

# UTAH STATE BULLETIN

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

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Inquiries concerning administrative rules or other contents of the BULLETIN may be addressed to the responsible agency or to: Division of Administrative Rules, PO Box 141007, Salt Lake City, Utah 84114-1007, telephone (801) 538-3218, FAX (801) 538-1773.

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# SPECIAL NOTICE

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## DEPARTMENT OF ADMINISTRATIVE SERVICES ARCHIVES AND RECORDS SERVICE

**PUBLIC NOTICE**  
**December 15, 1997**

The Utah State Archives, Records Analysis Section hereby invites public comment in the records scheduling process. A portion of the records from those state and local government agencies listed below are expected to be presented to the State Records Committee for retention and disposition approval. The State Records Committee (consisting of the State Auditor's designee, the Division of State History director, a records manager from the private sector, the Governor or his designee, a citizen member, an elected official representing political subdivisions, and an individual representing the news media) is statutorily mandated to "review and approve retention and disposal of records."

*Comments are invited between January 12, 1998, and February 10, 1998. Contact the Utah State Archives at (801) 538-3012 or visit the Archives Research Room where you may review the decisions being considered.*

### **STATE AGENCIES**

Attorney General  
Human Services  
Labor Commission  
Ogden-Weber Applied Technology Center  
Public Safety  
Statehood Centennial Commission  
Transportation  
Utah Housing Finance Agency  
Utah Valley State College

### **LOCAL GOVERNMENT AGENCIES**

Alpine School District  
Davis County  
Granite School District  
Salt Lake County

### **GENERAL SCHEDULES**

School District Schedule:  
Schedule 17: Personnel Records

## 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 December 1, 1997, 5:01 p.m., and December 15, 1997, 5:00 p.m., are included in this, the January 1, 1998, issue of the *Utah State Bulletin*.

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

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

The law requires that an agency accept public comment on PROPOSED RULES published in this issue of the *Utah State Bulletin* until at least February 2, 1998. 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 May 1, 1998, the agency may notify the Division of Administrative Rules that it wants to make the PROPOSED RULE effective. The agency sets the effective date. The date may be no fewer than 31 days nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file a CHANGE IN PROPOSED RULE in response to comments received. If the Division of Administrative Rules does not receive a NOTICE OF EFFECTIVE DATE or a CHANGE IN PROPOSED RULE, the PROPOSED RULE filing lapses and the agency must start the process over.

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

PROPOSED RULES are governed by UTAH CODE Section 63-46a-4 (1996); and UTAH ADMINISTRATIVE CODE Rule R15-2, and Sections R15-4-3, R15-4-4, R15-4-5, R15-4-9, and R15-4-10.

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Is Intentionally Left Blank.**

Commerce, Occupational and  
Professional Licensing  
**R156-17a**  
Pharmacy Practice Act Rules

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 20492

FILED: 12/15/97, 09:17

RECEIVED BY: NL

**RULE ANALYSIS**

PURPOSE OF OR REASON FOR THIS FILING: After Division and Board review, changes needed to be made in the rules.

SUMMARY: Added a definition to clarify what the term "dispense" does not include. Changed that a pharmacy intern has 60 days to surrender his license if he ceases to meet the requirements for an intern license. Deleted requirement that the dispensing area in drug outlets licensed or remodeled after October 1, 1996 shall have rest room facilities within the pharmacy. Made changes to what reference publications are required to be in a drug outlet. Added that the United States Pharmacopeia/National Formulary (USP/NF) is incorporated by reference through Supplement 7, dated November 15, 1997.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Sections 58-17a-101 and 58-37-1, and Subsections 58-1-106(1) and 58-1-202(1)

THIS FILING INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: United States Pharmacopeia/National Formulary Supplement 7, November 15, 1997

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: None.

❖LOCAL GOVERNMENTS: None.

❖OTHER PERSONS: Possible savings to drug outlets licensed or remodeled after October 1, 1996 in that rest room facilities are no longer required in the dispensing area.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Possible savings to drug outlets licensed or remodeled after October 1, 1996 in that rest room facilities are no longer required in the dispensing area.

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

Commerce

Occupational and Professional Licensing

Fourth Floor, Heber M. Wells Building

160 East 300 South

PO Box 146741

Salt Lake City, UT 84114-6741, or

at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:

Karen Reimherr at the above address, by phone at (801) 530-6767, by FAX at (801) 530-6511, or by Internet E-mail at [brdopl.kreimher@email.state.ut.us](mailto:brdopl.kreimher@email.state.ut.us).

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 02/02/98; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 01/27/98, 9:00 a.m., 160 East 300 South, Room 205, Salt Lake City, UT.

THIS FILING MAY BECOME EFFECTIVE ON: 02/03/98

AUTHORIZED BY: J. Craig Jackson, Division Director

**R156. Commerce, Occupational and Professional Licensing.  
R156-17a. Pharmacy Practice Act Rules.**

**R156-17a-102. Definitions.**

In addition to the definitions in Title 58, Chapters 1 and 17a, as used in Title 58, Chapters 1 and 17a or these rules:

(1) "Dispense", as defined in Subsection 58-17a-102(9), does not include transferring medications for a patient from a legally dispensed prescription for that particular patient into a daily or weekly drug container to facilitate the patient taking the correct medications.

(2) "FDLE" means the Federal Drug Law Examination.

(~~2~~)<sup>3</sup> "NAPLEX" means North American Pharmacy Licensing Examination.

(~~3~~)<sup>4</sup> "NABP" means the National Association of Boards of Pharmacy.

(~~4~~)<sup>5</sup> "Qualified continuing education" as used in these rules, means continuing education that meets the standards set forth in Section R156-17a-319.

(~~5~~)<sup>6</sup> "Unprofessional conduct", as defined in Title 58, Chapters 1 and 17a, is further defined, in accordance with Subsection 58-1-203(5), in Section R156-17a-502.

**R156-17a-603. Operating Standards - Pharmacy Intern.**

In accordance with Subsections 58-17a-102(41) and 58-17a-102(41), the scope of practice of a pharmacy intern includes the following:

(1) If a pharmacy intern ceases to meet all requirements for intern licensure, he shall surrender his pharmacy intern license to the division within 60 days unless an extension is requested and granted by the Division in collaboration with the Board[ten-working days].

(2) A pharmacy intern may act as a pharmacy intern only under the supervision of an approved preceptor as set forth in Sections 58-17a-306 and 58-17a-604.

**R156-17a-610. Operating Standards - Drug Outlets.**

In accordance with Subsection 58-17a-601(1), standards for the operations of drug outlets include the following:

(1) Any drug outlet licensed under the Pharmacy Practice Act, Title 58, Chapter 17a, shall be well lighted, well ventilated, clean and sanitary.

~~[(2)]~~ The dispensing area, if any, in drug outlets initially licensed or remodeled on or after October 1, 1996 shall have rest room facilities within the pharmacy. This subsection does not apply to remodeling which consists of purely cosmetic changes.]

[(3)]~~2~~ The dispensing area, if any, shall have a sink with hot and cold culinary water separate and apart from any rest room facilities.

[(4)]~~3~~ The drug outlet shall be equipped to permit the orderly storage of prescription drugs and devices in a manner to permit clear identification, separation, and easy retrieval of products, and an environment necessary to maintain the integrity of the product inventory.

[(5)]~~4~~ The drug outlet shall be equipped to permit practice within the standards and ethics of the profession as dictated by the usual and ordinary scope of practice to be conducted within that facility.

[(6)]~~5~~ The drug outlet shall be stocked with the quality and quantity of product necessary for the facility to meet its scope of practice in a manner consistent with the public health, safety and welfare.

[(7)]~~6~~ The drug outlet shall be equipped with a security system to permit detection of entry at all times when the facility is closed.

[(8)]~~7~~ Drug outlets engaged in extensive compounding activities shall be required to maintain proper records and procedure manuals and establish quality control measures to ensure stability, equivalency where applicable and sterility.

[(9)]~~8~~ The drug outlet shall have recent editions of the following reference publications in such quantity and in such places as to make them readily available to facility personnel:

- (a) the Utah Pharmacy Practice Act;
- (b) the Utah Pharmacy Practice Act Rules;
- (c) the Utah Controlled Substance Act;
- (d) the Utah Controlled Substance Act Rules;

~~[(e)] the Federal Controlled Substance Act;~~

[(f)]~~e~~ Code of Federal Regulations (CFR) 21, Food and Drugs, Part 1300 to end or equivalent such as the USPDI [Pharmacy Law Digest];

[(g)]~~f~~ current FDA Approved Drug Products (orange book);

~~[(h)] a general drug reference in a current edition such as American Hospital Formulary Service - Drug Information; Facts and Comparison; USPDI: Volume I: Drug Information for the Health Care Professional; or another suitable reference approved by the board;~~

~~[(i)] a patient drug counseling reference such as USPDI: Volume II: Advice for the Patient, Patient Drug Facts; or another suitable reference approved by the board;~~

~~[(j)] a drug interaction reference such as Hansten's Drug Interaction; Drug Interaction Facts; Evaluation of Drug Interactions; Computer Drug Interaction Screening Program; or another suitable reference approved by the board;~~

~~[(k)] if the pharmacy prepares parenteral drugs, a reference on parenteral admixture compatibilities such as Handbook of Injectable Drugs; King's Guide to Parenteral Admixtures or another suitable reference approved by the board; and]~~

[(g)] any other general drug references necessary to permit practice dictated by the usual and ordinary scope of practice to be conducted within that facility; and

~~[(h)]~~~~(h)~~ "The Intern Experience, A Manual for Pharmacy Preceptors and Interns", August 1980, published by the National Association of Boards of Pharmacy, if pharmacy interns are present.

~~[(10)]~~~~9~~ The drug outlet shall post in view of the public the license of the facility and the license or a copy of the license of each pharmacist, pharmacy intern, and pharmacy technician who is employed in the facility, but may not post the license of any pharmacist, pharmacy intern, or pharmacy technician not actually employed in the facility.

~~[(11)]~~~~10~~ Drug outlets initially licensed or substantially remodeled on or after September 1, 1992, shall have a counseling area to allow for confidential patient counseling, when appropriate.

~~[(12)]~~~~11~~ If the pharmacy is located within a larger facility such as a grocery or department store, and a licensed Utah pharmacist is not immediately available in the facility, the pharmacy shall not remain open to pharmacy patients and shall be locked in such a way as to bar entry to the public or any non-pharmacy personnel.

~~[(13)]~~~~12~~ All pharmacies located within a larger facility shall be locked and enclosed in such a way as to bar entry to the public or any non-pharmacy personnel when the pharmacy is closed.

~~[(14)]~~~~13~~ Only a licensed Utah pharmacist or his designee shall have access to the pharmacy when the pharmacy is closed.

#### **R156-17a-612. Operating Standards - Pharmaceutical Wholesaler/Distributor and Pharmaceutical Manufacturer located in Utah.**

In accordance with Subsection 58-17a-601(1), the operating standards for pharmaceutical wholesaler/distributor and pharmaceutical manufacturer licensee includes the following:

(1) A separate license shall be obtained for each separate location engaged in the distribution or manufacturing of prescription drugs.

(2) A separate license shall be obtained for wholesale distribution activity and manufacturing activity.

(3) The licensee need not be under the supervision of a licensed pharmacist, but shall be under the supervision of a responsible officer or management employee.

(4) There has not been established minimum requirements for persons employed by persons engaged in the distribution or manufacture of prescription drugs; however, this does not relieve the person who engages in the distribution of prescription drugs within the state or in interstate commerce into or from the state, or those engaged in the manufacture of prescription drugs in the state or in interstate commerce into or from the state from ensuring that persons employed by them have appropriate education, experience, or both to engage in the duties to which they are assigned and do so in a manner which does not jeopardize the public health, safety or welfare.

(5) All facilities associated with the distribution or manufacture of prescription drugs shall:

(a) be of suitable size and construction to facilitate cleaning, maintenance and proper operations;

(b) have storage areas designed to provide adequate lighting, ventilation, sanitation, space, equipment and security conditions;

(c) have the ability to control temperature and humidity within tolerances required by all prescription drugs and prescription drug precursors handled or used in the distribution or manufacturing activities of the applicant or licensee;



(d) provide for a quarantine area for storage of prescription drugs and prescription drug precursors that are outdated, damaged, deteriorated, misbranded, adulterated, opened or unsealed containers that have once been appropriately sealed or closed, or in any other way unsuitable for use or entry into distribution or manufacture;

(e) be maintained in a clean and orderly condition, and

(f) be free from infestation by insects, rodents, birds, or vermin of any kind.

(6) In regard to security, all facilities used for wholesale drug distribution or manufacturing of prescription drugs shall:

(a) be secure from unauthorized entry;

(b) limit access from the outside to a minimum in conformance with local building and life/safety codes, and control access of persons to ensure unauthorized entry is not made;

(c) limit entry into areas where prescription drugs or prescription drug precursors are held to authorized persons who have a need to be in those areas;

(d) be well lighted on the outside perimeter;

(e) be equipped with an alarm system to permit detection of entry and notification to appropriate authorities at all times when the facility is not occupied for the purpose of engaging in distribution or manufacture of prescription drugs; and

(f) be equipped with security measures, systems and procedures necessary to provide reasonable security against theft and diversion of prescription drugs or alteration or tampering with computers and records pertaining to prescription drugs or prescription drug precursors.

(7) In regard to storage, all facilities shall provide for storage of prescription drugs and prescription drug precursors in accordance with the following:

(a) all prescription drugs and prescription drug precursors shall be stored at appropriate temperature, humidity and other conditions in accordance with labeling of such prescription drugs or prescription drug precursors or with requirements in the United States Pharmacopeia/National Formulary (USP/NF), 1995 edition, through Supplement 7, dated November 15, 1997, which is hereby incorporated by reference;

(b) if no storage requirements are established for a specific prescription drug or prescription drug precursor, the products shall be held in a condition of controlled temperature and humidity as defined in the USP/NF to ensure that its identity, strength, quality, and purity are not adversely affected; and

(c) there shall be established a system of manual, electromechanical or electronic recording of temperature and humidity in the areas in which prescription drugs or prescription drug precursors are held to permit review of the record and ensure that the products have not been subjected to conditions which are outside of established limits.

(8) In regard to examination of materials, each facility shall provide that:

(a) upon receipt, each outside shipping container containing prescription drugs or prescription drug precursors shall be visually examined for identity and to prevent the acceptance of prescription drugs or prescription drug precursors that are contaminated, reveal damage to the containers or are otherwise unfit for distribution; and

(b) each outgoing shipment shall be carefully inspected for identity of the prescription drug products and to ensure that there is

no delivery of prescription drugs that have been damaged in storage or held under improper conditions.

(9) In regard to returned, damaged, and outdated prescription drugs, each facility shall provide that:

(a) prescription drugs or prescription drug precursors that are outdated, damaged, deteriorated, misbranded, adulterated, or in any other way unfit for distribution or use in manufacturing shall be quarantined and physically separated from other prescription drugs or prescription drug precursors until they are appropriately destroyed or returned to their supplier;

(b) any prescription drug or prescription drug precursor whose immediate sealed or outer secondary sealed container has been opened or in any other way breached shall be identified as such and shall be quarantined and physically separated from other prescription drugs and prescription drug precursors until they are appropriately destroyed or returned to their supplier; and

(c) if the condition or circumstances surrounding the return of any prescription drug or prescription drug precursor cast any doubt on the product's safety, identity, strength, quality, or purity, then the drug shall be appropriately destroyed or returned to the supplier, unless examination, testing, or other investigation proves that the product meets appropriate and applicable standards related to the product's safety, identity, strength, quality, and purity.

(10) In regard to record keeping, pharmaceutical wholesaler/distributors and pharmaceutical manufacturers shall establish and maintain records of all transactions regarding the receipt and distribution or other disposition of prescription drugs and prescription drug precursors and shall make inventories of prescription drugs and prescription drug precursors and required records available for inspection by authorized representatives of the federal, state and local law enforcement agencies in accordance with the following:

(a) there shall be a record of the source of the prescription drugs or prescription drug precursors to include the name and principal address of the seller or transferor, and the address of the location from which the drugs were shipped;

(b) there shall be a record of the identity and quantity of the prescription drug or prescription drug precursor received, manufactured, distributed or shipped, or otherwise disposed of by specific product and strength;

(c) there shall be a record of the dates of receipt and distribution or other disposal of any product;

(d) there shall be a record of the identity of persons to whom distribution is made to include name and principal address of the receiver, and the address of the location to which the products were shipped;

(e) inventories of prescription drugs and prescription drug precursors shall be made available during regular business hours to authorized representatives of federal, state and local law enforcement authorities;

(f) required records shall be made available for inspection during regular business hours to authorized representatives of federal, state and local law enforcement authorities, and such records shall be maintained for a period of two years following disposition of the products; and

(g) records that are maintained on site or immediately retrievable from computer or other electronic means shall be made readily available for authorized inspection during the retention period; or if records are stored at another location, they shall be

made available within two working days after request by an authorized law enforcement authority during the two year period of retention.

(11) In regard to written policies and procedures, pharmaceutical wholesaler/distributors and pharmaceutical manufacturers shall establish, maintain, and adhere to written policies and procedures which shall be followed for the receipt, security, storage, inventory, manufacture, distribution or other disposal of prescription drugs or prescription drug precursors, including policies and procedures for identifying, recording, and reporting losses or thefts, and for correcting all errors and inaccuracies in inventories. In addition, the policies shall include the following:

(a) a procedure whereby the oldest approved stock of a prescription drug or precursor product is distributed or used first, with a provision for deviation from the requirement if such deviation is temporary and appropriate;

(b) a procedure to be followed for handling recalls and withdrawals of prescription drugs adequate to deal with recalls and withdrawals due to:

(i) any action initiated at the request of the Food and Drug Administration of other federal, state or local law enforcement or other authorized administrative or regulatory agency;

(ii) any voluntary action by the pharmaceutical wholesaler/distributor or pharmaceutical manufacturer to remove defective or potentially defective drugs from the market; or

(iii) any action undertaken to promote public health, safety or welfare by replacing of existing product with an improved product or new package design;

(c) a procedure to ensure that a pharmaceutical wholesaler/distributor or pharmaceutical manufacturer prepare for, protect against, and handle any crisis that affects security or operation of any facility in the event of strike, fire, flood, or other natural disaster, or other situations of local, state or national emergency;

(d) a procedure to ensure that any outdated prescription drugs or prescription drug precursors shall be segregated from other drugs or precursors and either returned to the manufacturer, other appropriate party or appropriately destroyed;

(e) a procedure providing for documentation of the disposition of outdated, adulterated or otherwise unsafe prescription drugs or prescription drug precursors and the maintenance of that documentation available for inspection by authorized federal, state, or local authorities for a period of two years after disposition of the product.

(12) In regard to responsible persons, pharmaceutical wholesaler/distributors and pharmaceutical manufacturers shall establish, maintain and make available for inspection by authorized federal, state and local law enforcement authorities, lists of all officers, directors, managers, and other persons in charge of wholesale drug distribution, manufacture, storage, and handling, which lists shall include a description of their duties and a summary of their background and qualifications.

(13) In regard to compliance with law, pharmaceutical wholesalers/distributors and pharmaceutical manufacturers shall:

(a) operate in compliance with applicable federal, state and local laws and regulations;

(b) permit the state licensing authority and authorized federal, state, and local law enforcement officials, upon presentation of

proper credentials, to enter and inspect their premises and delivery vehicles, and to audit their records and written operating policies and procedures, at reasonable times and in a reasonable manner, to the extent authorized by law; and

(c) obtain a controlled substance license from the division and register with the Drug Enforcement Administration (DEA) if they engage in distribution or manufacture of controlled substances, and shall comply with all federal, state and local regulations applicable to the distribution or manufacture of controlled substances.

(14) In regard to salvaging and processing, pharmaceutical wholesalers/distributors and pharmaceutical manufacturers shall be subject to and shall abide by applicable federal, state and local laws that relate to the salvaging or reprocessing of prescription drug products.

**KEY: pharmacists, licensing, pharmacies\***  
**[1996]1998**

**58-17a-101**  
**58-37-1**  
**58-1-106(1)**  
**58-1-202(1)**



## Commerce, Occupational and Professional Licensing

### R156-60c

#### Professional Counselor Licensing Act Rules

##### NOTICE OF PROPOSED RULE (Amendment)

DAR FILE No.: 20359  
FILED: 12/09/97, 14:17  
RECEIVED BY: NL

##### RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: After Division and Board review, changes are being made to conform these rules with other mental health therapy rules and to also further clarify the experience requirements.

SUMMARY: Updated edition of "Accredited Institutions of Postsecondary Education"; changes were made in experience requirement section to combine professional counselor and mental health therapy training requirements; R156-60c-302c regarding training equivalence for licensure by endorsement was deleted and replaced with new language indicating the equivalent experience requirement shall be satisfied if the applicant has engaged in practice as a licensed professional counselor engaged in mental health therapy for not less than two years (4000 hours) immediately preceding the date of the application; combined qualifications to be approved as a supervisor of professional counselor or mental health therapy training; revised duties and responsibilities of a supervisor of professional counselor and mental health therapist training; added to license

reinstatement requirements, that, upon the recommendation of the Board, the professional counselor applying for reinstatement shall establish a plan of supervision; changed that a professional counselor applying for reinstatement must complete a minimum of 40 hours of continuing professional education; and added new definitions of unprofessional conduct.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Section 58-60-401, and Subsections 58-1-106(1) and 58-1-202(1)

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: None.

❖LOCAL GOVERNMENTS: None.

❖OTHER PERSONS: None.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

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

Commerce  
Occupational and Professional Licensing  
Fourth Floor, Heber M. Wells Building  
160 East 300 South  
PO Box 146741  
Salt Lake City, UT 84114-6741, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:

Laura Poe at the above address, by phone at (801) 530-6789, by FAX at (801) 530-6511, or by Internet E-mail at brdopl.poe@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 02/02/98; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 01/14/98, 11:00 a.m., 160 East 300 South, Room 457, Salt Lake City, UT.

THIS FILING MAY BECOME EFFECTIVE ON: 02/03/98

AUTHORIZED BY: J. Craig Jackson, Division Director

**R156. Commerce, Occupational and Professional Licensing.  
R156-60c. Professional Counselor Licensing Act Rules.  
R156-60c-302a. Qualifications for Licensure - Education Requirements.**

(1) The recognized accredited institution of higher education in Subsection 58-60-405(4) is one which is accredited by a regional institutional accrediting body identified in the "Accredited Institutions of Postsecondary Education", [4993-94]1996-97 edition, published for the Commission of Recognition of Postsecondary Accreditation of the American Council on Education.

(2) The core curriculum in Subsection 58-60-405(4)(a) shall consist of the following courses:

(a) a minimum of two semester or three quarter hours shall be in ethical standards, issues, behavior and decision-making;

(b) a minimum of two semester or three quarter hours shall be in professional roles and functions, trends and history, professional preparation standards and credentialing;

(c) a minimum of two semester or three quarter hours shall be in individual theory;

(d) a minimum of two semester or three quarter hours shall be in group theory;

(e) a minimum of six semester or nine quarter hours shall be in human growth and development. Examples are:

(i) physical, social and psychosocial development;

(ii) personality development;

(iii) learning theory and cognitive development;

(iv) emotional development;

(v) life-span development;

(vi) enhancing wellness;

(vii) human sexuality; and

(viii) career development;

(f) a minimum of ~~four~~three semester or ~~six~~five quarter hours shall be in cultural foundations. Examples are:

(i) human diversity;

(ii) multicultural issues and trends;

(iii) gender issues;

(iv) exceptionalism;

(v) disabilities;

(vi) aging; and

(vii) discrimination;

(g) a minimum of six semester or nine quarter hours shall be in the application of individual and group therapy and other therapeutic methods and interventions. Examples are:

(i) building, maintaining and terminating relationships;

(ii) solution-focused and brief therapy;

(iii) crisis intervention;

(iv) prevention of mental illness;

(v) treatment of specific syndromes;

(vi) case conceptualization;

(vii) referral, supportive and follow-up services; and

(viii) lab not to exceed four semester or six quarter hours;

(h) a minimum of two semester or three quarter hours shall be in psychopathology and DSM classification;

(i) a minimum of two semester or three quarter hours shall be in dysfunctional behaviors. Examples are:

(i) addictions;

(ii) substance abuse;

(iii) cognitive dysfunction;

(iv) sexual dysfunction; and

(v) abuse and violence;

(j) a minimum of two semester or three quarter hours shall be in a foundation course in test and measurement theory;

(k) a minimum of two semester or three quarter hours shall be in an advanced course in assessment of mental status;

(l) a minimum of three semester or five quarter hours shall be in research and evaluation. This shall not include a thesis, dissertation, or project, but may include:

(i) statistics;

(ii) research methods, qualitative and quantitative;

(iii) use and interpretation of research data;

(iv) evaluation of client change; and

(v) program evaluation;

(m) a minimum of three semester or five quarter hours of practicum as defined in Subsection R156-60c-102(2);

(n) a minimum of six semester or nine quarter hours of internship as defined in Subsection R156-60c-102(1); and

(o) a minimum of 16 semester or 23 quarter hours of course work in the behavioral sciences. No more than six semester or nine quarter hours of credit for thesis, dissertation or project hours shall be counted toward the required core curriculum hours in this subsection. These hours are required beginning January 1, 1997.

(3) The supplemental course work shall consist of formal graduate level work meeting the requirements of Subsections (1), (2) and (3) in regularly offered and scheduled classes. University based directed reading courses may be approved at the discretion of the board.

(4) Professional counseling course work required in the core curriculum may be completed post degree.

(5) An applicant must complete the requirements in Subsections (1), (2), (3) and (4) prior to commencing the professional counselor training under Subsection 58-60-405(5).

#### **R156-60c-302b. Qualifications for Licensure - Experience Requirements.**

(1) In accordance with Subsections 58-60-405(5) and (6), each individual entering into supervised professional counselor training under an approved supervisor shall obtain approval of the supervisor by filing an application for approval of training supervisor with the division. The division shall notify the applicant in writing whether the supervisor is approved or approval is denied.

(2) A change in supervisor must be preceded by a new application and approval in accordance with the provisions of Subsection (1).

(3) ~~Supervised professional counselor training and supervised mental health therapy training completed prior to the effective date of these rules may be recognized by the division as qualified training if the training meets the standards set forth in Subsection 58-60-405(5) and (6) and Section R156-60c-302b.~~

~~(4) Supervised professional counselor training and supervised mental health training completed after the effective date of these rules may not be accepted by the division as qualified training unless such training follows registration required under Subsection (1).~~

~~(5) Professional counselor and mental health therapy training consisting of a minimum of 4,000 hours qualifying an applicant for licensure as a professional counselor under Subsections 58-60-405(5) and (6), to be approved by the division in collaboration with the board, shall:~~

~~(a) be completed in not less than two years and in not more than four years, unless otherwise approved by the board and division;~~

~~(b) be completed while the applicant is an employee of a public or private agency engaged in mental health therapy; unless otherwise approved by the board and division; under the supervision of an approved professional counselor, psychiatrist, psychologist, clinical social worker, registered psychiatric mental health nurse specialist, or marriage and family therapist; and~~

~~(c) [be completed in increments of employment of not less than three continuous months with an employer; and~~

~~(d) ]be completed under a program of supervision by a mental health therapist meeting the requirements under Sections R156-60c-302e]401 and R156-60c-402.~~

~~(6) Supervised training in mental health therapy of a minimum of 1,000 hours, qualifying an applicant for licensure as a professional counselor under Subsection 58-60c-405(6), which may be included as a part of the 4,000 hours required under Subsection (4), to be approved by the division in collaboration with the board, shall:~~

~~(a) be completed in not less than one year and in not more than four years, unless otherwise approved by the board and division;~~

~~(b) be completed while the applicant is an employee, unless otherwise approved by the board and division, under the supervision of an approved professional counselor, psychiatrist, psychologist, clinical social worker, registered psychiatric mental health nurse specialist, or marriage and family therapist;~~

~~(c) be completed in increments of employment, unless otherwise approved by the board and division, of not less than three continuous months with an employer;~~

~~(d) be completed under a program of supervision by a mental health therapist meeting the requirements under Subsection R156-60c-302(c) which provides for not less than one hour of face to face contact with the approved supervisor for every 10 hours of mental health therapy training;]~~

([7]4) An applicant for licensure as a professional counselor, who is not seeking licensure by endorsement based upon licensure in another jurisdiction, who has completed all or part of the professional counselor and mental health therapy training requirements under Subsection ([5]3)[, or the supervised training in mental health therapy under Subsection (6)]; outside the state may receive credit for that training completed outside of the state if it is demonstrated by the applicant that the training completed outside the state is equivalent to and in all respects meets the requirements for training under Subsections 58-60-405(5) and (6), and Subsections R156-60c-302b([5]3)[and (6)]. The applicant shall have the burden of demonstrating by evidence satisfactory to the division and board that the training completed outside the state is equivalent to and in all respects meets the requirements under this Subsection.

#### **R156-60c-302c. Qualifications for Licensure by Endorsement - Training Equivalence.**

In accordance with Section 58-1-302, the equivalent experience requirement for licensure by endorsement shall be satisfied if the applicant has engaged in practice as a licensed professional counselor engaged in mental health therapy for not less than two years (4,000 hours) immediately preceding the date of the application.[(1) An applicant for licensure by endorsement as a professional counselor under the provisions of Section 58-1-302, in addition to the requirements under Subsections 58-60-305(1) through (4) shall demonstrate compliance with Subsections 58-60-305(5) and (6) by:

~~(a) demonstrating that the applicant has successfully engaged in active practice as a professional counselor regularly engaging in mental health therapy for not less than 1,500 hours per year in not less than three of the five years immediately preceding the application for licensure; or~~

~~— (b) teaching full time in a regionally accredited counseling program approved by the board for five of the seven years immediately preceding the application for licensure; and~~

~~— (c) successfully completing not less than 10 hours of supervised mental health therapy training within the state under the direct and immediate supervision of a mental health therapist supervisor approved by the division in collaboration with the board.]~~

#### **R156-60c-306. License Reinstatement - Requirements.**

In addition to the requirements established in Section R156-1-308e, an applicant for reinstatement of his license after two years following expiration of that license shall be required to meet the following reinstatement requirements:

(1) if deemed necessary, meet with the board for the purpose of evaluating the applicant's current ability to engage safely and competently in practice as a professional counselor and to make a determination of any additional education, experience or examination requirements which will be required before reinstatement;

(2) upon the recommendation of the board, establish a plan of supervision under an approved supervisor which may include up to 4,000 hours of professional counselor and mental health therapy training as a professional counselor trainee;

~~(2)3~~ pass the Utah Professional Counselor Law, Rules and Ethics Examination;

~~(3)4~~ pass the National Counseling Examination of the National Board for Certified Counselors if it is determined by the board that current taking and passing of the examination is necessary to demonstrate the applicant's ability to engage safely and competently in practice as a professional counselor;

~~(4)5~~ pass the National Clinical Mental Health Counseling Examination if it is determined by the board that current taking and passing of the examination is necessary to demonstrate the applicant's ability to engage safely and competently in practice as a professional counselor; and

~~(5)6~~ complete ~~up to~~ a minimum of 40 hours of professional education in subjects determined by the board as necessary to ensure the applicant's ability to engage safely and competently in practice as a professional counselor.

#### **R156-60c-401. Qualifications for Designation as an Approved Professional Counselor Training Supervisor and Mental Health Therapist Training Supervisor.**

To be approved by the division in collaboration with the board as a supervisor of professional counselor and mental health therapy training required under Subsections 58-60-405(5) and (6), ~~and as a supervisor of mental health therapist training under Subsection 58-60-405(6)~~ an individual shall:

(1) be currently licensed in good standing in a profession set forth for a supervisor under Subsection 58-60-405(5) in the state in which the supervised training is being performed;

(2) demonstrate practice as a licensee engaged in the practice of mental health therapy for not less than 4,000 hours in a period of not less than two years, or equivalent experience as approved by the division and board;

(3) if providing supervision within the state, submit an application on forms available from the division and be approved

as a supervisor by the division in collaboration with the board prior to engaging in supervision of training required for licensure; and

(4) if supervision was provided outside the state, submit evidence of qualifications as a supervisor on forms available from the division providing evidence that during the period of supervision of an applicant for licensure, that the supervisor in all respects met the qualifications for a supervisor within the state under this section.

#### **R156-60c-402. Duties and Responsibilities of a Supervisor of Professional Counselor and Mental Health Therapy Training.**

The duties and responsibilities of a licensee providing supervision to an individual completing supervised professional counselor and mental health therapy training requirements for licensure as a professional counselor are to:

(1) be professionally responsible for the acts and practices of the supervisee which are a part of the required supervised training;

(2) be engaged in a relationship with the supervisee in which the supervisor is independent from control by the supervisee and in which the ability of the supervisor to supervise and direct the practice of the supervisee is not compromised;

(3) be available for advice, consultation, and direction consistent with the standards and ethics of the profession and the requirements suggested by the total circumstances including the supervisee's level of training, diagnosis of patients, and other factors known to the supervisee and supervisor;

~~(4) [meet in face to face consultation with the supervisee for not less than one hour for every 40 hours of professional counselor training;] provide periodic review of the client records assigned to the supervisee;~~

(5) comply with the confidentiality requirements of Section 58-60-114;

~~[(5) review each case which has been assigned to the supervisee with the supervisee at least once every three months;]~~

(6) monitor the performance of the supervisee for compliance with laws, standards, and ethics applicable to the practice of professional counseling and report violations to the division;

(7) supervise only a supervisee who is an employee of a public or private mental health agency;

~~(7)8~~ submit appropriate documentation to the division with respect to all work completed by the supervisee evidencing the performance of the supervisee during the period of supervised professional counselor and mental health therapy training, including the supervisor's evaluation of the supervisee's competence in the practice of professional counseling and mental health therapy; and

~~(8)9~~ supervise not more than three supervisees at any given time unless approved by the board and division.

#### **~~R156-60c-403. Duties and Responsibilities of a Mental Health Therapist Supervisor of Mental Health Therapist Training.~~**

~~The duties and responsibilities of a licensee providing supervision of an individual engaged in the supervised practice of mental health therapy required under Subsection 58-60-405(6) are to:~~

~~— (1) be professionally responsible for the acts and practices of the supervisee which are a part of the required supervised training;~~

~~— (2) be engaged in a relationship with the supervisee in which the supervisor is independent from control by the supervisee and in~~

which the ability of the supervisor to supervise and direct the practice of the supervisee is not compromised;

~~(3) be available for advice, consultation, and direction consistent with the standards and ethics of the profession and the requirements suggested by the total circumstances including the supervisee's level of training, diagnosis of patients, and other factors known to the supervisee and supervisor;~~

~~(4) meet in face to face consultation with the supervisee for not less than one hour for every 10 hours of mental health therapy training;~~

~~(5) review each case which has been assigned to the supervisee with the supervisor at least once every month;~~

~~(6) monitor the performance of the supervisee for compliance with laws, standards, and ethics applicable to the practice of mental health therapy and report violations to the division;~~

~~(7) submit appropriate documentation to the division with respect to all work completed by the supervisee evidencing the performance of the supervisee during the period of supervised mental health therapist training, including the supervisor's evaluation of the supervisee's competence in the practice of mental health therapy; and~~

~~(8) supervise not more than three supervisees at any given time unless approved by the board and division.]~~

**R156-60c-502. Unprofessional Conduct.**

"Unprofessional conduct" includes:

- (1) acting as a supervisor or accepting supervision of a supervisor without complying with or ensuring the compliance with the requirements of Sections R156-60c-401 and R156-60c-402;
- (2) engaging in the supervised practice of mental health therapy when not in compliance with Subsections R156-60c-302b(3) and R156-60c-402(7);
- (3) engaging in and aiding or abetting conduct or practices which are dishonest, deceptive or fraudulent;
- (4) engaging in or aiding or abetting deceptive or fraudulent billing practices;
- (5) failing to establish and maintain appropriate professional boundaries with a client or former client;
- (6) engaging in dual or multiple relationships with a client or former client in which there is a risk of exploitation or potential harm to the client;
- (7) engaging in sexual activities or sexual contact with a client with or without client consent;
- (8) engaging in sexual activities or sexual contact with a former client within two years of documented termination of services;
- (9) engaging in sexual activities or sexual contact at any time with a former client who is especially vulnerable or susceptible to being disadvantaged because of the client's personal history, current mental status, or any condition which could reasonably be expected to place the client at a disadvantage recognizing the power imbalance which exists or may exist between the professional counselor and the client;
- (10) engaging in sexual activities or sexual contact with client's relatives or other individuals with whom the client maintains a relationship when that individual is especially vulnerable or susceptible to being disadvantaged because of his personal history, current mental status, or any condition which could reasonably be expected to place that individual at a disadvantage recognizing the

- power imbalance which exists or may exist between the professional counselor and that individual;
- (11) physical contact with a client when there is a risk of exploitation or potential harm to the client resulting from the contact;
- (12) engaging in or aiding or abetting sexual harassment or any conduct which is exploitive or abusive with respect to a student, trainee, employee, or colleague with whom the licensee has supervisory or management responsibility;
- (13) failing to render impartial, objective, and informed services, recommendations or opinions with respect to custodial or parental rights, divorce, domestic relationships, adoptions, sanity, competency, mental health or any other determination concerning an individual's civil or legal rights;
- (14) exploiting a client for personal gain;
- (15) using your professional client relationship to exploit a person who you know has a personal relationship with a client for personal gain;
- (16) failing to maintain appropriate client records for a period of not less than ten years from the documented termination of services to the client;
- (17) failing to obtain informed consent from the client or legal guardian before taping, recording or permitting third party observations of client care or records;
- (18) failure to cooperate with the Division during an investigation; and
- (19) failure to abide by the [violation of any] provision of the American Counseling Association's Ethical Standards, March 1988, which is adopted and incorporated by reference.

**KEY: licensing, counselors, mental health, professional counselors\***  
**[1996]1998** 58-60-401  
58-1-106(1)  
58-1-202(1)

◆ ————— ◆

**Commerce, Occupational and  
Professional Licensing  
R156-61  
Psychologist Licensing Act Rules**

**NOTICE OF PROPOSED RULE**  
 (Amendment)  
 DAR FILE NO.: 20342  
 FILED: 12/04/97, 16:42  
 RECEIVED BY: NL

**RULE ANALYSIS**

PURPOSE OF OR REASON FOR THIS FILING: After Division and Board review, changes are being made to conform these rules with other mental health therapy rules and to also further clarify the experience requirements.

SUMMARY: Deleted definition of "general supervision"; updated edition of "Accredited Institutions of Postsecondary Education"; updated edition of "Doctoral Psychology Programs Meeting Designation Criteria"; added minimum hours of graduate level core courses in education requirements section; updated some wording in education requirements section with respect to coursework; revised experience requirements section; combined qualifications to be approved as a supervisor of psychology or mental health therapy training; revised duties and responsibilities of a supervisor of psychology and mental health therapist training; added to license reinstatement requirements that, upon the recommendation of the Board, the psychologist applying for reinstatement shall establish a plan of supervision; changed that a psychologist applying for reinstatement must complete a minimum of 48 hours, rather than 40 hours, of continuing professional education; and added new definitions of unprofessional conduct.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Section 58-61-101, and Subsections 58-1-106(1) and 58-1-202(1)

THIS FILING INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: Association of State and Provincial Psychology Boards (ASPPB) Code of Conduct, 1991 edition

ANTICIPATED COST OR SAVINGS TO:

- ❖THE STATE BUDGET: None.
- ❖LOCAL GOVERNMENTS: None.
- ❖OTHER PERSONS: None.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

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

Commerce  
Occupational and Professional Licensing  
Fourth Floor, Heber M. Wells Building  
160 East 300 South  
PO Box 146741  
Salt Lake City, UT 84114-6741, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:

Laura Poe at the above address, by phone at (801) 530-6789, by FAX at (801) 530-6511, or by Internet E-mail at brdopl.lpoe@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 02/02/98; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 01/12/98, 10:00 a.m., 160 East 300 South, Room 428, Salt Lake City, UT.

THIS FILING MAY BECOME EFFECTIVE ON: 02/03/98

AUTHORIZED BY: J. Craig Jackson, Division Director

## **R156. Commerce, Occupational and Professional Licensing.**

### **R156-61. Psychologist Licensing Act Rules.**

#### **R156-61-102. Definitions.**

In addition to the definitions in Title 58, Chapters 1 and 61, as used in Title 58, Chapters 1 and 61 or these rules:

(1) "Approved diagnostic and statistical manual for mental disorders" means the "Diagnostic and Statistical Manual of Mental Disorders", 4th edition, published by the American Psychiatric Association, of the ICD-10-CM published by Medicode or the American Psychiatric Association.

(2) ~~["General supervision" means that the supervisor is available for consultation with the supervisee by personal face to face contact, or direct voice contact by telephone, radio, or some other means within a reasonable time consistent with the acts and practices in which the supervisee is engaged.~~

~~—(3)—~~"Qualified faculty", as used in Subsection 58-1-307(b), means that university faculty member providing pre-doctoral supervision of clinical or counseling experience, that is experience in a university setting which is acquired prior to the pre-doctoral internship, who is licensed in Utah as a psychologist and who is training students in the context of a doctoral program leading to license eligibility. Qualified faculty does not include adjunct faculty. The qualified faculty supervisor must be legally able to personally provide the services which he is supervising. The qualified faculty supervisor must meet all other requirements for supervision as described in Section R156-61-302e. This provision does not allow such qualified faculty supervisors to provide supervision of hours needed for license eligibility, such as internship and post doctoral experience, unless the supervisor is otherwise qualified according to Section R156-61-302d. Supervisors in settings other than a university setting as described in this subsection must meet all requirements for supervisors as described in Sections R156-61-302d and R156-61-302e.

#### **R156-61-302a. Qualifications for Licensure - Education Requirements.**

(1) An institution or program of higher education, or a degree qualifying an applicant for licensure as a psychologist, to be recognized by the division in collaboration with the board under Subsection 58-61-304(1)(d), shall:

(a) if located in the United States or Canada, be accredited by a regional institutional accrediting body identified in the "Accredited Institutions of Postsecondary Education", ~~[1993-94]~~~~[1996-97]~~ edition, published for the Commission on Recognition of Postsecondary Accreditation of the American Council on Education, at the time the applicant received the required earned degree; or

(b) if located outside of the United States or Canada, be equivalent to an accredited program under Subsection (a), and the burden to demonstrate equivalency shall be upon the applicant; and

(c) result from successful completion of a program conducted on or based on a formal campus;

(d) result from a program which includes at least one year of residence at the educational institution;

(e) if located in the United States or Canada, be recognized by the Association of State and Provincial Psychology Boards as listed in the "Doctoral Psychology Programs Meeting Designation

Criteria", [1994]1997 edition, at the time the applicant received the earned degree, or if located outside of the United States or Canada, meet the same criteria by which a program is recognized by the Association of State and Provincial Psychology Boards at the time the applicant received the earned degree;

(f) have an organized sequence of study to provide an integrated educational experience appropriate to preparation for the professional practice of psychology, and shall clearly identify those persons responsible for the program with clear authority and responsibility for the core and specialty areas regardless of whether or not the program cuts across administrative lines in the educational institution;

(g) clearly identify in catalogues or other publications the psychology faculty, demonstrate that the faculty is sufficient in number and experience to fulfill its responsibility to adequately educate and train professional psychologists, and demonstrate that the program is under the direction of a professionally trained psychologist;

(h) grant earned degrees resulting from a program encompassing a minimum of three academic years of full time graduate study with an identifiable body of students who are matriculated in the program for the purpose of obtaining a doctoral degree;

(i) include supervised practicum, internship, and field or laboratory training appropriate to the practice of psychology;

(j) require successful completion of a minimum of two semester/three quarter hour graduate level core courses [work] including:

(i) scientific and professional ethics and standards;

(ii) research design and methodology;

(iii) statistics; and

(iv) psychometrics including test construction and measurement;

(k) require successful completion of a minimum of [three]two graduate level semester hours/[five]three graduate level quarter hours in each of the following [substantive content]knowledge areas. Course work must have a theoretical focus as opposed to an applied, clinical focus[-with theoretical as opposed to applied emphasis];

(i) biological bases of behavior such as physiological psychology, comparative psychology, neuropsychology, psychopharmacology, perception and sensation;

(ii) cognitive-affective bases of behavior such as learning, thinking, cognition, motivation and emotion;

(iii) social and cultural bases of behavior such as social psychology, organizational psychology, general[-and] systems theory, and group [processes]dynamics; and

(iv) individual differences such as human development, personality theory and abnormal psychology.

(l) require successful completion of specialty course work and professional education courses necessary to prepare the applicant adequately for the practice of psychology.

(2) An applicant who has received a doctoral degree in psychology by completing the requirements of Subsections (1)(a) through (i), without completing the core courses required under Subsection (j), or the specialty course work required in Subsection (l) may be allowed to complete the required course work post-doctorally. The supplemental course work shall consist of formal graduate level work meeting the requirements of Subsections (j) and

(l) in regularly offered and scheduled classes. University based directed reading courses may be approved at the discretion of the board.

(3) The date of completion of the doctoral degree shall be the graduation date or the date on which all formal requirements for graduation were met as certified by the university registrar.

#### **R156-61-302b. Qualifications for Licensure - Experience Requirements.**

(1) Psychology training of a minimum of 4,000 hours qualifying an applicant for licensure as a psychologist under Subsection 58-61-304(1)(e), and mental health therapy training under Subsection 58-61-304(1)(f), to be approved by the division in collaboration with the board, shall:

(a) be completed in not less than two years and in not more than four years unless otherwise approved by the board and division; and

(b) be completed while the applicant is under the supervision of a qualified psychologist meeting the requirements under Section R156-61-302d[;

~~(c) be completed in increments of not less than three continuous months; and~~

~~(d) be completed under a program of supervision which provides for not less than one hour of face to face contact with the approved supervisor for every 40 hours of psychology training;~~

~~(2) Supervised training in mental health therapy of a minimum of 1,000 hours qualifying an applicant for licensure as a psychologist to engage in the practice of mental health therapy under Subsection 58-60-304(1)(f), to be approved by the division in collaboration with the board, shall:~~

~~(a) be completed in not more than two years;~~

~~(b) be completed in increments of not less than three continuous months; and~~

~~(c) be completed under a program of supervision by a qualified psychologist meeting the requirements under Section R156-61-302d, which provides for not less than one hour of face to face contact with the approved supervisor for every 20 hours of mental health therapist training].~~

([3]2) An applicant for licensure as a psychologist who has commenced and completed all or part of the psychology or mental health therapy training requirements under Subsection (1)[~~or the supervised training in mental health therapy under Subsection (2);~~] outside the state, may receive credit for that training completed outside of the state if it is demonstrated by the applicant that the training completed outside the state is equivalent to the requirements for training under Subsections 58-61-304(1)(e) and (f), and Subsection[s] R156-61-302b(1)[~~and (2)~~]. The applicant shall have the burden of demonstrating by evidence satisfactory to the division and board that the training completed outside the state is equivalent to the requirements under this Subsection.

#### **R156-61-302d. Qualifications for Designation as an Approved Psychology Training Supervisor.**

~~(1)~~To be approved by the division in collaboration with the board as a supervisor of psychology or mental health therapy training required under Subsections 58-61-304(1)(e) and (f), an individual shall:



(~~a~~1) be currently licensed in good standing as a psychologist in the jurisdiction in which the supervised training is being performed; and

(~~b~~2) demonstrate practice as a licensed psychologist for not less than 4,000 hours in a period of not less than two years.

~~[(2) To be approved by the division in collaboration with the board as a supervisor of mental health therapist training under Subsection 58-61-304(1)(f), an individual shall:~~

~~— (a) be currently licensed in good standing as a psychologist qualified to engage in mental health therapy in the state in which the supervised training is being performed; and~~

~~— (b) demonstrate practice as a licensed psychologist, including the practice of mental health therapy, for not less than 4,000 hours in a period of not less than two years.]~~

#### **R156-61-302e. Duties and Responsibilities of a Supervisor of Psychology Training and Mental Health Therapist Training.**

The duties and responsibilities of a psychologist supervisor are further defined, clarified or established as follows~~[providing supervision to an individual completing supervised psychology training and supervised mental health therapist training requirements for licensure as a psychologist shall]:~~

(1) be professionally responsible for the acts and practices of the supervisee which are a part of the required supervised training;

(2) be engaged in a relationship with the supervisee in which the supervisor is independent from control by the supervisee and in which the ability of the supervisor to supervise and direct the practice of the supervisee is not compromised;

(3) supervise not more than 120 hours of supervised experience per week;

(4) be available for advice, consultation, and direction consistent with the standards and ethics of the profession and the requirements suggested by the total circumstances including the supervisee's level of training, diagnosis of patients, and other factors known to the supervisee and supervisor;

(5) comply with the confidentiality requirements of Section 68-61-602~~[meet in face to face consultation with the supervisee for not less than one hour for every 40 hours of psychologist training];~~

(6) provide timely and periodic review of the client records assigned to the supervisee~~[meet in face to face consultation with the supervisee for not less than one hour for every 20 hours of mental health therapist training];~~

~~[(7) review each case which has been assigned to the supervisee with the supervisee at least once every three months.]~~

(~~8~~7) monitor the performance of the supervisee for compliance with laws, standards, and ethics applicable to the practice of psychology; and

(~~9~~8) submit appropriate documentation to the division with respect to work completed by the supervisee evidencing the performance of the supervisee during the period of supervised psychology training and mental health therapist training, including the supervisor's evaluation of the supervisee's competence in the practice of psychology and mental health therapy.

#### **R156-61-302g. License Reinstatement - Requirements.**

An applicant for reinstatement of his license after two years following expiration of that license shall be required to:

(1) upon request meet with the board for the purpose of evaluating the applicant's current ability to engage safely and

competently in practice as a psychologist and to make a determination of education, experience or examination requirements which will be required before reinstatement;

(2) upon the recommendation of the board, establish a plan of supervision under an approved supervisor which may include up to 4000 hours of psychology and/or mental health therapy training;

(~~2~~3) pass the Utah Psychology Law Examination;

(~~3~~4) pass the EPPP Examination if it is determined by the board that current taking and passing of the examination is necessary to demonstrate the applicant's ability to engage safely and competently in practice as a psychologist; and

(~~4~~5) complete ~~[up to 40]~~a minimum of 48 hours of professional education in subjects determined by the board as necessary to ensure the applicant's ability to engage safely and competently in practice as a psychologist.

#### **R156-61-502. Unprofessional Conduct.**

"Unprofessional conduct" includes:

~~[(1) to engage with a client/patient in any romantic, any sexual, or any intimate personal relationship, or in a business relationship in which the licensee receives any unilateral benefit or disproportionate benefit; or, to engage in any such activity or relationship with a former client/patient during a two year period following the formal and properly documented termination of the professional relationship between the client/patient and the mental health therapist, except, under no circumstances shall a licensee at any time engage in any such activity or relationship with a client/patient or former client/patient who is especially vulnerable or susceptible to being disadvantaged because of the client's/patient's personal history, the client's/patient's current mental status, or any condition which could reasonably be expected to place the client/patient at a disadvantage recognizing the power imbalance which exists or may exist between the psychologist and the client/patient;~~

~~— (2) to engage with a former client/patient in any romantic, any sexual, or any intimate personal relationship, which is not unprofessional conduct under the provision of Subsection (1) without first obtaining professionally documented counseling from another competent mental health therapist with respect to that relationship, and without exercising all reasonable effort to ensure that the relationship is not adverse to the former client's/patient's best interests;]~~

(~~3~~1) violation of any provision of the "Ethical Principles of Psychologists and Code of Conduct" of the American Psychological Association (APA) as adopted by the APA, December 1992 edition, which is adopted and incorporated by reference;[-]

(2) violation of any provision of the "ASPPB Code of Conduct" of the Association of State and Provincial Psychology Boards (ASPPB) as adopted by the ASPPB, 1991 edition, which is adopted and incorporated by reference;

(3) acting as a supervisor or accepting supervision of a supervisor without complying with or ensuring the compliance with the requirements of Sections R156-61-302d and R156-61-302e;

(4) engaging in and aiding or abetting conduct or practices which are dishonest, deceptive or fraudulent;

(5) engaging in or aiding or abetting deceptive or fraudulent billing practices;

(6) failing to establish and maintain appropriate professional boundaries with a client or former client;

(7) engaging in dual or multiple relationships with a client or former client in which there is a risk of exploitation or potential harm to the client;

(8) engaging in sexual activities or sexual contact with a client with or without client consent;

(9) engaging in sexual activities or sexual contact with a former client within two years of documented termination of services;

(10) engaging in sexual activities or sexual contact at any time with a former client who is especially vulnerable or susceptible to being disadvantaged because of the client's personal history, current mental status, or any condition which could reasonably be expected to place the client at a disadvantage recognizing the power imbalance which exists or may exist between the psychologist and the client;

(11) engaging in sexual activities or sexual contact with client's relatives or other individuals with whom the client maintains a relationship when that individual is especially vulnerable or susceptible to being disadvantaged because of his personal history, current mental status, or any condition which could reasonably be expected to place that individual at a disadvantage recognizing the power imbalance which exists or may exist between the psychologist and that individual;

(12) physical contact with a client when there is a risk of exploitation or potential harm to the client resulting from the contact;

(13) engaging in or aiding or abetting sexual harassment or any conduct which is exploitive or abusive with respect to a student, trainee, employee, or colleague with whom the licensee has supervisory or management responsibility;

(14) failing to render impartial, objective, and informed services, recommendations or opinions with respect to custodial or parental rights, divorce, domestic relationships, adoptions, sanity, competency, mental health or any other determination concerning an individual's civil or legal rights;

(15) exploiting a client for personal gain;

(16) using your professional client relationship to exploit a person who you know has a personal relationship with a client for personal gain;

(17) failing to maintain appropriate client records for a period of not less than ten years from the documented termination of services to the client;

(18) failing to obtain informed consent from the client or legal guardian before taping, recording or permitting third party observations of client care or records; and

(19) failure to cooperate with the Division during an investigation.

