrial loan corporations, and should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
FINANCIAL INSTITUTIONS
CREDIT UNIONS
Room 201
324 S STATE ST
SALT LAKE CITY UT 84111-2393, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Sonja Long at the above address, by phone at 801-538-8761, by FAX at 801-538-8894, or by Internet E-mail at slong@utah.gov

AUTHORIZED BY: Edward Leary, Commissioner

EFFECTIVE: 10/01/2002



Financial Institutions, Credit Unions
R337-8

Accounts for Parties Other Than
Individual Members in State-Chartered
Credit Unions

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR File No.: 25420
FILED: 10/01/2002, 11:03

**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 7-1-301(3) authorizes the Commissioner with powers, duties and responsibilities of all institutions subject to the jurisdiction of the Department and he may authorize the activities state chartered depository institutions may engage in as if they were chartered under the laws of the United States.

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 supporting or opposing written comments have been received by the agency concerning this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule allows state chartered credit unions to maintain accounts in the name of businesses or entities other than individual members to the same extent as credit unions chartered under the laws of the United States and should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
FINANCIAL INSTITUTIONS
CREDIT UNIONS
Room 201
324 S STATE ST
SALT LAKE CITY UT 84111-2393, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Sonja Long at the above address, by phone at 801-538-8761, by FAX at 801-538-8894, or by Internet E-mail at slong@utah.gov

AUTHORIZED BY: Edward Leary, Commissioner

EFFECTIVE: 10/01/2002



Financial Institutions, Credit Unions
R337-9

Schedule for Retention or Destruction
of Records of Credit Unions Under the
Jurisdiction of the Department of
Financial Institutions

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 25418
FILED: 10/01/2002, 11:01

**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 7-1-301(7) authorizes the Commissioner to classify all records kept by institutions subject to the jurisdiction of the department and to prescribe the period for which each class of records is retained.

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 supporting or opposing written comments have been received by the agency concerning this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule establishes a schedule for the retention of records of credit unions and should be continued. The purpose of the rule is to require the maintenance of appropriate types of records which have a high degree of usefulness and to prescribe the period for which records of each class are retained.

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

FINANCIAL INSTITUTIONS
CREDIT UNIONS
Room 201
324 S STATE ST
SALT LAKE CITY UT 84111-2393, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Sonja Long at the above address, by phone at 801-538-8761, by FAX at 801-538-8894, or by Internet E-mail at slong@utah.gov

AUTHORIZED BY: Edward Leary, Commissioner

EFFECTIVE: 10/01/2002



Financial Institutions, Industrial Loan
Corporations
R339-4

Authority for Industrial Loan
Corporations to Issue Subordinated
Capital Notes or Debentures

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 25400
FILED: 09/25/2002, 11:44

**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 7-1-301(8) authorizes the Commissioner to establish reasonable classes of financial institutions and types of investments for the deposits and other funds, as well as eligible obligations, reserves and other accounts to be included in the computation of capital. Subsection 7-1-301(13) authorizes the Commissioner to regulate the issuance, advertising, offer for sale, and sale of a security.

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 supporting or opposing written comments have been received by the agency concerning this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule construes, applies, and elaborates on Rule R331-5 as it applies to industrial loan corporations in the issuance of subordinated capital notes or debentures and should be continued.

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

FINANCIAL INSTITUTIONS
INDUSTRIAL LOAN CORPORATIONS
Room 201
324 S STATE ST
SALT LAKE CITY UT 84111-2393, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Sonja Long at the above address, by phone at 801-538-8761, by FAX at 801-538-8894, or by Internet E-mail at slong@utah.gov

AUTHORIZED BY: Edward Leary, Commissioner

EFFECTIVE: 09/25/2002



Financial Institutions, Industrial Loan
Corporations
R339-6

Rule Clarifying Industrial Loan
Corporation Investments

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 25401
FILED: 09/25/2002, 11:47

**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: Subsection 7-1-301(8) authorizes the Commissioner to establish reasonable classes of financial institutions and types of investments for the deposits and other funds. Section 7-8-13 allows industrial loan corporations to purchase, hold and convey real estate, other than premises used in the conduct of its business. Section 7-8-14 lists the types of investments in property industrial loan corporations may invest in including real property and any interest in real property, stock, bonds, debentures, etc.

