

UTAH STATE BULLETIN

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

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

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Division of Administrative Rules, Salt Lake City 84114

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NOTICES OF PROPOSED RULES

A state agency may file a PROPOSED RULE when it determines the need for a new rule, a substantive change to an existing rule, or a repeal of an existing rule. Filings received between February 3, 2004, 12:00 a.m., and February 17, 2004, 11:59 p.m. are included in this, the March 1, 2004, 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 Rules being repealed are completely struck out.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 March 31, 2004. The agency may accept comment beyond this date and will list the last day the agency will accept comment in the RULE ANALYSIS. The agency may also hold public hearings. Additionally, citizens or organizations may request the agency to hold a hearing on a specific PROPOSED RULE. Section 63-46a-5 (1987) requires that a hearing request be received "in writing not more than 15 days after the publication date of the PROPOSED RULE."

From the end of the public comment period through June 29, 2004, 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.

Agriculture and Food, Plant Industry
R68-20-1
 Authority

NOTICE OF PROPOSED RULE
 (Amendment)

DAR FILE No.: 26949
 FILED: 02/13/2004, 15:10

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This amendment incorporates changes made to 7 CFR Part 205.600 et seq. (through 1/1/2004), The National List of Allowed and Prohibited Substances.

SUMMARY OF THE RULE OR CHANGE: The United States Department of Agriculture made additions and corrections to "The National List of Allowed and Prohibited Substances", effective November 4, 2003. This amendment incorporates those changes.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 4-2-2(i)(j); Sections 4-3-2, and 4-4-2; Subsection 4-5-17(1); Sections 4-9-2, 4-11-3, and 4-12-3; Subsection 4-14-6(5); Section 4-16-3; and Subsections 4-32-7(7)(a)(ii) and 4-37-109(2)

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 7 CFR Part 205 (through 1/1/2004)

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: There is no anticipated cost or savings to the state budget. The changes are to The National List of Allowed and Prohibited Substances for use in organic production.
- ❖ LOCAL GOVERNMENTS: There is no anticipated cost or savings to the local government. The changes are to The National List of Allowed and Prohibited Substances for use in organic production.
- ❖ OTHER PERSONS: There is no anticipated cost or savings to organic producers. The changes are established to inform the producers of substances that will be allowed and prohibited in organic production.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be no compliance costs associated with the changes made in this regulation. The changes are established to inform the producers of substances that will be allowed and prohibited in organic production.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The changes to this rule are established to inform the producers of substances that will be allowed and prohibited in organic production for the protection of the consumer.

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 Seth Winterton at the above address, by phone at 801-538-7114 or 801-538-7141, by FAX at 801-538-7126 or 801-538-7126, or by Internet E-mail at mleetham@utah.gov or sethwinterton@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 03/31/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 04/01/2004

AUTHORIZED BY: Cary G. Peterson, Commissioner

R68. Agriculture and Food, Plant Industry.

R68-20. Utah Organic Standards.

R68-20-1. Authority.

Promulgated under authority of Sections 4-2-2(1)(j), 4-3-2, 4-4-2, 4-5-17(1), 4-9-2, 4-11-3, 4-12-3, 4-14-6(5), 4-16-3, 4-32-7(7)(a)(ii), 4-37-109(2).

A. The Utah Department of Agriculture and Food (UDAF) adopts and incorporates by reference CFR, December 2000 edition, Title 7 Part 205, National Organic Program Final Rule and amendments in Title 7 Part 205.600, Subpart G, The National List of Allowed and Prohibited Substances, effective November 3, 2003.

1. UDAF will make available to all its applicants for certification and producers of organic products, copies of the National Organic Program Final Rule.

KEY: inspections

~~May 16, 2002~~2004

4-2-2(i)(j)
 4-3-2
 4-4-2
 4-5-17(1)
 4-9-2
 4-11-3
 4-12-3
 4-14-6(5)
 4-16-3
 4-32-7(7)(a)(ii)
 4-37-109(2)

Commerce, Consumer Protection
R152-11
 Utah Consumer Sales Practices Act
 Rules

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 26945

FILED: 02/11/2004, 08:38

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of the rule is to change the time in which a supplier must make a required refund to a consumer from 30 business days to 30 calendar days.

SUMMARY OF THE RULE OR CHANGE: The proposed change amends Subsection R152-11-9(9) and Section R152-11-10C by replacing, in each section, the word "business" with the word "calendar" in the phrase "30 business days".

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 13, Chapters 2 and 11

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: It is anticipated that this change will have no impact on the State budget because it will not alter the Division's enforcement activities.

❖ LOCAL GOVERNMENTS: This change will cause no anticipated cost or savings to local governments because the activities regulated by the statute and rule have no impact on local governments.

❖ OTHER PERSONS: It is anticipated that there will be no costs or savings for affected persons as the result of this amendment is simply to shorten the time in which a supplier has to give a required refund by approximately 10 days. Some small and incalculable savings may accrue in the form of fewer customer service costs as there should be fewer disgruntled consumers who become impatient when waiting for their refund as required refunds will be made within a time period which is easier to calculate and which is more consistent with the expectations of the consumer.

COMPLIANCE COSTS FOR AFFECTED PERSONS: It is anticipated that affected persons will not incur any additional costs to comply with this amendment. All affected persons are now required to pay required refunds within 30 business days. This amendment will simply require that they pay the required refund within 30 calendar days. Some small and incalculable savings may accrue to some individual suppliers in the form of fewer customer service costs as there should be fewer disgruntled consumers who become impatient when waiting for their refund as required refunds will be made within a time period which is easier to calculate and which is more consistent with the expectations of the consumer.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There appears to be no discernable fiscal impact to businesses as a result of this rule

filing, which reduces the time frame in which a supplier must provide a refund to a consumer from 30 "business" days to 30 "calendar" days. The change is primarily intended to simplify the calculation of the deadline for refunds. Businesses might be positively impacted by consumer confidence and spending as a result of expedited refunds from suppliers. However, it is impossible to ascertain the amount of such impact.

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

COMMERCE
 CONSUMER PROTECTION
 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:

Douglas Haymore at the above address, by phone at 801-530-6929, by FAX at 801-530-6001, or by Internet E-mail at dhaymore@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 03/31/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 04/01/2004

AUTHORIZED BY: Francine Giani, Director

R152. Commerce, Consumer Protection.

R152-11. Utah Consumer Sales Practices Act.

R152-11-9. Direct Solicitations.

A. It shall be a deceptive act or practice in connection with a consumer transaction involving any direct solicitation sale for a supplier to do any of the following:

(1) Solicit a sale without clearly, affirmatively, and expressly revealing at the time the seller initially contacts the consumer or prospective consumer, and before making any other statements or asking any questions, except for a greeting: the name of the seller, the name or trade name of the company, corporation or partnership the seller represents, and stating in general terms the nature of the consumer commodities the seller wishes to show or demonstrate.

(2) Represent that the consumer or prospective consumer will receive a discount, rebate, or other benefit for permitting his home or other property, real or personal, to be used as a so-called "model home" or "model property" for demonstration or advertising purposes when such, in fact, is not true;

(3) Represent that the consumer or prospective consumer has been specially selected to receive a bargain, discount, or other advantage when such, in fact, is not true;

(4) Represent that the consumer or prospective consumer is a winner of a contest when such, in fact, is not true;

(5) Represent that the consumer commodities that are being offered for sale cannot be purchased in any place of business, but only through direct solicitation, when such, in fact, is not true;

(6) Represent that the salesman representative, or agent has authority to negotiate the final terms of a consumer transaction when such, in fact, is not true;

(7) Sell, lease, or rent consumer goods or services with a purchase price of \$25 or more and fail to furnish the buyer with a fully completed receipt or copy of any contract pertaining to such sale at the time of its execution which is in the same language (e.g. Spanish) as that principally used in the oral sales presentation and which shows the date of the transaction and the name and address of the seller.

(8) Except as otherwise provided in the "Home Solicitations Sales Act", Section 70C-5-102(5) and or the "Telephone Fraud Prevention Act", Section 13-26-5, to fail to provide a notice of the buyer's right to cancel within three (3) business days at the time of purchase if the total of the sale exceeds \$25, unless the supplier's cancellation policy is communicated to the buyer and the policy offers greater rights to the buyer than three days, which notice shall be in conspicuous statement written in dark bold at least 12 point type on the front page of the purchase documentation, and shall read as follows: "You, the Buyer, May Cancel This Transaction At Any Time Prior to Midnight of the Third Business Day (or Time Period Reflecting the Supplier's Cancellation Policy But Not Less Than Three Business Days) After the Date of This Transaction or Receipt of The Product, Whichever is Later."

(a) Paragraph (8) shall not apply to "fixture" solicitation sales where the supplier:

(i) automatically provides the buyer a right to cancel within three (3) or more business days from the time of purchase; or

(ii) automatically provides a refund for return of goods within three (3) or more business days from the time of purchase, but prior to installation as a fixture; or

(iii) supplies merchandise to a buyer without prior full payment and allows the buyer three (3) or more business days from the time of receipt of the merchandise, but prior to installation as a fixture to cancel the order and return the merchandise; or

(iv) discloses its refund/return policy in its advertising, catalog and contract, and that policy provides for a return of merchandise within a period of three (3) or more business days from the time of purchase, but prior to installation as a fixture or that policy indicates no return or refund will be offered or made on special merchandise (such as uniquely sized items, custom made or special ordered items); or

(9) Fail or refuse to honor any valid notice of cancellation by a consumer and within 30 ~~calendar~~business days after the receipt of such notice, to: (i) refund all payments made under the contract or sale; (ii) return any goods or property traded in, in substantially as good condition as when received by the supplier; (iii) cancel and return any negotiable instrument executed by the buyer in connection with the contract or sale and take any action necessary or appropriate to terminate promptly any security interest created in the transaction.

B. "Direct Solicitation" means solicitation of a consumer transaction initiated by a supplier, at the residence or place of employment of any consumer, and includes a sale or solicitation of sale made by the supplier by direct mail or telephone or personal contact at the residence or place of employment of any consumer. In the case of a subscription or club membership (e.g., tape, book, or record club) solicitation, "direct solicitation" means solicitation of the initial consumer transaction pursuant to a subscription or club membership agreement, made by the supplier at the residence or place of employment of any consumer, and includes a solicitation of an initial sale made by the supplier by direct mail or telephone or personal contact at the residence or place of employment of any consumer, but excludes all subsequent consumer transactions which are provided for in the subscription or club membership agreement.

C. "Time of Purchase" is defined as the day on which the buyer signs an agreement or accepts an offer to purchase consumer goods or services where the total of the sale is \$25 or more.

R152-11-10. Deposits and Refunds.

A. It shall be a deceptive act or practice in connection with a consumer transaction for a supplier to accept a deposit unless the following conditions are met:

(1) The deposit obligates the supplier to refrain for a specified period of time from offering for sale to any other person the consumer commodities in relation to which the deposit has been made by the consumer if such consumer commodities are unique; provided that a supplier may continue to sell or offer to sell consumer commodities on which a deposit has been made if he has available sufficient consumer commodities to satisfy all consumers who have made deposits;

(2) All deposits accepted by a supplier must be evidenced by dated receipts stating the following information:

(a) Description of the consumer commodity, (including model, model year, when appropriate, make, and color);

(b) The cash selling price;

(c) Allowance on the consumer commodity to be traded in, if any;

(d) Time during which the option is binding;

(e) Whether the deposit is refundable and under what conditions; and

(f) Any additional cost such as delivery charge.

(3) For the purpose of this rule "deposit" means any payment in cash, or of anything of value or an obligation to pay including, but not limited to, a credit device transaction incurred by a consumer as a deposit, refundable or non-refundable option, or as partial payment for consumer commodities.

B. It shall be a deceptive act or practice in connection with a consumer transaction when the consumer can provide reasonable proof of purchase from a supplier for the supplier to refuse to give refunds for:

(1) Used, damaged or defective consumer commodities, unless they are clearly marked "as is" or with some other conspicuous disclaimer of any implied or express warranty, and also clearly marked that no refund will be given; or

(2) Non-used, non-damaged or non-defective goods unless:

(a) Such non-refund, exchange or credit policy, including any applicable restocking fee, is clearly indicated by a sign posted at the point of display, the point of sale, the store entrance, or through adequate verbal or written disclosure if the transaction occurs through the mail, over the telephone, via facsimile machine, via e-mail, or over the Internet; or

(b) The consumer commodities are food, perishable items, merchandise which is substantially custom made or custom finished.

(3) For the purpose of this rule "refund" means cash if payment were made in cash provided that if payment were made by check the refund may be delayed until the check has cleared; and further provided that if payment were made by debit to a credit card or other account, then refund may be made by an appropriate credit or refund pursuant to the applicable law.

C. It shall be a deceptive act or practice in connection with a consumer transaction for a supplier who has accepted a deposit and has received from the consumer within a reasonable time a valid request for refund of the deposit to fail to make the refund within 30 ~~calendar~~business days after receipt of such request.

(1) In determining the amount required to be refunded under this rule, the supplier may take into consideration the nature of the commodity returned, the condition of the commodity returned, shipping charges if agreed to and any lawful restocking fee.

(2) For purposes of this rule, "reasonable time" means within 30 days of the date of the deposit unless a longer period is justified due to the nature of the commodity returned or any agreement between the parties.

D. No deposit accepted by a supplier to secure the value of equipment or materials provided to a consumer for the consumer's use in any business opportunity where it is anticipated by either the consumer or the supplier that some remuneration will be paid to the consumer for services or goods supplied to the supplier or to some third party in the behalf of the supplier shall exceed the actual cost of the supplies or equipment paid by the supplier or any person acting on behalf of the supplier.

KEY: advertising, bait and switch, consumer protection

~~November 1, 2002~~ 2004

Notice of Continuation June 3, 2002

63-46a-3

13-2-5

13-11



**Commerce, Occupational and
Professional Licensing
R156-47b
Massage Therapy Practice Act Rules**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 26937

FILED: 02/05/2004, 12:32

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division and the Utah Board of Massage Therapy are amending the rule to add a section regarding good moral character and to define disqualifying convictions that would affect applicants for licensure as a massage therapist.

SUMMARY OF THE RULE OR CHANGE: Section R156-47b-302d is added which further defines "good moral character" by clarifying when an application for licensure as a massage therapist may be approved for an applicant who has a criminal background. Section R156-47b-303 is amended to updated statute and rule citations.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-47b-101, and Subsections 58-1-106(1)(a) and 58-1-202(1)(a)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The Division will incur minimal costs, approximately \$100, to reprint the rule once the proposed amendments are made effective. Any costs incurred will be absorbed in the Division's current budget.

❖ LOCAL GOVERNMENTS: Proposed amendments do not apply to local governments.

❖ OTHER PERSONS: Applicants for licensure as a massage therapist may be affected by the proposed amendments if they have a criminal background in that they may not qualify for licensure. The Division is unable to determine any exact costs that may be associated with an applicant not qualifying for licensure. The Division is also unable to determine how many future applicants for licensure as a massage therapist may be affected.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Applicants for licensure as a massage therapist may be affected by the proposed

amendments if they have a criminal background in that they may not qualify for licensure. The Division is unable to determine any exact costs that may be associated with an applicant not qualifying for licensure. The Division is also unable to determine how many future applicants for licensure as a massage therapist may be affected.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This filing codifies into rule the existing standards used by the agency to screen licensure applicants with criminal backgrounds. There appears to be no fiscal impact to businesses as a result of this rule change. Klarice A. Bachman, Executive Director

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

COMMERCE
OCCUPATIONAL AND PROFESSIONAL LICENSING
HEBER M WELLS BLDG
160 E 300 S
SALT LAKE CITY UT 84111-2316, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Clyde Ormond at the above address, by phone at 801-530-6254, by FAX at 801-530-6511, or by Internet E-mail at cormond@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 03/31/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 04/01/2004

AUTHORIZED BY: J. Craig Jackson, Director

R156. Commerce, Occupational and Professional Licensing.

R156-47b. Massage Therapy Practice Act Rules.

R156-47b-302d. Good Moral Character - Disqualifying Convictions.

(1) When reviewing an application to determine the good moral character of an applicant as set forth in Subsection 58-47b-302(2)(c) and whether the applicant has been involved in unprofessional conduct as set forth in Subsections 58-1-501(2)(c),

the Division and the Board shall consider the applicant's criminal record as follows:

(a) a criminal conviction for a sex offense as defined in Title 76, Chapter 5, Part 4 and Chapter 5a, and Title 76, Chapter 10, Part 12 and 13, shall disqualify an applicant from becoming licensed; or

(b) a criminal conviction for the following crimes may disqualify an applicant for becoming licensed:

(i) crimes against a person as defined in Title 76, Chapter 5, Parts 1, 2 and 3;

(ii) crimes against property as defined in Title 76, Chapter 6, Parts 1 through 6;

(iii) any offense involving controlled dangerous substances; or
(iv) conspiracy to commit or any attempt to commit any of the above offenses.

(2) An applicant who has a criminal conviction for a felony crime of violence may not be considered eligible for licensure for a period of seven years from the termination of parole, probation, judicial proceeding or date of incident, whichever is later.

(3) An applicant who has a criminal conviction for a felony involving a controlled substance may not be considered eligible for licensure for a period of five years from the termination of parole, probation, judicial proceeding or date of incident, whichever is later.

(4) An applicant who has a criminal conviction for any misdemeanor crime of violence or the use of a controlled substance may not be considered eligible for licensure for a period of three years from the termination of parole, probation, judicial proceeding or date of incident, whichever is later.

(5) Each application for licensure or renewal of licensure shall be considered in accordance with the requirements of Section R156-1-302.

R156-47b-303. Renewal Cycle - Procedures.

(1) In accordance with Subsection 58-1-308(1)(a), the renewal date for the two-year renewal cycle applicable to licensees under Title 58, Chapter 47b is established by rule in Section R156-1-308a.

(2) Renewal procedures shall be in accordance with Sections R156-1-308c through R156-1-308e.

KEY: licensing, massage therapy

~~May 19, 2003~~ 2004

Notice of Continuation February 26, 2001

58-1-106(1)(a)

58-1-202(1)(a)

58-47b-101



Commerce, Real Estate **R162-6-2** Standards of Practice

NOTICE OF PROPOSED RULE (Amendment)

DAR FILE No.: 26944

FILED: 02/10/2004, 16:25

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Survey Addendum is no longer an approved form, and therefore, it should be deleted from the list of forms approved for use by licensees.

SUMMARY OF THE RULE OR CHANGE: The Survey Addendum is deleted from the list of approved forms.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 61-2-20

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** None--Which forms are approved for use by real estate agents has no impact on State budget.

❖ **LOCAL GOVERNMENTS:** None--Which forms are approved for use by real estate agents has no impact on local governments.

❖ **OTHER PERSONS:** None--Only real estate agents and brokers are required to use the approved real estate forms. Other persons may use any real estate contracts they wish to use.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Any cost to real estate agents and brokers would be caused by the decision of the Utah Real Estate Commission and the Utah Attorney General's Office that the Survey Addendum is no longer an approved form, and not by this rule change reflecting the elimination of the form as an approved form.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impact to businesses is anticipated as a result of this rule filing, which merely updates the list of standard forms approved by the Attorney General's Office and the Real Estate Commission.

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 04/14/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 04/15/2004

AUTHORIZED BY: Klare Bachman, Executive Director

R162. Commerce, Real Estate.**R162-6. Licensee Conduct.****R162-6-2. Standards of Practice.**

6.2.1. Approved Forms. The following standard forms are approved by the Utah Real Estate Commission and the Office of the Attorney General for use by all licensees:

- (a) August 5, 2003, Real Estate Purchase Contract (use of this form shall be mandatory beginning January 1, 2004);
- (b) January 1, 1999 Real Estate Purchase Contract for Residential Construction;
- (c) January 1, 1987, Uniform Real Estate Contract;
- (d) October 1, 1983, All Inclusive Trust Deed;
- (e) October 1, 1983, All Inclusive Promissory Note Secured by All Inclusive Trust Deed;
- (f) August 5, 2003, Addendum to Real Estate Purchase Contract;
- (g) January 1, 1999, Seller Financing Addendum to Real Estate Purchase Contract;
- ~~[(h) January 1, 1999, Survey Addendum to Real Estate Purchase Contract;~~
- ~~[(i) January 1, 1999, Buyer Financial Information Sheet;~~
- ~~[(j) August 5, 2003, FHA/VA Loan Addendum to Real Estate Purchase Contract;~~
- ~~[(k) January 1, 1999, Assumption Addendum to Real Estate Purchase Contract;~~
- ~~[(l) January 1, 1999, Lead-based Paint Addendum to Real Estate Purchase Contract;~~
- ~~[(m) January 1, 1999, Disclosure and Acknowledgment Regarding Lead-based Paint and/or Lead-based Paint Hazards.~~

6.2.1.1. Forms Required for Closing. Principal brokers and associate brokers may fill out forms in addition to the standard state-approved forms if the additional forms are necessary to close a transaction. Examples include closing statements, and warranty or quit claim deeds.

6.2.1.2. Forms Prepared by an Attorney. Any licensee may fill out forms prepared by the attorney for the buyer or lessee or the attorney for the seller or lessor to be used in place of any form listed in R162-6.2.1 (a) through (g) if the buyer or lessee or the seller or lessor requests that other forms be used and the licensee verifies that the forms have in fact been drafted by the attorney for the buyer or lessee, or the attorney for the seller or lessor.

6.2.1.3. Additional Forms. If it is necessary for a licensee to use a form for which there is no state-approved form, for example a lease, the licensee may fill in the blanks on any form which has been prepared by an attorney, regardless of whether the attorney was employed for the purpose by the buyer, seller, lessor, lessee, brokerage, or an entity whose business enterprise is selling blank legal forms.

6.2.1.4. Standard Supplementary Clauses. There are Standard Supplementary Clauses approved by the Utah Real Estate Commission which may be added to Real Estate Purchase Contracts by all licensees. The use of the Standard Supplementary Clauses will not be considered the unauthorized practice of law.

6.2.2. Copies of Agreement. After a purchase agreement is properly signed by both the buyer and seller, it is the responsibility of each participating licensee to cause copies thereof, bearing all signatures, to be delivered or mailed to the buyer and seller with whom the licensee is dealing. The licensee preparing the document shall not have the parties sign for a final copy of the document prior to all parties signing the contract evidencing agreement to the terms thereof. After a lease is properly signed by both landlord and tenant,

it is the responsibility of the principal broker to cause copies of the lease to be delivered or mailed to the landlord or tenant with whom the brokerage or property management company is dealing.

6.2.3. Residential Construction Agreement. The Real Estate Purchase Contract for Residential Construction must be used for all transactions for the construction of dwellings to be built or presently under construction for which a Certificate of Occupancy has not been issued.

6.2.4. Real Estate Auctions. A principal broker who contracts or in any manner affiliates with an auctioneer or auction company which is not licensed under the provisions of Section 61-2-1 et seq. for the purpose of enabling that auctioneer or auction company to auction real property in this state, shall be responsible to assure that all aspects of the auction comply with the requirements of this section and all other laws otherwise applicable to real estate licensees in real estate transactions. Auctioneers and auction companies who are not licensed under the provisions of Section 61-2-1 et seq. may conduct auctions of real property located within this state upon the following conditions:

6.2.4.1. Advertising. All advertising and promotional materials associated with an auction must conspicuously disclose that the auction is conducted under the supervision of a named principal broker licensed in this state; and

6.2.4.2. Supervision. The auction must be conducted under the supervision of a principal broker licensed in this state who must be present at the auction; and

6.2.4.3. Use of Approved Forms. Any purchase agreements used at the auction must meet the requirements of Section 61-2-20 and must be filled out by a Utah real estate licensee; and

6.2.4.4. Placement of Deposits. All monies deposited at the auction must be placed either in the real estate trust account of the principal broker who is supervising the auction or in an escrow depository agreed to in writing by the parties to the transaction.

6.2.4.5. Closing Arrangements. The principal broker supervising the auction shall be responsible to assure that adequate arrangements are made for the closing of each real estate transaction arising out of the auction.

6.2.5. Guaranteed Sales. As used herein, the term "guaranteed sales plan" includes: (a) any plan in which a seller's real estate is guaranteed to be sold or; (b) any plan whereby a licensee or anyone affiliated with a licensee will purchase a seller's real estate if it is not purchased by a third party in the specified period of a listing or within some other specified period of time.

