

UTAH STATE BULLETIN

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

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

The information in this *Bulletin* is summarized in the *Utah State Digest (Digest)*. The *Digest* is available by E-mail or over the Internet. Visit <http://www.rules.utah.gov/publicat/digest.htm> for additional information.

Division of Administrative Rules, Salt Lake City 84114

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EDITOR'S NOTES

Legislation Which Affects Rulemaking

The 56th Legislature's 2005 General Session concluded on Wednesday, March 2, 2005. During the session, two bills and one resolution passed that affect administrative rules in general.

H.B. 37. "Administrative Rules Reauthorization" (Rep. D. Ure)

The Reauthorization bill is the Administrative Rules Review Committee's annual bill required by Section 63-46a-11.5. It reauthorizes all rules.

Governor Huntsman signed H.B. 37 on March 21, 2005. The bill provides for an effective date of May 1, 2005. More information about H.B. 37 is available at <http://www.le.state.ut.us/~2005/htmdoc/hbillhtm/hb0037.htm>.

S.B. 101. Utah Administrative Rulemaking Act Revision (Sen. H. Stephenson)

S.B. 101 fixes an inconsistency in rulemaking authorizations within Title 9. In prior years, bills have permitted some agencies to "revoke" rules. The term "revoke" is not defined, nor is it used in the Rulemaking Act. This bill replaces the word revoke with the Rulemaking Act's term, "repeal."

Additionally, the bill makes a minor change to Section 63-46a-4, adding a new Subsection (1) that provides, "An agency authorized to make rules is also authorized to amend and repeal those rules." This change also requires a minor change in Subsection 53C-1-201(3)(c)(v).

Governor Huntsman signed S.B. 101 on March 10, 2005. The bill became effective May 2, 2005. More information about S.B. 101 is available at <http://www.le.state.ut.us/~2005/htmdoc/sbillhtm/sb0101.htm>.

S.J.R. 4. Joint Rules Resolution - Interim Rules Recodification (Sen. M. Waddoups)

S.J.R. 4 modifies the legislative rules that govern interim committees. Section 8 of the resolution enacts IR2-2-102 that provides for "Review of Rules Referred by Administrative Rules Review Committee." The rule provides that an interim committee may review a rule referred by the administrative rules review committee "and make recommendations to the Legislative Management Committee and the Administrative Rules Review Committee about whether or not the rule should be repealed."

As a resolution, S.J.R. 4 does not require the Governor's signature. S.J.R. 4 passed on January 27, 2005. More information about S.J.R. 4 is available at <http://www.le.state.ut.us/~2005/htmdoc/sbillhtm/sjr004.htm>.

Additional Information

Additional information about the 2005 General Session and specific legislation is available from the Legislature's Office of Legislative Research and General Counsel at: <http://www.le.state.ut.us/~2005/2005.htm>. The Legislature's home page can be found at: <http://le.utah.gov/>.

Questions about this legislation may be directed to Ken Hansen, Director, Division of Administrative Rules, 4120 State Office Building, Salt Lake City, UT 84114-1201, phone: 801-538-3777, FAX: 801-538-1773, or Internet E-mail: khansen@utah.gov

End of the Editor's Notes Section

SPECIAL NOTICES

Commerce Administration

Public Hearing on Proposed Modified Fee Schedule for Services Provided and Costs Incurred by the Department of Commerce During Fiscal Year 2006

The Department of Commerce will hold a hearing on Monday, May 23, 2005, at 9:00 a.m. at the Heber M. Wells Building, 160 East 300 South, Room 210, Salt Lake City, Utah.

The purpose of the hearing is to obtain public comment on a proposed modified schedule for two fees which could be assessed for services provided and costs which would be incurred by two divisions within the Department. The proposed fees could become effective after the hearing. The proposed modified fee schedule supplements the Department's fee schedule approved by the Legislature during its 2005 General Session. Subsection 63-38-3.2(5)(a) of the Budgetary Procedures Act provides an agency may establish and assess regulatory fees without legislative approval. That statute governs the process for the interim assessment of such fees prior to subsequent legislative approval.

Background: Various divisions of the Department assess fees for licensure, registration, or certification of individuals and businesses to engage in certain occupations and professions. Copies of the proposed modified fee schedule will be distributed at the May 23, 2005 hearing.

For further information, please contact Kevin Funk at (801) 530-6293.

Governor's Executive Order 2005-0005: Creating the Utah Commemorative Quarter-Dollar Coin Commission

EXECUTIVE ORDER

Creating the Utah Commemorative Quarter-Dollar Coin Commission

WHEREAS, in 1997 the United States Congress enacted Public Law 105-124, known as the 50 States Commemorative Coin Program Act (the "Act");

WHEREAS, the Act provides for issuance of a commemorative quarter-dollar coin for each of the 50 states during a 10-year period, with five coins being issued each year;

WHEREAS, the Utah quarter-dollar coin is scheduled to be issued in October 2007;

WHEREAS, the design for the Utah quarter-dollar coin will be selected by the Secretary of the United States Department of the Treasury in consultation with the Governor and in accordance with guidelines adopted by the United States Mint;

WHEREAS, the United States Mint has invited the State to submit between three and five narrative recommendations for design of the Utah quarter-dollar coin;

WHEREAS, it is desirable that each resident of the State of Utah have the opportunity to submit a recommendation as to the design of the Utah commemorative quarter-dollar coin; and

WHEREAS, it is necessary and desirable to establish a commission to assist in facilitating public input regarding the design of the Utah quarter;

NOW, THEREFORE, I, Jon M. Huntsman, Jr., Governor of the State of Utah, by virtue of the authority vested in me by the laws and constitution of the state of Utah, hereby order the following:

1. There is created the Utah Commemorative Quarter-dollar coin Commission.

2. The Commission shall have no more than nine members and shall be comprised of individuals selected by the Governor to represent the Utah Arts Council, the proposed Department of Community and the Arts, the Division of State History, the Office of the Governor, the Division of Travel and Tourism Development, the Utah State Legislature, the State Office of Education and the graphic design industry.

3. The Commission shall:

a. Develop an orderly process that complies with the requirements and guidelines of the United States Mint and that allows any Utahn to submit a narrative recommendation for design of the Utah quarter to the Commission.

b. Establish a format and deadline for submission of recommendations to the Commission.

c. Publicize the process and invite participation through news releases, public service announcements, and other reasonable methods.

d. Establish a website with information and requirements for submission of recommendations.

e. Encourage recommendations that are forward-looking as well as those that are historical.

f. Organize recommendations received by category or subject matter, group duplicate recommendations, and make the recommendations available for public review. The Commission may disregard any recommendations that do not comply with the requirements and guidelines.

g. Between January 3 and January 31, 2005, coordinate with the Governor regarding the process, method and timing for selection of the 3-5 narrative design recommendations that will be submitted to the U. S. Mint.

h. Submit no more than 50 recommendations to the Governor's Executive Committee no later than June 15, 2005.

i. Submit the selected recommendations to the U. S. Mint no later than July 2, 2005, or such other time as the U. S. Mint directs.

j. After receiving concept drawings from the U. S. Mint, issue a press release that includes copies of the drawings.

k. Assist the Governor in selection of the final design and submission to the U. S. Mint prior to the deadline established by the U. S. Mint.

4. The Director of the Utah Arts Council shall serve as the chair of the Commission. The chair, in consultation with the other members of the Commission, shall plan agendas and hold meetings of the Commission.

5. The Commission shall meet as often as necessary to perform its duties, and shall meet at least quarterly.

6. The Commission shall serve without per diem or expenses.

7. Commission members shall be appointed by the Governor and serve at the pleasure of the Governor with terms anticipated to expire in accordance with provision 11 of this Order.

8. A majority of the Commission constitutes a quorum for meeting and voting purposes.

9. The agencies and offices represented on the Commission may provide staff support within existing budgets and may request appropriations in future budgets to cover the expenses of the Commission.

10. The Commission may establish committees and working groups of volunteers to assist in the work of the Commission.

11. This order shall remain in effect until thirty days after the Utah quarter-dollar coin is issued by the U. S. Mint unless sooner revoked or supplanted by Executive Order.

12. This Executive Order supersedes and replaces Executive Order No. 2004-9.

IN WITNESS, WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah. Done in Salt Lake City, Utah this 11th day of February, 2005.

(State Seal)

Jon M. Huntsman, Jr.
Governor

ATTEST:

Gary R. Herbert
Lieutenant Governor

2005/0005

Governor's Executive Order 2005-0006: Violence Against Women in the Workplace

EXECUTIVE ORDER

Violence Against Women in the Workplace

WHEREAS, the term violence against women is defined as any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivations of liberty, whether occurring in public or private life; and

WHEREAS, specifically, domestic violence is defined as a pattern of coercive tactics that can include physical, psychological, sexual, and emotional abuse, perpetrated by one person against a cohabitant, with the goal of establishing control and power over the victim; and

WHEREAS, specifically, sexual violence is defined as one person forcing another person to have sex, or perform sexual acts, through coercion, manipulation, threats, physical restraint or physical violence; and

WHEREAS, the Violence Against Women and Families Cabinet Council has been established to assist in the coordination and prevention of domestic and sexual violence against all individuals living and working in the State of Utah; and

WHEREAS, we have a general duty to provide a work environment that is safe from all forms of violence including violence against women perpetrated within the workplace; and

WHEREAS, we must not tolerate harassment of state employees within state offices, facilities, work sites, or vehicles, or the display of violent, aggressive, or threatening behavior that results in physical or emotional injury to any employee;

NOW THEREFORE, I, Jon M. Huntsman Jr., Governor of the State of Utah, prohibit violence against women in each workplace in which state employees and employees of public and higher education are required to conduct business and order the director of each department in state government to establish a policy prohibiting violence against women in the workplace.

The policy shall contain:

1. a statement of zero tolerance for domestic and sexual violence in the workplace;

2. carefully designed procedures to protect the rights and address the needs of employees who are victims of domestic and sexual violence to include:
establishment of safety procedures;
protection of privacy and confidentiality;
access to information for personal counseling or to the department Employee Assistance program where available;
adjustments in work schedule and use of leave consistent with Department of Human Resource Management rule R477-8;
3. a prohibition on the use of state facilities, resources, or time to facilitate and perpetuate violence against women;
4. a provision for the discipline of employees who violate this policy consistent with Department of Human Resource Management rule R477-11;
5. access to information for personal counseling or to the department Employee Assistance program where available for employees who are perpetrators and who voluntarily seek assistance;
6. training for managers and supervisors on prevention and appropriate response to violence against women which impacts or disrupts the workplace;
7. any other provision that appears to the department director to materially further the purposes of this order.

This Executive Order supercedes and replaces "Domestic Violence in the Workplace" dated the 4th day of June, 1999.

IN WITNESS WHEREOF, I have here unto set my hand and cause to be affixed the Great Seal of the State of Utah. Done in Salt Lake City, Utah, this 28th day of April 2005.

(State Seal)

Jon M. Huntsman Jr.
Governor

ATTEST:

Gary R. Herbert
Lieutenant Governor

2005/0006

End of the Special Notices Section

NOTICES OF PROPOSED RULES

A state agency may file a PROPOSED RULE when it determines the need for a new rule, a substantive change to an existing rule, or a repeal of an existing rule. Filings received between April 16, 2005, 12:00 a.m., and May 2, 2005, 11:59 p.m. are included in this, the May 15, 2005, 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 June 14, 2005. 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 September 12, 2005, the agency may notify the Division of Administrative Rules that it wants to make the PROPOSED RULE effective. The agency sets the effective date. The date may be no fewer than 31 days nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file a CHANGE IN PROPOSED RULE in response to comments received. If the Division of Administrative Rules does not receive a NOTICE OF EFFECTIVE DATE or a CHANGE IN PROPOSED RULE, the PROPOSED RULE filing lapses and the agency must start the process over.

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

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

The Proposed Rules Begin on the Following Page.

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

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 27848

FILED: 04/29/2005, 14:00

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule is being revised as the result of a division review of current reimbursement rates and practices. The review showed the following: 1) because Finance adopts the federal mileage rate as the state reimbursement rate for a private vehicle if a fleet vehicle is not available to the employee, Finance needs to increase the state mileage reimbursement rate. Although the federal government changed its rate in January 2005, Finance changes the state rate only once a year, at the beginning of the fiscal year; 2) because the Division of Fleet Operations has determined that the cost of operating a fleet vehicle has not changed, Finance does not need to increase the reimbursement rate for an employee who chooses to drive a private vehicle when a state fleet vehicle is available; 3) because the federal government does not include parking expenses in the standard mileage rate, Finance needs to change the rule to reimburse employees for parking expenses in addition to the mileage reimbursement; 4) because the Appropriations Act no longer includes intent language directing that the mileage reimbursement rate authorized in Section R25-7-10 also be applied to legislative staff, the Judicial Branch, and to the Utah System of Higher Education, Finance needs to remove the Appropriations Act as an authority for the rule; 5) because Section R25-7-7 establishes meal per diem for statutory non-salaried state boards, Finance should add as authority for the rule, Subsection 63A-3-106 which authorizes the Division of Finance to establish per diem rates to meet subsistence expenses for attending official meetings; 6) because the current lodging per diem for Price, UT is not sufficient, Finance needs to increase the rate; and 7) because Finance uses the IRS meal per diem to generate our list of premium cities, the list in the rule needs to be revised. The IRS now reimburses for Arlington at its highest rate but does not reimburse for Atlanta at the highest rate.

SUMMARY OF THE RULE OR CHANGE: The rule was amended to: 1) change the reimbursement rate for private vehicle mileage to 40-1/2 cents per mile, the federal mileage rate, when a state fleet vehicle is not available to the employee; 2) reimburse employees for parking charges when they drive a private vehicle on official state business and receive a mileage reimbursement; 3) remove the Appropriations Acts of 2000, 2001, 2002, 2003, and 2004 as authorities for this rule; 4) add Section 63A-3-106 as authority for this rule; 5) increase the lodging per diem for Price, UT from \$55 per night plus tax to \$60 per night plus tax; and 6) add Arlington to the list of premium cities for meal per diem and remove Atlanta from the list.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 63A-3-107 and 63A-3-106

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: Amending this rule will result in a cost to the state budget. State agencies will spend more to reimburse some travel expenses. They will spend 3-1/2 cents more for each private vehicle mile they reimburse when a fleet vehicle is not available to the employee. In addition, agencies will now reimburse parking expenses for an employee who drives a private vehicle on official state business and receives a mileage reimbursement. They also will spend \$5 more per night when they reimburse lodging for Price, UT. Agencies may spend more for meal per diem if they allow employees to travel to Arlington. However, if agencies allow employees to travel to Atlanta, they may spend less for meal per diem, resulting in a savings to the state budget. Finance cannot anticipate the aggregate cost or savings to the state budget for the following reasons: 1) Finance does not know how many state employees agencies will reimburse for mileage when a fleet vehicle is not available; 2) Finance does not know how many total miles agencies will reimburse; 3) Finance does not know how many employees agencies will reimburse for parking; 4) Finance does not know the amount of each parking reimbursement; 5) Finance does not know how many nights' lodging in Price, UT agencies will reimburse; 6) Finance does not know how many employees agencies will allow to travel to Arlington and Atlanta; and 7) Finance does not know the cost of the meals agencies will reimburse for Arlington and Atlanta.

❖LOCAL GOVERNMENTS: This rule applies only to state agencies and state employees and, therefore, will have no impact on local government.

❖OTHER PERSONS: The amendments to this rule may result in additional reimbursement (savings) to employees who travel on business. Employees who drive a personal vehicle for business will receive 3-1/2 cents more per mile driven when a fleet vehicle is not available. Employees will realize additional savings because they will now receive reimbursement for parking charges when they also receive a mileage reimbursement, and they will receive \$5 more for each night's lodging in Price, UT. The only possible cost to state employees might be for those who are allowed to travel to Atlanta. If they choose to purchase meals costing more than the out-of-state travel meal allowance and are not allowed to claim the premium city meal allowance, they will have to pay out-of-pocket for the part of the meal cost that is more than the regular out-of-state travel meal allowance. Finance cannot anticipate the aggregate savings or cost impact on employees for the following reasons: 1) Finance does not know how many state employees will receive a mileage reimbursement when a fleet vehicle is not available; 2) Finance does not know how many total miles those employees will drive; 3) Finance does not know how many employees will receive reimbursement for parking; 4) Finance does not know the amount of each parking reimbursement; 5) Finance does not know how many nights' lodging in Price employees will be reimbursed for; 6) Finance does not know how many employees will travel to Arlington and Atlanta; and 7) Finance does not know the cost of the meals employees will be reimbursed for in Arlington and Atlanta.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The only possible compliance costs associated with any revisions to Rule R25-7 might be for employees who are allowed to travel to Atlanta. If they choose to purchase meals costing more than the out-of-state travel meal allowance and are not allowed to claim the premium city meal allowance, they will have to pay out-of-pocket for the part of the meal cost that is more than the regular out-of-state travel meal allowance. There are no other compliance costs associated with revisions to Rule R25-7. If an agency chooses to permit employees to travel, any other costs resulting from compliance with these amendments will be paid by the agency, not by employees (the affected persons). In fact, employees who are allowed to travel will actually receive additional reimbursement as a result of the amendments.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Amendments to Rule R25-7 apply only to state agencies and state employees and have no impact on businesses. D'Arcy Dixon Pignanelli, Executive Director

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

ADMINISTRATIVE SERVICES
 FINANCE
 Room 2110 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:
 Teddy Cramer at the above address, by phone at 801-538-3450, by FAX at 801-538-3244, or by Internet E-mail at tcramer@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 06/14/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 07/01/2005

AUTHORIZED BY: John Reidhead, Deputy Director

**R25-7. Administrative Services, Finance.
 R25-7. Travel-Related Reimbursements for State Employees.
 R25-7-1. Purpose.**

The purpose of this rule is to establish procedures to be followed by departments to pay travel-related reimbursements to state employees.

R25-7-2. Authority and Exemptions.

~~[(4)]~~This rule is established pursuant to:
 (1) Section 63A-3-107, which authorizes the Division of Finance to adopt rules covering in-state and out-of-state travel~~[-]~~; and
 (2) ~~[Senate Bill 1, Line Item 60 of the 2000 legislative session (2000 Utah Laws 344), as continued by House Bill 1, Item 57 of the 2001 legislative session (2001 Utah Laws 334), Senate Bill 1, Item~~

~~49 of the 2002 legislative session (2002 Utah Laws 277), House Bill 1, Item 52 of the 2003 legislative session (2003 Utah Laws 342), and Senate Bill 1, Item 50 of the 2004 legislative session, contains intent language directing that the mileage reimbursement rate authorized in Section R25-7-10 also be applied to legislative staff, the Judicial Branch and to the Utah System of Higher Education.]Section 63A-3-106, which authorizes the Division of Finance to establish per diem rates to meet subsistence expenses for attending official meetings.~~

R25-7-6. Reimbursement for Meals.

- (1) State employees who travel on state business may be eligible for a meal reimbursement.
- (2) The reimbursement will include tax, tips, and other expenses associated with the meal.
- (3) Allowances for in-state travel differ from those for out-of-state travel.
 - (a) The daily travel meal allowance for in-state travel is \$30.00 and is computed according to the rates listed in the following table.

TABLE 1

In-State Travel Meal Allowances

Meals	Rate
Breakfast	\$6.00
Lunch	\$9.00
Dinner	\$15.00
Total	\$30.00

- (b) The daily travel meal allowance for out-of-state travel is \$38.00 and is computed according to the rates listed in the following table.

TABLE 2

Out-of-State Travel Meal Allowances

Meals	Rate
Breakfast	\$9.00
Lunch	\$11.00
Dinner	\$18.00
Total	\$38.00

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

- (a) The traveler will qualify for premium rates on the day the travel begins and/or the day the travel ends only if the trip is of sufficient duration to qualify for all meals on that day.
- (b) Complimentary meals of a hotel, motel and/or association and meals included in registration costs are deducted from the \$50 premium allowance as follows:
 - (i) If breakfast is provided deduct \$12, leaving a premium allowance for lunch and dinner of actual up to \$38.
 - (ii) If lunch is provided deduct \$15, leaving a premium allowance for breakfast and dinner of actual up to \$35.
 - (iii) If dinner is provided deduct \$23, leaving a premium allowance for breakfast and dinner of actual up to \$27.
- (c) The traveler must use the same method of reimbursement for an entire day.
- (d) Actual meal cost includes tips.
- (e) Alcoholic beverages are not reimbursable.

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

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

(b) Actual meal cost includes tips.

(c) Alcoholic beverages are not reimbursable.

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

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

TABLE 3
The Day Travel Begins

1st Quarter a.m. 12:01-6:00 *B, L, D In-State	2nd Quarter a.m. 6:01-noon *L, D	3rd Quarter p.m. 12:01-6:00 *D	4th Quarter p.m. 6:01-midnight *no meals
\$30.00	\$24.00	\$15.00	\$0
Out-of-State \$38.00	\$29.00	\$18.00	\$0

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

(b) The days at the location.

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

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

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

TABLE 4
The Day Travel Ends

1st Quarter a.m. 12:01-6:00 *no meals In-State	2nd Quarter a.m. 6:01-noon *B	3rd Quarter p.m. 12:01-7:00 *B, L	4th Quarter p.m. 7:01-midnight *B, L, D
\$0	\$6.00	\$15.00	\$30.00
Out-of-State \$0	\$9.00	\$20.00	\$38.00

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

(7) An employee may be authorized by his Department Director or designee to receive a meal allowance when his destination is at least 100 miles from his home base and he does not stay overnight.

(a) Breakfast is paid when the employee leaves his home base before 6:01 a.m.

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

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

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

(iii) The Department Director provides prior written approval based on circumstances.

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

(d) The allowance is not considered an absolute right of the employee and is authorized at the discretion of the Department Director or designee.

R25-7-8. Reimbursement for Lodging.

State employees who travel on state business may be eligible for a lodging reimbursement.

(1) Lodging is reimbursed for single occupancy only.

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

(a) Moab, Cedar City, and St. George - \$65 per night plus tax

(b) Metropolitan Salt Lake City (Draper to Centerville), Park City, Tooele, Heber City, and Midway - \$68 per night plus tax

(c) Ogden, Layton, and Provo/Orem - \$63 per night plus tax

(d) Price - \$60 per night plus tax

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

R25-7-10. Reimbursement for Transportation.

State employees who travel on state business may be eligible for a transportation reimbursement.

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

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

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

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

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

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

(a) The maximum reimbursement for parking, whether travelers park at the airport or away from the airport, is the airport long-term parking rate.

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

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

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

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

(b) Reimbursement for a private vehicle will be at the rate of 32 cents per mile, or ~~37~~40 1/2 cents per mile if a state fleet vehicle is not available to the employee.

(c) Agencies may establish a reimbursement rate that is more restrictive than the rate established in this Section.

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

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

(f) ~~[The mileage rate is all-inclusive, and additional expenses such as parking and storage will not be allowed unless approved in writing by the Department Director.]~~ If the traveler uses a private vehicle on official state business and is reimbursed for mileage, parking charges may be reimbursed as an incidental expense.

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

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

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

(a) If the traveler drives a state-owned vehicle, the traveler may be reimbursed for meals and lodging for a reasonable amount of travel time; however, the total cost of the trip must not exceed the equivalent cost of the airline trip. The traveler may also be reimbursed for incidental expenses such as toll fees and parking fees.

(b) If the traveler drives a privately-owned vehicle, reimbursement will be at the rate of 32 cents per mile or the airplane fare, whichever is less, unless otherwise approved by the Department Director.

(i) The lowest fare available within 30 days prior to the departure date will be used when calculating the cost of travel for comparison to private vehicle cost.