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 supporting or opposing written comments have been received by the agency concerning this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rules defines acceptable investments for the funds of an industrial loan corporation and defines and clarifies investments in real estate and should be continued.

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

FINANCIAL INSTITUTIONS
INDUSTRIAL LOAN CORPORATIONS
Room 201
324 S STATE ST
SALT LAKE CITY UT 84111-2393, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Sonja Long at the above address, by phone at 801-538-8761, by FAX at 801-538-8894, or by Internet E-mail at slong@utah.gov

AUTHORIZED BY: Edward Leary, Commissioner

EFFECTIVE: 09/25/2002



Financial Institutions, Industrial Loan
Corporations
R339-11

Discount Securities Brokerage Service
by Industrial Loan Corporations

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 25422
FILED: 10/01/2002, 11:06

**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 7-1-301(3) authorizes the Commissioner with the power, duties, and responsibilities of all institutions subject to the jurisdiction of the Department, and he may authorize the activities state chartered depository institutions may engage in as if they were chartered under the laws of the United States.

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 supporting or opposing written comments have been received by the agency concerning this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule allows securities activities limited to "discount brokerage" services by industrial loan corporations, similar to the discount brokerage services allowed state chartered banks and credit unions, and should be continued.

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

FINANCIAL INSTITUTIONS
INDUSTRIAL LOAN CORPORATIONS
Room 201
324 S STATE ST
SALT LAKE CITY UT 84111-2393, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Sonja Long at the above address, by phone at 801-538-8761, by FAX at 801-538-8894, or by Internet E-mail at slong@utah.gov

AUTHORIZED BY: Edward Leary, Commissioner

EFFECTIVE: 10/01/2002



Human Services, Aging and Adult Services

R510-302

Adult Protective Services

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 25352
FILED: 09/19/2002, 11:51

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: Adult Protective Service's role and responsibility is established in Section 62A-3-301 et seq. Specific authority to promulgate rules is found Subsection in 62A-3-303(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.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule clarifies statute and establishes for the public the manner in which they can access Adult Protective Services programs and investigation services and should be continued.

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

HUMAN SERVICES
AGING AND ADULT SERVICES
Room 325
120 N 200 W
SALT LAKE CITY UT 84103-1500, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Lee Ann Whitaker or Sally Anne Brown at the above address, by phone at 801-538-3915 or 801-538-8250, by FAX at 801-538-4395 or 801-538-4395, or by Internet E-mail at lwhitaker@utah.gov or sabrown@utah.gov

AUTHORIZED BY: Helen Goddard, Director

EFFECTIVE: 09/19/2002



Insurance, Administration

R590-96

Rule to Recognize New Annuity Mortality Tables for Use in Determining Reserve Liabilities for Annuities

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 25335
FILED: 09/17/2002, 06:48

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 31A-2-201 gives the commissioner general authority to make rules to implement the provisions of Title 31A. Section 31A-17-505 gives the commissioner specific authority to make rules to approve mortality tables used in determining the minimum standard of valuation for annuity contracts. This rule specifically approves specific mortality tables for individual and group annuity or pure endowment contracts after various dates.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The department has not received any comments regarding this rule in 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 rule is necessary because it sets up reserving standards and should be continued. In the absence of the rule, an insurer would be allowed to hold lower, inadequate reserves for annuities issued after April 2, 1980, which could result in the insolvency of the insurance company.

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

AUTHORIZED BY: Jilene Whitby, Information Specialist

EFFECTIVE: 09/17/2002



Insurance, Administration
R590-119
 Surplus Lines Stamping Fee

**FIVE YEAR NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**

DAR FILE No.: 25336
 FILED: 09/17/2002, 07:11

**NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 31A-2-201(3) authorizes the commissioner to make rules to implement the provisions of Title 31A. Subsection 31A-15-103(11)(d) directs the commissioner to establish a surplus lines stamping fee not to exceed 1%. This rule sets the stamping fee at 1/4 of 1% of the policy premium.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The department has not received any written comments on this rule in 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 rule was written to comply with the requirements in Subsection 31A-15-103(11)(d) which directs the commissioner to establish this fee. The code indicates the fee cannot exceed 1% of the policy premium. The rule establishes what the exact percentage is and should be continued.