6.2.5.1. In any real estate transaction involving a guaranteed sales plan, the licensee shall provide full disclosure as provided herein regarding the guarantee:

(a) Written Advertising. Any written advertisement by a licensee of a "guaranteed sales plan" shall include a statement advising the seller that if the seller is eligible, costs and conditions may apply and advising the seller to inquire of the licensee as to the terms of the guaranteed sales agreement. This information shall be set forth in print at least one-fourth as large as the largest print in the advertisement.

(b) Radio/Television Advertising. Any radio or television advertisement by a licensee of a "guaranteed sales plan" shall include a conspicuous statement advising if any conditions and limitations apply.

(c) Guaranteed Sales Agreements. Every guaranteed sales agreement must be in writing and contain all of the conditions and other terms under which the property is guaranteed to be sold or purchased, including the charges or other costs for the service or

plan, the price for which the property will be sold or purchased and the approximate net proceeds the seller may reasonably expect to receive.

6.2.6. Agency Disclosure. In every real estate transaction involving a licensee, as agent or principal, the licensee shall clearly disclose in writing to his respective client(s) or any unrepresented parties, his agency relationship(s). The disclosure shall be made prior to the parties entering into a binding agreement with each other. The disclosure shall become part of the permanent file.

6.2.6.1. When a binding agreement is signed in a sales transaction, the prior agency disclosure shall be confirmed in the currently approved Real Estate Purchase Contract or, with substantially similar language, in a separate provision incorporated in or attached to that binding agreement.

6.2.6.2. When a lease or rental agreement is signed, a separate provision shall be incorporated in or attached to it confirming the prior agency disclosure. The agency disclosure shall be in the form stated in R162-6.2.6.1, but shall substitute terms applicable for a rental transaction for the terms "buyer", "seller", "listing agent", and "selling agent".

6.2.6.3. Disclosure to other agents. An agent who has established an agency relationship with a principal shall disclose who he or she represents to another agent upon initial contact with the other agent.

6.2.7. Duty to Inform. Sales agents and associate brokers must keep their principal broker or branch broker informed on a timely basis of all real estate transactions in which the licensee is involved, as agent or principal, in which the licensee has received funds on behalf of the principal broker or in which an offer has been written.

6.2.8. Broker Supervision. Principal brokers and associate brokers who are branch brokers shall be responsible for exercising active supervision over the conduct of all licensees affiliated with them.

6.2.8.1. A broker will not be held responsible for inadequate supervision if:

- (a) An affiliated licensee violates a provision of Section 61-2-1, et seq., or the rules promulgated thereunder, in contravention of the supervising broker's specific written policies or instructions; and
- (b) Reasonable procedures were established by the broker to ensure that licensees receive adequate supervision and the broker has followed those procedures; and
- (c) Upon learning of the violation, the broker attempted to prevent or mitigate the damage; and
- (d) The broker did not participate in the violation; and
- (e) The broker did not ratify the violation; and
- (f) The broker did not attempt to avoid learning of the violation.

6.2.8.2. The existence of an independent contractor relationship or any other special compensation arrangement between the broker and affiliated licensees shall not release the broker and licensees of any duties, obligations, or responsibilities.

6.2.9. Disclosure of Fees. If a real estate licensee who is acting as an agent in a transaction will receive any type of fee in connection with a real estate transaction in addition to a real estate commission, that fee must be disclosed in writing to all parties to the transaction.

6.2.10. Fees from Builders. All fees paid to a licensee for referral of prospects to builders must be paid to the licensee by the principal broker with whom he is licensed and affiliated. All fees must be disclosed as required by R162-6.2.10.

6.2.11. Fees from Manufactured Housing Dealers. If a licensee refers a prospect to a manufactured home dealer or a mobile

home dealer, under terms as defined in Section 58-56-1, et seq., any fee paid for the referral of a prospect must be paid to him by the principal broker with whom he is licensed.

6.2.12. Gifts and Inducements. A gift given by a principal broker to a buyer or seller, lessor or lessee, in a real estate transaction as an inducement to use the services of a real estate brokerage, or in appreciation for having used the services of a brokerage, is permissible and is not an illegal sharing of commission. If an inducement is to be offered to a buyer or seller, lessor or lessee, who will not be obligated to pay a real estate commission in a transaction, the principal broker must notify the party who will pay the commission that the inducement will be offered. This rule does not authorize a principal broker to give any type of inducement that would violate the underwriting guidelines that apply to the loan for which a borrower has applied.

6.2.13. "Due-On-Sale" Clauses. Real estate licensees have an affirmative duty to disclose in writing to buyers and sellers the existence or possible existence of a "due-on-sale" clause in an underlying encumbrance on real property, and the potential consequences of selling or purchasing a property without obtaining the authorization of the holder of the underlying encumbrance.

6.2.14. Personal Assistants. With the permission of the principal broker with whom the licensee is affiliated, the licensee may employ an unlicensed individual to provide services in connection with real estate transactions which do not require a real estate license, including the following examples:

- (a) Clerical duties, including making appointments for prospects to meet with real estate licensees, but only if the contact has been initiated by the prospect and not by the unlicensed person;
- (b) At an open house, distributing preprinted literature written by a licensee, so long as a licensee is present and the unlicensed person furnishes no additional information concerning the property or financing and does not become involved in negotiating, offering, selling or filling in contracts;
- (c) Acting only as a courier service in delivering documents, picking up keys, or similar services, so long as the courier does not engage in any discussion of, or filling in of, the documents;
- (d) Placing brokerage signs on listed properties;
- (e) Having keys made for listed properties; and
- (f) Securing public records from the County Records' Offices, zoning offices, sewer districts, water districts, or similar entities.

6.2.14.1. If personal assistants are compensated for their work, they shall be compensated at a predetermined rate which is not contingent upon the occurrence of real estate transactions. Licensees may not share commissions with unlicensed persons who have assisted in transactions by performing the services listed in this rule.

6.2.14.2. The licensee who hires the unlicensed person will be responsible for supervising the unlicensed person's activities, and shall ensure that the unlicensed person does not perform activity which requires a real estate license.

6.2.14.3. Unlicensed individuals may not engage in telephone solicitation or other activity calculated to result in securing prospects for real estate transactions, except as provided in R162-6.2.15.(a) above.

6.2.15. Fiduciary Duties. A principal broker and licensees acting on his behalf owe the following fiduciary duties to the principal:

6.2.15.1. Duties of a seller's or lessor's agent. A principal broker and licensees acting on his behalf who act solely on behalf of

the seller or the lessor owe the seller or the lessor the following fiduciary duties:

(a) Loyalty, which obligates the agent to act in the best interest of the seller or the lessor instead of all other interests, including the agent's own;

(b) Obedience, which obligates the agent to obey all lawful instructions from the seller or lessor;

(c) Full disclosure, which obligates the agent to tell the seller or lessor all material information which the agent learns about the buyer or lessee or about the transaction;

(d) Confidentiality, which prohibits the agent from disclosing any information given to the agent by the seller or lessor which would likely weaken the seller's or lessor's bargaining position if it were known, unless the agent has permission from the seller or lessor to disclose the information. This duty does not require the agent to withhold any known material fact concerning a defect in the property or the seller's or lessor's ability to perform his obligations;

(e) Reasonable care and diligence;

(f) Holding safe and accounting for all money or property entrusted to the agent; and

(g) Any additional duties created by the agency agreement.

6.2.15.2. Duties of a buyer's or lessee's agent. A principal broker and licensees acting on his behalf who act solely on behalf of the buyer or lessee owe the buyer or lessee the following fiduciary duties:

(a) Loyalty, which obligates the agent to act in the best interest of the buyer or lessee instead of all other interests, including the agent's own;

(b) Obedience, which obligates the agent to obey all lawful instructions from the buyer or lessee;

(c) Full Disclosure, which obligates the agent to tell the buyer or lessee all material information which the agent learns about the property or the seller's or lessor's ability to perform his obligations;

(d) Confidentiality, which prohibits the agent from disclosing any information given to the agent by the buyer or lessee which would likely weaken the buyer's or lessee's bargaining position if it were known, unless the agent has permission from the buyer or lessee to disclose the information. This duty does not permit the agent to misrepresent, either affirmatively or by omission, the buyer's or lessee's financial condition or ability to perform;

(e) Reasonable care and diligence;

(f) Holding safe and accounting for all money or property entrusted to the agent; and

(g) Any additional duties created by the agency agreement.

6.2.15.3. Duties of a limited agent. A principal broker and licensees acting on his behalf who act as agent for both seller and buyer, or lessor and lessee, commonly referred to as "dual agents," are limited agents since the fiduciary duties owed to seller and to buyer, or to lessor and lessee, are inherently contradictory. A principal broker and licensees acting on his behalf may act in this limited agency capacity only if the informed consent of both buyer and seller, or lessor and lessee, is obtained.

6.2.15.3.1. In order to obtain informed consent, the principal broker or a licensee acting on his behalf shall clearly explain to both buyer and seller, or lessor and lessee, that they are each entitled to be represented by their own agent if they so choose, and shall obtain written agreement from both parties that they will each be giving up performance by the agent of the following fiduciary duties:

(a) The principal broker or a licensee acting on his behalf shall explain to buyer and seller, or lessor and lessee, that they are giving up their right to demand undivided loyalty from the agent, although

the agent, acting in this neutral capacity, shall advance the interest of each party so long as it does not conflict with the interest of the other party. In the event of conflicting interests, the agent will be held to the standard of neutrality; and

(b) The principal broker or a licensee acting on his behalf shall explain to buyer and seller, or lessor and lessee, that there will be a conflict as to a limited agent's duties of confidentiality and full disclosure, and shall explain what kinds of information will be held confidential if told to a limited agent by either buyer or seller, or lessor and lessee, and what kinds of information will be disclosed if told to the limited agent by either party. The limited agent may not disclose any information given to the agent by either principal which would likely weaken that party's bargaining position if it were known, unless the agent has permission from the principal to disclose the information; and

(c) The principal broker or a licensee acting on his behalf shall explain to the buyer and seller, or lessor and lessee, that the limited agent will be required to disclose information given to the agent in confidence by one of the parties if failure to disclose the information would be a material misrepresentation regarding the property or regarding the abilities of the parties to fulfill their obligations.

(d) The Division and the Commission shall consider use of consent language approved by the Division and the Commission to be informed consent.

6.2.15.3.2. In addition, a limited agent owes the following fiduciary duties to all parties:

(a) Obedience, which obligates the limited agent to obey all lawful instructions from either the buyer or the seller, lessor and lessee, consistent with the agent's duty of neutrality;

(b) Reasonable care and diligence;

(c) Holding safe all money or property entrusted to the limited agent; and

(d) Any additional duties created by the agency agreement.

6.2.15.4. Duties of a sub-agent. A principal broker and licensees acting on his behalf who act as sub-agents owe the same fiduciary duty to a principal as the brokerage retained by the principal.

KEY: real estate business

[2003]2004

Notice of Continuation June 7, 2002

61-2-5.5

Environmental Quality, Air Quality R307-110-28 Regional Haze

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 26946

FILED: 02/11/2004, 14:19

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of the amendment is to bring Section XX, the Regional Haze, in the State Implementation Plan (SIP), into alignment with amendments to the federal regional haze rule, 40 CFR 51.309(d)(5) that were promulgated on December 22,

2003, and to add a paragraph in the plan clarifying that the declining milestones for sulfur dioxide emissions from stationary sources meet the requirements of the federal rule for all Class I areas through 2018.

SUMMARY OF THE RULE OR CHANGE: The proposed change in Section R307-110-28 is to change the date of most recent adoption of the SIP to May 5, 2004, the expected date of adoption by the Air Quality Board. Two changes are made in the Regional Haze plan that is incorporated by reference under Section R307-110-28. The first is to replace the mobile source chapter of the plan to meet the federal requirements published on December 22, 2003 (68 FR 71009). The Air Quality Board adopted Utah's SIP for regional haze on November 17, 2003 (DAR No. 26616; a change in proposed rule (CPR) published in the December 1, 2003, Bulletin). Two versions of the chapter addressing vehicle pollution were considered during the public comment period; one addressed the original language of 40 CFR 51.309(d)(5), and the other addressed the requirements of a proposed revision to the federal rule. The Board adopted the chapter addressing the original language because the federal revision had not been promulgated by November 17, 2003, when the Board adopted the plan. This amendment to the plan deletes the original version of the chapter addressing pollution from vehicles and adds the chapter addressing the new federal requirements. The second change is the addition of a paragraph clarifying that the plan's declining milestones for sulfur dioxide emissions from large stationary sources meet the requirements of the federal rule for all Class I areas through 2018. Technical analysis to support that statement is included in the Technical Support Document prepared with the plan adopted on November 17, 2003.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-2-104(3)(q)

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: State Implementation Plan, Section XX, Regional Haze (May 5, 2004, edition)

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** The changes in the plan do not change costs to the state budget. Under both versions, Utah is required to submit to EPA emissions inventory information and to assess the impact every five years of vehicle emissions on visibility in the 16 Class I areas on the Colorado Plateau.
- ❖ **LOCAL GOVERNMENTS:** None of the changes affect local governments, and there is no cost to them.
- ❖ **OTHER PERSONS:** There are no changes in costs or benefits. No costs to vehicle owners were anticipated in the original plan, and the proposed revisions to the mobile sources chapter do not change that assessment. As for the stationary source chapter, the revision is a clarification in the language and does not change anticipated costs or benefits.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no affected persons and thus no costs or benefits. No costs to vehicle owners were anticipated in the original plan, and the revisions to the mobile sources chapter do not change that assessment. As for the stationary source chapter, these are

clarifications in the language and do not change anticipated costs or benefits.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no affected businesses and thus no costs or benefits. No costs to vehicle owners were anticipated in the original plan, and the revisions to the mobile sources chapter do not change that assessment. As for the stationary source chapter, these are clarifications in the language and do not change anticipated costs or benefits.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jan Miller at the above address, by phone at 801-536-4042, by FAX at 801-536-4099, or by Internet E-mail at janmiller@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 03/31/2004

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 3/24/2004 at 1:30 PM, DEQ Building, 168 N 1950 W, Room 201, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 05/05/2004

AUTHORIZED BY: M. Cheryl Heying, Planning Branch Manager

**R307. Environmental Quality, Air Quality.
R307-110. General Requirements: State Implementation Plan.
R307-110-28. Regional Haze.**

The Utah State Implementation Plan, Section XX, Regional Haze, as most recently amended by the Utah Air Quality Board on ~~November 17, 2003~~ May 5, 2004, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

**KEY: air pollution, particulate matter, ozone
~~2003~~2004
Notice of Continuation March 27, 2002
19-2-104(3)(e)**

▼ ————— ▼
**Environmental Quality, Air Quality
R307-415-6c
Permit Content: Compliance
Requirements**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 26947

FILED: 02/11/2004, 14:25

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of the amendment is to bring Utah's rule into alignment with new federal requirements. The federal rule (40 CFR 70.6c (68 FR 38518) published on June 27, 2003) requires that states revise their rules by June 28, 2004.

SUMMARY OF THE RULE OR CHANGE: The interpretation of the federal provisions for continuous or intermittent compliance certification by sources of air pollution that are subject to Title V of the Clean Air Act has been under discussion for many years. The federal rule revision promulgated at 68 FR 38518 on June 27, 2003, settles the questions, and this amendment to Section R307-415-6c implements the new federal language. However, there is no change in required procedures in Utah, as Utah has been following this interpretation already.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-109.1, and 40 CFR 70.6c

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: There is no cost to the state budget, as all costs of the Operating Permit program are funded by fees paid by the affected sources.
- ❖ LOCAL GOVERNMENTS: There are several local governments that own sources that are subject to Operating Permits requirements, but Utah's requirements do not change for them and there is no cost to the sources.
- ❖ OTHER PERSONS: While the discussion of the proper interpretation of the federal requirements has gone on at the federal level, Utah has implemented the requirements that have now been promulgated by EPA. Therefore, there is no change in what sources in Utah are required to do, and thus no cost to them.

COMPLIANCE COSTS FOR AFFECTED PERSONS: While the discussion of the proper interpretation of the federal requirements has gone on at the federal level, Utah has implemented the requirements that have now been promulgated by EPA. Therefore, there is no change in what sources in Utah are required to do, and thus no cost to them.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: We are glad that the interpretation of federal provisions is now settled so that sources of air pollution have more certainty about requirements that apply to them.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jan Miller at the above address, by phone at 801-536-4042, by FAX at 801-536-4099, or by Internet E-mail at janmiller@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 03/31/2004

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 3/17/2004 at 1:30 PM, Air Quality Building, 150 N 1950 W, Main Conference Room, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 05/05/2004

AUTHORIZED BY: M. Cheryl Heying, Planning Branch Manager

R307. Environmental Quality, Air Quality.**R307-415. Permits: Operating Permit Requirements.****R307-415-6c. Permit Content: Compliance Requirements.**

All operating permits shall contain all of the following elements with respect to compliance:

- (1) Consistent with R307-415-6a(3), compliance certification, testing, monitoring, reporting, and recordkeeping requirements sufficient to assure compliance with the terms and conditions of the permit. Any document, including any report, required by an operating permit shall contain a certification by a responsible official that meets the requirements of R307-415-5d;
 - (2) Inspection and entry requirements that require that, upon presentation of credentials and other documents as may be required by law, the permittee shall allow the Executive Secretary or an authorized representative to perform any of the following:
 - (a) Enter upon the permittee's premises where a Part 70 source is located or emissions-related activity is conducted, or where records must be kept under the conditions of the permit;
 - (b) Have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit;
 - (c) Inspect at reasonable times any facilities, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under the permit;
 - (d) Sample or monitor at reasonable times substances or parameters for the purpose of assuring compliance with the permit or applicable requirements;
 - (e) Claims of confidentiality on the information obtained during an inspection shall be made pursuant to Section 19-1-306;
 - (3) A schedule of compliance consistent with R307-415-5c(8);
 - (4) Progress reports consistent with an applicable schedule of compliance and R307-415-5c(8) to be submitted semiannually, or at a more frequent period if specified in the applicable requirement or by the Executive Secretary. Such progress reports shall contain all of the following:
 - (a) Dates for achieving the activities, milestones, or compliance required in the schedule of compliance, and dates when such activities, milestones or compliance were achieved;
 - (b) An explanation of why any dates in the schedule of compliance were not or will not be met, and any preventive or corrective measures adopted;

(5) Requirements for compliance certification with terms and conditions contained in the permit, including emission limitations, standards, or work practices. Permits shall include all of the following:

(a) Annual submission of compliance certification, or more frequently if specified in the applicable requirement or by the Executive Secretary;

(b) In accordance with R307-415-6a(3), a means for monitoring the compliance of the source with its emissions limitations, standards, and work practices;

(c) A requirement that the compliance certification include all of the following (provided that the identification of applicable information may reference the permit or previous reports, as applicable):

(i) The identification of each term or condition of the permit that is the basis of the certification;

(ii) The identification of the methods or other means used by the owner or operator for determining the compliance status with each term and condition during the certification period, ~~and whether such methods or other means provide continuous or intermittent data~~. Such methods and other means shall include, at a minimum, the methods and means required under R307-415-6a(3) ~~[. If necessary, the owner or operator also shall identify any other material information that must be included in the certification to comply with section 113(c)(2) of the Act, which prohibits knowingly making a false certification or omitting material information];~~

(iii) The status of compliance with the terms and conditions of the permit for the period covered by the certification, including whether compliance during the period was continuous or intermittent. The certification shall be based on the method or means designated in (ii) above. The certification shall identify each deviation and take it into account in the compliance certification. The certification shall also identify as possible exceptions to compliance any periods during which compliance is required and in which an excursion or exceedance as defined under 40 CFR Part 64 occurred; and

(iv) Such other facts as the executive secretary may require to determine the compliance status of the source;

(d) A requirement that all compliance certifications be submitted to the EPA as well as to the Executive Secretary;

(e) Such additional requirements as may be specified pursuant to Section 114(a)(3) of the Act, Enhanced Monitoring and Compliance Certification, and Section 504(b) of the Act, Monitoring and Analysis;

(6) Such other provisions as the Executive Secretary may require.

KEY: air pollution, environmental protection, operating permits, emission fees

~~December 31, 2003~~ 2004

Notice of Continuation February 9, 2004

19-2-109.1

19-2-104



Governor, Planning and Budget, Chief Information Officer

R365-4

Sub-Domain Naming Conventions for Executive Branch Agencies

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 26953

FILED: 02/17/2004, 17:53

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The "utah.gov" identifier is intended to provide the following features to the State of Utah and its agencies: 1) the ".gov" sub-domain identifier is controlled by the Federal ".gov" domain registrar, thereby protecting state interests; 2) the State of Utah, Chief Information Officer's (CIO) office is responsible for issuance of all "utah.gov" sub-domains, further protecting the integrity of the identifier; 3) the "utah.gov" identifier offers immediate recognition to constituents for developing credibility and confidence through a consistent interface; and 4) the "utah.gov" sub-domain simplifies constituent access to state agency services.

SUMMARY OF THE RULE OR CHANGE: This rule requires sub-domains to conform to the "utah.gov" domain naming convention.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 63D-1a-301.2

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: None--It is not anticipated that incremental cost or savings will occur from conforming to the "utah.gov" brand. Changes implemented are negligible, and can be performed by existing staff. Benefits will occur through consistent and protected branding resulting in improved constituent confidence.

❖ LOCAL GOVERNMENTS: None--No cost or savings anticipated, local government not regulated by this rule.

❖ OTHER PERSONS: None--No cost or savings anticipated, persons other than executive branch agencies are not regulated by this rule.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Non-State-Agency organizations will not be impacted by any costs associated with compliance to this rule because they are not regulated by this rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule furthers the commitment of the State of Utah to simplify citizen access to, and improve confidence in, State IT services through consistent branding and a protected naming convention. It is not anticipated that this rule will have any fiscal impact on businesses. Val Oveson, CIO

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

GOVERNOR
PLANNING AND BUDGET,
CHIEF INFORMATION OFFICER
Room 116 STATE CAPITOL
350 N STATE ST
SALT LAKE CITY UT 84114-1103, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Randy Hughes at the above address, by phone at 801-537-9071, by FAX at 801-538-1547, or by Internet E-mail at randyhughes@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 03/31/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 04/01/2004

AUTHORIZED BY: Val Oveson, Chief Information Officer

R365. Governor, Planning and Budget, Chief Information Officer.

R365-4. Sub-Domain Naming Conventions for Executive Branch Agencies.

R365-4-1. Purpose.

The "utah.gov" identifier is intended to provide the following features to the State of Utah and its agencies.

1.1 The ".gov" sub-domain identifier is controlled by the Federal .gov domain registrar, thereby protecting state interests.

1.2 The State of Utah, Chief Information Officer's (CIO) office is responsible for issuance of all "utah.gov" sub-domains, further protecting the integrity of the identifier.

1.3 The "utah.gov" identifier offers immediate recognition to constituents for developing credibility and confidence through a consistent interface.

1.4 The "utah.gov" sub-domain simplifies constituent access to state agency services.

R365-4-2. Authority.

This rule is issued by the Chief Information Officer under the authority of Section 63D-1a-301.2 of the Information Technology Act, and in accordance with Section 63-46a-3 of the Utah Rulemaking Act, Utah Code Annotated.

R365-4-3. Scope of Application.

All state agencies of the executive branch of the State of Utah government shall comply with this rule, which provides a consistent internet access identifier for the State of Utah through the "utah.gov" sub-domain.

R365-4-4. Definitions.

4.1 "Sub-Domain": A meaningful name or "handle" for addressing computers and information on the Internet. Domain names typically end with a suffix that denotes the type or location of a resource (for instance, ".com" for commercial resources or ".gov" for government resources).

4.2 URL: "Uniform Resource Locator" which is an addressing standard used to find documents and media on the Internet.

4.3 "Sub-Domain Registrar" Authoritative source within the State of Utah's CIO office, or the Federal .gov registrar.

4.4 TLD: Top level domain, including, but not limited to .net, .org, .com, etc.

4.5 Publicize: To advertise or otherwise publicly disseminate information regarding a TLD.

R365-4-5. Compliance and Responsibilities.

5.1 Any state executive branch agency that develops, hosts, or funds a website shall only register a sub-domain using the "utah.gov" naming convention.

5.2 No state executive branch agency may publicize a sub-domain in a TLD such as .org, .net, .com or any other available TLD not conforming to this rule.

R365-4-6. Exceptions.

6.1 The requirements of this rule do not apply to funds that are "passed-through" or contracted to a private non-profit or for-profit entity and subsequently used by that entity for its own website or for the purchase of a URL.