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

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

(d) ~~[These reimbursements are all-inclusive, and additional expenses such as parking and toll fees will not be allowed unless approved in writing by the Department Director.]~~ If the traveler uses a private vehicle on official state business and is reimbursed for mileage, parking charges may be reimbursed as an incidental expense.

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) If the plane is a rental, the pilot must provide written certification from the rental agency that his insurance covers the

traveler and the state as insured. The insurance must be adequate to cover any physical damage to the plane and at least \$500,000 for liability coverage.

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

(e) Mileage calculation is based on air mileage and is limited to the most economical, usually-traveled route.

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

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

KEY: air travel, per diem allowances, state employees, transportation

July [2, 2004] 1, 2005

Notice of Continuation May 1, 2003

63A-3-107

63A-3-106

[2000 Utah Laws 344

2001 Utah Laws 334

2002 Utah Laws 277

2003 Utah Laws 342

S.B. 1 Item 50, 2004 General Session]



**Alcoholic Beverage Control,
Administration
R81-4D-14
Reporting Requirement**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 27847

FILED: 04/29/2005, 13:53

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: In S.B. 65, the 2005 legislature added a provision to the On-Premise Banquet License statute that requires the banquet licensee to provide the Department of Alcoholic Beverage Control (DABC) with advance notice of a scheduled banquet "in accordance with the rules of the commission." This rule amendment is proposed to implement this new legislation. (DAR NOTE: S.B. 65 is found at UT L 2005 Ch 152, and was effective 05/02/2005.)

SUMMARY OF THE RULE OR CHANGE: This proposed rule amendment establishes procedures for on-premise banquet licensees to report scheduled banquet events to the DABC to allow random inspection of banquets by authorized representatives of the commission, the department, or by law enforcement officers to monitor compliance with the alcoholic beverage control laws. This rule proposes the reports be made on a quarterly basis and establishes how the

department will maintain and disperse the information in the reports.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 32A-4-406(24)

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: There may be a possible savings of time and resources to the state budget in that the State Bureau of Investigation will be better informed of events for which they may choose to schedule random overt/covert premise inspections. There will be no other foreseeable savings or costs to the state's budget.

❖LOCAL GOVERNMENTS: Similarly, there may be possible savings to local governments if local law enforcement agencies use the information provided by the implementation of this proposed rule amendment to schedule inspections of banquet events.

❖OTHER PERSONS: There will, no doubt, be a cost to on-premise banquet licensees as they compile the quarterly reports of scheduled events to report to the DABC. That cost will vary depending on staff salaries and data collection costs.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will, no doubt, be a cost to on-premise banquet licensees as they compile the quarterly reports of scheduled events to report to the DABC. That cost will vary depending on staff salaries and data collection costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The overall cost to businesses affected by this proposed rule amendment will be minimal when compared to the usefulness of the information to law enforcement agencies. In most cases, the reports will consist of information already compiled and available to licensees and will require simply submitting the information to DABC. Kenneth F. Wynn

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

ALCOHOLIC BEVERAGE CONTROL
ADMINISTRATION
1625 S 900 W
SALT LAKE CITY UT 84104-1630, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Sharon Mackay at the above address, by phone at 801-977-6800, by FAX at 801-977-6889, or by Internet E-mail at smackay@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 06/14/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 06/15/2005

AUTHORIZED BY: Kenneth F. Wynn, Director

R81. Alcoholic Beverage Control, Administration.**R81-4D. On-Premise Banquet License.****R81-4D-14. Reporting Requirement.**

(1) Authority. This rule is pursuant to the commission's powers and duties under 32A-1-107 to act as a general policymaking body on the subject of alcoholic beverage control and to set policy by written rules that prescribe the conduct and management of any premises upon which alcoholic beverages may be sold, consumed, served, or stored, and pursuant to 32A-4-406(24).

(2) Purpose. This rule implements the requirement of 32A-4-406(24) that requires the commission to provide by rule procedures for on-premise banquet licensees to report scheduled banquet events to the department to allow random inspections of banquets by authorized representatives of the commission, the department, or by law enforcement officers to monitor compliance with the alcoholic beverage control laws.

(3) Application of the Rule.

(a) An on-premise banquet licensee shall file with the department at the beginning of each quarter a report containing advance notice of events or functions that have been scheduled for that quarter to be held under a banquet contract as defined in R81-4D-1.

(b) The quarterly reports are due on or before January 1, April 1, July 1, and October 1 of each year.

(c) The department shall make copies of the reports available to a commissioner, authorized representative of the department, and any law enforcement officer upon request to be used for the purpose stated in Section (2).

(d) The department shall retain a copy of each report until the end of each reporting quarter.

(e) Failure of an on-premise banquet licensee to timely file the quarterly reports is grounds for disciplinary action pursuant to 32A-1-119, 32A-4-406, and R81-1-6 and -7.

KEY: alcoholic beverages

~~June 1, 2004~~ 2005

32A-1-107

32A-4 Part 4

▼ ————— ▼

**Commerce, Occupational and
Professional Licensing**

R156-26a

**Certified Public Accountant Licensing
Act Rules**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 27835

FILED: 04/21/2005, 11:10

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division and the Utah Board of Accountancy are amending the rule to require applicants for the AICPA (American Institute of Certified Public Accountants) examination apply directly through CPA Examination Services (CPAES) and to update peer review requirements.

SUMMARY OF THE RULE OR CHANGE: In Subsection R156-26a-102(7), updated the word "quality" to "peer". In Section R156-26a-201, made minor word changes regarding the duties and responsibilities of the Peer Review Committee. Subsection R156-26a-302a(4) is being added which provides that the application required by statute to sit for the CPA examination shall be the application submitted to CPAES rather than an additional application currently filed with the Division. CPAES is the current examination administrator. Currently applicants must first apply to the Division to have their education reviewed. After having their education approved by the Division, the applicants also apply to CPAES to actually sit for the examination. This proposed rule change eliminates the application submitted to the Division to sit for the CPA examination. The applicants will still apply to the Division for licensure after they have successfully passed the examination. CPAES has agreed to make the educational reviews required by Utah at no additional charge to what they already charge applicants to sit for the examination. CPAES is already handling this education review function for about 30 other states. If there should be a dispute of whether the applicant has met the education requirement as determined by CPAES, then the Utah Board of Accountancy would make the final determination. In Section R156-26a-303a, outdated portions of the peer review requirements are being deleted and replaced with current requirements. As a result of highly publicized financial audit failures such as Enron and other companies, the Sabanes-Oxley Act was passed the by the U.S. Congress. This statute created the Public Company Auditing Oversight Board (PCAOB). This new statute has added substantial examination of accounting firms by PCAOB.

In cases where the PCAOB examination is required, the examination is generally more extensive than was previously required under AICPA peer review standards. The proposed rule changes acknowledge that these examinations now being conducted are extensive and may be used to satisfy part or all of the peer review requirements that are required for CPA firms. By allowing this examination to satisfy part or all of the peer review requirements, it eliminates potential duplicate requirements being imposed on licensees by both state and federal agencies. In Subsection R156-26a-303b(2)(a), deleted the statute citation reference and indicated that the continuing professional education two year period ends on December 31 of each odd numbered year.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-26a-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 \$75, to reprint the rule once the proposed amendments are made effective. Any costs incurred will be absorbed in the Division's current budget. Also by allowing the CPAES to review an applicant's education, each applicant to sit for the CPA examination will save the \$30 fee currently required by the Division and will speed up the process of applying to sit for the CPA examination by about 30 to 45 days on average. The Division averages approximately 180 applicants applying for the CPA examination on a yearly basis which will result in an aggregate savings to those applicants of

\$5,400. However, it should be noted that since those applicants will be saving that amount, the Division will receive that much less in application fees on a yearly basis thus resulting in a cost to the Division.

❖LOCAL GOVERNMENTS: Proposed amendments do not apply to local governments; therefore no costs or savings are anticipated.

❖OTHER PERSONS: By allowing the CPAES to review an applicant's education, each applicant to sit for the CPA examination will save the \$30 fee currently required by the Division and will speed up the process of applying to sit for the CPA examination by about 30 to 45 days on average. The Division averages approximately 180 applicants applying for the CPA examination on a yearly basis which will result in an aggregate savings to those applicants of \$5,400. However, it should be noted that since those applicants will be saving that amount, the Division will receive that much less in application fees on a yearly basis.

COMPLIANCE COSTS FOR AFFECTED PERSONS: By allowing the CPAES to review an applicant's education, each applicant to sit for the CPA examination will save the \$30 fee currently required by the Division and will speed up the process of applying to sit for the CPA examination by about 30 to 45 days on average.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule change allows applicants to apply directly to the examination authority for review of their education, allows peer reviews to be conducted by regulatory bodies whose standards have been approved by the licensing board, and makes technical amendments. These changes will likely result in savings to applicants and faster processing of applications. No further fiscal impact to businesses is foreseen. Russell Skousen, Executive Director

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Dan S. Jones or Clyde Ormond at the above address, by phone at 801-530-6720 or 801-530-6254, by FAX at 801-530-6511 or 801-530-6511, or by Internet E-mail at dansjones@utah.gov or 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 06/14/2005

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 6/01/2005 at 1:00 PM, Heber Wells Bldg, 160 E 300 S, Conference Room 428, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 06/16/2005

AUTHORIZED BY: J. Craig Jackson, Director

**R156. Commerce, Occupational and Professional Licensing.
R156-26a. Certified Public Accountant Licensing Act Rules.
R156-26a-102. Definitions.**

In addition to the definitions in Title 58, Chapters 1 and 26a, as defined or used in these rules:

(1) "Administering organization" means an organization approved by the Division of Occupational and Professional Licensing and the Utah Board of Accountancy which will administer peer reviews in the Peer Review Program.

(2) "AICPA" means American Institute of Certified Public Accountants.

(3) "Incidental to regular practice" as defined in Subsection 58-26a-305(1)(a) is further defined to mean:

(a) An individual or a firm licensed as a certified public accountant or equivalent designation in any other state, district, or territory of the United States or any foreign country may perform services in this state for a client whose principal office or residence is located outside of this state as long as the services are incidental to primary services being performed outside of this state for that client.

(b) An individual or firm licensed in another jurisdiction, as incidental to their practice in such other jurisdiction, may advertise in this state that their services are available by any means including, but not limited to television, radio, newspaper, magazine or Internet advertising provided such representations are not false, misleading or deceptive; and provided that such individual or firm does not establish a CPA/Client relationship to perform services requiring a CPA license or CPA firm registration with any individual, business or other legal entity having its principal office or residence in this state without first obtaining a CPA license and CPA firm registration in this state.

(c) Incidental to regular practice in another jurisdiction includes a licensed CPA or equivalent designation continuing a CPA/Client relationship with an individual which originated while the client's residence was located outside of this state but thereafter the client moved their residence to this state.

(4) "Qualified continuing professional education (CPE)" as used in these rules means continuing education that meets the standards set forth in Section R156-26a-303b.

(5) "Standard setting bodies" means the Financial Accounting Standards Board, the Government Accounting Standards Board, the American Institute of Certified Public Accountants, the Securities and Exchange Commission, and the Federal Accounting Standards Advisory Board and other generally recognized standard setting bodies.

(6) "Unprofessional conduct" as defined in Title 58, Chapters 1 and 26a, is further defined, in accordance with Subsection 58-1-203(5), in Section R156-26a-501.

(7) "Year of review" means the calendar year during which a [quality]peer review is to be conducted.

R156-26a-201. Advisory Peer Committees Created - Membership - Duties.

(1) There is created in accordance with Subsection 58-1-203(6), the Education Advisory Committee to the Utah Board of Accountancy consisting of one full-time faculty from each college or university in Utah which has an accredited program as set forth in

Section R156-26a-302a, a majority of which committee are to be licensed CPAs.

(a) The Education Advisory Committee shall be appointed and serve in accordance with Section R156-1-204.

(b) The duties and responsibilities of the Education Advisory Committee shall include assisting the division in collaboration with the board in their duties, functions, and responsibilities defined in Section 58-1-202 as follows:

(i) reviewing an applicant's transcript of credits to determine satisfactory completion of the education requirements prior to approving the applicant to take the qualifying examination and advising the board as to the acceptability of an educational institution.

(c) The committee shall consider the following when advising the board of the acceptability of the educational institution:

(i) the institution's accreditation, the acceptability by other state licensing boards, faculty qualifications and other educational resources.

(2) There is created in accordance with Subsection 58-1-203(6), the Peer Review Committee to the Utah Board of Accountancy consisting of not more than ten licensed CPAs.

(a) The committee shall be appointed and serve in accordance with Section R156-1-204.

(b) The duties and responsibilities of the Peer Review Committee shall include ~~administration of~~ advising the Utah Board of Accountancy on peer reviews matters ~~in which the Division is the administering organization~~ and shall include:

(i) ~~[considering and accepting]~~ reviewing the results of peer reviews administered by approved organizations and requiring corrective action of firms with significant deficiencies noted in the review process when considered necessary in addition to those required by the administering organization;

(ii) evaluating compliance of CPE programs;

(iii) performing random audits to determine compliance with the CPE requirements and the standards for CPE programs;

(iv) reviewing complaints and recommending whether certain acts, practices or omissions violate the ethical standards of the profession;

(v) providing technical assistance to the division; and

(vi) serving as expert witnesses at administrative hearings.

R156-26a-302a. Qualifications for CPA Licensure - Education Requirements.

The education requirements for CPA licensure in Subsection 58-26a-302(1)(d) are defined, clarified, or established as follows:

(1) An applicant shall submit transcripts showing completion of course work consisting of a minimum of 150 semester hours (225 quarter hours) as follows:

(a) a graduate or undergraduate program within an institution whose business or accounting education program is accredited by the American Assembly of Collegiate Schools of Business (AACSB), or the Association of Collegiate Business Schools and Programs (ACBSP), from which the applicant received one of the following:

(i) a graduate degree in accounting;

(ii) a master of business administration degree which includes not less than:

(A) 24 semester hours (36 quarter hours) in upper division accounting courses covering the subjects of financial accounting, auditing, taxation, and management accounting; or

(B) 15 semester hours (23 quarter hours) graduate level accounting courses covering the subjects of financial accounting, auditing, taxation, and management accounting; or

(C) an equivalent combination of graduate and upper division accounting courses covering the subjects of financial accounting, auditing, taxation, and management accounting with one hour of graduate level course work being equivalent to 1.6 hours of upper division course work; or

(iii) a baccalaureate degree in business or accounting and 30 semester hours (45 quarter hours) beyond the requirements for a baccalaureate degree which includes not less than:

(A) 16 semester hours (24 quarter hours) in upper division accounting courses, which when combined with the accounting courses listed in Subsection (B) below, have at least one course with a minimum of two semester hours (three quarter hours) each covering the subjects of financial accounting, auditing, taxation, and management accounting;

(B) eight semester hours (12 quarter hours) in graduate level accounting courses, which when combined with the accounting courses listed in Subsection (A) above, have at least one course each covering the subjects of financial accounting, auditing, taxation, and management accounting;

(C) 12 semester hours (18 quarter hours) in upper division non-accounting business courses;

(D) 12 semester hours (18 quarter hours) in graduate level business or accounting courses; and

(E) 10 semester hours (15 quarter hours) of either graduate or upper division accounting or business courses.

(b) a graduate or undergraduate program from an institution accredited by the Northwest Association of Schools and Colleges, Commission on Colleges, or the North Central Association of Colleges and Schools, Commission on Institutions of Higher Education, or an equivalent accrediting institution from which the applicant received a baccalaureate or graduate degree with not less than:

(i) 30 semester hours (45 quarter hours) in business or related courses providing a minimum of two semester hours (three quarter hours) in each of the following subjects:

(A) business law;

(B) computers;

(C) economics;

(D) ethics;

(E) finance;

(F) statistics and quantitative methods;

(G) written and oral communications; and

(H) business administration such as marketing, production, management, policy or organizational behavior;

(ii) 24 semester hours (36 quarter hours) in upper division accounting courses with a minimum of two semester hours (three quarter hours) in each of the following subjects:

(A) auditing;

(B) finance;

(C) managerial or cost;

(D) systems; and

(E) taxes; and

(iii) 30 semester hours (45 quarter hours) beyond the requirements for a baccalaureate degree of additional business related course work including not less than:

(A) eight semester hours (12 quarter hours) in graduate accounting courses;

(B) 12 semester hours (18 quarter hours) in graduate accounting or graduate business courses; and

(C) 10 semester hours (15 quarter hours) of additional business related hours shall be taken in upper division undergraduate or graduate level courses.

(2) The division in collaboration with the board or the education subcommittee of the board may make a written finding for cause that a particular accredited institution or program is not acceptable.

(3) The Division in collaboration with the board or the education subcommittee of the board may accept education of a person who holds a license as a certified public accountant or equivalent designation in a foreign country, if the applicant has obtained from the National Association of State Boards of Accountancy (NASBA) verification of compliance with the terms of an agreement for reciprocal licensure between the foreign country and the International Qualifications Appraisal Board of NASBA, which agreement provides the applicant's examinations, education and experience is determined to be substantially equivalent to the 1994 Uniform Accountancy Act licensure requirements or a version of the Uniform Accountancy Act having substantially equivalent requirements.

(4) In accordance with Section 58-26a-306, the qualifications to sit for the AICPA examination is clarified or supplemented as follows:

(a) In accordance with Subsection 58-26a-306(1)(a), the form of application approved by the Division shall be the application that CPA Examination Services (CPAES) requires in order to sit for the examination.

(b) In accordance with Subsection 58-26a-306(1)(b), the fee shall be the fee charged by CPAES. No additional fee shall be due to the Division.

(c) In accordance with Subsections 58-26a-306(1)(c) and (d), the Board has approved CPAES to make the determination of whether the applicant has met the education requirements, provided however that, if an applicant disputes the finding of CPAES, the Board shall make a final determination of whether the applicant is qualified to sit for the AICPA examination.

R156-26a-303a. Renewal Requirements - Peer Review.

(1) General.

In accordance with Subsections 58-1-308(3)(b) and 58-26a-303(2)(b), there is created a peer review requirement as a condition for renewal of licenses issued under the Certified Public Accountant Licensing Act, providing for review of the work products of licensees and firms.

(a) The purpose of the program is to monitor compliance with applicable accounting and auditing standards adopted by generally recognized standard setting bodies. The program shall emphasize education and may include other remedial actions determined appropriate where a firm's work product and services do not comply with established professional standards. In the event a firm is unwilling or unable to comply with established standards, or intentionally disregards professional standards so as to warrant disciplinary action, the administering organization shall refer the matter to the division and shall consult with the division regarding appropriate action to protect the public interest.

(2) Scheduling of the Peer Review.

(a) A firm's initial peer review shall be assigned a due date to require that the initial review be started no later than 18 months after

the date of the issuance of its initial report as defined in Subsection 58-26a-102(16).

(b) Not less than once in each three years a firm engaged in the practice of public accounting shall undergo, at its own expense, a peer review commensurate in scope with its practice.

~~(c) The administering organization will assign the year of review. [A firm enrolled in a practice monitoring program which is administered by the American Institute of Certified Public Accountants (AICPA) will use the year of review assigned by the AICPA. The firm will notify the administering organization of the deadlines set by the AICPA.]~~

~~(d) [A peer review number will be assigned by the administering organization. The firm is required to provide this number and its registration number assigned by the division to all licensees employed by the firm. Licensees will be required to include these numbers with their application for renewal of a license to practice public accounting. A portion of the peer review may be performed by a regulatory body if the Utah Board of Accountancy approves the regulatory body as an administering organization. This does not by itself satisfy the peer review requirement unless the other standards as specified in these rules are fulfilled by the regulatory body.]~~

(3) Selection of a Peer Reviewer or inspector in the case of inspections mandated by law or regulatory bodies.

A firm scheduled for peer review shall engage a reviewer qualified to conduct the peer review. Regulatory bodies will assign inspectors.

(4) Qualifications of a Peer Reviewer and inspectors.

(a) Peer reviewers must provide evidence of one of the two following minimum qualifications to the administering organization:

- (i) acceptance as a peer reviewer by the AICPA; or
- (ii) compliance with the qualifications required by the AICPA to qualify as a peer reviewer.

(b) Peer reviewers must be licensed or hold a permit to practice as a CPA in the state of Utah or another state or jurisdiction of the United States.

(c) The administering organization will approve reviewers for those reviews not administered by the AICPA.

(d) Regulatory bodies will determine the qualifications of inspectors.

(5) Conduct of the Peer Review or inspection. Peer reviews shall be conducted as follows:

(a) Standards for review: Peer reviews shall be conducted according to the "Standards for Performing and Reporting on Peer Reviews" promulgated by the AICPA, effective October 5, 1998 as amended, are hereby incorporated by reference and adopted as the minimum standards for ~~quality~~ peer reviews of all firms. This section shall not require any firm or licensee to become a member of the AICPA or any administering organization.

(b) The Utah Board of Accountancy may review the standards used by the regulatory body to determine if those standards are sufficient to satisfy all or part of the peer review requirements, or what additional review may be required to meet the peer review requirements under these rules.

(6) Procedures in Case of Substandard Review, a Modified or Adverse Report or repeat findings.

(a) If ~~the~~an administering organization finds that a peer review was not performed in accordance with these rules or the peer review results in a modified or adverse report or in repeat findings, the Peer Review Committee may require remedial action to assure

that the review or performance of the CPA or CPA firm being reviewed meets the objectives of the peer review program.

(7) Review of Multi-State Firms.

(a) With respect to a multi-state firm, the Division may accept a peer review based solely upon work conducted outside of this state as satisfying the requirement to undergo peer review under these rules, if:

(i) the peer review is conducted during the year scheduled or rescheduled under R156-26a-303a(2);

(ii) the peer review is performed in accordance with requirements equivalent to those of this state;

(iii) the peer review:

(A) studies, evaluates and reports on the quality control system of the firm as a whole in the case of on-site reviews, or;

(B) results in an evaluation and report on selected engagements in the case of off-site reviews;

(iv) the firm's internal inspection procedures require that the firm's personnel from another office outside the state perform the inspection of the office located in this state not less than once in each three year period; and

(v) at the conclusion of the peer review, the peer reviewer issues a report equivalent to that required by R156-26a-303a(6) or in the case of an approved regulatory body, a report is issued under their standards.

(b) A multi-state firm not granted approval under R156-26a-303a(8)(a) shall undergo a peer review pursuant to these rules which shall comply with R156-26a-303a(8)(a) of the multi-state firm within this state.

(c) A multi-state firm seeking approval under R156-26a-303a(8)(a) shall submit an application to the administering organization by February 1 of the year of review establishing that the peer review it proposes to undergo meets all of the requirements of R156-26a-303a(5).^[11]

~~(d) A multi-state firm shall submit the peer review report it receives to the Utah administering organization as required by R156-26a-303a(6) within 30 days of acceptance.~~

(8) Exemption.

(a) A firm which does not perform services encompassed in the scope of minimum standards as set out in R156-26a-303a(5)(b) or (c) is exempt from peer review and shall notify the Division of Occupational and Professional Licensing of the exemption at the time of renewal of its registration. A firm which begins providing these services must commence a peer review within 18 months of the date of the issuance of its initial report as defined in Subsection 58-26a-102(16).

(9) Mergers, Combinations, Dissolutions or Separations.

(a) Mergers or combinations: In the event that two or more firms are merged or sold and combined, the surviving firm shall retain the year of review of the largest firm.

(b) Dissolutions or separations: In the event that a firm is divided, the new firms shall retain the year of review of the former firm. In the event that this period is less than 12 months, a new year shall be assigned so that the review occurs after 12 months of operation.

(c) Upon application to the administering organization and a showing of hardship caused solely by compliance with R156-26a-303a(10)(a) or (b), the Division may authorize a change in a firm's year of review.

(10) Extension.