**KEY: licensing, psychologists  
[1996]1998**

**58-1-106(1)  
58-1-202(1)  
58-61-101**



# Corrections, Administration R251-710 Search

**NOTICE OF PROPOSED RULE**  
(Amendment)  
DAR FILE NO.: 20379  
FILED: 12/11/97, 09:47  
RECEIVED BY: NL

### RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: Rule changes are necessary to include information about detaining vehicles of persons who refuse to give consent to a vehicle search. Words have been removed that limit the intent of the rule.

SUMMARY: Probable cause can be used for actions other than arrest. The term "for an arrest" limited the scope of the rule, so it was removed. This amendment also adds that persons who refuse to give consent to a vehicle search upon exiting the prison shall have their vehicle detained. One of the Sections of State Code listed in this rule is not relevant to the content of this rule, so it was also deleted.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Section 64-13-10, and Subsections 64-13-14(1) and 64-13-17(2)

ANTICIPATED COST OR SAVINGS TO:

- ❖THE STATE BUDGET: None.
- ❖LOCAL GOVERNMENTS: None.
- ❖OTHER PERSONS: None.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

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

Corrections  
Administration  
Suite 400  
6100 South Fashion Blvd.  
Murray, Utah 84107, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
Pam Elliott at the above address, by phone at (801) 265-5514, by FAX at (801) 265-5726, or by Internet E-mail at crdeptdo.crdept.pelliott@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 02/02/98.

THIS FILING MAY BECOME EFFECTIVE ON: 02/03/98

AUTHORIZED BY: H. L. Haun, Executive Director



**R251. Corrections, Administration.**

**R251-710. Search.**

**R251-710-1. Authority and Purpose.**

(1) This rule is authorized under Section[s] [64-13-7;] 64-13-10, and Subsections 64-13-14(1), and 64-13-17(2).

(2) The purpose of this rule is to provide the Department's policy, procedures, and requirements for conducting searches.

.....

**R251-710-3. Policy.**

(1) General Regulations

It is the policy of the Department that:

(a) search and seizure activities shall only be carried out by lawful means;

(b) real property, places of business and residences, with legally recognized exceptions shall be searched only with a search warrant, or reasonable cause and voluntary consent[-];

(c) notice shall be posted at the entrance to the prison that persons, their property and vehicles are subject to search while on prison property;

(d) an officer may assume the driver of a vehicle is the proprietary possessor and has the authority to consent to a search of the vehicle;

(e) vendors, construction workers, Department personnel, or other visitors whose presence is necessary and important to prison operation may have statutory contraband confiscated and returned upon exiting prison property, may be asked to leave prison property, or may be arrested;

(f) all vehicles entering through a secure perimeter gate shall undergo a thorough search for contraband; discovery of contraband may result in arrest;

(g) mandatory searches shall be made of all vehicles accessing the double fence secure perimeters of the facilities;

(h) mandatory searches shall be conducted of all vehicles leaving the prison; vehicle trunks and compartments shall be searched prior to exit;

(i) the alert of a police service dog shall constitute probable cause [for an arrest] and an involuntary search may be legally conducted;

(j) an officer may search and seize contraband or evidence without a warrant, in any public place open to public view; and

(k) a visitor to the prison who has an outstanding warrant may be arrested and searched or refused entry to the prison.

**(2) Visitor/Public Search.**

It is the policy of the Department that:

(a) the person and property of visitors and members of the general public may be searched, and illegal contraband and evidence seized therefrom, by Department personnel pursuant to the following limitations:

(i) their person, personal property, vehicle and residence based upon reasonable suspicion coupled with voluntary consent;

(ii) their person, clothes, personal property immediately associated with their person, and vehicle may be involuntarily searched;

(A) based upon probable cause;

(B) incident to lawful arrest;

(C) pursuant to a search warrant;

(D) under exigent circumstances; or

(E) pursuant to a vehicle inventory incident to the lawful impound thereof;

(iii) their residence may be involuntarily searched;

(A) pursuant to a search warrant;

(B) in the form of a protective sweep under exigent circumstances; or

(C) at the time of, or incident to, a lawful arrest of the owner or occupant thereof, but only that portion of the residence and personal property therein which is in the immediate control of the arrestee at that time;

(b) any visitor who refuses to give consent to a search based upon reasonable suspicion may be denied entrance and required to leave the premises of the prison; and

(c) ~~[Department personnel shall, when appropriate, work in conjunction with local law enforcement agencies when effecting an arrest or conducting a search on the person or property of a member of the general public.]any person who refuses to give consent to a search of their vehicle upon exiting prison property shall have their vehicle detained until a regularly scheduled institutional count has cleared.~~

**KEY: corrections, search and seizure, security measures, prisons**  
~~[1993]1998~~

64-13-7  
64-13-10  
64-13-14(1)  
64-13-17(2)



**Environmental Quality, Solid and Hazardous Waste**

**R315-1**

**Utah Hazardous Waste Definitions and References**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE No.: 20382

FILED: 12/12/97, 08:51

RECEIVED BY: NL

**RULE ANALYSIS**

PURPOSE OF OR REASON FOR THIS FILING: Adopt equivalent federal regulations to maintain equivalency with the Environmental Protection Agency (EPA) rules and retain authorization.

SUMMARY: This proposed rule change adds and amends methods to the test methods manual, SW-846, and adds definitions of scrap metal.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Sections 19-6-105 and 19-6-106

FEDERAL MANDATE FOR THIS FILING: 40 CFR 271.21(e)

THIS FILING INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 40 CFR 260.10 (1995), 260.11 (1997), 261.1 (1997), 270.2 (1996), 279.1 (1995)

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: None.

❖LOCAL GOVERNMENTS: None.

❖OTHER PERSONS: None.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

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

Environmental Quality  
Solid and Hazardous Waste  
Fourth Floor, Cannon Health Building  
288 North 1460 West  
PO Box 144880  
Salt Lake City, UT 84114-4880, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:

Susan Toronto at the above address, by phone at (801) 538-6776, by FAX at (801) 538-6715, or by Internet E-mail at storonto@deq.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 02/02/98.

THIS FILING MAY BECOME EFFECTIVE ON: 02/16/98

AUTHORIZED BY: Dennis R. Downs, Director

### **R315. Environmental Quality, Solid and Hazardous Waste.**

#### **R315-1. Utah Hazardous Waste Definitions and References.**

##### **R315-1-1. Definitions.**

(a) Terms used in R315-1 through R315-101 are defined in Sections 19-1-103 and 19-6-102.

(b) For R315-1 through R315-101, the terms defined in 40 CFR 260.10 and 279.1, [1993]1995 ed., [as amended by 59 FR 10550, March 4, 1994,] are adopted and incorporated by reference with the following revisions:

(1) Substitute "plan approval" for "permit."

(2) Substitute "Executive Secretary" for "Regional Administrator" or "Administrator," except in the following cases:

(i) in the actual definitions of "Administrator" and "Regional Administrator;" and

(ii) in the definitions of "Hazardous waste constituent" and "Industrial furnace" where "Board" shall be substituted.

(3) Insert in the definition of "Existing tank system" or "existing component" the following additional phrase after "July 14, 1986," "or December 16, 1988 for purposes of implementing the non-HSWA requirements of the tank regulations as promulgated by EPA on July 14, 1986, 51 FR 25470, as they have been incorporated into the corresponding rules of R315. A non-HSWA existing tank system or non-HSWA tank component is one which does not implement any of the requirements of the federal Hazardous and Solid Waste Amendments of 1984 (HSWA) as identified in Table 1 of 40 CFR 271.1."

(4) Insert in the definition of "New tank system" or "New tank component" the following additional phrase after "July 14, 1986," "or December 16, 1988 for purposes of implementing the non-HSWA requirements of the tank regulations as promulgated by EPA on July 14, 1986, 51 FR 25470, as they have been incorporated into the corresponding rules of R315; except, however, for purposes of 40 CFR 265.193(g)(2) and 40 CFR 264.193(g)(2), a new tank system is one which construction commences after July 14, 1986. A non-HSWA new tank system or non-HSWA new tank component is one which does not implement any of the requirements of the federal Hazardous and Solid Waste Amendments of 1984 (HSWA) as identified in Table 1 of 40 CFR 271.1."

(c) The terms defined in 40 CFR 261.1(c), [1990]1997 ed., are adopted and incorporated by reference.

(d) For purposes of R315-3 regarding application and plan approval procedures for hazardous waste facilities, the terms defined in 40 CFR 270.2, [1995]1996 ed., are adopted and incorporated by reference with the following revisions:

(1) "Permit" means "plan approval" under 19-6-108; and

(2) "Director" or "State Director" means "Executive Secretary."

(e) The definitions of "Polychlorinated biphenyl, PCB," and "Polychlorinated item" as found in 761.3, 40 CFR, 1990 ed., are adopted and incorporated by reference.

(f) In addition, the following terms are defined as follows.

(1) "Approved hazardous waste management facility" or "approved facility" means a hazardous waste treatment, storage, or disposal facility which has received an EPA permit in accordance with federal requirements, has been approved under 19-6-108 and R315-3, or has been permitted or approved under any other EPA authorized hazardous waste state program.

(2) "Division" means the Division of Solid and Hazardous Waste.

(3) "Hazard class" means:

(i) The DOT hazard class identified in 49 CFR 172; and

(ii) If the DOT hazard class is "OTHER REGULATED MATERIAL," ORM, the EPA hazardous waste characteristic exhibited by the waste and identified in R315-2-9.

(4) "Monitoring" means all procedures used to systematically inspect and collect data on operational parameters of the facility or on the quality of the air, groundwater, surface water, or soils.

(5) "POHC's" means principle organic hazardous constituents.

(6) "Permittee" means any person who has received an approval of a hazardous waste operation plan under 19-6-108 and R315-3 or a Federal RCRA permit for a treatment, storage, or disposal facility.

(7) "Precipitation Run-off" means water generated from naturally occurring storm events. If the precipitation run-off has been in contact with a waste defined in R315-2-9, it qualifies as "precipitation run-off" if the water does not exhibit any of the characteristics identified in R315-2-9. If the precipitation run-off has been in contact with a waste listed in R315-2-10 or R315-2-11, then it qualifies as "precipitation run-off" when the water has been excluded under R315-2-16. Water containing any leachate does not qualify as "precipitation run-off".

(8) "Spill" means the accidental discharging, spilling, leaking, pumping, pouring, emitting, emptying, or dumping of hazardous wastes or materials which, when spilled, become hazardous wastes, into or on any land or water.

(9) "Waste management area" means the limit projected in the horizontal plane of the area on which waste will be placed during the active life of a regulated unit. The waste management area includes horizontal space taken up by any liner, dike, or other barrier designed to contain waste in a regulated unit. If the facility contains more than one regulated unit, the waste management area is described by an imaginary line circumscribing the several regulated units.

(g) Terms used in R315-15 are defined in sections 19-6-703 and 19-6-706(2)(b)(ii).

(h) For purposes of R315-101 regarding cleanup action and risk-based closure standards, the following terms are defined as follows:

(1) "The Concentration Term, C" is calculated as the 95% upper confidence limit, UCL, on the arithmetic average for normally distributed data, or as the 95% upper confidence limit on the arithmetic average for lognormally distributed data. For normally distributed data,  $C = \text{Mean} + t \times \text{Standard Deviation}/n^{1/2}$ , where n is the number of observations, and t is Student's t distribution (at the 95% one-sided confidence level and n-1 degrees of freedom), tables of which are printed in most introductory statistics textbooks. For lognormally distributed data,  $C = \exp(\text{Mean of lognormal-transformed data} + 0.5 \times \text{Variance of lognormal-transformed data} + \text{Standard Deviation of lognormal-transformed data} \times H/(n - 1)^{1/2})$ , where n is the number of observations, and H is Land's H statistic (at the 95% one-sided confidence level), tables of which are printed in advanced statistics books. For data which are not normally nor lognormally distributed, appropriate statistics, such as nonparametric confidence limits, shall be applied.

(2) "Area of Contamination" means a hazardous waste management unit or an area where a release has occurred. The boundary is defined as the furthest extent where contamination from a defined source has migrated in any medium at the time the release is first identified.

(3) "Contaminate" means to render a medium polluted through the introduction of hazardous waste or hazardous constituents as identified in R315-50-10, which incorporates by reference 40 CFR 261, Appendix VIII.

(4) "Hazard Index" means the sum of more than one hazard quotient for multiple substances, multiple exposure pathways, or both. The Hazard Index is calculated separately for chronic, subchronic, and shorter duration exposures.

(5) "Hazard Quotient" means the ratio of a single substance exposure level over a specified time period, e.g. subchronic, to a reference dose for that substance derived from a similar exposure period.

(6) "Risk-based closure" means closure of a site where hazardous waste was managed or any medium has been contaminated by a release of hazardous waste or hazardous constituents, and where hazardous waste or hazardous constituents remain at the site in any medium at concentrations determined, under this rule, to cause minimal levels of risk to human health and the environment so as to require no further action or monitoring on the part of the responsible party nor any notice of hazardous waste management on the deed to the property.

(7) "Reasonable Maximum Exposure (RME)" means the highest exposure that is reasonably expected to occur at a site. The goal of RME is to combine upper-bound and mid-range exposure

factors so that the result represents an exposure scenario that is both protective and reasonable; not the worst possible case.

(8) "Release" means spill or discharge of hazardous waste, hazardous constituents, or material that becomes hazardous waste when released to the environment.

(9) "Responsible party" means the owner or operator of a facility, or any other person responsible for the release of hazardous waste or hazardous constituents.

(10) "Site" means the area of contamination and any other area that could be impacted by the released contaminants, or could influence the migration of those contaminants, regardless of whether the site is owned by the responsible party.

**R315-1-2. References.**

(a) For purposes of R315-1 through R315-101, the publication references of 40 CFR 260.11, [~~1996~~1997 ed., are adopted and incorporated by reference.

(b) R315-1 through R315-101 incorporate by reference a number of provisions from 40 CFR. The incorporated provisions sometimes include cross-references to other sections of 40 CFR. Wherever there are sections in R315-1 through R315-101 that correspond to those cross-references, the cross-references of 40 CFR are not incorporated into R315-1 through R315-101. Instead, the corresponding sections in R315-1 through R315-101 shall apply.

**KEY: hazardous waste**  
~~[July 15, 1997]~~1998

19-6-105  
 19-6-106



Environmental Quality, Solid and  
 Hazardous Waste

**R315-2**

General Requirements - Identification  
 and Listing of Hazardous Waste

**NOTICE OF PROPOSED RULE**  
 (Amendment)

DAR FILE No.: 20383  
 FILED: 12/12/97, 08:51  
 RECEIVED BY: NL

**RULE ANALYSIS**

PURPOSE OF OR REASON FOR THIS FILING: Adopt equivalent federal regulations to maintain equivalency with the Environmental Protection Agency (EPA) rules and retain authorization.

SUMMARY: This proposed rule change excludes processed circuit boards and scrap metal from regulation and amends listing of certain carbamate wastes as no longer hazardous.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Sections 19-6-105 and 19-6-106

FEDERAL MANDATE FOR THIS FILING: 40 CFR 271.21(e)

THIS FILING INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 40 CFR 261.6 (1997), 261.32 (1997), 261.33 (1997)

ANTICIPATED COST OR SAVINGS TO:

- ❖THE STATE BUDGET: None.
- ❖LOCAL GOVERNMENTS: None.
- ❖OTHER PERSONS: None.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

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

Environmental Quality  
Solid and Hazardous Waste  
Fourth Floor, Cannon Health Building  
288 North 1460 West  
PO Box 144880  
Salt Lake City, UT 84114-4880, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:

Susan Toronto at the above address, by phone at (801) 538-6776, by FAX at (801) 538-6715, or by Internet E-mail at storonto@deq.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 02/02/98.

THIS FILING MAY BECOME EFFECTIVE ON: 02/16/98

AUTHORIZED BY: Dennis R. Downs, Director

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

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

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

- (i) Abandoned, as explained in paragraph (b) of this section; or
- (ii) Recycled, as explained in paragraph (c) of this section; or
- (iii) Considered inherently waste-like, as explained in paragraph (d) of this section.

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

- (1) Disposed of; or
- (2) Burned or incinerated; or

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

(c) Materials are solid wastes if they are recycled - or accumulated, stored, or treated before recycling - as specified in paragraphs (c)(1) through (c)(4) of this section.

- (1) Used in a manner constituting disposal

(i) Materials noted with "\*" in Column 1 of Table 1 of 40 CFR 261.2, [1990]1997 ed., which is adopted and incorporated by reference, are solid wastes when they are:

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

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

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

(2) Burning for energy recovery.

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

(A) Burned to recover energy;

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

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

(3) Reclaimed. Materials noted with a "\*" in Column 3 of Table 1 of 40 CFR 261.2 are solid wastes when reclaimed.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(iii) Returned to the original process from which they are generated, without first being reclaimed or land disposed. The material must be returned as a substitute for feedstock materials. In cases where the original process to which the material is returned is a secondary process, the materials must be managed such that there is no placement on the land.

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

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

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

(iii) Materials accumulated speculatively; or

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

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

#### **R315-2-4. Exclusions.**

##### **(a) MATERIALS WHICH ARE NOT SOLID WASTES.**

The following materials are not solid wastes for the purpose of this rule:

(1) Domestic sewage or any mixture of domestic sewage and other wastes that passes through a sewer system to a publicly-owned treatment works for treatment. "Domestic sewage" means untreated sanitary wastes that pass through a sewer system.

(2) Industrial wastewater discharges that are point source discharges subject to regulation under Section 402 of the Clean Water Act, as amended. This exclusion applies only to the actual point source discharge. It does not exclude industrial wastewaters while they are being collected, stored, or treated before discharge, nor does it exclude sludges that are generated by industrial wastewater treatment.

(3) Irrigation return flows.

(4) Source, special nuclear or by-product material as defined by the Atomic Energy Act of 1954, as amended, 42 U.S.C. Section 2011 et seq.

(5) Materials subjected to in-situ mining techniques which are not removed from the ground as part of the extraction process.

(6) Pulping liquors, black liquor that are reclaimed in a pulping liquor recovery furnace and then reused in the pulping process, unless it is accumulated speculatively as defined in subsection R315-1-1(c), which incorporates by reference 261.1(c), 40 CFR.

(7) Spent sulfuric acid used to produce virgin sulfuric acid, unless it is accumulated speculatively as defined in subsection R315-1-1(c), which incorporates by reference 261.1(c), 40 CFR.

(8) Secondary materials that are reclaimed and returned to the original process or processes in which they were generated where they are reused in the production process provided:

(i) Only tank storage is involved, and the entire process through completion of reclamation is closed by being entirely connected with pipes or other comparable enclosed means of conveyance;

(ii) Reclamation does not involve controlled flame combustion (such as occurs in boilers, industrial furnaces, or incinerators);

(iii) The secondary materials are never accumulated in such tanks for over twelve months without being reclaimed; and

(iv) The reclaimed material is not used to produce a fuel, or used to produce products that are used in a manner constituting disposal.

(9)(i) Spent wood preserving solutions that have been reclaimed and are reused for their original intended purpose; and

(ii) wastewaters from the wood preserving process that have been reclaimed and are reused to treat wood.

(10) EPA Hazardous Waste Nos. K060, K087, K141, K142, K143, K144, K145, K147, and K148, and any wastes from the coke by-products processes that are hazardous only because they exhibit the Toxicity Characteristic (TC) specified in R315-2-9(g), when, subsequent to generation, these materials are recycled to coke ovens, to the tar recovery process as a feedstock to produce coal tar or are mixed with coal tar prior to the tar's sale or refining. This exclusion is conditioned on there being no land disposal of the wastes from the point they are generated to the point they are recycled to coke ovens or the tar recovery or refining processes, or mixed with coal tar.

(11) Nonwastewater splash condenser dross residue from the treatment of K061 in high temperature metals recovery units, provided it is shipped in drums (if shipped) and not land disposed before recovery.

(12) Recovered oil from petroleum refining, exploration and production, and from transportation incident thereto, which is to be inserted into the petroleum refining process, SIC Code 2911, at or before a point, other than direct insertion into a coker, where contaminants are removed. This exclusion applies to recovered oil stored or transported prior to insertion, except that the oil must not be stored in a manner involving placement on the land, and must not be accumulated speculatively, before being so recycled. Recovered oil is oil that has been reclaimed from secondary materials, such as wastewater, generated from normal petroleum refining, exploration and production, and transportation practices. Recovered oil includes oil that is recovered from refinery wastewater collection and treatment systems, oil recovered from oil and gas drilling operations, and oil recovered from wastes removed from crude oil storage tanks. Recovered oil does not include, among other things, oil-bearing hazardous wastes listed in R315-2-10, which incorporates by reference 40 CFR part 261 D, e.g., K048-K052, F037, F038. However, oil recovered from such wastes may be considered recovered oil. Recovered oil also does not include used oil as defined in R315-~~15-1~~1-1.

(13) Excluded scrap metal, processed scrap metal, unprocessed home scrap metal, and unprocessed prompt scrap metal, being recycled.

(14) Shredded circuit boards being recycled provided that they are:

(i) Stored in containers sufficient to prevent a release to the environment prior to recovery; and

(ii) Free of mercury switches, mercury relays, and nickel-cadmium batteries and lithium batteries.

(b) **SOLID WASTES WHICH ARE NOT HAZARDOUS WASTES.**

The following solid wastes are not hazardous wastes:

(1) Household waste, including household waste that has been collected, transported, stored, treated, disposed, recovered, such as refuse-derived fuel or reused. "Household waste" means any material, including garbage, trash and sanitary wastes in septic tanks, derived from households, including single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds and day-use recreation areas. A resource recovery facility managing municipal solid waste shall not be deemed to be treating, storing, disposing of or otherwise managing hazardous wastes for the purposes of regulation under this subtitle, if the facility:

(i) Receives and burns only

(A) Household waste, from single and multiple dwellings, hotels, motels, and other residential sources and

(B) Solid waste from commercial of industrial sources that does not contain hazardous waste; and

(ii) The facility does not accept hazardous wastes and the owner or operator of the facility has established contractual requirements or other appropriate notification or inspection procedures to assure that hazardous wastes are not received at or burned in the facility.

(2) Solid wastes generated by any of the following and which are returned to the soil as fertilizers:

(i) The growing and harvesting of agricultural crops.

(ii) The raising of animals, including animal manures.

(3) Mining overburden returned to the mine site.

(4) Fly ash waste, bottom ash waste, slag waste, and flue gas emission control waste generated primarily from the combustion of coal or other fossil fuels, except as provided by R315-14-7, which incorporates by reference 40 CFR 266.112, for facilities that burn or process hazardous waste.

(5) Drilling fluids, produced waters, and other wastes associated with the exploration, development, or production of crude oil, natural gas or geothermal energy.

(6) The following additional solid wastes:

(i) Wastes which fail the test for the Toxicity Characteristic because chromium is present or are listed in sections R315-2-10 or R315-2-11 due to the presence of chromium, which do not fail the test for the Toxicity Characteristic for any other constituent or are not listed due to the presence of any other constituent, and which do not fail the test for any other characteristic, if it is shown by a waste generator or by waste generators that:

(A) The chromium in the waste is exclusively, or nearly exclusively, trivalent chromium; and

(B) The waste is generated from an industrial process which uses trivalent chromium exclusively, or nearly exclusively, and the process does not generate hexavalent chromium; and

(C) The waste is typically and frequently managed in non-oxidizing environments.

(ii) Specific wastes which meet the standard in paragraphs (b)(6)(i)(A),(B), and (C) of this section, so long as they do not fail

the test for the toxicity characteristic for any other constituent, and do not exhibit any other characteristic, are:

(A) Chrome blue trimmings generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue; and shearing.

(B) Chrome blue shavings generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue; and shearing.

(C) Buffing dust generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue.

(D) Sewer screenings generated by the following subcategories of the leather tanning and finishing industry: hair/pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue; and shearing.

(E) Wastewater treatment sludges generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue; and shearing.

(F) Wastewater treatment sludges generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; and through-the-blue.

(G) Waste scrap leather from the leather tanning industry, the shoe manufacturing industry, and other leather product manufacturing industries.

(H) Wastewater treatment sludges from the production of TiO<sub>2</sub> pigment using chromium-bearing ores by the chloride process.

(7) Solid waste from the extraction, beneficiation, and processing of ores and minerals, including coal, phosphate rock and overburden from the mining of uranium ore, except as provided by R315-14-7, which incorporates by reference 40 CFR 266.112, for facilities that burn or process hazardous waste. For the purposes of this paragraph, beneficiation of ores and minerals is restricted to the following activities: crushing, grinding, washing, dissolution, crystallization, filtration, sorting, sizing, drying, sintering, pelletizing, briquetting, calcining to remove water or carbon dioxide or both, roasting, autoclaving, and/or chlorination in preparation for leaching, except where the roasting and/or autoclaving and/or chlorination/leaching sequence produces a final or intermediate product that does not undergo further beneficiation or processing, gravity concentration, magnetic separation, electrostatic separation, flotation, ion exchange, solvent extraction, electrowinning, precipitation, amalgamation, and heap, dump, vat, tank, and in situ leaching. For the purposes of this paragraph, solid waste from the processing of ores and minerals includes only the following wastes:

(i) Slag from primary copper processing;

(ii) Slag from primary lead processing;

(iii) Red and brown muds from bauxite refining;

(iv) Phosphogypsum from phosphoric acid production;

(v) Slag from elemental phosphorus production;

(vi) Gasifier ash from coal gasification;



- (vii) Process wastewater from coal gasification;
- (viii) Calcium sulfate wastewater treatment plant sludge from primary copper processing;
- (ix) Slag tailings from primary copper processing;
- (x) Fluorogypsum from hydrofluoric acid production;
- (xi) Process wastewater from hydrofluoric acid production;
- (xii) Air pollution control dust or sludge from iron blast furnaces;
- (xiii) Iron blast furnace slag;
- (xiv) Treated residue from roasting or leaching of chrome ore;
- (xv) Process wastewater from primary magnesium processing by the anhydrous process;
- (xvi) Process wastewater from phosphoric acid production;
- (xvii) Basic oxygen furnace and open hearth furnace air pollution control dust or sludge from carbon steel production;
- (xviii) Basic oxygen furnace and open hearth furnace slag from carbon steel production;
- (xix) Chloride process waste solids from titanium tetrachloride production;
- (xx) Slag from primary zinc processing.

(8) Cement kiln dust waste, except as provided by R315-14-7, which incorporates by reference 40 CFR 266.112, for facilities that burn or process hazardous waste.

(9) Solid waste which consists of discarded arsenical-treated wood or wood products which fails the test for the Toxicity Characteristic for Hazardous Waste Codes D004 through D017 and which is not a hazardous waste for any other reason if the waste is generated by persons who utilize the arsenical-treated wood and wood products for these materials' intended end use.

(10) Petroleum-contaminated media and debris that fail the test for the Toxicity Characteristic of subsection R315-2-9(g), Hazardous Waste Codes D018 through D043 only, and are subject to the corrective action requirements under R311-202, which incorporates by reference 40 CFR 280.

(11) Injected groundwater that is hazardous only because it exhibits the Toxicity Characteristic, Hazardous Waste Codes D018 through D043 only, in R315-2-9(e) that is reinjected through an underground injection well pursuant to free phase hydrocarbon recovery operations undertaken at petroleum refineries, petroleum marketing terminals, petroleum bulk plants, petroleum pipelines, and petroleum transportation spill sites until January 25, 1993. This extension applies to recovery operations in existence, or for which contracts have been issued, on or before March 25, 1991. For groundwater returned through infiltration galleries from such operations at petroleum refineries, marketing terminals, and bulk plants, until October 2, 1991. New operations involving injection wells, beginning after March 25, 1991, will qualify for this compliance date extension until January 25, 1993, only if:

(i) Operations are performed pursuant to a written state agreement that includes a provision to assess the groundwater and the need for further remediation once the free phase recovery is completed; and

(ii) A copy of the written agreement has been submitted to: Characteristics Section (OS-333), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460 and the Division of Solid and Hazardous Waste, Dept. of Environmental Quality, State of Utah, Salt Lake City, UT 84114-4880.

(12) Used chlorofluorocarbon refrigerants from totally enclosed heat transfer equipment, including mobile air conditioning

systems, mobile refrigeration, and commercial and industrial air conditioning and refrigeration systems that use chlorofluorocarbons as the heat transfer fluid in a refrigeration cycle, provided the refrigerant is reclaimed for further use.

(13) Used oil re-refining distillation bottoms that are used as feedstock to manufacture asphalt products.

(14) Non-terne plated used oil filters that are not mixed with wastes listed in R315-2-10(e) and (f) and R315-2-11, which incorporate by reference 40 CFR 261 subpart D, if these oil filters have been gravity hot-drained using one of the following methods:

(i) Puncturing the filter anti-drain back valve or the filter dome end and hot draining;

(ii) Hot-draining and crushing;

(iii) Dismantling and hot-draining; or

(iv) Any other equivalent hot-draining method that will remove used oil.

(c) HAZARDOUS WASTES WHICH ARE EXEMPTED FROM CERTAIN RULES.

A hazardous waste which is generated in a product or raw material storage tank, a product or raw material transport vehicle or vessel, a product or raw material pipeline, or in a manufacturing process unit or an associated non-waste-treatment-manufacturing unit is not subject to these regulations or to the notification requirements of Section 3010 of RCRA until it exits the unit in which it was generated, unless the unit is a surface impoundment, or unless the hazardous waste remains in the unit more than 90 days after the unit ceases to be operated for manufacturing, or for storage or transportation of products or raw materials.

(d) SAMPLES

(1) Except as provided in paragraph (d)(2) of this section, a sample of solid waste or a sample of water, soil, or air, which is collected for the sole purpose of testing to determine its characteristics or compositions, is not subject to any requirements of these rules when:

(i) The sample is being transported to a laboratory for the purpose of testing;

(ii) The sample is being transported back to the sample collector after testing;

(iii) The sample is being stored by the sample collector before transport to a laboratory for testing;

(iv) The sample is being stored in a laboratory before testing;

(v) The sample is being stored in a laboratory after testing but before it is returned to the sample collector; or

(vi) The sample is being stored temporarily in the laboratory after testing for a specific purpose, for example, until conclusion of a court case or enforcement action where further testing of the sample may be necessary.

(2) In order to qualify for the exemption in paragraphs (d)(1)(i) and (ii) of this section, a sample collector shipping samples to a laboratory and a laboratory returning samples to a sample collector shall:

(i) Comply with U.S. Department of Transportation (DOT), U.S. Postal Service (USPS), or any other applicable shipping requirements; or

(ii) Comply with the following requirements if the sample collector determines that DOT, USPS, or other shipping requirements do not apply to the shipment of the sample:

(A) Assure that the following information accompanies the sample:

(1) The sample collector's name, mailing address, and telephone number;

(2) The laboratory's name, mailing address, and telephone number;

(3) The quantity of the sample;

(4) The date of shipment; and

(5) A description of the sample.

(B) Package the sample so that it does not leak, spill, or vaporize from its packaging.

(3) This exemption does not apply if the laboratory determines that the waste is hazardous but the laboratory is no longer meeting any of the conditions stated in paragraph (d)(1) of this section.

(e) TREATABILITY STUDY SAMPLES.

(1) Except as provided in paragraph (e)(2) of this Section, a person who generates or collects samples for the purpose of conducting treatability studies as defined in section R315-1-1, which incorporates by reference the definitions of 40 CFR 260.10, are not subject to any requirement of R315-2, and R315-4 through R315-6, or to the notification requirements of Section 3010 of RCRA, nor are these samples included in the quantity determinations of R315-2-5, which incorporates by reference the requirements concerning conditionally exempt small quantity generators of 40 CFR 261.5 and R315-5-10, which incorporates by reference the requirements concerning waste accumulation time for generators of 40 CFR 262.34(d) when:

(i) the sample is being collected and prepared for transportation by the generator or sample collector;

(ii) the sample is being accumulated or stored by the generator or sample collector prior to transportation to a laboratory or testing facility; or

(iii) the sample is being transported to the laboratory or testing facility for the purpose of conducting a treatability study.

(2) The exemption in paragraph (e)(1) of this section is applicable to samples of hazardous waste being collected and shipped for the purpose of conducting treatability studies provided that:

(i) The generator or sample collector uses, in "treatability studies," no more than 10,000 kg of media contaminated with non-acute hazardous waste, 1000 kg of non-acute hazardous waste other than contaminated media, 1 kg of acute hazardous waste, 2500 kg of media contaminated with acute hazardous waste for each process being evaluated for each generated waste stream;

(ii) The mass of each sample shipment does not exceed 10,000 kg; the 10,000 kg quantity may be all media contaminated with non-acute hazardous waste, or may include 2500 kg of media contaminated with acute hazardous waste, 1000 kg of hazardous waste, and 1 kg of acute hazardous waste; and

(iii) the sample shall be packaged so that it will not leak, spill, or vaporize from its packaging during shipment and the requirements of paragraph A or B of this subparagraph are met;

(A) the transportation of each sample shipment complies with U.S. Department of Transportation (DOT), U.S. Postal Service (USPS), or any other applicable shipping requirements; or

(B) if the DOT, USPS, or other shipping requirements do not apply to the shipment of the sample, the following information shall accompany the sample:

(1) the name, mailing address, and telephone number of the originator of the sample;

(2) the name, address, and telephone number of the facility that will perform the treatability study;

(3) the quantity of the sample;

(4) the date of shipment; and

(5) a description of the sample, including its EPA Hazardous Waste Number.

(iv) the sample is shipped to a laboratory or testing facility which is exempt under R315-2-1.3(f) (40 CFR 261.4(f)) or has an appropriate RCRA plan approval or interim status;

(v) the generator or sample collector maintains the following records for a period ending 3 years after completion of the treatability study:

(A) copies of the shipping documents;

(B) a copy of the contract with the facility conducting the treatability study;

(C) documentation showing:

(1) the amount of waste shipped under this exemption;

(2) the name, address, and EPA identification number of the laboratory or testing facility that received the waste;

(3) the date the shipment was made; and

(4) whether or not unused samples and residues were returned to the generator.

(vi) the generator reports the information required under paragraph (e)(v)(C) of this section in its biennial report.

(3) The Executive Secretary may grant requests on a case-by-case basis for up to an additional two years for treatability studies involving bioremediation. The Executive Secretary may grant requests on a case-by-case basis for quantity limits in excess of those specified in paragraphs (e)(2) (i) and (ii) and (f)(4) of this section, for up to an additional 5000 kg of media contaminated with non-acute hazardous waste, 500 kg of non-acute hazardous waste, 2500 kg of media contaminated with acute hazardous waste and 1 kg of acute hazardous waste:

(i) In response to requests for authorization to ship, store and conduct treatability studies on additional quantities in advance of commencing treatability studies. Factors to be considered in reviewing such requests include the nature of the technology, the type of process, e.g., batch versus continuous, size of the unit undergoing testing, particularly in relation to scale-up considerations, the time/quantity of material required to reach steady state operating conditions, or test design considerations such as mass balance calculations.

(ii) In response to requests for authorization to ship, store and conduct treatability studies on additional quantities after initiation or completion of initial treatability studies, when: There has been an equipment or mechanical failure during the conduct of a treatability study; there is a need to verify the results of a previously conducted treatability study; there is a need to study and analyze alternative techniques within a previously evaluated treatment process; or there is a need to do further evaluation of an ongoing treatability study to determine final specifications for treatment.

(iii) The additional quantities and time frames allowed in paragraph (e)(3) (i) and (ii) of this section are subject to all the provisions in paragraphs (e) (1) and (e)(2) (iii) through (vi) of this section. The generator or sample collector must apply to the Executive Secretary and provide in writing the following information:

(A) The reason why the generator or sample collector requires additional time or quantity of sample for treatability study evaluation and the additional time or quantity needed;

(B) Documentation accounting for all samples of hazardous waste from the waste stream which have been sent for or undergone treatability studies including the date each previous sample from the waste stream was shipped, the quantity of each previous shipment, the laboratory or testing facility to which it was shipped, what treatability study processes were conducted on each sample shipped, and the available results on each treatability study;

(C) A description of the technical modifications or change in specifications which will be evaluated and the expected results;

(D) If such further study is being required due to equipment or mechanical failure, the applicant must include information regarding the reason for the failure or breakdown and also include what procedures or equipment improvements have been made to protect against further breakdowns; and

(E) Such other information that the Executive Secretary considers necessary.

(f) **SAMPLES UNDERGOING TREATABILITY STUDIES AT LABORATORIES AND TESTING FACILITIES.**

Samples undergoing treatability studies and the laboratory or testing facility that conducts these treatability studies, to the extent these facilities are not otherwise subject to RCRA requirements, are not subject to any requirement of this rule, R315-3 through R315-8, and R315-13, or to the notification requirements of Section 3010 of RCRA provided that the conditions of paragraphs (f)(1) through (11) of this Section are met. A mobile treatment unit (MTU) may qualify as a testing facility subject to paragraphs (f)(1) through (11) of this section. Where a group of MTUs are located at the same site, the limitations specified in (f)(1) through (11) of this section apply to the entire group of MTUs collectively as if the group were one MTU.

(1) No less than 45 days before conducting treatability studies, the facility notifies the Executive Secretary in writing that it intends to conduct treatability studies under this paragraph.

(2) The laboratory or testing facility conducting the treatability study has an EPA identification number.

(3) No more than a total of 10,000 kg of "as received" media contaminated with non-acute hazardous waste, 2500 kg of media contaminated with acute hazardous waste or 250 kg of other "as received" hazardous waste is subject to initiation of treatment in all treatability studies in any single day. "As received" waste refers to the waste as received in the shipment from the generator or sample collector.

(4) The quantity of "as received" hazardous waste stored at the facility for the purpose of evaluation in treatability studies does not exceed 10,000 kg, the total of which can include 10,000 kg of media contaminated with non-acute hazardous waste, 2500 kg of media contaminated with acute hazardous waste, 1000 kg of non-acute hazardous wastes other than contaminated media, and 1 kg of acute hazardous waste. This quantity limitation does not include treatment materials, including nonhazardous solid waste, added to "as received" hazardous waste.

(5) No more than 90 days have elapsed since the treatability study for the sample was completed, or no more than one year, two years for treatability studies involving bioremediation, have elapsed since the generator or sample collector shipped the sample to the laboratory or testing facility, whichever date first occurs. Up to 500

kg of treated material from a particular waste stream from treatability studies may be archived for future evaluation up to five years from the date of initial receipt. Quantities of materials archived are counted against the total storage limit for the facility.

(6) The treatability study does not involve the placement of hazardous waste on the land or open burning of hazardous waste.

(7) The facility maintains records for three years following completion of each study that show compliance with the treatment rate limits and the storage time and quantity limits. The following specific information shall be included for each treatability study conducted:

(i) the name, address, and EPA identification number of the generator or sample collector of each waste sample;

(ii) the date the shipment was received;

(iii) the quantity of waste accepted;

(iv) the quantity of "as received" waste in storage each day;

(v) the date the treatment study was initiated and the amount of "as received" waste introduced to treatment each day;

(vi) the date the treatability study was concluded; and

(vii) the date any unused sample or residues generated from the treatability study were returned to the generator or sample collector or, if sent to a designated facility, the name of the facility and the EPA identification number.

(8) The facility keeps, on-site, a copy of the treatability study contract and all shipping papers associated with the transport of treatability study samples to and from the facility for a period ending three years from the completion date of each treatability study.

(9) The facility prepares and submits a report to the Executive Secretary by March 15 of each year that estimates the number of studies and the amount of waste expected to be used in treatability studies during the current year, and includes the following information for the previous calendar year:

(i) the name, address, and EPA identification number of the facility conducting the treatability studies;

(ii) the types, by process, of treatability studies conducted;

(iii) the names and addresses of persons for whom studies have been conducted, including their EPA identification numbers;

(iv) the total quantity of waste in storage each day;

(v) the quantity and types of waste subjected to treatability studies;

(vi) when each treatability study was conducted; and

(vii) the final disposition of residues and unused sample from each treatability study.

(10) The facility determines whether any unused sample or residues generated by the treatability study are hazardous waste under R315-2-3 and, if so, are subject to R315-2 through R315-8, and R315-13, unless the residues and unused samples are returned to the sample originator under the exemption of paragraph (e) of this section.

(11) The facility notifies the Executive Secretary by letter when the facility is no longer planning to conduct any treatability studies at the site.

**R315-2-6. Requirements for Recyclable Materials.**

The requirements of 40 CFR 261.6, [1996]1997 ed., as amended by 61 FR 59931, November 25, 1996, are adopted and incorporated by reference.

**R315-2-9. Characteristics of Hazardous Waste.**

## (a) GENERAL.

(1) A solid waste, as defined in section R315-2-2, which is not excluded from regulation as a hazardous waste under R315-2-4(b), is a hazardous waste if it exhibits any of the characteristics identified in this section.

(2) A hazardous waste which is identified by a characteristic in this section, is assigned every EPA Hazardous Waste Number that is applicable as set forth in this section. This number shall be used in complying with the notification requirements of section 3010 of RCRA and all applicable recordkeeping and reporting requirements under R315-3 through R315-8, and R315-13.

(3) For purposes of this section, the Executive Secretary will consider a sample obtained using any of the applicable sampling methods specified in R315-50-6, or an equivalent method, to be a representative sample.

## (b) CRITERIA FOR IDENTIFYING THE CHARACTERISTICS OF HAZARDOUS WASTE.

(1) The Board shall identify and define a characteristic of hazardous waste in this section only upon determining that:

(i) A solid waste that exhibits the characteristic may:

(A) Cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness; or

(B) Pose a substantial present or potential hazard to human health or the environment when it is improperly treated, stored, transported, disposed of or otherwise managed; and

(ii) The characteristic can be:

(A) Measured by an available standardized test method which is reasonably within the capability of generators of solid waste or private sector laboratories that are available to serve generators of solid waste; or

(B) Reasonably detected by generators of solid waste through their knowledge of their waste.

## (c) CRITERIA FOR LISTING HAZARDOUS WASTE.

(1) The Board shall list a solid waste as a hazardous waste only upon determining that the solid waste meets one of the following criteria:

(i) It exhibits any of the characteristics of hazardous waste identified in this section.

(ii) It has been found to be fatal to humans in low doses, or, in the absence of data on human toxicity, it has been shown in studies to have an oral LD 50 toxicity, rat, of less than 50 milligrams per kilogram, an inhalation LC 50 toxicity, rat, of less than 50 milligrams per liter, or a dermal LD 50 toxicity, rabbit, of less than 200 milligrams per kilogram or is otherwise capable of causing or significantly contributing to an increase in serious irreversible, or incapacitating reversible illness. Waste listed in accordance with these criteria will be designated Acute Hazardous Waste.

(iii) It contains any of the toxic constituents listed in R315-50-10 and, after considering the following factors, the Board concludes that the waste is capable of posing a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported or disposed of, or otherwise managed:

(A) The nature of the toxicity presented by the constituent.

(B) The concentration of the constituent in the waste.

(C) The potential of the constituent or any toxic degradation product of the constituent to migrate from the waste into the

environment under the types of improper management considered in paragraph (c)(1)(iii)(G) of this section.

(D) The persistence of the constituent or any toxic degradation product of the constituent.

(E) The potential for the constituent or any toxic degradation product of the constituent to degrade into non-harmful constituents and the rate of degradation.

(F) The degree to which the constituent or any degradation product of the constituent bioaccumulates in ecosystems.

(G) The plausible types of improper management to which the waste could be subjected.

(H) The quantities of the waste generated at individual generation sites or on a regional or national basis.

(I) The nature and severity of the human health and environmental damage that has occurred as a result of the improper management of wastes containing the constituent.

(J) Action taken by other governmental agencies or regulatory programs based on the health or environmental hazard posed by the waste or waste constituent.

(K) Other factors as may be appropriate.

Substances will be listed on R315-50-10 only if they have been shown in scientific studies to have toxic, carcinogenic, mutagenic or teratogenic effects on humans or other life forms. Wastes listed in accordance with these criteria will be designated Toxic wastes.

(2) The Board may list classes or types of solid waste as hazardous waste if they have reason to believe that individual wastes, within the class or type of waste, typically or frequently are hazardous under the definition of hazardous waste found in Section 19-6-2 of the Utah Solid and Hazardous Waste Act.

(3) The Board will use the criteria for listing specified in this section to establish the exclusion limits referred to in 40 CFR 261.5(c). R315-2-5 incorporates by reference the requirements of 40 CFR 261.5 concerning conditionally exempt small quantity generators.

## (d) CHARACTERISTIC OF IGNITABILITY

(1) A solid waste exhibits the characteristic of ignitability if a representative sample of the waste has any of the following properties:

(i) It is a liquid, other than an aqueous solution containing less than 24 percent alcohol by volume, and has a flash point less than 60 degrees C, 140 degrees F, as determined by a Pensky-Martens Closed Cup Tester, using the test method specified in ASTM Standard D-93-79, or D-93-80, incorporated by reference, see section R315-1-2, or a Setaflash Closed Cup Tester, using the test method specified in ASTM Standard D-3278-78, incorporated by reference, see section R315-1-2, or as determined by an equivalent test method approved under the procedures set forth in section R315-2-15.

(ii) It is not a liquid and is capable, under standard temperature and pressure, of causing fire through friction, absorption of moisture or spontaneous chemical changes and, when ignited, burns so vigorously and persistently that it creates a hazard.

(iii) It is an ignitable "compressed gas" as defined in 49 CFR 173.300(a), 1990 ed., which is adopted and incorporated by reference, and as determined by the test methods described in that regulation or equivalent test methods approved under section R315-2-15.

(iv) It is an "oxidizer" as defined in 49 CFR 173.151, 1990 ed., which is adopted and incorporated by reference.

(2) A solid waste that exhibits the characteristic of ignitability has the EPA Hazardous Waste Number of D001.

(e) CHARACTERISTIC OF CORROSIVITY

(1) A solid waste exhibits the characteristic of corrosivity if a representative sample of the waste has either of the following properties:

(i) It is aqueous and has a pH less than or equal to 2 or greater than or equal to 12.5, as determined by a pH meter using Method 9040 in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference in 40 CFR 260.11, see R315-1-2.

(ii) It is a liquid and corrodes steel, SAE 1020, at a rate greater than 6.35 mm, 0.250 inch, per year at a test temperature of 55 degrees C, 130 degrees F, as determined by the test method specified in NACE, National Association of Corrosion Engineers Standard TM-01-69 as standardized in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference in 40 CFR 260.11, see R315-1-2.

(2) A solid waste that exhibits the characteristic of corrosivity has the EPA Hazardous Waste Number of D002.

(f) CHARACTERISTIC OF REACTIVITY

(1) A solid waste exhibits the characteristic of reactivity if a representative sample of the waste has any of the following properties:

(i) It is normally unstable and readily undergoes violent change without detonating.

(ii) It reacts violently with water.

(iii) It forms potentially explosive mixtures with water.

(iv) When mixed with water, it generates toxic gases, vapors or fumes in a quantity sufficient to present a danger to human health or the environment.

(v) It is a cyanide or sulfide bearing waste which, when exposed to pH conditions between 2 and 12.5, can generate toxic gases, vapors or fumes in a quantity sufficient to present a danger to human health or the environment.

(vi) It is capable of detonation or explosive reaction if it is subjected to a strong initiating source or if heated under confinement.

(vii) It is readily capable of detonation or explosive decomposition or reaction at standard temperature and pressure.

(viii) It is a "forbidden explosive" as defined in 49 CFR 173.5 ed., or a "Class 1 explosive" as defined in 49 CFR 173.50(b)(1), (2), or (3), which are incorporated by reference.

(2) A solid waste that exhibits the characteristic of reactivity has the EPA Hazardous Waste Number of D003.

(g) TOXICITY CHARACTERISTIC

(1) A solid waste exhibits the characteristic of toxicity if, using the Toxicity Characteristic Leaching Procedure, test Method 1311 in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference in 40 CFR 260.11, see R315-1-2, the extract from a representative sample of the waste contains any of the contaminants listed in Table 1 of 40 CFR 261.24 at a concentration equal to or greater than the respective value given in that Table. Where the waste contains less than 0.5 percent filterable solids, the waste itself, after filtering using the methodology outlined in ~~R315-50-7~~ Method 1311, is considered to be the extract for the purposes of this paragraph.

(2) A solid waste that exhibits the characteristic of toxicity has the EPA Hazardous Waste Number specified in Table 1 of 40 CFR 261.24, as incorporated by reference at R315-29(g)(2), which corresponds to the toxic contaminant causing it to be hazardous. Table 1 of 40 CFR 261.24, 1990 ed., is adopted and incorporated by reference.

**R315-2-10. Lists of Hazardous Wastes.**

(a) A solid waste is a hazardous waste if it is listed in this section or R315-2-11, unless it has been excluded from this list under section R315-2-16.

(b) The Board will indicate the basis for listing the classes or types of wastes listed in this section and R315-2-11 by employing one or more of the following Hazard Codes:

Ignitable Waste: (I)

Corrosive Waste: (C)

Reactive Waste: (R)

Toxicity Characteristic Waste: (E)

Acute Hazardous Waste: (H)

Toxic Waste: (T)

R315-50-9, which incorporates by reference 40 CFR 261, Appendix VII, identifies the constituent which caused the Board to list the waste as a Toxicity Characteristic Waste (E) or Toxic Waste (T) in this section and R315-2-11.

(c) Each hazardous waste listed in this section and R315-2-11, is assigned an EPA Hazardous Waste Number which precedes the name of the waste. This number shall be used to comply with these rules where description and identification of a hazardous waste is required.

(d) The following hazardous wastes listed in this section are subject to the exclusion limits for acutely hazardous wastes established in R315-2-4:

EPA Hazardous Waste Nos. F020, F021, F022, F023, F026, and F027.

(e) The listing of hazardous wastes from non-specific sources found in 40 CFR 261.31, 1996 ed., is adopted and incorporated by reference with the following additional waste:

(1) F999 - Residues from demilitarization, treatment, and testing of nerve, military, and chemical agents CX, GA, GB, GD, H, HD, HL, HN-1, HN-2, HN-3, HT, L, T, and VX. (R,T,C,H)

(f) The listing of hazardous wastes from specific sources found in 40 CFR 261.32, ~~[1996]~~ 1997 ed., is adopted and incorporated by reference, excluding the following wastes:

(1) K064 -- Acid Plant blowdown slurry or sludge resulting from the thickening of blowdown slurry from primary copper production. (T)

(2) K065 -- Surface impoundment solids contained in and dredged from surface impoundments at primary lead smelting facilities. (T)

(3) K066 -- Sludge from treatment of process wastewater or acid plant blowdown or both from primary zinc production. (T)

(4) K090 -- Emission control dust or sludge from ferrochromium silicon production. (T)

(5) K091 -- Emission control

(6) K160 -- Solids from the production of thiocarbamates and solids from the treatment of wastes from thiocarbamates.

**R315-2-11. Discarded Commercial Chemical Products, Off-Specification Species, Container Residues, and Spill Residues Thereof.**

The phrase "commercial chemical product or manufacturing chemical intermediate having the generic name listed in R315-2-11" refers to a chemical substance which is manufactured or formulated for commercial or manufacturing use which consists of the commercially pure grade of the chemical, any technical grades of the chemical that are produced or marketed, and all formulations in which the chemical is the sole active ingredient. It does not refer to a material, such as a manufacturing process waste, that contains any of the substances listed in paragraphs (e) or (f) of this section, which incorporate by reference, respectively, the lists of acute hazardous wastes and hazardous wastes in 40 CFR 261.33. Where a manufacturing process waste is deemed to be hazardous waste because it contains a substance listed in paragraphs (e) or (f) of this section, that waste will be listed in Section R315-2-10, which incorporates the lists of hazardous wastes in 40 CFR 261.31 and 261.32, or will be identified as a hazardous waste by the characteristics set forth in Section R315-2-9.

The following materials or items are hazardous wastes if and when they are discarded or intended to be discarded as described in Subsection R315-2-2(a)(2)(i), when they are mixed with waste oil or used oil or other material and applied to the land for dust suppression or road treatment, when they are otherwise applied to the land in lieu of their original intended use or when they are contained in products that are applied to the land in lieu of their original intended use, or when, in lieu of their original intended use, they are produced for use as, or a component of a fuel, distributed for use as a fuel, or burned as a fuel.

(a) Any commercial chemical product, or manufacturing chemical intermediate having the generic name listed in paragraphs (e) or (f) of this section, which incorporate by reference, respectively, the lists of acute hazardous wastes and hazardous wastes in 40 CFR 261.33.

(b) Any off-specification commercial chemical product or manufacturing chemical intermediate which, if it met specifications, would have the generic name listed in paragraphs (e) or (f) of this section, which incorporate by reference, respectively, the lists of acute hazardous wastes and hazardous wastes in 40 CFR 261.33.

(c) Any residue remaining in a container or in an inner liner removed from a container that has held any commercial chemical product or manufacturing chemical intermediate having the generic name listed in paragraph (e) or (f) of this section, which incorporate by reference, respectively, the lists of acute hazardous wastes and hazardous wastes in 40 CFR 261.33, unless the container is empty as defined in R315-2-7(b). Unless the residue is being beneficially used or reused, or legitimately recycled or reclaimed; or being accumulated, stored, transported or treated prior to such use, re-use, recycling or reclamation, the Board considers the residue to be intended for discard and thus, a hazardous waste. An example of a legitimate re-use of the residue would be where the residue remains in the container and the container is used to hold the same commercial chemical product or manufacturing chemical intermediate it previously held. An example of the discard of the residue would be where the drum is sent to a drum reconditioner who reconditions the drum but discards the residue.

(d) Any residue or contaminated soil, water or other debris resulting from the cleanup of a discharge, into or on any land or

water, of any commercial chemical product or manufacturing chemical intermediate having the generic name listed in paragraphs (e) or (f) of this section, which incorporate by reference, respectively, the lists of acute hazardous wastes and hazardous wastes in 40 CFR 261.33, or any residue or contaminated soil, water or other debris resulting from the cleanup of a spill, into or on any land or water, of any off-specification chemical product and manufacturing chemical intermediate which, if it met specifications, would have the generic name listed in paragraph (e) or (f) of this section, which incorporate by reference, respectively, the lists of acute hazardous wastes and hazardous wastes in 40 CFR 261.33. Unless the residue is being beneficially used or reused, or legitimately recycled or reclaimed; or being accumulated, stored, transported or treated prior to such use, re-use, recycling or reclamation, the Board considers the residue to be intended for discard, and thus a hazardous waste. An example of a legitimate re-use of the residue would be where the residue remains in the container and the container is used to hold the same commercial chemical product or manufacturing chemical product or manufacturing chemical intermediate it previously held. An example of the discard of the residue would be where the drum is sent to the drum reconditioner who reconditions the drum but discards the residue.