6.2 The CIO may provide a waiver for an "extraordinary environment" for which it is demonstrated that use of the "utah.gov" identifier would cause demonstrable harm to citizens or business. Requests for waiver must be submitted with justification to the CIO by the requesting agency Executive Director.

6.3 Any agency may retain an existing sub-domain under "state.ut.us" for up to 2 years from the effective date of this rule provided they show an active plan for migration to the "utah.gov" identifier.

6.4 Non-Conforming TLDs may be obtained or retained solely for the purpose of re-direction to an approved "utah.gov" TLD, or to retain ownership of the TLD for avoiding identifier misuse, provided the non-conforming TLD is not publicized.

R365-4-7. Rule Compliance Management.

A state executive branch agency executive director, or designee, upon becoming aware of a violation, shall enforce the rule. The CIO may, where appropriate, monitor compliance and report to the executive director any findings or violations of this rule.

The CIO may further enforce this rule by requesting that the entity responsible for providing identifier mapping withhold or remove the offending TLD from state production servers.

KEY: utah.gov

2004

63D-1a-301.2

63-46a-3



Human Services, Administration
R495-882
Termination of Parental Rights

NOTICE OF PROPOSED RULE

(New Rule)
 DAR FILE No.: 26936
 FILED: 02/03/2004, 13:32

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to clarify that the Office of Recovery Services (ORS) will continue to collect arrears that have accrued prior to parental rights being terminated on cases where the child was in the care or custody of the state.

SUMMARY OF THE RULE OR CHANGE: This proposed rule allows ORS to continue to collect arrears that have accrued prior to the termination of parental rights on those cases where the child was in the care or custody of the state in accordance with Section 78-3a-413.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 62A-1-117, 78-3a-413, and 78-3a-906

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: The decision to collect arrears that have accrued prior to the termination of parental rights on cases where the child was in the care or custody of the state will not impact the state budget. ORS has always collected arrears on these types of cases and the rule change does not pose a change to ORS procedures.
- ❖ LOCAL GOVERNMENTS: This rule change will not impact local government. ORS is funded by state government.
- ❖ OTHER PERSONS: The proposed rule to continue to collect arrears on these types of cases will not affect other persons. The individuals who owe arrears after terminating their parental rights will continue to pay toward the arrears until it is paid in full. ORS has always collected arrears on these types of cases and the rule change does not pose a change to ORS procedures.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed rule does not pose additional compliance costs for affected persons. In the past, ORS has always collected on cases fitting this criteria, so no additional costs will be incurred.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed rule acts as a clarification of existing processes and does not impose any additional costs on business.

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

HUMAN SERVICES
 ADMINISTRATION
 120 N 200 W
 SALT LAKE CITY UT 84103-1500, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Tracy Graham at the above address, by phone at 801-536-8918, by FAX at 801-536-8509, or by Internet E-mail at tracygraham@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 03/31/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 04/01/2004

AUTHORIZED BY: Emma Chacon, Director

R495. Human Services, Administration.

R495-882. Termination of Parental Rights.

R495-882-1. Arrears Obligation for Children in Care.

In accordance with Sections 62A-1-117 and 78-3a-906, child support is assigned to the state when a child is placed in the care/custody of the state or with an individual other than the parent for at least 30 days. The juvenile court shall also order the parents or any other obligated person to pay child support to the Office of Recovery Services (ORS) while the child is in a placement. If parental rights are terminated, and if any child support payable to the state has accrued prior to the termination of parental rights, the parent shall be responsible for paying this amount to the state in accordance with Section 78-3a-413. ORS will attempt to collect all past due support that accrued prior to the termination of parental rights for children who were in the care or custody of the state.

KEY: state custody, parental rights

2004

62A-1-117

78-3a-413

78-3a-906

Insurance, Administration **R590-226**

Submission of Life Insurance Filings

NOTICE OF PROPOSED RULE

(New Rule)
 DAR FILE No.: 26951
 FILED: 02/17/2004, 16:19

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to set forth the procedures for submitting life insurance filings.

SUMMARY OF THE RULE OR CHANGE: This rule combines an existing rule, Rule R590-86, Filing of Life and Disability Forms and Rates, and Insurance Bulletin 99-7, Procedures for the Submission of Life Form and Rate Filings. The information in Rule R590-86 is being split into three categories (life, credit, and annuities) so that each rule will deal solely with a particular line of insurance to better fit the marketplace. The only changes to what the life insurers are already required to do in regards to filing their forms with the department are: 1) the elimination of the requirement for a cover letter with each

form filing; and 2) the change from the use of the department's transmittal form to that of the National Association of Insurance Commissioners. This is to provide uniformity among all life insurance companies in the United States.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 31A-2-201, 31A-2-201.1, and 31A-2-202

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: "NAIC Life, Accident and Health, Annuity, Credit Transmittal Document", dated January 1, 2003; "NAIC Uniform Life, Accident and Health, Annuity and Credit Coding Matrix", dated January 1, 2003; "NAIC Instruction Sheet for Life, Accident and Health, Annuity, Credit Transmittal Document", dated January 1, 2003; "NAIC Instruction Sheet for Life, Accident and Health, Annuity, Credit Transmittal Document Form Filing Attachment", dated January 1, 2003; "Utah Life Filing Certification", dated January 1, 2004; "Utah Life, Annuity, Credit Life, and Credit Accident and Health Group Questionnaire", dated January 1, 2004; "Utah Life, Annuity, Credit Life, and Credit Accident and Health Request for Discretionary Group Authorization", dated January 1, 2004; and "Utah Annual Life Insurance Illustration Certification Filing Checklist", dated January 1, 2004

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: This rule will not add to or eliminate work for the department, nor will it result in a cost or savings to the state's budget since it will not result in an increase or decrease in fees or fines.

❖ LOCAL GOVERNMENTS: This rule affects the relationship between the department and their licensees and will have no effect on local government.

❖ OTHER PERSONS: This rule will have very little, if any, fiscal impact on life insurers doing business in Utah. The only change this rule will make that will affect the work load of life insurers is the elimination of the need to file a cover letter with each form filing. These cover letters describe what is in the filing, how the product is marketed and what the form does. It is usually one or two pages long. This will save someone a little time but should not result in the elimination of a position. As a result, there should be no cost shifting to consumers of life insurance products.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule will have very little, if any, fiscal impact on life insurers doing business in Utah. The only change this rule will make that will affect the work load of life insurers is the elimination of the need to file a cover letter with each form filing. These cover letters describe what is in the filing, how the product is marketed and what the form does. It is usually one or two pages long. This will save someone a little time but should not result in the elimination of a position. As a result, there should be no cost shifting to consumers of life insurance products.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This new rule should have little to no impact on life insurance companies doing business in Utah.

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 03/31/2004

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 3/18/2004 at 9:00 AM, State Office Building, Room 3112, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 04/01/2004

AUTHORIZED BY: Jilene Whitby, Information Specialist

R590. Insurance, Administration.

R590-226. Submission of Life Insurance Filings.

R590-226-1. Authority.

This rule is promulgated by the insurance commissioner pursuant to Subsection 31A-2-201(3), 31A-2-201.1, and 31A-2-202(2).

R590-226-2. Purpose and Scope.

(1) The purpose of this rule is to set forth the procedures for submitting:

- (a) life insurance filings required by Section 31A-21-201; and
- (b) report filings required by R590-177.

(2) This rule applies to:

(a) all types of individual and group life insurance and variable life insurance; and

(b) group life insurance contracts issued to nonresident policyholders, including trusts, when Utah residents are provided coverage by certificates of insurance.

R590-226-3. Documents Incorporated by Reference.

(1) The department requires that the documents described in this rule must be used for all filings. Actual copies may be used or you may adapt them to your word processing system. If adapted, the content, size, font, and format must be similar.

(2) The following documents are hereby incorporated by reference and are available on the department's website, www.insurance.utah.gov.

(a) "NAIC Life, Accident and Health, Annuity, Credit Transmittal Document," dated January 1, 2003.

(b) "NAIC Uniform Life, Accident and Health, Annuity and Credit Coding Matrix," dated January 1, 2003.

(c) "NAIC Instruction Sheet for Life, Accident and Health, Annuity, Credit Transmittal Document," dated January 1, 2003.

(d) "NAIC Instruction Sheet for Life, Accident and Health, Annuity, Credit Transmittal Document Form Filing Attachment," dated January 1, 2003.

(e) "Utah Life Filing Certification," dated January 1, 2004.

(f) "Utah Life, Annuity, Credit Life, and Credit Accident and Health Group Questionnaire," dated January 1, 2004.

(g) "Utah Life, Annuity, Credit Life, and Credit Accident and Health Request for Discretionary Group Authorization," dated January 1, 2004.

(h) "Utah Annual Life Insurance Illustration Certification Filing Checklist," dated January 1, 2004.

R590-226-4. Definitions.

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

(1) "Alternate information" means:

(a) a list of the states to which the filing was submitted, with any state actions;

(b) the reason for not submitting the filing to the domicile state; and

(c) identifying any points of conflict between the filing and domicile state laws or rules.

(2) "Certification" means a statement that the filing being submitted is in compliance with Utah laws and rules.

(3) "Data page" means the page or pages in a policy or certificate that provide the specific data for the insured detailing the coverage provided and may be titled by the insurer as policy specifications, policy schedule, policy information, etc.

(4) "Discretionary group" means a group that has been specifically authorized by the commissioner under Section 31A-22-509.

(5) "Eligible group" means a group that meets the definitions in Sections 31A-22-502 through 31A-22-508.

(6) "Endorsement" means a written agreement attached to a life insurance policy that alters a provision of the policy, for example, a car exclusion endorsement, a name change endorsement and a tax qualification endorsement.

(7) "File and Use" means a filing can be used, sold, or offered for sale after it has been filed with the department.

(8) "Filer" means a person or entity that submits a filing.

(9) "Filing," when used as a noun, means an item required to be filed with the department including:

(a) a policy;

(b) a form;

(c) a document;

(d) an application;

(e) a report;

(f) a certificate;

(g) an endorsement;

(h) a rider;

(i) a life insurance illustration;

(j) a statement of policy cost and benefit information; and

(k) an actuarial memorandum, demonstration, and certification.

(10) "Issue Ages" means the range of minimum and maximum ages for which a policy or certificate will be issued.

(11) "Letter of Authorization" means a letter signed by an officer of the insurer on whose behalf the filing is submitted that designates filing authority to the filer.

(12) "Market type" means the type of policy that indicates the targeted market such as individual or group.

(13) "Order to Prohibit Use" means an order issued by the commissioner that forbids the use of a filing.

(14) Rejected" means a filing is:

(a) not submitted in accordance with applicable laws or rules;

(b) returned to the filer by the department with the reasons for rejection; and

(c) not considered filed with the department.

(15) "Rider" means a written agreement attached to a life insurance policy or certificate that adds a benefit, for example, a waiver of premium rider, an accidental death benefit rider and a term insurance rider.

(16) "Type of insurance" means a specific life insurance product including, but not limited to, term, universal, variable, or whole life. Refer to the NAIC Coding Matrix.

R590-226-5. General Filing Information.

(1) Each filing submitted must be accurate, consistent, and complete and contain all required documents in order for the filing to be processed in a timely and efficient manner. The commissioner may request any additional information deemed necessary.

(2) Insurers and filers are responsible for assuring compliance with Utah laws and rules. Filings not in compliance with Utah laws and rules are subject to regulatory action under Section 31A-2-308.

(3) Filings that do not comply with this rule will be rejected and returned to the filer. Rejected filings are not considered filed with the department.

(4) Prior filings will not be researched to determine the purpose of the current filing.

(5) The department does not review or proofread every filing.

(a) Filings may be reviewed:

(i) when submitted;

(ii) as a result of a complaint;

(iii) during a regulatory examination or investigation; or

(iv) at any other time the department deems necessary.

(b) If a filing is reviewed and is found to be not in compliance with Utah laws and rules, an ORDER TO PROHIBIT USE will be issued to the filer. The commissioner may require the filer to disclose deficiencies in forms or rating practices to affected policyholders.

(6) Filing correction:

(a) No filing transmittal is required when clerical or typographical corrections are made to a filing previously filed if the corrected filing is submitted within 30 days of the date "filed" with the department. The filer will need to reference the original filing.

(b) A new filing is required if the clerical or typographical corrections are made more than 30 days after the filed date of the original filing. The filer will need to reference the original filing.

(7) Filing withdrawal. A filer must notify the department when the filer withdraws a previously filed form, rate, or supplementary information.

R590-226-6. Filing Submission Requirements.

Filings must be submitted by market type and type of insurance. A filing may not include more than one type of insurance, or request filing for more than one insurer. A complete filing consists of the following documents submitted in the following order:

(1) Transmittal. Note: Based on the use of the NAIC Transmittal Form, a cover letter is not required. The "NAIC Life, Accident and Health, Annuity, Credit Transmittal Document" must be used. It can be found at www.insurance.utah.gov/LH_Trans.pdf.

(a) COMPLETE THE TRANSMITTAL BY USING THE FOLLOWING:

(i) "NAIC Coding Matrix"
www.insurance.utah.gov/LifeA&H_Matrix.pdf

(ii) "NAIC" Instruction Sheet"
www.insurance.utah.gov/LH_Trans_Inst.pdf

(iii) "Life Content Standards"
www.insurance.utah.gov/Life_STM.html

(iv) Do not submit the documents described in section (a)(i), (ii), and (iii) with a filing.

(b) Filing Description. The following information must be included in the Filing Description on the transmittal and must be presented in the order shown below:

(i) Domicile Approval. Foreign insurers and filers must first submit filings to their domicile state.

(A) If a filing was submitted to the domicile state, provide a stamped copy of the approval letter from the domicile state for the filing

(B) If a filing was not submitted to the domicile state, or the domicile state did not provide specific approval for the filing, then alternate information must be provided.

(ii) Marketing Facts.

(A) List the issue ages.

(B) List the minimum death benefit.

(C) Identify and describe the type of group.

(D) Identify the intended market for the filing, such as senior citizens, nonprofit organization, association members, corporate owned, bank owned, etc.

(E) Describe the marketing and advertising in detail, i.e. through a marketing association, mass solicitation, electronic media, financial institutions, Internet, telemarketing, or individually through licensed producers.

(iii) Description of Filing.

(A) Provide a detailed description of the purpose of the filing.

(B) Describe the benefits and features of each form in the filing including specific features and options, including nonforfeiture options.

(C) Identify any new, unusual or controversial provisions.

(D) Identify any unresolved previously prohibited provisions and explain why the provisions are included in the filing.

(E) Explain any changes in benefits, charges, terms, premiums, or other provisions that may occur while the policy is in force.

(F) If the filing is replacing or modifying a previous submission, provide information that identifies the filing being replaced or modified, the Utah filed date, and a detailed description of the changes and highlight the changed provisions.

(G) If the filing includes forms for informational purposes, provide the dates the forms were filed.

If filing an application, rider or endorsement, and the filing does not contain a policy, identify the affected policy form number, the Utah filed date, and describe the effect of the submitted forms on the base policy.

(iv) Underwriting Methods. Provide a general explanation of the underwriting applicable to this filing.

(2) Certification. In addition to completing the certification on the NAIC transmittal, the filer must complete and submit the "Utah Life Insurance Filing Certification." A filing will be rejected if the

certification is missing or incomplete. A certification that is inaccurate may subject the filer to administrative action.

(3) Group Questionnaire or Discretionary Group Authorization Letter. All group filings must identify each type of group, and include either, a completed "Utah Life, Annuity, Credit Life and Credit Accident and Health Insurance Group Questionnaire," or a copy of the "Utah Life, Annuity, Credit Life and Credit Accident and Health Discretionary Group Authorization Letter."

(4) Letter of Authorization. When the filer is not the insurer, a letter of authorization from the insurer must be included. The insurer remains responsible for the filing being in compliance with Utah laws and rules.

(5) Statement of Variability. Any item that is variable must be contained within the brackets. Each variable item must be identified and explained in a statement of variability. If the information contained within the brackets changes, the form must be refiled.

(6) Items being submitted for filing. Refer to each applicable subsection of this rule for general procedures and additional procedures on how to submit forms and reports.

(7) Life Insurance Illustration Materials. If the life insurance form is identified as illustrated, the filing must include a sample:

(a) basic illustration completed with data in John Doe fashion;

(b) current illustration actuary's certification;

(c) company officer certification; and

(d) sample annual report.

(8) Statement of Policy Cost and Benefit Information. If the life insurance form is not illustrated, the filing must include a sample of the Statement of Policy Cost and Benefit Information.

(9) Actuarial Memorandum, Demonstration, and Certification of Compliance. An actuarial memorandum, demonstration of compliance, and a certification of compliance are required in individual and group life insurance filings. The memorandum must be currently dated and signed by the actuary. The memorandum must include:

(a) description of the coverage in detail;

(b) demonstration of compliance with applicable nonforfeiture and valuation laws; and

(c) a certification of compliance with Utah law.

(10) Return Notification Materials.

(a) Return notification materials are limited to:

(i) a copy of the transmittal; and

(ii) a self-addressed, stamped envelope.

(b) Notice of filing will not be provided unless return notification materials are submitted.

R590-226-7. Procedures for Filings.

(1) Forms in General.

(a) Forms are "File and Use" filings.

(b) Each form must be identified by a unique form number. The form number may not be variable.

(c) Forms must be in final printed form or printer's proof format. Drafts may not be submitted.

(d) The form must be completed in John Doe fashion to accurately represent the intended market, purpose, and use.

(i) If the market intended is for the senior age group, the form must be completed with data representative of senior insureds.

(ii) All John Doe data in the forms including the specification page must be accurate and consistent with the actuarial memorandum, the basic illustration, the Statement of Policy Cost and Benefit information, and the application, as applicable.

(iii) When submitting a rider or endorsement, include a sample policy data page that includes the rider or endorsement information.

(iv) Forms may include variable data within brackets. All variable data must be identified within the specific section, or a statement of variability included with the submission.

(2) Policy Filings.

(a) Each type of insurance must be filed separately. A policy filing consists of one policy form for a single type of insurance including its related forms, such as the application, sample data page, rider, endorsement, and actuarial memorandum.

(b) A policy data page must be included with every policy filing.

(c) Only one policy form for a single type of insurance may be filed, in each filing a life insurance policy with different premium payment periods is considered one form.

(d) A policy data page that changes the basic feature of the policy may not be filed without including the entire policy form in the filing. A filing consisting of only a data page without the policy form will be rejected as incomplete.

(3) Rider or Endorsement Filing.

(a) Related riders or endorsements may be filed as a single filing.

(b) A rider or endorsement that is based on morbidity risks, such as critical illness or long-term care, is considered accident and health insurance and must be filed in accordance with Rule R590-220, "Accident and Health Insurance Filings."

(c) A single rider or endorsement that affects multiple policy forms may be filed separately if the Filing Description references all affected forms.

(d) The filing must include:

(i) a listing of all base policy form numbers, title and dates filed with the Utah Insurance Department;

(ii) a description of how each filed rider or endorsement affects the base policy; and

(iii) a sample data page with data for the submitted form.

(4) Application Filings. Each application or enrollment form may be submitted as a separate filing or may be filed with its related policy or certificate filing. If an application has been previously filed or is filed separately, an informational copy of the application must be included with the policy or certificate filing.

R590-226-8. Additional Procedures for Individual Life Insurance Forms and Group Life Insurance Certificates Marketed Individually.

(1) Insurers filing life insurance forms are advised to review the following code sections and rules prior to submitting a filing:

(a) Section 31A-21 Part III, "Specific Clauses in Contracts;"

(b) Section 31A-22 Part IV, "Life Insurance and Annuities;"

(c) R590-79, "Life Insurance Disclosure for Policy Summary;"

(d) R590-93, "Replacement of Life Insurance and Annuities;"

(e) R590-94, "Smoker/Nonsmoker Mortality Tables;"

(f) R590-95, "Minimum Nonforfeiture Standards 1980 CSO and 1980 CET Mortality Tables;"

(g) R590-98, "Unfair Practice in Payment of Life Insurance and Annuity Policy Values;"

(h) R590-108, "Interest Rate During Grace Period or Upon Reinstatement of Policy;"

(i) R590-122, "Permissible Arbitration Provisions;"

(j) R590-145, "Accelerated Benefits;"

(k) R590-177, "Life Insurance Illustrations;"

(l) R590-191, "Unfair Life Insurance Claims Settlement Practice;"

(m) R590-198, "Valuation of Life Insurance Policies;" and

(n) R590-223, "Rule to Recognize 2001 CSO Mortality Table."

(2) Every individual life insurance policy, rider or endorsement providing benefits, and every group life insurance filing including certificates that are marketed individually, shall include an actuarial memorandum, a demonstration, and a certification of compliance for nonforfeiture and valuation. Refer to the following:

(a) Section 31A-22-408, "Standard Nonforfeiture Law for Life Insurance;"

(b) Section 31A-17 Part V, "Standard Valuation Law."

(3) When submitting accelerated benefits riders or provisions, the filing must include an actuarial memorandum for the accelerated benefit, a solicitation disclosure form, and a benefit payment disclosure form.

R590-226-9. Additional Procedures for Group Market Filings.

(1) Insurers submitting group life insurance filings are advised to review the following code sections and rules prior to submitting a filing:

(a) Section 31A-21 Part III, "Specific Clauses in Contracts;"

(b) Section 31A-22 Part IV, "Life Insurance and Annuities;"

(c) Section 31A-22 Part V, "Group Life Insurance;"

(d) R590-79, "Life Insurance Disclosure Rule;"

(e) R590-145, "Accelerated Benefits;"

(f) R590-191, "Unfair Life Insurance Claims Settlement Practice."

(2) A policy must be included with each certificate filing along with a master application and enrollment form.

(3) Statement of Policy Cost and Benefit Information. A statement of policy cost and benefit information must be included in non-term group life insurance and preneed funeral policies or rearrangements. This disclosure requirement shall extend to the issuance or delivery of certificates as well as to the master policy in compliance with R590-79-3.

(4) Actuarial Memorandum. An actuarial memorandum must be included in all group life insurance filings describing the coverage in detail and certifying compliance with applicable laws and rules. For non-term group life filings, the memorandum must also demonstrate nonforfeiture compliance with Section 31A-22-515.

(5) Eligible Group. A filing for an eligible group must include a completed "Utah Life, Annuity, Credit Life, and Credit Accident and Health Group Questionnaire."

(a) A questionnaire must be completed for each eligible group under Section 31A-22-502 through 508.

(b) When a filing applies to multiple employer-employee groups under Section 31A-22-502, only one questionnaire is required to be completed.

(6) Discretionary Group. If a group is not an eligible group, then specific discretionary group authorization must be obtained prior to submitting the filing. If a form filing is submitted without discretionary group authorization, the filing will be rejected.

(a) To obtain discretionary group authorization a "Utah Life, Annuity, Credit Life, and Credit Accident and Health Request For Discretionary Group Authorization" must be submitted and include all required information.

(b) Evidence or proof of the following items are some factors considered in determining acceptability of a discretionary group:

- (i) existence of a verifiable group;
- (ii) that granting permission is not contrary to public policy;
- (iii) the proposed group would be actuarially sound;
- (iv) the group would result in economies of acquisition and administration which justify a group rate; and
- (v) the group would not present hazards of adverse selection.
- (c) Discretionary group filings that do not provide authorization documentation will be rejected.
- (d) Any changes to an authorized discretionary group must be submitted to the department, such as: change of name, trustee, domicile state, within 30 days of the change.
- (e) The commissioner may periodically re-evaluate the group's authorization.

R590-226-10. Additional Procedures for Variable Life Filings.

- (1) Insurers submitting variable life filings are advised to review the following code sections and rules prior to submitting a filing:
 - (a) Section 31A-22-411, "Contracts Providing Variable Benefits;"
 - (b) R590-133, "Variable Contracts."
- (2) A variable life insurance policy must have been previously approved or accepted by the insurer's state of domicile before it is submitted for filing in Utah.
- (3) Information regarding the status of the filing of the variable life insurance policy with the Securities and Exchange Commission must be included in the filing.
- (4) The transmittal description and the actuarial memorandum must:
 - (a) describe the types of accounts available in the policy; and
 - (b) identify those accounts that are separate accounts, including modified guaranteed accounts, and those that are general accounts.
- (5) The actuarial memorandum must demonstrate nonforfeiture compliance:
 - (a) for separate accounts pursuant to Section 31A-22-411; and
 - (b) for fixed interest general accounts pursuant to Section 31A-22-408.
- (c) In addition, for fixed accounts, the actuarial memorandum must:
 - (i) identify the guaranteed minimum interest rate, and
 - (ii) identify the maximum surrender charges.
- (6) A prospectus is not required to be filed.