(a) If the firm can demonstrate that the time established for the conduct of a peer review will create an unreasonable hardship upon

the firm, the Division may approve an extension not to exceed 180 days from the date the peer review was originally scheduled. A request for extension shall be addressed in writing by the firm to the Division with a copy to the administering organization responsible for administration of that firm's peer review. The written request for extension must be received by the Division and the administering organization not less than 30 days prior to the date of scheduled review or the request will not be considered. The Division shall inform the administering organization of the approval of any extension.

(11) Retention of Documents Relating to Peer Reviews.

(a) All documentation necessary to establish that each peer review was performed in conformity with peer review standards adopted by the board, including the peer review working papers, the peer review report, comment letters and related correspondence indicating the firm's concurrence or nonconcurrence, and any proposed remedial actions and related implementation shall be maintained.

(b) The documents described in R156-26a-303a(11)(a) shall be retained for a period of time corresponding to the designated retention period of the relevant administering organization. In no event shall the retention period be less than 90 days.

(12) Costs and Fees for Peer Review.

(a) All costs associated with firm-on-firm reviews will be negotiated between the firm and the reviewer and paid directly to the reviewer. All costs associated with committee assigned review team (CART) reviews will be set by the administering organization. The administering organization will collect the fees associated with CART reviews and pay the reviewer.

(b) All costs associated with the administration of the review process ~~including the administering organization and the PROC,~~ will be paid from fees charged to the firms. The fees will be collected by the administering organization. The schedule of fees will be included in the administering organization's proposal. The fee schedule will specify how much is to be paid each year and will be based on the firm size.^[12]

~~(13) Peer Review Administered by the Division of Occupational and Professional Licensing.~~

~~(a) Any firms not participating in a peer review program administered by an administering organization approved by the Division will be administered by the division.~~

(13) All financial statements, working papers, or other documents reviewed are confidential. Access to those documents shall be limited to being made available, upon request, to the Peer Review Committee or the technical reviewer for purposes of assuring that peer reviews are performed according to professional standards.

R156-26a-303b. Renewal and Reinstatement Requirements - Continuing Professional Education (CPE).

(1) All CPAs are required to maintain current knowledge, skills, and abilities in all areas in which they provide services in order to provide services in a competent manner. To maintain or to obtain the knowledge, skills and abilities to competently provide services, a CPA may be required to obtain CPE above and beyond the 80 minimum CPE credits specified in Section 58-26a-304.

(a) The following standards have been broadly stated in recognition of the diversity of practice and experience among CPAs. They establish a framework for the development, presentation, measurement, and reporting of CPE programs and thereby help to ensure that CPAs maintain the required knowledge, skills and

abilities necessary to competently provide services and to enable to the CPA to provide evidence of meeting the minimum CPE requirements specified under these rules.

(2) General Standards for CPAs.

(a) Standard No. 1. All CPAs must participate in CPE learning activities that maintain and/or improve their professional competence. This CPE must include a minimum of 80 hours of CPE in each two-year period [as specified in Subsection 58-26a-304(1)] ending on December 31 of each odd numbered year.

(i) The term "must", as used in these standards, means departure from those specific standards is not permitted. The term "should", as used in these standards, means that CPAs and CPE program sponsors are expected to follow such standards as written and are required to justify any departures from such standards when unusual circumstances warrant such departures.

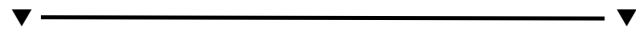
(ii) Selection of CPE learning activities should be a thoughtful, reflective process addressing the individual CPA's current and future professional plans, current knowledge and skills level, and desired or needed additional competence to meet future opportunities and/or professional responsibilities.

(iii) A CPA's field of employment does not limit the need for CPE. CPAs performing professional services need to have a broad range of knowledge, skills, and abilities. Thus, the concept of professional competence should be interpreted broadly. Accordingly, acceptable continuing education encompasses programs contributing to the development and maintenance of both technical and non-technical professional skills.

(iv) Acceptable CPE subjects include accounting, assurance/auditing, consulting services, specialized knowledge and applications, management, taxation, and ethics. Other subjects, including personal development, may also be acceptable if they maintain and/or improve the CPA's professional competence. Such subjects may include, but are not limited to: accounting and auditing, taxation, management advisory services, information technology, communication arts, mathematics, statistics, probability and quantitative analysis, economics, business law and litigation support, functional fields of business such as finance, production, marketing, personnel relations, development and management, business management and organizations, social environment of business, and specialized areas of industry such as film industry, real estate, or farming.

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KEY: accountants, licensing, peer review, continuing professional education
[May 24, 2004]2005
Notice of Continuation April 15, 2002
58-26a-101
58-1-106(1)(a)
58-1-202(1)(a)



Health, Epidemiology and Laboratory Services, Epidemiology

R386-702-9

Special Measures to Prevent Perinatal and Person-to-Person Transmission of Hepatitis B Infection

NOTICE OF PROPOSED RULE (Amendment)

DAR FILE No.: 27853
 FILED: 05/02/2005, 11:20

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This change is to correct an unintended consequence of a rule amendment that is going into effect at this time.

SUMMARY OF THE RULE OR CHANGE: This amendment changes the wording "objects on the basis of religious or moral beliefs" to "...religious or personal beliefs". In the previous amendment, hospitals were required to develop policies to assure that women admitted for delivery or monitoring of pregnancy status were tested for HbsAg before discharge if a test result was not available. In this amendment, those policies will only require that testing prior to discharge be done during admissions for delivery. During admissions for monitoring of pregnancy status, testing prior to discharge will only be required if the women did not have prenatal care prior to the admission. (DAR NOTE: The previous amendment consists of a proposed amendment that was published in the November 1, 2004, Bulletin and the subsequent change in proposed rule (CPR) that was published in the February 1, 2005, Bulletin both under DAR No. 27496. These filings will be effective on 05/16/2005.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 26-1-30 and 26-6-3

ANTICIPATED COST OR SAVINGS TO:

- ❖**THE STATE BUDGET:** This rulemaking action requires no additional effort on the state to implement. No additional costs are anticipated.
- ❖**LOCAL GOVERNMENTS:** Local governments that operate hospitals may experience some cost savings because unnecessary testing may be avoided.
- ❖**OTHER PERSONS:** Some reduced costs for hospitals, patients, and third party payers are expected in that unnecessary testing may be avoided.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This amendment reduces unintended regulatory burden of a previous rule change. No compliance cost is anticipated.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: These changes respond to public comment and eliminate unnecessary fiscal impact on regulated businesses. David N. Sundwall, MD, Executive Director

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

HEALTH
EPIDEMIOLOGY AND LABORATORY
SERVICES, EPIDEMIOLOGY
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:

Robert Rolfs at the above address, by phone at 801-538-6386, by FAX at 801-538-9923, or by Internet E-mail at rolfs@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 06/14/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 06/15/2005

AUTHORIZED BY: David N. Sundwall, Executive Director

**R386. Health, Community Health Services, Epidemiology.
R386-702. Communicable Disease Rule.
R386-702-9. Special Measures to Prevent Perinatal and Person-to-Person Transmission of Hepatitis B Infection.**

(1) A licensed healthcare provider who provides prenatal care shall routinely test each pregnant woman for hepatitis B surface antigen (HBsAg) at an early prenatal care visit. The provisions of this section do not apply if the pregnant woman, after being informed of the possible consequences, objects to the test on the basis of religious or ~~moral~~ personal beliefs.

(2) The licensed healthcare provider who provides prenatal care should repeat the HBsAg test during late pregnancy for those women who tested negative for HBsAg during early pregnancy, but who are at high risk based on:

- (a) evidence of clinical hepatitis during pregnancy;
- (b) injection drug use;
- (c) occurrence during pregnancy or a history of a sexually transmitted disease;
- (d) occurrence of hepatitis B in a household or close family contact; or
- (e) the judgement of the healthcare provider.

(3) In addition to other reporting required by this rule, each positive HBsAg result detected in a pregnant woman shall be reported to the local health department or the Utah Department of Health, as specified in Section 26-6-6. That report shall indicate that the woman

was pregnant at time of testing if that information is available to the reporting entity.

(4) A licensed healthcare provider who provides prenatal care shall document a woman's HBsAg test results, or the basis of the objection to the test, in the medical record for that patient.

(5) Every hospital and birthing facility shall develop a policy to assure that:

(a) when a pregnant woman is admitted for delivery, or for monitoring of pregnancy status, the result from a test for HBsAg performed on that woman during that pregnancy is available for review and documented in the hospital record ;

(b) when a pregnant woman is admitted for delivery~~[- or for monitoring of pregnancy status]~~ if the woman's test result is not available to the hospital or birthing facility, the mother is tested for HBsAg as soon as possible, but before discharge from the hospital or birthing facility;

(c) if a pregnant woman who has not had prenatal care during that pregnancy is admitted for monitoring of pregnancy status only, if the woman's test result is not available to the hospital or birthing facility, the mother is tested for HBsAg status before discharge from the hospital or birthing facility;

~~(d)~~ positive HBsAg results identified by testing performed or documented during the hospital stay are reported as specified in this rule;

~~(d)~~ infants born to HBsAg positive mothers receive hepatitis B immune globulin (HBIG) and hepatitis B vaccine, administered at separate injection sites, within 12 hours of birth;

~~(e)~~ infants born to mothers whose HBsAg status is unknown receive hepatitis B vaccine within 12 hours of birth, and if the infant is born preterm with birth weight less than 2,000 grams, that infant also receives HBIG within 12 hours; and

~~(f)~~ if at the time of birth the mother's HbsAg status is unknown and the HBsAg test result is later determined to be positive, that infant receives HBIG as soon as possible but within 7 days of birth.

(6) Local health departments shall perform the following activities or assure that they are performed:

(a) Infants born to HBsAg positive mothers complete the hepatitis B vaccine series as specified in Table 3.18, page 328 and Table 3.21, page 333 of the reference listed in subsection (9).

(b) Children born to HBsAg positive mothers are tested for HBsAg and antibody against hepatitis B surface antigen (anti-HBs) at 9 to 15 months of age (3-9 months after the third dose of hepatitis B vaccine) to monitor the success of therapy and identify cases of perinatal hepatitis B infection.

(i) Children who test negative for HBsAg and do not demonstrate serological evidence of immunity against hepatitis B when tested as described in (b) receive additional vaccine doses and are retested as specified on page 332 of the reference listed in subsection (9).

(c) HBsAg positive mothers are advised regarding how to reduce their risk of transmitting hepatitis B to others.

(d) Household members and sex partners of HBsAg positive mothers are evaluated to determine susceptibility to hepatitis B infection and if determined to be susceptible, are offered or advised to obtain vaccination against hepatitis B.

(7) The provisions of subsections (5) and (6) do not apply if the pregnant woman or the child's guardian, after being informed of the possible consequences, objects to any of the required procedures on the basis of religious or moral beliefs. The hospital or birthing facility shall document the basis of the objection.

(8) Prevention of transmission by individuals with chronic hepatitis B infection.

(a) An individual with chronic hepatitis B infection is defined as an individual who is:

(i) HBsAg positive, and total antibody against hepatitis B core antigen (anti-HBc) positive (if done) and IgM anti-HBc negative; or

(ii) HBsAg positive on two tests performed on serum samples obtained at least 6 months apart.

(b) An individual with chronic hepatitis B infection should be advised regarding how to reduce the risk that the individual will transmit hepatitis B to others.

(c) Household members and sex partners of individuals with chronic hepatitis B infection should be evaluated to determine susceptibility to hepatitis B infection and if determined to be susceptible, should be offered or advised to obtain vaccination against Hepatitis B.

(9) The Red Book, 2003 Report of the Committee on Infectious Diseases, as referenced in R386-702-12(4) is the reference source for details regarding implementation of the requirements of this section.

KEY: communicable diseases, rules and procedures

2005

Notice of Continuation August 20, 2002

26-1-30

26-6-3

26-23b

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**Health, Health Care Financing,
Coverage and Reimbursement Policy**
R414-31
**Inpatient Psychiatric Services for
Individuals Under Age 21 in Psychiatric
Facilities or Programs**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 27854

FILED: 05/02/2005, 11:56

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rulemaking is necessary to clarify reimbursement methodology, eligibility, criteria, and service coverage for recipients of inpatient psychiatric services in institutions for mental disease.

SUMMARY OF THE RULE OR CHANGE: The title of this rule is changed to "Inpatient Psychiatric Services for Individuals Under Age 21." Section R414-31-0 is deleted and replaced by Section R414-31-1, "Introduction and Authority." This section clarifies eligibility for coverage in an institution for mental disease. The current Section R414-31-1 is deleted and its statutory content is included in the new Section R414-31-1. In Section R414-31-2, the definition for "institution for mental diseases" is removed which deletes that section. The old Section R414-31-3 is changed to Section R414-31-2 and further clarifies the eligibility requirements of this section. A new Section R414-31-3 is added to the rule to clarify criteria

for admission into the inpatient psychiatric services program. Section R414-31-5 is changed to Section R414-31-4 (there was not a Section R414-31-4 before) and has been revised to specify and clarify service coverage based on a plan of care under the direction of a physician. Eligibility criteria for hospital facilities is deleted from this same section and is now included in a new Section R414-31-5. Section R414-31-5 also includes language that refers to the requirement of having a "specialty hospital-psychiatric" license. Sections R414-31-6, R414-31-7, and R414-31-8 are deleted. Section R414-31-9 is changed to Section R414-31-6. The language is also revised to clarify reimbursement for services and language regarding TEFRA has been removed.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 26-1-5 and 26-18-3, and 42 USC 1396d

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: There is no impact to the state budget because this rulemaking only clarifies reimbursement methodology, eligibility, criteria, and service coverage for recipients of inpatient psychiatric services in institutions for mental disease.

❖LOCAL GOVERNMENTS: There is no budget impact to local governments because this rulemaking only clarifies reimbursement methodology, eligibility, criteria, and service coverage for recipients of inpatient psychiatric services in institutions for mental disease.

❖OTHER PERSONS: There is no budget impact to other persons because this rulemaking only clarifies reimbursement methodology, eligibility, criteria, and service coverage for recipients of inpatient psychiatric services in institutions for mental disease.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs because this rulemaking only clarifies reimbursement methodology, eligibility, criteria, and service coverage for recipients of inpatient psychiatric services in institutions for mental disease.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule clarifies standards for reimbursement for the Utah State Hospital, who will be primarily impacted by this rule. The fiscal impact should be neutral. David N. Sundwall, MD, Executive Director

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 06/14/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 06/15/2005

AUTHORIZED BY: David N. Sundwall, Executive Director

R414. Health, Health Care Financing, Coverage and Reimbursement Policy.

R414-31. Inpatient Psychiatric Services for Individuals Under Age 21~~[in Psychiatric Facilities or Programs].~~

R414-31-01. ~~Policy Statement~~ Introduction and Authority.

(1) Except for certain age groups, Medicaid excludes coverage of patients in an institution[s] for mental disease[s]. ~~[States may elect to provide]~~The State has elected to cover these inpatient psychiatric services for individuals under age 21 ~~[in psychiatric facilities or programs as an optional Medicaid service. Utah provides this optional service to Medicaid recipients.]~~ in accordance with the conditions set forth below.

(2) 42 USC 1396d(a)(16) and (h) authorizes the provision of this service under a state's Medicaid program.

~~[R414-31-1. Authority and Purpose.~~

~~Section 1905(a)(16) and (h) of the Social Security Act authorizes the provision of this service under a state's Medicaid program.~~

~~[R414-31-2. Definitions.~~

~~"Institution for mental diseases" means a hospital, nursing facility, or other institution of more than 16 beds, that is primarily engaged in providing diagnosis, treatment, or care of persons with mental diseases, including medical attention, nursing care, and related services. An institution for the mentally retarded is not an institution for mental disease.~~

~~R414-31-3. Client Eligibility Requirements~~ Coverage.

~~[This service is available to Medicaid recipients under the age of 21 who meet the categorically or medically needy eligibility criteria. Services can be provided.]~~Categorically and medically needy Medicaid recipients are eligible for this service if the service is provided before the recipient reaches age 21 or, if the recipient was receiving the services immediately before ~~[he]the recipient~~ reached age 21, before the earlier of the following: (1) the date ~~[he]the recipient~~ no longer requires the services; or (2) the date ~~[he]the recipient~~ reaches age 22.

R414-31-3. Program Access Requirements.

(1) Before admission for inpatient psychiatric services or before authorization for Medicaid payment, a facility physician must make a medical evaluation of the recipient's need for care in the hospital and certify that inpatient services are needed.

(2) The certification must document that:

(a) ambulatory care resources available in the community do not meet the treatment needs of the recipient;

(b) proper treatment of the recipient's psychiatric condition requires services on an inpatient basis or under the direction of a physician; and

(c) the services can reasonably be expected to improve the recipient's condition or prevent further regression so that services will no longer be needed.

(3) The Bureau of Health Facility Licensing, Certification and Resident Assessment, within the Division of Health Systems Improvement, under the Department of Health, reviews the medical evaluation and certification and determines that the client meets certification of need requirements.

R414-31-5]4. Service Coverage.

~~[Inpatient psychiatric services for individuals under age 21 shall be considered a benefit of the Medicaid program only for care and treatment.]~~(1) Services must be provided under the direction of a physician ~~[in:]~~and must be based on a plan of care that includes an integrated program of therapies, activities, and experiences designed to meet the recipient's treatment objectives. The plan of care must be a written plan developed for each recipient to improve the recipient's condition to the extent that inpatient care is no longer necessary.

(2) At the appropriate time, the physician must develop post-discharge plans and coordination of inpatient services with partial discharge plans and related community services to ensure continuity of care with the recipient's treatment objectives.

A. a psychiatric hospital or in an inpatient program in a psychiatric facility under the authority of, or licensed by the Division or Board of Mental Health and accredited by the Joint Commission on Accreditation of Hospitals (JCAH); or

B. a psychiatric hospital or in an inpatient program in a psychiatric facility under contract with the Division of Health Care Financing to provide mental health services.]

~~[R414-31-6. Standards of Care.~~

~~Standards of care must comport with the requirements under the 42 Code of Federal Regulations section 441.150 through 441.181, which is hereby adopted by reference.~~

~~[R414-31-5. Qualified Providers.~~

~~Inpatient psychiatric services for recipients under age 21 are provided only by the Utah State Hospital.~~

~~[R414-31-7. Limitations.~~

~~Not applicable~~

~~R414-31-8. Prior Authorization.~~

~~Although prior authorization for this service is not required, all admissions to approved psychiatric facilities are reviewed by the Bureau of Medical Review to ensure that certification of need requirements are met.~~

~~[R414-31-9]6. Reimbursement for Services.~~

~~[The Utah State Hospital is reimbursed reasonable cost based on Medicare reimbursement principles.]~~The Department pays the lower amount of costs or charges and uses Medicare regulations to define allowable costs.~~[TEFRA limits do not apply because of the long lengths of stay experienced by many of the patients.]~~

KEY: M|medicaid
~~1989~~**2005**
Notice of Continuation October 6, 2004
~~26-1-4.1~~
 26-1-5
 26-18-3

▼ ————— ▼

Health, Health Care Financing, Coverage and Reimbursement Policy

R414-49

Dental Service

NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 27840
FILED: 04/26/2005, 12:44

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rulemaking restores dental services for nonpregnant adults ages 21 and older.

SUMMARY OF THE RULE OR CHANGE: Subsection R414-49-5(16) is being deleted. The deletion restores dental services for nonpregnant adults ages 21 and older. Subsection R414-49-6(3) adds an incentive to providers in urban counties (Utah, Salt Lake, Davis, and Weber counties) who sign the Dental Incentive Agreement. Providers in rural counties will receive a 20% increase in the allowable fees paid for Medicaid dental services.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-18-3

ANTICIPATED COST OR SAVINGS TO:

❖**THE STATE BUDGET:** \$3,164,900 in one-time state funds will be matched by \$7,791,500 in federal funds to pay dental providers offering services for nonpregnant adults ages 21 and older for a total of \$10,956,400.

❖**LOCAL GOVERNMENTS:** Local governments do not provide dental services, therefore there is no impact to local governments.

❖**OTHER PERSONS:** Providers will gain additional reimbursement, close to \$10,956,400 as a result of this rulemaking.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This restoration of service should not cause any compliance costs except for minimal reprogramming by providers to bill Medicaid for this service. Providers will gain additional reimbursement, close to \$10,956,400 as a result of this rulemaking.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The restoration of dental services for non-pregnant adults age 21 and older should have a positive impact on providers working with this population. David N. Sundwall, MD, Executive Director

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:

Ross Martin at the above address, by phone at 801-538-6592, by FAX at 801-538-6099, or by Internet E-mail at rmartin@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 06/14/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 06/15/2005

AUTHORIZED BY: David N. Sundwall, Executive Director

—————

R414. Health, Health Care Financing, Coverage and Reimbursement Policy.

R414-49. Dental Service.

R414-49-5. Service Coverage.

Specific services are identified for adults and for children eligible for the EPSDT (CHEC) program, since program covered services may differ. Specific program covered services for residents of ICFs/MR are detailed in this section.

(1) Diagnostic services are covered as follows:

(a) Each provider may perform a comprehensive oral evaluation one time only for either a child or an adult.

(b) A limited problem-focused oral evaluation for a child or an adult.

(c) Each provider may perform either two periodic oral evaluations, or a comprehensive and a periodic oral evaluation per calendar year.

(d) A choice of panoramic film, a complete series of intraoral radiographs, or a bitewing series of radiographs of diagnostic quality.

(e) Study models or diagnostic casts for children.

(2) Preventive services are covered as follows:

(a) Child:

(i) Two prophylaxis treatments in a calendar year by a provider, with or without fluoride.

(ii) Occlusal sealants are a benefit on the permanent molars of children under age 18.

(iii) Space maintainers.

(b) Adult: Two prophylaxis treatments in a calendar year by a provider.

(3) Restorative services are covered as follows:

(a) Amalgam restorations, composite restorations on anterior teeth, stainless steel crowns, crown build-up, prefabricated post and core, crown repair, and resin or porcelain crowns on permanent anterior teeth for children.

(b) Amalgam restorations, and composite restorations on anterior teeth for adults.

- (4) Endodontics services are covered as follows:
- Therapeutic pulpotomy for primary teeth.
 - Root canals, except for permanent third molars or primary teeth, or permanent second molars for adults.
 - Apicoectomies.
- (5) Periodontics services are covered as follows:
- Root planing or periodontal treatment for children.
 - Gingivectomies for patients who use anticonvulsant medication, as verified by their physician.
- (6) Oral Surgery services are covered as follows:
- Extractions for adults and children.
 - Surgery for emergency treatment of traumatic injury.
 - Emergency oral and maxillofacial services provided by dentists or oral and maxillofacial surgeons.
- (7) Prosthodontics services are covered as follows:
- Initial placement of dentures, including the relining to assure the desired fit.
- Full Dentures
 - Child: Complete dentures.
 - Adult: "Initial" dentures.
 - Partial dentures may be provided if the denture replaces an anterior tooth or is required to restore mastication ability where there is no mastication ability present on either side.
 - Relining, rebasing, or repairing of existing full or partial dentures.
- (8) Medicaid covered dental services are available to residents of an ICF/MR on a fee-for-service basis, except for the annual exam, which is part of the per diem paid to the ICF/MR.
- (9) Patients who receive total parenteral or enteral nutrition may not receive dentures.
- (10) The provider must mark all new placements of full or partial dentures with the patient's name to prevent lost or stolen dentures in facilities licensed under Title 26, Chapter 21.
- (11) General anesthesia and I.V. sedation are covered services.
- (12) Fixed bridges, osseo-implants, sub-periosteal implants, ridge augmentation, transplants or replants are not covered services.
- (13) pontic services, vestibuloplasty, occlusal appliances, or osteotomies are not covered services.
- (14) Consultations or second opinions not requested by Medicaid are not covered services.
- (15) Treatment for temporomandibular joint syndrome, its prevention or sequela, subluxation, therapy, arthrotomy, meniscectomy, condylectomy are not covered services.
- ~~(16) Services to non-pregnant adults ages 20 and older are limited to X-rays, fillings, routine extractions for erupted teeth only, and root canals on permanent teeth excluding 2nd and 3rd molars.~~
- (17) Prior authorization is required for gingivectomies, full mouth debridements, dentures, partial dentures, porcelain to metal crowns and general anesthesia procedures.