(e) The listing of chemicals, found in 40 CFR 261.33(e), [~~1996~~1997] ed., is adopted and incorporated by reference, with the addition of the following waste:

(1) P999 Nerve, Military, and Chemical Agents (i.e., CX, GA, GB, GD, H, HD, HL, HN-1, HN-2, HN-3, HT, L, T, and VX.)

(f) The listing of chemicals, found in 40 CFR 261.33(f), 1996 ed., is adopted and incorporated by reference, excluding the following wastes:

- (1) U277 -- Sulfallate.
- (2) U365 -- H-Azepine-1-carbothioic acid, hexahydro-, S-ethyl ester.
- (3) U366 -- Dazomet.
- (4) U375 -- Carbamic acid, butyl-, 3-iodo-2-propynyl ester.
- (5) U376 -- Carbamodithioic acid, dimethyl-, tetraanhydrosulfide with orthothioselenious acid.
- (6) U377 -- Carbamodithioic acid, methyl-, monopotassium salt.
- (7) U378 -- Carbamodithioic acid, (hydroxymethyl)methyl-, monopotassium salt.
- (8) U379 -- Carbamodithioic acid, dibutyl, sodium salt.
- (9) U381 -- Carbamodithioic acid, diethyl-, sodium salt.
- (10) U382 -- Carbamodithioic acid, dimethyl-, sodium salt.
- (11) U383 -- Carbamodithioic acid, dimethyl, potassium salt.
- (12) U384 -- Carbamodithioic acid, methyl-, monosodium salt.
- (13) U385 -- Carbamothioic acid, dipropyl-, S-propyl ester.
- (14) U386 -- Carbamothioic acid, cyclohexylethyl-, S-ethyl ester.
- (15) U390 -- Carbamothioic acid, dipropyl-, S-ethyl ester.
- (16) U391 -- Carbamothioic acid, butylethyl-, S-propyl ester.
- (17) U392 -- Carbamothioic acid, bis (2-methylpropyl)-, S-ethyl ester.
- (18) U393 -- Copper, bis(dimethylcarbamodithioato-S, S')-, Copper dimethyldithiocarbamate.
- (19) U396 -- Iron, tris(dimethylcarbamodithioato-S,S')

- (20) U400 -- Bis(pentamethylene)thiuram tetrasulfide, Piperidine, 1,1'-(tetrathiodicarbonothioyl)-bis-
- (21) U401 -- Bis(dimethylthiocarbomoyl) sulfide.
- (22) U402 -- Tetrabutylthiuram disulfide, Thioperoxydicarbonid diamide, tetrabutyl.
- (23) U403 -- Disulfiram, Thioperoxydicarbonic diamide, tetraethyl.
- (24) U407 -- Zinc, bis(diethylcarbomodithioato-S,S')-

**R315-2-25. Requirements for Universal Waste.**

The wastes listed in this section are exempt from regulation under R315-[+]<sup>3</sup> through R315-14 of these rules except as specified in section R315-16 of these rules and, therefore are not fully regulated as hazardous waste. The wastes listed in this section are subject to regulation under R315-16:

- (a) Batteries as described in R315-16-1.2;
- (b) Pesticides as described in R315-16-1.3;
- (c) Mercury thermostats as described in R315-16-1.4; and
- (d) Mercury lamps as described in R315-16-1.6.

**KEY: hazardous waste**  
~~[October 15, 1997]~~1998

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19-6-106



Environmental Quality, Solid and  
Hazardous Waste  
**R315-3**  
Application and Plan Approval  
Procedures for Hazardous Waste  
Treatment, Storage, and Disposal  
Facilities

**NOTICE OF PROPOSED RULE**  
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**RULE ANALYSIS**

PURPOSE OF OR REASON FOR THIS FILING: Adopt equivalent federal regulations to maintain equivalency with the Environmental Protection Agency (EPA) rules and retain authorization.

SUMMARY: This proposed rule change is a result of comments received from the Environmental Protection Agency (EPA) concerning a recent authorization application submitted by the state and makes clarifications to parts of the rule.

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

ANTICIPATED COST OR SAVINGS TO:

- ❖THE STATE BUDGET: None.
  - ❖LOCAL GOVERNMENTS: None.
  - ❖OTHER PERSONS: None.
- COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

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

Environmental Quality  
Solid and Hazardous Waste  
Fourth Floor, Cannon Health Building  
288 North 1460 West  
PO Box 144880  
Salt Lake City, UT 84114-4880, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:

Susan Toronto at the above address, by phone at (801) 538-6776, by FAX at (801) 538-6715, or by Internet E-mail at storonto@deq.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 02/02/98.

THIS FILING MAY BECOME EFFECTIVE ON: 02/16/98

AUTHORIZED BY: Dennis R. Downs, Director

**R315. Environmental Quality, Solid and Hazardous Waste.**  
**R315-3. Application and Plan Approval Procedures for Hazardous Waste Treatment, Storage, and Disposal Facilities.**  
**R315-3-3. Application Submittal Required.**

(a) Plan Approval Application. Any person who is required to have a plan approval, including new applicants and persons with expiring plan approvals, shall complete, sign and submit, a minimum of two applications to the Executive Secretary as described in this section. Persons currently authorized with interim status shall apply for permits when required by the Executive Secretary. Persons covered by RCRA permits by rule, R315-3-18, need not apply. Procedures for applications, issuance and administration of emergency plan approvals are found exclusively in R315-3-19. Procedures for application, issuance and administration of research, development, and demonstration plan approvals are found exclusively in R315-3-22.

(b)(1) Existing HWM Facilities. Owners and operators of existing hazardous waste management facilities shall submit Part A of their plan approval application to the EPA Regional Administrator or Executive Secretary no later than:

(i) Six months after the date of publication of rules which first require them to comply with the standards set forth in R315-7 or R315-14, or

(ii) Thirty days after the date they first become subject to the standards set forth in R315-7 or R315-14, whichever first occurs.

For facilities which had to comply with R315-7 because they handle a waste listed in EPA's May 19, 1980, Part 261 regulations, 45 FR 33006 et seq., the deadline for submitting an application was November 19, 1980. Where other existing facilities shall begin complying with R315-7 or R315-14 at a later date because of

revisions to R315-1, R315-2, R315-7, or R315-14, the Executive Secretary will specify when those facilities shall submit a plan approval application.

(2) The Executive Secretary may extend the date by which owners and operators of specified classes of existing hazardous waste management facilities shall submit Part A of their plan approval application.

(3) ~~At any time after promulgation of applicable rules, t~~The owner or operator of an existing ~~[HWM]hazardous waste management~~ facility may be required to submit Part B of the plan approval application. Any owner or operator shall be allowed at least six months from the date of request to submit Part B of the application. Any owner or operator of an existing ~~[HWM]hazardous waste management~~ facility may voluntarily submit Part B of the application at any time. Notwithstanding the above, any owner or operator of an existing ~~[HWM]hazardous waste management~~ facility must submit a Part B application in accordance with the dates specified in R315-3-32. Any owner or operator of a land disposal facility in existence on the effective date of statutory or regulatory amendments under R315 that render the facility subject to the requirement to have a plan approval, shall submit a part B application in accordance with the dates specified in R315-3-32.

(4) Failure to furnish a requested Part B application on time, or to furnish in full the information required by the Part B application, is grounds for termination of interim status under section R315-3-16.

(c) New HWM Facilities.

(1) Except as provided in R315-3-3(c)(3), no person shall begin physical construction of a new HWM facility without having submitted Part A and Part B of the application and having received a finally effective plan approval.

(2) An application for a plan approval for a new ~~[HWM]hazardous waste management~~ facility, including both Part A and Part B, may be filed any time after promulgation of applicable regulations. The application shall be filed with the Regional Administrator if at the time of application the State has not received final authorization for permitting such facility; otherwise it shall be filed with the Executive Secretary. Except as provided in paragraph (c)(3) of this section, all applications shall be submitted at least 180 days before physical construction is expected to commence.

(3) Notwithstanding R315-3-3(c)(1), a person may construct a facility for the incineration of polychlorinated biphenyls pursuant to an approval issued by the U.S. EPA Administrator under section (6)(e) of the Toxic Substances Control Act, 15 U.S.C. 2601 et seq., and any person owning or operating such a facility may, at any time after construction or operation of the facility has begun, file an application for a plan approval to incinerate hazardous waste authorizing the facility to incinerate waste identified or listed in these rules.

(d)(1) Updating plan approval applications.

If any owner or operator of a ~~[HWM]hazardous waste management~~ facility has filed Part A of a plan approval application and has not yet filed Part B, the owner or operator shall file an amended Part A application:

(i) With the Regional Administrator if the State has not received final authorization, within six months after the promulgation of revised regulations under 40 CFR 261 listing or

identifying additional hazardous wastes, if the facility is treating, storing or disposing of any of those newly listed or identified wastes.

(ii) With the Executive Secretary if the State has obtained final authorization, no later than the effective date of regulatory provisions listing or designating wastes as hazardous in the State in addition to those listed or designated under the previously approved State program, if the facility is treating, storing, or disposing of any of those newly listed or designated wastes; or

(iii) As necessary to comply with changes during interim status, R315-3-31. Revised Part A applications necessary to comply with the provisions of interim status shall be filed with the Executive Secretary.

(2) The owner or operator of a facility who fails to comply with the updating requirements of R315-3-3(d)(1) does not receive interim status as to the wastes not covered by duly filed Part A applications.

(e) Reapplications. Any HWM facility with an effective plan approval shall submit a new application at least 180 days before the expiration date of the effective plan approval, unless permission for a later date has been granted by the Executive Secretary. The Executive Secretary shall not grant permission for applications to be submitted later than the expiration date of the existing plan approval.

(f) Recordkeeping. See R315-3-7(c).

(g) The Executive Secretary may require a permittee or an applicant to submit information in order to establish plan approval conditions under R315-3-23(b)(2), and R315-3-11(i).

(h) Who Applies?

When a facility or activity is owned by one person but is operated by another person, it is the operator's duty to obtain a plan approval, except that the owner shall also sign the plan approval application.

(i) Completeness.

(1) The Executive Secretary shall not issue a plan approval before receiving a complete application for a plan approval except for plan approval by rule, or emergency plan approval. An application for a plan approval is complete when the Executive Secretary receives an application form and any supplemental information which are completed to his satisfaction. An application for a plan approval is complete notwithstanding the failure of the owner or operator to submit the exposure information described in R315-3-7(d). The Executive Secretary may deny a plan approval for the active life of a hazardous waste management facility or unit before receiving a complete application for a plan approval.

(2) The Executive Secretary shall review for completeness every application for a plan approval. Each application for a plan approval submitted by a new HWM facility, should be reviewed for completeness by the Executive Secretary in accordance with the applicable review periods of 19-6-108. Each application for a plan approval submitted by an existing HWM facility, both Part A and B of the application, should be reviewed for completeness in accordance with the applicable review periods of 19-6-108. Upon completing the review, the Executive Secretary shall notify the applicant in writing whether the application is complete. If the application is incomplete, the Executive Secretary shall list the information necessary to make the application complete. When the application is for an existing HWM facility, the Executive Secretary shall specify in the notice of deficiency a date for submitting the



necessary information. The Executive Secretary shall review information submitted in response to a notice of deficiency within 30 days after receipt. The Executive Secretary shall notify the applicant that the application is complete upon receiving this information. After the application is complete, the Executive Secretary may request additional information from an applicant but only when necessary to clarify, modify, or supplement previously submitted material.

(3) If an applicant fails or refuses to correct deficiencies in the application, the plan approval may be denied and appropriate enforcement actions may be taken under the applicable provisions of the Utah Solid and Hazardous Waste Act.

(j) If the Executive Secretary decides that a site visit is necessary for any reason in conjunction with the processing of an application, he shall notify the applicant and a reasonable date shall be scheduled.

(k) The effective date of an application is the date on which the Executive Secretary notifies the applicant that the application is complete as provided in R315-3-3(i)(2).

(l) For each application from a major new HWM facility, the Executive secretary shall no later than the effective date of the application, prepare and mail to the applicant a project decision schedule. The schedule shall specify target dates by which the Executive Secretary intends to:

- (1) Prepare a draft plan approval;
- (2) Give public notice;
- (3) Complete the public comment period, including any public hearing; and
- (4) Issue a final plan approval.

(m) Specific inclusions. Owners or operators of certain facilities require hazardous waste operation plan approvals as well as permits under other environmental programs for certain aspects of facility operation. Hazardous waste operation plan approvals are required for:

(1) Injection wells that dispose of hazardous waste, and associated surface facilities that treat, store, or dispose of hazardous waste. However, the owner or operator with a State or Federal UIC permit will be deemed to have a "permit by rule" if they comply with requirements of R315-3-18.

(2) Treatment, storage, and disposal of hazardous waste at facilities requiring and NPDES permit. However, the owner or operator of a publicly owned treatment works receiving hazardous waste will be deemed to have a "permit by rule" if they comply with provisions of R315-3-18.

(n) Specific exclusions. The following persons are among those who are not required to obtain a plan approval:

(1) Generators who accumulate hazardous waste on-site for less than the time periods as provided in R315-5-10, which incorporates the requirements of 40 CFR 262.34.

(2) Farmers who dispose of hazardous waste pesticides from their own use as provided in R315-5-11.

(3) Persons who own or operate facilities solely for the treatment, storage, or disposal of hazardous waste excluded from regulations under R315-2-5, small quantity generator exemption.

(4) Owners or operators of totally enclosed treatment facilities as defined in 40 CFR 260.10, which is incorporated by reference in R315-1-1.

(5) Owners of operators of elementary neutralization units or wastewater treatment units as defined in 40 CFR 260.10, which is incorporated by reference in R315-1-1.

(6) Transporters storing manifested shipments of hazardous waste in containers meeting the requirements of R315-5-9 at a transfer facility for a period of ten days or less.

(7) Persons adding absorbent material to waste in a container, as defined in 40 CFR 260.10, which is incorporated by reference in R315-1, and persons adding waste to absorbent material in a container, provided that these actions occur at the time waste is first placed in the container, and R315-8-2.8(b), R315-8-9.2, and R315-8-9.3 are complied with.

(8) Universal waste handlers and universal waste transporters (as defined in R315-16-1.7) managing the wastes listed below. These handlers are subject to regulation under R315-16.

- (i) Batteries as described in R315-16-1.2;
- (ii) Pesticides as described in R315-16-1.3;
- (iii) Thermostats as described in R315-16-1.4; and
- (iv) Mercury lamps as described in R315-16-1.6.

(o) Further exclusions.

(1) A person is not required to obtain a plan approval for treatment or containment activities taken during immediate response to any of the following situations:

- (i) Discharge of a hazardous waste;
- (ii) An imminent and substantial threat of a discharge of hazardous waste.
- (iii) A discharge of a material which, when discharged, becomes a hazardous waste.

(2) Any person who continues or initiates hazardous waste treatment or containment activities after the immediate response is over is subject to all applicable requirements of this part for those activities.

(p) Plan approvals for less than an entire facility. The Executive Secretary may issue or deny a plan approval for one or more units at a facility without simultaneously issuing or denying a plan approval to all units at the facility. The interim status of any unit for which a plan approval has not been issued or denied is not affected by the issuance or denial of a plan approval to any other unit at the facility.

(q) Closure by removal. Owners or operators of surface impoundments, land treatment units, and waste piles closing by removal or decontamination under R315-7 standards shall obtain a post-closure plan approval unless they can demonstrate to the Executive Secretary that the closure met the standards for closure by removal or decontamination in R315-8-11.5, R315-8-13.8, or R315-8-12.6, respectively. The demonstration may be made in the following ways:

(1) if the owner or operator has submitted a Part B application for a post-closure plan approval, the owner or operator may request a determination, based on information contained in the application, that R315-8 closure by removal standards were met. If the Executive Secretary believes that R315-8 standards were met, he will notify the public of this proposed decision, allow for public comment, and reach a final determination according to the procedures in R315-3-3(r);

(2) if the owner or operator has not submitted a Part B plan approval application for a post-closure plan approval, the owner or operator may petition the Executive Secretary for a determination

that a post-closure plan approval is not required because the closure met the applicable R315-8 closure standards;

(A) the petition must include data demonstrating that closure by the removal or decontamination standards of R315-8 were met.

(B) the Executive Secretary shall approve or deny the petition according to the procedures outlined in R315-3-3(r).

(r)(1) Procedures for Closure Equivalency Determination. If a facility owner or operator seeks an equivalency demonstration under R315-3-3(q), the Executive Secretary will provide the public, through a newspaper notice, the opportunity to submit written comments on the information submitted by the owner or operator within 30 days from the date of the notice. The Executive Secretary will also, in response to a request or at his own discretion, hold a public hearing whenever a hearing might clarify one or more issues concerning the equivalence of the R315-7 closure to an R315-8 closure. The Executive Secretary will give public notice of the hearing at least 30 days before it occurs. Public notice of the hearing may be given at the same time as notice of the opportunity for the public to submit written comments, and the two notices may be combined.

(2) the Executive Secretary will determine whether the R315-7 closure met R315-8 closure by removal or decontamination requirements within 90 days of its receipt. If the Executive Secretary finds that the closure did not meet the applicable R315-8 standards, he will provide the owner or operator with a written statement of the reasons why the closure failed to meet R315-8 standards. The owner or operator may submit additional information in support of an equivalency demonstration within 30 days after receiving a written statement. The Executive Secretary will review any additional information submitted and make a final determination within 60 days.

(3) if the Executive Secretary determines that the facility did not close in accordance with R315-8-7, which incorporates by reference 40 CFR 264.110 - 116, closure by removal standards, the facility is subject to post-closure plan approval requirements.

### **R315-3-6. Specific Part B Information Requirements.**

The following additional information is required from owners or operators of specific types of HWM facilities that are used or to be used for storage, treatment, or disposal;

#### **6.1 SPECIFIC PART B INFORMATION REQUIREMENTS FOR CONTAINERS**

For facilities that store containers of hazardous waste, except as otherwise provided in R315-8-9.1,

(a) A description of the containment system to demonstrate compliance with R315-8-9.6. Show at least the following:

(1) Basic design parameters, dimensions, and materials of construction.

(2) How the design promotes drainage or how containers are kept from contact with standing liquids in the containment system.

(3) Capacity of the containment system relative to the number and volume of containers to be stored.

(4) Provisions for preventing or managing run-on.

(5) How accumulated liquids can be analyzed and removed to prevent overflow.

(b) For storage areas that store containers holding wastes that do not contain free liquids, a demonstration of compliance with R315-8-9.6(c) including:

(1) Test procedures and results or other documentation or information to show that the wastes do not contain free liquids; and

(2) A description of how the storage area is designed or operated to drain and remove liquids or how containers are kept from contact with standing liquids.

(c) Sketches, drawings, or data demonstrating compliance with R315-8-9.7, location of buffer zone and containers holding ignitable or reactive wastes, and R315-8-9.8(c), location of incompatible wastes, where applicable.

(d) Where incompatible wastes are stored or otherwise managed in containers, a description of the procedures used to ensure compliance with R315-8-9.8(a) and (b) and R315-8-2.8.

(e) Information on air emission control equipment as required in R315-3-6.13, which incorporates by reference 40 CFR 270.27.

#### **6.2 SPECIFIC PART B INFORMATION REQUIREMENTS FOR TANK SYSTEMS**

For facilities that use tanks to store or treat hazardous waste the requirements of 40 CFR 270.16, 1996 ed., are adopted and incorporated by reference.

#### **6.3 SPECIFIC PART B INFORMATION REQUIREMENTS FOR SURFACE IMPOUNDMENTS**

For facilities that store, treat, or dispose of hazardous waste in surface impoundments, except as otherwise provided in R315-8-11.1.

(a) A list of the hazardous wastes placed or to be placed in each surface impoundment;

(b) Detailed plans and an engineering report describing how the surface impoundment is or will be designed, constructed, operated, and maintained to meet the requirements of R315-8-2.10, R315-8-11.2, R315-8-11.9, R315-8-11.10, addressing the following items:

(1) The liner system, except for an existing portion of a surface impoundment. If an exemption from the requirement for a liner is sought as provided by R315-8-11.2(b), submit detailed plans and engineering and hydrogeologic reports, as appropriate, describing alternate design and operating practices that will, in conjunction with location aspects, prevent the migration of any hazardous constituents into the groundwater or surface water at any future time;

(2) The double liner and leak, leachate, detection, collection, and removal system, if the surface impoundment must meet the requirements of R315-8-11.2(c). If an exemption from the requirements for double liners and a leak detection, collection, and removal system or alternative design is sought as provided by R315-8-11.2(d), (e), or (f), submit appropriate information;

(3) If the leak detection system is located in a saturated zone, submit detailed plans and an engineering report explaining the leak detection system design and operation, and the location of the saturated zone in relation to the leak detection system;

(4) The construction quality assurance, CQA, plan if required under R315-8-2.10;

(5) Proposed action leakage rate, with rationale, if required under R315-8-11.9, and response action plan, if required under R315-8-11.10;

(6) Prevention of overtopping; and

(7) Structural integrity of dikes;

(c) A description of how each surface impoundment, including the double liner, leak detection system, cover system, and appurtenances for control of overtopping, will be inspected in order

to meet the requirements of R315-8-11.7(a), (b), and (d). This information should be included in the inspection plan submitted under R315-3-5(b)(5).

(d) A certification by a qualified engineer which attests to the structural integrity of each dike, as required under R315-8-11.7(c). For new units, the owner or operator shall submit a statement by a qualified engineer that he will provide a certification upon completion of construction in accordance with the plans and specifications;

(e) A description of the procedure to be used for removing a surface impoundment from service, as required under R315-8-11.8(b) and (c). This information should be included in the contingency plan submitted under R315-3-5(b)(7).

(f) A description of how hazardous waste residues and contaminated materials will be removed from the unit at closure, as required under R315-8-11.9(a)(1). For any wastes not to be removed from the unit upon closure, the owner or operator shall submit detailed plans and an engineering report describing how R315-8-11.9(a)(2) and (b) will be complied with. This information should be included in the closure plan, and, where applicable, the post-closure plan submitted under R315-3-5(b)(13).

(g) If ignitable or reactive wastes are to be placed in a surface impoundment, an explanation of how R315-8-11.10 will be complied with;

(h) If incompatible wastes, or incompatible wastes and materials will be placed in a surface impoundment, an explanation of how R315-8-11.11 will be complied with.

(i) A waste management plan for EPA Hazardous Waste Nos. F020, F021, F022, F023, F026, and F027 describing how the surface impoundment is or will be designed, constructed, operated, and maintained to meet the requirements of R315-8-11.12. This submission must address the following items as specified in R315-8-11.12:

(1) The volume, physical, and chemical characteristics of the wastes, including their potential to migrate through soil or to volatilize or escape into the atmosphere;

(2) The attenuative properties of underlying and surrounding soils or other materials;

(3) The mobilizing properties of other materials co-disposed with these wastes; and

(4) The effectiveness of additional treatment, design, or monitoring techniques.

(j) Information on air emission control equipment as required by R315-3-6.13, which incorporates by reference 40 CFR 270.27.

#### 6.4 SPECIFIC PART B INFORMATION REQUIREMENTS FOR WASTE PILES

For facilities that store or treat hazardous waste in waste piles, except as otherwise provided in R315-8-12.1;

(a) A list of hazardous wastes placed or to be placed in each waste pile;

(b) If an exemption is sought to R315-8-12.2 and R315-8-6 as provided by R315-8-12.1(c) or R315-8-6(b)(2), an explanation of how the standards of R315-8-12.1(c) will be complied with or detailed plans and an engineering report describing how the requirements of R315-8-6(b)(2) will be met.

(c) Detailed plans and an engineering report describing how the waste pile is or will be designed, constructed, operated and maintained to meet the requirements of R315-8-2.10, R315-8-12.2, R315-8-12.8, and R315-8-12.9, addressing the following items:

(1)(i) The liner system, except for an existing portion of a waste pile, if the waste pile must meet the requirements of R315-8-12.2(a). If an exemption from the requirement for a liner is sought as provided by R315-8-12.2(b), submit detailed plans, and engineering and hydrogeological reports, as appropriate, describing alternate designs and operating practices that will, in conjunction with location aspects, prevent the migration of any hazardous constituents into the ground water or surface water at any future time;

(ii) The double liner and leak, leachate, detection, collection, and removal system, if the waste pile must meet the requirements of R315-8-12.2(c). If an exemption from the requirements for double liners and a leak detection, collection, and removal system or alternative design is sought as provided by R315-8-12.2(d), (e), or (f), submit appropriate information;

(iii) If the leak detection system is located in a saturated zone, submit detailed plans and an engineering report explaining the leak detection system design and operation, and the location of the saturated zone in relation to the leak detection system;

(iv) The construction quality assurance, CQA, plan if required under R315-8-2.10;

(v) Proposed action leakage rate, with rationale, if required under R315-8-12.8, and response action plan, if required under R315-8-12.9;

(2) Control of run-on;

(3) Control of run-off;

(4) Management of collection and holding units associated with run-on and run-off control systems; and

(5) Control of wind dispersal of particulate matter, where applicable;

(d) A description of how each waste pile, including the double liner system, leachate collection and removal system, leak detection system, cover system, and appurtenances for control of run-on and run-off, will be inspected in order to meet the requirements of R315-8-12.3(a), (b), and (c). This information must be included in the inspection plan submitted under R315-3-5(b)(5).

(e) If treatment is carried out on or in the pile, details of the process and equipment used, and the nature and quality of the residuals;

(f) If ignitable or reactive wastes are to be placed in a waste pile, an explanation of how the requirements of R315-8-12.7 will be complied with;

(g) If incompatible wastes, or incompatible wastes and materials will be placed in a waste pile, an explanation of how R315-8-12.8 will be complied with;

(h) A description of how hazardous waste residues and contaminated materials will be removed from the waste pile at closure, as required under R315-8-12.9(a). For any waste not to be removed from the waste pile upon closure, the owner or operator shall submit detailed plans and an engineering report describing how R315-8-14.11(a) and (b) will be complied with. This information should be included in the closure plan, and, where applicable, the post-closure plan submitted under R315-3-5(b)(13).

(i) A waste management plan for EPA Hazardous Waste Nos. F020, F021, F022, F023, F026 and F027 describing how a waste pile that is not enclosed, as defined in R315-8-12.1(c) is or will be designed, constructed, operated, and maintained to meet the requirements of R315-8-12.10. This submission must address the following items as specified in R315-8-12.10:

(1) The volume, physical, and chemical characteristics of the wastes to be disposed in the waste pile, including their potential to migrate through soil or to volatilize or escape into the atmosphere:

(2) The attenuative properties of underlying and surrounding soils or other materials:

(3) The mobilizing properties of other materials co-disposed with these wastes; and

(4) The effectiveness of additional treatment, design, or monitoring techniques.

6.5 SPECIFIC PART B INFORMATION REQUIREMENTS FOR INCINERATORS

For facilities that incinerate hazardous waste, except as R315-8-15.1 provides otherwise, the applicant shall fulfill the requirements of R315-3-6.5(a), (b), and (c).

(a) When seeking exemption under R315-8-15.1(b) or (c), ignitable, corrosive or reactive wastes only;

(1) Documentation that the waste is listed as a hazardous waste in R315-2-10 solely because it is ignitable, Hazard Code I, corrosive, Hazard Code C, or both; or

(2) Documentation that the waste is listed as a hazardous waste in R315-2-10 solely because it is reactive, Hazard Code R, for characteristics other than those listed in R315-2-9(f), and will not be burned when other hazardous wastes are present in the combustion zone; or

(3) Documentation that the waste is a hazardous waste solely because it possesses the characteristic of ignitability, corrosivity, or both, as determined by the tests for characteristics of hazardous wastes under R315-2-9; or

(4) Documentation that the waste is a hazardous waste solely because it possesses the reactivity characteristics listed in R315-2-9(f) and that it will not be burned when other hazardous wastes are present in the combustion zone; or

(b) Submit a trial burn plan or the results of the trial burn, including all required determinations, in accordance with R315-3-20; or

(c) In lieu of a trial burn, the applicant may submit the following information:

(1) An analysis of each waste or mixture of wastes to be burned including:

(i) Heat value of the waste in the form and composition in which it will be burned.

(ii) Viscosity, if applicable, or description of physical form of the waste.

(iii) An identification of any hazardous organic constituents listed in 40 CFR part 261 Appendix VIII, as incorporated by reference at R315-50-10, which are present in the waste to be burned, except that the applicant need not analyze for constituents listed in R315-50-10 which would reasonably not be expected to be found in the waste. The constituents excluded from analysis shall be identified and the basis for their exclusion stated. The waste analysis shall rely on analytical techniques specified in "Test Methods for the Evaluation of Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference in 40 CFR 260.11[~~and 270.6~~], see R315-1-2, or their equivalent.

(iv) An approximate quantification of the hazardous constituents identified in the waste, within the precision produced by the analytical methods specified in "Test Methods for the Evaluation of Solid Waste, Physical/Chemical Methods," EPA

Publication SW-846, as incorporated by reference in 40 CFR 260.11[~~and 270.6~~], see R315-1-2.

(v) A quantification of those hazardous constituents in the waste which may be designated as POHC's based on data submitted from other trial or operational burns which demonstrate compliance with the performance standard in R315-8-15.4.

(2) A detailed engineering description of the incinerator, including:

(i) Manufacturer's name and model number of incinerator.

(ii) Type of incinerator.

(iii) Linear dimension of incinerator unit including cross sectional area of combustion chamber.

(iv) Description of auxiliary fuel system, type/feed.

(v) Capacity of prime mover.

(vi) Description of automatic waste feed cutoff system(s).

(vii) Stack gas monitoring and pollution control monitoring system.

(viii) Nozzle and burner design.

(ix) Construction materials.

(x) Location and description of temperature, pressure, and flow indicating devices and control devices.

(3) A description and analysis of the waste to be burned compared with the waste for which data from operational or trial burns are provided to support the contention that a trial burn is not needed. The data should include those items listed in R315-3-6(a)(5)(iii)(A). This analysis should specify the POHC's which the applicant has identified in the waste for which a plan approval is sought, and any differences from the POHC's in the waste for which burn data are provided.

(4) The design and operating conditions of the incinerator unit to be used, compared with that for which comparative burn data are available.

(5) A description of the results submitted from any previously conducted trial burn(s) including:

(i) Sampling and analysis techniques used to calculate performance standards in R315-8-15.4.

(ii) Methods and results of monitoring temperatures, waste feed rates, air feed rates, and carbon monoxide, and an appropriate indicator of combustion gas velocity, including a statement concerning the precision and accuracy of this measurement,

(6) The expected incinerator operation information to demonstrate compliance with R315-8-15.4 and R315-8-15.6 including:

(i) Expected carbon monoxide (CO) level in the stack exhaust gas.

(ii) Waste feed rate.

(iii) Combustion zone temperature.

(iv) Indication of combustion gas velocity.

(v) Expected stack gas volume, flow rate, and temperature.

(vi) Computed residence time for waste in the combustion zone.

(vii) Expected hydrochloric acid removal efficiency.

(viii) Expected fugitive emissions and their control procedures.

(ix) Proposed waste feed cut-off limits based on the identified significant operating parameters.

(7) Any supplemental information as the Executive Secretary finds necessary to achieve the purposes of this paragraph.

(8) Waste analysis data, including that submitted in R315-3-6(a)(5)(iii)(A), sufficient to allow the Executive Secretary to specify as plan approval Principal Organic Hazardous Constituents (POHC's) those constituents for which destruction and removal efficiencies will be required.

(d) The Executive Secretary shall approve a plan approval application without a trial burn if he finds that:

- (1) The wastes are sufficiently similar; and
- (2) The incinerator units are sufficiently similar, and the data from other trial burns are adequate to specify, under R315-8-15.6, operating conditions that will ensure that the performance standards in R315-8-15.4 will be met by the incinerator.

#### 6.6 SPECIFIC PART B INFORMATION REQUIREMENTS FOR LAND TREATMENT FACILITIES

For facilities that use land treatment to dispose of hazardous waste, except as otherwise provided in R315-8-13.1:

(a) A description of plans to conduct a treatment demonstration as required under R315-8-13.3. The description shall include the following information:

- (1) The wastes for which the demonstration will be made and the potential hazardous constituents in the wastes;
- (2) The data sources to be used to make the demonstration, e.g., literature, laboratory data, field data, or operating data;
- (3) Any specific laboratory or field test that will be conducted, including:

- (i) The type of test, e.g., column leaching, degradation;
- (ii) Materials and methods, including analytical procedures;
- (iii) Expected time for completion;
- (iv) Characteristics of the unit that will be simulated in the demonstration, including treatment zone characteristics, climatic conditions, and operating practices;

(b) A description of a land treatment program, as required under R315-8-13.2. This information shall be submitted with the plans for the treatment demonstration, and updated following the treatment demonstration. The land treatment program shall address the following items:

- (1) The wastes to be land treated;
- (2) Design measures and operating practices necessary to maximize treatment in accordance with R315-8-13.4(a) including:
  - (i) Waste application method and rate;
  - (ii) Measures to control soil pH;
  - (iii) Enhancement of microbial or chemical reactions;
  - (iv) Control of moisture content.
- (3) Provisions for unsaturated zone monitoring including:
  - (i) Sampling equipment, procedures and frequency;
  - (ii) Procedures for selecting sampling locations;
  - (iii) Analytical procedures;
  - (iv) Chain of custody control;
  - (v) Procedures for establishing background values;
  - (vi) Statistical methods for interpreting results;
  - (vii) The justification for any hazardous constituents recommended for selection as principal hazardous constituents, in accordance with the criteria for the selection in R315-8-13.9(a);
- (4) A list of hazardous constituents reasonably expected to be in, or derived from, the wastes to be land treated based on waste analysis performed pursuant to R315-8-2.4, which incorporates by reference 40 CFR 264.13;
- (5) The proposed dimensions of the treatment zone;

(c) A description of how the unit is or will be designed, constructed, operated, and maintained in order to meet the requirements of R315-8-13.4. This submission shall address the following items:

- (1) Control of run-on;
- (2) Collection and control of run-off;
- (3) Minimization of run-off of hazardous constituents from the treatment zone;
- (4) Management of collection and holding facilities associated with run-on and run-off control systems;
- (5) Periodic inspection of the unit. This information should be included in the inspection plan submitted under R315-3-5(b)(5).
- (6) Control of wind dispersal of particulate matter, if applicable;
- (d) If food-chain crops are to be grown in or on the treatment zone of the land treatment unit, a description of how the demonstration required under R315-8-13.7 will be conducted including:

- (1) Characteristics of the food-chain crop for which the demonstration will be made;
- (2) Characteristics of the waste, treatment zone, and waste application method and rate to be used in the demonstration;
- (3) Procedures for crop growth, sample collection, sample analysis, and data evaluation;
- (4) Characteristics of the comparison crop including the location and conditions under which it was or will be grown.

(e) If food-chain crops are to be grown, and cadmium is present in the land treated waste, a description of how the requirements of R315-8-13.7(b) will be complied with;

(f) A description of the vegetative cover to be applied to closed portions of the facility, and a plan for maintaining such cover during the post-closure care period, as required under R315-8-13.11(a)(8) and R315-8-13.11(c)(2). This information should be included in the closure plan, and, where applicable, the post-closure care plan submitted under R315-3-5(b)(13).

(g) If ignitable or reactive wastes will be placed in or on the treatment zone, an explanation of how the requirements of R315-8-13.12 will be complied with;

(h) If incompatible wastes, or incompatible wastes and materials, will be placed in or on the same treatment zone, an explanation of how R315-8-13.13 will be complied with.

(i) A waste management plan for EPA Hazardous Waste Nos. F020, F021, F022, F023, F026, and F027 describing how a land treatment facility is or will be designed, constructed, operated, and maintained to meet the requirements of R315-8-13.14. This submission must address the following items as specified in R315-8-13.14:

- (1) The volume, physical, and chemical characteristics of the wastes, including their potential to migrate through soil or to volatilize or escape into the atmosphere;
- (2) The attenuative properties of underlying and surrounding soils or other materials;
- (3) The mobilizing properties of other materials co-disposed with these wastes; and
- (4) The effectiveness of additional treatment, design, or monitoring techniques.

#### 6.7 SPECIFIC PART B INFORMATION REQUIREMENTS FOR LANDFILLS

For facilities that dispose of hazardous waste in landfills, except as otherwise provided in R315-8-14.1.

(a) A list of the hazardous wastes placed or to be placed in each landfill or landfill cell;

(b) Detailed plans and an engineering report describing how the landfill is designed and is or will be constructed, operated, and maintained to comply with the requirements of R315-8-2.10, R315-8-14.2., R315-8-14.3, and R315-8-14.12, addressing the following items:

(1)(i) The liner system, except for an existing portion of a landfill, if the landfill must meet the requirements of R315-8-14.2(a). If an exemption from the requirement for a liner is sought as provided by R315-8-14.2(b), submit detailed plans, and engineering and hydrogeological reports, as appropriate, describing alternate designs and operating practices that will, in conjunction with location aspects, prevent the migration of any hazardous constituents into the groundwater or surface water at any future time;

(ii) The double liner and leak (leachate) detection, collection, and removal system, if the landfill must meet the requirements of R315-8-14.2(c). If an exemption from the requirements for double liners and a leak detection, collection, and removal system or alternative design is sought as provided by R315-8-14.2(d), (e), or (f), submit appropriate information;

(iii) If the leak detection system is located in a saturated zone, submit detailed plans and an engineering report explaining the leak detection system design and operation, and the location of the saturated zone in relation to the leak detection system;

(iv) The construction quality assurance, CQA, plan if required under R315-8-2.10;

(v) Proposed action leakage rate, with rationale, if required under R315-8-14.12, and response action plan, if required under R315-8-14.3;

(2) Control of run-on;

(3) Control of run-off;

(4) Management of collection and holding facilities associated with run-on and run-off control systems; and

(5) Control of wind dispersal of particulate matter, where applicable.

(c) A description of how each landfill, including the double liner system, leachate collection and removal system, leak detection system, cover system, and appurtenances for control of run-on and run-off, will be inspected in order to meet the requirements of R315-8-14.3(a), (b), and (c). This information must be included in the inspection plan submitted under R315-3-5(b)(5);

(d) A description of how each landfill, including the liner and cover systems, will be inspected in order to meet the requirements of R315-8-14.4(a) and (b). This information should be included in the inspection plan submitted under R315-3-5(b)(5).

(e) Detailed plans and engineering report describing the final cover which will be applied to each landfill or landfill cell at closure in accordance with R315-8-14.11(a), and a description of how each landfill will be maintained and monitored after closure in accordance with R315-8-14.11(b). This information should be included in the closure and post-closure plans submitted under R315-3-5(b)(13).

(f) If ignitable or reactive wastes will be landfilled, an explanation of how the requirements of R315-8-14.13 will be complied with;

(g) If incompatible wastes, or incompatible wastes and materials will be landfilled, an explanation of how R315-8-14.14 will be complied with;

(h) If bulk or non-containerized liquid waste or wastes containing free liquids is to be landfilled prior to May 8, 1985, an explanation of how the requirements of R315-8-14.15 will be complied with;

(i) If containers of hazardous waste are to be landfilled, an explanation of how the requirements of R315-8-14.16 or R315-8-14.17 as applicable, will be complied with.

(j) A waste management plan for EPA Hazardous Waste Nos. F020, F021, F022, F023, F026, and F027 describing how a landfill is or will be designed, constructed, operated, and maintained to meet the requirements of R315-8-14.18. This submission must address the following items as specified in R315-8-14.18:

(1) The volume, physical, and chemical characteristics of the wastes, including their potential to migrate through soil or to volatilize or escape into the atmosphere;

(2) The attenuative properties of underlying and surrounding soils or other materials;

(3) The mobilizing properties of other materials co-disposed with these wastes; and

(4) The effectiveness of additional treatment, design, or monitoring techniques.

#### 6.8 SPECIFIC PART B INFORMATION REQUIREMENTS FOR MISCELLANEOUS UNITS

For facilities that treat, store or dispose of hazardous waste in miscellaneous units except as otherwise provided in R315-8-16, which incorporates by reference 40 CFR 264.600.

(a) A detailed description of the unit being used or proposed for use, including the following:

(1) Physical characteristics, materials of construction, and dimensions of the unit;

(2) Detailed plans and engineering reports describing how the unit will be located, designed, constructed, operated, maintained, monitored, inspected, and closed to comply with the requirements of R315-8-16, which incorporates by reference 40 CFR 264.601 and 264.602; and

(3) For disposal units, a detailed description of the plans to comply with the post-closure requirements of R315-8-16, which incorporates by reference 40 CFR 264.603.

(b) Detailed hydrologic, geologic, and meteorologic assessments and land-use maps for the region surrounding the site that address and ensure compliance of the unit with each factor in the environmental performance standards of R315-8-16, which incorporates by reference 40 CFR 264.601. If the applicant can demonstrate that he does not violate the environmental performance standards of R315-8-16, which incorporates by reference 40 CFR 264.601 and the Executive Secretary agrees with such demonstration, preliminary hydrologic, geologic, and meteorologic assessments will suffice.

(c) Information on the potential pathways of exposure of humans or environmental receptors to hazardous waste or hazardous constituents and on the potential magnitude and nature of these exposures;

(d) For any treatment unit, a report on a demonstration of the effectiveness of the treatment based on laboratory or field data;

(e) Any additional information determined by the Executive Secretary to be necessary for evaluation of compliance of the unit

with the environmental performance standards of R315-8-16, which incorporates by reference 40 CFR 264.601.

6.9 SPECIFIC PART B INFORMATION REQUIREMENTS FOR PROCESS VENTS

For facilities that have process vents to which R315-8-17 applies, which incorporates by reference 40 CFR Subpart AA of 264, the requirements of 40 CFR 270.24, 1991 ed., regarding information requirements for process vents are adopted and incorporated by reference with the following exception:

Substitute "Executive Secretary" for "Regional Administrator."

6.10 SPECIFIC PART B INFORMATION REQUIREMENTS FOR EQUIPMENT

For facilities that have equipment to which R315-8-18 applies, which incorporates by reference 40 CFR Subpart BB of 264, the requirements of 40 CFR 270.25, 1991 ed., regarding information requirements for equipment are adopted and incorporated by reference with the following exception:

Substitute "Executive Secretary" for "Regional Administrator."

6.11 SPECIFIC PART B INFORMATION REQUIREMENTS FOR BOILERS AND INDUSTRIAL FURNACES BURNING HAZARDOUS WASTE

For facilities that burn hazardous wastes in boilers and industrial furnaces which R315-14-7 applies, which incorporates by reference 40 CFR Subpart H, 266.100 through 266.112, the requirements of 40 CFR 270.22, 1991 ed., as amended by 56 FR 32688, July 17, 1991, are adopted and incorporated by reference with the following exception:

Substitute "Executive Secretary" for "Director."

6.12 SPECIFIC PART B INFORMATION REQUIREMENTS FOR DRIP PADS

For facilities that have drip pads to which R315-8-19 applies, which incorporates by reference 40 CFR Subpart W, 264.570 through 264.575, the requirements of 40 CFR 270.26, 1991 ed., are adopted and incorporated by reference with the following exception:

Substitute "Executive Secretary" for "Director."

6.13 SPECIFIC PART B INFORMATION REQUIREMENTS FOR AIR EMISSION CONTROLS FOR TANKS, SURFACE IMPOUNDMENTS, AND CONTAINERS

The requirements as found in 40 CFR 270.27 1996 ed., as amended by 61 FR 59931, November 25, 1996, are adopted and incorporated by reference.

KEY: hazardous waste  
[October 15, 1997]1998

19-6-105  
19-6-106

Environmental Quality, Solid and  
Hazardous Waste  
**R315-4**  
Hazardous Waste Manifest

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 20385

FILED: 12/12/97, 08:51

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: Adopt equivalent federal regulations to maintain equivalency with the Environmental Protection Agency (EPA) rules and retain authorization.

SUMMARY: This proposed rule change adds a paragraph concerning implementation of the Organization for Economic Cooperation and Development Council Decision concerning imports and exports of hazardous waste, that was omitted in previous rulemaking.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Sections 19-6-105 and 19-6-106

FEDERAL MANDATE FOR THIS FILING: 40 CFR 271.21(e)

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: None.

❖LOCAL GOVERNMENTS: None.

❖OTHER PERSONS: None.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

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

Environmental Quality  
Solid and Hazardous Waste  
Fourth Floor, Cannon Health Building  
288 North 1460 West  
PO Box 144880  
Salt Lake City, UT 84114-4880, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:

Susan Toronto at the above address, by phone at (801) 538-6776, by FAX at (801) 538-6715, or by Internet E-mail at storonto@deq.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 02/02/98.

THIS FILING MAY BECOME EFFECTIVE ON: 02/16/98

AUTHORIZED BY: Dennis R. Downs, Director

R315. Environmental Quality, Solid and Hazardous Waste.

R315-4. Hazardous Waste Manifest.

R315-4-4. Off-Site Hazardous Waste Storage, Treatment or Disposal Facilities Manifest Procedures.

(a) An owner or operator of a facility which receives hazardous waste accompanied by a manifest shall:

(1) Sign and date each copy of the manifest or shipping paper, if the manifest has not been received, to certify that the hazardous waste covered by the manifest or shipping paper was received;

(2) Note any significant discrepancies, as defined in R315-4-4(c), in the manifest or shipping paper, if the manifest has not been received, on each copy of the manifest or shipping paper;

(3) Immediately give the rail or water, bulk shipment, transporter at least one copy of the manifest or shipping paper, if the manifest has not been received;

(4) Within 30 days after the delivery, send a copy of the signed and dated manifest to the generator; however, if the manifest has not been received within 30 days after delivery, the owner or operator, or his agent, shall send a copy of the signed and dated shipping paper to the generator; and

(5) Retain at the facility a copy of the manifest and shipping, if signed in lieu of the manifest at the time of delivery, for at least three years from the date of delivery.

(b) If a facility receives, from a rail or water, bulk shipment, transporter, hazardous waste which is accompanied by a shipping paper containing all the information required on the manifest, excluding the EPA Identification Numbers, generator's certification, and signatures, the owner or operator, or his agent, shall:

(1) Sign and date each copy of the manifest or shipping paper, if the manifest has not been received, to certify that the hazardous waste covered by the manifest or shipping paper was received;

(2) Note any significant discrepancies, as defined in R315-4-4(c), in the manifest or shipping paper, if the manifest has not been received, on each copy of the manifest or shipping paper;

(3) Immediately give the rail or water, bulk shipment, transporter at least one copy of the manifest or shipping paper, if the manifest has not been received;

(4) Within 30 days after the delivery, send a copy of the signed and dated manifest to the generator; however, if the manifest has not been received within 30 days after delivery, the owner or operator, or his agent, shall send a copy of the signed and dated shipping paper to the generator; and

(5) Retain at the facility a copy of the manifest and shipping paper, if signed in lieu of the manifest at the time of delivery, for at least three years from the date of delivery.

(c) Manifest Discrepancies

(1) Manifest discrepancies are differences between the quantity or type of hazardous waste designated on the manifest or shipping paper, and the quantity or type of hazardous waste a facility actually receives. Significant discrepancies in quantity are (1) for batch waste, any variation in piece count, such as a discrepancy of one drum in a truckload, and (2) for bulk waste, variations greater than 10 percent in weight. Significant discrepancies in type are obvious differences which can be discovered by inspection or waste analysis, such as waste solvent substituted for waste acid, or toxic constituents not reported on the manifest or shipping paper.

(2) Upon discovering a significant discrepancy, the owner or operator shall attempt to reconcile the discrepancy with the waste generator or transporter, e.g., with telephone conversations. If the discrepancy is not resolved within 15 days after receiving the waste, the owner or operator shall immediately submit to the Executive Secretary a letter describing the discrepancy and attempts to reconcile it, and a copy of the manifest or shipping paper at issue.

The Executive Secretary does not intend that the owner or operator of a facility should perform the appropriate waste analysis before signing the shipping paper or manifest and giving it to the transporter. However, unreconciled discrepancies discovered during later analysis shall be reported.

(d) Whenever a shipment of hazardous waste is initiated from a facility, the owner or operator of that facility shall comply with the generator requirements of R315-4-2.

(e) Within three working days of the receipt of a shipment subject to R315-5-15, which incorporates by reference 40 CFR 262 Subpart H, the owner or operator of the facility must provide a copy of the tracking document bearing all required signatures to the notifier, to the Office of Enforcement and Compliance Assurance, Office of Compliance, Enforcement Planning, Targeting and Data Division (2222A), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, and to all other concerned countries. The original copy of the tracking document must be maintained at the facility for at least three years from the date of signature.

**KEY: hazardous waste**  
**[July 15, 1997]1998**

**19-6-105**  
**19-6-106**



**Environmental Quality, Solid and  
Hazardous Waste**

**R315-7**

**Interim Status Requirements for  
Hazardous Waste Treatment, Storage,  
and Disposal Facilities**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE No.: 20386

FILED: 12/12/97, 08:51

RECEIVED BY: NL

**RULE ANALYSIS**

PURPOSE OF OR REASON FOR THIS FILING: Adopt equivalent federal regulations to maintain equivalency with the Environmental Protection Agency (EPA) rules and retain authorization.

SUMMARY: This proposed rule change updates testing and monitoring procedures as they relate to air emission standards for process vents and equipment leaks.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Sections 19-6-105 and 19-6-106

FEDERAL MANDATE FOR THIS FILING: 40 CFR 271.21(e)

THIS FILING INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 40 CFR 265.1030 - 1035 (1997), 265.1050 - 1064 (1997)



## ANTICIPATED COST OR SAVINGS TO:

- ❖THE STATE BUDGET: None.
- ❖LOCAL GOVERNMENTS: None.
- ❖OTHER PERSONS: None.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

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

Environmental Quality  
Solid and Hazardous Waste  
Fourth Floor, Cannon Health Building  
288 North 1460 West  
PO Box 144880  
Salt Lake City, UT 84114-4880, or  
at the Division of Administrative Rules.

## DIRECT QUESTIONS REGARDING THIS FILING TO:

Susan Toronto at the above address, by phone at (801) 538-6776, by FAX at (801) 538-6715, or by Internet E-mail at storonto@deq.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 02/02/98.

THIS FILING MAY BECOME EFFECTIVE ON: 02/16/98

AUTHORIZED BY: Dennis R. Downs, Director

**R315. Environmental Quality, Solid and Hazardous Waste.****R315-7. Interim Status Requirements for Hazardous Waste Treatment, Storage, and Disposal Facilities.****R315-7-8. General Interim Status Requirements.**

## 8.1 PURPOSE, SCOPE, APPLICABILITY

(a) The purpose of R315-7 is to establish minimum State of Utah standards that define the acceptable management of hazardous waste during the period of interim status and until certification of final closure or, if the facility is subject to post-closure requirements, until post-closure responsibilities are fulfilled.

(b) Except as provided in R315-7-30, which incorporates by reference 40 CFR 265.1080(b), the standards of R315-7 and of R315-8-21, which incorporates by reference 40 CFR 264.552 and 264.553, apply to owners and operators of facilities that treat, store, or dispose of hazardous waste who have fully complied with the requirements of interim status under State or Federal requirements and applicable portions of R315-3 until either a plan approval is issued under R315-3 or until applicable R315-7 closure and post-closure responsibilities are fulfilled, and to those owners and operators of facilities in existence on November 19, 1980, who have failed to provide timely notification as required by Section 3010(a) of RCRA or failed to file Part A of the plan approval application as required by R315-3-3(b) and (d). These standards apply to all treatment, storage and disposal of hazardous waste at these facilities after the effective date of these rules, except as specifically provided otherwise in R315-7 or R315-2. R315-7 also applies to the treatment or storage of hazardous waste before it is loaded onto an ocean vessel for incineration or disposal at sea, as provided in R315-7-8.1(a).

(c) The requirements of R315-7 do not apply to the following:

(1) The owner or operator of a POTW with respect to the treatment or storage of hazardous wastes which are delivered to the POTW.

(2) The owner or operator of a facility approved by the State of Utah to manage municipal or industrial solid waste, if the only hazardous waste the facility treats, stores, or disposes of is excluded from regulation under R315-7 by R315-2-5;

(3) The owner or operator of a facility managing recyclable materials described in 40 CFR 261.6(a)(2), (3), and (4), which is incorporated by reference in R315-2-6, except to the extent that they are referred to in R315-15 or R315-14-2, which incorporates by reference 40 CFR Subpart D, R315-14-5, which incorporates by reference 40 CFR 266 Subpart F, and R315-14-6, which incorporates by reference 40 CFR 266 Subpart G.

(4) A generator accumulating hazardous waste on-site in compliance with R315-5-10, except to the extent the requirements are included in R315-5-10;

(5) A farmer disposing of waste pesticides from his own use in compliance with R315-5-11; or

(6) The owner or operator of a totally enclosed treatment facility, as defined in R315-1;

(7) The owner or operator of an elementary neutralization unit or a wastewater treatment unit as defined in R315-1-1(b), which incorporates by reference 40 CFR 260.10, provided that if the owner or operator is diluting hazardous ignitable (D001) wastes, other than the D001 High TOC Subcategory defined in the Table of Treatment Standards for Hazardous Wastes in 40 CFR 268.40 as incorporated by reference at R315-13, ~~which incorporates by reference 40 CFR 268.40;~~ or reactive (D003) waste, to remove the characteristic before land disposal, the owner/operator must comply with the requirements set out in R315-7-9.8(b).

(8) A transporter storing manifested shipments of hazardous waste in containers meeting the requirements of R315-5-9 at a transfer facility for a period of ten days or less;

(9)(i) Except as provided in R315-7-8(c)(9)(i), a person engaged in treatment or containment activities during immediate response to any of the following situations:

(A) A discharge of a hazardous waste;

(B) An imminent and substantial threat of a discharge of a hazardous waste;

(C) A discharge of a material which, when discharged, becomes a hazardous waste.

(ii) An owner or operator of a facility otherwise regulated by this section shall comply with all applicable requirements of R315-7-10 and R315-7-11.