R590-226-11. Additional Procedures for Policies, Riders or Endorsements Providing a Combination of Life and Accident and Health Benefits.

- (1) A combination filing consists of a policy, rider or endorsement that creates a product that provides both life and accident and health insurance benefits. The two types of acceptable filings are:
 - (a) a rider or endorsement attached to a policy; or
 - (b) an integrated policy.
- (2) Combination filings take considerable time to process and will be processed separately by both the life insurance and the health insurance divisions.
- (3) Combination filings must include transmittals for both the life insurance and the health insurance divisions.
- (4)(a) For an integrated policy, the filing must be submitted to the appropriate division based on benefits provided in the base policy.

- (b) For a rider or endorsement, the filing must be submitted to the appropriate division based on benefits provided in the rider or endorsement.

(5) The Filing Description must identify the filing as having a combination of insurance types, such as:

- (a) term policy with a long-term care benefit rider; or
- (b) major medical policy that includes a life insurance benefit.

R590-226-12. Insurer Annual Reports.

- (1) All insurer annual reports must be properly identified and must be filed separately from other filings. Each annual report must be submitted along with the properly completed report checklist.
- (2) "Life Insurance Illustration Certification Annual Report".
 - (a) Filing must comply with R590-177-11. Life insurers marketing life insurance with an illustration shall provide an annual certification report to the commissioner each year by a date determined by the insurer.
 - (b) The report must include:
 - (i) a completed "Utah Life Insurance Illustration Certification Annual Report Checklist";
 - (ii) two cover letters along with a self-addressed stamped envelope;
 - (iii) an Illustration Actuary's Certification signed and dated;
 - (iv) a Company Officer's Certification signed and dated; and
 - (v) a list of all policies forms for which the certification applies.

R590-226-13. Electronic Filings.

Filers submitting electronic filings must follow the requirements for both the electronic system and this rule, as applicable.

R590-226-14. Correspondence, Status Checks, and Responses.

- (1) Correspondence. When corresponding with the department, filers must provide sufficient information to identify the original filing:
 - (a) type of insurance;
 - (b) date of filing;
 - (c) form numbers; and
 - (d) copy of the original transmittal.
- (2) Status Checks. Filers may request the status of their filing by telephone, or email 60 days after the date of submission.
- (3) Response to an Order.
 - (a) A response to an order must include:
 - (i) a response cover letter identifying the changes made;
 - (ii) a copy of the Order to Prohibit Use;
 - (iii) one copy of the revised documents with all changes highlighted; and
 - (iv) return notification materials, which consist of a copy of the response cover letter and a self-addressed stamped envelope.
- (4) Rejected Filings.
 - (a) A rejected filing is NOT considered filed. If resubmitted it is considered a new filing.
 - (b) If resubmitting a previously rejected filing, the new filing must include a copy of the rejection notice.

R590-226-15. Penalties.

Persons found, after a hearing or other regulatory process, to be in violation of this rule shall be subject to penalties as provided under Section 31A-2-308.

R590-226-16. Enforcement Date.

The commissioner will begin enforcing the provisions of this rule May 1, 2004.

R590-226-17. Severability.

If any provision of this rule or the application of it to any person or circumstance is for any reason held to be invalid, the remainder of the rule and the application of the provision to other persons or circumstances may not be affected by it.

KEY: life insurance filings**2004****31A-2-201****31A-2-201.1****31A-2-202**

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Insurance, Administration **R590-227** Submission of Annuity Filings

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 26952

FILED: 02/17/2004, 17:33

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to set forth the procedures for submitting annuity filings under Section 31A-21-201, Filing and approval of forms.

SUMMARY OF THE RULE OR CHANGE: This rule combines an existing rule, Rule R590-86, Filing of Life and Disability Forms and Rates, and Insurance Bulletin 99-7, Procedures for the Submission of Life Form and Rate Filings. The information in Rule R590-86 is being split into three categories (life, credit, and annuities) so that each rule will deal solely with a particular line of insurance to better fit the marketplace. The only changes in what is already required and this new rule is: 1) the elimination of the requirement for a cover letter with each form filing; and 2) the change from the use of the department's transmittal form to that of the National Association of Insurance Commissioners form to provide for uniformity among all companies selling annuity policies within the United States.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 31A-2-201, 31A-2-201.1, and 31A-2-202

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: "NAIC Life, Accident and Health, Annuity, Credit Transmittal Document," dated January 1, 2003; "NAIC Uniform Life, Accident and Health, Annuity and

Credit Coding Matrix," dated January 1, 2003; "NAIC Instruction Sheet for Life, Accident and Health, Annuity, Credit Transmittal Document," dated January 1, 2003; "NAIC Instruction Sheet for Life, Accident and Health, Annuity, Credit Transmittal Document Form Filing Attachment," dated January 1, 2003; "Utah Annuity Filing Certification," dated May 1, 2004; "Utah Life, Annuity, Credit Life, and Credit Accident and Health Group Questionnaire," dated May 1, 2004; and "Utah Life, Annuity, Credit Life, and Credit Accident and Health Request for Discretionary Group Authorization," dated May 1, 2004

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** This rule will not add to or eliminate work for the department, nor will it result in a cost or savings to the state's budget since it will not result in an increase or decrease in fees or fines.

❖ **LOCAL GOVERNMENTS:** This rule affects the relationship between the department and their licensees and has no effect on local government.

❖ **OTHER PERSONS:** This rule will have very little, if any, fiscal impact on companies selling annuity contracts in Utah. The only change this rule will make that will affect the work load of companies selling annuities is the elimination of the need to file a cover letter with each form filing. These cover letters describe what is in the filing, how the product is marketed and what the form does. It is usually one to two pages long. This will save someone in the company a little time but should not result in the elimination of a position. As a result, there should be no cost shifting to consumers of annuity products.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule will have very little, if any, fiscal impact on companies selling annuity contracts in Utah. The only change this rule will make that will affect the work load of companies selling annuities is the elimination of the need to file a cover letter with each form filing. These cover letters describe what is in the filing, how the product is marketed and what the form does. It is usually one to two pages long. This will save someone in the company a little time but should not result in the elimination of a position. As a result, there should be no cost shifting to consumers of annuity products.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This new rule should have little to no impact on companies selling annuity products in Utah.

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 03/31/2004

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 3/18/2004 at 10:00 AM, State Office Building, Room 3112, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 04/01/2004

AUTHORIZED BY: Jilene Whitby, Information Specialist

R590. Insurance, Administration.

R590-227. Submission of Annuity Filings.

R590-227-1. Authority.

This rule is promulgated by the insurance commissioner pursuant to Subsection 31A-2-201(3), 31A-2-201.1, and 31A-2-202(2).

R590-227-2. Purpose and Scope.

(1) The purpose of this rule is to set forth the procedures for submitting annuity filings under Section 31A-21-201.

(2) This rule applies to:

(a) all types of individual and group annuities, variable annuities; and

(b) group annuity contracts issued to nonresident contract holders, including trusts, when Utah residents are provided coverage by certificates.

R590-227-3. Incorporation by Reference.

(1) The department requires that documents described in this rule must be used for all filings. Actual copies may be used or you may adapt them to your word processing system. If adapted, the content, size, font, and format must be similar.

(2) The following documents are hereby incorporated by reference and are available at www.insurance.utah.gov.

(a) "NAIC Life, Accident and Health, Annuity, Credit Transmittal Document," dated January 1, 2003.

(b) "NAIC Uniform Life, Accident and Health, Annuity and Credit Coding Matrix," dated January 1, 2003.

(c) "NAIC Instruction Sheet for Life, Accident and Health, Annuity, Credit Transmittal Document," dated January 1, 2003.

(d) "NAIC Instruction Sheet for Life, Accident and Health, Annuity, Credit Transmittal Document Form Filing Attachment," dated January 1, 2003.

(e) "Utah Annuity Filing Certification," dated May 1, 2004.

(f) "Utah Life, Annuity, Credit Life, and Credit Accident and Health Group Questionnaire," dated May 1, 2004.

(g) "Utah Life, Annuity, Credit Life, and Credit Accident and Health Request for Discretionary Group Authorization," dated May 1, 2004.

R590-227-4. Definitions.

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

(1) "Alternate information" means:

(a) a list of the states to which the forms have been filed, with any state actions;

(b) the reason for not submitting the form to the domicile state; and

(c) identifying any points of conflict between the form and domicile state laws or rules.

(2) "Certification" means a statement that the filing being submitted is in compliance with Utah laws and rules.

(3) "Contract" means the annuity policy including attached endorsements and riders;

(4) "Data page" means the page or pages in a contract or certificate that provide the specific data for the annuitant detailing the coverage provided and may be titled by the insurer as contract data page, specifications page, contract schedule, etc.

(5) "Discretionary group" means a group that has been specifically authorized by the commissioner under Section 31A-22-509.

(6) "Eligible group" means a group that meets the definitions in Sections 31A-22-502 through 31A-22-508.

(7) "Endorsement" means a written agreement attached to an annuity contract that alters a provision of the contract, for example, a name change endorsement and a tax qualification endorsement.

(8) "File and Use" means a filing can be used, sold, or offered for sale after it has been filed with the department.

(9) "Filer" means a person or entity that submits a filing.

(10) "Filing," when used as a noun, means an item required to be filed with the department including:

(a) a contract;

(b) a form;

(c) a document;

(d) an application;

(e) a report;

(f) a certificate;

(g) an endorsement;

(h) a rider; and

(i) an actuarial memorandum, demonstration, and certification.

(11) "Issue Ages" means the range of minimum and maximum ages for which a contract or certificate will be issued.

(12) "Letter of Authorization" means a letter signed by an officer of the insurer on whose behalf the filing is submitted that designates filing authority to the filer.

(13) "Market type" means the type of contract that indicates the targeted market such as individual or group.

(14) "Order to Prohibit Use" means an order issued by the commissioner that forbids the use of a filing.

(15) "Rejected" means a filing is:

(a) not submitted in accordance with applicable laws or rules;

(b) returned to the insurer by the department with the reasons for rejection; and

(c) not considered filed with the department.

(16) "Rider" means a written agreement attached to an annuity contract or certificate that adds a benefit, for example, a waiver of surrender charge, a guaranteed minimum withdrawal benefit and a guaranteed minimum income benefit.

(17) "Type of insurance" means a specific type of annuity including, but not limited to, equity indexed annuity, single premium immediate annuity, modified guaranteed annuity, deferred annuity, or variable annuity. Refer to the NAIC Coding Matrix.

R590-227-5. General Filing Information.

(1) Each filing submitted must be accurate, consistent, and complete and contain all required documents in order for the filing to be processed in a timely and efficient manner. The commissioner may request any additional information deemed necessary.

(2) Insurers and filers are responsible for assuring compliance with Utah laws and rules. A filing not in compliance with Utah laws and rules is subject to regulatory action under Section 31A-2-308.

(3) A filings that does not comply with this rule may be rejected and returned to the filer. A rejected filing is not considered filed with the department.

(4) A prior filing will not be researched to determine the purpose of the current filing.

(5) The department does not review or proofread every filing.

(a) Filings may be reviewed:

(i) when submitted;

(ii) as a result of a complaint;

(iii) during a regulatory examination or investigation; or

(iv) at any other time the department deems necessary.

(b) If a filing is reviewed and is found to be not in compliance with Utah laws and rules, an ORDER TO PROHIBIT USE will be issued to the filer. The commissioner may require the filer to disclose deficiencies in forms or rating practices to affected contract holders.

(5) Filing Correction.

(a) No filing transmittal is required when clerical or typographical corrections are made to a filing previously filed if the corrected filing is submitted within 30 days of the date "filed" with the department. The filer will need to reference the original filing.

(b) A new filing is required if a clerical or typographical correction is made more than 30-days after the filed date of the original filing. The filer will need to reference the original filing.

(7) Filing withdrawal. A filer must notify the department when the filer withdraws a previously filed form, rate, or supplementary information.

R590-227-6. Filing Submission Requirements.

Filings must be submitted by market type and type of insurance. A filing may not include more than one type of insurance, or request filing for more than one insurer. A complete filing consists of the following documents and submitted in the following order:

(1) Transmittal. Note: Based on the use of the NAIC Transmittal Document, a cover letter is not required. The "NAIC Life, Accident and Health, Annuity, Credit Transmittal Document" must be used. It can be found at www.insurance.utah.gov/LH_Trans.pdf.

(a) COMPLETE THE TRANSMITTAL BY USING THE FOLLOWING:

(i) "NAIC Coding Matrix"

www.insurance.utah.gov/LifeA&H_Matrix.pdf,

(ii) "NAIC" Instruction Sheet"

www.insurance.utah.gov/LH_Trans_Inst.pdf,

(iii) "Life Content Standards"

www.insurance.utah.gov/Life_STM.html.

(iv) Do not submit the documents described in section (a)(i), (ii), and (iii) with a filing.

(b) Filing Description Section. The following information must be included in the Filing Description Section of the NAIC transmittal and must be presented in the order shown below:

(i) Domiciliary Approval. Foreign insurers and filers must first submit filings to their domicile state.

(A) If a filing was submitted to the domicile state provide a stamped copy of the approval letter from the domicile state for the filing.

(B) If a filing was not submitted to the domicile state, or the domicile state did not provide specific approval for the filing, then alternate information must be provided.

(ii) Marketing Facts.

(A) List the issue ages.

(B) List the minimum initial premium.

(C) Identify the intended market for the filing, such as senior citizens, nonprofit organizations, association members, including any particular tax qualified market and the federal law under which the contract will be marketed.

(D) Describe the marketing and advertising in detail, i.e. individually solicited through licensed producers, marketed through a marketing association, financial institutions, Internet, or telemarketing.

(iii) Description of Filing.

(A) Provide a detailed description of the purpose of the filing.

(B) Describe the benefits and features of each form in the filing including specific features and options, including nonforfeiture options.

(C) Identify any new, unusual, or controversial provisions.

(D) Identify any unresolved previously prohibited provisions and explain why the provisions are included in the filing.

(E) Explain any changes in benefits, charges, terms, premiums, or other provisions that may occur while the contract is in force.

(F) If the filing is replacing or modifying a previous submission, provide information that identifies the filing being replaced or modified, the Utah filed date, and a detailed description of the changes and highlight the changed provisions.

(G) If the filing includes forms for informational purposes, provide the dates the forms were filed.

(H) If filing an application, rider, or endorsement, and the filing does not contain a contract, identify the affected contract form number, the Utah filed date, and describe the effect of the submitted forms on the base contract.

(iv) Underwriting Methods. Provide a general explanation of the underwriting applicable to this filing.

(2) Certification. In addition to completing the certification on the NAIC transmittal, the filer must complete and submit the "Utah Annuity Filing Certification". A filing will be rejected if the certification is missing or incomplete. A certification that is inaccurate may subject the filer to administrative action.

(3) Group Questionnaire or Discretionary Group Authorization Letter. All group filings must identify each type of group, and include either a completed "Utah Life, Annuity, Credit Life and Credit Accident and Health Insurance Group Questionnaire", or copy of the "Utah Life, Annuity, Credit Life and Credit Accident and Health Insurance Discretionary Group Authorization letter".

(4) Letter of Authorization. If the filer is not the insurer, a letter of authorization from the insurer must be included. The insurer remains responsible for the filing being in compliance with Utah laws and rules.

(5) Statement of Variability. Any item that is variable must be contained within the brackets. Each variable item must be identified and explained in a statement of variability. If the information contained within the brackets changes, the form must be refiled.

(6) Items being submitted for filing. Refer to each applicable subsection of this rule for general procedures and additional procedures on how to submit forms and reports.

(7) Annuity Report. All annuity filings must include a sample annuity annual report.

(8) Actuarial Memorandum, Demonstration, and Certification of Compliance. An actuarial memorandum, demonstration, and a certification of compliance are required in annuity filings. The memorandum must be currently dated and signed by the actuary. The memorandum must include:

(a) description of the coverage in detail;

(b) demonstration of compliance with applicable nonforfeiture and valuation laws; and

(c) a certification of compliance with Utah law.

(9) Return Notification Materials.

(a) Return notification materials are limited to:

(i) a copy of the transmittal; and

(ii) a self-addressed, stamped envelope.

(b) Notice of filing will not be provided unless return notification materials are submitted.

R590-227-7. Procedures for Filings.

(1) Forms in General.

(a) Forms are "File and Use" filings.

(b) Each form must be identified by a unique form number. The form number may not be variable.

(c) Forms must be in final printed form or printer's proof format. Drafts may not be submitted.

(d) The form must be completed in John Doe fashion to accurately represent the intended market, purpose, and use.

(i) If the market intended is for the senior age market, the form must be completed with data representative of senior annuitants.

(ii) All John Doe data in the forms including the specification page must be accurate and consistent with the actuarial memorandum, the application, and any marketing materials, as applicable.

(iii) When submitting a rider or endorsement, include a sample data page that includes the rider or endorsement information.

(iv) Forms may include variable data. All variable data must be identified within the brackets or a statement of variability must be included with the submission.

(2) Contract Filings.

(a) Each type of annuity must be filed separately. A contract filing consists of one contract form for a single type of insurance including its related forms, an application, data page, rider or endorsement, and an actuarial memorandum.

(b) A data page must be included with every contract filing.

(c) Only one contract form for a single type of insurance may be submitted.

(d) A data page that changes the basic feature of the contract may not be filed without including the entire contract form in the filing. Separate data page filings without the contract form will be rejected as incomplete.

(3) Rider or Endorsement Filings.

(a) Related riders or endorsements may be filed together as a single filing.

(b) A single rider or endorsement that affects multiple related forms must reference all affected contract forms.

(c) A rider or endorsement that is based on morbidity risks such as critical illness or long-term care, is considered accident and

health insurance and must be filed in accordance with Rule R590-220, "Accident and Health Insurance Filings".

(d) The filing must include:

(i) a listing of all base contract form numbers, title and dates filed with the Utah Insurance Department.

(ii) a description of how each filed rider or endorsement affects the base contract.

(iii) a sample data page with data for the submitted form.

(4) Application Filings. Each application or enrollment form may be submitted as a separate filing or may be filed with its related contract or certificate filing. If an application has been previously filed or is filed separately, an informational copy of the application must be included with a contract or certificate filing.

R590-227-8. Additional Procedures for Fixed Annuity Filings.

(1) Insurers filing annuity forms are advised to review the following code sections and rules prior to submitting a filing:

(a) Section 31A-21 Part III, "Specific Clauses in Contracts;" Section 31A-22 Part IV, "Life Insurance and Annuities;"

(c) R590-93, "Replacement of Life Insurance and Annuities;"

(d) R590-96, "Annuity Mortality Tables;" and

(e) R590-191, "Unfair Life Insurance Claims Settlement Practice."

(2) Every filing of an individual annuity contract, rider or endorsement providing benefits, and every group annuity filing including certificates that are marketed individually, shall include an actuarial memorandum, a demonstration, and a certification of compliance with nonforfeiture and valuation laws:

(a) Section 31A-22-409, "Standard Nonforfeiture Law for Deferred Annuities;" and

(b) Section 31A-17 Part V, "Standard Valuation Law."

(3) When submitting annuity filings the filing description of the transmittal must:

(a) identify the specific subsection of the Utah nonforfeiture law, which applies to the submitted annuity;

(b) describe the basic features of the form submitted;

(c) identify and describe the interest earning features; including the guaranteed interest rate, the guaranteed interest terms, and any market value adjustment feature;

(d) describe the guaranteed and nonguaranteed values including any bonuses;

(e) describe all charges, fees and loads;

(f) list and describe all accounts, options and strategies, if any;

(g) identify whether the accounts are fixed interest general accounts, registered separate accounts including modified guaranteed separate accounts; and

(h) describe any restrictions or limitations regarding withdrawals, surrenders, and the maturity date or settlement options.

(4) The contract must be complete with a sample specification page attached.

(5) The actuarial memorandum must:

(a) be currently dated and signed by the actuary;

(b) identify the specific subsections of the Utah nonforfeiture law, which applies to the submitted annuity;

(c) describe all contract provisions in detail, including all guaranteed and non-guaranteed elements, that may affect the values;

(d) identify the guaranteed minimum interest crediting rates;

(e) describe in detail the particular methods of crediting interest, including:

(i) guaranteed fixed interest rates; and

- (ii) guaranteed interest terms.
- (f) specifically identify and describe all charges and fees, including loads, surrender charges, market value adjustments or any other adjustment feature;
- (g) describe in detail all factors that are used to calculate guaranteed minimum nonforfeiture values under the contract and the elements used in the calculation of the minimum values required by the law; and
- (h) include the formulas used to calculate the minimum guaranteed values provided by the contract and the formulas used to calculate the minimum guaranteed values required by the applicable subsections of the nonforfeiture law.
- (6) The actuarial demonstration must:
- (a) be submitted on paper and on a diskette on which the formulas are not hard coded.
- (b) demonstrate compliance with the applicable nonforfeiture law for representative ages and the highest possible issue age.
- (c) numerically demonstrate that the values based on the guaranteed minimum interest rates, the maximum surrender charges, fees, loads, and any other factors affecting values, provide values that are in compliance with the Standard Nonforfeiture Law using both the retrospective and the prospective tests, each clearly identified, and include the following:
- (i) For the retrospective test, describe the net consideration and the interest rates used in the accumulation. Numerically compare the guaranteed contract values with the minimum values required by the nonforfeiture law.
- (ii) For the prospective test, identify the maturity value and the interest rate used for each respective year to determine the present value. Numerically compare the guaranteed contract values with the minimum values required by the nonforfeiture law.
- (7) The actuarial certification of compliance must be currently dated and signed by the actuary.

R590-227-9. Additional Procedures for Group Annuity Filings.

- (1) Insurers submitting group annuity filings are advised to review the following code sections and rules prior to submitting a filing:
- (a) Section 31A-21 Part III, "Specific Clauses in Contracts;"
- (b) Section 31A-22 Part IV, "Life Insurance and Annuities;"
- (c) Section 31A-22 Part V, "Group Life Insurance;" and
- (d) R590-191, "Unfair Life Insurance Claims Settlement Practice."
- (2) A group contract must be included with each certificate filing along with the master application and enrollment form.
- (3) Every group annuity filing must include an actuarial memorandum describing the features of the contract and certifying compliance with applicable Utah laws. A group filing that includes a group certificate that is marketed to individuals, must include an actuarial memorandum, demonstration and certification of compliance with the applicable Utah nonforfeiture law.
- (4) Eligible Groups. A filing for an eligible group must include a completed "Utah Life, Annuity, Credit Life, Credit Accident and Health Group Questionnaire."
- (a) A questionnaire must be completed for each eligible group under Sections 31A-22-502 through 508.
- (b) When a filing applies to multiple employer-employee groups under Section 31A-22-502, only one questionnaire is required to be completed.
- (5) Discretionary Group. If a group is not an eligible group, then specific discretionary group authorization must be obtained

prior to submitting the filing. If a filing is submitted without discretionary group authorization, the filing will be rejected.

- (a) To obtain discretionary group authorization a "Utah Life, Annuity, Credit Life, and Credit Accident and Health Request For Discretionary Group Authorization" must be submitted and include all required information.
- (b) Evidence or proof of the following items are some factors considered in determining acceptability of a discretionary group:
- (i) existence of a verifiable group;
- (ii) that granting permission is not contrary to public policy;
- (iii) the proposed group would be actuarially sound;
- (iv) the group would result in economies of acquisition and administration which justify a group rate; and
- (v) the group would not present hazards of adverse selection.
- (c) Discretionary group filings that do not provide authorization documentation will be rejected.
- (d) Any changes to an authorized discretionary group must be submitted to the department, such as: change of name, trustee, domicile state, within 30 days of the change.
- (e) The commissioner may periodically re-evaluate the group's authorization.

R590-227-10. Additional Procedures for Variable Annuity Filings Procedures.