R414-49-6. Reimbursement.

- Reimbursement for Dental Services is through select ADA dental codes which are based on an established fee schedule unless a lower amount is billed. The Department pays the lower of the amount billed and the rate on the schedule.
- The amount billed cannot exceed usual and customary charges for private pay patients. Fee schedules were initially established after consultation with provider representatives. Adjustments to the schedule are made in accordance with appropriations and to produce efficient and effective services.

(3) Providers in urban counties (Utah, Salt Lake, Davis, and Weber counties) who sign the Dental Incentive Agreement and providers in rural counties shall receive a 20% increase in the allowable fees paid for Medicaid dental services.

KEY: Medicaid

~~July 2, 2004~~

Notice of Continuation November 12, 2004

26-1-5

26-18-3



Health, Health Care Financing, Coverage and Reimbursement Policy

R414-53

Eyeglasses Services

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 27849

FILED: 05/02/2005, 09:52

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rulemaking is necessary to restore eyeglasses services to all categorically and medically needy clients.

SUMMARY OF THE RULE OR CHANGE: The title for Section R414-53-1, Authority and Purpose, is changed to "Introduction and Authority." This section is also amended to clarify the statutory authority for the rule. The change to Section R414-53-3, Client Eligibility, deletes language that limits eyeglasses services to categorically and medically needy clients who are ages 20 and younger or who are pregnant. By this deletion, eyeglasses services are restored to all categorically and medically needy clients. Also, language in this section that references definitions for the "categorically needy" and the "medically needy" is deleted.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 26-1-5 and 26-18-3, and 42 CFR 440.120(d)

ANTICIPATED COST OR SAVINGS TO:

❖**THE STATE BUDGET:** There is a total annual cost of \$3,702,200 to the state budget as a result of this rulemaking, \$1,069,700 in state general funds for the restoration of vision care with a federal match of \$2,632,500.

❖**LOCAL GOVERNMENTS:** There is no budget impact to local governments as a result of this rulemaking because there is no funding from local governments for eyeglasses services.

❖**OTHER PERSONS:** There is an annual increase of \$3,702,200 in revenue to eyeglasses providers.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is an average annual increase in revenue of \$62,749 to a single eyeglasses provider based on the total number of 59 Medicaid eyeglasses providers.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule restores Medicaid vision services for all categorically and medically needy clients effective July 2005 based on appropriations approved in the 2005 Legislative session. It will have a positive impact on businesses serving Medicaid clients. David N. Sundwall, MD, Executive Director

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 06/14/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 06/15/2005

AUTHORIZED BY: David N. Sundwall, Executive Director

R414. Health, Health Care Financing, Coverage and Reimbursement Policy.

R414-53. Eyeglasses Services.

R414-53-1. Introduction and Authority [~~and Purpose~~].

~~[Eyeglasses are authorized by 42 CFR, 440.120(d), October 1992 edition.]~~ The Eyeglasses Program provides eyeglasses services to meet the basic vision care needs of Medicaid recipients. This rule is authorized under Utah Code 26-18-3 and governs the services allowed under 42 CFR 440.120(d).

R414-53-2. Definitions.

"Eyeglasses" means lenses, including frames, contact lenses, and other aids to vision that are prescribed by a physician skilled in diseases of the eye or by an optometrist.

R414-53-3. Client Eligibility Requirements.

Eyeglasses are available to Categorically and Medically Needy clients ~~[- who are ages 20 and younger or who are pregnant. Definitions of Categorically and Medically Needy individuals are found in R414-1-2].~~

R414-53-4. Service Coverage.

(1) Corrective lenses and frames may be provided based on medical need. Medical need includes a change in prescription or replacement as a result of normal lens or frame wear. Frames must be those in which lenses can be replaced readily without having to provide a new frame. Corrective lenses must be suitable for indoor and outdoor use~~[;]~~ and for day and night use.

(2) Single vision, bifocal, or trifocal lenses, with or without slab-off prism, in clear glass or plastic, may be provided.

(3) Only the least expensive frame practicable for use, either plastic or metal, may be provided.

(4) Replacements for existing lenses or frames may be provided if the prescribing physician or optometrist declares them to be medically necessary. Eyeglasses may not be replaced more often than every two years unless the prescribing physician or optometrist declares an earlier replacement to be medically necessary. Circumstances ~~[which would]~~ that warrant providing new eyeglasses or contact lenses~~[;]~~ are a diopter change of .75 or more, or disease or damage to the eye. Eyeglasses or contact lenses may not be replaced if they were damaged through client negligence or abuse.

~~(5) [Frames which have hearing aids placed in the earpieces may be provided by t]The audiologist or hearing aid provider may provide frames that have hearing aids placed in the earpieces. [Lenses for these frames must be dispensed by t]The prescribing physician or optometrist must dispense the lenses for these frames.~~

(6) The following services may be provided if the prescribing physician or optometrist declares them to be medically necessary:

- (a) Contact lenses;
- (b) Soft contact lenses;
- (c) Gas permeable contact lenses;
- (d) Tints for eyeglasses or contact lenses where diseases or conditions are present ~~[which]~~ that render the client unusually light-sensitive;
- (e) Low vision aids.
- (7) The following services are not provided:
 - (a) Additional eyeglasses such as reading glasses, distance glasses, or a "spare";
 - (b) Extended wear contact lenses or disposable contact lenses.

R414-53-5. Reimbursement.

(1) The Department pays for lenses and standard frames on a fee-for-service basis, based on CPT codes as described in the State Plan, Attachment 4.19-B.

(2) The Department pays the lower of the amount billed ~~[and]~~ or the rate on the schedule. A provider shall not charge the Department a fee that exceeds the provider's usual and customary charges for the provider's private-pay patients.

~~(2) [3] Fee schedules were initially established after consultation with provider representatives. Adjustments to the schedule are made in accordance with appropriations and to produce efficient and effective services.~~

~~— (3) The Department pays the lower of the amount billed and the rate on the schedule. A provider shall not charge the Department a fee that exceeds the provider's usual and customary charges for the provider's private-pay patients.]~~

KEY: Medicaid, eyeglasses

~~[January 28, 2004]2005~~

Notice of Continuation June 6, 2003

26-1-5

26-18-3



**Health, Health Care Financing,
Coverage and Reimbursement Policy
R414-401-3
Assessment**

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 27852
FILED: 05/02/2005, 11:28

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The 2005 Utah Legislature passed H.B. 62 that requires an assessment on Medicaid beds in Intermediate Care Facilities for the Mentally Retarded (ICF/MRs) and on swing beds in hospitals that can be used for Medicaid nursing care patients. This rule implements that assessment. (DAR NOTE: H.B. 62 is found at UT L 2005 Ch 31, and will be effective 07/01/2005.)

SUMMARY OF THE RULE OR CHANGE: In Subsection R414-401-3(2), ICF/MRS are assessed at the uniform rate of \$5.52 per patient day and swing bed facilities are assessed the uniform rate for nursing facilities effective January 1, 2006.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-18-3

ANTICIPATED COST OR SAVINGS TO:

- ❖THE STATE BUDGET: This change is budget neutral due to collection of \$1,100,000 from ICF/MRs and a draw down of federal matching funds in the amount of approximately \$2,800,000. The change also allows collection of \$270,000 annually from hospitals with swing beds with a draw down of federal funds amounting to \$670,000.
- ❖LOCAL GOVERNMENTS: There will be a positive impact on some local hospitals with swing beds due to the net additional federal funding being applied to the swing bed reimbursement rates.
- ❖OTHER PERSONS: There is an enhanced revenue of approximately \$3,900,000 for nursing facility providers as a result of federal matching funds.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Compliance costs include a collection of \$5.52 per non-Medicare patient day from each nursing facility or a total of \$1,100,000. This collection will be used as state funds to draw down about \$2,800,000 in federal funds. All ICF/MRs will gain from this process. The amount of gain depends on the number of Medicaid patients in the facility.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: At the request of these regulated businesses, a statutory assessment was imposed which will allow for an increase in Medicaid reimbursement. This will have a positive fiscal impact on providers. David N. Sundwall, MD, Executive Director

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:

Ross Martin at the above address, by phone at 801-538-6592, by FAX at 801-538-6099, or by Internet E-mail at rmartin@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 06/14/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 06/15/2005

AUTHORIZED BY: David N. Sundwall, Executive Director

R414. Health, Health Care Financing, Coverage and Reimbursement Policy.

R414-401. Nursing Care Facility Assessment.

R414-401-3. Assessment.

- (1) The collection agent for the nursing care facility assessment shall be the Department, which is vested with the administration and enforcement of the assessment.
- (2) The uniform rate of assessment for every facility is \$6.18 per non-Medicare patient day provided by the facility, except that intermediate care facilities for the mentally retarded shall be assessed at the uniform rate of \$5.52 per patient day. Swing bed facilities shall be assessed the uniform rate for nursing facilities effective January 1, 2006. The Utah State Veteran's Home is exempted from this assessment and this rule.
- (3) Each nursing care facility must pay its assessment monthly on or before the last day of the next succeeding month.
- (4) The Department shall extend the time for paying the assessment to the next month succeeding the federal approval of a Medicaid State Plan Amendment allowing for the assessment, and consequent reimbursement rate adjustments.

KEY: Medicaid, nursing facility
~~July 2, 2004~~2005
26-1-30
26-35a



**Health, Health Care Financing,
Coverage and Reimbursement Policy
R414-504
Nursing Facility Payments**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 27851

FILED: 05/02/2005, 11:18

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rulemaking is necessary to implement the reimbursement plan for intermediate care facilities for the mentally retarded for fiscal year 2006.

SUMMARY OF THE RULE OR CHANGE: This rulemaking addresses the implementation of a two-component prospective reimbursement rate for Intermediated Care Facilities for the Mentally Retarded (ICF/MR) facilities beginning on July 1, 2005. It adopts the Fair Rental Value system of property costs as applied to other nursing facilities and makes it applicable to ICF/MR facilities. This rulemaking also specifies rates that will be in effect until July 1, 2005, and rates that will change after that date pending federal approval of submitted rates. Submitted rates are calculated to implement the 2005 amendments to the Utah Nursing Care Facility Assessment Act that includes ICF/MR facilities within its "Nursing Facilities" definition, thereby making the rates subject to facility assessment.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 26-1-5 and 26-18-3, and Title 26, Chapter 35a

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: There is no change to the state budget that results from implementation of the Fair Rental Value component for ICF/MR facilities. Upon implementation of the Nursing Care Facility Assessment Act amendments, that allow assessment of ICF/MR facilities, future rate adjustments will amount to a cost of approximately \$1,100,000 to the State General Fund (property costs included) with a federal match of \$2,800,000. These funds will be provided through assessment collections from all ICF/MR facilities as intended by the 2005 amendments to the act.

❖LOCAL GOVERNMENTS: There is no budget impact to local governments because local governments do not provide ICF/MR services.

❖OTHER PERSONS: Upon federal approval of the proposed ICF/MR rates, this rule will facilitate a significant increase of \$3,900,000 dollars in ICF/MR facility reimbursement.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs because this rulemaking does not require any action on the part of affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: At the request of providers, an assessment was imposed by statute that will allow increased Medicaid reimbursement for these providers when approved by the federal regulators. This rule implements that assessment for providers and will have a positive impact on providers. David N. Sundwall, MD, Executive Director

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 06/14/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 06/15/2005

AUTHORIZED BY: David N. Sundwall, Executive Director

R414. Health, Health Care Financing, Coverage and Reimbursement Policy.**R414-504. Nursing Facility Payments.****R414-504-1. Introduction.**

(1) This rule adopts a case mix or severity based payment system, commonly referred to as RUGS (Resource Utilization Group System). This system reimburses facilities based on the case mix index of the facility.

(2) This rule is authorized by Utah Code sections 26-1-5[~~and~~], 26-18-3, and 26-35a.

R414-504-5. Reimbursement for Intermediate Care Facilities for the Mentally Retarded.

The following principles apply to the payment of community-based intermediate care facilities for the mentally retarded (ICF/MRs) that are licensed under Utah Code 26-21-13.5:

(1) Approximately 93% of total payments paid in aggregate to ICF/MRs are based on a prospective flat rate. The balance of the total payments is attributable to a property cost component of the rate as calculated by the Fair Rental Value system pursuant to R414-504-3(8).

(2) Pending federal approval of the Medicaid rate adjustment for ICF/MRs, the rates in effect on July 1, 2005, will be the same as those in effect on June 30, 2005, inflated by 1%.

(3) Upon federal approval of the ICF/MR rate adjustment, rate components will be adjusted retroactively to July 1, 2005, to reflect additional funding made available.

KEY: Medicaid**September 15, 2004|2005****26-1-5****26-18-3****26-35a**

Health, Epidemiology and Laboratory
Services, Laboratory Improvement
R444-14
Rule for the Certification of
Environmental Laboratories

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 27850

FILED: 05/02/2005, 10:56

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This amendment will incorporate the current major technical parts of the National Environmental Laboratory Accreditation Conference (NELAC) standards into the state rule.

SUMMARY OF THE RULE OR CHANGE: This amendment incorporates the 2003 NELAC standards for laboratory certification and the 2003 proficiency testing standards established by the NELAC. It also incorporates the latest federal regulations dealing with analytical methods for environmental testing, 40 CFR 136, 141, 142, 261 (July 1992-2005).

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 26-1-30(2)(m)

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 40 CFR 136, 141, 142, and 261 (July 1992-2005), and National Environmental Laboratory Accreditation Conference Standards (2003)

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: There will be no impact on the state budget. This amendment does not change the state's responsibilities or workload in certifying environmental laboratories.

❖LOCAL GOVERNMENTS: Changes to the incorporated standards are technical in nature to clarify requirements and provide consistency to the standard. The Division does not anticipate any significant resources required or eliminated to make changes to the laboratory's quality system to stay inline with the proposed incorporated standards. Overall the costs and savings should balance out or be minimal.

❖OTHER PERSONS: Changes to the incorporated standards are technical in nature to clarify requirements and provide consistency to the standard. The Division does not anticipate any significant resources required or eliminated to make changes to the laboratory's quality system to stay inline with the proposed incorporated standards. Overall the costs and savings should balance out or be minimal.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Labs affected should already be complying with the previous revision of the national standards adopted in this rule. Additional compliance costs will be zero to negligible.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: For Utah to maintain primacy under the EPA (especially for drinking water), there must exist a laboratory certification program within the state. The certification program uses the standards from NELAC that are currently in effect. This rule incorporates the currently effective NELAC standards. These largely technical changes should not have a significant fiscal impact on regulated businesses. David N. Sundwall, MD, Executive Director

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

HEALTH
EPIDEMIOLOGY AND LABORATORY SERVICES,
LABORATORY IMPROVEMENT
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:

David Mendenhall at the above address, by phone at 801-584-8470, by FAX at 801-584-8501, or by Internet E-mail at davidmendenhall@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 06/14/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 07/01/2005

AUTHORIZED BY: David N. Sundwall, Executive Director

R444. Health, Epidemiology and Laboratory Services, Laboratory Improvement.

R444-14. Rule for the Certification of Environmental Laboratories.

R444-14-3. Laboratory Certification.

(1) A laboratory is the organization and facilities established for testing samples.

(2) A laboratory that conducts tests that are required by Department of Environmental Quality rules to be conducted by a certified laboratory must be certified under this rule.

(3) To become certified, to renew certification, or to become recertified under this rule, a laboratory must adhere to the requirements found in Chapter 4, "Accreditation Process", of the National Environmental Laboratory Accreditation Conference Standards approved [July 2002]June 2003, which are incorporated by reference.

R444-14-4. Analytical Methods.

(1) The department may only approve a certified laboratory to analyze an analyte by specific method. The department may approve a certified laboratory for an analyte using methods described in the July 1, 1992 through [2004]2005, editions of 40 CFR Parts 141, 142, and 143 (Safe Drinking Water Act); 40 CFR Parts 136 and 503.8 (Clean Water Act); 40 CFR Parts 260 and 261 (Resource Conservation and Recovery Act).

(2) In analyzing a sample for compliance with the Safe Drinking Water Act, the Clean Water Act, or the Resource Conservation and

Recovery Act, a certified laboratory must follow the method that it reports on its final report to have used.

R444-14-6. Quality System.

(1) A certified laboratory must adhere to the requirements found in Chapter 5, Quality Systems, of the National Environmental Laboratory Accreditation Conference Standards approved [~~July 2002~~] June 2003, which are incorporated by reference.

KEY: laboratories

~~August 9, 2004~~ 2005

Notice of Continuation June 13, 2002

26-1-30(2)(m)

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The changes to this rule will create no fiscal impact on Utah businesses. D. Kent Michie, Commissioner

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 06/14/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 06/15/2005

AUTHORIZED BY: Jilene Whitby, Information Specialist

▼ ————— ▼

Insurance, Administration

R590-148-22

Premium Rate Schedule Increases

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 27844

FILED: 04/29/2005, 08:38

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The change to this rule is being made to clarify that long-term care rate filings must not only comply with this rule, R590-148, but they must also comply with the requirements of Rule R590-85, Individual Disability Insurance Forms and Individual and Group Medicare Rates.

SUMMARY OF THE RULE OR CHANGE: The new subsection to this rule clarifies that a health insurer's long-term care rate filing must also comply with Rule R590-85.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 31A-2-201 and 31A-22-1404

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: The changes to this rule will not require anything new of the department licensee, therefore, there will be no change in filings required or fees paid to the department or state's budget.

❖LOCAL GOVERNMENTS: This rule only applies to the relationship between the Insurance Department and their licensees. It does not affect local government laws or procedures.

❖OTHER PERSONS: The changes to this rule will create no change in what is already required of insurers of long-term care insurance. It simply clarifies that they must also comply with Rule R590-85. As a result, this change will have no fiscal impact on insurers or their insureds.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The changes to this rule will create no change in what is already required of insurers of long-term care insurance. It simply clarifies that they must also comply with Rule R590-85. As a result, this change will have no fiscal impact on insurers or their insureds.

R590. Insurance, Administration.

R590-148. Long-Term Care Insurance Rule.

R590-148-22. Premium Rate Schedule Increases.

(1) This section shall apply as follows:

(a) except as provided in Subsection R590-148-22(1)(b), this section applies to any long-term care policy or certificate issued in this state on or after January 1, 2002,

(b) for certificates issued on or after January 1, 2002, under a group long-term care insurance policy, which policy was in force at the time this rule became effective, the provisions of this section shall apply on the policy anniversary following July 1, 2002.

(2) An insurer shall file the information listed in this subsection to the commissioner prior to making a long-term care insurance form available for sale:

(a) a copy of the disclosure documents required in Section R590-148-20; and

(b) an actuarial certification consisting of at least the following:

(i) a statement that the initial premium rate schedule is sufficient to cover anticipated costs under moderately adverse experience and that the premium rate schedule is reasonably expected to be sustainable over the life of the form with no future premium increases anticipated;

(ii) a statement that the policy design and coverage provided have been reviewed and taken into consideration;

(iii) a statement that the underwriting and claims adjudication processes have been reviewed and taken into consideration;

(iv) a complete description of the basis for contract reserves that are anticipated to be held under the form, to include:

(A) sufficient detail or sample calculations provided so as to have a complete depiction of the reserve amounts to be held;

(B) a statement that the assumptions used for reserves contain reasonable margins for adverse experience;

(C) a statement that the net valuation premium for renewal years does not increase, except for attained-age rating where permitted; and

(D) a statement that the difference between the gross premium and the net valuation premium for renewal years is sufficient to cover expected renewal expenses; or if such a statement cannot be made, a complete description of the situations where this does not occur;

(I) an aggregate distribution of anticipated issues may be used as long as the underlying gross premiums maintain a reasonably consistent relationship; and

(II) if the gross premiums for certain age groups appear to be inconsistent with this requirement, the commissioner may request a demonstration under Subsection R590-148-22(3) based on a standard age distribution;

(v)(A) A statement that the premium rate schedule is not less than the premium rate schedule for existing similar policy forms also available from the insurer except for reasonable differences attributable to benefits; or

(B) A comparison of the premium schedules for similar policy forms that are currently available from the insurer with an explanation of the differences.

(3) The commissioner may request an actuarial demonstration that benefits are reasonable in relation to premiums. The actuarial demonstration shall include either premium and claim experience on similar policy forms, adjusted for any premium or benefit differences, relevant and credible data from other studies, or both.

(4) The premiums charged to an insured for long-term care insurance may not increase due to either:

(a) the increasing age of the insured at ages beyond 65; or

(b) the duration the insured has been covered under the policy.

(5) Rate filings must comply with the requirements of R590-85, Individual Disability Insurance Forms and Individual and Group Medicare Rates.

KEY: insurance

~~April 18, 2002~~ 2005

Notice of Continuation August 14, 2002

31A-2-201

31A-22-1404

▼ ————— ▼

Insurance, Administration R590-172-4 Rule

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 27845

FILED: 04/29/2005, 09:25

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The changes are being made to clarify another rule and federal law that must be followed and to correct contact information in the rule.

SUMMARY OF THE RULE OR CHANGE: The first paragraph of Section R590-172-4 adds a cross reference to Rule R590-

176, Health Benefit Plan Enrollment, that insurers must follow when providing notice to applicants denied coverage for health insurance. The second paragraph eliminates a "the" in the last line to make it more grammatically correct. The fourth paragraph adds wording that preexisting conditions will be waived if the applicant is eligible for the Health Insurance Portability and Accountability Act (HIPAA). The last paragraph makes corrections in the contact information.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 31A-29-116

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: The changes to this rule will have no fiscal impact on the state's budget. It will create no change in the amount of fees coming into the state nor the work load on employees.

❖LOCAL GOVERNMENTS: The changes to this rule only deals with the relationship between licensed health insurers and the Insurance Department. It will have no fiscal impact on local governments.

❖OTHER PERSONS: The changes to this rule are for clarification purposes only and to update contact information in the rule. They will create no fiscal impact on insurers or consumers. Insurers are already required to comply with Rule R590-176 and preexisting conditions are already being waived if an insured is eligible for HIPAA.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The changes to this rule are for clarification purposes only and to update contact information in the rule. They will create no fiscal impact on insurers or consumers. Insurers are already required to comply with Rule R590-176 and preexisting conditions are already being waived if an insured is eligible for HIPAA.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The changes being proposed to this rule will have no fiscal impact on the department's licensees doing business in Utah. D. Kent Michie, Commissioner

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 06/14/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 06/15/2005

AUTHORIZED BY: Jilene Whitby, Information Specialist

NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE NO.: 27855
FILED: 05/02/2005, 15:17

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The changes are necessary to make this rule consistent with S.B. 108 (2005 General Session of the Utah Legislature) and to correct clerical errors. (DAR NOTE: S.B. 108 is found at UT L 2005 Ch 5, and was effective 05/02/2005.)

SUMMARY OF THE RULE OR CHANGE: Telecommunications corporations with pricing flexibility pursuant to Section 54-8b-2.3 will have their deposit terms, third party guarantor policies, and service interruption provisions contained in their price lists, rather than in tariffs filed with the Commission.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 54-8b-2.3

ANTICIPATED COST OR SAVINGS TO:

- ❖THE STATE BUDGET: None--Because there is no substantive change to state agency activities.
- ❖LOCAL GOVERNMENTS: None--Because there is no substantive change to local government activities.
- ❖OTHER PERSONS: None--Because the information will continue to be provided, just in different documents.