(iii) Any person who is covered by R315-7-8(c)(9)(i) and who continues or initiates hazardous waste treatment or containment activities after the immediate response is over is subject to all applicable requirements of R315-7 and of R315-3 for those activities.

(~~10~~) The addition of absorbent material to waste in a container, as defined in R315-1, or the addition of waste to the absorbent material in a container provided that these actions occur at the time waste is first placed in the containers; and R315-7-9.8(b), R315-7-16.2 and R315-7-16.3 are complied with.

(~~11~~) Universal waste handlers and universal waste transporters (as defined in R315-16-1.7) handling the wastes listed below. These handlers are subject to regulation under section R315-16, when handling the below listed universal wastes.

- (i) Batteries as described in R315-16-1.2;
  - (ii) Pesticides as described in R315-16-1.3;
  - (iii) Mercury thermostats as described in R315-16-1.4; and
  - (iv) Mercury lamps as described in R315-16-1.6
- (d) Notwithstanding any other provisions of these rules enforcement actions may be brought pursuant to R315-2-14 or Section 19-6-115 Utah Solid and Hazardous Waste Act.
- (e) The following hazardous wastes shall not be managed at facilities subject to regulation under R315-7.
- (1) EPA Hazardous Waste Nos. F020, F021, F022, F023, F026, or F027 unless:
- (i) The wastewater treatment sludge is generated in a surface impoundment as part of the plant's wastewater treatment system;
  - (ii) The waste is stored in tanks or containers;
  - (iii) The waste is stored or treated in waste piles that meet the requirements of R315-8-12.1(c) as well as all other applicable requirements of R315-8-12;
  - (iv) The waste is burned in incinerators that are certified pursuant to the standard and procedures in R315-7-22.6 or
  - (v) The waste is burned in facilities that thermally treat the waste in a device other than an incinerator and that are certified pursuant to the standards and procedures in R315-7-23.7.
- (f) The requirements of this rule apply to owners or operators of all facilities which treat, store, or dispose of hazardous waste referred to in R315-13, which incorporates by reference 40 CFR 268, and the R315-13 standards are considered material conditions or requirements of the R315-7 interim status standards.

**R315-7-26. Air Emission Standards for Process Vents.**

The requirements of 40 CFR Subpart AA Sections 265.1030 through 265.1035, [~~1996~~1997 ed., are adopted and incorporated by reference with the following exception:

- (1) substitute "Board" for all federal regulation references made to "Regional Administrator".

**R315-7-27. Air Emission Standards for Equipment Leaks.**

The requirements of 40 CFR Subpart BB Sections 265.1050 through 265.1064, [~~1990~~1997 ed., are adopted and incorporated by reference[as amended by 56 FR 19290, April 26, 1991,] with the following exception:

- (1) substitute "Board" for all federal regulation references made to "Regional Administrator".

**KEY: hazardous waste**

~~[October 15, 1997]~~1998

19-6-105

19-6-106



Environmental Quality, Solid and Hazardous Waste

**R315-8**

Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE No.: 20387

FILED: 12/12/97, 08:51

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**RULE ANALYSIS**

PURPOSE OF OR REASON FOR THIS FILING: Adopt equivalent federal regulations to maintain equivalency with the Environmental Protection Agency (EPA) rules and retain authorization.

SUMMARY: This proposed rule change updates testing and monitoring procedures as they relate to air emission standards for process vents and equipment leaks.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Sections 19-6-105 and 19-6-106

FEDERAL MANDATE FOR THIS FILING: 40 CFR 271.21(e)

THIS FILING INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 40 CFR 264.1030 - 1035 (1997), 264.1050 - 1064 (1997)

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: None.

❖LOCAL GOVERNMENTS: None.

❖OTHER PERSONS: None.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

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

Environmental Quality  
Solid and Hazardous Waste  
Fourth Floor, Cannon Health Building  
288 North 1460 West  
PO Box 144880  
Salt Lake City, UT 84114-4880, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:

Susan Toronto at the above address, by phone at (801) 538-6776, by FAX at (801) 538-6715, or by Internet E-mail at storonto@deq.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 02/02/98.

THIS FILING MAY BECOME EFFECTIVE ON: 02/16/98

AUTHORIZED BY: Dennis R. Downs, Director

**R315. Environmental Quality, Solid and Hazardous Waste.**

**R315-8. Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities.**

**R315-8-17. Air Emission Standards for Process Vents.**

The requirements as found in 40 CFR Subpart AA Sections 264.1030 through 264.1036, [~~1996~~1997 ed.,][~~as amended by 61~~

FR 59931, November 25, 1996,] are adopted and incorporated by reference with the following exception:

(1) substitute "Board" for all federal regulation references made to "Regional Administrator".

**R315-8-18. Air Emission Standards for Equipment Leaks.**

The requirements as found in 40 CFR Subpart BB Sections 264.1050 through 264.1065, [~~1996~~1997 ed., are adopted and incorporated by reference[as amended by 61 FR 59931, November 25, 1996,] with the following exception:

(1) substitute "Board" for all federal regulation references made to "Regional Administrator".

**KEY: hazardous waste**  
**[~~October 15, 1997~~1998**

**19-6-105**  
**19-6-106**



**Environmental Quality, Solid and  
Hazardous Waste  
R315-13  
Land Disposal Restrictions**

**NOTICE OF PROPOSED RULE**  
(Amendment)  
DAR FILE NO.: 20388  
FILED: 12/12/97, 08:51  
RECEIVED BY: NL

**RULE ANALYSIS**

PURPOSE OF OR REASON FOR THIS FILING: Adopt equivalent federal regulations to maintain equivalency with the Environmental Protection Agency (EPA) rules and retain authorization.

SUMMARY: This proposed rule change sets treatment standards for hazardous waste generated from wood preserving operations and reduces paperwork, amends regulations concerning certain carbamate wastes that are no longer listed as hazardous, extends the time that the alternative carbamate treatment standards are in place by one year, and exempts from land disposal regulation mercury-containing wastes.

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

THIS FILING INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 40 CFR 268 (1997)

ANTICIPATED COST OR SAVINGS TO:  
❖THE STATE BUDGET: None.

❖LOCAL GOVERNMENTS: None.  
❖OTHER PERSONS: None.  
COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

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THIS FILING MAY BECOME EFFECTIVE ON: 02/16/98

AUTHORIZED BY: Dennis R. Downs, Director

**R315. Environmental Quality, Solid and Hazardous Waste.**  
**R315-13. Land Disposal Restrictions.**  
**R315-13-1. Land Disposal Restrictions.**

The requirements as found in 40 CFR 268, [~~1996~~1997 ed., are adopted and incorporated by reference including Appendices IV, [~~V~~], VI, VII, VIII, IX and X as amended by [~~61 FR 36419, July 10, 1996, 61 FR 43924, August 26, 1996, and 62 FR 7501, February 19, 1997~~62 FR 37694, July 14, 1997 and 62 FR 45568, August 28, 1997, with the exclusion of Sections 268.5, 268.6, 268.42(b), and 268.44 and with the following exceptions:

- (a) Substitute "Board" for all federal regulation references made to "Administrator" or "Regional Administrator" except for 40 CFR 268.40(b).
- (b) Substitute the words "plan approval" for all federal references made to "permit".
- (c) All references made to "EPA Hazardous Waste Number" will include P999, and F999.
- (d) Substitute Utah Code Annotated, Title 19, Chapter 6 for all references to RCRA.
- (e) The list of universal wastes at 40 CFR 268.1(f) exempts from the requirements of under 40 CFR 268.7 and 268.50, includes mercury-containing wastes, as described in R315-16-1.6.

**KEY: hazardous waste**  
**[~~July 15, 1997~~1998** **19-6-106**  
**19-6-105**



Environmental Quality, Solid and Hazardous Waste

R315-14-7

Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 20389

FILED: 12/12/97, 08:51

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: Adopt equivalent federal regulations to maintain equivalency with the Environmental Protection Agency (EPA) rules and retain authorization.

SUMMARY: This proposed rule change updates test methods to be used to test emissions.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Sections 19-6-105 and 19-6-106

FEDERAL MANDATE FOR THIS FILING: 40 CFR 271.21(e)

THIS FILING INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 40 CFR 266.100 - 112 (1997)

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: None.

❖LOCAL GOVERNMENTS: None.

❖OTHER PERSONS: None.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

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THIS FILING MAY BECOME EFFECTIVE ON: 02/16/98

AUTHORIZED BY: Dennis R. Downs, Director

R315. Environmental Quality, Solid and Hazardous Waste. R315-14. Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities.

R315-14-7. Hazardous Waste Burned in Boilers and Industrial Furnaces.

The requirements as found in 40 CFR 266, Subpart H, 266.100 - 266.112, including Appendices I - XIII, [1995]1997 ed., are adopted and incorporated by reference.

KEY: hazardous waste

[July 15, 1997]1998

19-6-105

19-6-106

Environmental Quality, Solid and Hazardous Waste

R315-16

Standards for Universal Waste Management

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 20390

FILED: 12/12/97, 08:51

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: Adopt equivalent federal regulations to maintain equivalency with the Environmental Protection Agency (EPA) rules and retain authorization.

SUMMARY: This proposed rule change is a result of comments received from the Environmental Protection Agency (EPA) concerning a recent authorization application submitted by the state and makes clarifications to parts of the rule.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Sections 19-6-105 and 19-6-106

FEDERAL MANDATE FOR THIS FILING: 40 CFR 271.21(e)

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: None.

❖LOCAL GOVERNMENTS: None.

❖OTHER PERSONS: None.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

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THIS FILING MAY BECOME EFFECTIVE ON: 02/16/98

AUTHORIZED BY: Dennis R. Downs, Director

**R315. Environmental Quality, Solid and Hazardous Waste.**

**R315-16. Standards for Universal Waste Management.**

**R315-16-1. General.**

1.1 SCOPE

(a) This rule establishes requirements for managing the following:

- (1) Batteries as described in section 1.2;
- (2) Pesticides as described in section 1.3;
- (3) Thermostats as described in section 1.4; and
- (4) Mercury-containing lamps as described in section 1.6.

(b) This rule provides an alternative set of management standards in lieu of regulation under R315-1 through R315-101.

1.2 APPLICABILITY - BATTERIES

(a) Batteries covered under R315-16.

(1) The requirements of this rule apply to persons managing batteries, as described in section 1.7, except those listed in paragraph (b) of this section.

(2) Spent lead-acid batteries which are not managed under 40 CFR part 266, subpart G, as incorporated by reference at R315-14-6, are subject to management under this rule.

(b) Batteries not covered under R315-16. The requirements of this rule do not apply to persons managing the following batteries:

- (1) Spent lead-acid batteries that are managed under R315-14-6.
- (2) Batteries, as described in section 1.7, that are not yet wastes under R315-2, including those that do not meet the criteria for waste generation in paragraph (c) of this section.
- (3) Batteries, as described in section 1.7, that are not hazardous waste. A battery is a hazardous waste if it exhibits one or more of the characteristics identified in R315-2-9.

(c) Generation of waste batteries.

(1) A used battery becomes a waste on the date it is discarded, e.g., when sent for reclamation.

(2) An unused battery becomes a waste on the date the handler decides to discard it.

1.3 APPLICABILITY - PESTICIDES

(a) Pesticides covered under R315-16. The requirements of this rule apply to persons managing pesticides, as described in section 1.7, meeting the following conditions, except those listed in paragraph (b) of this section:

(1) Recalled pesticides that are:

(i) Stocks of a suspended and canceled pesticide that are part of a voluntary or mandatory recall under FIFRA Section 19(b), including, but not limited to those owned by the registrant responsible for conducting the recall; or

(ii) Stocks of a suspended or canceled pesticide, or a pesticide that is not in compliance with FIFRA, that are part of a voluntary recall by the registrant.

(2) Stocks of other unused pesticide products that are collected and managed as part of a waste pesticide collection program.

(b) Pesticides not covered under R315-16. The requirements of this rule do not apply to persons managing the following pesticides:

(1) Recalled pesticides described in paragraph (a)(1) of this section, and unused pesticide products described in paragraph (a)(2) of this section, that are managed by farmers in compliance with R315-5-11. R315-5-11 addresses pesticides disposed of on the farmer's own farm in a manner consistent with the disposal instructions on the pesticide label, providing the container is triple rinsed in accordance with R315-2-7(b)(3);

(2) Pesticides not meeting the conditions set forth in paragraph (a) of this section. These pesticides must be managed in compliance with the hazardous waste regulations in R315-1 through R315-101;

(3) Pesticides that are not wastes under R315-2, including those that do not meet the criteria for waste generation in paragraph (c) of this section or those that are not wastes as described in paragraph (d) of this section; and

(4) Pesticides that are not hazardous waste. A pesticide is a hazardous waste if it is listed in R315-2-10 or if it exhibits one or more of the characteristics identified in R315-2-9.

(c) When a pesticide becomes a waste.

(1) A recalled pesticide described in paragraph (a)(1) of this section becomes a waste on the first date on which both of the following conditions apply:

(i) The generator of the recalled pesticide agrees to participate in the recall; and

(ii) The person conducting the recall decides to discard, e.g., burn the pesticide for energy recovery.

(2) An unused pesticide product described in paragraph (a)(2) of this section becomes a waste on the date the generator decides to discard it.

(d) Pesticides that are not wastes. The following pesticides are not wastes:

(1) Recalled pesticides described in paragraph (a)(1) of this section, provided that the person conducting the recall:

(i) Has not made a decision to discard, e.g., burn for energy recovery, the pesticide. Until such a decision is made, the pesticide does not meet the definition of "solid waste" under R315-2-2; thus the pesticide is not a hazardous waste and is not subject to hazardous waste requirements, including ~~[this section 16-1]~~R315-16. This pesticide remains subject to the requirements of FIFRA; or

(ii) Has made a decision to use a management option that, under R315-2-2, does not cause the pesticide to be a solid waste,

i.e., the selected option is use, other than use constituting disposal, or reuse, other than burning for energy recovery or reclamation. Such a pesticide is not a solid waste and therefore is not a hazardous waste, and is not subject to the hazardous waste requirements including ~~[this section 16-1]~~R315-16. This pesticide, including a recalled pesticide that is exported to a foreign destination for use or reuse, remains subject to the requirements of FIFRA.

(2) Unused pesticide products described in paragraph (a)(2) of this section, if the generator of the unused pesticide product has not decided to discard, them, e.g., burn for energy recovery. These pesticides remain subject to the requirements of FIFRA.

#### 1.4 APPLICABILITY - MERCURY THERMOSTATS

(a) Thermostats covered under R315-16. The requirements of this section apply to persons managing thermostats, as described in section 1.7, except those listed in paragraph (b) of this section.

(b) Thermostats not covered under R315-16. The requirements of this section do not apply to persons managing the following thermostats:

(1) Thermostats that are not yet wastes under R315-2. Paragraph (c) of this section describes when thermostats become wastes.

(2) Thermostats that are not hazardous waste. A thermostat is a hazardous waste if it exhibits one or more of the characteristics identified in R315-2-9.

(c) Generation of waste thermostats.

(1) A used thermostat becomes a waste on the date it is discarded, e.g., sent for reclamation.

(2) An unused thermostat becomes a waste on the date the handler decides to discard it.

#### 1.5 APPLICABILITY - HOUSEHOLD AND CONDITIONALLY EXEMPT SMALL QUANTITY GENERATOR WASTE

(a) Persons managing the wastes listed below may, at their option, manage them under the requirements of this section:

(1) Household wastes that are exempt under R315-2-4 and are also of the same type as the universal wastes defined in section 1.7; or

(2) Conditionally exempt small quantity generator wastes that are exempt under R315-2-5 and are also of the same type as the universal wastes defined in section 1.7.

(b) Persons who commingle the wastes described in paragraphs (a)(1) and (a)(2) of this section together with universal waste regulated under this rule must manage the commingled waste under the requirements of this rule.

#### 1.6 APPLICABILITY - MERCURY-CONTAINING LAMPS

(a) Lamps covered under R315-16. The requirements of this section apply to persons managing lamps, as described in section 1.7, except those listed in paragraph (b) of this section.

(b) Lamps not covered under R315-16. The requirements of this rule do not apply to persons managing the following lamps:

(1) Lamps, as described in section 1.7, that are not yet wastes under R315-2, including those that do not meet the criteria for waste generation in paragraph (c) of this section.

(2) Lamps, as described in section 1.7, that are not hazardous waste. A lamp is a hazardous waste if it exhibits one or more of the characteristics identified in section 2.12.

(c) Generation of waste lamps.

(1) A used lamp becomes a waste on the date it is discarded, e.g., sent for reclamation.

(2) An unused lamp becomes a waste on the date the handler decides to discard it.

#### 1.7 DEFINITIONS

(a) "Battery" means a device consisting of one or more electrically connected electrochemical cells which is designed to receive, store, and deliver electric energy. An electrochemical cell is a system consisting of an anode, cathode, and an electrolyte, plus such connections, electrical and mechanical, as may be needed to allow the cell to deliver or receive electrical energy. The term battery also includes an intact, unbroken battery from which the electrolyte has been removed.

(b) "Destination facility" means a facility that treats, disposes of, or recycles a particular category of universal waste, except those management activities described in sections 16-2.4(a) and (c) and sections 16-3.4(a) and (c). A facility at which a particular category of universal waste is only accumulated, is not a destination facility for purposes of managing that category of universal waste.

(c) "Electric lamp" means the bulb or tube portion of a lighting device specifically designed to produce radiant energy, most often in the ultraviolet, UV, visible, and infra-red, IR, regions of the electromagnetic spectrum. Examples of common electric lamps include, but are not limited to, incandescent, fluorescent, high intensity discharge, and neon lamps.

(d) "FIFRA" means the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. 136-136y.

(e) "Generator" means any person, by site, whose act or process produces hazardous waste identified or listed in R315-2 of this rule, or whose act first causes a hazardous waste to become subject to regulation.

(f) "Large Quantity Handler of Universal Waste" means a universal waste handler, as defined in this section, who accumulates 5,000 kilograms or more total of universal waste, batteries, pesticides, lamps, or thermostats, calculated collectively, or 35,000 or more mercury-containing lamps at any time. This designation as a large quantity handler of universal waste is retained through the end of the calendar year in which 5,000 kilograms or more total of universal waste, or 35,000 mercury-containing lamps, is accumulated.

(g) "Mercury-containing lamp" or "lamp" means an electric lamp in which mercury is purposely introduced by the manufacturer for the operation of the lamp.

(h) "On-site" means the same or geographically contiguous property which may be divided by public or private right-of-way, provided that the entrance and exit between the properties is at a cross-roads intersection, and access is by crossing as opposed to going along the right of way. Non-contiguous properties owned by the same person but connected by a right-of-way which he controls and to which the public does not have access, are also considered on-site property.

(i) "Pesticide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, or intended for use as a plant regulator, defoliant, or desiccant, other than any article that:

(1) Is a new animal drug under FFDCA section 201(w), or

(2) Is an animal drug that has been determined by regulation of the Secretary of Health and Human Services not to be a new animal drug, or

(3) Is an animal feed under FFDC section 201(x) that bears or contains any substances described by paragraph (1) or (2) of this section.

(j) "Small Quantity Handler of Universal Waste" means a universal waste handler, as defined in this section, who does not accumulate more than 5,000 kilograms total of universal waste, batteries, pesticides, lamps, or thermostats, calculated collectively, or less than 35,000 universal waste lamps, at any time.

(k) "Thermostat" means a temperature control device that contains metallic mercury in an ampule attached to a bimetal sensing element, and mercury-containing ampules that have been removed from these temperature control devices in compliance with the requirements of sections 16-2.4(c)(2) or 16-3.4(c)(2).

(l) "Universal Waste" means any of the following hazardous wastes that are subject to the universal waste requirements of R315-16:

- (1) Batteries as described in section 16-1.2;
  - (2) Pesticides as described in section 16-1.3;
  - (3) Thermostats as described in section 16-1.4; and
  - (4) Mercury-containing lamps as described in section 16-1.6.
- (m) "Universal Waste Handler":

(1) Means:

- (i) A generator, as defined in this section, of universal waste;

or

- (ii) The owner or operator of a facility, including all contiguous property, that receives universal waste from other universal waste handlers, accumulates universal waste, and sends universal waste to another universal waste handler, to a destination facility, or to a foreign destination.

(2) Does not mean:

- (i) A person who treats, except under the provisions of sections 16-2.4(a) or (c), or 16-3.4(a) or (c), disposes of, or recycles universal waste; or

- (ii) A person engaged in the off-site transportation of universal waste by air, rail, highway, or water, including a universal waste transfer facility.

(n) "Universal Waste Transfer Facility" means any transportation-related facility including loading docks, parking areas, storage areas and other similar areas where shipments of universal waste are held during the normal course of transportation for ten days or less.

(o) "Universal Waste Transporter" means a person engaged in the off-site transportation of universal waste by air, rail, highway, or water.

### **R315-16-2. Standards for Small Quantity Handlers of Universal Waste.**

#### **2.1 APPLICABILITY**

This section applies to small quantity handlers of universal waste as defined in section 16-1.7.

#### **2.2 PROHIBITIONS**

A small quantity handler of universal waste is:

- (a) Prohibited from disposing of universal waste; and
- (b) Prohibited from diluting or treating universal waste, except by responding to releases as provided in section 16-2.8; or by managing specific wastes as provided in section 16-2.4.

#### **2.3 NOTIFICATION**

A small quantity handler of universal waste is not required to notify the Division of universal waste handling activities.

### **2.4 WASTE MANAGEMENT**

(a) Universal waste batteries. A small quantity handler of universal waste must manage universal waste batteries in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

(1) A small quantity handler of universal waste must contain any universal waste battery that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a container. The container must be closed, structurally sound, compatible with the contents of the battery, and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

(2) A small quantity handler of universal waste may conduct the following activities as long as the casing of each individual battery cell is not breached and remains intact and closed, except that cells may be opened to remove electrolyte but must be immediately closed after removal:

- (i) Sorting batteries by type;
- (ii) Mixing battery types in one container;
- (iii) Discharging batteries so as to remove the electric charge;
- (iv) Regenerating used batteries;
- (v) Disassembling batteries or battery packs into individual batteries or cells;
- (vi) Removing batteries from consumer products; or
- (vii) Removing electrolyte from batteries.

(3) A small quantity handler of universal waste who removes electrolyte from batteries, or who generates other solid waste, e.g., battery pack materials, discarded consumer products, as a result of the activities listed above, must determine whether the electrolyte or other solid waste exhibit a characteristic of hazardous waste identified in R315-2-9.

(i) If the electrolyte or other solid waste exhibits a characteristic of hazardous waste, it is subject to all applicable requirements of R315-1 through R315-101. The handler is considered the generator of the hazardous electrolyte or other waste and is subject to R315-5.

(ii) If the electrolyte or other solid waste is not hazardous, the handler may manage the waste in any way that is in compliance with applicable federal, state or local solid waste regulations.

(b) Universal waste pesticides. A small quantity handler of universal waste must manage universal waste pesticides in a way that prevents releases of any universal waste or component of a universal waste to the environment. The universal waste pesticides must be contained in one or more of the following:

(1) A container that remains closed, structurally sound, compatible with the pesticide, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions; or

(2) A container that does not meet the requirements of paragraph (b)(1) of this section, provided that the unacceptable container is overpacked in a container that does meet the requirements of paragraph (b)(1) of this section; or

(3) Except for 40 CFR 265.197(c), 265.200, and 265.201, a tank that meets the requirements of R315-7-17, which incorporates 40 CFR part 265, subpart J by reference; or

(4) A transport vehicle or vessel that is closed, structurally sound, compatible with the pesticide, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

(c) Universal waste thermostats. A small quantity handler of universal waste must manage universal waste thermostats in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

(1) A small quantity handler of universal waste must contain any universal waste thermostat that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a container. The container must be closed, structurally sound, compatible with the contents of the thermostat, and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

(2) A small quantity handler of universal waste may remove mercury-containing ampules from universal waste thermostats provided the handler:

(i) Removes the ampules in a manner designed to prevent breakage of the ampules;

(ii) Removes ampules only over or in a containment device, e.g., tray or pan sufficient to collect and contain any mercury released from an ampule in case of breakage;

(iii) Ensures that a mercury clean-up system is readily available to immediately transfer any mercury resulting from spills or leaks from broken ampules, from the containment device to a container that meets the requirements of 40 CFR 262.34, as incorporated by reference at R315-5-10;

(iv) Immediately transfers any mercury resulting from spills or leaks from broken ampules from the containment device to a container that meets the requirements of 40 CFR 262.34, as incorporated by reference at R315-5-10;

(v) Ensures that the area in which ampules are removed is well ventilated and monitored to ensure compliance with applicable OSHA exposure levels for mercury;

(vi) Ensures that employees removing ampules are thoroughly familiar with proper waste mercury handling and emergency procedures, including transfer of mercury from containment devices to appropriate containers;

(vii) Stores removed ampules in closed, non-leaking containers that are in good condition;

(viii) Packs removed ampules in the container with packing materials adequate to prevent breakage during storage, handling, and transportation; and

(3)(i) A small quantity handler of universal waste who removes mercury-containing ampules from thermostats must determine whether the following exhibit a characteristic of hazardous waste identified in R315-2-9:

(A) Mercury or clean-up residues resulting from spills or leaks; or

(B) Other solid waste generated as a result of the removal of mercury-containing ampules, e.g., remaining thermostat units.

(ii) If the mercury, residues, or other solid waste exhibit a characteristic of hazardous waste, it must be managed in compliance with all applicable requirements of R315-1 through R315-101. The handler is considered the generator of the mercury, residues, or other waste and must manage it subject to R315-5.

(iii) If the mercury, residues, or other solid waste is not hazardous, the handler may manage the waste in any way that is in compliance with applicable federal, state or local solid waste regulations.

(d) Universal waste lamps. A small quantity handler of universal waste must manage universal waste lamps in a way that

prevents release of any universal waste or component of a universal waste to the environment as follows:

(1)(i) A small quantity handler of universal waste must at all times manage any universal waste lamps in a way that minimizes lamp breakage;

(ii) contain unbroken lamps in packaging that will minimize breakage during normal handling conditions; and

(iii) contain broken lamps in packaging that will minimize releases of lamp fragments and residues.

(2)(i) A small quantity handler of universal waste must immediately contain all releases of residues from hazardous waste lamps;

(ii) A small quantity handler of universal waste must determine whether any materials resulting from the release are hazardous wastes, and if so, he must manage the waste in accordance with all applicable requirements of R315-1 through R315-101.

## 2.5 LABELING/MARKING

A small quantity handler of universal waste must label or mark the universal waste to identify the type of universal waste as specified below:

(a) Universal waste batteries, i.e., each battery, or a container in which the batteries are contained, must be labeled or marked clearly with the following phrase: "Universal Waste Battery" or "Universal Waste Batteries";

(b) A container, or multiple container package unit, tank, transport vehicle or vessel in which recalled universal waste pesticides as described in section 16-1.3(a)(1) are contained must be labeled or marked clearly with:

(1) The label that was on or accompanied the product as sold or distributed; and

(2) The words "Universal Waste Pesticide" or "Universal Waste Pesticides";

(c) A container, tank, or transport vehicle or vessel in which unused pesticide products as described in section 16-1.3(a)(2) are contained must be labeled or marked clearly with:

(1)(i) The label that was on the product when purchased, if still legible;

(ii) If using the labels described in paragraph (c)(1)(i) of this section is not feasible, the appropriate label as required under the Department of Transportation regulation 49 CFR part 172;

(iii) If using the labels described in paragraphs (c)(1) (i) and (ii) of this section is not feasible, another label prescribed or designated by the waste pesticide collection program administered or recognized by a state; and

(2) The words "Universal Waste-Pesticide" or "Universal Waste Pesticides".

(d) Universal waste thermostats, i.e., each thermostat, or a container in which the thermostats are contained, must be labeled or marked clearly with the following phrase: "Universal Waste Mercury Thermostat" or "Universal Waste Mercury Thermostats".

(e) Universal waste lamps, i.e., each lamp, or a container in which the lamps are contained, must be labeled or marked clearly with the following phrase: "Universal Waste Mercury-Containing Lamp" or "Universal Waste Mercury-Containing Lamps".

## 2.6 ACCUMULATION TIME LIMITS

(a) A small quantity handler of universal waste may accumulate universal waste for no longer than one year from the date the universal waste is generated, or received from another



handler, unless the requirements of paragraph (b) of this section are met.

(b) A small quantity handler of universal waste may accumulate universal waste for longer than one year from the date the universal waste is generated, or received from another handler, if such activity is solely for the purpose of accumulation of such quantities of universal waste as necessary to facilitate proper recovery, treatment, or disposal. However, the handler bears the burden of proving that such activity is solely for the purpose of accumulation of such quantities of universal waste as necessary to facilitate proper recovery, treatment, or disposal.

(c) A small quantity handler of universal waste who accumulates universal waste must be able to demonstrate the length of time that the universal waste has been accumulated from the date it becomes a waste or is received. The handler may make this demonstration by:

(1) Placing the universal waste in a container and marking or labeling the container with the earliest date that any universal waste in the container became a waste or was received;

(2) Marking or labeling each individual item of universal waste, e.g., each battery, lamp, or thermostat with the date it became a waste or was received;

(3) Maintaining an inventory system on-site that identifies the date each universal waste became a waste or was received;

(4) Maintaining an inventory system on-site that identifies the earliest date that any universal waste in a group of universal waste items or a group of containers of universal waste became a waste or was received;

(5) Placing the universal waste in a specific accumulation area and identifying the earliest date that any universal waste in the area became a waste or was received; or

(6) Any other method which clearly demonstrates the length of time that the universal waste has been accumulated from the date it becomes a waste or is received.

#### 2.7 EMPLOYEE TRAINING

A small quantity handler of universal waste must inform all employees who handle or have responsibility for managing universal waste. The information must describe proper handling and emergency procedures appropriate to the type, or types of universal waste handled at the facility.

#### 2.8 RESPONSE TO RELEASES

(a) A small quantity handler of universal waste must immediately contain all releases of universal wastes and other residues from universal wastes.

(b) A small quantity handler of universal waste must determine whether any material resulting from the release is hazardous waste, and if so, must manage the hazardous waste in compliance with all applicable requirements of R315-1 through R315-101. The handler is considered the generator of the material resulting from the release, and must manage it in compliance with R315-5.

#### 2.9 OFF-SITE SHIPMENTS

(a) A small quantity handler of universal waste is prohibited from sending or taking universal waste to a place other than another universal waste handler, a destination facility, or a foreign destination.

(b) If a small quantity handler of universal waste self-transport universal waste off-site, the handler becomes a universal waste transporter for those self-transportation activities and must

comply with the transporter requirements of section 16-4 of this rule while transporting the universal waste.

(c) If a universal waste being offered for off-site transportation meets the definition of hazardous materials under 49 CFR parts 171 through 180, a small quantity handler of universal waste must package, label, mark and placard the shipment, and prepare the proper shipping papers in accordance with the applicable Department of Transportation regulations under 49 CFR parts 172 through 180;

(d) Prior to sending a shipment of universal waste to another universal waste handler, the originating handler must ensure that the receiving handler agrees to receive the shipment.

(e) If a small quantity handler of universal waste sends a shipment of universal waste to another handler or to a destination facility and the shipment is rejected by the receiving handler or destination facility, the originating handler must either:

(1) Receive the waste back when notified that the shipment has been rejected, or

(2) Agree with the receiving handler on a destination facility to which the shipment will be sent.

(f) A small quantity handler of universal waste may reject a shipment containing universal waste, or a portion of a shipment containing universal waste that he has received from another handler. If a handler rejects a shipment or a portion of a shipment, he must contact the originating handler to notify him of the rejection and to discuss reshipment of the load. The handler must:

(1) Send the shipment back to the originating handler, or

(2) If agreed to by both the originating and receiving handler, send the shipment to a destination facility.

(g) If a small quantity handler of universal waste receives a shipment containing hazardous waste that is not a universal waste, the handler must immediately notify the Division of Solid and Hazardous Waste of the illegal shipment, and provide the name, address, and phone number of the originating shipper. The Division will provide instructions for managing the hazardous waste.

(h) If a small quantity handler of universal waste receives a shipment of non-hazardous, non-universal waste, the handler may manage the waste in any way that is in compliance with applicable federal, state or local solid waste regulations.

#### 2.10 TRACKING UNIVERSAL WASTE SHIPMENTS

A small quantity handler of universal waste is not required to keep records of shipments of universal waste.

#### 2.11 EXPORTS

A small quantity handler of universal waste who sends universal waste to a foreign destination other than to those OECD countries specified in R315-5-13, which incorporates by reference 40 CFR 262.58(a)(1), in which case the handler is subject to the requirements of R315-5-15, which incorporates by reference 40 CFR 262 Subpart H, must:

(a) Comply with the requirements applicable to a primary exporter in 40 CFR 262.53, 262.56(a)(1) through (4) and (6), 262.53(b), and 262.57, as incorporated by reference at R315-5-13;

(b) Export such universal waste only upon consent of the receiving country and in conformance with the EPA Acknowledgment of Consent as defined in 40 CFR part 262 subpart E, as incorporated by reference at R315-5-13; and

(c) Provide a copy of the EPA Acknowledgment of Consent for the shipment to the transporter transporting the shipment for export.

## 2.12 TESTING REQUIREMENTS

A determination of whether or not mercury-containing lamps are hazardous waste shall be performed by a Utah certified laboratory using the Toxicity Characteristic Leaching Procedure according to:

- (a) R315-50-7, which incorporates the requirements of 40 CFR 261, Appendix II, 1993 ed.; and
- (b) the Science Applications International Corporation report, "Analytical Results of Mercury in Fluorescent Lamps," section 6.0, "Summary Guidelines for the Extraction of Fluorescent Lamps," 1992, prepared for the U.S. Environmental Protection Agency, which is adopted and incorporated by reference.

## R315-16-3. Standards for Large Quantity Handlers of Universal Waste.

### 3.1 APPLICABILITY

This section applies to large quantity handlers of universal waste as defined in section 16-1.7.

### 3.2 PROHIBITIONS

A large quantity handler of universal waste is:

- (a) Prohibited from disposing of universal waste; and
- (b) Prohibited from diluting or treating universal waste, except by responding to releases as provided in section 16-3.8; or by managing specific wastes as provided in section 16-3.4.

### 3.3 NOTIFICATION

(a)(1) Except as provided in paragraphs (a)(2) and (3) of this section, a large quantity handler of universal waste must have sent written notification of universal waste management to the Director, and received an EPA Identification Number, before meeting or exceeding the 5,000 kilogram total combined storage limit for batteries, pesticides, lamps, and thermostats, or 35,000 total storage limit for universal waste lamps only.

(2) A large quantity handler of universal waste who has already notified the Division of his hazardous waste management activities and has received an EPA Identification Number is not required to renotify under this section.

(3) A large quantity handler of universal waste who manages recalled universal waste pesticides as described in section 16-1.3(a)(1) and who has sent notification to EPA as required by 40 CFR part 165 is not required to notify for those recalled universal waste pesticides under this section.

(b) This notification must include:

- (1) The universal waste handler's name and mailing address;
- (2) The name and business telephone number of the person at the universal waste handler's site who should be contacted regarding universal waste management activities;
- (3) The address or physical location of the universal waste management activities;
- (4) A list of all of the types of universal waste managed by the handler, e.g., batteries, pesticides, thermostats, lamps;
- (5) A statement indicating that the handler is accumulating more than 5,000 kilograms of universal waste, or more than 35,000 universal waste lamps, at one time and the types of universal waste, e.g., batteries, pesticides, thermostats, lamps, the handler is accumulating above this quantity.

### 3.4 WASTE MANAGEMENT

(a) Universal waste batteries. A large quantity handler of universal waste must manage universal waste batteries in a way that

prevents releases of any universal waste or component of a universal waste to the environment, as follows:

(1) A large quantity handler of universal waste must contain any universal waste battery that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a container. The container must be closed, structurally sound, compatible with the contents of the battery, and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

(2) A large quantity handler of universal waste may conduct the following activities as long as the casing of each individual battery cell is not breached and remains intact and closed, except that cells may be opened to remove electrolyte but must be immediately closed after removal:

- (i) Sorting batteries by type;
- (ii) Mixing battery types in one container;
- (iii) Discharging batteries so as to remove the electric charge;
- (iv) Regenerating used batteries;
- (v) Disassembling batteries or battery packs into individual batteries or cells;
- (vi) Removing batteries from consumer products; or
- (vii) Removing electrolyte from batteries.

(3) A large quantity handler of universal waste who removes electrolyte from batteries, or who generates other solid waste, e.g., battery pack materials, discarded consumer products as a result of the activities listed above, must determine whether the electrolyte or other solid waste, or both, exhibits a characteristic of hazardous waste identified in R315-2-9.

(i) If the electrolyte or other solid waste exhibits a characteristic of hazardous waste, it must be managed in compliance with all applicable requirements of R315-1 through R315-101. The handler is considered the generator of the hazardous electrolyte or other waste and is subject to R315-5.

(ii) If the electrolyte or other solid waste is not hazardous, the handler may manage the waste in any way that is in compliance with applicable federal, state or local solid waste regulations.

(b) Universal waste pesticides. A large quantity handler of universal waste must manage universal waste pesticides in a way that prevents releases of any universal waste or component of a universal waste to the environment. The universal waste pesticides must be contained in one or more of the following:

(1) A container that remains closed, structurally sound, compatible with the pesticide, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions; or

(2) A container that does not meet the requirements of paragraph (b)(1) of this section, provided that the unacceptable container is overpacked in a container that does meet the requirements of paragraph (b)(1) of this section; or

(3) A tank that meets the requirements of R315-7-17, which incorporates by reference 40 CFR part 265 subpart J, excluding the requirements of 40 CFR 265.197(c), 265.200, and 265.201; or

(4) A transport vehicle or vessel that is closed, structurally sound, compatible with the pesticide, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

(c) Universal waste thermostats. A large quantity handler of universal waste must manage universal waste thermostats in a way

that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

(1) A large quantity handler of universal waste must contain any universal waste thermostat that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a container. The container must be closed, structurally sound, compatible with the contents of the thermostat, and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

(2) A large quantity handler of universal waste may remove mercury-containing ampules from universal waste thermostats provided the handler:

(i) Removes the ampules in a manner designed to prevent breakage of the ampules;

(ii) Removes ampules only over or in a containment device, e.g., tray or pan sufficient to contain any mercury released from an ampule in case of breakage;

(iii) Ensures that a mercury clean-up system is readily available to immediately transfer any mercury resulting from spills or leaks from broken ampules, from the containment device to a container that meets the requirements of R315-5-10;

(iv) Immediately transfers any mercury resulting from spills or leaks from broken ampules from the containment device to a container that meets the requirements of R315-5-10;

(v) Ensures that the area in which ampules are removed is well ventilated and monitored to ensure compliance with applicable OSHA exposure levels for mercury;

(vi) Ensures that employees removing ampules are thoroughly familiar with proper waste mercury handling and emergency procedures, including transfer of mercury from containment devices to appropriate containers;

(vii) Stores removed ampules in closed, non-leaking containers that are in good condition;

(viii) Packs removed ampules in the container with packing materials adequate to prevent breakage during storage, handling, and transportation; and

(3)(i) A large quantity handler of universal waste who removes mercury-containing ampules from thermostats must determine whether the following exhibit a characteristic of hazardous waste identified in R315-2-9:

(A) Mercury or clean-up residues resulting from spills or leaks; or

(B) Other solid waste generated as a result of the removal of mercury-containing ampules, e.g., remaining thermostat units.

(ii) If the mercury, residues, or other solid waste exhibit a characteristic of hazardous waste, it must be managed in compliance with all applicable requirements of R315-1 through R315-101. The handler is considered the generator of the mercury, residues, or other waste and is subject to R315-5.

(iii) If the mercury, residues, or other solid waste is not hazardous, the handler may manage the waste in any way that is in compliance with applicable federal, state or local solid waste regulations.

(d) Universal waste lamps. A large quantity handler of universal waste must manage universal waste lamps in a way that prevents release of any universal waste or component of a universal waste to the environment as follows:

(1)(i) A large quantity handler of universal waste must at all times manage any universal waste lamps in a way that minimizes lamp breakage;

(ii) contain unbroken lamps in packaging that will minimize breakage during normal handling conditions; and

(iii) contain broken lamps in packaging that will minimize releases of lamp fragments and residues.

(2)(i) A large quantity handler of universal waste must immediately contain all releases of residues from hazardous waste lamps;

(ii) A large quantity handler of universal waste must determine whether any materials resulting from the release are hazardous wastes, and if so, he must manage the waste in accordance with all applicable requirements of R315-1 through R315-101.

### 3.5 LABELING/MARKING

A large quantity handler of universal waste must label or mark the universal waste to identify the type of universal waste as specified below:

(a) Universal waste batteries, i.e., each battery, or a container or tank in which the batteries are contained, must be labeled or marked clearly with the following phrase: "Universal Waste Battery" or "Universal Waste Batteries";

(b) A container, or multiple container package unit, tank, transport vehicle or vessel in which recalled universal waste pesticides as described in R315-16-1-3(a)(1) are contained must be labeled or marked clearly with:

(1) The label that was on or accompanied the product as sold or distributed; and

(2) The words "Universal Waste Pesticide" or "Universal Waste Pesticides";

(c) A container, tank, or transport vehicle or vessel in which unused pesticide products as described in R315-16-1-3(a)(2) are contained must be labeled or marked clearly with:

(1)(i) The label that was on the product when purchased, if still legible;

(ii) If using the labels described in paragraph (c)(1)(i) of this section is not feasible, the appropriate label as required under the Department of Transportation regulation 49 CFR part 172;

(iii) If using the labels described in paragraphs (c)(1)(i) and (1)(ii) of this section is not feasible, another label prescribed or designated by the pesticide collection program; and

(2) The words "Universal Waste Pesticide" or "Universal Waste Pesticides".

(d) Universal waste thermostats, i.e., each thermostat, or a container or tank in which the thermostats are contained, must be labeled or marked clearly with the following phrase: "Universal Waste Mercury Thermostat" or "Universal Waste Mercury Thermostats".

(e) Universal waste lamps, i.e., each lamp, or a container in which the lamps are contained, must be labeled or marked clearly with the following phrase: "Universal Waste Mercury-Containing Lamps".

### 3.6 ACCUMULATION TIME LIMITS

(a) A large quantity handler of universal waste may accumulate universal waste for no longer than one year from the date the universal waste is generated, or received from another handler, unless the requirements of paragraph (b) of this section are met.

(b) A large quantity handler of universal waste may accumulate universal waste for longer than one year from the date the universal waste is generated, or received from another handler, if such activity is solely for the purpose of accumulation of such quantities of universal waste as necessary to facilitate proper recovery, treatment, or disposal. However, the handler bears the burden of proving that such activity was solely for the purpose of accumulation of such quantities of universal waste as necessary to facilitate proper recovery, treatment, or disposal.

(c) A large quantity handler of universal waste must be able to demonstrate the length of time that the universal waste has been accumulated from the date it becomes a waste or is received. The handler may make this demonstration by:

(1) Placing the universal waste in a container and marking or labeling the container with the earliest date that any universal waste in the container became a waste or was received;

(2) Marking or labeling the individual item of universal waste, e.g., each battery, lamp, or thermostat) with the date it became a waste or was received;

(3) Maintaining an inventory system on-site that identifies the date the universal waste being accumulated became a waste or was received;

(4) Maintaining an inventory system on-site that identifies the earliest date that any universal waste in a group of universal waste items or a group of containers of universal waste became a waste or was received;

(5) Placing the universal waste in a specific accumulation area and identifying the earliest date that any universal waste in the area became a waste or was received; or

(6) Any other method which clearly demonstrates the length of time that the universal waste has been accumulated from the date it becomes a waste or is received.

### 3.7 EMPLOYEE TRAINING

A large quantity handler of universal waste must ensure that all employees are thoroughly familiar with proper waste handling and emergency procedures, relative to their responsibilities during normal facility operations and emergencies.

### 3.8 RESPONSE TO RELEASES

(a) A large quantity handler of universal waste must immediately contain all releases of universal wastes and other residues from universal wastes.

(b) A large quantity handler of universal waste must determine whether any material resulting from the release is hazardous waste, and if so, must manage the hazardous waste in compliance with all applicable requirements of R315-1 through R315-101. The handler is considered the generator of the material resulting from the release, and is subject to R315-5.

### 3.9 OFF-SITE SHIPMENTS

(a) A large quantity handler of universal waste is prohibited from sending or taking universal waste to a place other than another universal waste handler, a destination facility, or a foreign destination.

(b) If a large quantity handler of universal waste self-transportes universal waste off-site, the handler becomes a universal waste transporter for those self-transportation activities and must comply with the transporter requirements of section 16-4 while transporting the universal waste.

(c) If a universal waste being offered for off-site transportation meets the definition of hazardous materials under 49 CFR 171

through 180, a large quantity handler of universal waste must package, label, mark and placard the shipment, and prepare the proper shipping papers in accordance with the applicable Department of Transportation regulations under 49 CFR parts 172 through 180;

(d) Prior to sending a shipment of universal waste to another universal waste handler, the originating handler must ensure that the receiving handler agrees to receive the shipment.

(e) If a large quantity handler of universal waste sends a shipment of universal waste to another handler or to a destination facility and the shipment is rejected by the receiving handler or destination facility, the originating handler must either:

(1) Receive the waste back when notified that the shipment has been rejected, or

(2) Agree with the receiving handler on a destination facility to which the shipment will be sent.

(f) A large quantity handler of universal waste may reject a shipment containing universal waste, or a portion of a shipment containing universal waste that he has received from another handler. If a handler rejects a shipment or a portion of a shipment, he must contact the originating handler to notify him of the rejection and to discuss reshipment of the load. The handler must:

(1) Send the shipment back to the originating handler, or

(2) If agreed to by both the originating and receiving handler, send the shipment to a destination facility.

(g) If a large quantity handler of universal waste receives a shipment containing hazardous waste that is not a universal waste, the handler must immediately notify the Division of the illegal shipment, and provide the name, address, and phone number of the originating shipper. The Division will provide instructions for managing the hazardous waste.

(h) If a large quantity handler of universal waste receives a shipment of non-hazardous, non-universal waste, the handler may manage the waste in any way that is in compliance with applicable federal, state or local solid waste regulations.

### 3.10 TRACKING UNIVERSAL WASTE SHIPMENTS

(a) Receipt of shipments. A large quantity handler of universal waste must keep a record of each shipment of universal waste received at the facility. The record may take the form of a log, invoice, manifest, bill of lading, or other shipping document. The record for each shipment of universal waste received must include the following information:

(1) The name and address of the originating universal waste handler or foreign shipper from whom the universal waste was sent;

(2) The quantity of each type of universal waste received, e.g., batteries, pesticides, lamps, or thermostats;

(3) The date of receipt of the shipment of universal waste.

(b) Shipments off-site. A large quantity handler of universal waste must keep a record of each shipment of universal waste sent from the handler to other facilities. The record may take the form of a log, invoice, manifest, bill of lading or other shipping document. The record for each shipment of universal waste sent must include the following information:

(1) The name and address of the universal waste handler, destination facility, or foreign destination to whom the universal waste was sent;

(2) The quantity of each type of universal waste sent, e.g., batteries, pesticides, thermostats, or lamps;

(3) The date the shipment of universal waste left the facility.

(c) Record retention.

(1) A large quantity handler of universal waste must retain the records described in paragraph (a) of this section for at least three years from the date of receipt of a shipment of universal waste.

(2) A large quantity handler of universal waste must retain the records described in paragraph (b) of this section for at least three years from the date a shipment of universal waste left the facility.

### 3.11 EXPORTS

A large quantity handler of universal waste who sends universal waste to a foreign destination other than to those OECD countries specified in R315-5-13, which incorporates by reference 40 CFR 262.58(a)(1), in which case the handler is subject to the requirements of R315-5-15, which incorporates by reference 40 CFR 262 Subpart H, must:

(a) Comply with the requirements applicable to a primary exporter in R315-5-13;

(b) Export such universal waste only upon consent of the receiving country and in conformance with the EPA Acknowledgement of Consent as defined in subpart E of 40 CFR, part 262, as incorporated by reference at R315-5-13; and

(c) Provide a copy of the EPA Acknowledgement of Consent for the shipment to the transporter transporting the shipment for export.

### 3.12 TESTING REQUIREMENTS

A determination of whether or not mercury-containing lamps are hazardous waste shall be performed by a Utah certified laboratory using the Toxicity Characteristic Leaching Procedure according to:

(a) R315-50-7, which incorporates the requirements of 40 CFR 261, Appendix II, 1993 ed.; and

(b) the Science Applications International Corporation report, "Analytical Results of Mercury in Fluorescent Lamps," section 6.0, "Summary Guidelines for the Extraction of Fluorescent Lamps," which is adopted and incorporated by reference.

## **R315-16-5. Standards for Destination Facilities.**

### 5.1 APPLICABILITY

(a) The owner or operator of a destination facility as defined in section 16-1.7 is subject to all applicable requirements of R315-3, R315-7, R315-8, R315-13, R315-14, and the notification requirement under section 3010 of RCRA:

(b) The owner or operator of a destination facility that recycles a particular universal waste without storing that universal waste before it is recycled must comply with 40 CFR 261.6(e)(2), as incorporated by reference at R315-2-6.

### 5.2 OFF-SITE SHIPMENTS

(a) The owner or operator of a destination facility is prohibited from sending or taking universal waste to a place other than a universal waste handler, another destination facility or foreign destination.

(b) The owner or operator of a destination facility may reject a shipment containing universal waste, or a portion of a shipment containing universal waste. If the owner or operator of the destination facility rejects a shipment or a portion of a shipment, he must contact the shipper to notify him of the rejection and to discuss reshipment of the load. The owner or operator of the destination facility must:

(1) Send the shipment back to the original shipper, or

(2) If agreed to by both the shipper and the owner or operator of the destination facility, send the shipment to another destination facility.

(c) If the owner or operator of a destination facility receives a shipment containing hazardous waste that is not a universal waste, the owner or operator of the destination facility must immediately notify the appropriate regional EPA office of the illegal shipment, and provide the name, address, and phone number of the shipper. The Division will provide instructions for managing the hazardous waste.

(d) If the owner or operator of a destination facility receives a shipment of non-hazardous, non-universal waste, the owner or operator may manage the waste in any way that is in compliance with applicable federal or state solid waste regulations.

### 5.3 TRACKING UNIVERSAL WASTE SHIPMENTS.

(a) The owner or operator of a destination facility must keep a record of each shipment of universal waste received at the facility. The record may take the form of a log, invoice, manifest, bill of lading, or other shipping document. The record for each shipment of universal waste received must include the following information:

(1) The name and address of the universal waste handler, destination facility, or foreign shipper from whom the universal waste was sent;

(2) The quantity of each type of universal waste received, e.g., batteries, pesticides, thermostats, or lamps;

(3) The date of receipt of the shipment of universal waste.

(b) The owner or operator of a destination facility must retain the records described in paragraph (a) of this section for at least three years from the date of receipt of a shipment of universal waste.

## **R315-16-7. Petitions to Include Other Wastes Under R315-~~14-8~~16.**

### 7.1 GENERAL

(a) Any person seeking to add a hazardous waste or a category of hazardous waste to this rule may petition for a regulatory amendment under this section and R315-2.

(b) To be successful, the petitioner must demonstrate to the satisfaction of the Executive Secretary that regulation under the universal waste regulations of R315-16 is: appropriate for the waste or category of waste; will improve management practices for the waste or category of waste; and will improve implementation of the hazardous waste program. The petition must include the information required by R315-2-17(b). The petition should also address as many of the factors listed in ~~[section]~~R315-16-7[=].2 as are appropriate for the waste or waste category addressed in the petition.

(c) The Executive Secretary will evaluate petitions using the factors listed in ~~[section]~~R315-16-7[=].2. The Executive Secretary will grant or deny a petition using the factors listed in section 16-7-2. The decision will be based on the weight of evidence showing that regulation under R315-16 is appropriate for the waste or category of waste, will improve management practices for the waste or category of waste, and will improve implementation of the hazardous waste program.

(d) The Executive Secretary may request additional information needed to evaluate the merits of the petition.

### 7.2 FACTORS FOR PETITIONS TO INCLUDE OTHER WASTES UNDER R315-16

(a) The waste or category of waste, as generated by a wide variety of generators, is listed in R315-2-10 of these rules, or if not listed, a proportion of the waste stream exhibits one or more characteristics of hazardous waste identified in R315-2-9. When a characteristic waste is added to the universal waste regulations of R315-16 by using a generic name to identify the waste category, e.g., batteries, the definition of universal waste in section 16-1.7 will be amended to include only the hazardous waste portion of the waste category, e.g., hazardous waste batteries. Thus, only the portion of the waste stream that does exhibit one or more characteristics, i.e., is hazardous waste, is subject to the universal waste regulations of R315-16;

(b) The waste or category of waste is not exclusive to a specific industry or group of industries, is commonly generated by a wide variety of types of establishments, including, for example, households, retail and commercial businesses, office complexes, conditionally exempt small quantity generators, small businesses, government organizations, as well as large industrial facilities;

(c) The waste or category of waste is generated by a large number of generators, e.g., more than 1,000 nationally, and is frequently generated in relatively small quantities by each generator;

(d) Systems to be used for collecting the waste or category of waste, including packaging, marking, and labeling practices, would ensure close stewardship of the waste;

(e) The risk posed by the waste or category of waste during accumulation and transport is relatively low compared to other hazardous wastes, and specific management standards proposed or referenced by the petitioner, e.g., waste management requirements appropriate to be added to R315-16, sections 2.4, 3.4, and 4.3; and applicable Department of Transportation requirements would be protective of human health and the environment during accumulation and transport;

(f) Regulation of the waste or category of waste under R315-16 will increase the likelihood that the waste will be diverted from non-hazardous waste management systems, e.g., the municipal waste stream, non-hazardous industrial or commercial waste stream, and municipal sewer or stormwater systems, to recycling, treatment, or disposal in compliance with [Subtitle C of RCRA]Utah Code Annotated 19-6.

(g) Regulation of the waste or category of waste under R315-16 will improve implementation of and compliance with the hazardous waste regulatory program; and

(h) Such other factors as may be appropriate.