- (1) Insurers submitting variable annuity filings are advised to review the following code sections and rule prior to submitting a filing:
- (a) Section 31A-22-411, "Contracts Providing Variable Benefits;" and
- (b) R590-133, "Variable Contracts."
- (2) A variable annuity contract must have been previously approved or accepted by the insurer's state of domicile before it is submitted for filing in Utah. Include the approval date in the submission.
- (3) Information regarding the status of the filing of the variable annuity with the Securities and Exchange Commission must be included in the filing.
- (4) The transmittal description and the actuarial memorandum must:
- (a) describe the accounts available in the contract; and
- (b) identify and describe those accounts that are separate accounts, including modified guaranteed annuities, and those accounts that are general accounts.
- (5) The actuarial memorandum must describe all contract provisions in detail, including all guaranteed and non-guaranteed elements that may affect the values.
- (6) The actuarial demonstration must numerically demonstrate compliance with the applicable nonforfeiture laws:
- (a) for variable annuities, including modified guaranteed annuities, pursuant to Section 31A-22-411;
- (b) for fixed interest general accounts pursuant to 31A-22-409, identify and describe all guaranteed factors that affect values, including:
- (i) the guaranteed minimum interest rate; and
- (ii) the maximum surrender charges and loads.
- (7) An actuarial certification of compliance with applicable Utah laws and rules must be included in the filing.
- (8) A filing for a rider that provides benefits, such as guaranteed minimum death benefit and guaranteed minimum withdrawal benefit, must include an actuarial memorandum.
- (9) A prospectus is not required to be filed.

R590-227-11. Electronic Filings.

Filers submitting electronic filings must follow the requirements for both the electronic system and this rule, as applicable.

R590-227-12. Correspondence, Inquiries, and Responses.

(1) Correspondence. When corresponding with the department, filers must provide sufficient information to identify the original filing:

(a) type of insurance;

(b) date of filing;

(c) form numbers; and

(d) copy of the original transmittal.

(2) Status Checks. Filers may request the status of their filing by telephone, or email 60 days after the date of submission.

(3) Response to an Order.

(a) A response to an order must include:

(i) a response cover letter identifying the changes made;

(ii) a copy of the Order to Prohibit Use;

(iii) one copy of the revised documents with all changes highlighted; and

(iv) return notification materials, which consist of a copy of the response cover letter and a self-addressed stamped envelope.

(4) Rejected Filings.

(a) A rejected filing is NOT considered filed. If resubmitted it is considered a new filing.

(b) If resubmitting a previously rejected filing, the new filing must include a copy of the rejection notice.

R590-227-13. Penalties.

Persons found, after a hearing or other regulatory process, to be in violation of this rule shall be subject to penalties as provided under Section 31A-2-308.

R590-227-14. Enforcement Date.

The commissioner will begin enforcing the provisions of this rule May 1, 2004.

R590-227-15. Severability.

If any provision of this rule or the application of it to any person or circumstance is for any reason held to be invalid, the remainder of the rule and the application of the provision to other persons or circumstances may not be affected by it.

KEY: annuity insurance filings

2004

31A-2-201

31A-2-201.1

31A-2-202



Insurance, Administration

R590-228

Submission of Credit Life and Credit
Accident and Health Insurance Form
and Rate Filings

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 26950

FILED: 02/17/2004, 16:15

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to set forth the procedures for submitting credit life and credit accident and health insurance form and rate filings.

SUMMARY OF THE RULE OR CHANGE: This rule combines an existing rule, Rule R590-86, Filing of Life and Disability Forms and Rates, and Insurance Bulletin 99-7, Procedures for the Submission of Life Form and Rate Filings. The information in Rule R590-86 is being split into three categories (life, credit, and annuities) so that each rule will deal solely with a particular line of insurance to better fit the marketplace. The only changes to what is already required and this rule are: 1) The elimination of the requirement for a cover letter with each form filing; and 2) the change from the use of the department's transmittal form to that of the National Association of Insurance Commissioner's form to provide for uniformity among all companies selling credit insurance within the United States.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 31A-2-201, 31A-2-201.1, 31A-2-202, and 31A-2-207

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: "NAIC Life, Accident and Health, Annuity, Credit Transmittal Document," dated January 1, 2003; "NAIC Uniform Life, Accident and Health, Annuity and Credit Coding Matrix," dated January 1, 2003; "NAIC Instruction Sheet for Life, Accident and Health, Annuity, Credit Transmittal Document," dated January 1, 2003; "NAIC Instruction Sheet for Life, Accident and Health, Annuity, Credit Transmittal Document Form Filing Attachment," dated January 1, 2003; "Utah Credit Life and Credit Accident and Health Filing Certification," dated January 1, 2004; "Utah Life, Annuity, Credit Life, and Credit Accident and Health Group Questionnaire," dated January 1, 2004; and "Utah Annual Credit Life and Credit Accident and Health Insurance Filing Checklist," dated January 1, 2004

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: This rule will not add to or eliminate work for the department, nor will it result in a cost or savings to the state's budget since it will not result in an increase or decrease in fees or fines.

❖ LOCAL GOVERNMENTS: This rule affects the relationship between the department and their licensees and has no affect on local government.

❖ OTHER PERSONS: This rule will have very little, if any fiscal impact on companies selling annuity contracts in Utah. The only change this rule will make that may have a fiscal impact on credit insurance companies is the elimination of the need to file a cover letter with each form and rate filing. These cover letters describe what is in the filing, how the product is marketed and what the form does. It is usually one to two

pages long. This will save someone in the company a little time but should not result in the elimination of a position. As a result, there should be no cost shifting to consumers of credit insurance products.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule will have very little, if any fiscal impact on companies selling annuity contracts in Utah. The only change this rule will make that may have a fiscal impact on credit insurance companies is the elimination of the need to file a cover letter with each form and rate filing. These cover letters describe what is in the filing, how the product is marketed and what the form does. It is usually one to two pages long. This will save someone in the company a little time but should not result in the elimination of a position. As a result, there should be no cost shifting to consumers of credit insurance products.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This new rule should have little to no impact on companies selling credit insurance products in Utah.

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 03/31/2004

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 3/18/2004 at 11:00 AM, State Office Building, Room 3112, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 04/01/2004

AUTHORIZED BY: Jilene Whitby, Information Specialist

R590. Insurance, Administration.

R590-228. Submission of Credit Life and Credit Accident and Health Insurance Form and Rate Filings.

R590-228-1. Authority.

This rule is promulgated by the insurance commissioner pursuant to Subsection 31A-2-201(3), 31A-2-201.1, 31A-2-202(2), 31A-22-807.

R590-228-2. Purpose and Scope.

(1) The purpose of this rule is to set forth the procedures for submitting:

(a) Credit life and credit accident and health insurance filings required by Section 31A-21-201;

(b) Credit life and credit accident and health insurance rate filings required by Section 31A-22-807, R590-91; and

(c) report filings required by R590-91.

(2) This rule applies to all credit life insurance and credit accident and health insurance including group contracts issued to nonresident policyholders, including trusts, when Utah residents are provided coverage by certificates of insurance.

R590-228-3. Documents Incorporated by Reference.

(1) The department requires that documents described in this rule must be used for all filings. Actual copies may be used or you may adapt them to your word processing system. If adapted, the content, size, font, and format must be similar.

(2) The following documents are hereby incorporated by reference and are available at www.insurance.utah.gov.

(a) "NAIC Life, Accident and Health, Annuity, Credit Transmittal Document," dated January 1, 2003;

(b) "NAIC Uniform Life, Accident and Health, Annuity and Credit Coding Matrix," dated January 1, 2003;

(c) "NAIC Instruction Sheet for Life, Accident and Health, Annuity, Credit Transmittal Document," dated January 1, 2003;

(d) "NAIC Instruction Sheet for Life, Accident and Health, Annuity, Credit Transmittal Document Form Filing Attachment," dated January 1, 2003;

(e) "Utah Credit Life and Credit Accident and Health Filing Certification," dated January 1, 2004;

(f) "Utah Life, Annuity, Credit Life, and Credit Accident and Health Group Questionnaire," dated January 1, 2004;

(g) "Utah Annual Credit Life and Credit Accident and Health Insurance Filing Checklist," dated January 1, 2004.

R590-228-4. Definitions.

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

(1) "Alternate information" means:

(a) a list of the states to which the forms have been filed, the dates submitted, and any state actions;

(b) the reason for not submitting the form to the domicile state; and

(c) identifying any points of conflict between the form and domicile state laws or rules.

(2) "Certification" means a statement that the filing being submitted is in compliance with Utah laws and rules.

(3) "Data page" means the page or pages in a policy and certificate that provide the specific data for the insured detailing the coverage provided and may be titled by the insurer as schedule page, schedule of benefits and premiums, etc.

(4) "Eligible group" means a group that meets the definitions in Sections 31A-22-502 through 31A-22-508.

(5) "Endorsement" means a written agreement attached to a life insurance policy that alters a provision of the policy. An example is a company change of name.

(6) "File and Use" means a filing can be used, sold, or offered for sale after it has been filed with the department.

(7) "File for Approval" means a filing can be used, sold, or offered for sale after it has been filed and the filer has received written confirmation that the filing was approved.

(8) "Filer" means a person or entity that submits a filing.

(9) "Filing," when used as a noun, means an item required to be filed with the department including:

- (a) a policy;
- (b) a rate, rate methodologies;
- (c) a form;
- (d) a document;
- (e) an application;
- (f) a report;
- (g) a certificate;
- (h) an endorsement;
- (i) a rider; and
- (j) an actuarial memorandum and certification.

(10) "Issue Ages" means the range of minimum and maximum ages for which a policy or certificate will be issued.

(11) "Letter of Authorization" means a letter signed by an officer of the insurer on whose behalf the filing is submitted that designates filing authority to the filer.

(12) "Market type" means the type of policy that indicates the targeted market such as individual or group.

(13) "Order to Prohibit Use" means an order issued by the commissioner that forbids the use of a filing.

(14) "Rejected" means a filing is:

(a) not submitted in accordance with applicable laws or rules; and

(b) returned to the insurer by the department with the reasons for rejection; and
not considered filed with the department.

(15) "Rider" means a written agreement attached to a life insurance policy or certificate that adds a benefit. An example is a credit accident and health insurance rider.

(16) "Type of insurance" means a specific credit life and credit accident and health insurance product, as defined in the NAIC Coding Matrix, including, but not limited to, gross decreasing term, net decreasing term, level term, or truncated coverage. Refer to the NAIC Coding Matrix.

R590-228-5. General Filing Information.

(1) Each filing submitted must be accurate, consistent, and complete and contain all required documents in order for the filing to be processed in a timely and efficient manner. The commissioner may request any additional information deemed necessary.

(2) Insurers and filers are responsible for assuring compliance with Utah laws and rules. Filings not in compliance with Utah laws and rules are subject to regulatory action under Section 31A-2-308.

(3) Filings that do not comply with this rule may be rejected and returned to the filer. Rejected filings are not considered filed with the department.

(4) Prior filings will not be researched to determine the purpose of the current filing.

(5) The department does not review or proofread every filing.

(a) Filings may be reviewed:

- (i) when submitted;
- (ii) as a result of a complaint;
- (iii) during a regulatory examination or investigation; or
- (iv) at any other time the department deems necessary.

(b) If a filing is reviewed and is found to be not in compliance with Utah laws and rules, an ORDER TO PROHIBIT USE will be issued to the filer. The commissioner may require the filer to disclose deficiencies in forms or rating practices to affected insureds.

(6) Filing Correction. A new filing is required if clerical or typographical corrections are made more than 30-days after the filed date of the original filing. The filer will need to reference the original filing.

R590-228-6. Filing Submission Requirements.

Filings must be submitted by market type and type of insurance. A filing may not include more than one type of insurance; or request filing for more than one insurer. A complete filing consists of the following documents submitted in the following order:

(1) Transmittal. Note: Based on the use of the NAIC Transmittal Form, a cover letter is not required. The "NAIC Life, Accident and Health, Annuity, Credit Transmittal Document" must be used. It can be found at www.insurance.utah.gov/LH_Trans.pdf.

(a) COMPLETE THE TRANSMITTAL BY USING THE FOLLOWING:

(i) "NAIC Coding Matrix" www.insurance.utah.gov/LifeA&H_Matrix.pdf

(ii) "NAIC" Instruction Sheet" www.insurance.utah.gov/LH_Trans_Inst.pdf

(iii) "Life Content Standards" www.insurance.utah.gov/Life_STM.html

(iv) Do not submit the documents described in section (a)(i), (ii), and (iii) with a filing.

(b) Filing Description. The following information must be included in the Filing Description section of the transmittal and must be presented in the order shown below.

(i) Domicile Approval. Foreign insurers and filers must first submit filings to their domicile state.

(A) If a filing was submitted to the domicile state, provide a stamped copy of the approval letter from the domicile state for the filing.

(B) If a filing was not submitted to the domicile state, or the domicile state did not provide specific approval for the filing, then alternate information must be provided.

(ii) Marketing Facts.

(A) List the issue ages.

(B) Identify the intended market.

(C) Identify and describe the type of group.

(D) Identify the types and durations of loans to be insured.

(E) Describe the methods of premium charge.

(F) Describe the marketing and advertising in detail, i.e. through mass solicitation, financial institutions, telemarketing, or individually through licensed producers.

(iii) Description of Filing.

(A) Provide a detailed description of the purpose of the filing.

(B) Describe the benefits and features of each form.

(C) List the types of coverage to be provided, such as gross, net, full term, truncated and critical period.

(D) Identify and describe any new or nonstandard benefits or rating methodologies.

(E) Indicate whether the insurer has a Rating and Benefits Plan on file with the department.

(F) Identify any unresolved previously prohibited provisions and explain why the provisions are included in the current filing.

(G) If the filing is replacing or modifying a previous submission, provide information that identifies the filing being replaced or modified, the Utah filed date, and a detailed description of the changes and highlight the changed provisions.

(H) if the filing includes forms for informational purposes, provide the dates the forms were filed.

(I) if filing a rider, endorsement or application and the filing does not contain a policy, identify the affected policy form number, the Utah filed date, and describe the effect of the submitted forms on the base policy.

(iv) Underwriting Methods. Provide an explanation of the underwriting applicable to the filing.

(2) Certification. In addition to completing the certification on the NAIC transmittal, the filer must complete and submit the "Utah Credit Life and Credit Accident and Health Filing Certification". A filing will be rejected if the certification is missing or incomplete. A certification that is inaccurate may subject the filer to administrative action.

(3) Group Questionnaire. All group filings must include a completed group questionnaire.

(4) Letter of Authorization. When the filer is not the insurer, include a letter of authorization from the insurer. The insurer remains responsible for the filing being in compliance with Utah laws and rules.

(5) Statement of Variability. Any information that is variable must be bracketed in the form and must be explained in a statement of variability. If after filing, the information contained within the brackets changes, the filing must be refiled.

(6) Items being submitted for filing. Include all forms, rates, and reports to be filed. Refer to each applicable subsection of this rule for procedures on how to submit forms, rates, and reports with required filing documents.

(7) Actuarial Memorandum, Demonstration, and Certification of Compliance. An actuarial memorandum with sample rate calculations and a certification of compliance are required in each filing. The memorandum must be currently dated and signed by the actuary representing the insurer.

(8) Rates. All rates must be filed prior to use. All rates must be in compliance with 31A-22-807 and R590-91. A rate filing is required with each form filing.

(9) Return Notification Materials.

(a) Return notification materials are limited to a copy of the transmittal and a self-addressed, stamped envelope.

(b) Notice of filing will not be provided unless return notification materials are submitted.

R590-228-7. Procedures for Filings.

(1) Forms in General.

(a) Forms are "File and Use" filings.

(b) Each form must be identified by a unique form number. The form number may not be variable.

(c) Forms must be in final printed form or printer's proof format.

(d) The form must be completed in John Doe fashion to accurately represent the intended market, purpose, and use. All John Doe data in the forms, including the premium rates and benefits, must be accurate and consistent with the actuarial memorandum and rate schedule. Forms may include variable data in brackets. All variable data must be identified within the brackets or a statement of variability must be included with the submission.

(2) Policy Filings. A policy filing consists of one policy form for a single type of insurance and its related forms, including the application, enrollment form, certificate, actuarial memorandum, certification, and rate schedule.

(3) Rider or Endorsement Filings. A rider or endorsement that provides benefits must include all filing documents required for a policy filing including:

(a) a listing of the base policy form number, title and dates filed with the department;

(b) a description of how the rider affects the base policy; and

(c) appropriate actuarial memorandum and rate schedule.

(4) Application Filings. An application or enrollment form may be submitted as a separate filing or filed with its related policy and certificate. If an application has been previously filed or is filed separately, an informational copy of the application must be included with a policy or certificate filing.

(5) Rates. Rates are considered "File for Approval".

R590-228-8. Additional Procedures for Credit Life and Credit Accident and Health Form and Rate Filings.

(1) Insurers are advised to review the following code sections and rules prior to submitting a filing:

(a) Section 31A-21 Part III, "Specific Clauses in Contracts:"

(b) Section 31A-22 Part IV, "Life insurance and Annuities:"

(c) Section 31A-22 Part V, "Group Life Insurance:"

(d) Section 31A-22 Part VI, "Accident and Health Insurance:"

(e) Section 31A-22 Part VIII, "Credit Life and Accident and Health:"

(f) R590-91, "Credit Life and Disability;" and

(g) R590-191, "Unfair Life Insurance Claims Settlement Practice;"

(h) R590-192, "Unfair Health and Disability Claims Settlement Practices."

(2) A policy must be included with each certificate filing along with a master application and enrollment form.

(3) Actuarial Memorandum, Demonstration and Certification of Compliance. Each form and rate filing must include an actuarial memorandum, demonstration, and certification of compliance with Utah laws, signed and dated by the actuary representing the insurer.

(a) Actuarial memorandum must include a description of the following:

(i) types of coverage, such as gross or net decreasing, single or joint life, full term or truncated, critical period;

(ii) types of loans to be insured, such as open end, closed end,

(iii) types of premium charge: single premium, monthly outstanding balance, or other method explained in detail;

(iv) durations of loans and durations of coverage. Refer to 31A-22-801(2)(a);

(v) rates per unit, rating and premium methodologies including:

(A) formulas used for each type of coverage and premium method; and

(B) sample calculations for each type of coverage and premium method;

(vi) an explanation of whether the company has a Rating and Benefits Plan on file and if so, whether the submitted rates are consistent with the filed plan;

(vii) demonstration of compliance with applicable code and rules;

(viii) refund methods and calculation including formulas for each type of coverage; and

(ix) reserve bases including methods used.

(b) The actuarial certification must include certification of compliance that formulas and methods used produce rates that are in

compliance with applicable Utah laws and rules for each type of coverage and duration in the filing.

(4) Rate Schedules.

(a) Rate schedules must be included for each type of coverage and for representative durations.

(b) Rates must be identified as prima facie rates, rates previously filed for compliance with the Rating and Benefits Plan required in R590-91-10, or deviated rates submitted pursuant to 31A-22-807, or rates on nonstandard coverage pursuant to R590-91-5.

(5) All benefits must be reasonable in relation to the premium charge. Insurers filing for approval of a rate higher than prima facie rates must comply with the requirements of 31A-22-807 and R590-91-10. Include a demonstration that the rates are reasonable in relation to the benefits.

R590-228-9. Insurer Annual Reports.

(1) All insurer annual reports must be properly identified and must be filed separately from other filings. Each annual report must be submitted along with the properly completed report checklist.

(2) "Credit Life and Credit Accident and Health Annual Report."

(a) Filings must comply with R590-91-10. Every Credit Life, and Credit Accident and Health insurer marketing must file annually.

(b) The report must include:

(i) Utah Credit Life, and Credit Accident and Health Report Checklist;

(ii) a cover letter along with a self-addressed stamped envelope; and all required documents.

(iii) Annual report filings are due May 1 each year.

R590-228-10. Additional Procedures for Electronic Filings.

Filers submitting electronic filings must follow the requirements for both the electronic system and this rule, as applicable.

R590-228-11. Correspondence, Inquiries, and Responses.

(1) Correspondence. When corresponding with the department, filers must provide sufficient information to identify the original filing. Information should include:

(a) type of insurance;

(b) date of filing;

(c) form numbers; and

(d) copy of the original transmittal.

(2) Status Checks. Filers can request the status of their filing by telephone, or email 60 days after the date of submission.

(3) Response to an Order.

(a) A response to an order must include:

(i) a response cover letter identifying the changes made;

(ii) a copy of the Order to Prohibit Use;

(iii) one copy of the revised documents with all changes highlighted; and

(iv) return notification materials, which consist of a copy of the response cover letter and a self-addressed stamped envelope.

(4) Rejected Filings. A rejected filing is NOT considered filed. If resubmitted it is considered a new filing. If resubmitting a previously rejected filing, the new filing must include a copy of the rejection notice.

R590-228-12. Penalties.

Persons found, after a hearing or other regulatory process, to be in violation of this rule shall be subject to penalties as provided under Section 31A-2-308.

R590-228-13. Enforcement Date.

The commissioner will begin enforcing the provision of this rule May 1, 2004.

R590-228-14. Severability.

If any provision of this rule or the application of it to any person or circumstance is for any reason held to be invalid, the remainder of the rule and the application of the provision to other persons or circumstances may not be affected by it.

KEY: credit insurance filings

2004

31A-2-201

31A-2-201.1

31A-2-202



Natural Resources, Parks and Recreation **R651-611** Fee Schedule

NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 26948

FILED: 02/12/2004, 16:15

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The facility at Utah Field House of Natural History State Park was too small to contain and preserve all the artifacts that have come into the possession of the Division of Parks and Recreation. The structure did not have the proper facilities for professional examination and care of the artifacts. With the new fieldhouse in place, it is time to adjust fees for use of the new facility. Fees to include entrance to the Field House, including use of the training room (per session); theater (per session); Lobby area (per session); and use of the entire museum (per day).

SUMMARY OF THE RULE OR CHANGE: The Utah Field House of Natural History has a new facility with more features, and more capacity to house and preserve precious artifacts for display to the public. This building will be used by the public for business and private purposes. Changes in the current fee schedule will allow nominal fees to be charged to the public to help offset the expenses incurred with the new building and expanded services.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 63-11-17

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: It is estimated that this change in the fee structure for the Utah Field House of Natural History will increase state revenue by \$150,000.
- ❖ LOCAL GOVERNMENTS: This change in the rules will increase tax collections for Vernal City by an amount less than \$10,000.
- ❖ OTHER PERSONS: Visitors to the Field House will pay an increased fee to enter the facilities per the change in this amendment to the rule. For each visitor the increase will be approximately \$3 per visit. This change would almost double the current fee they are paying.

COMPLIANCE COSTS FOR AFFECTED PERSONS: If a person or persons wishing to visit the Utah Field House of Natural History will not pay the nominal fee to enter, they will be denied entry to the Field House. This choice not to pay the new fee is based on the fact that the fee would have been increased by \$3.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: While the new fee may deter some would-be entrants from visiting the Field House - and, by extension, purchasing nearby goods and services - it is likely that this effect is more than offset by the attractiveness of the new facility. No negative fiscal impact to businesses is anticipated from the proposed change.

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

NATURAL RESOURCES
 PARKS AND RECREATION
 Room 116
 1594 W NORTH TEMPLE
 SALT LAKE CITY UT 84116-3154, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Dee Guess at the above address, by phone at 801-538-7320, by FAX at 801-537-3144, or by Internet E-mail at deeguess@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 03/31/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 04/01/2004

AUTHORIZED BY: Gordon Topham, Interim Deputy Director

R651. Natural Resources, Parks and Recreation.

R651-611. Fee Schedule.

R651-611-2. Day Use Entrance Fees.

Permits the use of all day activity areas in a state park. These fees do not include overnight camping facilities or special use fees.

- A. Annual Permits
 1. \$70.00 Multiple Park Permit (good for all parks)
 2. \$35.00 Senior Multiple Park Permit (good for all parks)

3. Snow Canyon Specialty Permits
 - a. \$15.00 Family Pedestrian Permit
 - b. \$5.00 Commuter Permit
4. Duplicate Annual Permits may be purchased if originals are lost, destroyed, or stolen, upon payment of a \$10.00 fee and the submittal of a signed affidavit to the Division office. Only one duplicate is allowed.
 - B. Special Fun Tag - Available free to Utah residents, who are disabled, as defined by the Special Fun Tag permit affidavit.
 - C. Daily Permit - Allows access to a specific state park on the date of purchase.
 1. \$9.00 (\$5.00 for seniors) per private motor vehicle or \$5.00 per person (\$3.00 for seniors), for pedestrians or bicycles at the following parks:

TABLE 1

Deer Creek	Jordanelle - Hailstone
Hailstone	Utah Lake
Willard Bay	

2. \$7.00 (\$4.00 for seniors) per private motor vehicle or \$4.00 per person (\$2.00 for seniors) for pedestrians or bicycles at the following parks:

TABLE 2

Bear Lake - Marina	Bear Lake - Rendezvous
Dead Horse Point	East Canyon
Jordanelle - Rockcliff	Quail Creek
Rockport	Sand Hollow
Yuba	

3. \$6.00 per adult, \$3.00 for children, and \$3.00 for seniors at Utah Field House State Park.