COMPLIANCE COSTS FOR AFFECTED PERSONS: It is not anticipated that the rule change will require the expenditure of any additional funds.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be no fiscal impact from the rule as affected businesses will identify their information in price lists provisions rather than in tariff provisions. B. Ric Campbell, Chairman

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:

Barbara Stroud or Sandy Mooy at the above address, by phone at 801-530-6714 or 801-530-6708, by FAX at 801-530-6796 or 801-530-6796, or by Internet E-mail at bstroud@utah.gov or smooy@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 06/14/2005.

R590. Insurance, Administration.

**R590-172. Notice to Uninsurable Applicants for Health Insurance.
R590-172-4. Rule.**

Every health insurer writing health insurance in the State of Utah will provide a written notice containing the requirements in R590-176-5(3)(a), Health Benefit Plan Enrollment, and the following language to each applicant for health insurance coverage that is denied coverage by the insurer for reasons relating to health:

"You have been denied health insurance coverage due to a health condition which is uninsurable. The Utah Comprehensive Health Insurance Pool (HIPUtah) was created to provide health insurance to residents of Utah who are denied health insurance and who are considered uninsurable. If you have lived in the State of Utah for 12 consecutive months prior to applying for insurance with this company you may be eligible for health insurance coverage with [the]HIPUtah.

"However, if you have not lived in the state of Utah for 12 consecutive months, but you are a Utah resident and you are coming from another State's high risk pool or have had 18 months of continuous coverage with the most recent coverage being through a group health plan, you may still be eligible for health insurance coverage with the Utah Comprehensive Insurance Pool.

"The preexisting waiting period will be waived if you are eligible for the Health Insurance Portability and Accountability Act (HIPAA) or your previous coverage was involuntarily terminated for reasons other than for nonpayment of premium or fraud, and application for HIPUtah is made within 63 days of that termination. The amount of credit given will depend on the length of time an applicant was previously covered under that health insurance.

"If application for coverage with HIPUtah is made within 30 days of this denial letter and you are declined coverage with the pool, HIPUtah will issue a certificate of insurability and you may reapply for coverage with this company within 30 days of the certificate date.

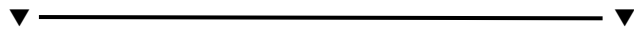
"To find out whether you qualify for pool coverage or to make application for pool coverage, Salt Lake City area residents should call [333-5573]442-6660. Residents of other areas in Utah should call 1-800-[662-3398]638-5038, ext. [5573]6660, toll free. The HIPUtah's mailing address is P.O. Box [27797]30192, Salt Lake City, Utah [84127-0797]84130-0192."

KEY: health insurance

[November 21, 2003]2005

Notice of Continuation June 15, 2000

31A-29-116



Public Service Commission,
Administration

R746-240

Telecommunication Service Rules

THIS RULE MAY BECOME EFFECTIVE ON: 06/15/2005

AUTHORIZED BY: Barbara Stroud, Paralegal

R746. Public Service Commission, Administration.

R746-240. Telecommunication Service Rules.

R746-240-1. General Provisions.

A. Authorization--The Utah Public Utility Code Sections 54-1-1, 54-4-4, 54-4-7, 54-4-8, and 54-4-14.

B. Title--These rules shall be known and may be cited as the Utah Service Rules for Telecommunication Corporations.

C. Purpose--The purpose of these rules is to establish and enforce uniform telecommunications service practices and procedures governing eligibility, deposits, account billing, termination and deferred payment agreements.

D. Objective--The objective of these rules is to assure the adequate provision of residential and business telecommunications service, to restrict unreasonable termination of or refusal to provide residential and business telecommunications service, to provide functional alternatives to termination or refusal to provide residential or business telecommunications service, and to establish and enforce fair and equitable procedures governing eligibility, deposits, account billing, termination and deferred payment agreements.

E. Nondiscrimination--Telecommunications service shall be provided to qualified persons without regard to employment, occupation, race, handicap, creed, sex, national origin, marital status, or number of dependents.

F. Requirement of Good Faith--Every agreement or obligation within these rules imposes an obligation of good faith, honest, and fair dealings in its performance and enforcement.

G. Application of Rules--These telecommunications service rules shall apply to each telecommunications corporation operating within Utah under the jurisdiction of the Public Service Commission.

1. A telecommunications corporation may petition the Commission for an exemption from specified portions of these rules in accordance with R746-100-[+6]15, Deviation from Rules.

2. The adoption of these rules by the Commission shall in no way preclude it from altering or amending a specific rule pursuant to applicable statutory procedures.

H. Customer's Statement of Rights and Responsibilities--When telecommunications service is extended to an account holder, and annually thereafter, a local exchange carrier shall provide a copy of the "Customer's Statement of Rights and Responsibilities" as approved by the Public Service Commission. This statement shall be a single page document. It shall be prominently displayed in each customer service center.

R746-240-3. Deposits and Eligibility for Service.

A. Deposits and Guarantees--

1. Telecommunications corporations not subject to pricing flexibility pursuant to 54-8b-2.3 shall have Commission approved tariffs on file relating to their security deposits and third party guarantor policies and procedures. Telecommunications corporations subject to pricing flexibility shall include any terms and conditions relating to their security deposits and third party guarantor policies and procedures in their price lists.

2. Simple interest shall accrue on a deposit and shall be paid at the time the deposit is either refunded or applied to the customer's final bill

for service. The interest rate used by a telecommunications corporation shall be set by the Commission.

B. Eligibility for Service--

1. Telecommunications service is to be conditioned upon payment of deposits, when required, and of the outstanding debts for past telecommunications service which are owed by the applicant to that telecommunications corporation, subject to Section R746-240-7 Review and Resolution of Disputes, and Section R746-240-8, Formal Agency Proceedings Based Upon Complaint Review. That service may be denied when unsafe conditions exist, when the applicant has given false information in applying for telecommunications service, or when the applicant has tampered with the telecommunications corporation's lines, equipment, or other properties.

2. When an applicant is unable to pay an outstanding debt in full, service may be provided upon execution of a deferred payment agreement as set forth in Section R746-240-5, Deferred Payment Agreement.

3. An applicant is ineligible for service if at the time of application, the applicant is cohabiting with a delinquent account holder, previously terminated for non-payment, and the applicant and the delinquent account holder received the telecommunications corporation's service, whether the service was received at the applicant's present address or another address.

R746-240-4. Account Billing.

A. Billing Procedures--

1. Bills to account holders for telecommunications services shall be issued on a monthly basis and shall be typed or machine printed.

B. Periodic Billing Statement--

1. Except in the case of telecommunications service which is deemed to be uncollectible or with respect to which collection or termination procedures have been instituted, a telecommunications corporation shall mail or deliver to the account holder, for each billing cycle at the end of which there is an outstanding balance for current service, a statement which the account holder may retain, setting forth each of the following disclosures to the extent applicable:

- a. the outstanding balance in the account at the beginning of the current billing cycle using a term such as "previous balance";
- b. the amount of the charges debited to the account during the current billing cycle using a term such as "current service";
- c. the amount of the payments made to the account from the previous billing cycle using a term, such as "payments";
- d. the amount of the late payment charges debited to the account during the current billing cycle using a term, such as "late charge";
- e. a listing of the closing date of the current billing cycle and the outstanding balance in the account on that date using a term, such as "amount due";

f. a listing of the statement, or payment, due date;

g. a listing of the date by which payment of the new balance must be made to avoid assessment of a late charge;

h. a statement that a late charge, expressed in annual percentage rate or periodic rate, may be assessed against the account for late payment;

i. a statement such as: "If you have questions about this bill, please call the company at--phone #".

C. Late Charge--

1. A late payment charge of a periodic rate as established by the Commission may be assessed against an unpaid balance pursuant to specific tariffs approved by the Commission for telecommunications corporations not subject to pricing flexibility pursuant to 54-8b-2.3. Late payment charges shall not apply if payment is made before the

next bill is rendered by the telecommunications corporation. A late payment charge may be assessed against an unpaid balance pursuant to terms and conditions in price lists of telecommunications corporations subject to pricing flexibility.

2. No other charge, whether described as a finance charge, service charge, discount, net or gross charge may be applied to an account for failure to pay an outstanding bill by the statement due date. This subsection does not apply to reconnection charges or return check service charges.

D. Statement Due Date--An account holder shall have not less than 20 days from the bill date to pay the new balance, which date shall be the statement due date.

E. Disputed Bill--

1. In the event of a dispute between the account holder and the telecommunications corporation respecting a bill, the telecommunications corporation may require the account holder to pay the undisputed portion of the bill to avoid discontinuance of service for nonpayment. The telecommunications corporation shall make an investigation as may be appropriate to the particular case, and report the result thereof to the account holder. In the event the dispute is not reconciled, the telecommunications corporation shall advise the account holder that he may make application to the Division of Public Utilities for review and disposition of the matter per Section R746-240-7, Review and Resolution of Disputes.

2. Inaccurately billed service--When the billings for telecommunications services have not been accurately determined because of the telecommunications corporation's omission or negligence, the telecommunications corporation shall offer and enter into reasonable payment arrangements when the amount owed by the customer exceeds \$25 and when the period over which the underbilling accumulated exceeds one month. When a telecommunications corporation overbills a customer for telecommunications service, the telecommunications corporation shall offer the account holder a credit on future bills or a refund if requested by the account holder.

3. Interruption of service--In the event the account holder's service is interrupted, other than by the negligence or the willful act of the account holder, and it remains out of service for a specified number of hours, after being reported or found by the telecommunications corporation to be out of order, credit adjustments shall be made to the account holder's billing. The specified number of hours, which can be either 24 or 48, and the adjustment methods will be as shown in the tariffs of each telecommunications corporation and approved by the Commission for telecommunications corporations that are not subject to pricing flexibility pursuant to 54-8b-2.3 or in the price lists of each telecommunications corporation that is subject to pricing flexibility.

R746-240-7. Review and Resolution of Disputes.

A. Informal Review--A person who is unable to resolve a dispute with a telecommunications corporation concerning a matter subject to Public Service Commission jurisdiction may obtain informal review of the dispute by a designated employee within the Division of Public Utilities. Upon receipt of a request for informal review, the Division employee shall, within one business day, notify the telecommunications corporation that an informal complaint has been filed. Absent unusual circumstances, the telecommunications corporation shall attempt to resolve the complaint within five business days. In no circumstance shall the telecommunications corporation fail to respond to the informal complaint within five business days. The response shall advise the complainant and the Division employee regarding the results of the telecommunications corporation's investigation and a proposed solution to the dispute or provide a timetable to complete any investigation and

propose a solution. The telecommunications corporation shall make reasonable efforts to complete any investigation and resolve the dispute within 30 calendar days. A proposed solution may be that the telecommunications corporation requests that the informal complaint be dismissed if, in good faith, it believes the complaint is without merit. The telecommunications corporation shall inform the Division employee of the telecommunications corporation's response to the complaint, the proposed solution and the complainant's acceptance or rejection of the proposed solution and shall keep the Division employee informed as to the progress made with respect to the resolution and final disposition of the informal complaint. If, after 30 calendar days from the receipt of a request for informal review, the Division employee has received no information that the complainant has accepted a proposed solution or otherwise completely resolved the complaint with the telecommunications corporations, the complaint shall be presumed to be unresolved.

B. Mediation--If the telecommunications corporation or the complainant determines that they cannot resolve the dispute by themselves, ~~or~~ either of them may request that the Division attempt to mediate the dispute. When a mediation request is made, the Division employee shall inform the ~~other~~ other party within five business days of the mediation request. The other party shall either accept or reject the mediation request within ten business days after the date of the mediation request, and so advise the mediation requesting party and the Division employee. If mediation is accepted by both parties or the complaint continues to be unresolved 30 calendar days after receipt, the Division employee shall further investigate and evaluate the dispute, considering both the customer's complaint and the telecommunications corporation's response, their past efforts to resolve the dispute, and try to mediate a resolution between the complainant and the telecommunications corporation. Mediation efforts may continue for 30 days or until the Division employee informs the parties that the Division has determined that mediation is not likely to result in a mutually acceptable resolution, whichever is shorter.

C. Division Access to Information During Informal Review or Mediation~~[-]~~--The telecommunications corporation and the complainant shall provide documents, data or other information requested by the Division, to evaluate the complaint within five business days of the Division's request, if reasonably possible or as expeditiously as possible if they cannot be provided within five business days.

D. Commission Review--If the telecommunications corporation has proposed that the complaint be dismissed from informal review for lack of merit and the Division concurs in the disposition, if either party has rejected mediation or if mediation efforts are unsuccessful and the Division has not been able to assist the parties in reaching a mutually accepted resolution of the informal dispute, or the dispute is otherwise unresolved between the parties, the Division in all cases shall inform the complainant of the right to petition the Commission for a review of the dispute, and shall make available to the complainant a standardized complaint form with instructions approved by the Commission. The Division itself may petition the Commission for review of a dispute in any case which the Division determines appropriate. While a complainant is proceeding with an informal review or mediation by the Division or a Commission review of a dispute, no termination of telecommunications service shall be permitted, if amounts not disputed are paid when due, subject to the telecommunications corporation's right to terminate service pursuant to R746-240-6(D), Termination Without Notice.

KEY: procedures^[*], telecommunications, telephones

~~February 15, 2001~~ 2005

Notice of Continuation June 25, 2003

54-4-1

54-4-7

54-7-9

▼ ————— ▼

Public Service Commission,
Administration

R746-340

Service Quality for Telecommunications
Corporations

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 27856

FILED: 05/02/2005, 15:25

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The reason for this change is to update the rule to eliminate references to dates which have already passed and to include additional definitions.

SUMMARY OF THE RULE OR CHANGE: The changes will: 1) add Subsection R746-340-1(B)(1)(i) which is the definition of negligent or willful misconduct which includes the introduction of a virus to a company's network; 2) change Subsection R746-340-1(B)(17) to a definition for "price list" and "Tariff" is renumbered to R746-340-1(B)(18); and 3) eliminate all references to dates occurring in 2001 and 2002 in Section R746-340-8.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 54-4-1 and 54-3-1

ANTICIPATED COST OR SAVINGS TO:

❖**THE STATE BUDGET:** None--No state agency activities are affected because the changes are in the definitions and the elimination of date references which have passed.

❖**LOCAL GOVERNMENTS:** None--No local government activities are affected because the changes are in the definitions and the elimination of date references which have passed.

❖**OTHER PERSONS:** None--No direct effect will be had on any activities which will result in costs or saving changes because the changes are in the definitions and the elimination of date references which have passed.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be none. For those individuals whose actions will now fall within the expanded definition of negligent or willful misconduct, the amendment will effectively excuse the utility company from being responsible for service outages which arise from the individual's conduct.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: As noted in the cost or savings

answers above, there will be no fiscal impact from the rule change; any affect will be in service quality responsibilities. Ric Campbell, Chairman

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:

Barbara Stroud or Sandy Mooy at the above address, by phone at 801-530-6714 or 801-530-6708, by FAX at 801-530-6796 or 801-530-6796, or by Internet E-mail at bstroud@utah.gov or smooy@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 06/14/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 06/15/2005

AUTHORIZED BY: Barbara Stroud, Paralegal

**R746. Public Service Commission, Administration.
R746-340. Service Quality for Telecommunications Corporations.
R746-340-1. General.**

A. Application of Rules -- These rules promulgated herein shall apply to each telephone corporation, as defined in Subsection 54-8b-2(16).

1. These rules govern the furnishing of communications services and facilities to the public by a telecommunications corporation subject to the jurisdiction of the Commission. The purpose of these rules is to establish reasonable service standards to the end that adequate and satisfactory service will be rendered to the public.

2. The adoption of these rules by the Commission shall in no way preclude it from altering or amending its rules pursuant to applicable statutory procedures, nor shall the adoption of these rules preclude the Commission from granting temporary exemptions to rules in exceptional cases as provided in R746-100-~~16~~15, Deviation from Rules.

B. Definitions -- In the interpretation of these rules, the following definitions shall apply:

1. "Allowed Service Disruption Event" -- an event when a telecommunications corporation is prevented from providing adequate service due to:

- a. A customer's act;
- b. A customer's failure to act;
- c. A governmental agency's delay in granting a right-of-way or other required permit;
- d. A disaster or an act of nature that would not have been reasonably anticipated and prepared for by the telecommunications corporation;
- e. A disaster of sufficient intensity to give rise to an emergency being declared by state government~~[-]~~;

f. A work stoppage, which shall include a grace period of six weeks following return to work[-];

g. A cable cut outside the telecommunications corporation's control affecting more than 20 pairs.

h. A public calling event, busy calling or dial tone loss due to mass calling or dial-up event[-];

i. Negligent or willful misconduct by customers or third parties including outages originating from the introduction of a virus onto the telecommunications corporation's network or acts of terrorism.

2. "Central Office" -- A building that contains the necessary telecommunications equipment and operating arrangements for switching, connecting, and inter-connecting the required local, interoffice, and interexchange services for the general public.

3. "Central Office Area" -- A geographic area served by a central office.

4. "CFR" means the Code of Federal Regulations, 2000 edition.

5. "Choke Network Trunk Groups" -- A network with special trunking and special prefixes in place to manage the use of mass-calling-numbers.

6. "Commission" -- Public Service Commission of Utah.

7. "Commitment" -- A promise by a telecommunications corporation to a customer specifying a date and time to provide a service.

8. "Customer" -- A person, firm, partnership, corporation, municipality, cooperative, organization, or governmental agency, provided with telecommunications services by a telecommunications corporation.

9. Customer trouble reports include:

a. "Trouble Report" -- A customer report attributable to the malfunction of a telecommunications corporation's facilities and includes repeat trouble reports.

b. "Out of Service Trouble Report" -- A report used when a customer reports there is neither incoming nor outgoing telecommunications capability.

c. "Repeat Trouble Report" -- A report received on a customer access line within 30 days of a closed trouble report.

10. "Exchange" -- A unit established by a telecommunications corporation for the administration of telecommunication services in a specified geographic area. It may consist of one or more central office areas together with associated outside plant facilities used in furnishing telecommunications services in that area.

11. "Exchange Service Area" -- The geographical territory served by an exchange.

12. "Held Order" -- A request for basic exchange line service delayed beyond the initial commitment date due to a lack of facilities which the telecommunications corporation is responsible for providing.

13. "Interconnection Trunk Group" -- Connects the telecommunications corporation's central office or wire center with an[]other telecommunications corporation's facilities.

14. "Local Access Line" -- A facility, totally within one central office area, providing a telecommunications connection between a customer's service location and the serving central office.

15. "Out of Service" -- When there exists neither incoming nor outgoing telecommunication capability.

16. "Party Line Service" -- A grade of local exchange service which provides for more than one customer to be served by the same local access line.

17. "Price List" -- The terms and conditions upon which public telecommunications services are offered that is filed by a telecommunications corporation that is subject to pricing flexibility pursuant to 54-8b-2.3.

18. "Tariff" -- A portion or the entire body of rates, tolls, rentals, charges, classifications and rules, filed by the telecommunications corporation and approved by the Commission.

~~[18]~~19. "Telecommunications Corporation" -- A "telephone corporation" as defined in Section 54-2-1(2)[4]3).

~~[19]~~20. "Voice Grade Service" -- Service that at a minimum, includes:

a. providing access to E911, which identifies the exact location of the emergency caller;

b. Two-way communications with a clear voice each way;

c. Ability to place and receive calls; and

d. Voice band between 300 HZ and 3000 HZ.

2[0]1. "Wire Center" -- The building in which one or more local switching systems are installed and where the outside cable plant is connected to the central office equipment.

R746-340-8. End User Service Standards for Incumbent Telecommunications Corporations with 30,000 or More Access Lines in Utah; ~~Not Subject to Sufficient Competition~~.

Except by public notice and hearing, as ordered by the Commission upon finding that sufficient competition exists in a defined geographic area to waive one or more of the following standards and rely upon market operations to ensure adequate end user service quality, each incumbent telecommunications corporation with 30,000 or more access lines in Utah shall comply with the following service standards with respect to ~~tariffed~~ public telecommunications services offered pursuant to tariff on January 1, 2005. An incumbent telecommunications corporation subject to Rule 746-340-8 will be subject to 54-7-25 penalties for the failure to comply with any of these service standards for any time period greater than three consecutive months, unless the Commission determines, pursuant to a request for agency action by an interested person and proceedings thereon, that the corporation's failure(s) to comply with these standards warrant imposition of such penalties for a shorter time period.

A. Installations -- Excluding documented Allowed Service Disruption events listed in R746-340-1(B)(1), a telecommunications corporation shall:

1. install ~~90 percent of all new, transfer, and change orders within three business days or on the customer requested due dates, whichever is later, on a wire center basis. Beginning July 2001, install~~ 95 percent of all new, transfer, and change orders within three business days or on the customer-requested due dates, whichever is later, on a wire center basis;

2. allow no more than ~~five held orders per 1,000 new, transfer and change orders at the end of any month on a statewide basis for all areas not previously exempted under this rule. Beginning January 1, 2002, allow no more than~~ four held orders per 1,000 new, transfer and change orders at the end of any month on a statewide basis for all areas not previously exempted under this rule;

3. meet 90 percent of all new, transfer and change order installation commitments, excluding customer trouble reports within seven days of initial installation, on a wire center basis, unless the customer requests a later date; and

4. automatically credit \$10 to a residential customer, \$40 to a small business customer, for missing an installation commitment.

B. Repairs -- Excluding documented Allowed Service Disruption Events listed in R746-340-1(B)(1), a telecommunications corporation shall:

1. Repair ~~80 percent of all out-of-service troubles within one business day, on a wire center basis. Beginning July 1, 2001, repair~~ 85

percent of all out-of-service troubles within one business day, on a wire center basis;

2. repair 90 percent of all troubles within two business days, on a wire center basis; and

3. automatically credit \$10 to a residential customer, \$40 to a small business customer, for missing a repair commitment.

4. Trouble reports received after 4:00 p.m. Monday through Friday are deemed received at 8:00 a.m. on the following business day.

C. Billing Requirements -- Excluding documented Allowed Service Disruption events listed in R746-340-1(B)(1), a telecommunications corporation shall:

1. correct a billing error upon receiving a customer request by correcting the error on the customers account within one week.

2. Maintain and provide to the Division of Public Utilities upon request, evidence documenting its activities, the purposes, dates, volumes, and times of those activities in:

a. making billing corrections within one week, and

b. investigating to determine whether or how to make billing corrections.

D. Disconnection of Service Requirements -- Excluding documented Allowed Service Disruption Events listed in R746-340-1(B)(1), a telecommunications corporation shall:

1. disconnect a customer for nonpayment no earlier than the disconnect date listed on the telecommunications corporation's disconnect notice to the customer; and

2. maintain and provide to the Division of Public Utilities upon request, evidence documenting its activities and the dates of those activities when disconnecting customers no earlier than the disconnect dates specified on their disconnect notices; and disconnecting only those customers eligible to be disconnected.

E. Incoming Repair and Business Office Calls -- Excluding documented Allowed Service Disruption Events listed in R746-340-1(B)(1), a telecommunications corporation shall[:

~~1. assure that incoming repair and business office calls experience no more than a 120-second time in queue on average;~~

~~2. beginning January 1, 2001 through July 7, 2001, assure that incoming repair and business office calls experience no more than a 45-second time in queue on average; and~~

~~3. beginning July 8, 2001,] assure incoming repair and business office calls experience no more than a 35-second time in queue on average.~~

KEY: procedures, telecommunications, telephone utility regulations

[March 27, 2001]2005

Notice of Continuation June 25, 2003

54-4-1

54-4-14

54-4-23



**Public Service Commission,
Administration
R746-349
Competitive Entry and Reporting
Requirements**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 27857

FILED: 05/02/2005, 16:26

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To accommodate changes arising from statutory changes made by the Utah Legislature (S.B. 108 (2005)) and reflect current practices of the Commission. (DAR NOTE: S.B. 108 is found at UT L 2005 Ch 5, and was effective 05/02/2005.)