**KEY: hazardous waste**

~~[July 15, 1997]~~1998

19-6-105

19-6-106



Environmental Quality, Solid and Hazardous Waste  
**R315-50**  
Appendices

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE No.: 20391

FILED: 12/12/97, 08:51

RECEIVED BY: NL

**RULE ANALYSIS**

PURPOSE OF OR REASON FOR THIS FILING: Adopt equivalent federal regulations to maintain equivalency with the Environmental Protection Agency (EPA) rules and retain authorization.

SUMMARY: This proposed rule change updates approved test methods and amends regulations concerning certain carbamate wastes that are no longer listed as hazardous.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Sections 19-6-105 and 19-6-106

FEDERAL MANDATE FOR THIS FILING: 40 CFR 271.21(e)

THIS FILING INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 40 CFR 261 (1997), 264 (1997), 268 (1994)

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: None.

❖LOCAL GOVERNMENTS: None.

❖OTHER PERSONS: None.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

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

Environmental Quality  
Solid and Hazardous Waste  
Fourth Floor, Cannon Health Building  
288 North 1460 West  
PO Box 144880  
Salt Lake City, UT 84114-4880, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:

Susan Toronto at the above address, by phone at (801) 538-6776, by FAX at (801) 538-6715, or by Internet E-mail at storonto@deq.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 02/02/98.

THIS FILING MAY BECOME EFFECTIVE ON: 02/16/98

AUTHORIZED BY: Dennis R. Downs, Director

**R315. Environmental Quality, Solid and Hazardous Waste.**

**R315-50. Appendices.**

**R315-50-9. Basis for Listing Hazardous Wastes.**

The requirements of 40 CFR 261, Appendix VII, ~~[1996]~~1997 ed., are adopted and incorporated by reference, with the following additions, excluding the constituents for which K064, K065, K066, K090, K091, and K160 are listed:

1. F999 - CX, GA, GB, GD, H, HD, HL, HN-1, HN-2, HN-3, HT, L, T, and VX.

**R315-50-10. Hazardous Constituents.**

The requirements of 40 CFR 261, Appendix VIII, [1994]1997 ed., are adopted and incorporated by reference [as amended by 60 FR 7824, February 9, 1995].

**R315-50-12. Toxic Characteristic Leaching Procedure (TCLP).**

The requirements of Appendix I of 40 CFR 268, the Toxicity Characteristic Leaching Procedure (TCLP), [1990]1994 ed., are adopted and incorporated by reference.

**R315-50-14. Ground Water Monitoring List.**

The requirements of 40 CFR 264, Appendix IX, Groundwater Monitoring List, [1988]1997 ed., are adopted and incorporated by reference.

**KEY: hazardous waste**

[July 15, 1997]1998

19-6-106

19-6-108

19-6-105



Health, Health Care Financing,  
Coverage and Reimbursement Policy

**R414-24**

Policy Concerning the Time Frame in  
Which Medicaid Claims Must be  
Submitted for Payment

**NOTICE OF PROPOSED RULE**

(Repeal)

DAR FILE No.: 20345

FILED: 12/05/97, 15:35

RECEIVED BY: NL

**RULE ANALYSIS**

PURPOSE OF OR REASON FOR THIS FILING: The information in this rule is identical to that in R414-25X, making it redundant.

SUMMARY: This rule is repealed in its entirety.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Section 26-1-5

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: None.

❖LOCAL GOVERNMENTS: None.

❖OTHER PERSONS: None.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

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

Health  
Health Care Financing,  
Coverage and Reimbursement Policy  
Cannon Health Building  
288 North 1460 West  
Box 142906  
Salt Lake City, UT 84114-2906, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:

Brenda Bryant at the above address, by phone at (801) 538-6136, by FAX at (801) 538-6099, or by Internet E-mail at [bbryant@email.state.ut.us](mailto:bbryant@email.state.ut.us).

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 02/02/98.

THIS FILING MAY BECOME EFFECTIVE ON: 02/03/98

AUTHORIZED BY: Rod L. Betit, Executive Director

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

~~[R414-24. Policy Concerning the Time Frame in Which Medicaid Claims Must be Submitted for Payment.~~

~~R414-24-1:~~

~~—Payment for Medicaid services will be made only if claims, or, in the case of Long Term Care, Inpatient Care Transmittal forms 10A are submitted to the Division of Health Care Financing, Bureau of Medicaid Claims, within twelve (12) months from date of service (or first date of service).~~

**KEY: medicaid**

1987

26-1-5

~~Notice of Continuation 1992]~~



Health, Laboratory Services,  
Laboratory Improvement

**R444-14**

Rules for the Certification of  
Environmental Laboratories

**NOTICE OF PROPOSED RULE**

(Repeal and Reenact)

DAR FILE No.: 20521

FILED: 12/15/97, 15:05

RECEIVED BY: NL

**RULE ANALYSIS**

PURPOSE OF OR REASON FOR THIS FILING: This change is intended to reorganize and clarify the existing rule.

SUMMARY: This filing does not require a full time laboratory director, detailed specific requirements for the physical lay out of the laboratory, or allow for approval of alternative analytical methods as found in the previous rule. This filing gives the option to use proficiency testing providers that meet described criteria; provides an alternate path from a downgrade of approval through a supplemental proficiency testing challenge; allows for reciprocal certification with out-of-state laboratories; establishes requirements and responsibilities for a laboratory quality assurance officer; provides more detail to clarify: minimum quality control requirements, sample management requirements, proficiency testing grading, corrective action requirements, and the procedure for downgrading a laboratory's status.

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

THIS FILING INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 40 CFR 136 (July 1995 ed.), 141 (July 1993 ed.), 142 (July 1993 ed.), 136 (July 1993 ed.), and 261 (July 1993 ed.)

ANTICIPATED COST OR SAVINGS TO:

- ❖THE STATE BUDGET: None.
  - ❖LOCAL GOVERNMENTS: A Class II laboratory with a single laboratory employee will need to provide for independent quality assurance (QA) oversight. Very few laboratories fit this scenario.
  - ❖OTHER PERSONS: A Class II laboratory with a single laboratory employee will need to provide for independent QA oversight. Very few laboratories fit this scenario.
- COMPLIANCE COSTS FOR AFFECTED PERSONS: One or two Class II laboratories may incur up to \$200 per month for the independent QA oversight, but may avoid these costs by providing reciprocal services with other laboratories.

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

Health  
 Laboratory Services, Laboratory Improvement  
 Room 309, Fraiser Laboratory Building  
 46 North Medical Drive  
 Salt Lake City, UT 84113-1105, or  
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING 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 hlds.dmendenh@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 02/02/98; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 01/28/98, 3:00 p.m., Cannon Health Building, Room 125, 288 North 1460 West, Salt Lake City, UT 84116.

THIS FILING MAY BECOME EFFECTIVE ON: 02/03/98

AUTHORIZED BY: Rod Betit, Executive Director

**R444. Health, Laboratory Services, Laboratory Improvement. R444-14. Rules for the Certification of Environmental Laboratories.**

**[R444-14-1. Introduction:**

~~— A. Basis for the Environmental Laboratory Certification Program:~~

~~The relationship between the environment and human health is a complex balance that requires careful periodic monitoring and evaluation. The environmental data necessary for evaluation and health risk assessment is derived from highly technical analytical procedures. Utah State agencies responsible for environmental management and health risk assessment have a need for environmental data of known and demonstrable high quality to properly protect the health and welfare of the people of Utah. In order to meet the need for high quality environmental data, a program for environmental laboratory certification, which will standardize analytical procedures, set standards for data quality and assure the overall analytical capability within the state, is required.~~

~~— B. Laboratories Covered by the Environmental Laboratory Certification Program:~~

~~These rules shall apply to all laboratories submitting environmental data to State agencies under State and Federal programs when enforcement responsibility (primacy) is at the state level. Under these rules, the Division of Environmental Health will not accept data from non-certified laboratories. Additionally, the Division reserves the right to reject any analytical data of unknown or questionable quality regardless of source.~~

~~— C. Scope of Application:~~

~~The analytical data covered by these rules fall in three general categories: (1) drinking water samples analyzed under the Federal Safe Drinking Water Act (SDWA), (2) ambient environmental monitoring and water pollution samples analyzed under the Federal Clean Water Act (CWA), and (3) solid and hazardous waste samples analyzed under the Federal Resource Conservation and Recovery Act (RCRA).~~

**R444-14-2. Definitions:**

~~— A. BLIND AUDITS - A series of performance evaluation samples submitted to a laboratory in such a manner that the laboratory is unaware that they are conducting analyses on a performance evaluation audit.~~

~~— B. CERTIFICATION OFFICER - A representative of the Director who is trained and qualified to conduct on-site evaluations.~~

~~— C. CERTIFIED LABORATORY - A laboratory that has completed all the requirements for certification.~~

~~— D. CLASS I LABORATORY - A laboratory with broad chemical and microbiological capability; analyzes samples on a commercial basis.~~

~~— E. CLASS II LABORATORY - A laboratory with limited analytical capability, analyzing samples only for internal self-monitoring purposes.~~

~~— F. CLEAN WATER ACT (CWA) - U.S. Public Law 92-500 which governs water pollution control programs.~~



— G. DIRECTOR - The Director of the State Health Laboratory (also known as the Certifying Authority):

— H. EMSL/CI - The Environmental Monitoring and Support Laboratory of EPA, located in Cincinnati, Ohio:

— I. EMSL/LV - The Environmental Monitoring and Support Laboratory of EPA, located in Las Vegas, Nevada:

— J. EPA - The United States Environmental Protection Agency:

— K. NPDES - The National Pollution Discharge Elimination System. The EPA program which monitors and regulates point source discharges:

— L. PRIMACY - The maintenance of and responsibility for enforcement of EPA programs at the State level as per contractual agreement between EPA and State:

— M. PRINCIPAL STATE LABORATORY - The State Health Laboratory, certified by EPA and responsible for conducting the laboratory certification program:

— N. ON-SITE EVALUATION - The physical inspection of laboratory facilities conducted in conjunction with and as a basis for laboratory certification:

— O. RESOURCE CONSERVATION AND RECOVERY ACT (RCRA) - U.S. Public Law 94-580 which governs solid and hazardous waste programs:

— P. SAFE DRINKING WATER ACT (SDWA) - U.S. Public Law 93-523 which governs drinking water programs:

**R444-14-3. Requirements and Recommendations for Certification:**

— The following requirements and recommendations in R444-14-4 through R444-14-13 serve as the basis for certification of environmental laboratories under the Environmental Laboratory Certification Program:

**R444-14-4. Personnel Requirements:**

— The laboratory shall have a laboratory director who shall have administrative, legal and technical responsibility for operation of the laboratory. The laboratory shall also have appropriate personnel with the educational background and training to perform all analyses for which the laboratory is to be certified:

— A. Laboratory Director:

— The laboratory shall have a full-time director whose qualifications shall be reviewed by the Director. One person may be the director of more than one laboratory provided that there is a full-time supervisor at each laboratory under his direction. The qualifications for a laboratory director are as follows:

— 1. Class I Laboratory:

a. An earned doctoral degree (M.D., Ph.D., D.Sc., etc.) in the medical, biological, chemical, or physical sciences from an accredited institution of higher education, plus two years experience in a certified environmental laboratory or its equivalent, as determined by the Director, or;

b. Master's degree in biological, chemical, or physical sciences from an accredited institution of higher education plus four years experience under a qualified director in a certified environmental laboratory or its equivalent as determined by the Director, with at least one of the four years in a supervisory capacity, or;

c. Bachelor's degree in the biological, chemical, or physical sciences from an accredited institution of higher education, plus six years work experience in a certified environmental laboratory or its

equivalent, as determined by the Director, with at least two of the six years in a supervisory capacity:

— 2. Class II Laboratory:

— Bachelor's degree in the biological, chemical, or physical sciences from an accredited institution of higher education, plus three years work experience in a certified environmental laboratory or its equivalent, as determined by the Director:

— B. Laboratory Supervisor:

— The minimum qualifications for a laboratory supervisor are as follows:

— 1. Class I Laboratory:

— Bachelor's degree in the biological, chemical, or physical sciences, plus two years work experience under qualified personnel in a certified environmental laboratory or its equivalent as determined by the Director:

— 2. Class II Laboratory:

— Demonstrated proficiency in environmental analyses gained by two years work experience under qualified personnel in a certified environmental laboratory or its equivalent, as determined by the Director:

— C. Exceptions:

— These exceptions apply to class II laboratories only:

— An individual who is and has been performing environmental testing for not less than three years, but who does not meet the educational requirements for a class II laboratory director, may also be qualified providing that such a person is shown to be competent to perform these examinations as demonstrated by satisfactory participation in an audit program offered or authorized by the Department. The Director shall review the qualifications for such a person and may waive the educational requirements upon recommendation of the Certification Officer:

— D. Change of Personnel:

— A certified laboratory must notify the Director in writing, when changes of the laboratory director or supervisor occur and they shall submit a curriculum vita on each new employee in each category. This written notification must be submitted within 30 days of the change:

**R444-14-5. Laboratory Facility Requirements and Recommendations:**

— A. Facilities for Chemical Analyses:

— The laboratory facilities should be clean, air conditioned and with adequate lighting at the bench top. It is recommended that 150 to 200 square feet per person be available. The laboratory should contain at least 15 linear feet of usable bench space per analyst. The laboratory should have provisions for the disposal of chemical wastes. Each laboratory is strongly encouraged to have a safety plan as part of its standard operating procedure. Where safety practices are included in an approved method, they must be strictly followed. While safety is not a mandatory aspect of laboratory certification, laboratory safety should involve a conscious effort to safeguard against electrical shock, fire, accidental chemical spills, facility deficiencies and equipment failures. Exhaust hoods are recommended for the analysis of trace elements and organics. This includes venting for preparation, extraction and analysis:

— B. Facilities for Microbiological Examinations:

— Laboratory space should be adequate (200 square feet and 6 linear feet of bench space per microbiologist) to accommodate peak workload. Work space should include sufficient bench-top area for

processing samples, storage space for media, glassware, and portable equipment; floor space for stationary equipment (incubators, waterbaths, refrigerators, etc.); and associated area for cleaning glassware and for sterilizing materials. In small water plant laboratories, the space for laboratory analyses and preparation may be consolidated into one room with the various functions allocated to different parts of the room. Facilities should be clean, air conditioned, and with adequate lighting at the bench top (100 foot-candles). Laboratory safety should involve a conscious effort to safeguard against electrical shock, fire, accidental chemical spills, and to minimize microbiological hazards, facility deficiencies, and equipment failures.

— C. Facilities for Radiochemistry:

— The analysis of compliance monitoring samples should be conducted in a laboratory facility where security and integrity of the samples and analytical data are provided. In addition, a work place for wet chemistry operations and for equipment that is critical to valid measurement of radioactive contaminants is necessary:

— 1. Location of Counting Instruments. The counting instrument necessary for measurement of those radionuclides described in the National Interim Primary Drinking Water Regulations must be located in a room separate from the one in which samples and standards are being prepared, and other types of wet chemical analyses are being performed. All instruments must be properly grounded and a regulated power supply, whether external or internal, should be available to each instrument.

— 2. Bench Surfaces and Contamination. In areas where radioactive standards are being prepared, care must be taken to minimize contamination of surfaces, other samples and personnel. Either bench surfaces of an impervious material covered with an absorbent paper, or trays (stainless steel, plastic, or fiberglass) lined with absorbent paper are acceptable.

— 3. Essential Items. The following items are necessary in a laboratory performing even the most basic radiochemical measurements (gross alpha and gross beta radiation) for compliance monitoring of drinking water supplies:

— a. Sink with tap water and connection to the sanitary sewer system.

— b. Electrical outlets (120 Volts AC grounded):

— c. Source of distilled or deionized water:

— d. Exhaust hood:

— e. For laboratories that are performing wet chemistry separations that require filtration of a precipitated fraction of the sample, a vacuum source (pump or aspirator) should also be available.

**R444-14-6. Laboratory Equipment and Supplies:**

— All equipment, reagents, and glassware necessary for the satisfactory performance of laboratory analyses shall be on hand or readily available on the premises. Equipment shall be in good working order. Included in this equipment shall be the apparatus and supplies listed in the approved method or procedure for the specific analysis for which the laboratory is to be certified. The approved methods or procedures are outlined in R444-14-8. Precision equipment shall be calibrated at regular intervals. Calibration logs shall be maintained and calibration equipment should be available on-site or obtained on loan from the State Health Laboratory. Calibration by a qualified laboratory instrument service organization is acceptable.

**R444-14-7. Sample Collection, Handling and Preservation:**

— To ensure the quality of environmental analysis, samples must be properly collected, handled and preserved before analysis begins. All laboratories must ensure that the sample has been properly handled prior to analysis regardless of who has responsibility for sample collection. Samples collected for compliance purposes must meet all collection, handling and preservation requirements or the analytical data from these samples will be rejected:

— A. Laboratory Requirements when the Customer has Responsibility for Sample Collection:

— Regardless of source, when a sample is submitted to the laboratory for compliance purposes, that laboratory must obtain the information necessary to ensure the sample meets EPA approved criteria for the analysis requested, or reject the sample. The minimum information required to make this determination is as follows:

— 1. Sample Containers. Sample containers must be an EPA approved type to be compatible with the analysis requested. All certified laboratories must have a suitable supply of approved sample containers readily available for customer use.

— 2. Sample Preservation. Sample preservation must be in the manner prescribed by EPA approved methodology for the analysis requested. Chemical preservatives may be added to samples upon receipt at the laboratory provided the sample has been properly handled, is within the unpreserved holding time and is susceptible to preservation after collection:

— 3. Time and Date of Sample Collection. Time and date of sample collection must be known to ensure required EPA holding times have not been exceeded. Data from all analyses performed after expiration of the sample holding time are not acceptable for compliance purposes:

— B. Laboratory Requirements when the Laboratory has Responsibility for Sample Collection:

— In addition to the requirements of R444-14-7, when a laboratory has responsibility for sampling they will also ensure the following:

— 1. Sample Collector Training:

— The sample collector will be trained in sampling procedures and approved by the Division of Environmental Health:

— 2. Representative Sample:

— All sampling will be representative of the system being sampled.

— 3. Sample Report Form:

— A sample report form will be completed immediately after collection. This report form will contain sampling location, date and time of collection, collector's name, and any special remarks concerning the sample:

— C. Sample Identification:

— Upon receipt in the laboratory, each sample will be assigned a unique laboratory identification number. Data report sheets submitted for compliance monitoring purposes, including any subsequent revised data report sheets for the same sample, must contain the sample's laboratory identification number. Subsequent samples from the same sampling point will be assigned a new laboratory identification number:

— D. Sample Chain of Custody:

— Laboratories processing a sample for possible legal action must have a chain-of-custody procedure available:

**R444-14-8. Analytical Methods:**~~— A. Drinking Water Analysis:~~

~~— Drinking water samples analyzed under the Safe Drinking Water Act shall be analyzed in accordance with EPA approved methods. The Department of Health adopts and incorporates by reference 40 CFR Parts 141 and 142, 1 July 1993 edition.~~

~~— B. Environmental Monitoring and Water Pollution Control Analysis:~~

~~— Environmental samples analyzed under the Clean Water Act shall be analyzed in accordance with EPA approved methods. The Department of Health adopts and incorporates by reference 40 CFR Part 136, 1 July 1993 edition.~~

~~— C. Solid and Hazardous Waste Analysis:~~

~~— Solid and hazardous waste samples analyzed under the Resource Conservation and Recovery Act shall be analyzed in accordance with EPA approved methods. The Department of Health adopts and incorporates by reference 40 CFR Part 261, 1 July 1993 edition and Federal Register, Vol 58, No. 167, pages 46049-50, Tuesday, August 31, 1993, Part VII EPA, 40 CFR Parts 260 and 261.~~

~~— D. Alternate Analytical Methods:~~

~~— New methods, significantly revised methods or new applications of currently approved methods will be evaluated for equivalency by EMSL/CI. Methods meeting equivalency requirements go through formal approval procedures and are published in the Federal Register. Improvements to existing methods which are optional and do not substantially alter the method will be evaluated by EMSL/CI and may be published in a Federal Register notice. Method changes handled in this manner do not formally amend the regulation rather, the notice will interpret the existing approved method to include these minor optional changes. Analysts may use the minor changes or continue to use the original approved method.~~

**R444-14-9. Laboratory Quality Assurance Program:**

~~— All certified environmental laboratories must maintain an effective written Quality Assurance Plan to ensure that routinely generated analytical data are scientifically valid and defensible and are of known and acceptable precision and accuracy. Documentation for many of the listed quality assurance plan items may be by reference to appropriate sections of EPA or state manuals, the Laboratory Standard Operating Procedures (SOP's) or to other acceptable professional literature. The following items are to be addressed in the written Quality Assurance Plan:~~

~~— A. Sampling Procedures:~~~~— B. Sample Handling Procedures:~~

~~— Sample handling procedures specifying the procedures used to maintain the integrity of all samples (i.e., tracking samples from receipt by the laboratory through analysis to disposal). Samples likely to be involved in litigation will require special safeguards outlined in R444-14-7D:~~

~~— C. Instrument Calibration Procedures and Frequency:~~~~— D. Analytical Methodology:~~~~— E. Data Reduction, Validation and Reporting:~~

~~— Data reduction is conversion of raw data to final concentrations e.g., ug/l or mg/l, picocuries/l, coliforms/100 ml, etc. Validation includes ensuring the accuracy of data transcription and calculations. Reporting includes the procedures and format for reporting data to customers, state or EPA agencies.~~

~~— F. Internal Quality Control Checks and Their Frequency:~~

~~— This shall include the preparation of calibration curves, instrument calibration, duplicate and spike analysis, the use of EPA quality control samples, and quality control charts. It is required to perform analysis of a standard, a duplicate and a spike sample every 20 samples or once with each run if less than 20 samples are analyzed for all analyses compatible with this procedure.~~

~~— G. Written Preventive Maintenance Procedures and Schedules:~~

~~— H. Specific routine procedures used to determine data precision and accuracy for each parameter measured:~~

~~— I. Corrective action to be taken when data obtained from analytical quality control checks is unacceptable:~~

**R444-14-10. Records Management:**~~— A. Data Reporting:~~

~~— Analytical data for compliance purposes will be reported in units consistent with monitoring agency requirements and should be reported to state agencies within the time limits required by the using agency.~~

~~— B. Record Retention:~~

~~— Records of environmental analyses must be kept by the laboratory for not less than five years. This includes all raw data, calculations, and quality control data.~~

~~— C. Records Format (Recommendation):~~

~~— Actual laboratory reports may be kept. However, data, other than compliance check samples as detailed in Section 131.33(b) of the National Interim Primary Drinking Water Regulations, may be transferred to tabular summaries. The following information should be included:~~

~~— 1. Date, place, and time of sampling, and the name of the person who collected the sample:~~

~~— 2. Identification of the sample as to whether it is a routine sample, check sample, raw water sample, or other special purpose sample:~~

~~— 3. Date of sample receipt and date of analysis:~~

~~— 4. Person responsible for performing the analysis:~~

~~— 5. Analytical method used:~~

~~— 6. Results of analysis:~~

**R444-14-11. On-site Laboratory Evaluations:**

~~— An on-site evaluation will be conducted as part of the initial certification, then a minimum of once every two years depending upon laboratory performance. An on-site evaluation may also be performed to resolve customer complaints or when results of an annual performance evaluation audit indicate serious analytical problems.~~

**R444-14-12. Annual Performance Evaluation Audits:**

~~— Participation in and satisfactory completion of annual performance evaluation audits from EPA and the State Health Laboratory is required. A minimum of one sample per year will be analyzed for each contaminant for which certification is desired. Satisfactory completion is defined as not less than 100% of the samples analyzed being in agreement with the ranges established by EPA or the State Health Laboratory. All samples analyzed for a given parameter under an approved proficiency testing program may be applied toward the minimum number of samples to be analyzed provided the performance is satisfactory:~~

**R444-14-13. Blind Audits:**

— In conjunction with the resolution of customer complaints or at the discretion of the Environmental Laboratory Certification Program, blind audits may be submitted to a certified laboratory to determine the quality of its routine analytical work.

**R444-14-14. Procedure for Laboratory Certification:****A. Application:**

— Application must be made on forms provided by the Bureau of Laboratory Improvement which may be obtained by writing:

— Environmental Laboratory Certification Program

— Bureau of Laboratory Improvement

— State Health Laboratory

— 44 Medical Drive

— Salt Lake City, Utah 84113-1105.

— The completed forms should be returned to the above address.

**B. Appointment to Survey:**

— An appointment to perform an on-site laboratory evaluation will be made by the Certification Officer.

**C. On-site Evaluation:**

— An on-site laboratory evaluation will be conducted by the Certification Officer to determine laboratory compliance with the general requirements and minimum criteria contained in R444-14-3. The on-site evaluation will be conducted within 30 days of the date the application forms are received by the Bureau of Laboratory Improvement or within a time frame mutually agreeable between applicant laboratory and the Certification Officer. A laboratory may be required to perform specific analytical procedures for a given contaminant during the on-site evaluation.

**D. Successful Completion of a Performance Evaluation Audit:**

— The laboratory shall have a maximum of 60 days to complete the performance evaluation audit and report the results to the Bureau of Laboratory Improvement.

**E. Audit Evaluation:**

— Evaluation of the performance evaluation audit results by the Certifying Officer will be completed within 30 days of receipt.

**F. Written Report of Findings:**

— The Certifying Officer will submit a written report of findings to the director of the laboratory under evaluation. A copy of this report will be sent to the Director (Certifying Authority):

**G. Certification Status:**

— 1. The Director will issue a letter informing the laboratory of its certification status. That status will be one of the following:

— a. Certified - a laboratory which meets the requirements for certification as defined in R444-14-3. The certification shall be valid for up to two years provided the laboratory continues to meet minimum performance standards:

— b. Provisionally Certified - a laboratory which has deficiencies but can still produce valid data:

— c. Not Certified - a laboratory which has major deficiencies and cannot meet the minimum requirements of the Environmental Laboratory Certification Program:

— 2. In the case of laboratories classified as Provisionally Certified, up to one year will be permitted for correction of the deficiencies. A one-time extension of no more than six months may be considered by the Director as long as the laboratory is making good faith progress in the resolution of its deficiencies and the continued provisional status does not impact the generation of valid data. A Provisionally Certified Laboratory may analyze

environmental samples for compliance purposes. In no case will provisional certification be given if the Certifying Officer determines that the laboratory lacks the capability of performing analyses within acceptable limits. Once all deficiencies have been corrected, the laboratory will be upgraded to Certified status:

— 3. For laboratories requesting certification to analyze additional parameters, the Director may administratively grant certification pending an on-site evaluation provided the laboratory has the appropriate instrumentation and trained personnel to perform the analysis and has successfully analyzed performance evaluation audit samples for the parameters in question.

**H. Downgrade of Certification Status:**

— A laboratory may be downgraded from Certified to Provisionally Certified status for a single parameter analysis or group of parameter analyses for any of the following reasons:

— 1. Failure to analyze a performance evaluation audit sample within acceptance limits established by EPA:

— If more than one concentration of a particular parameter is provided, the laboratory must satisfactorily analyze all concentrations. Provisionally Certified status will continue until the laboratory's analysis of a follow-up performance evaluation sample produces data within the acceptance limits established by EPA.

— 2. Changes in Personnel, Equipment or Laboratory Location:

— Failure of a Certified Laboratory to notify the Director within 30 days of major changes in personnel, equipment, or laboratory location:

**I. Grounds for Revocation of Certification:**

— A laboratory may be downgraded from Certified status or Provisionally Certified status to Not Certified status for a single parameter or all parameters for any of the following reasons:

— 1. The laboratory does not adhere to EPA approved analytical methodology:

— 2. Failure to analyze a performance evaluation audit sample and the follow-up performance evaluation audit sample within the acceptance limits established by EPA:

— 3. Failure to participate in required EPA or State Health Laboratory evaluation audits (see R444-14-12):

— 4. Failure to participate in a required on-site laboratory evaluation (see R444-14-11):

— 5. Submission of a performance evaluation audit sample to another laboratory for analysis and reporting the data as its own:

— 6. Falsification of data or other deceptive practices:

— 7. Permitting persons other than laboratory employees to perform and report results of environmental analyses:

— 8. Reporting sample results obtained from laboratories that are not certified under the state program or accepted under a reciprocity agreement with another state:

**K. Procedure for Revocation of Certification:**

— 1. Notification of Intent to Revoke:

— The Director will notify the laboratory in writing, by registered or certified mail, of the intent to revoke certification. If the laboratory wishes to challenge this decision, a notice of appeal must be submitted in writing to the Director within 30 days of receipt of the notice of intent to revoke certification. If no notice of appeal is filed, certification will be revoked:

— 2. Notice of Appeal:

— The notice of appeal must be supported with an explanation of the reasons for the challenge and must be signed by the laboratory director:

~~3. Action on Appeal:~~

~~Within 60 days of receipt of the notice of appeal, the Director will make a decision and notify the laboratory in writing. Denial of the appeal results in immediate revocation of the laboratory's certification. The Director will request the laboratory to notify its clients of its status in writing, and to submit verification that this has been accomplished. Once certification is revoked, a laboratory may not analyze samples for compliance purposes until certification has been reinstated.~~

~~4. Valid Appeal:~~

~~If the appeal is determined to be valid, the Director will take appropriate measures to re-evaluate the laboratory and issue a written decision on its certification status within 60 days.~~

~~5. Reinstatement of Certification:~~

~~Certification will be reinstated when the laboratory can demonstrate the deficiencies which produced the revocation have been corrected.~~

~~L. Confidential Reports:~~

~~The Bureau of Laboratory Improvement shall keep the director of any certified laboratory informed of all discrepancies which might lead to revocation of certification. The Bureau of Laboratory Improvement will also furnish each participating laboratory with a report of all performance evaluation audit results. In this report, each participant shall be referred to by code, and every precaution shall be taken at all times to conceal the identity of all participating persons or laboratories.~~

~~M. List of Certified Laboratories:~~

~~The Bureau of Laboratory Improvement shall publish, at least annually, a list of certified laboratories. This list shall include the name and address of the laboratory, the name of the director and a list of the analyses for which the laboratory is certified. This list shall be sent to all participating environmental laboratories, state regulatory agencies, and any other person or agency who verifies their need and use of such information.~~

~~N. Certification of Out-of-State Environmental Laboratories~~

~~Laboratories located outside of Utah may be certified by one of the following:~~

~~1. Reciprocal Agreement:~~

~~A reciprocal agreement for environmental laboratory certification may be signed between the Utah Department of Health, State Health Laboratory and a state which enforces an environmental laboratory certification program equal to or more stringent than the certification requirements of these rules. Under a reciprocal agreement, any environmental data produced by laboratories certified by either state would be acceptable for compliance purposes to state agencies in both states.~~

~~2. On-site Survey:~~

~~Laboratories located in states without a reciprocal agreement may be certified on an individual basis under the conditions of these rules:~~

~~O. Fees:~~

~~Fees for certification will be set and administered by the Department, with the approval of the State Legislature. Fees for the certification of out-of-state environmental laboratories will be the out-of-state fee plus all reasonable expenses associated with the on-site evaluation incurred by the Certification Officer. Fees for the certification of in-state laboratories will be the in-state fee.~~

~~1. Initial Certification:~~

~~If the laboratory is in compliance with the requirements for certification as contained in R444-14-3, it may be granted certification for a period of up to two years following the initial on-site survey, provided it continues to meet the minimum requirements:~~

~~2. Recertification:~~

~~Certified out-of-state laboratories that are petitioning for recertification are required to pass another on-site evaluation and shall pay the annual fee plus all reasonable expenses incurred by the Certification Officer during the on-site evaluation. If the laboratory is in compliance with the requirements for certification in R444-14-3, it may be recertified for a period of up to two years, provided it continues to meet the minimum requirements, which include the payment of annual fees. In-state laboratories shall be assessed an annual fee and be subject to on-site evaluation a minimum of once every two years.]~~

**R444-14-1. Introduction.**

(1) This rule is authorized by Utah Code Section 26-1-30(2)(m).

(2) This rule applies to laboratories that analyze samples for compliance with Federal Safe Drinking Water Act, Federal Clean Water Act, and the Federal Resource Conservation and Recovery Act.

(3) A laboratory that analyzes samples for compliance with rules established by the Utah Department of Environmental Quality that require that the analysis be conducted by a certified laboratory, must become certified under this rule and comply with its provisions.

(4) A laboratory that, under subcontract with another laboratory, analyzes samples for compliance with rules established by the Utah Department of Environmental Quality that require that the analysis be conducted by a certified laboratory, must become certified under this rule and comply with its provisions.

(5) A laboratory certified under this rule to analyze samples for compliance with rules established by the Utah Department of Environmental Quality that require that the analysis be conducted by a certified laboratory must also obtain approval under this rule for each method used to analyze each analyte.

**R444-14-2. Definitions.**

(1) "Accuracy" means the degree of agreement between an observed value and an accepted reference value.

(2) "Analyte" means the substance or thing for which a sample is analyzed to determine its presence or quantity.

(3) "Approved" means the determination by the department that a certified laboratory may analyze for an analyte or interdependent analyte group under this rule.

(4) "Assessment" means the process of inspecting, testing and documenting findings for purposes of certification or to determine compliance with this rule.

(5) "Batch" means a group of analytical samples of the same matrix processed together, including extraction, digestion, concentration and the application of the analytic method, using the same process, personnel, and lot(s) of reagents.

(6) "Certification officer" means a representative of the department who conducts assessments. This representative may be a third party contractor who conducts assessments and acts under the authority of the department.

(7) "Clean Water Act" means U.S. Public Law 92-500, as amended, governing water pollution control programs.

(8) "Contamination" means the effect caused by the introduction of the target analyte from an outside source into the test system.

(9) "Department" means the Utah Department of Health.

(10) "Equipment blank" means sample that is known not to contain the target analyte and that is used to check the cleanliness of sampling devices, collected in a sample container from a clean sample-collection device and returned to the laboratory as a sample.

(11) "Field blank" means a sample that is known not to contain the target analyte and that is used to check for analytical artifacts or contamination introduced by sampling and analytical procedures, carried to the sampling site, exposed to sampling conditions and returned to the laboratory and treated as an environmental sample.

(12) "Holding time" means the maximum time that a sample may be held prior to preparation or analysis.

(13) "Interdependent analyte group" means a group of analytes, as determined by the department, for which the ability to correctly identify and quantify a single analyte in the group indicates the ability to correctly identify and quantify other analytes in the group.

(14) "Initial demonstration of analytical capability" means the procedure described in the method 40 CFR Part 136, Appendix A, used to determine a laboratory's accuracy and precision in applying an analytical method.

(15) "Instrument blank" means a sample that is known not to contain the target analyte, processed through the instrumental steps of the measurement process used to determine the absence of instrument contamination for the determinative method.

(16) "Interference" means the effect on the final result caused by the sample matrix.

(17) "Key personnel" means the laboratory director, laboratory supervisor, and laboratory quality assurance officer, all of whom meet the qualification requirements of this rule.

(18) "Matrix" means a surrounding substance within which something originates, develops, or is contained, such as: drinking water, saline/estuarine water, aqueous substance other than drinking water or saline/estuarine water, non-aqueous liquid, biological tissue, solids, soils, chemical waste, and air.

(19) "Matrix spike" means a sample prepared to determine the effect of the matrix on a method's recovery efficiency by adding a known amount of the target analyte to a specified amount of matrix sample for which an independent estimate of the target analyte concentration is available.

(20) "Method detection limit" means the minimum concentration of a substance that can be measured and reported with 99% confidence that the analyte concentration is greater than, zero as determined from analysis of a sample containing the analyte in a given matrix as described in 40 CFR Part 136, Appendix B, 1 July 1995 edition.

(21) "Precision" means the degree to which a set of observations or measurements of the same property, usually obtained under similar conditions, conform to themselves. Precision is usually expressed as standard deviation, variance or range, in either absolute or relative terms.

(22) "Preservation" means the temperature control or the addition of a substance to maintain the chemical or biological integrity of the target analyte.

(23) "Proficiency testing audit" means the event, including the receiving, analyzing, and reporting of results from a set of samples that a proficiency testing provider sends to a laboratory, for the laboratory to comply with the proficiency testing requirements of this rule.

(24) "Proficiency testing program" means a program that meets the National Environmental Laboratory Accreditation Conference(NELAC) proficiency testing standards and that is provided by a National Environmental Laboratory Accreditation Program(NELAP)-authorized proficiency testing provider or a program that is provided by the EPA as part of its WS and WP audits.

(25) "Provisionally approved" means a determination by the department that a certified laboratory does not follow the accepted method or has not passed the appropriate proficiency testing audit for the most recent audit for an analyte or interdependent analyte group but that the certified laboratory is still capable of producing valid data.

(26) "Provisionally certified" means a determination by the department that a certified laboratory has deficiencies but that the certified laboratory is still capable of producing valid data.

(27) "Resource Conservation and Recovery Act" means U.S. Public Law 94-580, as amended, governing solid and hazardous waste programs.

(28) "Safe Drinking Water Act" means U.S. Public Law 93-523 94-580, as amended, governing drinking water programs.

(29) "Selectivity" means the capability of a method or instrument to respond to the target analyte in the presence of other substances or things.

(30) "Sensitivity" means the capability of a method or instrument to discriminate between measurement responses representing different levels of a target analyte.

(31) "Standard operating procedures (SOPs)" means a written document which details the steps of an operation, analysis or action whose techniques and procedures are thoroughly prescribed and is accepted as the procedure for performing certain routine or repetitive tasks.

(32) "Surrogate" means a substance which is unlikely to be found in the environment and which has properties that mimic the target analyte and that is added to a sample to check for quality control.

(33) "Target analyte" means the analyte that a test is designed to detect or quantify.

(34) "Technical employee" means a designated individual who performs the analytical method and associated techniques.

(35) "Trip blank" means a sample known not to contain the target analyte that is carried to the sampling site and transported to the laboratory for analysis without having been exposed to sampling procedures.

#### **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) Certification is available in two categories:

(a) A Class I laboratory is a laboratory that is certified under this rule to analyze samples for monitoring and compliance with Federal Safe Drinking Water Act, Federal Clean Water Act, and the Federal Resource Conservation and Recovery Act on own behalf of the entity that owns the laboratory and on behalf of an entity that does not own the laboratory.

(b) A Class II laboratory is a laboratory with limited analytical capability, that is certified under this rule to analyze samples for monitoring and compliance with Federal Safe Drinking Water Act, Federal Clean Water Act, and the Federal Resource Conservation and Recovery Act on own behalf of the entity that owns the laboratory and that does not meet the personnel requirements for NELAP accreditation.

(4) To become certified, to renew certification, or to become recertified under this rule, a laboratory must:

(a) submit a completed application to the Division of Epidemiology and Laboratory Services, Bureau of Laboratory Improvement, on forms provided by the department; the application shall include:

(i) the legal name of the laboratory;

(ii) the name of the laboratory owner;

(iii) the laboratory mailing address;

(iv) the full address of location of the laboratory;

(v) the laboratory hours of operation;

(vi) a description of qualifications of key personnel and technical employees;

(vii) the name and day-time phone number of the laboratory director;

(viii) the name and day-time phone number of the quality assurance officer;

(ix) the name and day-time phone number of the laboratory contact person;

(x) an indication of class of laboratory for which the laboratory is applying for certification under this rule; and

(xi) the laboratory's quality assurance plan and documentation of the laboratory's implementation and adherence to the quality assurance plan.

(b) be enrolled in a proficiency testing program;

(c) apply for approval to analyze at least one analyte or interdependent analyte group by a method the department may approve under this rule; and

(d) pay all fees prior to the department's processing of the application.

(e) submit a statement of assurance of compliance signed and dated by the laboratory owner, director, and quality assurance officer, which shall include:

(i) an acknowledgment that the applicant understands that, once certified, the laboratory must continually comply with this rule and shall be subject to the penalties provided in this rule for failure to maintain compliance;

(ii) an acknowledgment that the department may make unannounced assessments and that a refusal to allow entry by the department's representatives is grounds for denial or revocation of certification;

(iii) a statement that the applicant laboratory will perform all proficiency testing audits according to the accepted method and in accordance with department requirements; and

(iv) a statement that there is no misrepresentation in the information provided in the application.

(5) Upon satisfaction of the requirements of subsection (4):

(a) the department shall conduct an on-site assessment at a date and time agreed to by the laboratory director to determine whether the laboratory complies with the minimum requirements of this rule and that the laboratory can produce valid results;

(b) the department shall provide the laboratory director a written report of the department's findings from the on-site assessment; and

(c) if the department determines that the laboratory does not meet the requirements for certification, the laboratory shall develop and submit a plan of correction acceptable to the department.

(6) The department shall issue a final decision and letter upon a satisfactory on-site assessment or within 30 days of acceptance of the plan or portions of a plan of correction. The letter shall state whether the laboratory is certified, provisionally certified, or not certified. It shall also state the approval status of the analyte or interdependent analyte group for which the laboratory applied for approval. The department may certify a laboratory for up to two years.

(7) A certification expires at the expiration date listed on the certificate, unless otherwise revoked. To avoid a lapse in certification, a laboratory must submit a completed application for renewal and the required fees for certification at least three months prior to the expiration of the certificate.

#### **R444-14-4. Method Approval.**

(1) An applicant laboratory must request approval to analyze for an analyte or interdependent analyte group as part of its application for certification or renewal of certification. Approval to analyze for an analyte or interdependent analyte group upon application for certification or renewal of certification may be granted only after an on-site assessment. The applicant laboratory shall submit:

(a) documentation that it has the necessary equipment and trained technical employees to perform the tests;

(b) documentation that the laboratory has passed a proficiency testing audit for the analyte in question in a proficiency testing program;

(c) its standard operating procedure for the method used to analyze for the analyte in question;

(d) documentation of its initial demonstration of analytical capability; and

(e) documentation establishing the laboratory's method detection limit for the analyte.

(2) At a time other than at application for certification or renewal of certification, a certified laboratory may request approval to analyze for an additional analyte or interdependent analyte group by submitting a written request together with the documentation required in subsection (1).

(3) If the department is satisfied from its assessment that the applicant laboratory can produce valid results, it shall grant approval for the analyte or interdependent analyte group by a specific method.

(4) The department shall not grant approval to a laboratory that does not certify under this rule.

**R444-14-5. Change in Name or Ownership.**

(1) A certified laboratory that changes its name, business organizational status, or ownership must report the change in writing to the department within 30 days of the change.

(2) A certified laboratory that assumes a new business organizational status or ownership must maintain all the records required under this rule that the certified laboratory was required to maintain prior to the change in status or ownership.

**R444-14-6. Access and Sample Testing.**

(1) Applicants and certified laboratories shall allow department representatives access to the laboratory facility and records during laboratory operating hours to determine initial or continued compliance with this rule.

(2) The department may submit samples to applicant and certified laboratories in a manner that the applicant or certified laboratory is unaware of the expected values of the analytes in the samples.

**R444-14-7. Quality Assurance.**

(1) A certified laboratory must develop and implement a quality assurance program that is an integrated system of activities involving planning, quality control, quality assessment, reporting and quality improvement to ensure that its services meet its standards of quality with its stated level of confidence.

(2) The quality assurance program must meet the type and volume of testing activities the certified laboratory undertakes. The quality assurance program must include a quality assurance plan and the documentation of the quality assurance activities.

(3) As part of its quality assurance program, each certified laboratory must develop and adhere to a quality assurance plan. The quality assurance plan must be a written document and may incorporate other documents by reference. All technical employees must have easy access to the quality assurance plan. The certified laboratory must include and address the following essential items in the quality assurance plan:

- (a) General quality control procedures;
- (b) Frequency of proficiency testing;
- (c) Proficiency testing audit handling;
- (d) Reporting of proficiency testing results;
- (e) Evaluation of staff competency;
- (f) Staff training;
- (g) Equipment operation and calibration;
- (h) Analytical methods and SOPs;
- (i) Physical facility factors that may affect quality;
- (j) Sample acceptance policies and sample receipt policies;
- (k) Sample tracking;
- (l) Record keeping, quality assurance review of data, and reporting of results;

(m) Corrective action policy and procedures;

(n) Definitions of terms;

(o) Frequency and procedure of quality reviews and the content of reports to the director; and

(p) Frequency, procedure, and documentation of preventive maintenance.

(4) As part of the quality assurance program, the certified laboratory must document and retain records demonstrating compliance with its quality assurance program.

**R444-14-8. Personnel Requirements and Responsibilities.**

(1) A certified laboratory must:

(a) have a laboratory director who meets the qualification requirements of this section, who may also serve as the laboratory supervisor or the laboratory quality assurance officer;

(b) have a laboratory supervisor who meets the qualification requirements of this section, who may also serve as the laboratory director;

(c) have a laboratory quality assurance officer who meets the qualification requirements of this section, who may also serve as the laboratory director;

(d) specify and document the responsibility, authority, and interrelation of all personnel who manage perform or verify work affecting the quality of testing;

(e) have sufficient technical employees with the educational background and training necessary to perform all tests which the certified laboratory is approved to perform;

(f) adequately supervise its technical employees to assure quality test results;

(g) have a job description for all key personnel and technical employees;

(h) maintain documentation of the qualifications of all key personnel;

(i) maintain a record of training for all key personnel and technical employees; and

(j) document and clearly describe the lines of responsibility of all key personnel and technical employees.

(2) A director of a Class I laboratory must have:

(a) an earned doctoral degree in the medical, biological, chemical, or physical sciences from an institution of higher education, plus two years experience in a certified laboratory or in a laboratory that the prospective director demonstrates to the department as one that substantially meets equivalent quality standards for a certified laboratory;

(b) a master's degree in biological, chemical, or physical sciences from an institution of higher education plus four years experience in a certified laboratory or in a laboratory that the prospective director demonstrates to the department as one that substantially meets equivalent quality standards for a certified laboratory, with at least one of the four years in a supervisory capacity; or

(c) a bachelor's degree in the biological, chemical, or physical sciences from an institution of higher education, plus six years work experience in a certified laboratory or in a laboratory that the prospective director demonstrates to the department as one that substantially meets equivalent quality standards for a certified laboratory, with at least two of the six years in a supervisory capacity.

(3) A director of a Class II laboratory must:

(a) have a bachelor's degree in the biological, chemical, or physical sciences from an institution of higher education, plus three years work experience in a certified laboratory or in a laboratory that the prospective director demonstrates to the department as one that substantially meets equivalent quality standards for a certified laboratory; or

(b) have, within the previous five years, three years experience in a certified laboratory or in a laboratory that the prospective director demonstrates to the department as one that substantially meets equivalent quality standards for a certified laboratory and



demonstrate in a proficiency testing audit his competency to perform testing governed by this rule.

(4) The director is responsible for the administrative oversight and overall operation of the certified laboratory and must:

(a) define minimum qualifications, experience, and skills necessary for all technical employees;

(b) ensure and document through an annual competency check that each technical employee demonstrates initial and ongoing proficiency for the tests performed by the technical employee; and

(c) supervise the quality assurance officer and ensure the production and quality of all results reported by the certified laboratory.

(5) One individual may be the director of up to three certified laboratories if there is a full-time supervisor at each laboratory.

(6) A supervisor of a Class I laboratory must have a bachelor's degree in the biological, chemical, or physical sciences, plus two years work experience in a certified laboratory or in a laboratory that the prospective supervisor demonstrates to the department as one that substantially meets equivalent quality standards for a certified laboratory

(7) A supervisor of a Class II laboratory must:

(a) have two years work experience in a certified laboratory or in a laboratory that the prospective supervisor demonstrates to the department as one that substantially meets equivalent quality standards for a certified laboratory; and

(b) demonstrate in a proficiency testing audit his competency to perform testing governed by this rule.

(8) The supervisor is responsible for the day-to-day operation of the certified laboratory and:

(a) must supervise all technical employees of the certified laboratory;

(b) must assure that all samples are accepted in accordance with the requirement of this rule; and

(c) is responsible for the production and quality of all data reported by the certified laboratory.

(9) A quality assurance officer must:

(a) have documented training or experience in quality assurance procedures and be knowledgeable in the quality assurance requirements of this rule;

(b) have a knowledge of the approved methods the certified laboratory uses in order to allow him to verify that the certified laboratory is following the approved methods;

(c) not analyze samples as part of the regular analyses performed by the certified laboratory;

(d) have direct access to the highest level of management at which decisions are taken on laboratory policy and resources, and to the director;

(e) serve as the focal point for quality assurance and oversee and review quality control data;

(f) objectively evaluate data and objectively perform assessments;

(g) oversee all aspects of sample handling, testing, report collation and distribution with the purpose of the production of high quality results; and

(h) conduct or oversee and be responsible for an annual review of the entire technical operation of the certified laboratory.

(10) One individual may be the quality assurance officer of up to three certified laboratories if there is a full-time supervisor at each laboratory.

#### **R444-14-9. Physical Facilities.**

(1) A certified laboratory must occupy physical facilities that have suitable space, energy sources, lighting, heating and ventilation to allow for proper performance of the testing.

(2) A certified laboratory must maintain the physical facilities to permit the production of quality results. The certified laboratory must assure that contamination is unlikely, and must control variables that might adversely affect test results, such as: temperature; humidity; electrical power; vibration; electromagnetic fields; dust; direct sunlight; ventilation; and lighting.

(3) A certified laboratory must make available to technical employees an unencumbered work area to ensure that adequate working conditions are available for the tests.

(4) A certified laboratory must:

(a) control access to the laboratory;

(b) separate incompatible tests, analyses, procedures, materials, and the like; and

(c) have separate sample receipt, sample storage, chemical storage, waste storage, and data handling and storage areas.

#### **R444-14-10. Equipment and Reference Materials.**

(1) A certified laboratory must have on-site all equipment and apparatus, reagents, reference materials, and glassware necessary for the tests it performs. All equipment used to analyze samples must be in good working order.

(2) A certified laboratory must have SOPs on the use, operation, and maintenance of all equipment necessary for the analyses it performs.

(3) A certified laboratory must document and retain a record of the maintenance of its equipment. The documentation must include:

(a) name of item;

(b) manufacturer name;

(c) model and serial number;

(d) manufacturer's instructions;

(e) date received;

(f) date placed in service;

(g) current physical location;

(h) date and description of each maintenance activity; and

(i) date and description of each repair.

(4) In preparing or verifying all standard curves, a certified laboratory must use reference materials of documented high purity and traceability. The certified laboratory must document and retain a record of the origin, purity, traceability of all reference materials. The record must include the date the reference material was received, the date the reference material was opened, and the expiration date of the reference material.

(5) A certified laboratory must use water that is free from constituents that could potentially interfere with the sample preparation or testing. The certified laboratory must monitor and document and retain a record of the quality of the laboratory water used in testing.

(6) For water used in microbiological methods, a certified laboratory must analyze and document its laboratory water annually for bactericidal properties. For water used in microbiological testing, a certified laboratory must also analyze its laboratory water monthly and document the results for pH, chlorine residual, standard plate count, and conductivity, and the certified laboratory

must also analyze the water annually and document the results for trace metals.

(7) A certified laboratory must use no less than analytical grade reagents. The certified laboratory must document and retain a record of the origin and purity, traceability of all reagents. The record must include the date of receipt of the reagent, the date the reagent was opened, and the expiration date of the reagent.

#### **R444-14-11. Analytical Methods.**

(1) A certified laboratory must have and maintain an in-house methods manual and SOPs. The methods manual and any associated reference works must be readily available to all technical employees.

(a) For each approved analyte or interdependent analyte group, the method used by the certified laboratory must be described in the methods manual. The method description or separate SOP must address the following:

- (i) analyte name;
- (ii) applicable matrix or matrices;
- (iii) method detection limit;
- (iv) scope and application;
- (v) summary of the method;
- (vi) any change to the approved method;
- (vii) definitions;
- (viii) interferences;
- (ix) safety;
- (x) equipment and supplies;
- (xi) reagents and calibration standards;
- (xii) sample collection, preservation, shipment and storage;
- (xiii) quality control;
- (xiv) calibration, validation and standardization procedures;
- (xv) data analysis and calculations;
- (xvi) method performance;
- (xvii) pollution prevention;
- (xviii) data review and acceptance criteria for QC measures;
- (xix) waste management;
- (xx) method identifier and references; and
- (xxi) any tables, diagrams, flowcharts and validation data.

(2) The department may only approve a certified laboratory to analyze an analyte or interdependent analyte group by specific method. The department may only approve a certified laboratory for an analyte or interdependent analyte group using methods described in the July 1, 1992, 1993, 1994, 1995, 1996, and 1997 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).

(3) 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.

(4) The department may approve a single method for analysis of an interdependent analyte group.

#### **R444-14-12. Sample Management and Documentation.**

(1) A certified laboratory must develop, document and implement a sample acceptance policy that clearly outlines the certified laboratory's sample acceptance requirements. The certified laboratory must make the sample acceptance policy readily available to all employees who accept samples and available to

personnel who collect samples in the field. The sample acceptance policy must include that:

(a) the person submitting the sample must provide full documentation with the sample, which must include:

- (i) sample identification;
- (ii) the location, date, and time of collection;
- (iii) collector's name; preservative added;
- (iv) matrix; and
- (v) any special remarks concerning the sample;
- (b) each sample or group of samples must include trip blanks, field blanks, equipment blanks, duplicates or other field-submitted quality control measures as required by the method;
- (c) each sample must be labeled with unique, durable, and indelible identification;
- (d) each sample must show evidence of proper preservation and use of sample containers allowed by the test method; and
- (e) each sample must be of adequate volume for the requested testing.

(2) A certified laboratory must develop, document and implement procedures that clearly outline the process to receive samples.

(3) A certified laboratory must check samples upon receipt for thermal and prior to analysis for chemical preservation as required by the method.

(a) The certified laboratory must document the results of preservation checks.

(b) For each sample that does not meet the preservation requirements of the test method, the certified laboratory must flag it upon receipt and continually throughout all phases of the analysis.

(4) A certified laboratory must properly store samples in containers and at temperatures specified by the method. The certified laboratory must document storage temperatures.

(5) A certified laboratory must develop and implement procedures to ensure and document that all samples and subsamples are analyzed within holding times.