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

AUTHORIZED BY: Jilene Whitby, Information Specialist

EFFECTIVE: 09/17/2002



Natural Resources, Water Rights
R655-1
 Wells Used for the Discovery and
 Production of Geothermal Energy in the
 State of Utah

**FIVE YEAR NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**

DAR FILE No.: 25415
 FILED: 09/30/2002, 16:39

**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: Under Section 73-22-5, the Division of Water Rights is given jurisdiction and authority to require that all wells for the discovery and production of water to be used for geothermal energy production of water in the State of Utah, be drilled, operated, maintained, and abandoned in a manner as to safeguard life, health, property, the public welfare, and to encourage maximum economic recovery.

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: The Division of Water Rights maintains jurisdiction and authority to require that all wells for the discovery and production of water to be used for geothermal energy production of water in the State of Utah, be drilled, operated, maintained, and abandoned in a manner as to safeguard life, health, property, the public welfare, and to encourage maximum economic recovery so this rule should be continued.

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

NATURAL RESOURCES
 WATER RIGHTS
 Room 220
 1594 W NORTH TEMPLE
 SALT LAKE CITY UT 84116-3154, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Gail Nelson at the above address, by phone at 801-538-7370, by FAX at 801-538-7442, or by Internet E-mail at gailnelson@utah.gov

AUTHORIZED BY: Jerry Olds, Director

EFFECTIVE: 09/30/2002



Natural Resources, Water Rights
R655-2

Procedure for Administrative Proceedings Before the Division of Water Rights Commenced Prior to January 1, 1988

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 25416
FILED: 09/30/2002, 16:39

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 63-46b-5 established and governed the administrative procedures for informal adjudicative proceedings before the Division of Water Rights that commenced prior to January 1, 1988.

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: The should be continued to govern all hearings which are held by the State Engineer on matters within his jurisdiction for all adjudicative proceedings that commenced prior to January 1, 1988.

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

NATURAL RESOURCES
WATER RIGHTS
Room 220
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Gail Nelson at the above address, by phone at 801-538-7370, by FAX at 801-538-7442, or by Internet E-mail at gailnelson@utah.gov

AUTHORIZED BY: Jerry Olds, Director

EFFECTIVE: 09/30/2002



Natural Resources, Water Rights
R655-6

Administrative Procedures for Informal Proceedings Before the Division of Water Rights

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 25417
FILED: 09/30/2002, 16:39

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 63-46b-5 establishes and governs the administrative procedures for informal adjudicative proceedings before the Division of Water Rights that commenced on or after January 1, 1988.

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: The rule should be continued to govern all hearings which are held by the State Engineer on matters within his jurisdiction for all adjudicative proceedings that commenced on or after January 1, 1988.

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

NATURAL RESOURCES
WATER RIGHTS
Room 220
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Gail Nelson at the above address, by phone at 801-538-7370, by FAX at 801-538-7442, or by Internet E-mail at gailnelson@utah.gov

AUTHORIZED BY: Jerry Olds, Director

EFFECTIVE: 09/30/2002



Natural Resources, Wildlife Resources
R657-12
 Authorization to Hunt From a Vehicle
 and Fishing License for the Disabled

**FIVE YEAR NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**

DAR FILE NO.: 25355
 FILED: 09/20/2002, 07:55

**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: Under Sections 23-14-18, 23-19-1, 23-19-36, 23-20-12, and 63-46a-3, the Wildlife Board has adopted this rule to provide the standards and procedures for a disabled person to: a) obtain a certificate of registration to take wildlife from a vehicle; and b) obtain a fishing license as authorized under Section 23-19-36. The Wildlife Board and the Division of Wildlife Resources (DWR) is intending to amend this rule to provide additional hunting and fishing accommodations for disabled people. (DAR NOTE: The proposed amendment to R657-12 is found under DAR No. 25356 in this Bulletin.)