SUMMARY OF THE RULE OR CHANGE: This change will provide for the electronic filing of price lists, eliminate the price floor reference to the previous Subsection 54-8b-3.3(3) (which has been repealed) and include incumbent telecommunications corporations with pricing flexibility pursuant to Section 54-8b-2.3 in previous reporting exemptions available to competitive Local Exchange Companies (LECs).

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 54-4-1, 54-8b-2.3, and 54-8b-3.3

ANTICIPATED COST OR SAVINGS TO:

❖**THE STATE BUDGET:** None--Because there is no substantive change to state agency activities.

❖**LOCAL GOVERNMENTS:** None--Because there is no substantive change to local government activities.

❖**OTHER PERSONS:** Some savings will arise, but they effectively originate from statutory changes, not from the rule change per se. The Commission does not have access to information from which an estimate can be made and the affected company does not report or provide data from which such an estimate could be made. While the rule amendment does exempt affected companies (it is believed that one company in the State of Utah will be affected) with possible savings impact, compliance with statutory changes will result in some offsetting costs.

COMPLIANCE COSTS FOR AFFECTED PERSONS: As the rule change provides for certain reporting exemptions for affected companies, the rule change itself will result in cost reductions.

While the rule amendment does exempt affected companies (it is believed that one company in the State of Utah will be affected) with possible savings impact, compliance with statutory changes will result in some offsetting costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Cost reductions should occur as the affected company will make fewer filings with the Commission because statutory changes eliminate some prior filings addressed in the current rule. The rule change tracks this statutory repeal and clarifies which companies will be affected by the rule provisions which remain in place. Ric Campbell, Chairman

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:
Barbara Stroud at the above address, by phone at 801-530-6714, by FAX at 801-530-6796, or by Internet E-mail at 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 06/14/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 06/15/2005

AUTHORIZED BY: Barbara Stroud, Paralegal

R746. Public Service Commission, Administration.
R746-349. Competitive Entry and Reporting Requirements.
R746-349-4. Reporting Requirements.

A. When a telecommunications corporation files a request for negotiation with another telecommunications corporation for interconnection, unbundling or resale, the requesting telecommunications corporation shall file a copy of the request with the Commission.

B. Each certificated telecommunications corporation shall file an updated chart of accounts by March 31, of each year.

C. Each certificated telecommunications corporation with facilities located in Utah shall maintain network route maps that include all areas where the corporation is providing or offering to provide service in Utah. These maps will, at a minimum, include central office locations, types of switches, hub locations, ring configurations, and facility routes, accompanied by detailed written explanations. These route maps will be provided to the Division or the Commission upon request.

D. Each certificated telecommunications corporation shall file a map with the Division that identifies the areas within the state where the corporation is offering service. The map should separately identify areas being served primarily through resale and by facilities owned by the carrier. This map shall be updated within 10 days after changes to the service territory occur. The map shall be made available for public inspection.

E. At least five days before offering any telecommunications service through pricing flexibility, a telecommunications corporation shall file with the Commission a price list or the prices, terms, and conditions of a competitive contract. Each filing may be made electronically and shall:

1. describe the public telecommunications services being offered;
2. set forth the terms and conditions upon which the public telecommunications service is being offered;
3. list the prices to be charged for the telecommunications service or the basis on which the service will be priced; and
4. be made available to the public through the Division.

F. The certificated CLEC shall file an annual report with the Division on or before March 31 for the preceding year, unless the CLEC requests and obtains an extension from the Commission. The annual report shall contain the following information, unless specific forms are provided by the Division:

1. annual revenues from operations attributable to Utah by major service categories. That information would be provided on a "Total Utah" and "Utah Intrastate" basis. "Total Utah" will consist of the total of interstate and intrastate revenues. "Utah Intrastate" will reflect only revenues derived from intrastate tariffs, price lists, or contracts. Both Total Utah and Utah Intrastate revenues shall be reported according to at least the following classes of service:

- a. private line and special access,
- b. business local exchange,
- c. residential local exchange,
- d. measured interexchange,
- e. vertical services,
- f. business local exchange, residential local exchange and vertical service revenue will be reported by geographic area, to the extent feasible;

2. annual expenses and estimated taxes attributed to operations in Utah;

3. year-end balances by account for property, plant, equipment, annual depreciation, and accumulated depreciation for telecommunications investment in Utah. The actual depreciation rates which were applied in developing the annual and accumulated depreciation figures shall also be shown;

4. financial statements prepared in accordance with GAAP. These financial statements shall, at a minimum, include an income statement, balance sheet and statement of cash flows and include a letter from management attesting to their accuracy, integrity and objectivity and that the statements follow GAAP;

5. list of services offered to customers and the geographic areas in which those services are offered. This list shall be current and shall be updated whenever a new service is offered or a new area is served;

6. number of access lines in service by geographic area, segregated between business and residential customers;

7. number of messages and minutes of services for measured services billed to end users;

8. list of officers and responsible contact personnel updated annually;

9. a report of gross revenue on a form supplied by the Division. This report shall be used in calculating the Public Utility Regulation Fee owed by the CLEC.

G. The annual report and the report of gross revenue filed by a CLEC shall be considered protected documents under the Government Records Access Management Act. The CLEC shall prominently mark in red each report with the word "Confidential."

R746-349-6. ~~Price Floor.~~

~~A. Incumbent local exchange carriers shall be prepared to demonstrate to the Commission compliance with 54-8b-3.3(3) for any telecommunications service or offering under the following conditions:~~

- ~~1. the incumbent local exchange carrier introduces a new service either by tariff or price list;~~
- ~~2. the incumbent local exchange carrier files tariffs or a price list that reduces rates;~~
- ~~3. upon petition by any person; or~~
- ~~4. if requested by the Commission or the Division.~~

~~B. Each incumbent local exchange carrier shall file a detailed description of the methods used to comply with 54-8b-3.3(3).~~

R746-349-7. — [CLEC and ILEC Subject to Pricing Flexibility Exemptions.

A. Unless otherwise ordered by the Commission either in the CLEC's or ILEC's certificate proceeding or in a proceeding instituted by the Commission or other party, a CLEC or ILEC subject to pricing flexibility pursuant to 54-8b-2.3 is exempt from the following statutes and rules. All other rules of the Commission and all other duties of public utilities not specifically exempted by these rules apply to a ~~new entrant~~ CLEC or ILEC subject to pricing flexibility pursuant to 54-8b-2.3. All powers of the Commission not specifically altered by these rules apply to a CLEC or ILEC subject to pricing flexibility pursuant to 54-8b-2.3.

1. Exemptions from Title 54:
 - 54-3-8, 54-3-19 -- Prohibitions of discrimination
 - 54-7-12 -- Rate increases or decreases
 - 54-4-21 -- Establishment of property values
 - 54-4-24 -- Depreciation rates
 - 54-4-26 -- Approval of expenditures
2. Exemptions from Commission rules:
 - R746-340-2 (D) -- Uniform System of Accounts (47 CFR 32)
 - R746-340-2 (E) (1) -- Tariff filings required
 - R746-340-2 (E) (2) -- Exchange Maps
 - R746-341 -- Lifeline (CLEC with ETC status)
 - R746-344 -- Rate case filing requirements
 - R746-401 -- Reporting of construction, acquisition and disposition of assets
 - R746-405 -- Tariff formats
 - R746-600 -- Accounting for post-retirement benefits
3. The CLEC will be exempted from the Lifeline rule, R746-341, only until the Commission establishes Lifeline rules that may include the CLEC or until the CLEC begins to provide residential local exchange service. The ILEC will not be exempted from the R746-341. Lifeline Rule.

KEY: essential facilities, imputation, public utilities, telecommunications

~~[December 17, 1997]~~ **2005**

Notice of Continuation March 13, 2002

54-7-25 through 28

54-8b-2

54-8b-3.3

63-46b

▼ ————— ▼

**Public Service Commission,
Administration
R746-352
Price Cap Regulation**

NOTICE OF PROPOSED RULE

(Repeal)

DAR FILE NO.: 27858

FILED: 05/02/2005, 16:38

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule was implemented to apply to Section 54-8b-2.4. Section 54-

8b-2.4 has been repealed, hence there is no continuing need for this rule.

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

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 54-8b-2.4

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: Savings will result for affected state agencies which will no longer have to process, analyze, or approve price index submissions. It is estimated that the aggregate savings will be less than \$25,000.

❖LOCAL GOVERNMENTS: None--Because no local government activities are affected.

❖OTHER PERSONS: Affected companies will no longer have to prepare price cap filings and make price changes pursuant to Section 54-8b-2.4. This should result in savings to these companies (the Commission believes only one company in the State of Utah will be affected). The Commission does not have access to information from the company for its past actual compliance costs. It is estimated that the savings could be an aggregate of \$50,000. It is affected by the number of the price changes which the company could make, for which the company had discretion, and the price information and billing systems utilized by the company.

COMPLIANCE COSTS FOR AFFECTED PERSONS: As reporting and filing activities required under the prior rule, which was required by a now repealed statute, are eliminated, there should be savings for the affected company. There should be no compliance costs incurred by any party as a result of the repeal of this rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The elimination of the rule will enable the affected business to forego calculating and implementing price changes resulting from compliance with Section 54-8b-2.4. This should result in cost reductions for the affected company. As noted above, estimates for these aggregated savings have been made for affected state agencies and the affected company. Ric Campbell, Chairman

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:

Barbara Stroud at the above address, by phone at 801-530-6714, by FAX at 801-530-6796, or by Internet E-mail at 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 06/14/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 06/15/2005

AUTHORIZED BY: Barbara Stroud, Paralegal

R746. Public Service Commission, Administration.

~~R746-352. Price Cap Regulation.~~

~~R746-352-1. Purpose.~~

~~— This rule establishes a framework and procedures for price regulation under Subsection 54-8b-2.4(5)(a).~~

~~R746-352-2. Objectives of Price Cap Regulation.~~

~~— A. Maximum Average Prices — To alter maximum average prices for tariffed services based upon inflation, industry cost trends, and exogenous factors.~~

~~— B. Price Protection — Provide price protection to customers who lack competitive choices.~~

~~— C. Movement of Prices — Foster the movement of prices toward cost and the removal of subsidies in the existing price structure of telephone corporations so as to encourage competition for all telecommunications services.~~

~~— D. Regulatory Burdens — Minimize regulatory burdens by establishing a relatively simple, administratively efficient, and understandable regulatory system.~~

~~R746-352-3. Price Cap Adjustment Formula.~~

~~— A. For Telephone Corporations Subject to Section 54-8b-2.4 — For telephone corporations subject to Section 54-8b-2.4, the following price cap adjustment formula shall be used to obtain a Price Cap Index: the Price Cap Index for the current year, or $PCI_{(t)}$, shall equal the product of the following two values: the Price Cap Index of the previous year, or $PCI_{(t-1)}$, multiplied by one plus the sum of a measure of inflation, I, minus a productivity factor, X, plus or minus an exogenous factor, Z, minus a service quality adjustment factor, Q: $PCI_{(t)} = PCI_{(t-1)}$ multiplied by $(1 + (I - X + / - Z - Q))$.~~

~~— 1. The Price Cap Index for the current year, $PCI_{(t)}$, shall be used as the 54-8b-2.4 price cap index, calculated annually, above which the weighted index of the average prices for the telephone corporation's services in a given price cap basket may not rise.~~

~~— 2. The inflation measure, I, equals a measure of economy-wide inflation rates the determination of which is described in R746-352-4(A).~~

~~— 3. The productivity factor, X, equals a productivity factor, or "X-factor," designed to capture the effects of changes in productivity and input prices for the telecommunications industry versus the respective changes in those elements for the economy as a whole, the determination of which is described in R746-352-4(B).~~

~~— 4. The exogenous factor, Z, equals potential adjustments to reflect or offset certain external or exogenous factors (positive and negative), the determination of which is described in R746-352-4(C).~~

~~— 5. The service quality factor, Q, equals potential adjustments to reflect the telephone corporation's service quality performance in accordance with standards set forth in R746-352-4(D), the determination of which is described in R746-352-4(D).~~

~~— 6. In determining the Price Cap Index, the values for I, X, Z, and Q shall be expressed in decimal, rather than direct percentage, form.~~

~~R746-352-4. Price Cap Adjustment Formula Components.~~

~~— A. Inflation Measure, I — The Inflation Measure, I, to be used for the price cap adjustment in a given year is the annual percentage~~

~~change in the Chain-weighted GDP-PI as published by the United States Department of Commerce Bureau of Economic Analysis for the 12-month period ending September 30 of the previous calendar year.~~

~~— B. Productivity Factor, X — The Productivity Factor, X, shall measure the amount by which the change in local exchange carrier, or LEC, productivity differs from the change in productivity for the United States economy as a whole plus the amount by which the change in input prices for the United States economy as a whole differs from the change in LEC input prices.~~

~~— 1. The following formula shall be used to calculate the productivity factor: The value for X shall equal the sum of two values: The first value shall equal the difference between a minuend representing the percent change in historical total factor productivity of local exchange carriers less a subtrahend representing the percent change in historical total factor productivity of the entire United States economy. The second value shall equal the difference between a minuend representing the percent change in the historical input prices of goods and services used to produce output of the entire United States economy less a subtrahend representing the percent change in the historical input prices of goods and services used to produce output of local exchange carriers:~~

~~— $X = (\%Change\ TFP_{LEC} - \%Change\ TFP_{US}) + (\%Change\ IP_{US} - \%Change\ IP_{LEC})$, where~~

~~— TFP_{LEC} equals the historical total factor productivity of local exchange carriers.~~

~~— TFP_{US} equals the historical total factor productivity of the entire United States economy.~~

~~— IP_{LEC} equals the historical input prices of goods and services used to produce output of local exchange carriers.~~

~~— IP_{US} equals the historical input prices of goods and services used to produce output of the entire United States economy.~~

~~— 2. The productivity factor to be used in calculating the maximum prices for tariffed public telecommunication services pursuant to Subsection 54-8b-2.4(5) shall be 6.2 percent for at least the first year in which the index is in effect. At the end of the first year, a change in the factor percentage shall be considered by the Commission upon a request for change in the productivity factor, X.~~

~~— a. Notwithstanding the provisions of Paragraph B.1., parties may present and the Commission may, at its discretion, rely on other methods of determining X. Any party presenting an alternative method shall have the burden to demonstrate that the alternative method is a substantially equivalent measure of X. The alternative method of determining X shall be submitted to and approved by the Commission by December 31 of the prior year for it to be used in any year's April 15 Price Cap Compliance Filing, submitted by a telephone company pursuant to R746-352-7.~~

~~— C. Exogenous Factor, Z — The exogenous factor, Z, shall represent events whose cost or revenue consequences are of a material nature which would not otherwise be captured in the inflation measure, I, or the productivity factor, X. One factor which the Commission may consider in evaluating whether to treat an event as exogenous is how comparable firms whose prices are not subject to regulatory control would or would not change their prices to reflect the event.~~

~~— 1. Exogenous events may include:~~

~~— a. Any removal of subsidies in the existing price structure of the telephone corporation required by federal or state law or approved by the Commission;~~

~~— b. The impact of alteration in asset lives to better reflect changes in the economic lives of plant and equipment approved by the Commission consistent with Section 54-7-12.1;~~

— c. Commission approved or adopted changes based upon changes in rules of the Federal Communications Commission, including rules with regard to the separation of interstate and intrastate revenues, expenses, or investments;

— d. Changes in tax rates applied to the telephone corporation;

— e. Any other change external to the business operations of the telephone corporation resulting from: (a) accounting rules adopted by the Financial Accounting Standards Board and approved by the Commission; or (b) laws or rules enacted or adopted by a governmental entity having jurisdiction; and

— f. Any other extraordinary events not reasonably foreseeable as of April 30, 1997.

— 2. The Z factor shall be calculated as the financial impact of the event(s) on intrastate tariffed services divided by intrastate revenues from tariffed services. The financial impact shall be net of any effects on costs or revenues that are incorporated in the inflation measure, I, or productivity factor, X.

— 3. In the interest of rate rebalancing so as to move prices towards cost and eliminate subsidies, the Commission may direct that the incremental value(s) of Z for one or more baskets may be positive while the offsetting incremental value(s) of Z for the other baskets may be negative.

— D. Service Quality Factor, Q—The service quality factor, Q shall set a value to reflect the telephone corporation's service quality.

— 1. A service quality measure shall be established using two installation wire center standards, three repair wire center standards, and one statewide held order standard. Performance against the standards shall be measured monthly.

— 2. The six standards are as follows:

— a. Meet at least 90 percent of installation appointments, excluding customer trouble reports within seven days of initial installation, on a wire center basis.

— b. Install at least 90 percent of any new, transfer, and change orders within three business days or on the customer requested due dates, whichever is later, on a wire center basis. After December 31, 2000, install 95 percent within three business days or on the customer requested due dates, whichever is later, on a wire center basis.

— c. Allow no more than five held orders per 1000 new, transfer, and change orders on a statewide basis. After December 31, 2001, allow no more than four held orders per 1000 new, transfer, and change orders on a statewide basis.

— d. Repair at least 80 percent of all out of service troubles within one business day on a wire center basis. After December 31, 2000, repair 85 percent of all out of service troubles within one business day on a wire center basis.

— e. Repair at least 90 percent of all troubles within two business days on a wire center basis.

— f. Meet at least 90 percent of repair commitments on a wire center basis.

— 3. The service quality factor, Q, for the current year shall be calculated as follows:

— a. The service quality measure for a year shall be determined by summing the service failure values occurring during the year. Missing a standard for any four consecutive months constitutes a service failure.

— b. Each service failure of a wire center standard shall be given a value of 0.0002 for each wire center in which a service failure occurs.

— c. Each service failure of the statewide held order standard shall be given a value of .002.

— 4. Limitations on service quality factor adjustments.

— a. Inadequate service quality results during the first year that a service quality factor adjustment is made may produce a Q factor value

of no more than an initial, threshold value of 0.05. However, upon request of an interested person, the Commission may determine that service quality failures warrant an additional service quality adjustment, up to the full service quality adjustment dictated by the service failures occurring during the year.

— b. If the number of service failures during any year causes the initial Q factor threshold in that year to be achieved, then the Commission shall have the discretion to increase the initial threshold value for the subsequent year by the value of 0.05 or multiple thereof. The Commission may, after improved service quality and subsequent to a petition and order thereon, reduce the Q factor initial threshold value to be used thereafter by the affected telephone company by a value of 0.05 or multiple thereof.

— c. The service quality factor, Q, shall begin being applied in the year 2002 price cap adjustment, based on 2001 service quality data.

— 5. Exemptions to Service Quality Standards.

— a. Exemptions to service quality standards shall be granted for events that the telephone corporation substantiates were beyond its control. It shall be the telephone corporation's responsibility to separately document the cause, the duration and the magnitude of those occurrences.

— b. Exemptions are defined as events wherein the telecommunications corporation proves it was unable to meet service standards because of:

— (1) A customer's act;

— (2) A customer's failure to act;

— (3) A government agency's delay in granting a right of way or other required permit;

— (4) A disaster or an act of nature that would not normally have been anticipated and prepared for by the telecommunications corporation;

— (5) In the case of a work stoppage, the telephone corporation shall have a grace period of six weeks following return to work to comply with service quality standards;

— (6) Any disaster or event of sufficient intensity to give rise to an emergency being declared by state government;

— (7) A cable cut outside the telephone corporation's control affecting more than 20 pairs; and

— (8) A public calling event, busy calling or dial tone loss due to mass calling or dial up event.

— c. A telephone corporation may petition the Commission for longer installation and repair interval standards in wire centers serving remote geographic areas with relatively few customers.

R746-352-5. Service Baskets.

— A. Service Baskets—The telephone corporation's tariffed services having similar characteristics shall be grouped in the following four baskets. These baskets are designed to allow development of different price indices for different groups of services, to limit a telephone corporation's ability to shift cost recovery from one major customer or service class to another, and to afford the company a reasonable amount of flexibility to adjust its prices to respond to changing market conditions. As used in this rule, "service" may include service or individual rate elements. They are:

— 1. Basket 1: Tariffed Residential Basic Exchange Services, Residential Extended Area Service (EAS), Caller ID Blocking, and per Call Blocking. Residential Basic Exchange Services consist of local access services and local usage services.

— 2. Basket 2: Tariffed business exchange services, consisting of business exchange access lines, flat and measured local usage, PBX

trunks, hunting, Direct Inward Dialing (DID), and EAS associated with the foregoing business services.

— 3. Basket 3: Tariffed intrastate switched access services.

— 4. Basket 4: All tariffed services that have not otherwise been placed into Baskets 1, 2, or 3.

R746-352-6. Indexing, Pricing Rules and Permitted Rate Adjustments.

— A. Index Based Price Cap Adjustment — A Price Cap Index, PCI, and an Actual Price Index, API, shall apply separately to each of the four Baskets, unless otherwise ordered by the Commission.

— B. Base Year for Calculating Beginning of Price Regulation — The base year is the year from which indexing begins, such as the year at which both the Price Cap Index and the Actual Price Index are initialized at a value of 100.

— 1. The base year for which the Price Cap Index and Actual Price Index will be valued at 100 is 1999.

— C. Re-initializing the Price Index to Eliminate the Prior Year's Service Quality Adjustment — Before calculating the price index for a new year, the previous year's PCI shall be elevated by the amount that it had been depressed, if at all, by that year's service quality adjustment.

— D. Adjustment When a Basket Contains Services Priced Below the Price Floor Established in 54-8b-3.3(3) — If the price cap index for a basket, $PCI_{(t)}$, as normally calculated, is less than either the prior year's price cap index, $PCI_{(t-1)}$, or 100, then the $PCI_{(t)}$ shall be recalculated as the product of the following three values: the price cap index of the previous year, or $PCI_{(t-1)}$, multiplied by one plus the sum of the measure of inflation, I , minus the productivity factor, X , plus or minus the exogenous factor, Z , minus the service quality adjustment, Q , $(1+(I-X+/-Z-Q))$, multiplied by an Adjustment Factor, $A_{(t)}$, where the Adjustment Factor equals a fraction expressed with a numerator of the revenues associated with services in the basket priced above cost pursuant to Section 54-8b-2.4(5)(c) and a denominator of the total revenues associated with all services of the basket. $PCI_{(t)} = PCI_{(t-1)}$ times $(1+(I-X+/-Z-Q))$ times $A_{(t)}$.

— E. Permissible Variances in Service Pricing Controlled by an Actual Price Index —

— 1. Subject to the limitations contained in this rule, the price for a service in a basket may vary from the price that would be dictated by application of the price cap index where additional, off-setting price change variances are made for another service or services in the basket as measured by an Actual Price Index, API, for that basket.

— 2. The Actual Price Index, API, is a means to permit comparison of the telephone corporation's price levels to the PCI, by expressing actual prices in terms of indexed values. An API shall be calculated for each Basket on the basis of the revenue-weighted average change in the telephone corporation's prices for all services included in that Basket between the current year, period t , and the previous year, period $(t-1)$. The API is an index of the telephone corporation's actual prices and thus may reflect additional rate decreases or foregone rate increases voluntarily made by the telephone corporation over time. As actual prices change, the API will be changed to reflect upward and downward price movements.

— F. Limitations on Service Basket Indices and Individual Service Prices —

— 1. The Actual Price Index, API, for each service basket cannot exceed the PCI applicable to the service basket.