4. \$2.00 per person (\$1.00 for seniors), or \$6.00 per family (up to eight (8) individuals (\$3.00 for seniors), at the following parks:

TABLE 3

Anasazi	Camp Floyd
Edge of the Cedars	Great Salt Lake
Fremont	Territorial
Iron Mission[
Utah Field House]	

- [4]5. \$5.00 (\$3.00 for seniors) per private motor vehicle or \$3.00 per person (\$2.00 for seniors),for pedestrians or bicycles at the parks not identified above, including the east side of Bear Lake.

- [5]6. \$10.00 per OHV rider at the Jordan River OHV Center.

- [6]7. \$2.00 per person for commercial groups or vehicles with nine (9) or more occupants (\$15.00 per group at Great Salt Lake).

D. Group Site Day Use Fee - Advance reservation only. \$2.00 per person, age six (6) and over, for sites with basic facilities. Minimum \$50.00 fee established for each facility.

E. Educational Groups - No charge for group visits by Utah public or parochial schools with advance notice to park. When special arrangements or interpretive talks are provided, a fee of \$.50 per person may be charged at the park manager's discretion.

F. Antelope Island Wildlife Management Program: A \$1.00 fee will be added to the entrance fee at Antelope Island. This additional fee will be used by the Division to fund the Wildlife Management Program on the Island.

R651-611-4. Special Fees.

- A. Golf Course Fees
1. Palisade rental and green fees.
 - a. Nine holes general public - weekends and holidays - \$10.00
 - b. Nine holes weekdays (except holidays) - \$9.00
 - c. Nine holes Jr/Sr weekdays (except holidays) \$8.00
 - d. 20 round card pass - \$140.00
 - e. 20 round card pass (Jr only)- \$100.00
 - f. Promotional pass - single person (any day) - \$400.00
 - g. Promotional pass - single person (weekdays only) - \$275.00
 - h. Promotional pass - couples (any day) - \$650.00
 - i. Promotional pass - family (any day) - \$850.00
 - j. Companion fee - walking, non -player - \$4.00
 - k. Motorized cart (9 holes) - \$8.00
 - l. Motorized cart (9 holes single rider) - \$4.00
 - m. Pull carts (9 holes) - \$2.00
 - n. Club rental (9 holes) - \$5.00
 - o. School teams - No fee for practice rounds with coach and team roster.
 2. Tournaments are \$3.00 per player.
 - p. Driving range - small bucket - \$2.50
 - q. Driving range - large bucket - \$3.50
2. Wasatch Mountain and Soldier Hollow rental and green fees.
- a. Nine holes general public - \$12.00
 - b. Nine holes general public (weekends and holidays) - 13.00
 - c. Nine holes Jr/Sr weekdays (except holidays) - \$11.00
 - d. 20 round card pass - \$220.00 - no holidays or weekends
 - e. Companion fee - walking, non-player - \$4.00
 - f. Motorized cart (9 holes - mandatory on Mt. course) - \$12.00
 - g. Motorized cart (9 holes single rider - \$6.00)
 - h. Pull carts (9 holes) - \$2.25
 - i. Club rental (9 holes) - \$6.00
 - j. School teams - No fee for practice rounds with coach and team roster (Wasatch County only).
- Tournaments are \$3.00 per player.
- k. Tournament fee (per player) - \$5.00
 - l. Driving range - small bucket - \$2.50
 - m. Driving range - large bucket - \$5.00
 - n. Advance tee time booking surcharge - \$15.00
3. Green River rental and green fees.
- a. Nine holes general public - \$9.00
 - b. Nine holes Jr/Sr weekdays (except holidays) - \$8.00
 - c. Eighteen holes general public - \$16.00
 - d. 20 round card pass - \$140.00
 - e. Promotional pass - single person (any day) - \$350.00
 - f. Promotional pass - personal golf cart - \$350.00
 - g. Promotional pass - single person (Jr/Sr weekdays) - \$275.00
 - h. Promotional pass - couple (any day) - \$600.00
 - I. Promotional pass - family (any day) - \$750.00
 - j. Companion fee - walking, non-player - \$4.00
 - k. Motorized cart (9 holes) - \$8.00
 - l. Motorized cart (9 holes single rider) - \$4.00
 - m. Pull carts (9 holes) - \$2.25
 - n. Club rental (9 holes) - \$5.00
 - o. School teams - No fee for practice rounds with coach and team roster.
- Tournaments are \$3.00 per player.
4. Golf course hours are daylight to dark
 5. No private, motorized golf carts are allowed, except where authorized by existing contractual agreement.
 6. Jr golfers are 17 years and under. Sr golfers are 62 and older.
- B. Boat Mooring and Dry Storage
1. Mooring Fees:
 - a. Day Use - \$5.00
 - b. Overnight Boat Parking - \$7.00 (until 8:00 a.m.)
 - c. Overnight Boat Camping - \$15.00 (until 2:00 p.m.)
 - d. Monthly - \$4.00/ft.
 - e. Monthly with Utilities - (Bear Lake) \$6.00/ft.
 - f. Monthly with Utilities - (Other Parks) \$5.00/ft.
 - g. Monthly Off Season - \$2.00/ft
 - h. Monthly (Off Season with utilities) - \$3.00/ft
 2. Dry Storage Fees:
 - a. Overnight (until 2:00 p.m.) - \$5.00
 - b. Monthly During Season - \$75.00
 - c. Monthly Off Season - \$50.00
 - d. Monthly (unsecured) - \$25.00
- C. Meeting Rooms and Buildings
1. Day Use: 1-4 hours between 8:00 a.m. and 6:00 p.m.
 - a. Up to 50 persons - \$50.00
 - b. 51 to 100 persons - \$70.00
 - c. 101 to 150 persons - \$90.00
 - d. Add 50% for after 6:00 p.m.
 - e. Fees include day use fee
 2. Overnight Use 2:00 p.m. until 2:00 p.m., up to 100 people.

Minimum Fee \$250.00

 3. Territorial Statehouse
 - a. Legislative Hall (per hour) - \$30.00
 - b. School or Grounds (per hour) - \$20.00
 4. Utah Field House of Natural History
 - a. Training room per session - \$75.00
 - b. Theater per session - \$100.00
 - c. Lobby area per session - \$500.00
 - d. Entire museum per day - \$2,000.00
- D. Roller Skating Fees:
1. Adults - \$2.00
 2. Children 6 through 11 - \$1.00
 3. Skate Rental - \$1.00
 4. Ice Skate Sharpening
 5. Group Reservations
 - a. First Hour - \$30.00
 - b. Every Hour Thereafter - \$20.00
- E. Other Miscellaneous Fees
1. Canoe Rental (includes safety equipment).
 - a. Up to one (1) hour - \$ 5.00
 - b. Up to four (4) hours - \$10.00
 - c. All day to 6:00 p.m. \$20.00
 2. Paddle boat Rental (includes safety equipment).
 - a. Up to one (1) hour \$10.00
 - b. Up to four (4) hours \$20.00
 - c. All day to 6:00 p.m. \$30.00
 3. Cross Country Skiing Trails.
 - a. \$4.00 per person, twelve (12) and older.
 - b. \$2.00 per person, six (6) through eleven (11).
 4. Pavilion - 8:00 a.m. - 10:00 p.m. (non -fee areas).
 - a. \$10.00 per day - (single unit).
 - b. \$30.00 per day - (group unit).
 5. Wagon Rental per day - \$50.00
 6. Recreation Field (non-fee areas) - \$25.00.
 7. Sports Equipment Rental - \$10.00.
 8. Life Jacket Rental - \$1.00
 9. Day Use Shower Fee - \$2.00.

(where facilities can accommodate)
 10. Cleaning Deposit (where applicable) - \$100.00
 11. Application Fees - Non -refundable PLUS Negotiated Costs.

- a. Grazing Permit - \$20.00
- b. Easement - \$ 200.00
- c. Construction/Maintenance - \$50.00
- d. Special Use Permit - \$50.00
- e. Commercial Filming - \$50.00
- f. Waiting List - \$10.00
- 12. Assessment and Assignment Fees.
 - a. Duplicate Document - \$10.00
 - b. Contract Assignment - \$20.00
 - c. Returned checks - \$20.00
 - d. Staff time - \$40.00/hour
 - e. Equipment - \$30.00/hour
 - f. Vehicle - \$20.00/hour
 - g. Researcher - \$5.00/hour
 - h. Photo copy - \$.10/each
 - i. Fee collection - \$10.00
- 13. Curation Fees.
 - a. Annual curation agreement \$75.00
 - b. Curation storage Edge of Cedars \$400.00/cubic foot.
 - c. Curation storage other parks \$350.00/cubic foot
 - d. All curation storage fees are one time only.
- 14. Snowmobile Parking Fee - Monte Cristo Trail head.
 - a. Day use (6:00 a.m. to 10:00 p.m.) - \$5.00
 - b. Overnight (10:00 p.m. to 10:00 p.m.) - \$5.00
 - c. Season Pass (Day use only) - \$30.00
 - d. Season Pass (Overnight) - \$50.00

KEY: parks, fees**[January 6] April 1, 2004****Notice of Continuation August 7, 2001
63-11-17(2)****Public Safety, Fire Marshal****R710-6-1****Adoption, Title, Purpose and Scope****NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 26938

FILED: 02/06/2004, 17:38

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Utah Liquefied Petroleum (LP) Gas Board met on January 16, 2004, and proposed that Rule R710-6 be amended. The purpose of the amendment was to update one incorporated reference.

SUMMARY OF THE RULE OR CHANGE: The Utah LP Gas Board proposes to amend the existing rule by updating the incorporated reference, National Fire Protection Association (NFPA), Standard 54, National Fuel Gas Code, 1999 edition, to the 2002 edition.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53-7-305

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: National Fire Protection Association (NFPA), Standard 54, National Fuel Gas Code, 2002 edition

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The aggregate anticipated cost to the state budget would be approximately \$300 to purchase the required copies.

❖ LOCAL GOVERNMENTS: There is no aggregate anticipated cost to local government because it doesn't affect local government.

❖ OTHER PERSONS: There is an aggregate anticipated cost of approximately \$6,616 for the purchase of approximately 200 copies of NFPA, Standard 54. These would need to be purchased by LP Gas Distributors and HVAC contractors that install LP Gas equipment. The cost could be a little higher or lower due to the unknown exact number of the standards that would be purchased by the industry for use.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The compliance costs for affected persons would be the state budget and the LP Gas industry. The compliance cost would be \$33.08 per copy of NFPA, Standard 54, National Fuel Gas Code.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The cost of \$33.08 per copy of NFPA, Standard 54, National Fuel Gas Code, does not pose a substantial fiscal impact on the LP Gas industry. The industry prefers to use the most recent copy of the industry standards, so this complies with their needs.

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

PUBLIC SAFETY
FIRE MARSHAL
Room 302
5272 S COLLEGE DR
MURRAY UT 84123-2611, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Brent Halladay at the above address, by phone at 801-284-6352, by FAX at 801-284-6351, or by Internet E-mail at bhallada@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 03/31/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 04/01/2004

AUTHORIZED BY: Gary A. Wise, State Fire Marshal

R710. Public Safety, Fire Marshal.**R710-6. Liquefied Petroleum Gas Rules.****R710-6-1. Adoption, Title, Purpose and Scope.**

Pursuant to Title 53, Chapter 7, Section 305, Utah State Code Annotated 1953, the Liquefied Petroleum Gas (LPG) Board adopts minimum rules to provide regulation to those who distribute,

transfer, dispense or install LP Gas and/or its appliances in the State of Utah.

There is adopted as part of these rules the following codes which are incorporated by reference:

1.1 National Fire Protection Association (NFPA), Standard 58, LP Gas Code, 2001 edition, except as amended by provisions listed in R710-6-8, et seq.

1.2 National Fire Protection Association (NFPA), Standard 54, National Fuel Gas Code, [~~1999~~2002] edition, except as amended by provisions listed in R710-6-8, et seq.

1.3 National Fire Protection Association (NFPA), Standard 1192, Standard on Recreational Vehicles, 2002 Edition, except as amended by provisions listed in R710-6-8, et seq.

1.4 International Fire Code (IFC), Chapter 38, 2003 edition, as published by the International Code Council, Inc. (ICC), except as amended by provisions listed in R710-6-8, et seq.

1.5 A copy of the above codes are on file with the Division of Administrative Rules, and the State Fire Marshal's Office. The definitions contained in the afore referenced codes shall also pertain to these rules.

1.6 Title.

These rules shall be known as "Rules Governing LPG Operations in the State of Utah" and may be cited as such, and will be hereinafter referred to as "these rules".

1.7 VALIDITY.

If any article, section, subsection, sentence, clause, or phrase, of these rules is, for any reason, held to be unconstitutional, contrary to statute, or exceeding the authority of the LPG Board such decision shall not affect the validity of the remaining portion of these rules.

1.8 Conflicts.

In the event where separate requirements pertain to the same situation in the same code, or between different codes or standards as adopted, the more restrictive requirement shall govern, as determined by the enforcing authority.

KEY: liquefied petroleum gas
~~January 16, 2004~~ April 1, 2004
 Notice of Continuation July 5, 2001
 53-7-305



Tax Commission, Administration
R861-1A-37
Provisions Relating to Disclosure of
Commercial Information Pursuant to
Utah Code Ann. Section 59-1-404

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 26943

FILED: 02/10/2004, 15:46

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Section 59-1-404 prohibits the disclosure of information of a commercial nature, or information derived therefrom. Section 59-1-404 is language enacted by S.B. 2004 (2003). (DAR NOTE: S.B.

2004 is found at UT L 2003, 2nd Spec. Sess., Ch 7, and was effective November 25, 2003.)

SUMMARY OF THE RULE OR CHANGE: The proposed section provides that "information of a commercial nature" does not include the name of a property owner or the taxes and other amounts owed by that taxpayer, the amount of tax collected or abated, the tax status of the property or information relating to a tax sale, and "physical description of the property" include a property's street address. In addition, the new section indicates that a party to a proceeding may disclose commercial information of a property taxpayer that is not a party to the proceeding if that information is directly involved in the proceeding. Finally, the section provides that a party may disclose commercial information to the extent necessary to fulfill any statutory obligations under Title 59, Chapter 2, Part 13.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 59-1-404

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: None--This section permanently puts in place language from an emergency rule filing. The emergency rule allowed counties to continue their current statutorily required equalization hearings and publish information regarding delinquent property taxpayers. (DAR NOTE: The 120-day (emergency) rule filing on Section R861-1A-37 is under DAR No. 26864, published in the January 15, 2004, issue of the Bulletin, and was effective December 19, 2003.)

❖ LOCAL GOVERNMENTS: None--This section permanently puts in place language from an emergency rule filing. The emergency rule allowed counties to continue their current statutorily required equalization hearings and publish information regarding delinquent property taxpayers.

❖ OTHER PERSONS: None--This section permanently puts in place language from an emergency rule filing. The emergency rule allowed counties to continue their current statutorily required equalization hearings and publish information regarding delinquent property taxpayers.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--Passage of this rule will continue the current practices of the counties.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be no fiscal impact on businesses.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 03/31/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 04/01/2004

AUTHORIZED BY: Pam Hendrickson, Commissioner

R861. Tax Commission, Administration.

R861-1A. Administrative Procedures.

R861-1A-37. Provisions Relating to Disclosure of Commercial Information Pursuant to Utah Code Ann. Section 59-1-404.

The provisions of this rule apply to the provisions relating to the disclosure of commercial information under Section 59-1-404.

- A. "Information of a commercial nature" does not include:
 - 1. the name of a property owner or property taxpayer; or
 - 2. the amount of any of the property tax due, collected, or abated;
 - 3. the amount of any interest, costs, or other charges relating to the property tax due;

4. the tax status of the property, including exemptions, property classifications, and bankruptcy filings; or

5. information relating to a tax sale of the property.

B. "Physical description of the property" includes a property's street address.

C. The disclosure required under Subsection 59-1-404(4)(a)(iii) on behalf of any party to any action or proceeding under Title 59 shall include commercial information obtained from a property taxpayer that is not a party to any action or proceeding under Title 59 if the commercial information is directly involved in the action or proceeding.

D. Any party subject to the provisions of Section 59-1-404 may publish notice to the public, lien holders, and other interested parties, file liens, or otherwise disclose commercial information to the extent necessary to fulfill that party's statutory obligations under Title 59, Chapter 2, Part 13, Collection of Taxes.

KEY: developmentally disabled, grievance procedures, taxation, disclosure requirements
[September 25, 2003]2004
59-1-404



End of the Notices of Proposed Rules Section

NOTICES OF CHANGES IN PROPOSED RULES

After an agency has published a PROPOSED RULE in the *Utah State Bulletin*, it may receive public comment that requires the PROPOSED RULE to be altered before it goes into effect. A CHANGE IN PROPOSED RULE allows an agency to respond to comments it receives.

As with a PROPOSED RULE, a CHANGE IN PROPOSED RULE is preceded by a RULE ANALYSIS. This analysis provides summary information about the CHANGE IN PROPOSED RULE including the name of a contact person, anticipated cost impact of the rule, and legal cross-references.

Following the RULE ANALYSIS, the text of the CHANGE IN PROPOSED RULE is usually printed. The text shows only those changes made since the PROPOSED RULE was published in an earlier edition of the *Utah State Bulletin*. Additions made to the rule appear underlined (e.g., example). Deletions made to the rule appear struck out with brackets surrounding them (e.g., [example]). A row of dots in the text (.) indicates that unaffected text was removed to conserve space. If a CHANGE IN PROPOSED RULE is too long to print, the Division of Administrative Rules will include only the RULE ANALYSIS. A copy of rules that are too long to print is available from the agency or from the Division of Administrative Rules.

While a CHANGE IN PROPOSED RULE does not have a formal comment period, there is a 30-day waiting period during which interested parties may submit comments. The 30-day waiting period for CHANGES IN PROPOSED RULES published in this issue of the *Utah State Bulletin* ends March 31, 2004. At its option, the agency may hold public hearings.

From the end of the waiting period through June 29, 2004, 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.

Public Service Commission,
Administration
R746-100
Practice and Procedure Governing
Formal Hearings

NOTICE OF CHANGE IN PROPOSED RULE

DAR File No.: 26849
Filed: 02/11/2004, 14:56

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The reason for the change is based on Commissioners' considerations of comments filed and further deliberation.

SUMMARY OF THE RULE OR CHANGE: In Subsection R746-100-2(O), "presiding officer" is being added. In Subsection R746-100-4(D), Times for Filing, "business" days is being changed to "calendar" days, and "filing date is being changed to "service" of the pleading or document. In Subsection R746-100-8(C)(2), reference to Rule 26(b)(4), Utah Rules of Civil Procedures, is being added. In Subsection R746-100-10(E)(2), "to the Commission or court" is being deleted, and Subsections R746-100-10(I)(1) and (2) are added concerning scheduling and recording conferences and payment of the recordings. In Subsection R746-100-11(F), the filing time for review or rehearing is being changed from 20 to 30 days; a reference is corrected; and language is added concerning petitions for reconsideration. (DAR NOTE: This change in proposed rule has been filed to make additional changes to a proposed amendment that was published in the January 1, 2004, issue of the Utah State Bulletin, on page 28. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the change in proposed rule and the proposed amendment together to understand all of the changes that will be enforceable should the agency make this rule effective.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 54-4-1, 54-4-2, 54-7-1.5, 54-7-5, 54-7-9, 54-7-15, and 63-46b-4

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: No change in costs or savings are anticipated because the amendment does not change the existing practice before the Commission or set method of presentation or time periods for items submitted in administrative proceedings.
- ❖ LOCAL GOVERNMENTS: No change, as the amendments do not affect local government activities.
- ❖ OTHER PERSONS: No change in costs or savings are anticipated from the amendments because the amendment does not change the existing practice before the Commission or set method of presentation or time periods for items submitted in administrative proceedings.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None are expected because the amendment does not change the existing practice before the Commission or set method of presentation or time periods for items submitted in administrative proceedings.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The amendments comport with existing practice before the Commission or set method of presentation or time periods for items submitted in administrative proceedings.

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

PUBLIC SERVICE COMMISSION
ADMINISTRATION
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:

Sandy Mooy or Barbara Stroud at the above address, by phone at 801-530-6708 or 801-530-6714, by FAX at 801-530-6796 or 801-530-6796, or by Internet E-mail at smooy@utah.gov or bstroud@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 03/31/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 04/01/2004

AUTHORIZED BY: Barbara Stroud, Paralegal

**R746. Public Service Commission, Administration.
R746-100. Practice and Procedure Governing Formal Hearings.
R746-100-1. General Provisions and Authorization.**

A. Procedure Governed -- Sections 1 through 14 of this rule shall govern the formal hearing procedures before the Public Service Commission of Utah, Sections 15 and 16 shall govern rulemaking proceedings before the Commission.

B. Consumer Complaints -- Consumer complaints may be converted to informal proceedings, pursuant to Section 63-46b-4.

C. No Provision in Rules -- In situations for which there is no provision in these rules, the Utah Rules of Civil Procedure shall govern, unless the Commission considers them to be unworkable or inappropriate.

D. Words Denoting Number and Gender -- In interpreting these rules, unless the context indicates otherwise, the singular includes the plural, the plural includes the singular, the present or perfect tenses include future tenses, and the words of one gender include the other gender. Headings are for convenience only, and they shall not be used in construing any meaning.

E. Authorization -- This rule is authorized pursuant to Section 54-1-1 which requires the Commission to exercise its rulemaking powers and Subsection 54-1-2.5 which establishes the requirements for Commission procedure, including Hearings, Practice and Procedure, Chapter 7 of Title 54.

R746-100-2. Definitions.

A. "Applicant" is a party applying for a license, right, or authority or requesting agency action [~~from the Commission~~] from the Commission.

B. "Commission" is the Public Service Commission of Utah. In appropriate context, it may include administrative law judges or presiding officers designated by the Commission.

C. "Committee" is the Committee of Consumer Services, Department of Commerce.

D. "Complainant" is a person who complains to the Commission of an act or omission of a person in violation of law, the rules, or an order of the Commission.

E. "Consumer complaint" is a complaint of a retail customer against a public utility.

F. "Division" is the Division of Public Utilities, Utah State Department of Commerce.

G. "Ex Parte Communication" means an oral or written communication with a member of the Commission, administrative law judge, or Commission employee who is, or may be reasonably expected to be, involved in the decision-making process, relative to the merits of a matter under adjudication unless notice and an opportunity to be heard are given to each party. It shall not, however, include requests for status reports on a proceeding covered by these rules.

H. "Formal proceeding" is a proceeding before the Commission not designated informal by rule, pursuant to Section 63-46b-4.

I. "Informal proceeding" is a proceeding so designated by the Commission.

J. "Party" is a participant in a proceeding defined by Subsection 63-46b-2(1)(f).

K. "Interested person" is a person who may be affected by a proceeding before the Commission, but who does not seek intervention. An interested person may not participate in the proceedings except as a public witness, but shall receive copies of notices and orders in the proceeding.

L. "Intervenor" is a person permitted to intervene in a proceeding before the Commission.

M. "Person" means an individual, corporation, partnership, association, governmental subdivision, or governmental agency.

N. "Petitioner" is a person seeking relief other than the issuance of a license, right, or authority from the Commission.

O. "Presiding officer" is a person conducting an adjudicative hearing, pursuant to Subsection 63-46b-2(1)(h), and may be the entire Commission, one or more commissioners acting on the Commission's behalf, or an administrative law judge, presiding officer, or hearing officer appointed by the Commission. It may also include the Secretary of the Commission when performing duties identified in Section 54-1-7.

P. "Proceeding" or "adjudicative proceeding" is an action before the Commission initiated by a notice of agency action, or request for agency action, pursuant to Section 63-46b-3. It is not an informal or preliminary inquiry or investigation undertaken by the Commission to determine whether a proceeding is warranted; nor is it a rulemaking action pursuant to Title 63, Chapter 46a, the Administrative Rulemaking Act.

Q. "Public witness" is a person expressing interest in an issue before the Commission but not entitled or not wishing to participate as a party.