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: DWR and the Wildlife Board have received written comments supporting this rule, and comments requesting that the Wildlife Board provide more hunting and fishing accommodations for disabled people. Specific comments pertained to allowing the use of crossbows for hunting all game species and allowing limited entry season extensions for all game species. Written comments received in opposition to the rule are resolved using existing policies and procedures or the issue is placed on the Regional Advisory Council's and Wildlife Board's agenda for review and discussion during the review process for taking public input. The public is welcome to view the Regional Advisory Council minutes, Wildlife Board minutes, and administrative record for this rule at DWR.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R657-12 provides the standards and procedures for a disabled person to: a) obtain a certificate of registration to take wildlife from a vehicle; and b) obtain a fishing license as authorized under Section 23-19-36. The Wildlife Board and DWR is amending this rule to provide additional hunting and fishing accommodations for disabled people. The provisions adopted in this rule are effective. Continuation of this rule is necessary for continued success for providing hunting and fishing accommodations for disabled people.

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

NATURAL RESOURCES
 WILDLIFE RESOURCES
 1594 W NORTH TEMPLE
 SALT LAKE CITY UT 84116-3154, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Debbie Sundell at the above address, by phone at 801-538-4707, by FAX at 801-538-4745, or by Internet E-mail at debbiesundell@utah.gov

AUTHORIZED BY: Kevin Conway, Director

EFFECTIVE: 09/20/2002



Natural Resources, Wildlife Resources
R657-13
 Taking Fish and Crayfish

**FIVE YEAR NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**

DAR FILE NO.: 25359
 FILED: 09/20/2002, 07:58

**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: Under Sections 23-14-18 and 23-14-19, the Wildlife Board is authorized and required to regulate and prescribe the means by which wildlife may be taken.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Division of Wildlife Resources (DWR) and the Wildlife Board have received several comments, both in support and opposition to Rule R657-13. In 1997, specific comments included restocking sterilized rainbow trout into Strawberry Reservoir because 99% of the people who go to Strawberry go there to fish and these people are in the habit of catching fish and taking them home. A petition was submitted to the Wildlife Board and DWR regarding stocking at Strawberry Reservoir. The public feels that Strawberry Reservoir is much too important to let it deteriorate or slow down. In 1998, specific comments included support of Deep Creek regulations and DWR's effort on conservation and the population; however, one concern regarded adjustment of the limit on the Deep Creek requesting it be reduced from four to two fish. Recommendations were made on the regulations on Six Water to stay in effect until study data is made available to show there is a problem or there is a need to change the regulations. Recommendations were made to open Lake Creek Lake during the winter season and the landowner charge for private fee fishing; however, before any decision or direction is taken by the Board, there

should be a full public airing of this issue. In 1999, specific comments included clarification on the West Fork Duchesne and why DWR is recommending removal of the spawning restriction. The DWR responded that this is the source where fish are moved to Sheep Creek Lake to start a brood population, and that this water is different from the other cutthroat streams and a two-fish limit was restrictive enough. Also, with bad winters, people do not have access and when they do the flows are high and it is difficult to fish. The recommendation is to take the closure off. Recommendations were made to DWR to come up with recommendations on spear fishing. In 2000, comments received supported this rule and DWR was commended on the work done to clarify many preceding concerns. Written comments received opposing the rule are resolved using existing policies and procedures or the issue is placed on the Regional Advisory Council's and Wildlife Board's agenda for review and discussion. The public is welcome to view the Regional Advisory Council minutes, Wildlife Board minutes, and the administrative record for this rule at DWR.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R657-13 provides the procedures, standards, and requirements for taking fish and crayfish. The provisions adopted in this rule are effective and necessary. Continuation of this rule is necessary for continued success of the Division's recreational fishing program.