— 2. The prices of individual services within a service basket are subject to the following limitations:

— a. Unless otherwise approved by the Commission, the price for any service in any basket may not be increased in any one year by more than the net of the PCI for that year plus ten percent.

— b. Apart from increases which occur in conjunction with Commission approved rate rebalancing where there are offsetting rate reductions, or absent a supereeding public interest determination, services for which a price reduction would be contrary to 54-8b-2.4(5)(c) may have their prices elevated cumulatively only to the degree that the price cap indices associated with their respective services' baskets exceed 100.

— c. The tariff price of each service must remain above its price floor in accordance with 54-8b-3.3(3).

— d. Provided that these pricing limitations are met, the telephone corporation may adjust the prices for services in any basket in conjunction with the Annual Price Cap Compliance Filing, or at any other time. Price changes proposed by the telephone corporation shall be filed with the Commission at least 30 days prior to their proposed effective date and shall be accompanied with supporting information showing that the proposed price changes are in compliance with this rule and any statutory limitations.

— 3. Rate Rebalancing:

— a. The Commission may, as consistent with the public interest, direct that the telephone corporation rebalance rates, or the telephone corporation may petition for the authority to rebalance rates. That rebalancing, which would be separate from the impacts of any required price-indexed based rate adjustments, must be revenue neutral, assuming no sales quantity changes and may be accomplished both within and across service baskets. Once implemented, the telephone corporation may then rely on the Commission approved rebalanced rates as its effective rates for its Annual Price Cap Compliance filing and any subsequent proposed rate changes.

— b. In addition to the preceding rate rebalancings, the Commission may direct the telephone corporation to make revenue neutral adjustments to rates in Basket 3 services, with offsetting adjustments to the PCIs in other baskets as required, to be consistent with interstate policy as set by the Federal Communications Commission, to the extent that the Commission determines that consistency is in the public interest.

— 4. All tariff changes will be subject to the approval of the Commission pursuant to 54-3-2 and 54-3-3.

R746-352-7. Price Cap Adjustments, Indices and Other Filings.

— A. Index-based Price Cap and Rate Adjustments — By April 15 of each year, the telephone corporation shall make a Price Cap Compliance Filing with the Commission. The Commission shall approve, suspend, or reject the Price Cap Compliance Filing within 45 days of that filing. Interested persons shall have 30 days from the filing date to file comments based upon a review of the telephone corporation's filing to determine whether the corporation's proposed updated price cap indices, measures, supporting evidence and any proposed rate changes are consistent with this rule. Any rate changes proposed with the Price Cap Compliance Filing shall be reviewed and will become effective on July 1, unless the Commission approves an achievable, different effective date. The Price Cap Compliance Filing will include at a minimum:

— 1. Data showing the Chain-weighted GDP PI for the preceding 12 months ended September 30 and the Chain-weighted GDP PI percentage change for that 12-month period;

— 2. Calculations of the PCI updated as required for any new X-factor and any inflation I measure adjustments to reflect the percentage change in the Chain-weighted GDP-PI, any exogenous Z-factor adjustments that have been expressly approved by the Commission by December 31 of the preceding year pursuant to paragraph B below, and any service quality Q-factor adjustments, together with updated API calculations;

— a. For each basket, the incumbent telephone corporation must show a complete price out using the end-of-year quantities or sales levels of services in the basket. The price out will sum the quantities multiplied by existing prices and proposed prices for each tariffed service, to obtain the total existing revenues and proposed revenues for tariffed services.

— 3. Tariff pages to reflect any proposed changes in tariff rates;

— 4. Schedules showing the changes in the tariffed rates;

— B. Filings to Support Proposed Exogenous Adjustments—The telephone corporation and any interested person may file any proposed Z-factor treatment of an exogenous event within 90 days of the date on which the effects of that event are known and measurable. The Commission shall review those filings and issue a written decision accepting or rejecting the proposed Z-factor adjustment and associated value for use in conjunction with this rule within 60 days of the filing. The telephone corporation may request assigning the financial impact of the exogenous adjustment to specific baskets.

— 1. As a part of its filing, the moving party or parties will submit the following:

— a. A description of the matter proposed for treatment as an exogenous event and a demonstration that it satisfies the definition of an exogenous event set forth in R746-352-4(C); and

— b. Data that describes and quantifies the estimated financial impact to the intrastate tariffed services of the telephone corporation;

— C. Exogenous Factors—Exogenous factors that have been submitted to the Commission and approved by December 31 of each year will be aggregated and included in the price cap filing on April 15 of the following year. Exogenous factors shall be exclusive of any adjustments already incorporated in the Chain-weighted GDP-PI or the X factor.

— D. Compliance Filing Requirements—Below-Cap Rate Changes—

The telephone corporation may adjust its rates at any time during the year, through a "below cap" compliance filing. In this type of filing, the telephone corporation must demonstrate that its cumulative proposed rate changes will still satisfy the prevailing basket-specific PCIs for that year, in addition to all other requirements or limitations of this rule. In order to satisfy this requirement, the telephone corporation must submit the following to the Commission:

— 1. Service Baskets. The telephone corporation must provide a calculation of the actual price cap index, API, for each basket. For each price basket, the telephone corporation must show the price-out described in R746-352-7(A)(2)(a).

— 2. Demonstration of Compliance with R746-352. The telephone corporation must show that the proposed rate changes will comply with the provisions set forth in R746-352-6 and 7.

— 3. Tariff Pages to Reflect Revised Rates in Each of the Service Baskets. The telephone corporation must provide copies of the affected tariff pages that will reflect the proposed revised rates in each of the service baskets.

— 4. Description of Proposed Changes to Rates in Each Rate Filing. Additionally, the telephone corporation must provide a brief narrative description that summarizes its proposed rate changes.

KEY: price indexes, public utilities, telecommunications

June 15, 2001

54-8b-2.4

54-8b-3.3

54-3-2

54-3-3

54-7-12]



Public Service Commission, Administration

R746-356

Intrastate (IntraLATA) Equal Access to Toll Calling Services By Telecommunications Carriers

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 27859

FILED: 05/02/2005, 16:46

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The reason for this change is to eliminate references for activities which have already occurred and update terminology.

SUMMARY OF THE RULE OR CHANGE: This change eliminates references to equal access implementation activities which occurred in 2001 and updates names for current terminology.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 54-8b-2.2, 54-4-1, and 54-3-1

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** None—Because there is no substantive change to state activities.

❖ **LOCAL GOVERNMENTS:** None—Because there is no substantive change to local government activities.

❖ **OTHER PERSONS:** None—Because no current or future conduct is affected.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs anticipated as the change eliminates references to activities that were to be completed prior to the end of 2001 and updates rule language for current terminology.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: These changes were merely to eliminate references to activities that were to be completed prior to the end of 2001 and updates rule language for current terminology. There will be no fiscal impact on businesses.
Ric Campbell, Chairman

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:

Barbara Stroud or Sandy Mooy at the above address, by phone at 801-530-6714 or 801-530-6708, by FAX at 801-530-6796 or 801-530-6796, or by Internet E-mail at bstroud@utah.gov or smooy@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 06/14/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 06/15/2005

AUTHORIZED BY: Barbara Stroud, Paralegal

R746. Public Service Commission, Administration.

R746-356. Intrastate (IntraLATA) Equal Access To Toll Calling Services By Telecommunications Carriers.

R746-356-2. Definitions.

For purposes of these rules, the following terms shall bear the associated meanings. All other terms are as defined in Section 54-8b.

A. "Bona Fide Request" -- A written request submitted by a telecommunications corporation or common carrier certified by the Commission or the FCC for intraLATA or intraLATA equal access service in an exchange or exchanges of a LEC.

B. "CCS" -- Committee of Consumer Services.

C. "Division" -- Division of Public Utilities.

D. "Equal Access" -- Dialing arrangements and other service characteristics provided by a LEC to other carriers that are equivalent in type and quality to that provided by the LEC, or designated contract carrier, for its provision of intraLATA toll service.

[C]E. "Presubscription" -- A process that allows customers to preselect the carrier that has equal access services for providing toll calls through the use of 1+ or 0+ without dialing a multi-digit access code.

[D]E. "Presubscribed Interexchange Carrier"(PIC)-- The certified telecommunications carrier a customer selects to provide 1+ or 0+ toll service, without the use of access codes, following equal access presubscription implementation.

[E]G. "2-PIC" -- The equal access presubscription option that affords customers the opportunity to select one certified telecommunications carrier for all interLATA 1+ or [O]0+ toll calls and, at the customer's option, to select another certified telecommunications carrier for all intraLATA 1+ or [O]0+ toll calls.

R746-356-3. Equal Access Implementation.

A. Implementation -- LECs shall proceed to implement intraLATA equal access, using the 2-PIC method, in accordance with the following criteria:

1. [US West Communications and all LECs that now provide, through the LEC, subsidiary or affiliate company, interLATA toll

services to Utah customers, and which provide interLATA equal access to any telecommunications carrier, including a LEC subsidiary or affiliate, shall file.] Any LEC that has an equal access implementation plan [with] approved by the Commission [within 30 days after the effective date of these rules.

a. The plan shall include a cutover target date(s) that is no later than: seven months after the effective date of these rules, or in the case of US West Communications, the date on which US West implements in region interLATA services by the authority of the FCC, whichever date is earlier.

b. Telecommunications carriers requiring intraLATA equal access from a LEC must file a bona fide request with the LEC within 30 days after receiving the implementation plan, with copies of the request being mailed to the Commission, the Division, and the CCS.

c. If no bona fide requests are received for] shall comply with and maintain equal access [at one of] in accordance with its approved plan as amended or modified with [more exchanges, the implementation plan and target date for these exchanges can, upon] Commission approval, be deferred to a future date].

2. Any LEC that does not [meet the criteria of R746-356-3(A)(1)] have an equal access implementation plan approved by the Commission will respond to a bona fide request, or on its own initiative, by filing an implementation plan with the Commission within 30 days.

a. The target date for implementation shall be no later than seven months from the date of receipt of the bona fide request.

b. Copies of the plan shall be mailed to the requesting telecommunications carrier, all other carriers subscribing to the LEC's interLATA equal access service, the Commission, and the Division.

3. A LEC can request a temporary waiver of the requirement to implement intraLATA equal access for one or more of its exchange areas, when it can prove that it does not have the technical or economic abilities to provide intraLATA equal access service.

a. The Commission, after notice and opportunity for hearing, may grant a waiver upon a showing of a lack of technical or economic ability.

b. When a LEC receives a waiver it shall implement interLATA and IntraLATA equal access [no later than December 31, 2001, unless a later date has been] by the date established in the Commission waiver.

B. Approval of Equal Access Plans -- The Commission will assign each LEC equal access plan a docket number and issue a notice of the proceeding to all parties on its telecommunications list.

1. The Commission shall approve each plan within 45 days of the filed date, unless hearings are required to approve the implementation plan.

2. The plan target date(s) will be automatically extended by the number of days in excess of 45 required to finally approve a plan.

C. Exemption of Toll Services -- A LEC shall continue to provide retail toll services as a carrier of last resort for its own certified territory, or as a PIC for its own certified territory, until an order of exemption is issued by the Commission.

D. Continued Services -- LECs will continue to provide services for customer dialed number protocols 0-, N11, 411, 611, 911, and 976. These numbers are not equal access and call routing will continue to be processed unchanged by the LEC following the implementation of intraLATA equal access. Calls using customer dialed protocols, such as 500, 700, 800, 900, 10356, and 101356X, are not subject to presubscription and they will continue to be routed to the appropriate non-equal access carrier.

E. Routing Interface Signaling -- All carriers shall establish uniform end-to-end message routing interface signaling that includes at

least the carrier identification code (CIC), originating line or trunk telephone number, and terminating line or trunk telephone number. This requirement is to permit direct billing to the responsible carrier(s) for use of the switched access network elements provided by other carriers.

R746-356-4. Equal Access Implementation Plans.

A. Criteria -- An intraLATA equal access implementation plan filed with the Commission, with a copy to the Division, shall include at least the following:

1. the planned individual central office or exchange cutover dates;
2. a schedule of any planned hardware and software upgrades required;
3. estimated investments and expenses for the planned upgrades;
4. estimated internal training expenses;
5. estimated cutover expenses;
6. estimated administrative expenses for preparing and filing tariffs or price lists;
7. estimated order processing expenses;
8. estimated customer notification and education expenses;
9. the computations of its estimated proposed equal access recovery charges; and
10. a copy of the work papers used to calculate the information required by R746-356-4(A)(3) through (9).

B. Service of Plans -- Copies of the plan shall be served on the Division [~~of Public Utilities (Division)~~], [~~Committee of Consumer Services (CCS)~~], and all telecommunications carriers that then subscribe to interLATA equal access from the LEC.

C. Status Reports -- In the Commission approval of a plan, the Commission shall establish the LEC's reporting requirements for reporting implementation progress, with a final report filed after implementation.

R746-356-8. Equal Access Implementation Cost Recovery Procedure.

A. Recovery of Waived PIC Charges -- The LEC shall bill each equal access telecommunications carrier for the presubscription PIC charges waived by R746-356-7(C) or (D).

B. Recovery of Expenses -- Any recovery of recurring and one-time expenses incurred for the provision of intraLATA equal access shall be through a separate, temporary equal access recovery charge (EARC) element in a LEC's switched access and toll tariffs or price lists. These expenses may include:

1. the incremental additional expenses related directly to the provision of hardware and software investments not required to upgrade the switching capabilities of each central office absent the provision of the intraLATA equal access;
2. expenses for the incremental additional training of customer contact personnel in the additional processing of intraLATA presubscription requests;
3. expenses related directly to the preparation, reproduction and mailing of the customer educational materials and equal access notifications;
4. expenses related directly to the preparation, reproduction and filings of the intraLATA equal access tariffs or price lists;
5. expenses for the Utah portion of the incremental additional software programming of the billing programs that would not be required absent the Utah intraLATA equal access; and
6. expenses for the Utah portion of the incremental additional software programming of the business office support systems that would not be required absent the Utah intraLATA equal access.

C. Recovery Timing -- Expenses for intraLATA equal access implementation developed from items shown in R746-356-8(B) shall be subject to approval by the Commission. The EARC shall be assessed to estimated monthly intraLATA originating switched access minutes and monthly originating LEC toll minutes of use, over a three-year period for [~~US-W~~] Qwest Corporation, and over a two-year period for all other LECs.

D. True-Up --

1. For each applicable year, the EARC will be trued-up and changed based on the actual incurred expenses, the actual originating intraLATA switched access minutes billed to each PIC, and the intraLATA toll minutes billed by the LEC.

2. The true-ups shall result in an annual payment by the LEC to each participating equal access carrier for excess payments, or an annual bill from the LEC to each participating equal access carrier for any under-payments.

3. The true-ups should result in an annual inter-company payment process based on the proportional intraLATA switched access minutes previously billed to each carrier and the intraLATA toll minutes billed by the LEC.

4. The LEC and an equal access carrier may agree to alternative compensation arrangements in lieu of an annual payment.

KEY: communications, equal access^[±], telecommunications, toll calling^[±]

[~~December 30, 1997~~2005

Notice of Continuation December 20, 2002

54-8b-2.2(3)



Public Service Commission,
Administration
R746-360

Universal Public Telecommunications
Service Support Fund

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 27860

FILED: 05/02/2005, 16:52

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The reason for this change is to accord this administrative rule to amendments made to Section 54-8b-2.3 by S.B. 108 of the 2005 General Session of the Utah Legislature. (DAR NOTE: S.B. 108 is found at UT L 2005 Ch 5, and was effective 05/02/2005.)

SUMMARY OF THE RULE OR CHANGE: This change provides that non-rate-of-return incumbent telephone companies that have pricing flexibility pursuant to Section 54-8b-2.3 need not make rate reductions equal to any incremental increase in State Public Telecommunications Service Support Fund distributions received.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 54-3-1, 54-4-1, 54-8b-2.3, and 54-8b-15

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: None--Because there is no substantive change to state agency activities.

❖LOCAL GOVERNMENTS: None--Because there is no substantive change to local government activities.

❖OTHER PERSONS: Some savings will be made by incumbent telephone companies which will no longer have to revise the pricing of their service offerings to acknowledge universal service funds. The Commission is not able to provide an estimate of the amount of savings as the cost of revising a company's pricing terms is dependent upon the number of service offerings that would be modified by the company (which is at the discretion of the company) and the nature of the company's management and information systems by which the company operates its price information and billing functions.

COMPLIANCE COSTS FOR AFFECTED PERSONS: For incumbent telephone companies which no longer have to make rate reductions for the additional funds they receive from state universal service funds, there will be no additional costs, but likely reductions in costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There should be a limited fiscal impact upon affected business (and the Commission believes only one company in the State of Utah will be affected) and what impact there is will be a reduction in costs. As noted above, the extent of the reduction is driven by the company's own prior operations and discretionary actions. Ric Campbell, Chairman

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:

Barbara Stroud at the above address, by phone at 801-530-6714, by FAX at 801-530-6796, or by Internet E-mail at 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 06/14/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 06/15/2005

AUTHORIZED BY: Barbara Stroud, Paralegal

R746. Public Service Commission, Administration.**R746-360. Universal Public Telecommunications Service Support Fund.****R746-360-2. Definitions.**

A. Affordable Base Rate (ABR) -- means the monthly per line retail rates, charges or fees for basic telecommunications service which the Commission determines to be just, reasonable, and affordable for a designated support area. The Affordable Base Rate shall be established by the Commission. The Affordable Base Rate does not include the applicable USF retail surcharge, municipal franchise fees, taxes, and other incidental surcharges.

B. Average Revenue Per Line -- means the average revenue for each access line computed by dividing the sum of all revenue derived from a telecommunications corporation's provision of public telecommunications services, including, but not limited to, revenues received from the provision of services in both the interstate and intrastate jurisdictions, whether designated "retail["], "wholesale["], or some other categorization, all revenues derived from providing network elements, services, functionalities, etc. required under the Federal Telecommunications Act of 1996, Pub. L. 104-104, 110 Stat. 56 or the Utah Telecommunications Reform Act, Laws of Utah 1995, Chapter 269, all support funds received from the Federal Universal Service Support Fund, and each and every other revenue source or support or funding mechanism used to assist in recovering the costs of providing public telecommunications services in a designated support area by that telecommunications corporation's number of access lines in the designated support area.

C. Basic Telecommunications Service -- means a local exchange service consisting of access to the public switched network; touch-tone, or its functional equivalent; local flat-rated, unlimited usage, exclusive of extended area service; single-party service with telephone number listed free in directories that are received free; access to operator services; access to directory assistance, lifeline and telephone relay assistance; access to 911 and E911 emergency services; access to long-distance carriers; access to toll limitation services; and other services as may be determined by the Commission.

D. Designated Support Area -- means the geographic area used to determine USF support distributions. A designated support area, or "support area," need not be the same as a USF proxy model's geographic unit. The Commission will determine the appropriate designated support areas for determining USF support requirements. Unless otherwise specified by the Commission, the designated support area for a rate-of-return regulated [i]Incumbent telephone corporation shall be its entire certificated service territory located in the State of Utah.

E. Facilities-Based Provider -- means a telecommunications corporation that uses its own facilities, a combination of its own facilities and essential facilities or unbundled network elements obtained from another telecommunications corporation, or a telecommunications corporation which solely uses essential facilities or unbundled network elements obtained from another telecommunications corporation to provide public telecommunications services.

F. Geographic Unit -- means the geographic area used by a USF proxy cost model for calculating costs of public telecommunications services. The Commission will determine the appropriate geographic area to be used in determining public telecommunications service costs.

G. Net Fund Distributions -- means the difference between the gross fund distribution to which a qualifying telecommunications corporation is entitled and the gross fund surcharge revenues collected by that company, when the former amount is greater than the latter amount.

H. Net Fund Contributions -- means the difference between the gross fund distribution to which a qualifying telecommunications corporation is entitled and the gross fund surcharge revenues generated by that company, when the latter amount is greater than the former amount.

I. Trust Fund -- means the Trust Fund established by 54-8b-12.

J. USF Proxy Model Costs -- means the total, jurisdictionally unseparated, cost estimate for public telecommunications services, in a geographic unit, based on the forward-looking, economic cost proxy model(s) chosen by the Commission. The level of geographic cost disaggregation to be used for purposes of assessing the need for and the level of USF support within a geographic unit will be determined by the Commission. These models shall be provided by the Commission by January 2, 2001.

K. Universal Service Fund (USF or fund) -- means the Universal Public Telecommunications Service Support Fund established by 54-8b-15 and set forth by this rule.

R746-360-6. Eligibility for Fund Distributions.

A. Qualification --

1. To qualify to receive USF support funds, a telecommunications corporation shall be designated an "eligible telecommunications carrier," pursuant to 47 U.S.C. Section 214(e), and shall be in compliance with Commission orders and rules. Each telecommunications corporation receiving support shall use that support only to provide basic telecommunications service and any other services or purposes approved by the Commission.

2. Additional qualification criteria for Incumbent telephone corporations - In addition to the qualification criteria of R746-360-6A.1.,

a. Non-rate-of-return Incumbent telephone corporations, except Incumbent telephone corporations subject to pricing flexibility pursuant to 54-8b-2.3 shall make Commission approved, aggregate rate reductions for public telecommunications services, provided in the State of Utah, equal to each incremental increase in USF distribution amounts received after December 1, 1999.

b. Rate-of-return Incumbent telephone corporations shall complete a Commission review of their revenue requirement and public telecommunications services' rate structure prior to any change in their USF distribution which differs from a prior USF distribution, beginning with the USF distribution for December, 1999.

B. Rate Ceiling -- To be eligible, a telecommunications corporation may not charge retail rates in excess of the Commission determined Affordable Base Rates for basic telecommunications service or vary from the terms and conditions determined by the Commission for other telecommunications services for which it receives Universal Service Fund support.

C. Lifeline Requirement -- A telecommunications corporation may qualify to receive distributions from the fund only if it offers Lifeline service on terms and conditions prescribed by the Commission.

D. Exclusion of Resale Providers -- Only facilities-based providers, will be eligible to receive support from the fund. Where service is provided through one telecommunications corporation's resale of another telecommunications corporation's service, support may be received by the latter only.

R746-360-8. Calculation of Fund Distributions in Rate-of-Return Incumbent Telephone Corporation Territories.

A. Determination of Support Amounts --

1. Incumbent telephone corporation - Monies from the fund will equal the numerical difference between the Incumbent telephone corporation's total embedded costs of providing public telecommunications services, for a designated support area, less the product of the Incumbent telephone corporation's Average Revenue Per Line, for the designated support area, times the Incumbent telephone corporation's active access lines in the designated support area.

2. Telecommunications corporations other than [†]Incumbent telephone corporations - Monies from the fund will equal the respective Incumbent telephone corporation's average access line support amount for the designated support area, determined by dividing the Incumbent telephone corporation's USF monies for the designated support area by the Incumbent telephone corporation's active access lines in the designated support area, times the eligible telecommunications corporation's number of active access lines in the designated support area.

B. Lifeline Support -- Eligible telecommunications corporations shall receive additional USF funds to recover any discount granted to lifeline customers, participating in a Commission-approved Lifeline program, that is not recovered from federal lifeline support mechanisms.

C. Exemptions -- Telecommunications corporations may petition to receive an exemption for any provision of this rule or to receive additional USF support, for use in designated support areas, to support additional services which the Commission determines to be consistent with universal service purposes and permitted by law.

KEY: public utilities, telecommunications, universal service
[January 4,]2005

Notice of Continuation November 25, 2003

54-3-1

54-4-1

54-7-25

54-7-26

54-8b-12

54-8b-15

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Public Service Commission, Administration **R746-405-1** General Provisions

NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 27861

FILED: 05/02/2005, 16:58

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The reason for this change is to exempt telecommunications corporations that have pricing flexibility pursuant to Section 54-8b-2.3 from the provisions of the rule to accord the rule to statutory changes made by S.B. 108 of the 2005 General Session of

the Utah Legislature. (DAR NOTE: S.B. 108 is found at UT L 2005 Ch 5, and was effective 05/02/2005.)