(6) A certified laboratory must develop and implement a chronological log to document the receipt of each sample. The certified laboratory must record the following in the log:

- (a) date of receipt at the laboratory;
  - (b) date the sample was collected;
  - (c) unique laboratory identification code required in R444-14-12(7)(a);
  - (d) field identification code if supplied by the submitter;
  - (e) requested analysis, including method number, if applicable; and
  - (f) comments documenting sample rejection.
- (7) A certified laboratory must uniquely identify all samples and all subsamples.

(a) The certified laboratory must assign and document a unique identification code to each sample container received in the laboratory and attach a durable label with the unique identification code to the sample container.

(b) The certified laboratory must establish and document a link from subsamples back to the original sample.

(c) The certified laboratory shall treat all samples from public water supplies as routine compliance samples, except those samples for which the request clearly indicates that the samples are submitted as repeat or noncompliance samples.

(8) Each certified laboratory must have a record keeping system that allows historical reconstruction of all laboratory activities that produce analytical data.

(a) The certified laboratory must document, either in hard copy or machine readable format, all original raw data for each sample and subsample for the testing performed on each sample and subsample.

(b) The certified laboratory must associate the raw data from the test with a laboratory sample identification number, the date of analysis, instrument used, method used, actual calculations, and the technical employee's initials or signature.

(c) The certified laboratory must document which procedures, methods, laboratory forms, policies, equipment, personnel were used to produce the result for each test.

(9) A certified laboratory must retain all correspondence and notes from conversations concerning the final disposition of samples that the certified laboratory has rejected and must document any decision to proceed with the analysis of compromised samples which were improperly sampled, or were received with insufficient documentation, were improperly preserved, were received in the wrong containers, or were received beyond the holding time.

(10) The certified laboratory must produce a final report of its analysis.

(a) The final report must document the method used to produce each result. If the certified laboratory deviated from the test method used in producing the result, the method description on the final report must indicate that the method was modified. The certified laboratory must describe on the final report any abnormal condition of the sample, deviation from holding time, or preservation requirements that in the judgement of the certified laboratory might affect the result. The certified laboratory must produce the final report in such a way that the information required by this subsection is unambiguous, is inseparable from the final result, and that clearly defines the nature and substance of the variation.

(b) The certified laboratory must make a final report in a single identifiable document. It shall accurately, clearly, unambiguously, and objectively give the results in a manner that is understandable to the client. The basic information in the final report must include the following:

(i) report title with the name, address and phone number of the certified laboratory;

(ii) the name of client or project, and the client identification number;

(iii) description and laboratory identification code of the sample;

(iv) the dates of sample collection, sample receipt, sample preparation, and sample analysis;

(v) the time of either sample preparation or analysis or both if the required holding time for either activity is 48 hours or less;

(vi) a method identifier for each method, including methods for preparation steps, used to produce the test result;

(vii) the MDL or minimum reporting limit for the test result;

(viii) the test result;

(ix) a description of any quality control failures and deviations from the accepted method or methods;

(x) the signature and title of the individuals who accept responsibility for the content of the report;

(xi) date of issue; and

(xii) a clear identification of any result generated by a laboratory other than the laboratory producing the report, with the name and address of the subcontracted laboratory.

(c) The certified laboratory must support by supplementary documentation any correction, addition or deletion from an original final report after it has been issued. Any correction, addition or deletion must clearly identify its purpose, and must meet all reporting requirements of this rule.

(d) If authorized by the public water system, the certified laboratory must also report the results of routine compliance drinking water samples from the public water system to the Department of Environmental Quality, Division of Drinking Water. Reports to the Department of Environmental Quality, Division of Drinking Water may be filed electronically or by other means acceptable to Department of Environmental Quality, Division of Drinking Water.

(11) If a certified laboratory offers that it can document chain of custody in its testing to meet legal and evidentiary standards, the certified laboratory must establish procedures to establish and document chain of custody sufficient to meet legal and evidentiary standards.

(12) A certified laboratory must retain for five years all documentation required by this rule.

(a) If the certified laboratory retains in a machine readable format any documentation required by this rule, the certified laboratory must maintain it in a protected form that either prohibits or clearly indicates any deletion or alteration to the documentation.

(b) All documentation required by this rule must be available to the department.

#### **R444-14-13. Proficiency Testing.**

For a certified laboratory to become approved and to maintain approval for an analyte or an interdependent analyte group by a specific method, the certified laboratory must, at its own expense, meet the proficiency testing requirements of this rule.

(1) The certified laboratory must enroll and participate in a proficiency testing program for each analyte or interdependent analyte group. For each analyte or interdependent analyte group for which proficiency testing is not available, the certified laboratory must establish, maintain, and document the accuracy and reliability of its procedures through a system of internal quality management.

(a) The certified laboratory must participate in more than one proficiency testing program if necessary to be evaluated to obtain or maintain approval to analyze an analyte or interdependent analyte group.

(b) The certified laboratory must, prior to obtaining approval, notify the department of the authorized proficiency testing program or programs in which it has enrolled for each analyte or interdependent analyte group.

(2) The certified laboratory must follow the proficiency testing provider's instructions for preparing the proficiency testing sample and must analyze the proficiency testing sample as if it were a client sample.

(a) The certified laboratory must participate in an authorized proficiency testing program for at least twelve months before the certified laboratory may change to another proficiency testing provider for the analyte or interdependent analyte group.

(b) The certified laboratory must notify the department before the certified laboratory changes enrollment in an authorized proficiency testing program.

(c) The certified laboratory must direct the proficiency testing provider to send, either in hard copy or electronically, a copy of each evaluation of the certified laboratory's proficiency testing audit results to the department. The certified laboratory must allow the proficiency testing provider to release all information necessary for the department to assess the certified laboratory's compliance with this rule.

(d) The following are strictly prohibited:

(i) performing multiple analyses (replicates, duplicates) which are not normally performed in the course of analysis of routine samples;

(ii) averaging the results of multiple analyses for reporting when not specifically required by the method; or

(iii) permitting anyone other than bona fide laboratory employees who perform the analyses on a day-to-day basis for the certified laboratory to participate in the generation of data or reporting of results.

(3) In each calendar year, the certified laboratory must complete at least two separate proficiency testing audits for each analyte or interdependent analyte group.

(4) The certified laboratory may not:

(a) discuss the results of a proficiency testing audit with any other laboratory until after the deadline for receipt of results by the proficiency testing provider;

(b) if the certified laboratory has multiple testing sites or separate locations, discuss the results of a proficiency testing audit across sites or locations until after the deadline for receipt of results by the proficiency testing provider;

(c) send proficiency testing samples or portions of samples to another laboratory to be tested; or

(d) knowingly receive a proficiency testing sample from another laboratory for analysis and fail to notify the department of the receipt of the other laboratory's sample within five business days of discovery.

(5) The certified laboratory must maintain a copy of all proficiency testing records, including analytical worksheets. The proficiency testing records must include a copy of the authorized proficiency testing provider report forms used by the laboratory to record proficiency testing results.

(a) The director of the certified laboratory must sign and retain an attestation statement stating that the certified laboratory followed the proficiency testing provider's instructions for preparing the proficiency testing sample and analyzed the proficiency testing sample as if it were a client sample.

(b) The certified laboratory must analyze and report the results of the proficiency testing test by the deadline set by the proficiency testing provider.

(6) Upon receipt of the evaluation of the results from the proficiency testing provider, the department shall assign a grade for each analyte where:

(a) "Acceptable" equals 100;

(b) "Not acceptable" equals zero; and

(c) "Nonparticipation" equals zero.

(7) The certified laboratory must receive a grade of 100 for any single analyte to pass a proficiency testing audit for that analyte. The certified laboratory must receive an average grade of 80 for any

interdependent analyte group to pass a proficiency testing audit for the interdependent analyte group.

(a) If the proficiency testing evaluation is to obtain or maintain approval for an interdependent analyte group by a single method, the grade for the interdependent analyte group is the average of the grades for the individual analytes in the evaluation of the results from the proficiency testing provider.

(b) If the proficiency testing evaluation is of multiple concentrations of a single analyte, the department shall average the grades for individual concentrations and assign the average as the grade for the analyte.

(8) If the certified laboratory that fails a proficiency testing audit, it must submit a corrective action plan to the department.

#### **R444-14-14. Remedial Proficiency Testing.**

A certified laboratory that fails a proficiency testing audit for an analyte or interdependent analyte group under the proficiency testing requirements of section R444-14-12 may comply with the requirements of this section to maintain or upgrade approval for the analyte or interdependent analyte group.

(1) The certified laboratory must take corrective action to remedy the reason for its failure. Upon taking corrective action, the certified laboratory may seek to demonstrate that its performance is acceptable by participating, at the laboratory's own expense, in a remedial proficiency testing audit. If the certified laboratory passes the remedial proficiency testing audit, the department may upgrade the approval status for the analyte or interdependent analyte group.

(2) A certified laboratory may undergo an additional proficiency testing audit at any time. However, for purposes of department approval, an additional proficiency testing audit may be used as a remedial proficiency testing audit only if:

(a) The certified laboratory was approved for the analyte or interdependent analyte group and fails a proficiency testing audit for the analyte or interdependent analyte group.

(b) After failing a proficiency testing audit for an analyte or interdependent analyte group, the certified laboratory must inform the department of its corrective action to remedy the reason for its failure.

(c) After taking corrective action, but before participation in its next audit proficiency testing required by section 12, the certified laboratory must notify the department in writing that it intends to participate in a remedial proficiency testing audit. The certified laboratory must indicate the proficiency testing provider for the remedial proficiency testing audit, and the analyte or interdependent analyte group for which the certified laboratory seeks to obtain or upgrade approval.

(3) The certified laboratory may participate in only one remedial proficiency testing audit for an analyte or interdependent analyte group in any 12 month period to obtain or upgrade approval under this section.

(4) If the department determines that the certified laboratory's choice for its remedial proficiency testing audit is not appropriate for the method or matrix, the department shall notify the certified laboratory by telephone within two business days of receipt of the certified laboratory's notice of its intention to participate in a remedial proficiency testing audit. In addition, the department shall send a written notice to the certified laboratory within two business days of receipt of notification. The certified laboratory shall direct the proficiency testing provider to send, either in hard copy or

electronically, a copy of each evaluation of the certified laboratory's remedial proficiency testing results to the department. The certified laboratory must allow the proficiency testing provider to release all information necessary for the department to assess the certified laboratory's compliance with this rule.

(5) The certified laboratory must follow all of the requirements that apply to all other proficiency testing.

(6) The department shall not take any adverse action if a certified laboratory fails a remedial proficiency testing audit intended to obtain or upgrade approval under this section.

#### **R444-14-15. Quality Control.**

(1) A certified laboratory must follow the quality control requirements of the method.

(2) Accuracy may be estimated by evaluating a sample with a known value. Contamination may be determined by evaluating a method blank. Interference may be determined by evaluating a matrix spike sample. Precision may be determined by evaluating the results of duplicate tests.

(3) If the chemistry method does not specify the quality control requirements for accuracy, precision, selectivity, sensitivity, interference, or contamination, a certified laboratory must meet the missing quality control requirements specific to accuracy, precision, selectivity, sensitivity, interference, or contamination, of this subsection.

(a) The certified laboratory must evaluate contamination, precision, accuracy, and interference at least once for each 20 samples in each batch. If a batch is less than 20 samples, the certified laboratory must evaluate at least once for the batch. However, methods used to test for the following do not require matrix spiking to evaluate for interference:

- (i) asbestos;
- (ii) paint filter
- (iii) ignitability;
- (iv) corrosivity;
- (v) oil and grease;
- (vi) residual ozone;
- (vi) residual chlorine;
- (vii) conductivity;
- (ix) cation exchange of soils;
- (x) compatibility test for waste;
- (xi) membrane liners;
- (xii) saturated hydrated conductivity;
- (xiii) saturated leachate conductivity;
- (xiv) intrinsic permeability;
- (xv) extraction procedure for oily wastes;
- (xvi) multiple extraction procedure;
- (xvii) CBOD;
- (xviii) BOD;
- (xix) pH;
- (xx) TSS;
- (xxi) TDS;
- (xxii) TVS; and
- (xxiii) Total solids.

(b) For all organic chromatographic methods, the certified laboratory must add surrogate compounds to all samples, calibration standards, and blanks for methods where surrogate compounds are reasonably available.

(c) The certified laboratory must determine and document accuracy, precision and sensitivity with each new method and with any significant change, such as a change in location of the laboratory, a new technical employee, a new instrument, or a new technique.

(d) The certified laboratory must calculate and track precision and accuracy of test measurements using the data collected in conducting the activities required in this section. The certified laboratory must use the method acceptance ranges or quality control charts to assess data acceptance. The acceptance ranges or quality control charts must be readily available to all personnel involved with the data review or data acceptance processes.

(e) The certified laboratory must determine and document method sensitivity from the method detection limit for the target analyte. The certified laboratory must determine and annually verify the method detection limit using laboratory pure water or the matrix of interest. The certified laboratory must document the procedure used to determine and verify the method detection limit.

(f) If a method is used to identify the existence of an analyte by performing a qualitative test, the certified laboratory must first employ the method to identify the existence of the analyte in a calibration standard known to contain the target analyte.

(g) The certified laboratory must perform a confirmatory test for organic chromatographic methods upon analyzing for an analyte for which it has not previously tested, upon analyzing for an analyte in a matrix which it has not previously analyzed, or if it has reason to doubt the selectivity of the result. The confirmatory test must either:

- (i) employ a different scientific technique, which may include:
  - (A) second column confirmation;
  - (B) derivatization;
  - (C) mass spectral interpretation; and
  - (D) alternate detector; or
- (ii) test by alternate wavelength.

(h) The certified laboratory must verify the accuracy of all initial standard curves by using calibration standards obtained from a different source. The certified laboratory must verify the integrity of each standard curve upon preparing the standard curve, but no less than once every three months for each standard curve. If not specified by the method, the result of the verification test must be within 15% of the true value of the calibration standard as represented by the source.

(i) The certified laboratory must verify the accuracy of the standard curve each day it is used by analyzing a blank and a calibration standard. In addition, to the extent possible, the certified laboratory must verify the standard curve at least once for each 20 samples by analyzing calibration standards that have values that bracket the anticipated values of the samples. However, if this is not possible, the certified laboratory must analyze calibration standards that vary throughout the possible range of values for the samples.

(4) If a microbiology method does not specify the quality control requirements for precision, sensitivity, selectivity, or contamination, a certified laboratory must meet the missing quality control requirements specific to precision, sensitivity, selectivity, or contamination of this subsection.

(a) For the membrane filter (MF) test, the certified laboratory must test for contamination of each filtration apparatus by filtering 20 to 30 ml of dilution water through the membrane filter and

analyzing for growth. The certified laboratory must test for contamination prior to performing the MF tests on each batch of samples, after testing every tenth sample, and after testing the batch of samples.

(b) For the MF test, the certified laboratory must test for selectivity by verifying at least 10% of MF sample sheen colonies.

(c) The certified laboratory must analyze in duplicate, at least 5% of the samples that it suspects to be positive. If more than one technical employee analyzes samples, the certified laboratory must see that each technical employee analyzes a duplicate test monthly on at least one of the samples that another technical employee has found to be positive.

(d) The certified laboratory must test for sensitivity by inoculating a representative sample from each lot of culture media using positive and negative control cultures for the microorganisms of interest.

(5) If a radiochemistry method does not specify the quality control requirements for accuracy, precision, and contamination a certified laboratory must meet the missing quality control requirements specific to accuracy, precision, and contamination of this subsection.

(a) The certified laboratory must check its instruments to determine the absence of instrument contamination by analyzing blanks for the nuclide of interest at the following frequencies:

(i) low background proportional counter - daily;

(ii) low level liquid scintillation counter - daily;

(iii) scintillation counter - weekly;

(iv) alpha spectrometers - weekly;

(v) radon flask counters - monthly; and

(vi) gamma spectrometer - monthly.

(b) The certified laboratory must evaluate for contamination, precision, and accuracy at least once for each 20 samples in each batch. If a batch is less than 20 samples, the certified lab must evaluate at least once for the batch. The certified laboratory is not required to evaluate for contamination where no chemical separation or other chemical manipulation is performed.

#### **R444-14-16. Corrective Action Procedure.**

(1) A certified laboratory must develop written SOPs that govern its response to quality control results that are outside acceptance ranges that the certified laboratory has established to meet the requirements of the method or this rule. The SOPs must address the following:

(a) identification of anticipated problems and the anticipated or recommended corrective action to correct or eliminate the problem and future occurrences of the problem; and

(b) requirements for written records that document both anticipated and unanticipated problems, the corrective measures taken, and the final outcome of the corrective action.

(2) A certified laboratory must have written policy and procedures for the resolution of complaints it receives about the laboratory's activities. The certified laboratory must document and maintain records of complaints and of the actions taken by the laboratory in response to each complaint.

(3) A certified laboratory must document a response to each deficiency noted on the department written report of the department's findings from an on-site assessment.

(4) A certified laboratory must have written policy and procedures to identify the cause and resolve the cause for a failed

proficiency testing audit. The certified laboratory must document and maintain records of its actions taken to resolve the cause for the failure.

#### **R444-14-17. Denying, Downgrading and Revocation.**

(1) The department may downgrade a certified laboratory from approved to provisionally approved for an analyte or interdependent analyte group if the certified laboratory fails its most recent proficiency testing audit required by section R444-14-13. The department may upgrade a certified laboratory from provisionally approved to approved for an analyte or an interdependent analyte group if the certified laboratory passes the next proficiency testing audit required by section R444-14-13 or a remedial proficiency testing audit allowed by section R444-14-14.

(2) The department shall revoke approval for a certified laboratory that is provisionally approved for an analyte or an interdependent analyte group if the certified laboratory fails a proficiency testing audit required by section R444-14-13, regardless of why the certified laboratory was provisionally approved.

(3) If a certified laboratory fails to submit a corrective action plan to the department within thirty days of the department's sending a notice of failure of a proficiency testing audit required by section R444-14-13, the department shall revoke the approval for the analyte or interdependent analyte group.

(4) If the department has revoked a certified laboratory's approval for an analyte or interdependent analyte group because of failure of a proficiency testing audit in two consecutive proficiency testing audits required under section R444-14-13, the certified laboratory may seek approval under section R444-14-4, but not prior to 6 months from the revocation of approval. In the alternative, the certified laboratory may seek approval by:

(a) requesting approval in writing for the analyte or interdependent analyte group;

(b) passing a proficiency testing audit, either under section R444-14-13 or section R444-14-14, upon which the department may provisionally approve for the analyte or interdependent analyte group; and

(c) passing a proficiency testing audit on a successive proficiency testing audit, either under section R444-14-13 or section R444-14-14, upon which the department may grant approval for the analyte or interdependent analyte group.

(5) The department may revoke approval for an analyte or interdependent analyte group if a certified laboratory does not adhere to the approved method or to the quality assurance requirements of this rule.

(6) The department may deny certification if the applicant laboratory:

(a) fails to meet the personnel qualifications for key personnel, including the education, training and experience requirements as required by the department;

(b) denies entry to the certification officer to the laboratory for any on-site assessment;

(c) denies the certification officer access to the laboratory records for any assessment; or

(d) fails to correct deficiencies identified in a prior on-site assessment.

(7) If the department denies certification because the applicant laboratory submitted an unacceptable corrective action plan, the applicant laboratory may submit only one additional corrective

action plan to remedy the deficiencies. If the department determines that the corrective action plan is insufficient to correct the deficiencies, the applicant laboratory must wait six months before again applying for certification.

(8) The department may downgrade a certified laboratory from certified to provisionally certified if the certified laboratory fails to notify the department within 30 calendar days of changes in key personnel or laboratory location.

(9) The department may revoke a certified laboratory's certification for a minimum of one year if it:

(a) submits a proficiency testing sample to another laboratory for analysis;

(b) submits proficiency testing sample results generated by another laboratory as its own;

(c) receives a proficiency testing sample from another applicant or certified laboratory for analysis and fails to notify the department of the receipt of other certified laboratory's sample within five business days of discovery;

(d) falsifies data on any report or is involved in any other deceptive practice;

(e) misrepresents any material fact pertinent to receiving certification; or

(f) fails to correct deficiencies from an on-site assessment by the date agreed to in the corrective action plan.

(10) The department may revoke a certified laboratory's certification for an indeterminate time if it:

(a) denies the certification officer entry to the certified laboratory for an on-site assessment;

(b) permits persons other than its employees to perform or report results of analyses governed by this rule;

(c) does not meet the personnel requirements and responsibilities under R444-14-8; or

(d) is a class II certified laboratory and performs analyses beyond the its certification level.

(11) The department shall revoke a certified laboratory's certification if it fails to pay its annual certification or approval fee within 90 calendar days of invoice. The department may revoke a certified laboratory's certification if it fails to pay any approval fee within 90 calendar days of invoice. A laboratory whose certification has been revoked for failure to pay certification or approval fees may not reapply for certification until it pays past due fees.

**R444-14-18. Reciprocal Certification.**

The department may certify a laboratory that is NELAP-accredited. A laboratory seeking certification because of its NELAP accreditation must provide evidence of its accreditation and apply for certification on that basis. A laboratory certified on the basis of NELAP accreditation must obtain approval from the department for each analyte or interdependent analyte group and meet the approval requirements of this rule.

**R444-14-19. Penalties.**

A laboratory violates this rule and is subject to the penalties provided in Title 26, Chapter 23, including administrative and civil penalties of up to \$5,000.00 for each offense, criminal sanctions of a class B misdemeanor on the first offense and a class A misdemeanor on the second offense, and criminal penalties of up to \$5,000.00 for each offense if it:

(1) without being certified under this rule, holds itself out as one capable of testing samples for compliance with Federal Safe Drinking Water Act, Federal Clean Water Act, Federal Resource Conservation and Recovery Act; or

(2) without being approved to analyze for the analyte or interdependent analyte group, analyzes samples for the analyte or interdependent analyte group for compliance with rules established by the Utah Department of Environmental Quality that require that the analysis be conducted by a certified laboratory.

**KEY: laboratories**

**[1994]1998**

**Notice of Continuation June 12, 1997**

**26-1-30(2)(m)**



**Human Services, Recovery Services  
R527-39  
Applicant/Recipient Cooperation**

**NOTICE OF PROPOSED RULE**

(New)

DAR FILE NO.: 20522

FILED: 12/15/97, 15:40

RECEIVED BY: NL

**RULE ANALYSIS**

PURPOSE OF OR REASON FOR THIS FILING: Section 62A-11-307.2 as amended July 1, 1997, requires the Office of Recovery Services to determine and redetermine, when appropriate, whether an obligee whose rights have been assigned to the state as a condition of eligibility for public assistance is cooperating in providing information necessary for establishing paternity or establishing, modifying, or enforcing a child support order. This rule specifies child support program objectives which may require applicant/recipient cooperation to attain. It also specifies the actions applicant/recipients are expected to take when requested by the Office of Recovery Services/Child Support Services (ORS/CSS) in achieving the listed objectives. Section 62A-11-307.2 allows the applicant/recipient to contest a determination of noncooperation by requesting a good cause exemption from the Department of Workforce Services or by filing a written request for an adjudicative proceeding with ORS/CSS. This rule describes the specific options available to the applicant/recipient who wishes to contest the ORS/CSS decision when a good cause claim is not appropriate.

SUMMARY: R527-39-1, the definitions section, provides the specific elements upon which a determination of cooperation or noncooperation is made. It lists the objectives of identifying and locating parents, establishing paternity, obtaining support payments and any other payments or property due the child, and obtaining a medical support order. It also states that the applicant/recipient must cooperate in keeping office appointments and providing available verbal and written information including documents,

participate in hearings as required, provide other needed information, and turning over support payments to ORS/CSS following assignment of those payments to the state. R527-39-2 gives the options available to the applicant/recipient who wishes to request that the Office of Recovery Services conduct a review of the noncooperation determination. It provides for an informal review by an ORS/CSS Agent which may be appealed to a team manager, an administrative review with a Presiding Officer, and judicial review by the district court. It makes it clear that a request to the district court for judicial review may be made at any point in the process.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Section 62A-11-307.2

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: None.
- ❖ LOCAL GOVERNMENTS: None.
- ❖ OTHER PERSONS: None.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

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

Human Services  
Recovery Services  
Fourteenth Floor, Eaton/Kenway Bldg.  
515 East 100 South  
PO Box 45011  
Salt Lake City, UT 84145-0011, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:

Wayne Braithwaite at the above address, by phone at (801) 536-8986, by FAX at (801) 536-8509, or by Internet E-mail at hsdadmin.hsrsslc.wbraithw@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 02/02/98.

THIS FILING MAY BECOME EFFECTIVE ON: 02/03/98

AUTHORIZED BY: Emma Chacon, Director

**R527. Human Services, Recovery Services.**

**R527-39. Applicant/Recipient Cooperation.**

**R527-39-1. Definition.**

1. An applicant/recipient of IV-A services must cooperate with the Office of Recovery Services/Child Support Services (ORS/CSS) in:

- a. identifying and locating the parent of a child for whom aid is claimed;
- b. establishing the paternity of a child born out of wedlock for whom aid is claimed;
- c. obtaining support payments for the recipient and for a child for whom aid is claimed;
- d. obtaining any other payments or property due the recipient or the child; and

- e. obtaining an order for medical support.
- 2. The applicant/recipient must cooperate with ORS/CSS with specific actions that are necessary for the achievement of the objectives listed above, as follows:
  - a. appearing at the ORS/CSS office to provide verbal or written information, or documentary evidence, known to, possessed by, or reasonably obtainable by the recipient;
  - b. participating at judicial or other hearings or proceedings;
  - c. providing information;
  - d. turning over to ORS/CSS any support payments received from the obligor after the Assignment of Collection of Support Payments has been made.

**R527-39-2. Request for Review.**

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

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

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

**KEY: child support  
1998**

**62A-11-307.2**



**Human Services, Recovery Services**

**R527-430**

**Administrative Notice of Lien-Levy  
Procedures**

**NOTICE OF PROPOSED RULE**

(New)

DAR FILE NO.: 20523

FILED: 12/15/97, 15:40

RECEIVED BY: NL

**RULE ANALYSIS**

PURPOSE OF OR REASON FOR THIS FILING: Effective July 1, 1997 Section 62A-11-304.1 was repealed and reenacted. This section now allows the Office of Recovery Services to attach and seize assets of an obligor held in financial institutions without the necessity of initiating an adjudicative proceeding or obtaining a judicial or administrative order from



any other judicial or administrative tribunal. However, Subsection 62A-11-304.1(5)(a)(ii) allows the obligor to contest the action within 15 days of the date the notice of lien-levy is sent. This rule establishes procedures that apply when an unobligated spouse who is co-owner of a financial account with the obligor contests a lien-levy upon that account.

**SUMMARY:** R527-430-1 provides the statutory citations for notice of lien-levy procedures. R527-430-2 gives the purpose of the rule as providing procedures for the Office to determine the amount that a financial institution should release to an unobligated spouse after the s/he contests a lien-levy on a financial account owned jointly with the obligor. In R527-400-3 "unobligated spouse" is defined as a spouse and joint-owner of an account who is not obligated under the child support order. Statutory cites for other terms used in the rule are also provided. The procedures that apply when an account attached under lien-levy is contested by an unobligated spouse are addressed in R527-430-4. It specifies how and when the unobligated spouse must submit the request for review, the documentation the unobligated spouse must provide, how the determination of the amount to be released is made, how the financial institution is notified to release property, and the requirement for the financial institution to secure the remaining portion of the property for a period of 21 days after the Notice of Lien-levy has been sent before the property is released to the Office.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Section 62A-11-304.1

ANTICIPATED COST OR SAVINGS TO:

- ❖THE STATE BUDGET: None.
- ❖LOCAL GOVERNMENTS: None.
- ❖OTHER PERSONS: None.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Costs to financial institutions for processing lien-levies and releasing property will vary.

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

Human Services  
Recovery Services  
Fourteenth Floor, Eaton/Kenway Bldg.  
515 East 100 South  
PO Box 45011  
Salt Lake City, UT 84145-0011, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:

Wayne Braithwaite at the above address, by phone at (801) 536-8986, by FAX at (801) 536-8509, or by Internet E-mail at hsdadmin.hsorsslc.wbraithw@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 02/02/98.

THIS FILING MAY BECOME EFFECTIVE ON: 02/03/98

AUTHORIZED BY: Emma Chacon, Director

**R527. Human Services, Recovery Services.**

**R527-430. Administrative Notice of Lien-Levy Procedures.**

**R527-430-1. Authority.**

This rule establishes procedures for Notice of Lien and Levy pursuant to Subsections 62A-11-103(4), (14); 62A-11-104(9); 62A-11-304.1(1)(h)(i)(B), (1)(h)(ii), (1)(h)(iii), (1)(h)(iv), (2), (5)(b); 62A-11-304.5 (1)(b); and Section 62A-11-313.

**R527-430-2. Purpose.**

The purpose of this rule is to provide procedures for the Office of Recovery Services/Child Support Services (ORS/CSS) to determine the amount that a financial institution should release to an unobligated spouse who jointly owns a financial account, as defined in Subsection 62A-11-103(4), when ORS/CSS has subjected the account to a Notice of Lien-Levy, and the unobligated spouse has contested the action.

**R527-430-3. Definitions.**

1. Terms used in this rule are defined in Sections 62A-11-103, 62A-11-303 and 62A-11-401.

2. In addition, "unobligated spouse" means a spouse and joint-owner of a financial account, who is not obligated under the child support order that is the basis for the action.

**R527-430-4. Procedures on Joint Financial Accounts.**

The procedures below will apply when an unobligated spouse contests a Notice of Lien-Levy upon a joint financial account.

1. The unobligated spouse must make a written request to ORS/CSS to review the action within 15 days of the date the concurrent notice of lien-levy was sent to the obligor and the unobligated spouse, pursuant to Subsection 62A-11-304.1(5)(a).

2. The unobligated spouse must provide ORS/CSS with documentation of recent income and/or documentation of the sources of deposits made to the financial account. Examples of income documentation include: copies of tax returns for the prior year with W-2's attached; or, copies of two or more recent pay records. Examples of documentation of deposits to a financial account include: receipts or statements which show the sources of deposits made to the financial institution for the current month and one or more prior months.

3. ORS/CSS will determine the amount that the financial institution should release to the unobligated spouse based upon the proportionate share of the income earned by the unobligated spouse, or the proportionate share of deposits made to the financial account by the unobligated spouse, or a combination of the two methods.

4. If it is determined that a portion of the property should be released unobligated spouse, ORS/CSS will notify the financial institution pursuant to Subsection 62A-11-304.1(5)(b). 5. Upon receipt of a notice of release from ORS/CSS, the financial institution shall release the property that is specified in the notice of release, but continue to secure the remaining property from unauthorized transfer or disposition until 21 days after the date the original Notice of Lien-Levy was sent, at which time the financial institution shall surrender the remaining property to ORS/CSS pursuant to Subsection 62A-11-304.1(5)(b).

**KEY: child support  
1998**

**62A-11-304.1**



# Human Services , Recovery Services **R527-550** Assessment

## NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 20520  
FILED: 12/15/97, 14:29  
RECEIVED BY: NL

### RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: To update site information as a result of the welfare reform bill, new statute, and the creation of a new department. To simplify language.

SUMMARY: The amendment corrects site changes and simplifies language.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Sections 62A-7-124, 62A-11-104, 62A-11-107, 62A-11-110, 62A-11-111, 62A-11-201, 62A-11-301, 78-3A-906, 78-45-1, and 78-45-4.3

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: None.
- ❖ LOCAL GOVERNMENTS: None.
- ❖ OTHER PERSONS: None.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

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

Human Services  
Recovery Services  
Fourteenth Floor, Eaton/Kenway Bldg.  
515 East 100 South  
PO Box 45011  
Salt Lake City, UT 84145-0011, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:

Linda Long or Laurie Anderson at the above address, by phone at (801) 536-8949, by FAX at (801) 536-8509, or by Internet E-mail at hsrsslc.llong@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 02/02/98.

THIS FILING MAY BECOME EFFECTIVE ON: 02/03/98

AUTHORIZED BY: Emma L. Chacon, Director

## **R527. Human Services, Recovery Services.**

### **R527-550. Assessment.**

#### **R527-550-1. Foster Care.**

1. ORS shall collect child support and entitlement benefits in behalf of children placed in foster care in accordance with Section ~~[78-3a-49]~~78-3a-906, 78-45-1 et seq., 62A-11-301 et seq., and Federal regulations 45 CFR 300 through 307.

2. The monthly support obligation will be assessed according to the child support guidelines enacted in Section 78-45-7.2 through 78-45-7.18. ~~[A child support collection in excess of the monthly cost of care, but not more than the monthly support obligation, will be distributed by ORS to the Division of Family Services for deposit in the child's trust.]~~Collections plus third party payments during the month which exceed the monthly court ordered amount will be used to reimburse the state for past payments made in behalf of the child by the Division of Family Services or IV-A agency.

3. Third party payments are defined as entitlement benefits, insurance benefits, trust funds benefits, and so forth.

4. If funds are collected in excess of the total accumulated cost of care, but not more than the total support obligation, ORS shall distribute the excess to the ~~[appropriate source]~~division for deposit in the child's trust or to the custodial parent if the child has returned home.

#### **R527-550-2. Youth Corrections.**

1. ORS shall collect child support and entitlement benefits in behalf of children placed in the custody of the Division of Youth Corrections (DYC) in accordance with Section ~~[78-3a-49]~~78-3a-906, 78-45-1 et seq., 62A-11-301 et seq., and Federal regulations 45 CFR 300 through 307.

2. The monthly support obligation will be assessed according to the child support guidelines enacted in Section 78-45-7.2 through 78-45-7.18. ~~[A child support collection in excess of the monthly cost of care, but not more than the monthly support obligation, will be distributed by ORS to the Division of Youth Corrections (DYC) for deposit in the child's trust.]~~Collections plus third party payments during the month which exceed the monthly court ordered amount will be used to reimburse the state for past payments made in behalf of the child by the Division of Youth Corrections.

3. The cost of care is computed by multiplying the Division of Youth Correction's contract rate (according to the annual DYC contract/rate listing) for a particular facility, group home, or service by the number of days of care or service hours provided by the contractor as reported on the Youth Corrections Placement History Screen.

4. Third party payments are defined as entitlement benefits, insurance benefits, trust fund benefits, and so forth.

5. If funds are collected in excess of the total accumulated cost of care ORS shall distribute the excess to the ~~[appropriate source]~~division for deposit in the child's trust or to the custodial parent if the child has returned home.

#### **R527-550-3[4]. Public Assistance Overpayments/Retained Support.**

A. Obligor not on Assistance.

1. The obligor will be asked~~[shall be required]~~ to complete an income asset affidavit.

2. The total liability shall be reviewed with the obligor.  
 3. ~~The obligor will be requested~~[if the obligor has the ability ~~she shall be encouraged~~] to pay the total obligation in full.  
 4. If total payment is not possible,~~review~~ the type of debt, the anticipated length of time to repay the debt, total income, assets and expenses of the obligor's household, and any anticipated changes in the household circumstances will be reviewed.  
 5. This information will be used to determine a monthly repayment amount. When feasible, the monthly repayment amount shall be no less than 10% of the household income and liquid resources.

B. Obligor on Assistance  
~~[1. Financial Overpayment]~~  
 1. Payment may be made by ~~grant~~assistance recoupment. The recoupment may be voluntary or may be recouped without consent in accordance with rule or federal regulations.

2. The amount of the recoupment may be set through agreement or determined in accordance with federal regulations (7 CFR 273.18(g)(4) or rule (R986-213-306).  
~~[The amount of the grant recoupment shall be determined in accordance with 45 CFR 233.20 (12 and 13):~~

~~2. Food Stamp Overpayment~~  
~~Payment may be made by allotment reduction, coupons, or offset in accordance with 7 CFR 273.18 (g)~~  
~~The amount of the allotment reduction shall be determined in accordance with 7 CFR 273.18(g)(3)]~~

ORS shall be responsible for reviewing all requests for Food Stamp retroactive benefits to determine if an offset is to be made. A determination of the amount due the recipient shall be made within five (5) days from the date the request is received by ORS.

~~[3. Retained Support~~  
~~Utah has received a waiver from Title IV-A to allow recipients with Retained Support obligations to make payments on the overpayment debt by voluntary vendor payment. The guidelines established to determine the amount of grant recoupment in 45 CFR 233.20 (12 and 13) shall be used to determine the amount of vendor payment when possible.]~~

**KEY: child support, foster care,**~~[social security,]~~ **youth corrections, public assistance overpayments**  
**[February 22, 1996]1998**

~~62A-7-124~~  
~~62A-9-129]~~  
 62A-11-104  
 62A-11-107  
 62A-11-110  
 62A-11-111  
 62A-11-201  
 62A-11-301  
 [78-3a-49]78-3A-906  
 78-45-1  
 78-45-4.3

## Human Services, Recovery Services **R527-928** Lost Checks

**NOTICE OF PROPOSED RULE**  
 (Amendment)  
 DAR FILE No.: 20518  
 FILED: 12/15/97, 14:15  
 RECEIVED BY: NL

### **RULE ANALYSIS**

**PURPOSE OF OR REASON FOR THIS FILING:** The creation of the Department of Workforce Services resulted in needed changes to this rule in order to reference that new department and the assistance checks that they now issue.

**SUMMARY:** The amendment incorporates and identifies a new department.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING:** Title 70A, Chapter 3, and Sections 35A-1-502, 62A-11-104, 62A-11-107, and 62A-11-201

**ANTICIPATED COST OR SAVINGS TO:**  
 ❖THE STATE BUDGET: None.  
 ❖LOCAL GOVERNMENTS: None.  
 ❖OTHER PERSONS: None.  
**COMPLIANCE COSTS FOR AFFECTED PERSONS: None.**

**THE FULL TEXT OF THIS FILING MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:**  
 Human Services  
 Recovery Services  
 Fourteenth Floor, Eaton\Kenway Bldg.  
 515 East 100 South  
 PO Box 45011  
 Salt Lake City, UT 84145-0011, or  
 at the Division of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS FILING TO:**  
 Laurie Anderson at the above address, by phone at (801) 536-8947, by FAX at (801) 536-8509, or by Internet E-mail at hsrsslc.landars@email.state.ut.us.

**INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 02/02/98.**

**THIS FILING MAY BECOME EFFECTIVE ON: 02/03/98**

**AUTHORIZED BY: Emma L. Chacon, Director**

**R527. Human Services, Recovery Services.**

**R527-928. Lost Checks.**

**R527-928-1. Responsibility for Collection and Investigation.**

ORS shall be responsible for the collection and investigation of lost or stolen department checks and Department of Workforce Services public assistance checks.

**R527-928-2. Cashing Department of Human Services and Department of Workforce Services Issued Checks.**

The Departments~~[of Human Services has]~~ have specific policy concerning the replacement of department issued checks which have been reported as lost or stolen and on which a stop payment has been placed or where the check has been returned as a forged check to the financial institution or store.

A. The Departments~~[of Human Services]~~ will replace a department issued check for any bank or store if all of the following conditions have been met:

1. An employee of the bank or store personally observes the payee endorse the check. This includes the original payee and any third party to whom the payee may have made the check payable.

2. An employee examined a picture bearing governmental issued media presented by the payee and was satisfied that the person presenting the check is in fact the payee. Examples of acceptable identification are, a Utah Motor Vehicle Operator's License or a Utah Identification card. Identification must be obtained for all payees endorsing the check. The employee must note the source of the identification and the identification number on the check.

3. The employee who approves the cashing of the check must make an identifying mark which will identify the employee in the event legal action is initiated at a later date.

4. The replacement check to the bank or store must be requested within 120 days of the request on the "Check Return Without Entry" notice or the date of notification of the stop payment.

B. If all of the actions listed above are not taken, the Department will be unable to replace the check with one exception. In some cases, public assistance recipients who do not have a picture identification will be identified at the public assistance office. The office will stamp the recipient's check with a guaranteed for payment stamp. In the unlikely event that a check with this stamp is returned with a stop payment, the check will be replaced by contacting the check fraud ~~[investigator]~~agent.

**KEY: public assistance programs, banks and banking, fraud**

~~[1994]~~1997

70A-3

~~[62A-9-129]~~35A-1-502

~~[62A-9-130]~~

62A-11-104

62A-11-107

~~[62A-11-128 to 134]~~

62A-11-201



**Pardons (Board of), Administration**

**R671-101**

**Rules**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 20425

FILED: 12/12/97, 16:32

RECEIVED BY: NL

**RULE ANALYSIS**

PURPOSE OF OR REASON FOR THIS FILING: Five-Year Review.

SUMMARY: Statutory reference.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Title 63, Chapter 46a

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: None.

❖LOCAL GOVERNMENTS: None.

❖OTHER PERSONS: None.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

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

Pardons (Board of)  
Administration  
Room 300  
448 East 6400 South  
Murray, UT 84107, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:

John Green at the above address, by phone at (801) 261-6470, by FAX at (801) 261-6481, or by Internet E-mail at [bpmain.jgreen@state.ut.us](mailto:bpmain.jgreen@state.ut.us).

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 02/02/98.

THIS FILING MAY BECOME EFFECTIVE ON: 02/03/98

AUTHORIZED BY: Michael R. Sibbett, Chairman

**R671. Pardons (Board of), Administration.**

**R671-101. Rules.**

**R671-101-1. Rules.**

Board of Pardons rules shall be processed according to state rulemaking procedures. The Board shall determine if the rule is to be submitted through the regular rulemaking or emergency rulemaking procedure. Rules shall then be distributed as necessary.

Any error, defect, irregularity or variance in the application of these rules which does not affect the substantial rights of a party may be disregarded. Rules are to be interpreted with the interests of public safety in mind so long as the rights of a party are not substantially affected.

KEY: pardons  
[1993]1998

[77-27-2  
]77-27-9  
63-46a



Pardons (Board of), Administration  
**R671-102**  
Americans with Disabilities Act  
Complaint Procedure Rule

**NOTICE OF PROPOSED RULE**  
(Amendment)  
DAR FILE No.: 20427  
FILED: 12/12/97, 16:32  
RECEIVED BY: NL

**RULE ANALYSIS**

PURPOSE OF OR REASON FOR THIS FILING: Five-Year Review.

SUMMARY: Adds interpreters for hearing impaired.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Section 67-19-32

ANTICIPATED COST OR SAVINGS TO:

- ❖THE STATE BUDGET: Increases cost - depends on number of hearing impaired who attend Board hearings.
  - ❖LOCAL GOVERNMENTS: Increases cost - depends on number of hearing impaired who attend Board hearings.
  - ❖OTHER PERSONS: Increases cost - depends on number of hearing impaired who attend Board hearings.
- COMPLIANCE COSTS FOR AFFECTED PERSONS: Costs are increased depending on the number of hearing impaired.

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

Pardons (Board of)  
Administration  
Room 300  
448 East 6400 South  
Murray, UT 84107, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
John Green at the above address, by phone at (801) 261-6470, by FAX at (801) 261-6481, or by Internet E-mail at bpmain.jgreen@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 02/02/98.

THIS FILING MAY BECOME EFFECTIVE ON: 02/03/98

AUTHORIZED BY: Michael R. Sibbett, Chairman

**R671. Pardons (Board of), Administration.**  
**R671-102. Americans with Disabilities Act Complaint Procedure Rule.**

.....

**R671-102-9. Interpreters.**  
The Board will provide interpreters for the hearing impaired.

KEY: disabilities  
[1993]1998

67-19-32



Pardons (Board of), Administration  
**R671-201**  
Original Parole Grant Hearing  
Schedule and Notice

**NOTICE OF PROPOSED RULE**  
(Amendment)  
DAR FILE No.: 20429  
FILED: 12/12/97, 16:32  
RECEIVED BY: NL

**RULE ANALYSIS**

PURPOSE OF OR REASON FOR THIS FILING: Five-Year Review.

SUMMARY: Allows for review of cases administratively.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Sections 77-27-7 and 77-27-9

ANTICIPATED COST OR SAVINGS TO:

- ❖THE STATE BUDGET: Saves and reduces duplication.
  - ❖LOCAL GOVERNMENTS: Saves and reduces duplication.
  - ❖OTHER PERSONS: Saves and reduces duplication.
- COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

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

Pardons (Board of)  
Administration  
Room 300  
448 East 6400 South  
Murray, UT 84107, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO: John Green at the above address, by phone at (801) 261-6470, by FAX at (801) 261-6481, or by Internet E-mail at bpmain.jgreen@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 02/02/98.

THIS FILING MAY BECOME EFFECTIVE ON: 02/03/98

AUTHORIZED BY: Michael R. Sibbett, Chairman

**R671. Pardons (Board of), Administration. R671-201. Original Parole Grant Hearing Schedule and Notice. R671-201-1. Schedule and Notice.**

Within six months of an offender's commitment to prison the Board will give notice of the month and year in which the inmate's original hearing will be conducted. A minimum of one week (7 calendar days) prior notice should be given regarding the specific day and approximate time of such hearing.

All sex offenses, all first degree felonies, and all second and third degree felonies where a life has been taken, will be routed to the Board as soon as practicable for the determination of the month and year for their original hearing date. The Board will only consider information available to the court at the time of sentencing. [An inmate who is serving up to a life sentence will be eligible for a hearing after the service of three years.]

An inmate who is serving a sentence of up to fifteen years will be eligible for a hearing after service of nine months.

An inmate who is serving a sentence of up to five years including Class A Misdemeanor commitments will be eligible for a hearing after the service of ninety days.

Excluded from the above provisions are inmates who are sentenced to death or life without parole.

An inmate may petition the Board to calendar him/her at a time other than the usual times designated above or the Board may do so on its own motion. A petition by the inmate shall set out the [exigencies]special reasons which give rise to the request. The Board [shall]will notify the petitioner of its decision in writing as soon as possible.

KEY: parole, inmate

[1993]1998 [77-27-2 77-27-5 77-27-7 77-27-11]



Pardons (Board of), Administration  
**R671-202**  
Notification of Hearings

**NOTICE OF PROPOSED RULE**

(Amendment)  
DAR FILE No.: 20431  
FILED: 12/12/97, 16:32  
RECEIVED BY: NL

**RULE ANALYSIS**

PURPOSE OF OR REASON FOR THIS FILING: Five-Year Review.

SUMMARY: Outline notice procedure.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Sections 77-27-7 and 77-27-9

ANTICIPATED COST OR SAVINGS TO:

- ❖THE STATE BUDGET: None.
- ❖LOCAL GOVERNMENTS: None.
- ❖OTHER PERSONS: None.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

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

Pardons (Board of)  
Administration  
Room 300  
448 East 6400 South  
Murray, UT 84107, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO: John Green at the above address, by phone at (801) 261-6470, by FAX at (801) 261-6481, or by Internet E-mail at bpmain.jgreen@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 02/02/98.

THIS FILING MAY BECOME EFFECTIVE ON: 02/03/98

AUTHORIZED BY: Michael R. Sibbett, Chairman

**R671. Pardons (Board of), Administration.**

**R671-202. Notification of Hearings.**

**R671-202-1. Notification.**

An offender [shall]will be notified at least seven calendar days in advance of any hearing where personal appearance is involved, except in extraordinary circumstances, and [shall]will be specifically advised as to the purpose of the hearing.

In extraordinary circumstances, the hearing may be conducted without the seven day notification, or the offender may waive this notice requirement.

[Board calendars and materials are prepared in advance and; when possible, notice of original hearings, rehearings and parole revocation hearings are published in a newspaper of general circulation four days in advance of the hearings. Notice of Original

Hearings, Rehearings, and Parole Hearings shall be furnished to any requesting news media. A public notice of [personal appearance] hearing[s] will also be posted one week in advance at the Board of Pardons office.

Open public hearings are regularly scheduled by the Board at the various correctional facilities throughout the state. The Board will convene a weekly open public meeting at its offices after providing proper notice.

KEY: parole, inmate  
[1993]1998

77-27-7

77-27-9

77-27-11



## Pardons (Board of), Administration R671-203 Victim Input and Notification

**NOTICE OF PROPOSED RULE**  
(Amendment)  
DAR FILE NO.: 20433  
FILED: 12/12/97, 16:32  
RECEIVED BY: NL

### RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: Five-Year Review.

SUMMARY: Provides notice to victims on procedures to be followed.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Sections 77-27-9.5, 77-27-13, and 64-13-20

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: None.
- ❖ LOCAL GOVERNMENTS: None.
- ❖ OTHER PERSONS: None.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

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

Pardons (Board of)  
Administration  
Room 300  
448 East 6400 South  
Murray, UT 84107, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:

John Green at the above address, by phone at (801) 261-6470, by FAX at (801) 261-6481, or by Internet E-mail at bpmain.jgreen@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 02/02/98.

THIS FILING MAY BECOME EFFECTIVE ON: 02/03/98

AUTHORIZED BY: Michael R. Sibbett, Chairman

### R671. Pardons (Board of), Administration. R671-203. Victim Input and Notification. R671-203-1. Victim Input and Notification.

Pursuant to statute, the Department of Corrections [shall] will provide the Board of Pardons with all available information concerning the impact a crime may have had upon the victim or victim's family. [Also] Pursuant to statute, the prosecutor of the case [shall] will forward to the Board a victim impact statement referring to physical, mental or economic loss suffered by the victim or victim's family.

In accordance with statute victims shall be allowed to testify before the Board of Pardons at original parole grant hearings, rehearings and applicable parole violation and rescission hearings. Victims [shall] will be given timely notice, delivered to their last known address, of the date, place and time of the hearing.

A victim is defined as an individual, of any age, against whom an offender committed a felony or class A misdemeanor offense for which the hearing is being held. If a victim does not wish to give testimony or is unable to do so, a designee may be appointed to speak on their behalf. Family may testify if the victim is deceased as a result of the offense or if the victim is a child.

Oral testimony at hearings [shall] will be limited to five minutes in length per victim or designee. If family testifies, testimony should be limited to one family representative from the marital family (i.e. spouse or children) and/or one family representative from the nuclear/extended family (i.e. parent, sibling or grandparent). Under exceptional or extraordinary circumstances a victim may formally petition the Board to request additional testimony.

If requested by the victim, the victim may present testimony during the hearing outside the presence of the offender. The offender will be excused from the hearing room so that the victim can give testimony. The victim's testimony will be recorded. At the conclusion of the testimony, the offender will be returned to the hearing room and the Board will play the recorded testimony to allow the offender to respond to the victim's testimony.

Victims who want to testify are [asked] requested to notify the Board [three weeks in advance of the hearing] as far in advance of the hearing as possible so that appropriate arrangements can be made and time allocated for the presentations. [v] Victims or designees should bring a written copy of their remarks to the hearing or send a copy to the Victim Coordinator for the Board file.

[If more than four victims want to speak at the same hearing, the hearing may need to be rescheduled] If multiple victims want to testify, the Board may reschedule the hearing to accommodate the extra time required to hear all the testimony. If Board business is not concluded by 5:00 p.m. on a hearing day, all remaining hearings may be rescheduled and visitors may have to return.

A victim or designee, who is appearing at a hearing where photographic equipment is being used by the media, will not be photographed without the approval of the victim and the [presiding Board Member or Hearing Officer] individual presiding at the hearing.

Victims may contact the Board of Pardons, after any parole hearing, for information concerning the outcome of that hearing. Victims are advised that they may also contact the Utah State Prison Records Unit Supervisor for information on offender releases.

All persons attending hearings must comply with the security and clearance regulations of the facility where the hearing is held. These regulations include a picture identification, appropriate dress, and no contraband. Visitors should arrive at the facility 15 to 20 minutes prior to the scheduled hearing to allow adequate time for the security clearance.

KEY: victims of crimes  
[1993]1998

[77-27-5  
77-27-9  
]77-27-9.5  
77-27-13[(5)]  
64-13-20[(4)]



Pardons (Board of), Administration  
**R671-204**  
Pending Charges

**NOTICE OF PROPOSED RULE**  
(Amendment)  
DAR FILE NO.: 20435  
FILED: 12/12/97, 16:32  
RECEIVED BY: NL

**RULE ANALYSIS**

PURPOSE OF OR REASON FOR THIS FILING: Five-Year Review.

SUMMARY: Outlines procedures to be followed for continuances.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Sections 77-27-7 and 77-27-11

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: None.
  - ❖ LOCAL GOVERNMENTS: None.
  - ❖ OTHER PERSONS: None.
- COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

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

Pardons (Board of)  
Administration  
Room 300  
448 East 6400 South  
Murray, UT 84107, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
John Green at the above address, by phone at (801) 261-6470, by FAX at (801) 261-6481, or by Internet E-mail at bpsmain.jgreen@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 02/02/98.

THIS FILING MAY BECOME EFFECTIVE ON: 02/03/98

AUTHORIZED BY: Michael R. Sibbett, Chairman

**R671. Pardons (Board of), Administration.**  
**R671-204. [Pending Charges]Hearing Continuance.**  
**R671-204-1. [Pending Charges]Hearing Continuance.**

It is the policy [to]of the Board[~~of Pardons~~] to consider continuing [an original parole grant hearing, parole violation hearing, rehearing or rescission] hearing pending the resolution of felony or misdemeanor charges or other good cause. When determining whether or not to grant a continuance, the Board will consider the gravity of the new charges, whether the date has been set for trial, whether the presentence or post sentence reports have been completed, or any other information that could address the pending charges.

If the Board determines that [~~pending charges warrants a continuance of a hearing~~]a continuance is warranted, the offender will be notified in writing [~~that his/her hearing has been continued and~~]of the reasons for doing so. When the Board is notified that the charges have been resolved, the hearing will be rescheduled as soon as practicable.

Any party may petition for a continuance by submitting a request and accompanied justification to the Board in writing.

Any party may petition for a continuance by submitting their request and accompanied justification.

KEY: inmate, parole  
[1993]1998

77-27-7  
77-27-11



Pardons (Board of), Administration  
**R671-205**  
Credit for Time Served

**NOTICE OF PROPOSED RULE**  
(Amendment)  
DAR FILE NO.: 20486  
FILED: 12/12/97, 16:44  
RECEIVED BY: NL

**RULE ANALYSIS**

PURPOSE OF OR REASON FOR THIS FILING: Five-Year Review.

SUMMARY: Outlines Credit For Time Served.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Sections 77-27-7 and 77-27-9



ANTICIPATED COST OR SAVINGS TO:

- ❖THE STATE BUDGET: None.
  - ❖LOCAL GOVERNMENTS: None.
  - ❖OTHER PERSONS: None.
- COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

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Pardons (Board of)  
Administration  
Room 300  
448 East 6400 South  
Murray, UT 84107, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:

John Green at the above address, by phone at (801) 261-6470, by FAX at (801) 261-6481, or by Internet E-mail at bpmain.jgreen@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 02/02/98.