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

NATURAL RESOURCES
 WILDLIFE RESOURCES
 1594 W NORTH TEMPLE
 SALT LAKE CITY UT 84116-3154, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 Debbie Sundell at the above address, by phone at 801-538-4707, by FAX at 801-538-4745, or by Internet E-mail at debbiesundell@utah.gov

AUTHORIZED BY: Kevin Conway, Director

EFFECTIVE: 09/20/2002



Natural Resources, Wildlife Resources
R657-16
 Aquaculture and Fish Stocking

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 25357
 FILED: 09/20/2002, 07:56

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: Under Sections 23-15-9 and 23-15-10, the Wildlife Board is authorized and required to regulate and prescribe the means by which live aquatic wildlife may be possessed or transported.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Division of Wildlife Resources (DWR) and the Wildlife Board have not received written comments, either in support or opposition to Rule R657-16. Written comments received in opposition to the rule are resolved using existing policies and procedures or the issue is placed on the Regional Advisory Council's and Wildlife Board's agenda for review and discussion during the review process for taking public input. The public is welcome to view the Regional Advisory Council minutes, Wildlife Board minutes, and administrative record for this rule at DWR.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R657-16 provides the standards and procedures for: a) institutional aquaculture; b) private fish ponds; c) short-term fishing events; d) private fish stocking; and e) displaying aquaculture products or aquatic wildlife in aquaria. The provisions adopted in this rule are effective. Continuation of this rule is necessary for continued success for the possession and transportation of live aquatic wildlife.

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

NATURAL RESOURCES
 WILDLIFE RESOURCES
 1594 W NORTH TEMPLE
 SALT LAKE CITY UT 84116-3154, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 Debbie Sundell at the above address, by phone at 801-538-4707, by FAX at 801-538-4745, or by Internet E-mail at debbiesundell@utah.gov

AUTHORIZED BY: Kevin Conway, Director

EFFECTIVE: 09/20/2002



Pardons (Board Of), Administration
R671-101-1
 Rules

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 25337
 FILED: 09/17/2002, 12:18

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 77-27-9 requires the Board to maintain administrative rules relating to Board processes.

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 has received no comments during and since the last five-year review.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule provides information pertaining to the application of administrative rules at the Board of Pardons and should be continued.

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

PARDONS (BOARD OF)
ADMINISTRATION
Room 300
448 E 6400 S
SALT LAKE CITY UT 84107-8530, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Nannette Johnson at the above address, by phone at 801-261-6485, by FAX at 801-261-6481, or by Internet E-mail at njohnson@utah.gov

AUTHORIZED BY: Mike Sibbett, Chairman

EFFECTIVE: 09/17/2002



**Pardons (Board Of), Administration
R671-102
Americans with Disabilities Act
Complaint Procedure Rule**

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 25344
FILED: 09/18/2002, 06:50

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 provides procedures for compliance with Title II of the Americans with Disabilities Act and Section 67-19-32.

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: Continuation of this rule maintains compliance with the Act.

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

PARDONS (BOARD OF)
ADMINISTRATION
Room 300
448 E 6400 S
SALT LAKE CITY UT 84107-8530, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Nannette Johnson at the above address, by phone at 801-261-6485, by FAX at 801-261-6481, or by Internet E-mail at njohnson@utah.gov

AUTHORIZED BY: Mike Sibbett, Chairman

EFFECTIVE: 09/18/2002



**Pardons (Board Of), Administration
R671-202
Notification of Hearings**

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 25349
FILED: 09/18/2002, 07:12

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 outlines the timeline for notification of hearings for the inmate and for public notice pursuant to Section 77-27-7.

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 defines the procedure for public and inmate notice as to when a hearing will conducted and should be continued.

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

PARDONS (BOARD OF)
ADMINISTRATION
Room 300
448 E 6400 S
SALT LAKE CITY UT 84107-8530, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Nannette Johnson at the above address, by phone at 801-261-6485, by FAX at 801-261-6481, or by Internet E-mail at njohnson@utah.gov

AUTHORIZED BY: Mike Sibbett, Chairman

EFFECTIVE: 09/18/2002

261-6485, by FAX at 801-261-6481, or by Internet E-mail at njohnson@utah.gov

AUTHORIZED BY: Mike Sibbett, Chairman

EFFECTIVE: 09/18/2002

Pardons (Board Of), Administration

R671-205

Credit for Time Served

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 25380
FILED: 09/25/2002, 09:26

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: Credit for time served is granted in accordance with Sections 77-27-7, 77-27-9, and 77-19-7.