R. "Respondent" is a person against whom a notice of agency action or request for agency action is directed or responding to an application, petition or other request for agency action.

R746-100-3. Pleadings.

A. Pleadings Enumerated -- Applications, petitions, complaints, orders to show cause, and other traditional initiatory pleadings may be filed with the Commission. Traditional pleadings will be considered requests for agency action, pursuant to Section 63-46b-3, concerning adjudicative proceedings. Answers, protests, and other traditional responsive pleadings may be filed with the Commission and will be considered responses, subject to the requirements of Section 63-46b-6.

1. The following filings are not requests for agency action or responses, pursuant to Sections 63-46b-3 and 63-46b-6:

a. motions, oppositions, and similar filings in existing Commission proceedings;

b. informational filings which do not request or require affirmative action, such as Commission approval.

B. Docket Number and Title --

1. Docket number -- Upon the filing of an initiatory pleading, or upon initiation of a generic proceeding, the Commission shall assign a docket number to the proceeding which shall consist of the year in which the pleading was filed, a code identifying the public utility appearing as applicant, petitioner, or respondent, or generic code designation and another number showing its numerical position among the filings involving the utility or generic proceeding filed during the year.

2. Headings and titles -- Pleadings shall bear a heading substantially as follows:

TABLE		
Name of Attorney preparing or Signer of Pleading		
Address		
Telephone Number		

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH		

In the Matter of the)	
Application, petition,)	Docket Number
etc.-- for complaints,)	
names of both complainant)	Type of pleading
and respondent should)	
appear)	

C. Form of Pleadings -- With the exception of consumer complaints, pleadings shall be double-spaced and typewritten, which may include a computer or word processor, if the type is easily legible and in the equivalent of at least 12 point type. Pleadings shall be presented on paper 8-1/2 x 11 inches, shall include the docket number, if known, and shall be dated and time stamped upon receipt by the Commission. Pleadings shall also be presented as an electronic word processing document, an exact copy of the paper version filed, and may be on a 3-1/2" floppy disk or compact disc (CD), using a Commission-approved format. Pleadings over five pages shall be double sided and three-hole punched.

D. Amendments to Pleadings -- The Commission may allow pleadings to be amended or corrected at any time. Initiatory pleadings may be amended without leave of the Commission at any

time before a responsive pleading has been filed or the time for filing the pleading has expired. Defects in pleadings which do not affect substantial rights of the parties shall be disregarded.

E. Signing of Pleadings -- Pleadings shall be signed by the party, or by the party's attorney or other authorized representative if the party is represented by an attorney or other authorized representative, and shall show the signer's address. The signature shall be considered a certification by the signer that he has read the pleading and that, to the best of his knowledge and belief, there is good ground to support it.

F. Consumer Complaints --

1. Alternative dispute resolution, mediation procedures -- Before a proceeding on a consumer complaint is initiated before the Commission, the Commission shall try to resolve the matter through referral first to the customer relations department, if any, of the public utility complained of and then to the Division for investigation and mediation. Only after these resolution efforts have failed will the Commission entertain a proceeding on the matter.

2. Request for agency action -- Persons requesting Commission action shall be required to file a complaint in writing, requesting agency action. The Commission shall not act on illegible or incomplete complaints and shall return those complaints to the complainant with instructions for correction or completion.

3. The Division of Public Utilities may participate in a consumer complaint proceeding as determined by the Division or as requested by the Commission.

G. Content of Pleadings --

1. Pleadings filed with the Commission shall include the following information as applicable:

a. if known, the reference numbers, docket numbers, or other identifying symbols of relevant tariffs, rates, schedules, contracts, applications, rules, or similar matter or material;

b. the name of each participant for whom the filing is made or, if the filing is made for a group of participants, the name of the group, if the name of each member of the group is set forth in a previously filed document which is identified in the filing being made;

c. if statute, rule, regulation, or other authority requires the Commission to act within a specific time period for a matter at issue, a specific section of the pleading, located after the heading or caption, entitled "Proceeding Time Period," which shall include: reference or citation to the statute, rule, regulation, or other authority; identification of the time period; and the expiration date of the time period identified by day, month, and year

d. the specific authorization or relief sought;

e. copies of, or references to, tariff or rate sheets relevant to the pleading;

f. the name and address of each person against whom the complaint is directed;

g. the relevant facts, if not set forth in a previously filed document which is identified in the filing being made;

h. the position taken by the participant filing a pleading, to the extent known when the pleading is filed, and the basis in fact and law for the position;

i. the name, address, and telephone number of an individual who, with respect to a matter contained in the filing, represents the person for whom the filing is made;

j. additional information required to be included by Section 63-46b-3, concerning commencement of adjudicative proceedings, or other statute, rule, or order.

H. Motions -- Motions may be submitted for the Commission's decision on either written or oral argument, and the filing of affidavits in support or contravention of the motion is permitted. If oral argument is sought, the party seeking oral argument shall arrange a hearing date with the Commission's Law and Motion calendar and provide at least five days written notice to affected parties, unless the Commission determines a shorter time period is needed.

I. Responsive Pleadings --

1. Responsive pleadings to applications, petitions, or requests for agency action shall be filed in accordance with Section 63-46b-6.

2. Response and reply pleadings may be filed to pleadings other than applications, petitions or requests for agency action.

R746-100-4. Filing and Service.

A. Filing of Pleadings -- Originals of pleadings shall be filed with the Commission in the format described in R746-100-3(C), together with the number of copies designated by the secretary of the Commission.

B. Notice -- Notice shall be given in conformance with Section 63-46b-3.

C. Required Public Notice -- When applying for original authority or rate increase, the party seeking authority or requesting Commission action shall publish notice of the filing or action requested, in the form and within the times as the Commission may order, in a newspaper of general circulation in the area of the state in which the parties most likely to be interested are located.

D. Times for Filing -- Responsive pleadings to requests for agency action shall be filed with the Commission and served upon opposing parties within 30 days after service of the request for agency action or notice of request for agency action, whichever was first received. Motions directed toward initiatory pleadings shall be filed before a responsive pleading is due; otherwise objections shall be raised in responsive pleadings. Motions directed toward responsive pleadings shall be filed within ten days of the service of the responsive pleading. Response or reply pleadings to other than applications, petitions or requests for agency action shall be filed within 15 ~~business~~calendar days and 10 ~~business~~calendar days, respectively, of the ~~filing date~~service date of the pleading or document to which the response or reply is addressed. Absent a response or reply, the Commission may presume that there is no opposition.

E. Computation of Time -- The time within which an act shall be done shall be computed by excluding the first day and including the last, unless the last day is Saturday, Sunday, or a state holiday, and then it is excluded and the period runs until the end of the next day which is neither a Saturday, Sunday, nor a holiday.

R746-100-5. Participation.

Parties to a proceeding before the Commission, as defined in Section 63-46b-2, may participate in a proceeding including the right to present evidence, cross-examine witnesses, make argument, written and oral, submit motions, and otherwise participate as determined by the Commission. The Division and Committee shall be given full participation rights in any case.

R746-100-6. Appearances and Representation.

A. Taking Appearances -- Parties shall enter their appearances at the beginning of a hearing or when designated by the presiding

officer by giving their names and addresses and stating their positions or interests in the proceeding. Parties shall, in addition, fill out and submit to the Commission an appearance slip, furnished by the Commission.

B. Representation of Parties -- Parties may be represented by an attorney licensed to practice in Utah; an attorney licensed in a foreign state, when joined of record by an attorney licensed in Utah, may also represent parties before the Commission. Upon motion, reasonable notice to each party, and opportunity to be heard, the Commission may allow an attorney licensed in a foreign state to represent a party in an individual matter based upon a showing that local representation would impose an unreasonable financial or other hardship upon the party. The Commission may, if it finds an irresolvable conflict of interest, preclude an attorney or firm of attorneys, from representing more than one party in a proceeding. Individuals who are parties to a proceeding, or officers or employees of parties, may represent their principals' interests in the proceeding.

R746-100-7. Intervention and Protest.

Intervention -- Persons wishing to intervene in a proceeding for any purpose, including opposition to proposed agency action or a request for agency action filed by a party to a proceeding, shall do so in conformance with Section 63-46b-9.

R746-100-8. Discovery.

A. Informal discovery -- The Commission encourages parties to exchange information informally. Informational queries termed "data requests" which have been typically used by parties practicing before the Commission may include written interrogatories and requests for production as those terms are used in the Utah Rules of Civil Procedure. Informal discovery is appropriate particularly with respect to the clarification of pre-filed testimony and exhibits before hearing so as to avoid unnecessary on-the-record cross-examination. The Commission may require an informal exchange of information as it judges appropriate. The Commission, on its own motion or the motion of a party, may require the parties to participate in an informal meeting to exchange information informally and otherwise simplify issues and expedite the proceeding.

B. Formal Discovery -- Discovery shall be made in accordance with Rules 26 through 37, Utah Rules of Civil Procedure, with the following exceptions and modifications.

C. Exceptions and Modifications --

1. If no responsive pleading is required in a proceeding, parties may begin discovery immediately upon the filing and service of an initiatory pleading. If a responsive pleading is required, discovery shall not begin until ten days after the time limit for filing the responsive pleading.

2. Rule 26(b)(4), Utah Rules of Civil Procedure, restricting discovery shall not apply, and the opinions, conclusions, and data developed by experts engaged by parties shall be freely discoverable.

3. At any stage of a proceeding, the Commission may, on its own motion or that of a party, convene a conference of the parties to establish times for completion of discovery, the scope of, necessity for, and terms of, protective orders, and other matters related to discovery.

~~3~~4. Formal discovery shall be initiated by an appropriate discovery request served on the party or person from whom discovery is sought. Discovery requests, regardless of how denominated, responses to, and transcripts of depositions shall not

be filed with the Commission unless the Commission orders otherwise.

[4]5. In the applicable Rules of Civil Procedure, reference to "the court" shall be considered reference to the Commission.

R746-100-9. Prehearing Conference and Prehearing Briefs.

A. Prehearing Conferences -- Upon the Commission's motion or that of a party, the presiding officer may, upon written notice to parties of record, hold prehearing conferences for the following purposes:

1. formulating or simplifying the issues, including each party's position on each issue;
2. obtaining stipulations, admissions of fact, and documents which will avoid unnecessary proof;
3. arranging for the exchange of proposed exhibits or prepared expert or other testimony, including a brief description of the evidence to be presented and issues addressed by each witness;
4. determining procedure to be followed at the hearing;
5. encouraging joint pleadings, exhibits, testimony and cross-examination where parties have common interests, including designation of lead counsel where appropriate;
6. agreeing to other matters that may expedite the orderly conduct of the proceedings or of a settlement. Agreements reached during the prehearing conference shall be recorded in an appropriate order unless the participants stipulate or agree to a statement of settlement made on the record.

B. Prehearing Briefs -- The Commission may require the filing of prehearing briefs which shall conform to the format described in R746-100-3(C) and may include:

1. the issues, and positions on those issues, being raised and asserted by the parties;
2. brief summaries of evidence to be offered, including the names of witnesses, exhibit references and issues addressed by the testimony;
3. brief descriptions of lines of cross-examination to be pursued.

C. Final prehearing conferences -- After all testimony has been filed, the Commission may at any time before the hearing hold a final prehearing conference for the following purposes:

1. determine the order of witnesses and set a schedule for witnesses' appearances, including times certain for appearances of out-of-town witnesses;
2. delineate scope of cross-examination and set limits thereon if necessary;
3. identify and prenumber exhibits.

R746-100-10. Hearing Procedure.

A. Time and Place -- When a matter is at issue, the Commission shall set a time and place for hearing. Notice of the hearing shall be served in conformance with Sections 63-46b-3(2)(b) and 63-46b-3(3)(e) at least five days before the date of the hearing or shorter period as determined by the Commission.

B. Continuance -- Continuances may be granted upon good cause shown. The Commission may impose the costs in connection with the continuance as it judges appropriate.

C. Failure to Appear -- A party's default shall be entered and disposed of in accordance with Section 63-46b-11.

D. Subpoenas and Attendance of Witnesses -- Commissioners, the secretary to the Commission, and administrative law judges or presiding officers employed by the Commission are delegated the

authority to sign and issue subpoenas. Parties desiring the issuance of subpoenas shall submit them to the Commission. The parties at whose behest the subpoena is issued shall be responsible for service and paying the person summoned the statutory mileage and witness fees. Failure to obey the Commission's subpoena shall be considered contempt.

E. Conduct of the Hearing --

1. Generally -- Hearings may be held before the full Commission, one or more commissioners, administrative law judges or presiding officers employed by the Commission as provided by law and as the Commission shall direct. Hearings shall be open to the public, except where the Commission closes a hearing for the presentation of proprietary, trade secret or confidential material. Failure to obey the rulings and orders of the presiding officer may be considered contempt.

2. Before commissioner or administrative law judge -- When a hearing is conducted before less than the full Commission, before an administrative law judge or presiding officer, the presiding officer shall ensure that the taking of evidence and subsequent matters proceed as expeditiously as practicable. The presiding officer shall prepare and certify a recommended decision to the Commission. Except as otherwise ordered by the Commission or provided by law, the presiding officer may schedule and otherwise regulate the course of the hearing; recess, reconvene, postpone, or adjourn the hearing; administer oaths; rule on and receive evidence; cause discovery to be conducted; issue subpoenas; hold conferences of the participants; rule on, and dispose of, procedural matters, including oral or written motions; summarily dispose of a proceeding or part of a proceeding; certify a question to the Commission; permit or deny appeal[~~to the Commission or court~~] of an interlocutory ruling; and separate an issue or group of issues from other issues in a proceeding and treat the issue or group of issues as a separate phase of the proceeding. The presiding officer may maintain order as follows:

a. ensure that disregard by a person of rulings on matters of order and procedure is noted on the record or, if appropriate, is made the subject of a special written report to the Commission;

b. if a person engages in disrespectful, disorderly, or contumacious language or conduct in connection with the hearing, recess the hearing for the time necessary to regain order;

c. take appropriate action, including removal from the proceeding, against a participant or counsel, if necessary to maintain order.

3. Before full Commission -- In hearings before the full Commission, the Commission shall exercise the above powers and any others available to it and convenient or necessary to an orderly, just, and expeditious hearing.

F. Evidence --

1. Generally -- The Commission is not bound by the technical rules of evidence and may receive any oral or documentary evidence; except that no finding may be predicated solely on hearsay or otherwise incompetent evidence. Further, the Commission may exclude non-probative, irrelevant, or unduly repetitious evidence. Testimony shall be under oath and subject to cross-examination. Public witnesses may elect to provide unsworn statements.

2. Exhibits --

a. Except as to oral testimony and items administratively noticed, material offered into evidence shall be in the form of an exhibit. Exhibits shall be premarked and parties offering exhibits shall, before the hearing begins, provide copies of their exhibits to the presiding officer, other participants or their representatives, and the original to the reporter, if there is one, otherwise to the presiding

officer. If documents contain information the offering participant does not wish to include, the offering party shall mark out, excise, or otherwise exclude the extraneous portion on the original. Additions to exhibits shall be dealt with in the same manner.

b. Exhibits shall be premarked, by the offering party, in the upper right corner of each page by identifying the party, the witness, docket number, and a number reflecting the order in which the offering party will introduce the exhibit.

c. Exhibits shall conform to the format described in R746-100-3(C) and be double sided and three-hole punched. They shall also be adequately footnoted and if appropriate, accompanied by either narrative or testimony which adequately explains the following: Explicit and detailed sources of the information contained in the exhibit; methods used in statistical compilations, including explanations and justifications; assumptions, estimates and judgments, together with the bases, justifications and results; formulas or algorithms used for calculations, together with explanations of inputs or variables used in the calculations. An exhibit offered by a witness shall also be presented as an electronic document, an exact copy of the paper version, filed on a 3-1/2" floppy disk or CD, using a format previously approved by the Commission.

3. Administrative notice -- The presiding officer may take administrative or official notice of a matter in conformance with Section 63-46b-8(1)(b)(iv).

4. Stipulations -- Participants in a proceeding may stipulate to relevant matters of fact or the authenticity of relevant documents. Stipulations may be received in evidence, and if received, are binding on the participants with respect to any matter stipulated. Stipulations may be written or made orally at the hearing.

5. Settlements --

a. Cases may be resolved by a settlement of the parties if approved by the Commission. Issues so resolved are not binding precedent in future cases involving similar issues.

b. Before accepting an offer of settlement, the Commission may require the parties offering the settlement to show that each party has been notified of, and allowed to participate in, settlement negotiations. Parties not adhering to settlement agreements shall be entitled to oppose the agreements in a manner directed by the Commission.

G. Prefiled Testimony -- If a witness's testimony has been reduced to writing and filed with the Commission before the hearing, in conformance with R746-100-3(C), at the discretion of the Commission, the testimony may be placed on the record without being read into the record; if adverse parties shall have been served with, or otherwise have had access to, the prefiled, written testimony for a reasonable time before it is presented. Except upon a finding of good cause, a reasonable amount of time shall be at least ten days.

The testimony shall have line numbers inserted at the left margin and shall be authenticated by affidavit of the witness. To aid in the identification of text and the examination of witnesses, written testimony shall have each line of written test numbered consecutively throughout the entire written testimony. Internal charts, exhibits or other similar displays included within or attached to written testimony need not be included within the document's internal line numbering. If admitted, the testimony shall be marked and incorporated into the record as an exhibit. Parties shall have full opportunity to cross-examine the witness on the testimony. Unless the Commission orders otherwise, parties shall have witnesses present summaries of prefiled testimony orally at the hearing. Witnesses may be required to reduce their summaries to writing and

either file them with their prefiled testimony or deliver them to parties of record before or at the hearing. At the hearing, witnesses shall read their summaries into the record. Opposing parties may cross-examine both on the original prefiled testimony and the summaries.

H. Joint Exhibits -- Both narrative and numerical joint exhibits, detailing each party's position on each issue, shall be filed with the Commission before the hearing. These joint exhibits shall:

- a. be updated throughout the hearing;
- b. depict the final positions of each party on each issue at the end of the hearing; and
- c. be in conformance with R746-100-3(C).

I. Recording of Hearing and Transcript -- Hearings may be recorded by a shorthand reporter licensed in Utah; except that in non-contested matters, or by agreement of the parties, hearings may be recorded electronically.

1. Unless otherwise ordered by the Commission, scheduling conferences and technical conferences will not be recorded.

2. If a party requests that a scheduling conference or technical conference be recorded, the Commission may require that party to pay some or all of the costs associated with recording.

J. Order of Presentation of Evidence -- Unless the presiding officer orders otherwise, applicants or petitioners, including petitioners for an order to show cause, shall first present their case in chief, followed by other parties, in the order designated by the presiding officer, followed by the proposing party's rebuttal.

K. Cross-Examination -- The Commission may require written cross-examination and may limit the time given parties to present evidence and cross-examine witnesses. The presiding officer may exclude friendly cross-examination. The Commission discourages and may prohibit parties from making their cases through cross-examination.

L. Procedure at Conclusion of Hearing -- At the conclusion of proceedings, the presiding officer may direct a party to submit a written proposed order. The presiding officer may also order parties to present further matter in the form of oral argument or written memoranda.

R746-100-11. Decisions and Orders.

A. Generally -- Decisions and orders may be drafted by the Commission or by parties as the Commission may direct. Draft or proposed orders shall contain a heading similar to that of pleadings and bear at the top the name, address, and telephone number of the persons preparing them. Final orders shall have a concise summary of the case containing the salient facts, the issues considered by the Commission, and the Commission's disposition of them. A short synopsis of the order, placed at the beginning of the order, shall describe the final resolutions made in the order.

B. Recommended Orders -- If a case has been heard by less than the full Commission, or by an administrative law judge, the official hearing the case shall submit to the Commission a recommended report containing proposed findings of fact, conclusions of law, and an order based thereon.

C. Final Orders of Commission -- If a case has been heard by the full Commission, it shall confer following the hearing. Upon reaching its decision, the Commission shall draft or direct the drafting of a report and order, which upon signature of at least two Commissioners shall become the order of the Commission. Dissenting and concurring opinions of individual commissioners may be filed with the order of the Commission.

D. Deliberations -- Deliberations of the Commission shall be in closed chambers.

E. Effective Date -- Copies of the Commission's final report and order shall be served upon the parties of record. Orders shall be effective the date of issuance unless otherwise stated in the order. Upon petition of a party, and for good cause shown, the Commission may extend the time for compliance fixed in an order.

F. Review or Rehearing -- Petitions for review or rehearing shall be filed within 30 days of the issuance date of the order in accordance with Section 63-46b-12 and served on other parties of record. Following the filing of a petition for review, opposing parties may file responsive memoranda or pleadings within 15 days. Proceedings on review shall be in accordance with Section 54-7-1[7]15. A petition for reconsideration pursuant to Section 63-46b-13 is not required in order for a party to exhaust its administrative remedies prior to appeal.

R746-100-12. Appeals.

Appeals from final orders of the Commission shall be to a court of appropriate jurisdiction.

R746-100-13. Ex Parte Communications.

A. Ex Parte Communications Prohibited -- To avoid prejudice, real or perceived, to the public interest and persons involved in proceedings pending before the Commission:

B. Persons Affected -- Except as permitted in R746-100-13(C), no person who is a party, or the party's counsel, agent, or other person acting on the party's behalf, shall engage in ex parte communications with a commissioner, administrative law judge, presiding officer, or any other employee of the Commission who is, or may reasonably be expected to be, involved in the decision-making process regarding a matter pending before the Commission. No commissioner, administrative law judge, presiding officer, or other employee of the Commission who is, or may reasonably be expected to be, involved in the decision-making process shall request or entertain ex parte communications.

C. Exceptions -- The prohibitions contained in R746-100-13(B) do not apply to a communication:

1. from an interceder who is a local, state, or federal agency which has no official interest in the outcome and whose official duties are not affected by the outcome of the on-the-record proceedings before the Commission to which the communication relates;

2. from a party, or the party's counsel, agent, or other person acting on the party's behalf if the communication relates to matters of procedure only;

3. from a person when otherwise authorized by law;

4. related to routine safety, construction, and operational inspections of project works by Commission employees undertaken to investigate or study a matter pending before the Commission;

5. related to routine field audits of the accounts or the books or records of a company subject to the Commission's accounting requirements not undertaken to investigate or study a matter pending in issue before the Commission in a proceeding;

6. related solely to a request for supplemental information or data necessary for an understanding of factual materials contained in documents or other evidence filed with the Commission in a proceeding covered by these rules and which is made in the presence of or after coordination with counsel.

D. Records of Ex Parte Communications -- Written communications prohibited by R746-100-13(B), sworn statements reciting the substance of oral communications, and written responses and sworn statements reciting the substance of oral responses to prohibited communications shall be delivered to the secretary of the Commission who shall place the communication in the case file, but separate from the material upon which the Commission can rely in reaching its decision. The secretary shall serve copies of the communications upon parties to the proceeding and serve copies of the sworn statement to the communicator and allow him a reasonable time to file a response.

E. Treatment of Ex Parte Communications -- A commissioner, administrative law judge, presiding officer, or an employee of the Commission who receives an oral offer of a communication prohibited by R746-100-13(B) shall decline to hear the communication and explain that the matter is pending for determination. If unsuccessful in preventing the communication, the recipient shall advise the communicator that the communication will not be considered. The recipient shall, within two days, prepare a statement setting forth the substance of the communication and the circumstances of its receipt and deliver it to the secretary of the Commission for filing. The secretary shall forward copies of the statement to the parties.

F. Rebuttal -- Requests for an opportunity to rebut on the record matters contained in an ex parte communication which the secretary has associated with the record may be filed in writing with the Commission. The Commission may grant the requests only if it determines that fairness so requires. If the communication contains assertions of fact not a part of the record and of which the Commission cannot take administrative notice, the Commission, in lieu of receiving rebuttal material, normally will direct that the alleged factual assertion on proposed rebuttal be disregarded in arriving at a decision. The Commission will not normally permit a rebuttal of ex parte endorsements or oppositions by civic or other organizations by the submission of counter endorsements or oppositions.

G. Sanctions -- Upon receipt of a communication knowingly made in violation of R746-100-13(B), the presiding officer may require the communicator, to the extent consistent with the public interest, to show cause why the communicator's interest in the proceeding should not be dismissed, denied, disregarded, or otherwise adversely affected because of the violation.