SUMMARY OF THE RULE OR CHANGE: This change exempts telecommunications corporations with pricing flexibility from the provisions of this rule dealing with tariff filings.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 54-8b-2.3 and 54-8b-2

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: Estimated to be none. The Public Service Commission has maintained copies of utility tariff provisions for public inspection. As the rule amendment will no longer require affected utilities to maintain tariffs, there will be a reduction in state agency costs previously incurred to keep and maintain such copies. It is estimated that the reduction for tariff filings will be equivalent to additional costs from increased price list filings, as the agency tariff maintenance activities are similar to price list maintenance activities.

❖LOCAL GOVERNMENTS: None--Because no local government activities are affected.

❖OTHER PERSONS: None--While affected companies will no longer have to submit tariff filings to reflect the changes the companies will make in the future, the changed statutory provisions provide that the changes will be reflected in prices lists which are to be filed with the Commission; it is anticipated that the reductions in costs for the eliminated tariff maintenance activities will be roughly equivalent to the costs of price list maintenance activities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be some savings associated with reduced tariff filing costs which flow from the amendment made to the rule. As noted above, however, these savings will be offset by additional costs which will arise from necessary compliance with statutory amendments.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The rule amendment will reduce costs for affected business (the Commission believes only one company will be affected in the State of Utah) as the rule amendment eliminates tariff filing and tariff maintenance requirements. Ric Campbell, Chairman

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:

Barbara Stroud or Sandy Mooy at the above address, by phone at 801-530-6714 or 801-530-6708, by FAX at 801-530-6796 or 801-530-6796, or by Internet E-mail at bstroud@utah.gov or smooy@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 06/14/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 06/15/2005

AUTHORIZED BY: Barbara Stroud, Paralegal

R746. Public Service Commission, Administration.

R746-405. Filing of Tariffs for Gas, Electric, Telephone, and Water Utilities.

R746-405-1. General Provisions.

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

1. the general form and construction of tariffs required by law to be filed with the Commission and open for public inspection,
2. the procedures for filing and publishing tariffs in Utah, and
3. the particular circumstances and procedures under which utilities may depart from their filed and effective tariffs.

B. Applicability--These rules apply to and govern utilities of the classes herein named, whether they begin service before or after the effective date of these rules, but they shall not affect a right or duty arising out of an existing rule or order in conflict herewith. The rules apply only to new tariff filings, and do not require the modification of tariffs which are effective on the date the rules are adopted. Each utility shall have on file with the Commission its current tariff. Each utility shall abide by the tariff as filed and approved by the Commission. The Commission at any time may direct utilities to make revisions or filings of their tariffs or a part thereof to bring them into compliance. These rules do not apply to a telecommunications corporation subject to pricing flexibility pursuant to 54-8b-2.3.

C. Definitions--

1. "Commission" means the Public Service Commission of Utah.
2. "Effective Date" means the date on which the rates, charges, rules and classifications stated in the tariff sheets first become effective, except as otherwise provided by statute. This date, in accordance with the statutory notice period, shall not be less than the 30th calendar day after the filed date, without the prior approval of the Commission. Unless otherwise authorized, rates shall be made effective for service rendered on or after the effective date.
3. "Filed Date" of tariff sheets submitted to the Commission for filing is the date the tariff sheets are date-stamped at the Commission's Salt Lake City office.

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

5. "Tariff Sheet" means the individual sheets of the volume constituting the entire tariff of a utility and includes the title page, preliminary statement, table of contents, service area maps, rates schedules and rules.

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

D. Separate Utility Services--

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

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

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

KEY: rules, and procedures, public utilities, tariffs, utility regulations

[1987]2005

Notice of Continuation April 2, 2003

54-3-2

54-3-3

54-3-4

54-4-1

54-4-4

54-7-12

▼ ————— ▼

Transportation, Operations, Construction **R916-4** Construction Manager/General Contractor Contracts

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 27846

FILED: 04/29/2005, 13:28

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this new rule is to allow the Department to institute a Construction Management/General Contractor (CM/GC) method of contracting for construction.

SUMMARY OF THE RULE OR CHANGE: This proposal enacts a new rule that creates a method of transportation construction bidding called CM/GC.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 63-56-36.1, 63-56-13, and 72-1-201

ANTICIPATED COST OR SAVINGS TO:

❖**THE STATE BUDGET:** There should be savings associated from using CM/GC because of an expedited nature of getting projects out for bid, but the savings would be minimal. It is impossible to tell at this time precisely what the savings would be since the Department has never used this method before. There should be no costs since it will simply replace some of the project bidding methods already being used.

❖**LOCAL GOVERNMENTS:** No additional costs. Local governments are not affected by the rule because they never bid for, or work on, Department projects.

❖**OTHER PERSONS:** It is possible that members of the construction industry will experience savings from the

expedited nature of this contracting method, but since it has never been done before, it is impossible to say.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no additional compliance costs for those companies having to respond to CM/GC procurement methods since they merely replace other methods already in use.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule will have no effect on businesses, except possibly a positive one, as discussed above. John R. Njord, Executive Director

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

TRANSPORTATION

OPERATIONS, CONSTRUCTION

CALVIN L RAMPTON COMPLEX

4501 S 2700 W

SALT LAKE CITY UT 84119-5998, or

at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 06/14/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 06/15/2005

AUTHORIZED BY: John R. Njord, Executive Director

R916. Transportation, Operations, Construction.

R916-4. Construction Manager/General Contractor Contracts.

R916-4-1. Purpose.

(1) Pursuant to Utah Code Ann. Section 63-56-13, this rule establishes the Department's ability to procure transportation construction under the Construction Manager/ General Contractor (CM/GC) approach authorized in Utah Code Ann. Section 63-56-36.1. CM/GC seeks to provide: a savings of time, and cost; improved quality expectations as to the end product, schedule, and budget; and risk management savings due to lack of duplication of expenses, early and continuous and coordination of efforts.

R916-4-2. Authority.

(1) The provisions of this rule are authorized by the following grants of rulemaking authority and provisions of Utah Code: Title 63, Chapter 56; Title 63, Chapter 46a; and Sections 72-1-201, 72-5-114, and 72-6-105.

R916-4-3. Policy.

(1) When the Executive Director or designee determines it appropriate, Department may use CM/GA method of project delivery. CM/GC is not recommended for every project; therefore, the decision to use the method must take into account the individual specific needs of the project.

R916-4-4. Request for Proposals (RFP).

(1) The Department will issue a request for proposals (RFP) from interested contractors.

(2) The RFP may require separate technical and price proposals, meeting requirements as stated in the RFP.

(3) The RFP may require a minimum mandatory technical level.

R916-4-5. Evaluation Team.

(1) The Department may establish a team for evaluating the technical proposals consisting of not more than 7 people.

(2) At least one member of the team may be a registered professional engineer; and

(3) At least one member may be a senior management employee of a licensed contractor.

R916-4-6. Evaluation of Proposals and Discussions with Proposers.

(1) The Department shall evaluate proposals, in accordance with the evaluation factors set forth in the RFP.

(2) As part of the qualifications specified in the RFP, the Department may require that potential contractors at least demonstrate their:

(a) construction experience in similar projects;

(b) financial, manpower and equipment resources available for the project;

(c) experience in other negotiated contracts; and

(d) preconstruction or design support experience.

R916-4-7. Acceptable Bid Security; Performance and Payment Bonds.

(1) The Executive Director or designee shall have the right to waive the requirement to provide bid security, or may reduce the amount of such security, if he or she determines that the bid security otherwise required by Utah Code Ann. Sections 63-56- 37 through 39 to be unnecessary to protect the State.

(2) The Executive Director or designee may reduce the amount of the payment and performance bonds below the 100% level required by Utah Code Ann. Sections 63-56-37 through 39, if he or she determines that a 100% bond is unnecessary to protect the State.

(3) Bid security, payment bonds and performance bonds must be provided on the forms included in the RFP.

R916-4-8. Required Contract Clauses.

The CM/GC contract documents shall include the contract clauses set forth in Utah Administrative Code R23-1-7, subject to such

modifications as the Executive Director or designee believes appropriate. Any modifications shall be supported by a written determination of the Executive Director or designee that describes the circumstances justifying the variations, and notice of any material variation shall be included in the RFP.

R916-4-9. Selection.

The basis for selection shall be stated in the RFP. Selection may be based on any of the following approaches.

(1) By the responsible proposer offering the lowest priced responsive proposal. If the RFP includes a mandatory technical level, no proposal shall be considered responsive unless it meets that level; or

(2) By the responsible proposer whose proposal is evaluated as providing the best value to Department.

R916-4-10. Award of Contract.

(1) The Contract will be awarded in two phases. The first is for preconstruction or design services, which may include value engineering, cost estimating, conceptual estimating, constructability reviews, scheduling, and Maintenance of Traffic plans.

(2) The second phase is for construction services. The second phase will be awarded after the plans have been sufficiently developed and a Guaranteed Maximum Price for construction services has been successfully negotiated. In the event that a Guaranteed Maximum Price is not negotiated, the Department will not award construction phase of the contract.

(3) In order to accelerate completion, incremental construction phases may be awarded after Guaranteed Maximum Prices are negotiated for each phase.

(4) The Department is not required to ever award a contract. Following award, however, a contract shall be executed and notice given to the successful CM/GC proposer to proceed with the work.

KEY: transportation, highways, contracts, construction 2005

63-56-36.1

63-56-13

72-1-201



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 June 14, 2005. At its option, the agency may hold public hearings.

From the end of the waiting period through September 12, 2005, 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.

Insurance, Administration
R590-225-3
Documents Incorporated by Reference

NOTICE OF CHANGE IN PROPOSED RULE

DAR File No.: 27709
 Filed: 04/21/2005, 11:57

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being changed to update a date of a document incorporated by reference in the rule.

SUMMARY OF THE RULE OR CHANGE: The NAIC Uniform Property and Casualty Transmittal Document revision date is being changed from the year 2004 to 2005. (DAR NOTE: This change in proposed rule has been filed to make additional changes to a proposed amendment that was published in the March 1, 2005, issue of the Utah State Bulletin, on page 26. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the change in proposed rule and the proposed amendment together to understand all of the changes that will be enforceable should the agency make this rule effective.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 31A-2-201, 31A-2-201.1, 31A-2-202, and 31A-19a-203

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: NAIC Uniform Property and Casualty Transmittal Document (January 1, 2005)

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: This will have no impact on the state's budget or on the work required of department personnel. No fees or filings will be required of department licensees as a result of this change and therefore no change to the state's budget.

❖LOCAL GOVERNMENTS: The changes to this rule will have no impact on local government since the rule only deals with the relationship of Utah licensed property and casualty insurers and the department.

❖OTHER PERSONS: This change will have little if any fiscal impact on Utah licensed property and casualty insurers doing business in Utah. Insurers use the transmittal form to file their rate and form changes with the department. The only possible expense to the insured will be the cost to printing this form. This may not be an expense if the insurer sends its filings electronically. There should be no fiscal impact on consumers.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This change will have little if any fiscal impact on Utah licensed property and casualty insurers doing business in Utah. Insurers use the

transmittal form to file their rate and form changes with the department. The only possible expense to the insured will be the cost to printing this form. This may not be an expense if the insurer sends its filings electronically. There should be no fiscal impact on consumers.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be very little, if any, fiscal impact to Utah businesses. The only possible impact will be to property and casualty insurers doing business in Utah who print the new form. D. Kent Michie, Commissioner

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 06/14/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 06/15/2005

AUTHORIZED BY: Jilene Whitby, Information Specialist

R590. Insurance, Administration.

R590-225. Submission of Property and Casualty Rate and Form Filings.

R590-225-3. Documents Incorporated by Reference.

(1) The department requires that the documents described in this rule shall 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 filing documents are hereby incorporated by reference and are available on the department's web site, <http://www.insurance.utah.gov/RF-Flgs.html>.

(a) "NAIC Uniform Property and Casualty Transmittal Document", dated January 1, [2004]2005;

(b) "NAIC Instruction Sheet for Property and Casualty Transmittal Document", dated January 1, 2003;

(c) "NAIC Uniform Property and Casualty Coding Matrix", dated January 1, 2005;

(d) "Utah Insurer Loss Cost Multiplier and Expense Constant Supplement Filing Forms", dated October 2003;

(e) "Utah Workers Compensation Insurer Loss Cost Multiplier Filing Form", dated October 2003.

KEY: property casualty insurance filing
~~March 24, 2004~~2005
31A-2-201
31A-2-201.1

31A-2-202
31A-19a-203



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).

Human Services, Administration, Administrative Services, Licensing **R501-19** Residential Treatment Programs

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 27839
FILED: 04/25/2005, 10:15

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: The office of Licensing shall make a rule to establish basic health and safety standards for Residential Treatment facilities per Subsection 62A-2-106(1)(a).

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Office of Licensing has not received any written comments during this five year time frame.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: With the continued growth of individuals with disabilities in this society, it is necessary to continue this rule.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
Jan Bohi at the above address, by phone at 801-538-4153, by FAX at 801-538-4553, or by Internet E-mail at jbohi@utah.gov

AUTHORIZED BY: Ken Stettler, Director

EFFECTIVE: 04/25/2005



Human Services, Administration, Administrative Services, Licensing **R501-20** Day Treatment Programs

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 27836
FILED: 04/21/2005, 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: This rule is established to provide basic health and safety standards for Day Treatment facilities per Subsection 62A-2-106(1)(a).

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Office of Licensing has not received any written comments during this five year time frame.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: There is continued growth in the population of individuals that need the services provided by Day Treatment programs. This rule set the health and safety standards for Day Treatment facilities and should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jan Bohi at the above address, by phone at 801-538-4153, by FAX at 801-538-4553, or by Internet E-mail at jbohi@utah.gov

AUTHORIZED BY: Ken Stettler, Director

EFFECTIVE: 04/21/2005

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jan Bohi at the above address, by phone at 801-538-4153, by FAX at 801-538-4553, or by Internet E-mail at jbohi@utah.gov

AUTHORIZED BY: Ken Stettler, Director

EFFECTIVE: 04/22/2005

Human Services, Administration,
Administrative Services, Licensing

R501-21

Outpatient Treatment Programs

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 27837
FILED: 04/22/2005, 11:10

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: The purpose of this rule is to establish the basic health and safety standards for Outpatient Treatment facilities per Subsection 62A-2-106 (1)(a).

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Licensing has not received any written comments on Rule R501-21 from the time it was made effective up to the five year renewal date.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The purpose of this rule is to provide protection to those individuals and families who have the physical and emotional status that allows them to continue to function in their usual living environment while participating in therapy or counseling that is designed to improve and enhance social or psychological functions. Therefore, this rule should be continued.

Human Services, Administration,
Administrative Services, Licensing

R501-22

Residential Support Programs

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 27838
FILED: 04/22/2005, 15:18

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: It is the responsibility of Licensing to establish a rule to provide basic health and safety standards for Residential Support facilities per Subsection 62A-2-106(1)(a).

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The office has not received any written comments concerning this rule since it was made effective.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Continuation of this rule is necessary to provide for families and individuals requiring services from agencies who provide residential support programs to individuals or families that may suffer from a crisis that may make them unable to provide for themselves or their families.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jan Bohi at the above address, by phone at 801-538-4153, by FAX at 801-538-4553, or by Internet E-mail at jbohi@utah.gov

AUTHORIZED BY: Ken Stettler, Director

EFFECTIVE: 04/22/2005



Natural Resources, Forestry, Fire and
State Lands
R652-120
Wildland Fire

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 27843
FILED: 04/28/2005, 09:37

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: The rule is promulgated under general rulemaking authority of Subsection 65A-1-4(2).

The rule is appropriate because it establishes criteria for issuance of burning permits under Section 65A-8-9, and authorizes the establishment of fire management areas as part of the Division's responsibilities under Subsection 65A-8-1(2).

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments were received. The division was provided a copy of a 2005 policy (Policy Statement No. 2005-05) of the School and Institutional Trust Lands Board of Trustees regarding wildland fire suppression. The policy authorizes the School and Institutional Trust Lands Administration (SITLA) to identify areas on SITLA lands where wildland fire suppression actions are likely to benefit resource values, and to identify areas where suppression is unlikely to be cost-effective or prudent from a SITLA perspective. The division interprets the SITLA policy statement as support for establishment of fire management areas pursuant to Section R652-120-300.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Cooperative fire protection

on unincorporated, nonfederal forest, range, and watershed land is a continuing responsibility of the division. The division issues several hundred burning permits each year. The rule is necessary and should be continued as long as these responsibilities exist.

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

NATURAL RESOURCES
FORESTRY, FIRE AND STATE LANDS
Room 3520
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jennifer Gregerson or Karl Kappe at the above address, by phone at 801-538-5418 or 801-538-5495, by FAX at 801-533-4111 or 801-533-4111, or by Internet E-mail at jennifergregerson@utah.gov or karlkappe@utah.gov

AUTHORIZED BY: Karl Kappe, FFSL Strategic Planner

EFFECTIVE: 04/28/2005



Regents (Board Of), Administration
R765-626
Lender-of-Last-Resort Program

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 27841
FILED: 04/26/2005, 13:55

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is enacted under: Title 53B, Chapter 12; Title IV of the Higher Education Act of 1965, as amended; and 34 CFR Part 682.401(c). Specifically, 34 CFR 682.401(c) requires a lender-of-last-resort be designated for each state to assure access to the Federal Family Education Loan Program (FFELP) for eligible student and parent borrowers.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments were received on this rule during the past five years.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is necessary to adhere to federal regulations that require a student loan guaranty agency, or an eligible lender, to serve as a lender-of-last-resort in each state. As the Utah Higher Education Assistance Authority, under the direction of the State Board of

Regents, is the designated guarantor for Utah, the renewal of this rule will assure access to the FFELP in the event an otherwise eligible student or parent borrower who qualifies for interest benefits is unable to obtain a FFELP loan by an approved lender.

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

REGENTS (BOARD OF)
ADMINISTRATION
BOARD OF REGENTS BUILDING, THE GATEWAY
60 SOUTH 400 WEST
SALT LAKE CITY UT 84101-1284, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Ronell Crossley at the above address, by phone at 801-321-7291, by FAX at 801-321-7299, or by Internet E-mail at rcrossley@utahsbr.edu

AUTHORIZED BY: Mark H. Spencer, Associate Commissioner

EFFECTIVE: 04/26/2005



End of the Five-Year Notices of Review and Statements of Continuation Section

NOTICES OF FIVE-YEAR REVIEW EXTENSIONS

Rulewriting agencies are required by law to review each of their administrative rules within five years of the date of the rule's original enactment or the date of last review (*Utah Code* Section 63-46a-9 (1996)). If the agency finds that it will not meet the deadline for review of the rule (the five-year anniversary date), it may file an extension with the Division of Administrative Rules. The extension permits the agency to file the review up to 120 days beyond the anniversary date.

Agencies have filed extensions for the rules listed below. The "Extended Due Date" is 120 days after the anniversary date. The five-year review extension is governed by *Utah Code* Subsection 63-46a-9(4) and (5) (1996).

Human Services

Recovery Services

No. 27842 (filed 04/27/2005 at 1:13 p.m.): R527-67. Locate, Use of Subpoena Duces Tecum.

ENACTED OR LAST REVIEWED: 05/03/2000 (No. 22820), 5YR, filed 05/03/2000 at 8:25 a.m., published 06/01/2000

EXTENDED DUE DATE: 08/31/2005

End of the Notices of Five-Year Review Extensions 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

Alcoholic Beverage Control

Administration

No. 27725 (AMD): R81-5-5. Advertising.
Published: March 15, 2005
Effective: May 1, 2005

No. 27726 (AMD): R81-5-14. Membership Fees and Monthly Dues.
Published: March 15, 2005
Effective: May 1, 2005

No. 27727 (AMD): R81-5-17. Visitor Cards.
Published: March 15, 2005
Effective: May 1, 2005

Commerce

Occupational and Professional Licensing

No. 27734 (NEW): R156-38b. State Construction Registry Rules.
Published: March 15, 2005
Effective: April 18, 2005

Environmental Quality

Air Quality

No. 27665 (AMD): R307-210. Stationary Sources.
Published: February 15, 2005
Effective: April 19, 2005

Water Quality

No. 27659 (AMD): R317-1. Definitions and General Requirements.
Published: February 1, 2005
Effective: April 20, 2005

No. 27658 (AMD): R317-3-10. Lagoons.
Published: February 1, 2005
Effective: April 20, 2005

No. 27657 (AMD): R317-8-3. Application Requirements.
Published: February 1, 2005
Effective: April 20, 2005

No. 27656 (AMD): R317-10-6. Facility Classification System.
Published: February 1, 2005
Effective: April 20, 2005

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No. 27650 (NEW): R392-600. Illegal Drug Operations Decontamination Standards.
Published: February 1, 2005
Effective: May 2, 2005

Health Care Financing, Coverage and Reimbursement Policy

No. 27733 (AMD): R414-14. Home Health Service.
Published: March 15, 2005
Effective: April 26, 2005

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No. 27719 (AMD): R590-148-12. Applications, Enrollment and Replacement of Coverage.
Published: March 15, 2005
Effective: April 28, 2005

No. 27716 (AMD): R590-226-3. Documents Incorporated by Reference.
Published: March 15, 2005
Effective: April 28, 2005

No. 27717 (AMD): R590-227-3. Incorporation by Reference.
Published: March 15, 2005
Effective: April 28, 2005

No. 27718 (AMD): R590-228-3. Documents Incorporated by Reference.
Published: March 15, 2005
Effective: April 28, 2005

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No. 27579 (CPR): R708-40. Driving Simulators.
Published: March 15, 2005
Effective: April 18, 2005

No. 27579 (NEW): R708-40. Driving Simulators.
Published: January 1, 2005
Effective: April 18, 2005

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The *Rules Index* is a cumulative index that reflects all effective changes to Utah's administrative rules. The current *Index* lists changes made effective from January 2, 2003, including notices of effective date received through May 2, 2005, the effective dates of which are no later than May 15, 2005. 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/>).

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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	

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R657-21	Cooperative Wildlife Management Units for Small Game and Waterfowl	27864	5YR	05/05/2005	Not Printed
R657-33	Taking Bear	27649	AMD	03/04/2005	2005-3/36
R657-37	Cooperative Wildlife Management Units for Big Game	27551	AMD	01/15/2005	2004-24/45
R657-38	Dedicated Hunter Program	27552	AMD	01/15/2005	2004-24/48
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R657-47	Trust Fund Permits (5YR EXTENSION)	27637	NSC	03/04/2005	Not Printed

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R708-40	Driving Simulators	27579	NEW	04/18/2005	2005-1/31
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R746-360-9	One-Time Distributions from the Fund	27302	AMD	01/04/2005	2004-15/59
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R850-24	General Provisions: Mineral and Material Resources, Mineral Leases and Material Permits	27607	NEW	04/01/2005	2005-2/76
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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	

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	27706	R277-411	AMD	04/01/2005	2005-5/10
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	27612	R850-21	NEW	04/01/2005	2005-2/58
	27613	R850-22	NEW	04/01/2005	2005-2/65
	27606	R850-25	NEW	04/01/2005	2005-2/81
	27604	R850-26	NEW	04/01/2005	2005-2/84
	27601	R850-27	NEW	04/01/2005	2005-2/86
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	27664	R651-206	NSC	02/01/2005	Not Printed
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	27647	R527-255	AMD	03/14/2005	2005-3/30
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<u>disease control</u> Agriculture and Food, Animal Industry	27570	R58-1	AMD	01/18/2005	2004-24/5
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