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 provided to define time served by an offender to be granted against the expiration date on crime of commitment and should be continued.

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

PARDONS (BOARD OF)
ADMINISTRATION
Room 300
448 E 6400 S
SALT LAKE CITY UT 84107-8530, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Nannette Johnson at the above address, by phone at 801-261-6485, by FAX at 801-261-6481, or by Internet E-mail at njohnson@utah.gov

AUTHORIZED BY: Mike Sibbett, Chairman

EFFECTIVE: 09/25/2002

Pardons (Board Of), Administration

R671-203

Victim Input and Notification

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 25343
FILED: 09/18/2002, 05:18

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 77-27-9.5 defines the requirements for providing victim impact and victim notification of Board hearings.

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 defines the parties responsible to provide information and the action to be taken to provide victim input and notification and should be continued.

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

PARDONS (BOARD OF)
ADMINISTRATION
Room 300
448 E 6400 S
SALT LAKE CITY UT 84107-8530, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Nannette Johnson at the above address, by phone at 801-

Pardons (Board Of), Administration
R671-206
 Competency of Offenders

**FIVE YEAR NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**

DAR FILE No.: 25381
 FILED: 09/25/2002, 09:26

**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 provides a definition of how competency is determined in accordance with Sections 77-15-2 and 77-15-3.

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 provides the process for determining mental competency to participate in the legal hearing process and should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 PARDONS (BOARD OF)
 ADMINISTRATION
 Room 300
 448 E 6400 S
 SALT LAKE CITY UT 84107-8530, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 Nannette Johnson at the above address, by phone at 801-261-6485, by FAX at 801-261-6481, or by Internet E-mail at njohnson@utah.gov

AUTHORIZED BY: Mike Sibbett, Chairman

EFFECTIVE: 09/25/2002

Pardons (Board Of), Administration
R671-301
 Personal Appearance

**FIVE YEAR NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**

DAR FILE No.: 25383
 FILED: 09/25/2002, 09:27

**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 defines the process of providing personal appearance hearings for offenders in accordance with Section 77-27-7.

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 provides the process associated with personal appearance at Board hearings and should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 PARDONS (BOARD OF)
 ADMINISTRATION
 Room 300
 448 E 6400 S
 SALT LAKE CITY UT 84107-8530, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 Nannette Johnson at the above address, by phone at 801-261-6485, by FAX at 801-261-6481, or by Internet E-mail at njohnson@utah.gov

AUTHORIZED BY: Mike Sibbett, Chairman

EFFECTIVE: 09/25/2002

Pardons (Board Of), Administration
R671-302
 News Media and Public Access to
 Hearings

**FIVE YEAR NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**

DAR FILE No.: 25395
 FILED: 09/25/2002, 09:29

**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: According to Section 77-27-9 Board hearings shall be open to the public.

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 provides the process for accommodating the public and media at Board hearings and should be continued.

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

PARDONS (BOARD OF)
ADMINISTRATION
Room 300
448 E 6400 S
SALT LAKE CITY UT 84107-8530, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Nannette Johnson at the above address, by phone at 801-261-6485, by FAX at 801-261-6481, or by Internet E-mail at njohnson@utah.gov

AUTHORIZED BY: Mike Sibbett, Chairman

EFFECTIVE: 09/25/2002

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

PARDONS (BOARD OF)
ADMINISTRATION
Room 300
448 E 6400 S
SALT LAKE CITY UT 84107-8530, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Nannette Johnson at the above address, by phone at 801-261-6485, by FAX at 801-261-6481, or by Internet E-mail at njohnson@utah.gov

AUTHORIZED BY: Mike Sibbett, Chairman

EFFECTIVE: 09/25/2002

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Pardons (Board Of), Administration **R671-303** Offender Access to Information

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 25396
FILED: 09/25/2002, 09:29

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 defines an offenders right to access information used to conduct hearings in accordance with Title 63, Chapter 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.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule defines the process by which an offender will be provided access to the information being considered by the Board and should be continued.