H. Time When Prohibitions Apply -- The prohibitions contained in this rule shall apply from the time at which a proceeding is noticed for hearing or the person responsible for the communication has knowledge that it will be noticed for hearing or when a protest or a request to intervene in opposition to requested Commission action has been filed, whichever occurs first.

R746-100-14. Rulemaking.

A. How initiated --

1. By the Commission -- When the Commission perceives the desirability or necessity of adopting a rule, it shall draft or direct the drafting of the rule. During the drafting process, the Commission may request the opinion and assistance of any appropriate person. It may also, in its discretion, conduct public hearings in connection with the drafting. When the Commission is satisfied with the draft of the proposed rule, it may formally propose it in accordance with the Utah Rulemaking Act, 63-46a-4.

2. By others -- Persons may petition the Commission for the adoption of a rule. The petitions shall be accompanied by a draft of the rule proposed. Upon receipt the Commission shall review the petition and draft and if it finds the proposed rule desirable or necessary, it shall proceed as with proposed rules initiated by the Commission, including amending or redrafting. If the Commission finds the proposal unnecessary or undesirable, it shall so notify the petitioner in writing, giving reasons for its findings. No public hearing shall be required in connection with the Commission's review of a petition for rulemaking.

B. Hearing Procedure -- Hearings conducted in connection with rulemaking shall be informal, subject to requirements of decorum and order. Absent a finding of good cause to proceed otherwise, testimony and statements shall be unsworn, and there shall be no opportunity for participants to cross-examine. The Commission shall have the right, however, to freely question witnesses. Public hearings shall be recorded by shorthand reporter or electronically, at the discretion of the Commission, and the Commission may allow or request the submission of written materials.

R746-100-15. Deviation from Rules.

The Commission may order deviation from a specified rule upon notice, opportunity to be heard and a showing that the rule imposes an undue hardship which outweighs the benefits of the rule.

KEY: government hearings, public utilities, rules and procedures

2004

Notice of Continuation December 6, 2002

54-1-6

54-4-1

54-7-17

63-46b



End of the Notices of Changes in Proposed Rules Section

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the responsible agency is required to review the rule. This review is designed to remove obsolete rules from the *Utah Administrative Code*.

Upon reviewing a rule, an agency may: repeal the rule by filing a PROPOSED RULE; continue the rule as it is by filing a NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (NOTICE); or amend the rule by filing a PROPOSED RULE and by filing a NOTICE. By filing a NOTICE, the agency indicates that the rule is still necessary.

NOTICES are not followed by the rule text. The rule text that is being continued may be found in the most recent edition of the *Utah Administrative Code*. The rule text may also be inspected at the agency or the Division of Administrative Rules. NOTICES are effective when filed. NOTICES are governed by *Utah Code* Section 63-46a-9 (1998).

Environmental Quality, Air Quality **R307-150** Emission Inventories

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 26942
FILED: 02/09/2004, 16:29

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: Subsection 19-2-104(1)(c) allows the Air Quality Board to make rules "...requiring persons engaged in operations which result in air pollution to ...file periodic reports containing information relating to the rate, period of emission, and composition of the air contaminant..." Rule R307-150 implements that statute by specifying the sources that must submit information, the information that must be submitted, and the due date for submissions. Rule R307-150 meets the requirements of the federal Consolidated Emissions Reporting Rule, 40 CFR 51.30(e) (67 FR 39602).

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Written comments have been received only during the public comment periods when Rule R307-150 was being amended. For the amendment under DAR No. 22605, effective April 6, 2000, no comments were received. For the amendment under DAR No. 22929, effective October 5, 2000, no comments were received. For the amendment under DAR No. 26648, effective December 31, 2003, the following comments were received: COMMENT 1: Kennecott expressed concern that this rule makes the 2002 inventory for ammonia and PM2.5 due before this rule was proposed, thus making all sources who did not report this information in April of this year in violation of the law. RESPONSE 1: Staff agrees. We have proposed a change found on page 1, line 17-18 wherein we change the due date to 90 days following the effective date of this rule and April 15 of the year following each inventory request thereafter. Note

that we have already sent out a request for ammonia and PM2.5 from all major sources in the state as required in the federal Consolidated Emissions Reporting Rule, and requested that they be submitted to the Division by the end of 2003. Sources are complying with this request; COMMENT 2:

Chevron expressed concern that, at some future date, the state could unilaterally establish a format for the submittal of an inventory, and the companies could use only that format for data submittal. RESPONSE 2: The Division is developing a Workbook for each company to use in submitting their emissions inventory. This is a first step toward web-based information submittal. We recognize that there are some companies for whom this system may not work, and we are working with those companies to develop a format for their inventory submittal. In response to Chevron's comment, we are proposing a revision to page 1, line 21 to state that we will accept the data from them in a format that we have worked out with each source; COMMENT 3: JBR Environmental Consultants notes that the definition of "Large Major Source" includes only sources with emissions greater than 2,500 tons/year of certain pollutants. JBR believes that number was a typo and should be 250. RESPONSE 3: The CERR defines "Large Major Source" as those with 2,500 tons/year or more; COMMENT 4: JBR would like the definition of "Major Source" copied to this section so it is easily compared to the definition of "Large Major Source." RESPONSE 4: Staff disagrees. It has been our experience that such copies are prone to develop errors as one definition or the other is changed. Staff feels it is very important that readers understand that the CERR ties the responsibility of sources to report emissions to the requirements of Title V (Operating Permits), which is where the definition of "Major Source" is located; COMMENT 5: JBR supports the concept of submitting an inventory only every third year if the emissions of ammonia or PM2.5 have not changed more than 40 tons. RESPONSE 5: Noted; COMMENT 6: JBR also suggested that the rule be more specific about whether the "change" is for a specific year or can be a cumulative change over a period. RESPONSE 6: The current proposal is very specific that if the emissions of a source in a given year are different by more than 40 tons from the "last inventory submitted," the source has to submit an inventory for that year; and COMMENT 7: JBR expressed concern that there are few emission factors for ammonia, and recommend that the state wait until there are factors before requiring the inventory because what will be submitted will be

highly suspect. RESPONSE 7: The staff recognizes the limitations of the current emission factors for both ammonia and PM2.5. EPA also recognizes those limitations, but is using the information collected to identify where they need to focus their resources to develop emission factors and to begin to identify potential control strategies to reduce ambient concentrations of PM2.5. The CERR is federal law, and requires the submittal of inventories for ammonia and PM2.5, beginning with a 2002 inventory to be delivered to EPA by June 1, 2004. It should be noted, though, that we have been telling sources that if they cannot find an emission factor for one of their processes, report to the Division that there is "no factor." If there is an emission factor published in the AP-42 (EPA's list of emission factors), and the source wants to use another factor they think is more appropriate, Air Quality asks that they tell us where the factor came from and why it is more appropriate.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The State of Utah is required under the federal Consolidated Emissions Reporting Rule, 40 CFR 51.30(e), to submit inventories of emissions from a variety of sources to the federal Environmental Protection Agency on a schedule specified in the federal rule. Rule R307-150 specifies the kinds of sources that must submit inventory information to the State in order to fulfill the State's responsibilities. In addition, the inventory information is required in order to determine the fees paid by sources subject to 40 CFR Part 70 and Rule R307-415, the Operating Permit Program, and for determining where emission reductions can be achieved if needed for Utah to remain in attainment of the federal health standards for air quality. Therefore, the rule should be continued

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
 Jan Miller at the above address, by phone at 801-536-4042, by FAX at 801-536-4099, or by Internet E-mail at janmiller@utah.gov

AUTHORIZED BY: M. Cheryl Heying, Planning Branch Manager

EFFECTIVE: 02/09/2004



Environmental Quality, Air Quality
R307-214
 National Emission Standards for
 Hazardous Air Pollutants

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 26939
 FILED: 02/09/2004, 16:26

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: Subsection 19-2-104(1)(a) allows the Air Quality Board to make rules regarding the control, abatement, and prevention of air pollution from all sources and establishing the maximum quantity of air contaminants that may be emitted by any source. Rule R307-214 incorporates by reference the federal standards for emissions of hazardous pollutants from various sources.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received in the last five years except when the rule has been amended. The rule was amended effective November 1, 2000 (DAR No. 23014). No one attended the public hearing and no public comments were received. The rule was also amended effective June 17, 2003 (DAR No. 25825). No public comments were received during the hearing and one public comment was received from Kennecott supporting Utah's incorporation by reference of the NESHAPs in order to maintain state primacy; Kennecott pointed out that their facility is not subject to the Primary Copper Smelter MACT. Finally, Rule R307-214 was amended effective October 2, 2003 (DAR No. 26468). No comments were received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Incorporating federal rules into the Utah rules allows enforcement by staff of the Utah Division of Air Quality rather than by the federal Environmental Protection Agency and therefore this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
 Jan Miller at the above address, by phone at 801-536-4042, by FAX at 801-536-4099, or by Internet E-mail at janmiller@utah.gov

AUTHORIZED BY: M. Cheryl Heying, Planning Branch Manager

EFFECTIVE: 02/09/2004



Environmental Quality, Air Quality
R307-415
 Permits: Operating Permit
 Requirements

**FIVE YEAR NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**

DAR FILE No.: 26940
 FILED: 02/09/2004, 16:27

**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 19-2-109.1(2)(a) requires that all sources subject to Title IV or V of the Clean Air Act obtain an operating permit, and Rule R307-415 sets forth the requirements and procedures for obtaining the permit. Rule R307-415 is consistent with Title V and with 40 CFR Part 70.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Written comments were received only during the public comment period when amendments were proposed. For the amendment under DAR No. 22045, effective July 15, 1999, no comments were received. For the amendment under DAR No. 22606, effective April 6, 2000, the Utah Industrial Environmental Coalition (UIENC) and Kennecott Utah Copper Corporation each submitted comments supporting the proposed changes. For the amendment under DAR No. 23096, effective December 7, 2000, no comments were received. For the amendment under DAR No. 24492, effective August 1, 2002, a comment requested that the rule allow refunds and that the language regarding credits should be stricken. The Board adopted the amendment with language allowing a refund, and allowing it to be issued in the same year that the credit became available and the refund was requested. For the amendment under DAR No. 24491, effective May 13, 2002, the only written comment was from Kennecott Utah Copper Corporation supporting the rule change and noting that this change means that Kennecott will no longer need to apply for a variance annually.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Title V of the Clean Air Act (42 U.S.C 7661, et seq.) specifies the requirements for an operating permit program to be operated by states for certain sources of air pollution. If states choose not to operate their own program, or do not establish a program that meets the Clean Air Act requirements, then the federal Environmental Protection Agency will establish the program. Utah's program is defined under Section 19-2-109.1, and is implemented by Rule R307-415 and therefore should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jan Miller at the above address, by phone at 801-536-4042, by FAX at 801-536-4099, or by Internet E-mail at janmiller@utah.gov

AUTHORIZED BY: M. Cheryl Heying, Planning Branch Manager

EFFECTIVE: 02/09/2004

Environmental Quality, Air Quality
R307-417

Permits: Acid Rain Sources

**FIVE YEAR NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**

DAR FILE No.: 26941
 FILED: 02/09/2004, 16:28

**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: Section 19-2-109.1 requires that all sources of air pollution that are subject to Title IV or V of the federal Clean Air Act must obtain an operating permit. Rule R307-417 incorporates by reference the federal requirements under Title IV, 40 CFR Part 72, as in effect on July 1, 1998, into Utah's air quality rules, so that Utah has the authority to include those requirements in operating permits for sources subject to Title IV.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received in the last five years.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Without Rule R307-417, Utah would not have the authority to include the provisions of Title IV of the Clean Air Act in operating permits for sources subject to Title IV, and those permits would be issued by the federal Environmental Protection Agency instead. Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jan Miller at the above address, by phone at 801-536-4042, by FAX at 801-536-4099, or by Internet E-mail at janmiller@utah.gov

AUTHORIZED BY: M. Cheryl Heying, Planning Branch Manager

EFFECTIVE: 02/09/2004



Health, Health Care Financing, Coverage and Reimbursement Policy

R414-58

Children's Organ Transplants

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 26935
FILED: 02/03/2004, 10:52

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: This rule is authorized under Section 26-1-5 which grants the Utah Department of Health the power to adopt, amend, or rescind rules which shall have the force and effect of law. In addition, this rule is authorized under Title 26, Chapter 18a, which lists criteria for children's organ transplants and outlines the responsibilities of the Kurt Oscarson Children's Organ Transplant Coordinating

Committee. However, in order to be in compliance with Title 26, Chapter 18a, this rule will require a technical substantive change to state that a child must be under the age of 18 to be eligible for an organ transplant instead of 18 years of age or younger at the time an application for financial assistance is made which will be done at a later date.

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 or oral comments have been received regarding 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 needs to be continued because it establishes criteria to determine eligibility and provide financial assistance to children who need organ transplant services and have no other resources to access care.

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

HEALTH
HEALTH CARE FINANCING,
COVERAGE AND REIMBURSEMENT POLICY
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:

Craig Devashrayee at the above address, by phone at 801-538-6641, by FAX at 801-538-6099, or by Internet E-mail at cdevashrayee@utah.gov

AUTHORIZED BY: Scott D. Williams, Executive Director

EFFECTIVE: 02/03/2004



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

Administrative Services

Fleet Operations, Surplus Property
No. 26843 (AMD): R28-3. Utah State Agency for Surplus Property Adjudicative Proceedings.
Published: January 1, 2004
Effective: February 12, 2004

Commerce

Occupational and Professional Licensing
No. 26834 (AMD): R156-38. Residence Lien Restriction and Lien Recovery Fund Rules.
Published: January 1, 2004
Effective: February 3, 2004

Real Estate

No. 26837 (AMD): R162-202. Residential Mortgage Renewal Period.
Published: January 1, 2004
Effective: February 3, 2004

No. 26840 (NEW): R162-206. Licensing Examination.
Published: January 1, 2004
Effective: February 3, 2004

No. 26839 (NEW): R162-207. License Renewal.
Published: January 1, 2004
Effective: February 3, 2004

No. 26836 (NEW): R162-208. Continuing Education.
Published: January 1, 2004
Effective: February 3, 2004

Education

Administration

No. 26850 (AMD): R277-462. Comprehensive Guidance Program.
Published: January 1, 2004
Effective: February 5, 2004

No. 26852 (AMD): R277-517. Athletic Coaching Certification.
Published: January 1, 2004
Effective: February 5, 2004

No. 26851 (R&R): R277-520. Appropriate Licensing and Assignment of Teachers.
Published: January 1, 2004
Effective: February 5, 2004

No. 26853 (NEW): R277-524. Paraprofessional Qualifications.
Published: January 1, 2004
Effective: February 5, 2004

Health

Health Care Financing, Coverage and Reimbursement Policy

No. 26854 (NEW): R414-9. Federally Qualified Health Centers.
Published: January 1, 2004
Effective: February 3, 2004

No. 26809 (NEW): R414-99. Chiropractic Services.
Published: December 15, 2003
Effective: February 17, 2004

No. 26811 (NEW): R414-300. Primary Care Network, Covered-at-Work Demonstration Waiver.
Published: December 15, 2003
Effective: February 10, 2004

No. 26810 (AMD): R414-310. Medicaid Primary Care Network Demonstration Waiver.
Published: December 15, 2003
Effective: February 10, 2004

Money Management Council

Administration

No. 26676 (CPR): R628-19. Requirements for the Use of Investment Advisers by Public Treasurers.
Published: January 1, 2004
Effective: February 10, 2004

Natural Resources

Oil, Gas and Mining; Coal

No. 26710 (AMD): R645-301-100. General Contents.
Published: November 15, 2003
Effective: February 6, 2004

No. 26711 (AMD): R645-301-500. Engineering.
Published: November 15, 2003
Effective: February 6, 2004

NOTICES OF RULE EFFECTIVE DATES

No. 26712 (AMD): R645-303-200. Permit Review,
Change and Renewal.
Published: November 15, 2003
Effective: February 6, 2004

No. 26713 (AMD): R645-401. Inspection and
Enforcement: Civil Penalties.
Published: November 15, 2003
Effective: February 6, 2004

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 1, 2004, including notices of effective date received through February 17, 2004, the effective dates of which are no later than March 1, 2004. 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: 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).

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/>).

RULES INDEX - BY AGENCY (CODE NUMBER)

ABBREVIATIONS

AMD = Amendment	NSC = Nonsubstantive rule change
CPR = Change in proposed rule	REP = Repeal
EMR = Emergency rule (120 day)	R&R = Repeal and reenact
NEW = New rule	5YR = Five-Year Review
EXD = Expired	

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
Administrative Services					
<u>Fleet Operations, Surplus Property</u>					
R28-3	Utah State Agency for Surplus Property Adjudicative Proceedings	26843	AMD	02/12/2004	2004-1/4
Commerce					
<u>Occupational and Professional Licensing</u>					
R156-1-106	Division - Duties, Functions, and Responsibilities	26805	AMD	01/20/2004	2003-24/4
R156-5a	Podiatric Physician Licensing Act Rules	26917	5YR	01/27/2004	2004-4/74
R156-17a-612	Operating Standards - Pharmaceutical Wholesaler/Distributor and Pharmaceutical Manufacturer located in Utah	26754	CPR	02/19/2004	2004-2/10
R156-17a-612	Operating Standards - Pharmaceutical Wholesaler/Distributor and Pharmaceutical Manufacturer located in Utah	26754	AMD	02/19/2004	2003-22/11

RULES INDEX

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R156-26a-303b	Renewal and Reinstatement Requirements - Continuing Professional Education (CPE)	26786	AMD	01/06/2004	2003-23/7
R156-37c	Utah Controlled Substance Precursor Act Rules	26916	5YR	01/27/2004	2004-4/74
R156-38	Residence Lien Restriction and Lien Recovery Fund Rules	26834	AMD	02/03/2004	2004-1/5
R156-39a	Alternative Dispute Resolution Providers Certification Act Rules	26915	5YR	01/27/2004	2004-4/75
R156-54-302b	Examination Requirements - Radiology Practical Technician	26580	AMD	01/20/2004	2003-18/4
R156-54-302b	Examination Requirements - Radiology Practical Technician	26580	CPR	01/20/2004	2003-24/70
R156-56	Utah Uniform Building Standard Act Rules	26693	AMD	01/01/2004	2003-21/7
R156-56-707	Statewide Amendments to the IPC	26692	AMD	01/01/2004	2003-21/34
R156-74	Certified Shorthand Reporters Licensing Act Rules	26927	5YR	02/02/2004	2004-4/75
R156-76-102	Definitions	26777	AMD	01/20/2004	2003-23/14
<u>Real Estate</u>					
R162-7-3	Investigation and Enforcement	26835	AMD	02/18/2004	2004-1/9
R162-105	Scope of Authority	26890	5YR	01/13/2004	2004-3/42
R162-202	Residential Mortgage Renewal Period	26837	AMD	02/03/2004	2004-1/10
R162-206	Licensing Examination	26840	NEW	02/03/2004	2004-1/12
R162-207	License Renewal	26839	NEW	02/03/2004	2004-1/13
R162-208	Continuing Education	26836	NEW	02/03/2004	2004-1/14
<u>Securities</u>					
R164-11-2	Hearings for Certain Exchanges of Securities	26481	CPR	01/05/2004	2003-23/83
R164-11-2	Hearings for Certain Exchanges of Securities	26481	AMD	01/05/2004	2003-15/17
Education					
<u>Administration</u>					
R277-437	Student Enrollment Options	26871	5YR	01/05/2004	2004-3/42
R277-462	Comprehensive Guidance Program	26850	AMD	02/05/2004	2004-1/16
R277-486	Professional Staff Cost Program	26828	NEW	01/15/2004	2003-24/5
R277-502	Educator Licensing and Data Retention	26827	AMD	01/15/2004	2003-24/6
R277-517	Athletic Coaching Certification	26852	AMD	02/05/2004	2004-1/18
R277-520	Appropriate Licensing and Assignment of Teachers	26851	R&R	02/05/2004	2004-1/20
R277-524	Paraprofessional Qualifications	26853	NEW	02/05/2004	2004-1/25
R277-720	Child Nutrition Programs	26830	AMD	01/15/2004	2003-24/10
R277-724	Criteria for Sponsors Recruiting Day Care Facilities in the Child and Adult Care Food Program	26829	NEW	01/15/2004	2003-24/11
R277-735	Standards and Procedures for Corrections Education Programs Serving Inmates of the Utah Department of Corrections	26870	5YR	01/05/2004	2004-3/43
<u>Rehabilitation</u>					
R280-201	USOR ADA Complaint Procedure	26872	5YR	01/05/2004	2004-3/43
R280-202	USOR Procedures for Individuals with the Most Severe Disabilities	26873	5YR	01/05/2004	2004-3/44
Environmental Quality					
<u>Air Quality</u>					
R307-150	Emission Inventories	26942	5YR	02/09/2004	2004-5/43

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R307-214	National Emission Standards for Hazardous Air Pollutants	26939	5YR	02/09/2004	2004-5/44
R307-415	Permits: Operating Permit Requirements	26940	5YR	02/09/2004	2004-5/45
R307-417	Permits: Acid Rain Sources	26941	5YR	02/09/2004	2004-5/45
<u>Drinking Water</u>					
R309-705	Financial Assistance: Federal Drinking Water Project Revolving Loan Program	26760	AMD	01/01/2004	2003-22/19
<u>Water Quality</u>					
R317-2	Standards of Quality for Waters of the State	26242	CPR	01/06/2004	2003-18/35
R317-2	Standards of Quality for Waters of the State	26242	AMD	01/06/2004	2003-10/27
Health					
<u>Children's Health Insurance Program</u>					
R382-10	Eligibility	26757	AMD	01/05/2004	2003-22/21
<u>Health Care Financing, Coverage and Reimbursement Policy</u>					
R414-9	Federally Qualified Health Centers	26854	NEW	02/03/2004	2004-1/26
R414-50	Dental, Oral and Maxillofacial Surgeons	26802	AMD	01/28/2004	2003-24/13
R414-51	Dental, Orthodontia	26782	AMD	01/28/2004	2003-23/25
R414-52	Optometry Services	26798	AMD	01/01/2004	2003-23/27
R414-53	Eyeglasses Services	26783	AMD	01/28/2004	2003-23/28
R414-54	Speech-Language Pathology Services	26803	AMD	01/28/2004	2003-24/14
R414-58	Children's Organ Transplants	26935	5YR	02/03/2004	2004-5/46
R414-99	Chiropractic Services	26809	NEW	02/17/2004	2003-24/15
R414-300	Primary Care Network, Covered-at-Work Demonstration Waiver	26811	NEW	02/10/2004	2003-24/17
R414-304	Income and Budgeting	26781	AMD	01/01/2004	2003-23/29
R414-310	Medicaid Primary Care Network Demonstration Waiver	26810	AMD	02/10/2004	2003-24/18
<u>Health Systems Improvement, Emergency Medical Services</u>					
R426-13	Emergency Medical Services Provider Designations	26669	AMD	01/01/2004	2003-20/7
R426-14	Ambulance Service and Paramedic Service Licensure	26670	AMD	01/01/2004	2003-20/10
R426-15	Licensed and Designated Provider Operations	26671	AMD	01/01/2004	2003-20/14
<u>Health Systems Improvement, Licensing</u>					
R432-1	General Health Care Facility Rules	26868	5YR	01/05/2004	2004-3/44
R432-2	General Licensing Provisions	26876	5YR	01/05/2004	2004-3/45
R432-3	General Health Care Facility Rules Inspection and Enforcement	26875	5YR	01/05/2004	2004-3/45
R432-4	General Construction	26869	5YR	01/05/2004	2004-3/46
R432-5	Nursing Facility Construction	26877	5YR	01/05/2004	2004-3/46
R432-6	Assisted Living Facility General Construction	26886	5YR	01/08/2004	2004-3/47
R432-100-16	Emergency Care Services	26755	AMD	01/09/2004	2003-22/24
Human Services					
<u>Administration</u>					
R495-879	Parental Support for Children in Care	26822	AMD	01/26/2004	2003-24/27
<u>Recovery Services</u>					
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ABBREVIATIONS

AMD = Amendment
 CPR = Change in proposed rule
 EMR = Emergency rule (120 day)
 NEW = New rule
 EXD = Expired
 NSC = Nonsubstantive rule change
 REP = Repeal
 R&R = Repeal and reenact
 5YR = Five-Year Review

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	26798	R414-52	AMD	01/01/2004	2003-23/27
	26783	R414-53	AMD	01/28/2004	2003-23/28
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	26809	R414-99	NEW	02/17/2004	2003-24/15
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