THIS FILING MAY BECOME EFFECTIVE ON: 02/03/98

AUTHORIZED BY: Michael R. Sibbett, Chairman

**R671. Pardons (Board of), Administration.**

**R671-205. Credit for Time Served.**

**R671-205-1. Policy.**

~~[Effective July 15, 1987, an offender shall be granted credit toward imprisonment for any time spent in official detention on the crime of commitment prior to the date sentence was imposed, with the following exceptions:~~

- ~~— (1) Offenses which were considered by the Board for the first time prior to July 15, 1987;~~
- ~~— (2) Time served solely as a condition of probation;~~
- ~~— (3) Time spent in detention out of state awaiting return to Utah.~~

~~Credit for time served shall also be granted toward imprisonment when:~~

- ~~— (1) A conviction is set aside and there is a subsequent commitment for the same criminal conduct;~~
- ~~— (2) A commitment is made to the Utah State Hospital pursuant to a "guilty and mentally ill" conviction;~~
- ~~— (3) Up to 180 days are served pursuant to diagnostic commitments.~~

**R671-205-2. Procedure.**

~~Time served in the above referenced categories shall be noted in reports to Board members by Board staff. After the Board determines the number of months to be served to release, the amount of time to be credited shall be deducted and the release date set accordingly.~~

~~— If no record of official detention time is in the Board file, it is presumed that none was served. If the offender desires credit, the burden is on the offender to request it and provide certified copies of records supporting his request.](1) Credit for time served will be granted against the expiration date on a crime of commitment when:~~

- ~~(a) a conviction is set aside and there is a subsequent commitment for the same criminal conduct;~~
  - ~~(b) a commitment is made to the Utah State Hospital pursuant to a "guilty and mentally ill" conviction;~~
  - ~~(c) time is spent in custody outside the State of Utah based solely on the Utah warrant;~~
  - ~~(d) the Board deems such credit just under the circumstances;~~
- ~~or~~
- ~~(e) credit is otherwise required by law.~~

~~(2) No credit will be given for time spent in custody at the Utah State Hospital or comparable non-prison, psychiatric facility while the offender is judicially-declared incompetent.~~

~~(3) If no record of official detention time is found in the Board file, the Board will presume that none was served. In cases where the offender desires credit, the burden is on the offender to request it and to provide copies of records supporting the claim of time spent in custody.~~

**KEY: capital punishment, prison release, parol, government hearings**

**[1988]1998** 77-27-7  
**Notice of Continuation 1993** [52-4-5(3)]77-27-9  
77-19-7



Pardons (Board of), Administration

**R671-206**

Competency of Offenders

**NOTICE OF PROPOSED RULE**

(Amendment)  
DAR FILE NO.: 20437  
FILED: 12/12/97, 16:33  
RECEIVED BY: NL

**RULE ANALYSIS**

PURPOSE OF OR REASON FOR THIS FILING: Five-Year Review.

SUMMARY: Change "shall" to "will."

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Sections 77-15-3, 77-15-5, 77-27-2, and 77-27-7

ANTICIPATED COST OR SAVINGS TO:

- ❖THE STATE BUDGET: None.
  - ❖LOCAL GOVERNMENTS: None.
  - ❖OTHER PERSONS: None.
- COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

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THIS FILING MAY BECOME EFFECTIVE ON: 02/03/98

AUTHORIZED BY: Michael R. Sibbett, Chairman

R671. Pardons (Board of), Administration. R671-206. Competency of Offenders. R671-206-1. General.

If a Board member or staff presiding at a hearing has reason to believe that an offender may be mentally incompetent, all proceedings shall will be stayed pursuant to 77-15-5 (6). The Board's Mental Health Advisor shall notify the Department of Corrections of the Board's concern.

The Prison Bureau of Medical Services will conduct a screening evaluation regarding the issue of competency. If there is reason to believe that the inmate or parolee may be incompetent, the Department of Corrections will request the Attorney General to file a petition with the district court for a competency hearing pursuant to UCA 77-15-3

If the Department determined incompetency requirements cannot be met, or if the district court determines the offender is mentally competent, the Board shall proceed with scheduled hearings/actions.

KEY: [C]riminal [C]ompetency [1993]1998

77-15-3 77-15-5 77-27-2 77-27-7 77-27-13

[-----]



Pardons (Board of), Administration R671-207 Mentally-III Offender Custody Transfers

NOTICE OF PROPOSED RULE

(Amendment) DAR FILE No.: 20439 FILED: 12/12/97, 16:33 RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: Five-year Review.

SUMMARY: Change "shall" to "will."

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Section 77-16a-204

ANTICIPATED COST OR SAVINGS TO:

- THE STATE BUDGET: None. LOCAL GOVERNMENTS: None. OTHER PERSONS: None. COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

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THIS FILING MAY BECOME EFFECTIVE ON: 02/03/98

AUTHORIZED BY: Michael R. Sibbett, Chairman

R671. Pardons (Board of), Administration. R671-207. Mentally-III Offender Custody Transfer. R671-207-1. General.

Custody transfer of a mentally-ill offender from the Utah State Hospital to the Utah State Prison will occur when the Hospital and the Prison agree that the prison can provide the mentally-ill offender with the level of care necessary to maintain the offender's current mental condition. If the Hospital and the Prison cannot agree upon the transfer, the Board of Pardons shall will make the decision as to where the offender is to be housed.

The Division of Human Services shall notify the Department of Corrections and the Board's mental health advisor when a mentally ill offender is eligible for transfer to the Prison. If the Department of Corrections agrees that the prison can provide the

mentally ill offender with the level of care necessary to maintain the offender's mental condition, pursuant to 77-16a-204 (1) (2), the custody transfer will occur. The Board may hold an administrative review hearing within 30 days of the actual transfer date.

In the event the Division of Human Services and the Department of Corrections do not agree on the transfer of a mentally ill offender, the Division of Human Services ~~[shall]~~will notify the Board's mental health advisor, in writing, of the dispute. The Division of Human Services and the Department of Corrections will provide the mental health advisor with copies of all reports and recommendation by both agencies. The Board's mental health advisor ~~[shall]~~will make a recommendation to the Board of the transfer and the Board ~~[shall]~~will issue its decision upon the transfer within 30 days pursuant to 77-16a-204 (4).

The Department of Corrections ~~[shall]~~will notify the Board whenever a mentally ill offender is transferred from the Hospital to the Prison pursuant to 77-16a-204 (5).

**KEY: criminal competency**  
~~[1993]~~1998

77-16a-204  
~~77-27~~



**Pardons (Board of), Administration**  
**R671-208**  
**Confidentiality of Psychological Evaluations and Alienist Reports**

**NOTICE OF PROPOSED RULE**  
(Amendment)  
DAR FILE NO.: 20441  
FILED: 12/12/97, 16:33  
RECEIVED BY: NL

**RULE ANALYSIS**

PURPOSE OF OR REASON FOR THIS FILING: Five-Year Review.

SUMMARY: Procedure regarding release of alienist and psychological reports.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Section 77-27-7

ANTICIPATED COST OR SAVINGS TO:

- ❖THE STATE BUDGET: None.
- ❖LOCAL GOVERNMENTS: None.
- ❖OTHER PERSONS: None.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

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THIS FILING MAY BECOME EFFECTIVE ON: 02/03/98

AUTHORIZED BY: Michael R. Sibbett, Chairman

**R671. Pardons (Board of), Administration.**  
**R671-208. Confidentiality of Psychological Evaluations and Alienist Reports.**  
**R671-208-1. General.**

All psychological evaluations prepared by the Department of Corrections for the Board are confidential documents and are subject to the control of the Department of Corrections.

Alienist reports prepared pursuant to Utah Code Annotated Subsection 77-27-7(3) by designated Board~~[of Pardons]~~ contract staff are confidential documents and are subject to the control of the Board. The Board may release such reports to the Department of Corrections and to private therapists and agencies, who provide mental health services to offenders under the jurisdiction of the Board~~[of Pardons]~~, for the use in treatment and management of offenders.~~[The board may not release that portion of the recommendations made to the Board for the inmate's treatment and management to any individual or agency including individuals and programs within the Department of Corrections.]~~

Requests for reports must be in writing and directed to the Board's mental health advisor. Private therapists and agencies who request reports must include a release of information form signed by the offender.~~[Department of Corrections personnel and private therapists and agencies who receive alienist reports from the Board of Pardons shall not disclose said reports or information contained therein to other individuals or agencies.]~~

**KEY: psychological, parole, inmate**  
~~[1993]~~1998

77-27-7



**Pardons (Board of), Administration**  
**R671-301**  
**Personal Appearance**

**NOTICE OF PROPOSED RULE**  
(Amendment)  
DAR FILE NO.: 20443  
FILED: 12/12/97, 16:33  
RECEIVED BY: NL

**RULE ANALYSIS**

PURPOSE OF OR REASON FOR THIS FILING: Five-Year Review.

SUMMARY: Clarifies procedure regarding personal appearance hearings.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Sections 77-27-2, 77-27-7, 77-27-9, and 77-27-29

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: None.
- ❖ LOCAL GOVERNMENTS: None.
- ❖ OTHER PERSONS: None.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

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THIS FILING MAY BECOME EFFECTIVE ON: 02/03/98

AUTHORIZED BY: Michael R. Sibbett, Chairman

**R671. Pardons (Board of), Administration.**

**R671-301. Personal Appearance.**

**R671-301-1. Personal Appearance.**

By statute, the Board or its designee is required to ~~[see each and every offender in at least one hearing]~~ convene at least one public hearing for all offenders except those serving life without parole or death. In rehearings, the offender is afforded all the rights and considerations afforded in the initial hearing except as provided by other Board rules because the setting of a parole date is still at issue. ~~[In rescission hearings and parole revocation hearings, a personal appearance is mandatory unless waived.]~~

An offender has the right to be present at a parole grant, rehearing, ~~[rescission,]~~ or parole violation hearing if ~~[s/he is within]~~ in the state (UCA 77-27-7). The offender may speak ~~[on his/her own behalf,]~~ present documents, ask, and answer questions. In the event an offender waives this right, or refuses to personally attend the hearing the Board may proceed with the hearing and a decision ~~[may be made in his/her absence]~~ making process.

If an offender is ~~[being]~~ housed out of state ~~[the right to a personal appearance may be waived. The waiver should be in~~

writing and witnessed by a staff member at the institution where the offender is housed. A written waiver shall be voluntary. The original copy of the waiver is to be forwarded to the Board and retained in the offender's file.

~~— If the offender chooses not to waive the appearance, any of the following five alternatives be utilized at the discretion of the Board in conducting the hearing [the Board may elect one of the following procedures:~~

1. ~~[Request the Warden to return the offender to the state for the hearing] [The offender may waive the right to be present.~~

2. ~~Request the Warden to return the offender to the state for the hearing.~~

~~[2]3.~~ A courtesy hearing may be conducted ~~[with the consent of the offender]~~ by the appropriate paroling authority of ~~[jurisdiction where the offender is housed]~~ the custodial state. A request along with a complete copy of Utah's record shall be forwarded for the hearing. All reports, a ~~[summary]~~ record of the hearing, and a recommendation shall be returned to the Utah Board for final action.

~~[3]4.~~ An individual Board member or designee may travel to the ~~[jurisdiction]~~ custodial facility and conduct the hearing, record the proceeding, and make a ~~[written record and]~~ recommendation for the Board's final decision.

~~[— 4. A Board hearing officer may be sent to conduct the hearing, record the proceeding and make a written record and recommendation for the Board's final decision.]~~

5. A hearing may be conducted by way of conference telephone call ~~[with the consent of the offender].~~

**KEY: inmate, parole**

~~[1993]~~ 1998

77-27-2

77-27-7

77-27-9

~~[77-27-11]~~

77-27-29

Pardons (Board of), Administration

**R671-302**

News Media and Public Access to Hearings

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 20445

FILED: 12/12/97, 16:34

RECEIVED BY: NL

**RULE ANALYSIS**

PURPOSE OF OR REASON FOR THIS FILING: Five-Year Review.

SUMMARY: Clarifies procedure to be followed.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Sections 77-27-9 and 77-27-9.5

ANTICIPATED COST OR SAVINGS TO:

- ❖THE STATE BUDGET: None.
- ❖LOCAL GOVERNMENTS: None.
- ❖OTHER PERSONS: None.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

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THIS FILING MAY BECOME EFFECTIVE ON: 02/03/98

AUTHORIZED BY: Michael R. Sibbett, Chairman

**R671. Pardons (Board of), Administration.**  
**R671-302. News Media and Public Access to Hearings.**  
**R671-302-1. Open Hearings.**

According to state law and subject to fairness and security requirements, Board[~~of Pardons~~] hearings shall be open to the public, including representatives of the news media.

.....

**R671-302-3. Security and Conduct.**

All attendees are subject to [P]rison security requirements and must conduct themselves in a manner which does not interfere with the orderly conduct of the hearing. Any individual causing a disturbance or engaging in behavior deemed by the Board to be disruptive of the proceeding may be ordered to leave and security personnel[~~of the prison~~] may be requested to escort the individual from the premises. All persons granted admission to a hearing must have a picture Identification and subject themselves to the security regulations of the custodial facility.

**R671-302-4. Executive Session.**

Executive sessions are closed sessions with no access. No filming, recording or transmitting of executive session portions of any hearing [staff]will be allowed.

**R671-302-5. News Media Equipment.**

Subject to prior approval by the Board or its designee (see APPROVING EQUIPMENT), the news agency representatives [staff]will be permitted to operate photographic, recording or transmitting equipment during the public portions of any hearing. When more than one news agency requests permission to use

photographic, recording or transmitting equipment, a pooling arrangement may be required.

When it is determined by the Board or its designee, that any such equipment or operators of that equipment have the potential to cause a disturbance or interfere with the holding of a fair and impartial hearing, or are causing a disturbance or interfering with the holding of a fair and impartial hearing, restrictions may be imposed to eliminate those problems.

Photographing, recording and/or transmitting the image of a victim testifying before the Board will be prohibited unless approved by the victim and the individual presiding [~~Board member or Hearing Officer~~]over the hearing.

.....

**R671-302-7. Approving Equipment.**

If the request is to use photographic, recording or transmitting equipment, at least 48 hours prior to a regularly scheduled hearing and 96 hours prior to a Commutation Hearing, it [staff]will be the responsibility of a representative of the news agency making the request to confer with the designated staff member of the Board to work out the details. If the designated staff member is unfamiliar with the equipment proposed to be used, he may require that a demonstration be performed to determine if it is likely to be intrusive, cause a disturbance or will inhibit the holding of a fair and impartial hearing in any way. [~~If the Board, or its designee determines that such may occur, it may be required that the equipment be modified or substituted for equipment that will not cause a problem or the equipment may be banned~~]Any equipment causing a disturbance or distraction will be removed from the premises.

Video tape or "on air" type cameras mounted on a tripod and still cameras encased in a soundproof box and mounted on a tripod shall be deemed to be approved equipment.

If the equipment is approved for use at a hearing, its location and mode of operation shall be approved in advance by the Board's designated staff member and it [staff]will remain in a stationary position during the entire hearing and [staff]will be operated as unobtrusively as possible.

There [staff]will be no artificial light used.

If there request for the same type of equipment, the news agencies [staff]will be required to make pool arrangements, as no more than one piece of the same type of equipment [staff]will be allowed. If no agreement can be reached on who the pool representative will be, the Board, or its designee, [staff]will draw a name at random. All those wishing to be a pool representative must [~~agree in advance~~]make their request known in advance, identifying the specific hearing and agree to fully cooperate with all pool arrangements.

**R671-302-8. Reserved Media Seating.**

If there are five or fewer [~~than four other~~]requests received prior to the deadline, the request [staff]will be approved. If more than five requests are made, the Board's designee [staff]will allocate the seating based on a pool arrangement. Each category [staff]will select its own representative(s). If no agreement can be reached on who the representative(s) will be, the Board's designee [staff]will draw names at random. All those wishing to be a pool

representative must agree in advance to fully cooperate with all pool arrangements.

One seat ~~[shall]~~will be allocated to each of the following categories:

1. Local daily newspapers with statewide circulation
2. Major wire services with local bureaus
3. Local television stations with regularly scheduled daily newscasts
4. Local radio stations with regularly scheduled daily newscasts
5. Daily, weekly or monthly publications (in that order) ~~[located in the area where the criminal activity took place]~~with priority given to the area where the offense occurred.
6. If the requests submitted do not fill all of the above categories, a seat ~~[shall]~~will be allocated to a representative of a major wire service with no local bureau or a national publication (in that order).

If seats remain unfilled, one additional seat ~~[shall]~~will be allocated to the categories in the above order until all seats are filled. No news agency ~~[shall]~~will have more than one individual assigned to reserved media seating unless all other requests have been satisfied.

.....

KEY: news agencies

~~[1993]~~1998

~~77-27-[5]9~~

~~[~~ 77-27-9.5]

◆  ◆

## Pardons (Board of), Administration

### R671-303

#### Offender Access to Information

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 20447

FILED: 12/12/97, 16:35

RECEIVED BY: NL

**RULE ANALYSIS**

PURPOSE OF OR REASON FOR THIS FILING: Five-Year Review.

SUMMARY: Outlines procedure required by court ruling.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Title 63, Chapter 2

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: None.

❖ LOCAL GOVERNMENTS: None.

❖ OTHER PERSONS: None.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

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448 East 6400 South  
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THIS FILING MAY BECOME EFFECTIVE ON: 02/03/98

AUTHORIZED BY: Michael R. Sibbett, Chairman

**R671. Pardons (Board of), Administration.**

**R671-303. Offender Access to Information.**

**R671-303-1. Offender Access to Information.**

~~[For any hearing at which an offender is entitled to a personal appearance, the offender shall be provided a general summary either orally or in writing of any information on which the Board intends to rely in making its decision.~~

~~— The offender shall have the opportunity to respond to the summary.~~

~~— At the time the offender appears before the Board, the Board shall summarize the information considered in reaching its decision. The offender will be given a reasonable opportunity to respond to any information the Board is considering. If the offender asserts that information considered by the Board is not correct, he may present documentation, affidavits or other information to disprove the fact in dispute.~~

~~— The Board may continue the hearing to allow for submission of such information. The Board shall consider any information obtained at the hearing or supplied by the offender.~~

~~— If the offender alleges a factual inaccuracy in any of the summarized information, the Board shall, as to each matter controverted that would materially affect the Board's decision,~~

~~(1) make a finding as to the allegation or~~

~~(2) make a determination that no such finding is necessary because the matter controverted will not be taken into account in the Board's decision.~~

~~— Upon request and in accordance with Chapter 1, Title 63, Government Records Access and Management Act, the Board shall provide an offender with a copy of public or private records in its files that it uses in making a decision in the offender's case.] Absent a legitimate security or safety concern, an offender will be provided access to the information being considered by the Board and given an opportunity to respond whenever the Board fixes or extends the~~

offender's parole or release date. If a security or safety concern is an issue, the offender will be provided a written summary of the material information being considered.

The Board, upon request or sua sponte, may continue a hearing to allow submission of additional documentation or information. The Board will consider any material facts obtained at the hearing or later submitted by the offender.

The Board will also provide an offender with a copy of the records contained in the offender's file at least three days prior to any personal appearance hearing in which parole or an early-release date may be fixed or extended by the Board. Any additional information obtained by the Board after this initial disclosure will be provided to the offender at the beginning of the hearing. In such event, the offender will be given an opportunity to review the supplemental information before proceeding. If no additional time is requested by the offender, the hearing will proceed as scheduled.

**KEY: inmates' rights, inmate, parole, records**  
**[1993]1998** 63-2[-85:3  
63-2-85:4]



**Pardons (Board of), Administration**  
**R671-304**  
**Hearing Record**

**NOTICE OF PROPOSED RULE**  
(Amendment)  
DAR FILE No.: 20449  
FILED: 12/12/97, 16:35  
RECEIVED BY: NL

**RULE ANALYSIS**

PURPOSE OF OR REASON FOR THIS FILING: Five-Year Review.

SUMMARY: Clarifies procedure for hearing record(s).

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Section 77-27-8

ANTICIPATED COST OR SAVINGS TO:

- ❖THE STATE BUDGET: None.
- ❖LOCAL GOVERNMENTS: None.
- ❖OTHER PERSONS: None.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

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at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:

John Green at the above address, by phone at (801) 261-6470, by FAX at (801) 261-6481, or by Internet E-mail at bpmain.jgreen@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 02/02/98.

THIS FILING MAY BECOME EFFECTIVE ON: 02/03/98

AUTHORIZED BY: Michael R. Sibbett, Chairman

**R671. Pardons (Board of), Administration.**  
**R671-304. Hearing Record.**  
**R671-304-1. Hearing Record.**

The Board [shall]will cause a record to be made of all [proceedings]public hearings and dispositions.

**R671-304-2. Procedure.**

A record (verbatim transcript, tape recording or written summary) [shall]will be made of all hearings. The record [shall]will be retained by the Board for future reference or transcription upon request at cost. However, copies may be provided at no cost to the petitioner in accordance with UCA 77-27-8 (3).

**KEY: government hearings**  
**[1993]1998** 77-27-8  
77-27-9



**Pardons (Board of), Administration**  
**R671-305**  
**Notification of Board Decision**

**NOTICE OF PROPOSED RULE**  
(Amendment)  
DAR FILE No.: 20487  
FILED: 12/12/97, 16:44  
RECEIVED BY: NL

**RULE ANALYSIS**

PURPOSE OF OR REASON FOR THIS FILING: Five-Year Review.

SUMMARY: Provide offenders with notice of Board decisions.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Section 77-27-9.7

ANTICIPATED COST OR SAVINGS TO:

- ❖THE STATE BUDGET: None.
- ❖LOCAL GOVERNMENTS: None.
- ❖OTHER PERSONS: None.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

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

Pardons (Board of) Administration Room 300 448 East 6400 South Murray, UT 84107, or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO: John Green at the above address, by phone at (801) 261-6470, by FAX at (801) 261-6481, or by Internet E-mail at bpmain.jgreen@state.ut.us.

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THIS FILING MAY BECOME EFFECTIVE ON: 02/03/98

AUTHORIZED BY: Michael R. Sibbett, Chairman

**R671. Pardons (Board of), Administration.**

**R671-305. Notification of Board Decision.**

**R671-305-1. Notification of Board's Decision.**

~~[-The offender will be notified verbally at the conclusion of the hearing of the action taken or that the Board has taken the matter under advisement.]~~

The decision of the Board ~~[shall]will~~ be reached by a majority vote and reduced to writing, including ~~[the]a~~ general statement of rationale for the decision. Copies of the written decision are given to the offender, the institution and Field Operations. The Board ~~[shall]will~~ publish written results of Board ~~[meetings, in minute form]decisions.~~ ~~[-Copies of minutes shall be kept on permanent file in the Board office.]~~

The Board should be reasonably assured that the offender has been notified before the information has been released for the public dissemination.

**KEY: government hearings**

~~[1993]1998~~

~~[77-27-7~~

~~77-27-11]77-27-9.7~~



Pardons (Board of), Administration

**R671-307**

Foreign Nationals and Offenders with Detainers

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 20451

FILED: 12/12/97, 16:36

RECEIVED BY: NL

**RULE ANALYSIS**

PURPOSE OF OR REASON FOR THIS FILING: Five-Year Review.

SUMMARY: Change "shall" to "will."

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Title 77, Chapter 28b, and Section 77-27-9

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: None.

❖LOCAL GOVERNMENTS: None.

❖OTHER PERSONS: None.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

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

Pardons (Board of) Administration Room 300 448 East 6400 South Murray, UT 84107, or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:

John Green at the above address, by phone at (801) 261-6470, by FAX at (801) 261-6481, or by Internet E-mail at bpmain.jgreen@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 02/02/98.

THIS FILING MAY BECOME EFFECTIVE ON: 02/03/98

AUTHORIZED BY: Michael R. Sibbett, Chairman

**R671. Pardons (Board of), Administration.**

**R671-307. Foreign Nationals and Offenders With Detainers.**

**R671-307-1. Foreign Nationals and Offenders With Detainers.**

Offenders who are foreign nationals and offenders who have detainers lodged against them ~~[shall]will~~ be considered for parole and termination consistent with other Board policies. The Board will consider requests for transfer pursuant to international treaties.

**KEY: parole**

~~[1993]1998~~

~~77-27-9~~

~~[77-27-13]77-28b~~



Pardons (Board of), Administration

**R671-308**

Offender Hearing Assistance



**NOTICE OF PROPOSED RULE**

(Amendment)  
DAR FILE NO.: 20453  
FILED: 12/12/97, 16:36  
RECEIVED BY: NL

**RULE ANALYSIS**

PURPOSE OF OR REASON FOR THIS FILING: Five-Year Review.

SUMMARY: Provides offenders notice of procedure used.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Sections 77-27-9, 77-27-11, and 77-27-29

ANTICIPATED COST OR SAVINGS TO:

- ❖THE STATE BUDGET: None.
- ❖LOCAL GOVERNMENTS: None.
- ❖OTHER PERSONS: None.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Reduction in attorney contract costs.

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

Pardons (Board of)  
Administration  
Room 300  
448 East 6400 South  
Murray, UT 84107, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:

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THIS FILING MAY BECOME EFFECTIVE ON: 02/03/98

AUTHORIZED BY: Michael R. Sibbett, Chairman

**R671. Pardons (Board of), Administration.**

**R671-308. Offender Hearing Assistance.**

**R671-308-1. Offender Hearing Assistance.**

The Board [~~of Pardons~~]will allow an offender to have such assistance from other persons as may be required in preparation for a Board hearing.

Family, friends, professionals, interpreters, case workers, and minority representatives are allowed to be present at hearings and may assist the offender in preparing his case.

An attorney [~~shall~~]may be retained by the State to represent [~~all parolees who desire representation at Parole Revocation hearings before the Board of Pardons~~]parolees on a case by case basis. However, an alleged parole violator may choose to have a private attorney represent the offender at his/her own expense.

Except as otherwise provided by law, no person other than the offender may address the Board at any hearing except for the

offender's attorney at a Parole Revocation hearing, or such persons as the Board may find necessary to the orderly conducting of any hearing.

**KEY: parole, inmate**  
~~[1993]~~1998

~~[77-17-7]~~  
77-27-9  
77-27-11  
77-27-29



Pardons (Board of), Administration  
**R671-309**  
Impartial Hearings

**NOTICE OF PROPOSED RULE**

(Amendment)  
DAR FILE NO.: 20455  
FILED: 12/12/97, 16:37  
RECEIVED BY: NL

**RULE ANALYSIS**

PURPOSE OF OR REASON FOR THIS FILING: Five-Year Review.

SUMMARY: Clarifies rule.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Sections 77-27-7 and 77-27-9

ANTICIPATED COST OR SAVINGS TO:

- ❖THE STATE BUDGET: None.
  - ❖LOCAL GOVERNMENTS: None.
  - ❖OTHER PERSONS: None.
- COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

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

Pardons (Board of)  
Administration  
Room 300  
448 East 6400 South  
Murray, UT 84107, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:

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THIS FILING MAY BECOME EFFECTIVE ON: 02/03/98

AUTHORIZED BY: Michael R. Sibbett, Chairman

**R671. Pardons (Board of), Administration.**  
**R671-309. Impartial Hearings.**  
**R671-309-1. Impartial Hearings.**

Offenders are entitled to an impartial hearing before the Board [of Pardons]. ~~[To that end, t]The Board [of Pardons]~~ discourages any direct outside contact with individual Board Members regarding specific cases. This also applies to Hearing Officers designated to conduct the hearing[s]. Any such contact should be made with the Board's designated staff member.

All contacts by offenders, victims of crime, their family members or any other person outside the staff of the Board ~~[of Pardons]~~ regarding a specific case shall be referred, whenever possible, to the staff member designated by the Board who may not be directly involved in hearing the case. If circumstances dictate, the designated Board staff member shall prepare a memorandum for the file containing the substance of the contact. If the contact is by a victim wishing to make a statement for the Board's consideration, the Board's rule on Victim Input and Notification shall apply.

If a contact, or prior knowledge of a case or individuals involved, is such that it may affect the ability of a Board Member or designated Hearing Officer to make a fair and impartial decision in a case, the Board Member or designated Hearing Officer shall decide whether to participate in the hearing. If the decision is to participate, the offender shall be informed of the contact or prior knowledge and be given the opportunity to request that the Board Member or Hearing Officer not participate. Such a request is not binding in any way, but shall be weighed along with all other factors in making a final decision regarding participation in the hearing.

This rule shall not preclude contact ~~[by members of the Department of Corrections]~~ regarding procedural matters so long as such contact is not for the purpose of influencing the decision of an individual Board Member on any particular case or hearing.

**KEY: parole, inmate**  
**[1993]1998**

77-27-7  
77-27-9

**Pardons (Board of), Administration**  
**R671-310**  
**Rescission Hearings**

**NOTICE OF PROPOSED RULE**  
(Amendment)

DAR FILE NO.: 20457  
FILED: 12/12/97, 16:57  
RECEIVED BY: NL

**RULE ANALYSIS**

PURPOSE OF OR REASON FOR THIS FILING: Five-Year Review.

SUMMARY: Changes "shall" to "will."

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Section 77-27-9

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: None.
  - ❖ LOCAL GOVERNMENTS: None.
  - ❖ OTHER PERSONS: None.
- COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

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

Pardons (Board of)  
Administration  
Room 300  
448 East 6400 South  
Murray, UT 84107, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:

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THIS FILING MAY BECOME EFFECTIVE ON: 02/03/98

AUTHORIZED BY: Michael R. Sibbett, Chairman

**R671. Pardons (Board of), Administration.**  
**R671-310. Rescission Hearings.**  
**R671-310-1. Rescission Hearings.**

Any prior Board decision may be reviewed and rescinded by the Board at any time until an offender's actual release from custody.

If the rescission of a release or rehearing date is being requested by an outside party, information shall be provided to the Board establishing the basis for the request. Upon receipt of such information, the offender may be scheduled for a rescission hearing. The Board may also review and rescind an offender's release or rehearing date on its own initiative. Except under extraordinary circumstances, the offender should be notified of all allegations and the date of the scheduled hearing at least seven calendar days in advance of the hearing. The offender may waive this period.

In the event of an escape, the Board will rescind the inmate's date upon official notification of escape from custody and continue the hearing until the inmate is available for appearance, charges have been resolved and appropriate information regarding the escape has been provided.

The hearing officer ~~[shall]~~ will conduct the hearing and make an interim decision to be reviewed, along with a summary report of the hearing, by the Board members.

KEY: parole, inmate  
[1993]1998

[77-26-7]77-27-5  
77-27-6  
77-27-11

Pardons (Board of), Administration  
**R671-311**  
Special Attention Hearings and  
Reviews

**NOTICE OF PROPOSED RULE**  
(Amendment)  
DAR FILE NO.: 20459  
FILED: 12/12/97, 16:38  
RECEIVED BY: NL

**RULE ANALYSIS**

PURPOSE OF OR REASON FOR THIS FILING: Five-Year Review.

SUMMARY: Combines rules into one sector.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Sections 77-27-5, 77-27-6, 77-27-10, and 77-27-11

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: None.
  - ❖ LOCAL GOVERNMENTS: None.
  - ❖ OTHER PERSONS: None.
- COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

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Administration  
Room 300  
448 East 6400 South  
Murray, UT 84107, or  
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THIS FILING MAY BECOME EFFECTIVE ON: 02/03/98

AUTHORIZED BY: Michael R. Sibbett, Chairman

**R671. Pardons (Board of), Administration.**  
**R671-311. Special Attention Hearings and Reviews.**  
**R671-311-1. General.**

This type of consideration is used to grant relief in special circumstances requiring action by the Board. This action is initiated by the receipt of a written request indicating that special circumstances exist for which a change in status may be warranted. These circumstances could include, but are not limited to, illness of the offender requiring extensive medical attention, exceptional performance or progress in the institution, exceptional opportunity for employment, exceptional family circumstances, ~~or marginal performance on parole,~~ and involves information that was not previously considered by the Board. For Special Attentions that have not originated from or been processed through the Department of Corrections, the Board ~~may~~ will request the Department review and make recommendations before taking action.

Special Attention requests that are considered to be repetitive, frivolous or lacking in substantial merit may be placed in the offenders file without formal action or response.

.....

**R671-311-4. Special Conditions Hearing.**

The Board will order special conditions as part of a parole agreement on an individual basis only if such conditions can be reasonably related to rehabilitation of the offender, the protection of society, or the compensation of victims. The offender will be given an opportunity to respond to proposed special conditions.

At any time, the Board may review an offender on its own initiative or upon recommendation by the Department of Corrections or others and add special conditions it deems appropriate. The offender may be afforded a personal appearance hearing before a Board Hearing Officer to discuss the proposed condition(s) unless that appearance is waived by the offender.

KEY: parole, inmate  
[April 30, 1996]1998

77-27-7  
77-27-5  
77-27-6  
77-27-10  
77-27-11

Pardons (Board of), Administration  
**R671-312**  
Commutation Hearings for Death  
Penalty Cases

**NOTICE OF PROPOSED RULE**  
(Amendment)  
DAR FILE NO.: 20489  
FILED: 12/12/97, 16:44  
RECEIVED BY: NL

**RULE ANALYSIS**

PURPOSE OF OR REASON FOR THIS FILING: Five-year Review.

SUMMARY: Change "shall" to "will."

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Section 77-19-7, and Article VII, Section 12, Utah Constitution

ANTICIPATED COST OR SAVINGS TO:

- ❖THE STATE BUDGET: None.
- ❖LOCAL GOVERNMENTS: None.
- ❖OTHER PERSONS: None.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

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

Pardons (Board of)  
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Room 300  
448 East 6400 South  
Murray, UT 84107, or  
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THIS FILING MAY BECOME EFFECTIVE ON: 02/03/98

AUTHORIZED BY: Michael R. Sibbett, Chairman

**R671. Pardons (Board of), Administration.**

**R671-312. Commutation Hearings for Death Penalty Cases.**

**R671-312-1. Applicability of Rules to Petitioners.**

The limitations on the authority of the Board[~~of Pardons~~] that are imposed by Utah Code Ann. Section 77-27-5 (Supp. 1994) do not apply to a commutation proceeding pertinent to any person sentenced to the death penalty before April 27, 1992. Procedures applicable to commutation hearings of pre-April 27, 1993 death penalty inmates ~~shall~~will be governed by Rule 671-312-2. Procedures to be used in the commutation hearing of any person sentenced to the death penalty after April 26, 1992 are governed by Rule 671-312-3.

**R671-312-2. Commutation Procedures Applicable to Inmates Sentenced to Death Before April 27, 1992.**

(1) A petition for commutation may be filed anytime after the sentencing court has issued an order of execution after completion of the inmate's appeal from his conviction. For purposes of this rule, "appeal" does not include any action for post-conviction relief or any other form of collateral attack. The inmate shall file his petition no later than seven days after the sentencing court signs a warrant setting a new execution date. The inmate shall mail a copy,

by U.S. Mail, postage prepaid, to the attorney representing the state. If the execution date is stayed by any court between the time of the sentencing court's issuance of the warrant and the beginning of the commutation hearing, the commutation proceeding shall terminate. If the execution date is stayed during the commutation hearing, the hearing shall continue and the Board shall render its decision in accordance with this rule.

(2) The petition shall include:

(a) the petitioner's name and address of any attorney who is requesting the petitioner in the commutation proceeding;

(b) a statement of reasons why the petitioner believes the sentence of death should be commuted;

(c) copies of all written evidence upon which petitioner intends to rely at the hearing along with the names of all witnesses it intends to call and a summary of their anticipated testimony.

(3) If the petitioner previously received a commutation hearing, the petition ~~shall~~will include a statement reciting what, if any, new and significant information exists currently and why the information requires a new hearing.

(4) The Board may temporarily stay an execution to fully hear the petition for commutation.

(5) Within seven days of receiving the petition, the Attorney General or County Attorney shall send the Board and the petitioner copies of written evidence, names of witnesses, and summary of anticipated testimony that he intends to rely on to rebut petitioner's claim that the sentence of death should be commuted. The Board may request either the petitioner or the state to provide additional information.

(6) The day after receiving the state's response, the Board ~~shall~~will hold a pre-hearing conference to limit the number of witnesses that each side calls, clarify the issues that will be addressed, and take whatever other action it considers necessary and appropriate to control and direct the proceedings.

(7) The commutation hearing is not adversarial and neither side is allowed to cross-examine the other party's witnesses. However, the Board may ask questions freely of any witness, the inmate, the inmate's representative, or the state's representative. The role of the state's representative is limited to rebutting the petitioner's claim and otherwise assisting the Board to determine all facts relevant to the inquiry.

(8) The Board will place all witnesses under oath and may impose a time limit on each side for presenting its case. The Board will record the commutation hearing in accordance with Utah Code Ann. Section 77-27-8(2). The Board's policy on News Media and Public Access will govern attendance. During the hearing, the Board may take whatever actions it considers necessary and appropriate to maintain order.

(9) The Board will reconvene in open session to announce and distribute its written decision.

**R671-312-3. Commutation Procedures Applicable to Persons Sentenced to Death After April 27, 1992.**

(1) A petition for commutation may be filed anytime after the sentencing court has issued an order of execution after completion of the inmate's appeal from his conviction. For purposes of this rule, "appeal" does not include any action for post-conviction relief or any other form of collateral attack. The inmate shall file his petition no later than 23 days before the scheduled execution date and shall mail a copy by U.S. Mail, postage prepaid, to the attorney

representing the state. If the execution date is stayed by any court between the time of the sentencing court's issuance of the warrant and the beginning of the commutation hearing, the commutation proceeding ~~shall~~ will terminate. If the execution date is stayed during the commutation hearing, the hearing ~~shall~~ will continue and the Board ~~shall~~ will render its decision in accordance with this rule.

(2) The petition shall include:

(a) the petitioner's name and address of any attorney who is requesting the petitioner in the commutation proceeding;

(b) a statement of reasons why the petitioner believes the sentence of death is not appropriate due to the specific circumstances pertinent to him;

(c) whether any of the reasons stated as grounds for the have been reviewed in the judicial process;

(d) if new information is alleged, a statement why the information is considered new, why it could not have been reviewed in the judicial process, and why the information is not still subject to judicial review;

(e) if legal or constitutional reasons are claimed, a statement explaining why Utah Code Ann. Section 77-27-5.5(6) does not prohibit the Board from considering the issue; and

(f) if petitioner has received one commutation hearing, the petition shall include a statement explaining what, if any, new and significant information exists that justifies a second hearing; and

(g) copies of all written evidence upon which petitioner intends to rely at the hearing along with the names of all witnesses it intends to call and a summary of their anticipated testimony.

(2) If the Board believes that it cannot consider the claims pursuant to section 77-27-5.5, it will deny the petition for a hearing, determining that it does not present a substantial issue.

(3) If the Board grants the petition, a commutation hearing shall be scheduled as soon as reasonably possible.

(4) The Board may temporarily stay an execution to fully hearing the petition for commutation.

(5) Within seven days of receiving the petition, the Attorney General or County Attorney shall provide to the Board and the petitioner copies of all written evidence, names of witnesses, and summary of anticipated testimony. The Board may request additional information from either side.

(6) The day after receiving the state's response, the Board shall hold a pre-hearing conference to limit the number of witnesses that each side calls, clarify the issues that will be addressed, and take whatever other action it considers necessary and appropriate to control and direct the proceedings.

(7) The commutation hearing is not adversarial and neither side is allowed to cross-examine the other party's witnesses. However, the Board may ask questions freely of any witness, the inmate, the inmate's representative, and the state's representative. The role of the State's representative is limited to rebutting petitioner's claim that his sentence should be commuted and otherwise assisting the board to determine all facts relevant to the inquiry and petitioner's claims.

(8) The Board will place all witnesses under oath and may impose a time limit on each side for presenting its case. The Board will record the commutation hearing in accordance with Utah Code Ann. Section 77-27-8(2). The Board's policy on News Media and

Public Access will govern attendance. During the hearing, the Board may take whatever actions it considers necessary and appropriate to maintain order.

(9) The Board will reconvene in open session to announce and distribute its written decision.

**KEY: capital punishment**

~~[1994]~~1998

**Notice of Continuation 1993**

~~[52-4-5(3)]~~

~~[77-27-3]~~

77-19-7

Art VII, Sec 12



Pardons (Board of), Administration  
**R671-315**  
 Pardons

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE No.: 20461

FILED: 12/12/97, 16:38

RECEIVED BY: NL

**RULE ANALYSIS**

PURPOSE OF OR REASON FOR THIS FILING: Five-Year Review.

SUMMARY: To provide notice of Board procedure in pardon matters.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Article VII, Section 12, Utah Constitution

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: None.

❖LOCAL GOVERNMENTS: None.

❖OTHER PERSONS: None.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

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

Pardons (Board of)  
 Administration  
 Room 300  
 448 East 6400 South  
 Murray, UT 84107, or  
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:

John Green at the above address, by phone at (801) 261-6470, by FAX at (801) 261-6481, or by Internet E-mail at [bpmain.jgreen@state.ut.us](mailto:bpmain.jgreen@state.ut.us).

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 02/02/98.

THIS FILING MAY BECOME EFFECTIVE ON: 02/03/98

AUTHORIZED BY: Michael R. Sibbett, Chairman

**R671. Pardons (Board of), Administration.**

**R671-315. Pardons.**

**R671-315-1. Pardons.**

The Board ~~[of Pardons shall]~~will consider a petition for a pardon from an individual whose sentence(s) have been terminated or expired for at least five years and who has exhausted all judicial remedies including expungement. Upon verification of these criteria, the Board may cause an investigation of the petitioner to be conducted which may include, but not be limited to, criminal, personal and employment history. The Board may publish the petition in the legal notices section of a newspaper of general circulation and invite comment from the public.

The Board ~~[shall]~~will consider the petition and all available information relevant to it. The Board may deny a pardon by majority vote without a hearing. If the Board decides to consider the granting of a pardon, a hearing ~~[shall]~~will be scheduled with appropriate notice given to victim(s) of record if they can be located, the chief law enforcement officer of the arresting agency, the presiding judge where the conviction was entered, and the County, District or City Attorney where the case was prosecuted. Notice may also be posted in a public place in the jurisdiction where the conviction occurred. The Board may grant a conditional pardon or an unconditional pardon. The petitioner ~~[shall]~~will be notified in writing of the results as soon as practicable.

The Board may dispense with any requirement created by this policy if good cause exists.

**KEY: pardons**

~~[1993]~~1998

77-27-2

77-27-5

77-27-9

Art VII Sec 12



**Pardons (Board of), Administration**

**R671-316**

**Redetermination**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 20463

FILED: 12/12/97, 16:38

RECEIVED BY: NL

**RULE ANALYSIS**

PURPOSE OF OR REASON FOR THIS FILING: Five-year Review.

SUMMARY: Changing "will be" to "are."

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Section 77-27-5

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: None.

❖LOCAL GOVERNMENTS: None.

❖OTHER PERSONS: None.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

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Pardons (Board of)  
Administration  
Room 300  
448 East 6400 South  
Murray, UT 84107, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:

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THIS FILING MAY BECOME EFFECTIVE ON: 02/03/98

AUTHORIZED BY: Michael R. Sibbett, Chairman

**R671. Pardons (Board of), Administration.**

**R671-316. Redetermination.**

**R671-316-1. Redetermination Review.**

Offenders ~~[will be]~~are eligible to apply for redetermination at five-year intervals from the last time-related decision. A time-related decision is defined as a personal appearance hearing or redetermination review dealing with release or rehearing dates. Offenders who have been given a decision of natural life in prison will be eligible for redetermination at ten year intervals.

When applying for redetermination, the offender waives personal appearance and accepts that the Board may reduce the time served, request psychological or other assessment, change conditions of release, make no change or increase the time to be served.

Applications for redetermination must originate with and be signed by the offender. Applications may be routed directly to the Board or preferably be submitted through the offender's caseworker. In either event, the Board will request a written progress report to include rationale and recommendation based on the Department of Corrections' assessment. The Department of Corrections should provide these materials to the Board in a timely manner.

**KEY: parole, inmate**

~~[1994]~~1998

77-27-~~[7]~~5



Pardons (Board of), Administration  
**R671-317**  
Interim Decisions

**NOTICE OF PROPOSED RULE**  
(Amendment)  
DAR FILE NO.: 20465  
FILED: 12/12/97, 16:39  
RECEIVED BY: NL

**RULE ANALYSIS**

PURPOSE OF OR REASON FOR THIS FILING: Five-Year Review.

SUMMARY: Reference update.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Section 77-27-5

ANTICIPATED COST OR SAVINGS TO:

- ❖THE STATE BUDGET: None.
  - ❖LOCAL GOVERNMENTS: None.
  - ❖OTHER PERSONS: None.
- COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

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THIS FILING MAY BECOME EFFECTIVE ON: 02/03/98

AUTHORIZED BY: Michael R. Sibbett, Chairman

**R671. Pardons (Board of), Administration.**

**R671-317. Interim Decisions.**

**R671-317-1. Interim Decisions.**

Any hearing, except for commutation, may be conducted by one Board Member or hearing officer or by any number or combination of examiners up to the full board. Any decision which is made by less than three concurring Board members is an interim decision and is subject to modification upon review and voting by other Board Members. Interim decisions will be in full force and

effect until reviewed and either affirmed or modified by a majority of the Board Members. Interim decisions may be made as a result of either a personal appearance hearing or administrative review.

**KEY: government hearings, parole, inmate**  
~~1993~~1998

77-27-5



Pardons (Board of), Administration  
**R671-402**  
Special Conditions of Parole

**NOTICE OF PROPOSED RULE**  
(Amendment)  
DAR FILE NO.: 20469  
FILED: 12/12/97, 16:39  
RECEIVED BY: NL

**RULE ANALYSIS**

PURPOSE OF OR REASON FOR THIS FILING: Five-Year Review.

SUMMARY: Change "shall" to "will."

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Sections 77-27-5, 77-27-6, 77-27-10, and 77-27-11

ANTICIPATED COST OR SAVINGS TO:

- ❖THE STATE BUDGET: None.
  - ❖LOCAL GOVERNMENTS: None.
  - ❖OTHER PERSONS: None.
- COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

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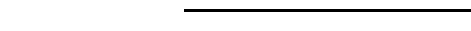
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THIS FILING MAY BECOME EFFECTIVE ON: 02/03/98

AUTHORIZED BY: Michael R. Sibbett, Chairman



**R671. Pardons (Board of), Administration.**  
**R671-402. Special Conditions of Parole.**  
**R671-402-1. General.**

The Board [~~of Pardons shall~~will] order special conditions as part of a parole agreement on an individual basis and only if such conditions can be reasonably related to rehabilitation of the offender, the protection of society, or compensation of the victim. The offender [~~shall~~will] be given an opportunity to respond to proposed special conditions.

At any time, the Board may review an offender at its own initiative or upon recommendation by the Department of Corrections or others and add any special conditions it deems appropriate. The offender shall be afforded a personal appearance before the Board or a Board Hearing Officer to discuss the proposed condition(s) unless that appearance is waived.

**KEY: parole**  
**[1993]1998**

77-27-5  
77-27-6  
77-27-10  
77-27-11

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THIS FILING MAY BECOME EFFECTIVE ON: 02/03/98

AUTHORIZED BY: Michael R. Sibbett, Chairman

**R671. Pardons (Board of), Administration.**  
**R671-403. Restitution.**  
**R671-403-1. Policy.**

The [~~Utah State~~]Board [~~of Pardons shall~~will] consider restitution in all cases where restitution has been ordered by the court, when requested by the Department of Corrections or other criminal justice agencies, or other appropriate cases.

**R671-403-2. Procedure.**

[~~Except for class B and class C misdemeanors, i~~]In cases where restitution has been ordered by the court and is included as part of the judgment and commitment, the Board [~~shall~~will] consider whether affirming such restitution is appropriate and whether persons have or are prepared to make restitution [~~in accordance with standards and procedures as set forth in U.C.A. 76-3-201 as a condition of parole~~]. The board may also originate orders of restitution on any crime(s) of commitment [~~it deems appropriate, except for class B and class C misdemeanors~~].

The Board will consider ordering restitution or affirming court ordered restitution in the following instances:

1. When ordered by the sentencing court and the order is included as part of the judgment and commitment provided to the Board by the court except for class B and class C misdemeanors;
2. When ordered by or as a part of a disciplinary proceeding as a result of misconduct;
3. When requested by the Department of Corrections or other criminal justice agency for the costs of extradition or return to custody;
4. When requested by the Department of Corrections for the costs of programs such as unpaid fees at community correction centers, therapy or other service fees, and after attempts to collect from the offender have repeatedly failed; and
5. When new information is made available which was not available to the court at the sentencing or restitution hearing, under the following procedure:

The Board may request that the Department of Corrections investigate the matter and the background and ability of the offender to pay [~~in accordance with U.C.A. 76-3-201~~] and provide the Board with a written report and recommendation.

A restitution hearing may be conducted by a Board panel or hearing officer. Prior to the hearing, the offender and the victim(s) [~~shall~~will] be notified in writing of the hearing and [~~shall~~will] be provided with copies of the investigative report and other documentation unless it is of a confidential nature. The offender and the victim(s) [~~shall~~will] have the right to be present at the

Pardons (Board of), Administration  
**R671-403**  
Restitution

**NOTICE OF PROPOSED RULE**  
(Amendment)

DAR FILE NO.: 20490  
FILED: 12/12/97, 16:45  
RECEIVED BY: NL

**RULE ANALYSIS**

PURPOSE OF OR REASON FOR THIS FILING: Five-year Review.

SUMMARY: Change conviction categories and "shall" to "will."

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Sections 77-27-5.5, 77-27-5, and 77-27-6

ANTICIPATED COST OR SAVINGS TO:

- ❖THE STATE BUDGET: None.
- ❖LOCAL GOVERNMENTS: None.
- ❖OTHER PERSONS: None.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Payment of Restitution amount.

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

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Administration  
Room 300  
448 East 6400 South  
Murray, UT 84107, or  
at the Division of Administrative Rules.



hearing and present evidence in their behalf. Where hearings are conducted by a hearing officer, the hearing officer ~~shall~~will make a written report and recommendation to the Board which ~~shall~~will be considered in a regularly scheduled Board meeting.

**KEY: restitution, government hearings, parole**  
~~[1988]1998~~  
**Notice of Continuation 1993**

~~[76-3-201]~~  
~~77-27-5.5~~  
~~77-27-6~~  
~~77-27-5.5~~



**Pardons (Board of), Administration**  
**R671-405**  
**Parole Termination**

**NOTICE OF PROPOSED RULE**  
(Amendment)  
DAR FILE No.: 20471  
FILED: 12/12/97, 16:40  
RECEIVED BY: NL

**RULE ANALYSIS**

PURPOSE OF OR REASON FOR THIS FILING: Five-Year Review.

SUMMARY: Change "shall" to "will."

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Sections 77-3-202, 77-27-9, and 77-27-12

ANTICIPATED COST OR SAVINGS TO:

- ❖THE STATE BUDGET: None.
- ❖LOCAL GOVERNMENTS: None.
- ❖OTHER PERSONS: None.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

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THIS FILING MAY BECOME EFFECTIVE ON: 02/03/98

AUTHORIZED BY: Michael R. Sibbett, Chairman

**R671. Pardons (Board of), Administration.**  
**R671-405. Parole Termination.**  
**R671-405-1. Termination of Parole.**

The Board ~~[of Pardons shall]~~will consider terminating an offender's parole when petitioned to do so by the Department of Corrections, other interested parties or on its own initiative. When considering termination, the Board ~~[of Pardons may]~~will toll any parole time when a parolee is an absconder. The toll time ~~[shall]~~will be from the date a Board warrant was issued to the date the warrant was executed.

~~[Absent exigent circumstances, if a termination request is denied, the parolee may not be reconsidered for termination until six months has passed.]~~When a termination is approved by the Board, written notification of the Board's action will be provided to the parolee and the Department of Corrections.

Depending on the crime, statutory periods of parole without violation are three ~~[and]~~ten years or life.

Upon receipt of written notification of the service of the statutory maximum period on parole and verification of that information, the Board of Pardons ~~[shall]~~will then order the closing of the file.

**KEY: sentencing, parole**  
~~[1993]1998~~

~~76-3-202~~  
~~[77-35-21.5~~  
~~]77-27-9~~  
~~77-27-12~~



**Pardons (Board of), Administration**  
**R671-501**  
**Warrants of Arrest**

**NOTICE OF PROPOSED RULE**  
(Amendment)  
DAR FILE No.: 20473  
FILED: 12/12/97, 16:40  
RECEIVED BY: NL

**RULE ANALYSIS**

PURPOSE OF OR REASON FOR THIS FILING: Five-Year Review.

SUMMARY: To provide notice of Board procedure regarding the issuance of warrants.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Section 77-27-11

ANTICIPATED COST OR SAVINGS TO:

- ❖THE STATE BUDGET: None.
- ❖LOCAL GOVERNMENTS: None.
- ❖OTHER PERSONS: None.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

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THIS FILING MAY BECOME EFFECTIVE ON: 02/03/98

AUTHORIZED BY: Michael R. Sibbett, Chairman

**R671. Pardons (Board of), Administration.**

**R671-501. Warrants of Arrest.**

**R671-501-1. Issuance of Warrants.**

~~[A member of the Board of Pardons may issue a warrant in compliance with the Board's policy on Evidence for Issuance of Warrants. Such warrants shall have the same force and effect as if signed by all members.]~~ Warrants of arrest and detention will be issued only upon a showing that there is probable cause to believe that a parole violation has occurred.

A Certified Warrant Request will be submitted by the parole agent setting forth reasons to believe that the named parolee committed specific parole violations. The request may be accompanied by supporting documentation such as police reports, incident reports, and judgment and commitment orders. Upon approval of the request by the Board, a Warrant of Arrest shall be issued to arrest, detain, and return to actual custody the parolee named therein.