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Pardons (Board Of), Administration **R671-304** Hearing Record

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 25387
FILED: 09/25/2002, 09:27

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 defines the process of providing a record of hearings pursuant to Subsection 77-27-8(1).

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: The rule provides the process of providing a record of hearings and should be continued.

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

PARDONS (BOARD OF)
ADMINISTRATION
Room 300
448 E 6400 S
SALT LAKE CITY UT 84107-8530, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Nannette Johnson at the above address, by phone at 801-261-6485, by FAX at 801-261-6481, or by Internet E-mail at njohnson@utah.gov

AUTHORIZED BY: Mike Sibbett, Chairman

EFFECTIVE: 09/25/2002



**Pardons (Board Of), Administration
R671-305**

Notification of Board Decision

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 25391
FILED: 09/25/2002, 09:29

**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 provides direction on notification of Board decisions pursuant to Section 77-27-9.7.

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 defines reasonable steps to assure that the offender has been notified before the information is released to the public and should be continued.

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

PARDONS (BOARD OF)
ADMINISTRATION
Room 300
448 E 6400 S
SALT LAKE CITY UT 84107-8530, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Nannette Johnson at the above address, by phone at 801-261-6485, by FAX at 801-261-6481, or by Internet E-mail at njohnson@utah.gov

AUTHORIZED BY: Mike Sibbett, Chairman

EFFECTIVE: 09/25/2002



**Pardons (Board Of), Administration
R671-308
Offender Hearing Assistance**

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 25392
FILED: 09/25/2002, 09:29

**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 provides direction on determining the ability of an offender to represent themselves at a hearing pursuant to Sections 77-27-9, 77-27-11, and 77-27-29.

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 provides instruction on determining and acting in the event of an offenders inability to defend themselves at a hearing and should be continued.

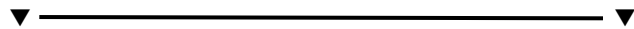
THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

PARDONS (BOARD OF)
ADMINISTRATION
Room 300
448 E 6400 S
SALT LAKE CITY UT 84107-8530, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Nannette Johnson at the above address, by phone at 801-261-6485, by FAX at 801-261-6481, or by Internet E-mail at njohnson@utah.gov

AUTHORIZED BY: Mike Sibbett, Chairman

EFFECTIVE: 09/25/2002



**Pardons (Board Of), Administration
R671-309
Impartial Hearings**

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 25397
FILED: 09/25/2002, 09:30

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: The rule provides direction on conducting impartial hearings pursuant to Section 77-27-7.

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 provides direction to continue to conduct impartial hearings and should be continued.

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

PARDONS (BOARD OF)
ADMINISTRATION
Room 300
448 E 6400 S
SALT LAKE CITY UT 84107-8530, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Nannette Johnson at the above address, by phone at 801-261-6485, by FAX at 801-261-6481, or by Internet E-mail at njohnson@utah.gov

AUTHORIZED BY: Mike Sibbett, Chairman

EFFECTIVE: 09/25/2002



Pardons (Board Of), Administration
R671-311
Special Attention Hearings and
Reviews

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 25388
FILED: 09/25/2002, 09:28

**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 provides direction on conducting special attention hearings and reviews in compliance with Sections 77-27-7, 77-27-5, 77-27-6, 77-27-10, and 77-27-11.

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 provides direction on special attention hearings and reviews and should be continued.

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

PARDONS (BOARD OF)
ADMINISTRATION
Room 300
448 E 6400 S
SALT LAKE CITY UT 84107-8530, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Nannette Johnson at the above address, by phone at 801-261-6485, by FAX at 801-261-6481, or by Internet E-mail at njohnson@utah.gov

AUTHORIZED BY: Mike Sibbett, Chairman

EFFECTIVE: 09/25/2002



Public Safety, Driver License
R708-35
Adjudicative Proceedings For Driver
License Offenses Not Involving Alcohol
or Drug Actions

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 25399
FILED: 09/25/2002, 11:21

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 53-3-104 gives the Driver License Division the authority to make rules regarding suspensions, revocations, disqualifications, or denying a driver license as per statute. Section 63-46b-5 allows a person to have a hearing regarding any action taken against them by the division.

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: We need to continue this

rule so the Driver License Division can take appropriate actions regarding nonalcohol or nondrug offenses in terms of suspensions, revocations, etc., as per statute.

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

PUBLIC SAFETY
DRIVER LICENSE
CALVIN L RAMPTON COMPLEX
4501 S 2700 W 3RD FL
SALT LAKE CITY UT 84119-5595, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Vinn Roos at the above address, by phone at 801-965-4456, by FAX at 801-964-4482, or by Internet E-mail at vroos@utah.gov

AUTHORIZED BY: Judy Hamaker Mann, Director

EFFECTIVE: 09/25/2002



Transportation, Motor Carrier, Ports of Entry

R912-76

Single Tire Configuration

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 25410
FILED: 09/28/2002, 23:14

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 72, Chapter 9, charges the Division of Motor Carriers with monitoring the safety of equipment on trucks coming into the state through ports of entry.

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: The rule has been working and has given the motor carrier industry, as well as the Utah Department of Transportation employees guidelines to follow in their operations and should be continued.

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

TRANSPORTATION
MOTOR CARRIER, PORTS OF ENTRY
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

AUTHORIZED BY: John R. Njord, Executive Director

EFFECTIVE: 09/28/2002



End of the Five-Year Notices of Review and Statements of Continuation Section

NOTICES OF RULE EFFECTIVE DATES

These are the effective dates of PROPOSED RULES or CHANGES IN PROPOSED RULES published in earlier editions of the *Utah State Bulletin*. These effective dates are at least 31 days and not more than 120 days after the date the following rules were published.

Abbreviations

AMD = Amendment
CPR = Change in Proposed Rule
NEW = New Rule
R&R = Repeal and Reenact
REP = Repeal

Financial Institutions

Credit Unions

No. 25058 (AMD): R337-4. Establishment of "Credit Union Service Organizations".
Published: July 15, 2002
Effective: October 4, 2002

Health

Community and Family Health Services, Health Education Services

No. 25119 (AMD): R402-5. Birth Defects Reporting.
Published: August 15, 2002
Effective: September 17, 2002

No. 25076 (AMD): R402-5. Birth Defects Reporting.
Published: August 1, 2002
Effective: September 17, 2002

Insurance

Administration

No. 24752 (CPR): R590-216. Standards for Safeguarding Customer Information.
Published: August 15, 2002
Effective: September 26, 2002

Natural Resources

Parks and Recreation

No. 25133 (AMD): R651-611-2. Day Use Entrance Fees.
Published: August 15, 2002
Effective: September 17, 2002

Public Safety

Peace Officer Standards and Training

No. 24859 (NEW): R728-405. Drug Testing Requirement.
Published: June 1, 2002
Effective: September 27, 2002

End of the Notices of Rule Effective Dates Section

**RULES INDEX
BY AGENCY (CODE NUMBER)
AND
BY KEYWORD (SUBJECT)**

The *Rules Index* is a cumulative index that reflects all effective changes to Utah's administrative rules. The current *Index* lists changes made effective from January 2, 2002, including notices of effective date received through October 1, 2002, the effective dates of which are no later than October 15, 2002. 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 printed in this Bulletin.

A copy of the *Rules Index* is available for public inspection at the Division of Administrative Rules (4120 State Office Building, Salt Lake City, UT), or may be viewed online at the Division's web site (<http://www.rules.utah.gov/>).

DAR NOTE: The index may contain inaccurate page number references. Also the index is incomplete in the sense that index entries for Changes in Proposed Rules (CPRs) are not preceded by entries for their parent Proposed Rules. These difficulties with the index are related to a new software package used by the Division to create the Bulletin and related publications; we hope to have them resolved as soon as possible. Bulletin issue information and effective date information presented in the index are, to the best of our knowledge, complete and accurate. If you have any questions regarding the index and the information it contains, please contact Nancy Lancaster (801 538-3218), Mike Broschinsky (801 538-3003), or Kenneth A. Hansen (801 538-3777).