**R671-501-2. Voiding of Warrants.**

A request to void a warrant ~~[shall]~~ will be submitted in writing and will include the rationale on which the recommendation is based ~~[to the Board member who issued that warrant; if that individual is not available any Board member may act on the request].~~

**KEY: warrants**

~~[1993]~~ **1998**

**77-27-11**

Pardons (Board of), Administration

**R671-502**

Evidence for Issuance of Warrants

**NOTICE OF PROPOSED RULE**

(Repeal)

DAR FILE No.: 20484

FILED: 12/12/97, 16:43

RECEIVED BY: NL

**RULE ANALYSIS**

PURPOSE OF OR REASON FOR THIS FILING: Five-Year Review.

SUMMARY: This rule is repealed in its entirety.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Section 77-27-11

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: None.

❖LOCAL GOVERNMENTS: None.

❖OTHER PERSONS: None.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

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THIS FILING MAY BECOME EFFECTIVE ON: 02/03/98

AUTHORIZED BY: Michael R. Sibbett, Chairman

**R671. Pardons (Board of), Administration.**

**[R671-502. Evidence for Issuance of Warrants.**

**R671-502-1. Evidence:**

~~Warrants of arrest and detention shall be issued only upon a showing that there is probable cause to believe that a parole violation has occurred.~~

~~A certified Warrant Request shall be submitted by the parole agent setting forth reasons to believe that the named parolee committed specific parole violations. The request may be accompanied by supporting documentation such as police reports, incident reports, and judgment and commitment orders. Upon approval of the request by the Board, a Warrant of Arrest shall be issued to arrest, detain, and return to actual custody the parolee named therein.~~

~~KEY: warrants~~  
~~1993~~

~~77-27-11]~~



**Pardons (Board of), Administration**  
**R671-503**  
**Prerevocation Hearings**

**NOTICE OF PROPOSED RULE**  
(Amendment)  
DAR FILE NO.: 20475  
FILED: 12/12/97, 16:41  
RECEIVED BY: NL

**RULE ANALYSIS**

PURPOSE OF OR REASON FOR THIS FILING: Five-year Review.

SUMMARY: Provide notice of parole revocation procedure.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Sections 77-27-11, 77-27-27, 77-27-28, 77-27-29, and 77-27-30

ANTICIPATED COST OR SAVINGS TO:

- ❖THE STATE BUDGET: None.
- ❖LOCAL GOVERNMENTS: None.
- ❖OTHER PERSONS: None.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

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Administration  
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448 East 6400 South  
Murray, UT 84107, or  
at the Division of Administrative Rules.

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THIS FILING MAY BECOME EFFECTIVE ON: 02/03/98

AUTHORIZED BY: Michael R. Sibbett, Chairman

**R671. Pardons (Board of), Administration.**  
**R671-503. Prerevocation Hearings.**  
**R671-503-1. General.**

A Prerevocation Hearing should be conducted by an independent hearing officer within fourteen days after detention

exclusively on a Board warrant, on all alleged parole violations unless such hearing is expressly waived by the parolee, unless good cause is shown for exceeding the 14 day period as determined by the Board. The parole officer ~~[shall]~~will serve Prerevocation Hearing Information on a parolee at least three working days prior to the actual Prerevocation Hearing. At the same time, the parole officer ~~[shall]~~will advise the parolee of his rights concerning the Prerevocation Hearing.

The hearing should be held reasonably near where the violation is alleged to have occurred. The purpose of the hearing is to determine whether there is probable cause to believe that the parolee is in violation of his parole agreement. Upon completion of the hearing, the hearing officer will inform the parolee both verbally and in writing whether probable cause exists. At the time of service, the parolee shall also be informed of his right to waive the Prerevocation Hearing, and where the parolee elects to do so a written waiver to that effect ~~[shall]~~will be obtained. The parolee may request witnesses, an attorney, or a postponement. A certified copy of a bindover or conviction will be accepted by the Board as a finding of probable cause in lieu of a Prerevocation Hearing and the matter will proceed directly to a Parole Revocation hearing.

Upon completion of the Prerevocation Hearing, the hearing officer ~~[shall]~~will notify the parolee verbally, whether probable cause exists that a parole violation has occurred. Within twenty-one calendar days, excluding holidays, a written ~~[findings of fact and conclusions of law]~~decision ~~[shall]~~will be issued by the hearing officer and served on the parolee.

**KEY: parole, government hearings**  
~~[1993]~~1998

~~77-27-11~~  
~~77-27-27~~  
~~77-27-28~~  
~~77-27-29~~  
~~77-27-30~~



**Pardons (Board of), Administration**  
**R671-504**  
**Timeliness of Parole Revocation Hearings**

**NOTICE OF PROPOSED RULE**  
(Amendment)  
DAR FILE NO.: 20477  
FILED: 12/12/97, 16:41  
RECEIVED BY: NL

**RULE ANALYSIS**

PURPOSE OF OR REASON FOR THIS FILING: Five-Year Review.

SUMMARY: Provide notice of parole revocation procedure.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Sections 77-27-11, 77-27-27, 77-27-28, 77-27-29, and 77-27-30

ANTICIPATED COST OR SAVINGS TO:

- ❖THE STATE BUDGET: None.
- ❖LOCAL GOVERNMENTS: None.
- ❖OTHER PERSONS: None.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

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THIS FILING MAY BECOME EFFECTIVE ON: 02/03/98

AUTHORIZED BY: Michael R. Sibbett, Chairman

**R671. Pardons (Board of), Administration.**  
**R671-504. Timeliness of Parole Revocation Hearings.**  
**R671-504-1. General.**

The Parole Revocation Hearing should be conducted within ninety (90) days from the date of the Prerevocation Hearing or its waiver EXCEPT in the following circumstances:

1. If a parolee is detained in another state on a Utah Board warrant or on a new offense, a parole revocation hearing should be conducted within ninety (90) days from the parolee's return to the State of Utah. When the only hold on a parolee is a Utah Board warrant, then the parolee must be returned as soon as is practicable after affording the parolee all rights.

~~2. When the parolee is convicted of a new offense of which the parole office had knowledge, and the parolee has not been detained on a Board warrant during the pendency of court proceedings, the parole revocation process should be commenced within ninety (90) days from the time of sentencing on the new offense.~~

~~3.]~~ The Board may for good cause upon a motion by the parolee or the Department of Corrections, or upon its own motion exceed the 90 day period.

If a "guilty" plea is entered, the dispositional phase of the hearing begins at once.

If a "not guilty" plea is entered, and the case has not been continued, the evidentiary stage of the Revocation Hearing should be conducted within sixty (60) days, unless good cause is shown for exceeding the 60 days.

**KEY: parole, government hearings**  
**[1993]1998**

77-27-11  
77-27-27  
77-27-28  
77-27-29  
77-27-30

Pardons (Board of), Administration  
**R671-505**  
Parole Revocation Hearings

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE No.: 20479

FILED: 12/12/97, 16:41

RECEIVED BY: NL

**RULE ANALYSIS**

PURPOSE OF OR REASON FOR THIS FILING: Five-year Review.

SUMMARY: Provide notice of procedures to be followed.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Sections 77-27-11, 77-27-27, 77-27-28, 77-27-29, 77-27-29, and 77-27-30

ANTICIPATED COST OR SAVINGS TO:

- ❖THE STATE BUDGET: None.
- ❖LOCAL GOVERNMENTS: None.
- ❖OTHER PERSONS: None.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

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THIS FILING MAY BECOME EFFECTIVE ON: 02/03/98

AUTHORIZED BY: Michael R. Sibbett, Chairman

**R671. Pardons (Board of), Administration.  
R671-505. Parole Revocation Hearings.  
R671-505-1. General.**

Prior to the Parole Revocation Hearing, the parolee ~~shall~~ will be given adequate written notice of the date, time and location of the hearing and the alleged parole violations. At the hearing, the offender ~~shall~~ will be provided with an opportunity to hear the evidence in support of the allegations, legal counsel unless waived, an opportunity to confront and cross-examine adverse witnesses unless they would be subject to risk or harm, and an opportunity to present evidence and witnesses in his/her own behalf.

Parolees are served with written allegations and notice of the hearing, and provided with required disclosure at least five working days prior to the Revocation Hearing. Such service and notice may be waived by the parolee. These allegations are again read at the hearing, after which the parolee enters a plea.

The parolee may plead guilty at the initial hearing and the dispositional phase will begin immediately, or the Board may continue the hearing upon request of the parolee, or on its own motion, pending the outcome of a court criminal action or an Evidentiary Hearing.

If a guilty plea is entered or the offender is found guilty in an Evidentiary Hearing, the Board will then hear discussion as to disposition from the offender or the attorney for the offender and the Department of Corrections. The Board may then retire to Executive Session, make a decision, reopen the hearing and render the decision on the record.

**KEY: parole, government hearings  
[1993]1998**

77-27-11  
77-27-27  
77-27-28  
77-27-29  
77-27-30



**Pardons (Board of), Administration  
R671-506  
Alternatives to Re-Incarceration of  
Parolees**

**NOTICE OF PROPOSED RULE**  
(Repeal)  
DAR FILE NO.: 20485  
FILED: 12/12/97, 16:43  
RECEIVED BY: NL

**RULE ANALYSIS**

PURPOSE OF OR REASON FOR THIS FILING: Five-Year Review.

SUMMARY: This rule is repealed in its entirety.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Sections 77-27-9 and 77-27-11

ANTICIPATED COST OR SAVINGS TO:

- ❖THE STATE BUDGET: None.
- ❖LOCAL GOVERNMENTS: None.
- ❖OTHER PERSONS: None.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

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

Pardons (Board of)  
Administration  
Room 300  
448 East 6400 South  
Murray, UT 84107, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:

John Green at the above address, by phone at (801) 261-6470, by FAX at (801) 261-6481, or by Internet E-mail at bpmain.jgreen@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 02/02/98.

THIS FILING MAY BECOME EFFECTIVE ON: 02/03/98

AUTHORIZED BY: Michael R. Sibbett, Chairman

**R671. Pardons (Board of), Administration.  
[R671-506. Alternatives to Re-Incarceration of Parolees:  
R671-506-1. General.**

~~—The Board of Pardons may pursue alternatives other than further imprisonment for parole violators. A parole violation shall not preclude an offender from being considered for continuance of parole or re-parole.~~

~~—At any time during the pendency of the Parole Revocation proceeding, the Board may consider alternatives to reincarceration. In order to determine whether to place or retain an alleged parole violator in custody, the Board shall consider 1) the nature of the alleged violation, 2) the offender's criminal history (particularly violent behavior and escapes), 3) the impact of reincarceration on the offender and 4) any other factors relating to public safety and the well-being of the offender.~~

~~—Release prior to the adjudication of a parole violation allegation, may be granted by the Board for good cause.~~

~~—At the time the Board of Pardons reaches a determination that a parolee has violated his parole, the offender may be considered for re-parole.~~

**KEY: parole  
1993**

77-27-9  
77-27-11]



Pardons (Board of), Administration  
**R671-507**  
Restarting the Parole Period

**NOTICE OF PROPOSED RULE**  
(Amendment)  
DAR FILE No.: 20481  
FILED: 12/12/97, 16:42  
RECEIVED BY: NL

**RULE ANALYSIS**

PURPOSE OF OR REASON FOR THIS FILING: Five-Year Review.

SUMMARY: Provides procedures to be followed and changes "shall" to "will."

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Section 76-3-202

ANTICIPATED COST OR SAVINGS TO:

- ❖THE STATE BUDGET: None.
  - ❖LOCAL GOVERNMENTS: None.
  - ❖OTHER PERSONS: None.
- COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

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

Pardons (Board of)  
Administration  
Room 300  
448 East 6400 South  
Murray, UT 84107, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:

John Green at the above address, by phone at (801) 261-6470, by FAX at (801) 261-6481, or by Internet E-mail at bpmain.jgreen@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 02/02/98.

THIS FILING MAY BECOME EFFECTIVE ON: 02/03/98

AUTHORIZED BY: Michael R. Sibbett, Chairman

**R671. Pardons (Board of), Administration.**  
**R671-507. Restarting the Parole Period.**  
**R671-507-1. General.**

Upon a parolee's new conviction for a crime or a violation of the parole agreement, the Board~~[of Pardons]~~ may restart the parole period after conducting a personal appearance hearing or upon receipt of a waiver of personal appearance signed by the parolee.

If additional incarceration is indicated, parole revocation proceedings ~~[shall]~~will be initiated at the Board's direction.

**KEY: parole**  
~~[1993]~~1998

76-3-202

Pardons (Board of), Administration  
**R671-508**  
Evidentiary Hearings

**NOTICE OF PROPOSED RULE**  
(Amendment)  
DAR FILE No.: 20483  
FILED: 12/12/97, 16:42  
RECEIVED BY: NL

**RULE ANALYSIS**

PURPOSE OF OR REASON FOR THIS FILING: Five-Year Review.

SUMMARY: Change "shall" to "will" and modify numbering system.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Sections 77-27-5, 77-27-9, and 77-27-11

ANTICIPATED COST OR SAVINGS TO:

- ❖THE STATE BUDGET: None.
  - ❖LOCAL GOVERNMENTS: None.
  - ❖OTHER PERSONS: None.
- COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

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

Pardons (Board of)  
Administration  
Room 300  
448 East 6400 South  
Murray, UT 84107, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:

John Green at the above address, by phone at (801) 261-6470, by FAX at (801) 261-6481, or by Internet E-mail at bpmain.jgreen@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 02/02/98.

THIS FILING MAY BECOME EFFECTIVE ON: 02/03/98

AUTHORIZED BY: Michael R. Sibbett, Chairman

**R671. Pardons (Board of), Administration.**  
**R671-508. Evidentiary Hearings.**  
**R671-508-1. General.**

The ~~[Utah]~~Board ~~[of Pardons]~~~~shall~~will conduct an evidentiary hearing when a not guilty plea is entered by a parolee at

a parole revocation hearing and the Department of Corrections desires to pursue the allegation.

**R671-508-2. Conduct of Evidentiary Hearings.**

When a parolee enters a plea of not guilty to one or more of the allegations at a parole violation hearing, the Board may conduct, or in its discretion, continue the matter for an evidentiary hearing.

[A)]1. The evidentiary hearing [shaff]will be conducted within sixty (60) days of the entry of a not-guilty plea, unless the Board finds good cause for continuance beyond that date. The parolee may be represented by an attorney of choice or as provided by the Board. The state may be represented by a representative of the Department of Corrections and/or by the Attorney General's Office. All hearings [shaff]will be open to the public, except for matters the Board determines to be confidential. Such confidential hearings [shaff]will be conducted as set forth in Rule 508-3, herein.

[B)]2. All parties [shaff]will be notified of the time, date, and place of the hearing and of the disputed allegations(s). The parolee [shaff]will be notified of his or her right to request counsel, the right to confront and cross examine witnesses (absent a showing of good cause for not allowing the confrontation), and the right to present rebuttal evidence.

[C)]3. At least ten (10) days prior to the hearing, unless otherwise directed by the Board, each party shall provide to the other and to the Board a list of anticipated witnesses, documents, and other evidence to be submitted at the hearing, together with a summary of the relevance of each anticipated piece of evidence.

[D)]4. The hearing may be presided over by a single board member, a panel of board members, or by a hearing officer or panel of hearing officers as the Board chairperson may designate. The presiding hearing officer, or panel may, upon its or her own motion, or upon motion of either party, exclude evidence that is irrelevant, unduly repetitious, or privileged in the courts of Utah. He or she may further take judicial notice of undisputed facts and may rule on motions offered or pending during the hearing.

[E)]5. The state shall bear the burden to establish a parole violation by a preponderance of the evidence. All testimony [shaff]will be given under oath. Strict rules of evidence [shaff]will not apply. Hearsay evidence [shaff]will be admissible and [shaff]will be given such weight as the Board deems appropriate; however, no finding of guilt [shaff]will be based solely on hearsay evidence, except where such evidence would be otherwise permitted in a court of law.

[F)]6. At the hearing, each party [shaff]will be afforded an opportunity to make a brief opening statement, beginning with the State. The State [shaff]will thereafter present its evidence. Upon conclusion of the State's case, the parolee [shaff]will be permitted to present evidence in response. If the parolee, in his or her defense, raises issues not adequately addressed by the State's case in chief, the presiding officer [shaff]will allow the State to present rebuttal evidence in response to that issue. Upon conclusion of all evidence, the presiding officer may allow each party a brief closing argument. The panel [shaff]will then render a finding of guilty or not guilty, and may thereafter proceed directly to the dispositional phase of the hearing.

**R671-508-3. Treatment of Confidential Testimony.**

Confidential testimony [shaff]will be admitted at an evidentiary hearing on an alleged parole violation under the following three-part procedure:

[A)]1. The State [shaff]will make a specific, written preliminary showing of good cause for the testimony to be received in camera.

[B)]2. Upon a finding of just cause for confidentiality, the Board [shaff]will conduct an in camera inspection of the witness, the proffered testimony, and any supporting testimony to determine ([1]a) the credibility and veracity of the witness, ([2]b) the overall reliability of the information itself, and ([3]c) that keeping the information confidential will not substantially impair the parolee's due process rights to notice of the evidence or to confront and cross-examine adverse witnesses. If the Board is satisfied with these three aspects, it [shaff]will receive the testimony and give it whatever weight it deems appropriate. An electronic record [shaff]will be made of this in camera proceeding.

[C)]3. A summary of the testimony taken in camera [shaff]will be prepared for disclosure to the parolee, informing the parolee of the general nature of the testimony received in camera but without defeating the good cause found by the Board for treating the information confidentially. This summary [shaff]will be presented on the record at the public evidentiary hearing and the parolee [shaff]will be afforded an opportunity to respond thereto.

**KEY: parole, government hearings**

[1993]1998 [77-27-2  
[77-27-5  
77-27-9  
77-27-11



Professional Practices Advisory  
Commission, Administration  
**R686-100**  
Professional Practices Advisory  
Commission, Rules of Procedure:  
Complaints and Hearings

**NOTICE OF PROPOSED RULE**

(New)  
DAR FILE NO.: 20524  
FILED: 12/15/97, 15:56  
RECEIVED BY: NL

**RULE ANALYSIS**

PURPOSE OF OR REASON FOR THIS FILING: The purpose of this rule is to establish standardized rules and procedures to address all disciplinary actions which may be taken against a Utah educators' certificate.

SUMMARY: This rule provides procedures for due process for educators accused of misconduct and provides realistic timelines and criteria for investigating and pursuing disciplinary actions against educators.

**(DAR Note:** A corresponding 120-day (emergency) rule that is effective as of 09/24/97 is under DAR No. 19969 in the October 15, 1997, issue of the *Utah State Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Section 53A-7-110

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: None.

❖ LOCAL GOVERNMENTS: None.

❖ OTHER PERSONS: None.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

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

Professional Practices Advisory Commission  
Administration  
250 East 500 South  
Salt Lake City, UT 84111, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:

Carol B. Lear at the above address, by phone at (801) 538-7835, by FAX at (801) 538-7768, or by Internet E-mail at clear@usoe.k12.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 02/02/98.

THIS FILING MAY BECOME EFFECTIVE ON: 02/03/98

AUTHORIZED BY: Carol B. Lear, Education Specialist

**R686. Professional Practices Advisory Commission, Administration.**

**R686-100. Professional Practices Advisory Commission, Rules of Procedure: Complaints and Hearings.**

**R686-100-1. Definitions.**

A. "Allegation of misconduct" means a written or oral report alleging that an educator has engaged in unprofessional, criminal, or incompetent conduct; is unfit for duty; has lost certification in another state due to revocation or suspension, or through voluntary surrender or lapse of a certificate in the face of a claim of misconduct; or has committed some other violation of standards of ethical conduct, performance, or professional competence.

B. "Applicant for a certificate" means a person seeking a new certificate or seeking reinstatement of an expired, surrendered, suspended, or revoked certificate.

C. "Board" means the Utah State Board of Education.

D. "Certificate" means a teaching or administrative credential, including endorsements, which is issued by a state to signify authorization for the person holding the certificate to provide professional services in the state's public schools.

E. "Commission" means the Professional Practices Advisory Commission.

F. "Chair" means the Chair of the Commission.

G. "Complaint" means a written allegation or charge against an educator.

H. "Complainant" means the Utah State Office of Education.

I. "Days": in calculating any period of time prescribed or allowed by these rules, the day of the act, event, or default from which the designated period of time begins to run shall not be included; the last day of the period shall be included, unless it is a Saturday, a Sunday, or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, a Sunday, or a legal holiday. Saturdays, Sundays and legal holidays shall not be included in calculating the period of time if the period prescribed or allowed is less than seven days, but shall be included in calculating periods of seven or more days.

J. "Educator" means a person who currently holds a certificate, held a certificate at the time of an alleged offense, is an applicant for a certificate, or is a person in training, to obtain a certificate.

K. "Executive Committee" means a subcommittee of the Commission consisting of the Executive Secretary, Chair, Vice-Chair, and one member of the Commission at large. All Executive Committee members, excluding the Executive Secretary, shall be elected by the Commission. Substitutes may be appointed from within the Commission by the Executive Secretary as needed.

L. "Executive Secretary" means an employee of the Utah State Office of Education who is appointed by the State Superintendent of Public Instruction to serve as the executive officer, and a non-voting member, of the Commission.

M. "Hearing" means a proceeding in which allegations made in a complaint are examined, where each party has the opportunity to present witnesses and evidence relevant to the complaint and respond to witnesses or evidence presented by the other party. At the conclusion of a hearing the hearing officer, after consulting with members of the Commission assigned to assist in the hearing, prepares a hearing report and submits it to the Executive Secretary.

N. "Hearing Officer" means a person who is experienced in matters relating to administrative procedures, education and education law and is either a member of the Utah State Bar Association or a person not a member of the bar who has received specialized training in conducting administrative hearings, and is appointed by the Executive Secretary at the request of the Executive Committee to manage the proceedings of a hearing. The hearing officer may not be an acting member of the Commission. The hearing officer has broad authority to regulate the course of the hearing and dispose of procedural requests but shall not have a vote as to the recommended disposition of a case.

O. "Hearing Panel" means a hearing officer and three or more members of the Commission agreed upon by the Commission to assist the hearing officer in conjunction with the hearing panel in conducting a hearing and preparing a hearing report.

P. "Hearing report" means a report prepared by the hearing officer with the assistance of the hearing panel at the conclusion of a hearing. The report includes a recommended disposition, detailed findings of fact and conclusions of law based upon the evidence presented in the hearing, relevant precedent, and applicable law and rule.



Q. "Informant" means a person who submits information to the Commission concerning alleged misconduct by a person who may be subject to the jurisdiction of the Commission.

R. "Investigator" means a person who is knowledgeable about matters which could properly become part of a complaint before the Commission, as well as investigative procedures and rules and laws governing confidentiality, who is appointed by the Utah State Office of Education's Investigations Unit at the request of the Executive Secretary to investigate an allegation of misconduct.

S. "Jurisdiction" means the legal authority to hear and rule on a complaint.

T. "National Association of State Directors of Teacher Education and Certification (NASDTEC) Educator Information Clearinghouse" means a database maintained by NASDTEC for its members regarding persons whose certificates have been suspended or revoked.

U. "Office" means the Utah State Office of Education.

V. "Party" means the complainant or the respondent.

W. "Recommended disposition" means a recommendation for resolution of a complaint.

X. "Request for agency action" means a document prepared by the Executive Secretary containing one or more allegations of misconduct by an educator, a recommended course of action, and related information.

Y. "Respondent" means the party against whom a complaint is filed.

Z. "Serve" or "service," as used to refer to the provision of notice to a person, means delivery of a written document or its contents to the person or persons in question. Delivery may be made in person, by mail or by other means reasonably calculated, under all of the circumstances, to apprise the interested person or persons to the extent reasonably practical or practicable of the information contained in the document. Service of a complaint upon an educator shall be by mail to the address of the educator as shown upon the records of the Commission.

AA. "State" means the United States or one of the United States; a foreign country or one of its subordinate units occupying a position similar to that of one of the United States; or a territorial unit, of the United States or a foreign country, with a distinct general body of law.

BB. "Stipulated agreement" means an agreement between a respondent and the Board or a respondent and the Commission under which disciplinary action against an educator's certification status has been taken.

### **R686-100-2. Authority and Purpose.**

A. This rule is authorized by Section 53A-7-110 which directs the Commission to adopt rules to carry out its responsibilities under the law.

B. The purpose of this rule is to establish procedures regarding complaints against educators and certification hearings for the Commission to follow. The standards and procedures of the Utah Administrative Procedures Act do not apply to this rule under the exemption of Section 63-46b-1(2)(d). However, the Commission reserves the right to invoke and use sections or provisions of the Utah Administrative Procedures Act as found in Section 63-46b as necessary to adjudicate an issue.

### **R686-100-3. Receipt of Allegations of Misconduct.**

A. Initiating Proceedings Against an Educator: The Executive Secretary may initiate proceedings against an educator upon receiving an allegation of misconduct or upon the Executive Secretary's own initiative.

(1) An informant may be asked to submit information in writing, including the following:

(a) Name, position (e.g. administrator, teacher, parent, student), telephone number and address of the informant;

(b) Name, position (e.g. administrator, teacher, candidate), and if known, the address and telephone number of the educator against whom the allegations are made;

(c) The allegations and supporting information;

(d) A statement of the relief or action sought from the agency;

(e) Signature of the informant and date.

(2) If an informant submits a written allegation of misconduct as provided in Section R686-100-3A(1) above, the informant shall be told he may receive notification of final actions taken by the Commission or the Board regarding the allegations by filing a written request for information with the Executive Secretary.

(3) Allegations received through telephone calls, letters, newspaper articles, notices from other states or other means may also form the basis for initiating proceedings against an educator.

### **R686-100-4. Review of Request for Agency Action.**

A. Initial Review: Upon reviewing the request, the Executive Secretary and the Executive Committee shall recommend one of the following to the Commission:

B. Dismiss: If the Executive Committee determines that the Commission lacks jurisdiction or that the request for agency action does not state a cause of action which the Commission should address, the Executive Committee shall recommend that the Commission dismiss the request. The informant shall be served with notice of the action. If the informant believes that the dismissal has been made in error, the informant may request review by the State Superintendent of Public Instruction within 10 days of the mailing date of the Notice of Dismissal. The Superintendent's decision relative to the dismissal is final.

C. Initiate an Investigation: If the Executive Secretary and the Executive Committee determine that the Commission has jurisdiction and that the request states a cause of action which may be appropriately addressed by the Commission, the Executive Secretary shall ask the Investigations Unit to appoint an investigator to gather evidence relating to the allegations. The investigator shall review relevant documentation and interview individuals who may have knowledge of the allegations, including to the extent reasonably practicable all persons specifically named in the request for agency action, and prepare a written report of the findings of the investigation. Should the investigator discover evidence of any additional allegation which should have been included in the original request, it may be included in the investigation report. The completed report shall be submitted to the Executive Secretary, who shall review the report with the Commission. The investigation report shall become part of the permanent case file.

D. Secondary Review: The Executive Committee shall review the investigation report and upon completing its review shall recommend one of the following to the Commission:

(1) Dismiss: If the Executive Committee determines no further action should be taken, the Executive Committee shall recommend to the Commission to dismiss the request for agency action as provided in Section R686-100-5B, above; or

(2) Prepare and Serve COMPLAINT: If the Executive Committee determines further action is appropriate, the Executive Committee shall recommend to the Commission to direct the Executive Secretary to prepare and serve a complaint and a copy of these rules upon the respondent. The complaint shall have a heading similar to that used for the request for agency action, and shall include in the body:

(a) A statement of the legal authority and jurisdiction under which the action is being taken;

(b) A statement of the facts and allegations upon which the complaint is based;

(c) Other information which the Commission believes to be necessary to enable the respondent to understand and address the allegations;

(d) A statement of the potential consequences should the allegations be found to be true;

(e) A statement that, if the respondent wishes to respond to the complaint or request a hearing, or discuss a stipulated agreement, a written response shall be filed with the Executive Secretary of the Professional Practices Advisory Commission, 250 East 500 South, Salt Lake City, Utah 84111 within 30 days of the date when the complaint was mailed to the respondent, and the potential consequences should the respondent default by failing to respond to the complaint within the designated time;

(f) Notice that, if a hearing is requested, the hearing shall be held not less than 25 days, nor more than 90 days, after receipt of the respondent's response and hearing request by the Executive Secretary, unless a later date is approved by the Commission for good cause shown or is agreed upon by both parties in writing.

(3) Provide the Commission with notice of the action taken by the Executive Committee.

E. RESPONSE to the complaint: If the respondent wishes to respond to the complaint, the respondent shall submit a written response signed by the respondent or his representative to the Executive Secretary within 30 days of the mailing date of the complaint. The response may include a request for a hearing or a stipulated agreement and shall include:

(1) The file number of the complaint;

(2) The names of the parties;

(3) A statement of the relief that the respondent seeks; and

(4) A statement of the reasons that the relief requested should be granted.

(5) Final Review: As soon as reasonably practicable after receiving the response, or following the passage of the 30 day response period if no response is received, the Executive Secretary shall review any response received, the investigative report, and other relevant information with the Executive Committee. The Executive Committee shall then recommend one of the following to the Commission:

(a) Enter a Default: If the respondent fails to file a response, fails to request a hearing, fails to request a stipulated agreement within 30 days after service of the complaint, or surrenders a certificate in the face of allegations of misconduct without benefit of a stipulated agreement, the Executive Committee shall recommend to the Commission to enter the respondent's default and

direct the Executive Secretary to prepare findings in default and a recommended disposition for submission to the Commission in accordance with Section R686-100-17.

(b) Dismiss the Complaint: If the Executive Committee determines that there are insufficient grounds to proceed with the complaint, the Executive Committee shall recommend to the Commission that the complaint be dismissed. If the Commission votes to uphold the dismissal, the informant and respondent shall each be served with notice of the dismissal. If the informant believes that the dismissal has been made in error the informant may request review by the State Superintendent of Public Instruction within 10 days of service of notice of the dismissal. The Superintendent's decision concerning the dismissal is final.

(c) Schedule a Hearing: If the respondent requests a hearing, the Commission shall direct the Executive Secretary to schedule a hearing as provided in Section R686-100-6.

(d) Respond to a request for a stipulated agreement: If the respondent requests to enter into a stipulated agreement, the Executive Committee shall inform the Commission that the Commission may reject the request or authorize the Executive Secretary to meet with the respondent to prepare recommendations for a stipulated agreement.

(i) A stipulated agreement shall, at minimum, include the following:

(A) A summary of the facts, the allegations, the evidence relied upon by the Commission in its deliberations, and the respondent's response;

(B) A statement that the respondent has chosen to surrender his certificate rather than contest the charges in a hearing;

(C) A commitment that the respondent shall not provide professional services in a public school in any state or otherwise seek to obtain or use a certificate in any state unless or until the respondent first obtains a valid Utah certificate or clearance from the Board to obtain such a certificate;

(D) Provision for surrender of respondent's certificate;

(E) Acknowledgment that the surrender and the stipulated agreement will be reported to other states through the NASDTEC Educator Information Clearinghouse; and

(F) Other relevant provisions applicable to the case, such as remediation, counseling, and conditions--if any--under which the respondent could seek restoration of certification.

(ii) The stipulated agreement shall be forwarded to the Commission for consideration.

(iii) If the Commission rejects the request or the stipulated agreement, the respondent shall be served with notice of the decision, which shall be final, and the proceedings shall continue from the point under these procedures at which the request was made, as if the request had not been submitted.

(iv) If the Commission accepts the stipulated agreement, the agreement shall be forwarded to the Board for consideration.

(v) If the Board rejects the agreement, the Executive Secretary shall notify the parties of the decision and the proceedings shall continue from the point under these procedures at which the request was made, as if the request had not been submitted.

(e) Recommend that the Commission direct the Executive Secretary to take appropriate disciplinary action against an educator which may include: an admonishment, a letter of warning, or a written reprimand. This disciplinary action may be appealed to the Superintendent of Public Instruction, consistent with R686-100-18.

**R686-100-5. Hearing Procedures.**

A. Scheduling the Hearing: The Commission shall agree upon Commission panel members, and the Executive Secretary shall appoint a hearing officer from among a list of hearing officers approved by the Commission, and schedule the date, time, and place for the hearing. The date for the hearing shall be not less than 25 days nor more than 90 days from the date the response is received by the Executive Secretary. If exceptional circumstances exist which make it impracticable for a party to be present in person, the Executive Secretary may, with the consent of the parties, permit participation by electronic means.

**B. Change of Hearing Date:**

(1) A request for change of hearing date shall be submitted in writing and received by the Executive Secretary at least five days prior to the scheduled date of the hearing. The request may originate from either party and shall show cause.

(2) The Executive Secretary shall make the determination of whether the cause stated in the request is sufficient to warrant a change of hearing date.

(a) If the cause is found to be sufficient, the Executive Secretary shall promptly notify all parties of the new time, date, and place for the hearing.

(b) If the cause is found to be insufficient, the Executive Secretary shall immediately notify the party making the request and the hearing shall proceed as originally scheduled.

(c) The Executive Secretary and the parties may waive the time period required for requesting a change of hearing date for exceptional circumstances.

**R686-100-6. Appointment and Duties of the Hearing Panel.**

A. Hearing Officer: The Executive Secretary shall appoint a hearing officer at the request of the Commission to chair the hearing panel and conduct the hearing. The hearing officer:

(1) May require the parties to submit briefs and lists of witnesses prior to the hearing;

(2) Shall preside at the hearing and regulate the course of the proceedings;

(3) May administer oaths to witnesses;

(4) May take testimony, rule on questions of evidence, and ask questions of witnesses to clarify specific issues;

(5) Shall prepare a hearing report at the conclusion of the proceedings in consultation with other panel members.

B. Commission Panel Members: The Commission shall agree upon three or more Commission members to serve as Commission members of the hearing panel.

(1) If the respondent is a teacher, the majority of the Commission panel members shall be teachers.

(2) If the respondent is an administrator, the majority of the Commission panel members shall be administrators.

(3) Duties of the Commission panel members include:

(a) Assisting the hearing officer by providing information concerning common standards and practices of educators in the respondent's particular field of practice and in the situations alleged;

(b) Asking questions of all witnesses to clarify specific issues;

(c) Reviewing all briefs and evidence presented at the hearing;

(d) Assisting the hearing officer in preparing the hearing report.

(4) The panel members shall receive available briefs or relevant materials about the hearing for review at least 30 minutes prior to the hearing.

(5) The Executive Secretary may make an emergency substitution of a commission panel member for cause with the agreement of the parties. The agreement should be in writing but if time does not permit written communication of the agreement to reach the Executive Secretary prior to the scheduled time of the hearing, an Acceptance of Substituted Hearing Panel Member shall be signed by the parties prior to commencement of the hearing.

**C. Disqualification of a panel member:****(1) Hearing officer:**

(a) A party may seek disqualification of a hearing officer by submitting a written request for disqualification to the Executive Secretary, which request must be received not less than 15 days before a scheduled hearing. The Executive Secretary shall review the request and supporting evidence and, upon a finding that the reasons for the request are substantial and sufficient, shall appoint a new hearing officer and, if necessary, reschedule the hearing.

(b) If the Executive Secretary denies the request, the party requesting the disqualification shall be notified not less than ten days prior to the date of the hearing. The requesting party may submit a written appeal of the denial to the State Superintendent, which request must be received not less than five days prior to the hearing date. If the State Superintendent finds that the appeal is justified, he shall direct the Executive Secretary to appoint a new hearing officer and, if necessary, reschedule the hearing.

(c) The decision of the State Superintendent is final.

(d) Failure of a party to meet the time requirements of Section R686-100-7 shall result in denial of the request or appeal; if the Executive Secretary fails to meet the time requirements, the request or appeal shall be approved.

**(2) Commission panel member:**

(a) A party may seek disqualification of a Commission panel member by submitting a written request for disqualification to the hearing officer, which request must be received not less than 15 days before a scheduled hearing. The hearing officer shall review the request and supporting evidence and, upon a finding that the reasons for the request are substantial and sufficient, shall disqualify the panel member. If the disqualification leaves the hearing panel with fewer than three Commission panel members, the Commission shall appoint a replacement and the hearing officer shall, if necessary, reschedule the hearing.

(b) If the hearing officer denies the request, the party requesting the disqualification shall be notified not less than ten days prior to the date of the hearing. The requesting party may submit a written appeal of the denial to the State Superintendent, which request must be received not less than five days prior to the hearing date. If the State Superintendent finds that the appeal is justified, he shall direct the hearing officer to disqualify the panel member.

(c) If a disqualification leaves the hearing panel with fewer than three Commission panel members, the Commission shall agree upon a replacement and the hearing officer shall, if necessary, reschedule the hearing.

(d) The decision of the State Superintendent is final.

(e) Failure of a party to meet the time requirements of Section R686-100-7 shall result in denial of the request or appeal; if the

hearing officer fails to meet the time requirements, the request or appeal shall be approved.

**R686-100-7. Preliminary Instructions to Parties to a Hearing.**

A. Not less than 20 days before the date of a hearing the Executive Secretary shall provide the parties with the following information:

- (1) Date, time, and location of the hearing;
- (2) Names and school district affiliations of the Commission members on the hearing panel, and the name of the hearing officer;
- (3) Procedures for objecting to any member of the hearing panel; and
- (4) Procedures for requesting a change in the hearing date.

B. Not less than 15 days before the date of the hearing, the hearing officer may direct the respondent and the complainant to serve the following upon the other party and submit a copy and proof of service to the hearing officer:

- (1) A brief setting forth that party's position regarding the allegations, including relevant laws, rules, and precedent;
- (2) The name of the person who will represent the party at the hearing, a list of witnesses who will be called, a summary of the testimony which each witness is expected to present, and a summary of documentary evidence which will be submitted.

C. If the hearing officer requests and receives any of the above documents, he shall provide a copy of the documents to each of the commission panel members for review one hour prior to the hearing.

D. If a party fails to comply in good faith with a directive of the hearing officer under Section R686-100-8B, including time requirements for service, the hearing officer may prohibit introduction of the testimony or evidence or take other steps reasonably appropriate under the circumstances including, in extreme cases of noncompliance, entry of a default against the offending party.

**R686-100-8. Hearing Parties' Representation.**

A. Complainant: The Complainant shall be represented by a person appointed by the Investigations Unit of the Utah State Office of Education.

B. Respondent: A respondent may represent himself or be represented, at his own cost, by another person of his choosing.

C. The informant has no right to individual representation at the hearing or to be present or heard at the hearing unless called as a witness.

**R686-100-9. Discovery Prior to a Hearing.**

A. Discovery shall be permitted to the extent necessary to obtain relevant information necessary to support claims or defenses.

B. Subpoenas and other orders to secure the attendance of witnesses or the production of evidence shall be issued upon request at least five working days prior to the hearing by the Executive Secretary in accordance with Section 53A-7-110(1)(f) when requested by either party or any of the panel members.

C. Either party or its representative may request the names of witnesses who have been asked to testify for the opposing party and to receive a copy of or examine all documents and exhibits that the opposing party intends to present as evidence during the hearing.

D. No witness or evidence may be presented at the hearing if the opposing party has requested to be notified of such information

and has not been fairly apprised at least five days prior to the hearing. The parties may waive such time period only by written agreement.

E. No expert witness report or testimony may be presented at the hearing unless the requirements of Section R686-100-13 have been met.

**R686-100-10. Burden and Standard of Proof for Commission Proceedings.**

A. In matters other than those involving applicants for certification, the complainant shall have the burden of proving that action against the certificate is appropriate.

B. An applicant for certification shall bear the burden of proving that certification is appropriate.

C. Standard of proof: The standard of proof in all Commission hearings is a preponderance of the evidence.

**R686-100-11. Deportment.**

Parties, their representatives, witnesses, and other persons present during a hearing shall conduct themselves in an appropriate manner during hearings, giving due respect to members of the hearing panel and complying with the instructions of the hearing officer. The hearing officer may expel persons from the hearing room who fail to conduct themselves in an appropriate manner and may, in response to extreme instances of noncompliance, disallow testimony or declare an offending party to be in default.

**R686-100-12. Hearing Record.**

A. The hearing shall be tape recorded at the Commission's expense, and the tapes shall become part of the permanent case record, unless otherwise agreed upon by all parties.

B. Individual parties may not make recordings of the proceedings without notice to and consent of the hearing panel.

C. Any party, at his own expense, may have a person approved by the Commission prepare a transcript of the hearing.

D. If an exhibit is admitted as evidence, the record shall reflect the contents of the exhibit.

E. All evidence and statements shall become part of the permanent case file and shall not be removed except by order of the Board.

F. Taped proceedings may be reviewed upon request of a party under supervision of the Executive Secretary and only at the State Office of Education.

**R686-100-13. Expert Witnesses in Commission Proceedings.**

A. A party may call an expert witness at its own expense. Notice of intent of a party to call an expert witness, the identity and qualifications of such expert witness and the purpose for which the expert witness is to be called shall be provided to the hearing officer and the opposing party at least 20 days prior to the hearing date.

B. The hearing officer may appoint any expert witness agreed upon by the parties or of the hearing officer's own selection. An expert so appointed shall be informed of his duties by the hearing officer in writing, a copy of which shall become part of the permanent case file. The expert shall advise the hearing panel and the parties of his findings and may thereafter be called to testify by the hearing panel or by any party. He shall be subject to cross-examination by each party or by any of the hearing panel members.

C. Defects in the qualifications of expert witnesses, once a minimum threshold of expertise is established, go to the weight to be given their testimony and not to its admissibility.

D. Experts who are members of the Complainant's staff or a school district staff may testify and have their testimony considered as part of the record along with that of any other expert.

E. Any report of an expert witness which a party intends to introduce into evidence shall be provided to the opposing party at least 10 days prior to the hearing date.

#### **R686-100-14. Evidence in Commission Proceedings.**

A. The hearing officer may not exclude evidence solely because it is hearsay.

B. The hearing officer shall afford each party the opportunity to produce witnesses, present evidence, argue, respond, cross-examine witnesses who testify in person at the hearing, and submit rebuttal evidence.

C. If a party intends to submit documentary evidence, the party intending to present such evidence shall provide one copy to each member of the hearing panel at least one hour prior to the hearing, and one copy to the opposing party.

D. All testimony presented at the hearing, if offered as evidence to be considered in reaching a decision on the merits, shall be given under oath.

E. In any case involving allegations of child abuse or of a sexual offense against a child, upon request of either party or by a member of the hearing panel, the hearing officer may determine whether a significant risk exists that the child would suffer serious emotional or mental harm if required to testify in the respondent's presence, or whether a significant risk exists that the child's testimony would be inherently unreliable if required to testify in the respondent's presence. If the hearing officer determines either to be the case, then the child's testimony may be admitted in one of the following ways:

(1) An oral statement of a victim or witness younger than 18 years of age which is recorded prior to the filing of a complaint shall be admissible as evidence in a hearing regarding the offense if:

(a) No attorney for either party is in the child's presence when the statement is recorded;

(b) The recording is visual and aural and is recorded on film or videotape or by other electronic means;

(c) The recording equipment is capable of making an accurate recording, the operator of the equipment is competent, and the recording is accurate and has not been altered; and

(d) Each voice in the recording is identified.

(2) The testimony of any witness or victim younger than 18 years of age may be taken in a room other than the hearing room, and be transmitted by closed circuit equipment to another room where it can be viewed by the respondent. All of the following conditions shall be observed:

(a) Only the hearing panel members, attorneys for each party, persons necessary to operate equipment, and a person approved by the hearing officer whose presence contributes to the welfare and emotional well-being of the child may be with the child during his testimony.

(b) The respondent may not be present during the child's testimony;

(c) The hearing officer shall ensure that the child cannot hear or see the respondent;

(d) The respondent shall be permitted to observe and hear, but not communicate with, the child; and

(e) Only hearing panel members and the attorneys may question the child.

(3) The testimony of any witness or victim younger than 18 years of age may be taken outside the hearing room and recorded if the provisions of Sections R686-100-15E(2)(a)(b)(c) and (e) and the following are observed:

(a) The recording is both visual and aural and recorded on film or videotape or by other electronic means;

(b) The recording equipment is capable of making an accurate recording, the operator is competent, and the recording is accurate and is not altered;

(c) Each voice on the recording is identified; and

(d) Each party is given an opportunity to view the recording before it is shown in the hearing room.

(4) If the hearing officer determines that the testimony of a child will be taken under Section R686-100-15E(1)(2) or (3) above, the child may not be required to testify in any proceeding where the recorded testimony is used.

F. On his own motion or upon objection by a party, the hearing officer:

(1) May exclude evidence that the hearing officer determines to be irrelevant, immaterial, or unduly repetitious;

(2) Shall exclude evidence that is privileged under law applicable to administrative proceedings in Utah unless waived;

(3) May receive documentary evidence in the form of a copy or excerpt if the copy or excerpt contains all pertinent portions of the original document;

(4) May take official notice of any facts that could be judicially noticed under judicial or administrative laws of Utah, or from the record of other proceedings before the agency.

G. Presumptions:

(1) A rebuttable evidentiary presumption exists that a person has committed a sexual offense against a minor child if the person has:

(a) Been found, pursuant to a criminal, civil, or administrative action to have committed a sexual offense against a minor;

(b) Failed to defend himself against such a charge when given a reasonable opportunity to do so; or

(c) Voluntarily surrendered a certificate or allowed a certificate to lapse in the face of a charge of having committed a sexual offense against a minor.

(2) A rebuttable evidentiary presumption exists that a person is unfit to serve as an educator if the person has:

(a) Been convicted of a felony;

(b) Been charged with a felony and subsequently convicted of a lesser related charge pursuant to a plea bargain; or

(c) Lost certification in another state through revocation or suspension, or through surrender of certification or allowing a certificate to lapse in the face of an allegation of misconduct, if the person would not currently be eligible to regain certification in that state.

#### **R686-100-15. Hearing Report.**

A. Within a reasonable time after the hearing, or after the filing of any post-hearing materials permitted by the hearing officer,

the hearing officer shall prepare, sign and issue a Hearing Report consistent with the recommendations of the panel that includes:

(1) A detailed findings of fact and conclusions of law based upon the evidence of record or on facts officially noted. Findings of fact may not be based solely upon hearsay, and conclusions shall be based upon competent evidence;

(2) A statement of relevant precedent;

(3) A statement of applicable law and rule;

(4) A recommended disposition of the commission panel members which shall be one of the following:

(a) Dismissal of the Complaint: The hearing report shall indicate that the complaint should be dismissed and that no further action should be taken.

(b) Warning: The hearing report shall indicate that respondent's conduct is deemed unprofessional and that the hearing report should constitute an official warning. The hearing report shall indicate that no further action concerning the complaint should be taken, but that the complaint and disposition could be considered should the respondent's conduct be brought into question in the future.

(c) Reprimand: The hearing report shall indicate that the respondent's conduct is deemed unprofessional and that the hearing report should constitute an official reprimand. The hearing report shall indicate that the employing school board should be notified of the reprimand and that record of the reprimand should be made on all Utah State Board of Education Certification records maintained on the respondent. The hearing report should also include a recommendation for how long the reprimand should be maintained in the respondent's file and conditions under which it could be removed.

(d) Suspension: The hearing report shall recommend to the State Board of Education that the certificate of the respondent be suspended for a specific period of time and until specified reinstatement conditions have been met before respondent may petition for reinstatement of certification. The hearing report shall indicate that, should the Board confirm the recommended decision, the respondent shall return the printed suspended certificate to the State Office of Education and that the Certification Section of the Utah State Office of Education will notify the employing school district, all other Utah school districts, and all other state, territorial, and national certification offices or clearing houses of the suspension in accordance with R277-514.

(e) Revocation: The hearing report shall recommend to the State Board of Education that the certificate of the respondent be revoked for a period of not less than five years. The hearing report shall indicate that should the Board confirm the recommended decision, the respondent shall return the revoked certificate to the State Office of Education and that the Certification Section of the Utah State Office of Education will notify the employing school district, all other Utah school districts, and all other state, territorial, and national certification offices or clearing houses of the revocation in accordance with R277-514.

(5) Notice of the right to appeal; and

(6) Time limits applicable to appeal.

B. Processing the Hearing Report: The hearing officer shall file the completed hearing report with the Executive Secretary, who shall review the report with the Commission.

(1) If the Commission finds that there have not been significant procedural errors and that recommendations are based

upon a reasonable interpretation of the evidence presented at the hearing, the Commission shall vote to uphold the hearing officer's report and do one of the following:

(a) If the recommendation is for final action to be taken by the Commission, the Commission shall direct the Executive Secretary to prepare a corresponding final order and serve all parties with a copy of the order and hearing report. A copy of the order and the hearing report shall be placed in and become part of the permanent case file. The order shall be effective upon approval by the Commission.

(b) If the recommendation is for final action to be taken by the Board, the Executive Secretary shall forward a copy of the hearing report to the State Board of Education for its further action. A copy of the hearing report shall also be placed in and become part of the permanent case file.

(2) If the Commission determines that there have been serious procedural errors or that the hearing officer's report is not based upon a reasonable interpretation of the evidence presented at the hearing it shall direct the Executive Secretary to schedule the matter for rehearing before a new hearing officer and panel.

#### **R686-100-16. Default Procedures.**

A. An order of default may be issued against a respondent under any of the following circumstances:

(1) The Executive Secretary may enter an order of default by preparing a report of default including the order of default, a statement of the grounds for default, and a recommended disposition if the respondent fails to file a response to a complaint under Section R686-100-5E within the time allotted.

(2) The hearing officer may enter an order of default against a respondent by preparing a hearing report including the order of default, a statement of the grounds for default and the recommended disposition if:

(a) The respondent fails to attend or participate in a properly scheduled hearing after receiving proper notice. The hearing officer may determine that the respondent has failed to attend a properly scheduled hearing if the respondent has not appeared within 30 minutes of the appointed time for the hearing to begin.

(b) The respondent or the respondent's representative is guilty of serious misconduct during the course of the hearing process as provided under Section R686-100-8D.

B. The report of default or hearing report shall be forwarded to the Commission by the Executive Secretary for further action under Section R686-100-16B.

#### **R686-100-17. Appeal.**

A. Either party may appeal a final action by the Commission by requesting review by the State Superintendent of Public Instruction, 250 East 500 South, Salt Lake City, Utah 84111, within 30 days of the date notice of the final order was postmarked.

(1) The appeal shall consist of the following:

(a) Name, position, and address of appellant;

(b) Issue(s) being appealed;

(c) Signature of appellant.

(2) The State Superintendent shall review the hearing report and the record upon which the decision was based, and issue a written order regarding his findings and disposition of the matter. A copy of the order or a notice of extension of time to respond shall

be served upon the parties by the State Superintendent within 30 days after receiving the appeal.

(3) The State Superintendent's decision is final.

B. Either party may appeal a final action of the Board by following the procedures set forth under R277-514.

**R686-100-18. Remedies for Individuals Beyond Commission Actions.**

Despite Commission actions, informants or other injured parties who feel that their rights have been compromised, impaired or not addressed by the provisions of this rule, may appeal directly to district court.

**R686-100-19. Application for Certification Following Denial or Loss of Certification.**

A. An individual who has been denied certification or lost certification through revocation or suspension, or through surrender of a certificate or allowing a certificate to lapse in the face of an allegation of misconduct, may request review to consider the possibility of a grant or reinstatement of a certificate.

(1) The request for review shall be in writing and addressed to the Executive Secretary, Professional Practices Advisory Commission, 250 East 500 South, Salt Lake City, Utah 84111, and shall have the following heading:

TABLE 1

-----	)	
Jane Doe,	)	Request for Agency Action
Petitioner	)	Following Denial or Loss of
vs	)	Certificate
Utah State Office of Education)	)	File no.: -----
Respondent.	)	
-----	)	

B. The body of the request shall contain the following information:

- (1) Name and address of the individual requesting review;
- (2) Action being requested;
- (3) Evidence of compliance with terms and conditions of any remedial or disciplinary requirements or recommendations;
- (4) Reasons for reconsideration of past disciplinary action;
- (5) Signature of person requesting review.

C. The Executive Secretary shall review the request with the Commission.

(1) If the Commission determines that the request is invalid, the person requesting reinstatement shall be notified by certified mail of the denial.

(2) If the Commission determines that the request is valid, a hearing shall be scheduled and held as provided under Section R686-100-6.

D. Burden of Proof: The burden of proof for granting or reinstatement of certification shall fall on the individual seeking the certificate.

(1) Individuals requesting reinstatement of a suspended certificate must show sufficient evidence of compliance with any conditions imposed in the past disciplinary action as well as undergo a criminal background check in accordance with Section 53A-6-103(4).

(2) Individuals requesting certification following revocation must show sufficient evidence of compliance with any conditions imposed in the past disciplinary action as well as providing evidence of qualifications for certification as if the individual had never been certificated in Utah or any other state.

(3) Individuals requesting certification following denial must show sufficient evidence of completion of a rehabilitation or remediation program in accordance with Section 53A-6-104.

**R686-100-20. Temporary Suspension of Certification Pending a Hearing.**

A. If the Executive Secretary determines, after affording respondent an opportunity to discuss allegations of misconduct, that reasonable cause exists to believe that the charges will be proven to be correct and that permitting the respondent to retain certification prior to hearing would create unnecessary and unreasonable risks for children, then the Executive Secretary may order immediate suspension of the respondent's certificate pending final Board action.

B. Evidence of the temporary suspension may not be introduced at the hearing.

C. Notice of the temporary suspension shall be provided to other states under R277-514.

**KEY: teacher certification, conduct\*, hearings\* 1998**

**53A-7-110**



Public Safety, Driver License  
**R708-1**  
Rehabilitation of Alcohol and Drug  
Problem Drivers

**NOTICE OF PROPOSED RULE**  
(Repeal)  
DAR FILE NO.: 20335  
FILED: 12/04/97, 09:57  
RECEIVED BY: NL

**RULE ANALYSIS**

PURPOSE OF OR REASON FOR THIS FILING: After reviewing this rule it was determined by the department's legal council that the Driver License Division has no statutory authority to require an individual to take an alcohol rehabilitation program. The courts, however, do require a rehabilitation course upon a court conviction of driving under the influence of alcohol. So individuals who have a problem with drinking and driving still will be required to take a rehabilitation program through the court system.

SUMMARY: This rule is repealed in its entirety.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Sections 53-3-206 and 53-3-225

ANTICIPATED COST OR SAVINGS TO:

- ❖THE STATE BUDGET: None.
- ❖LOCAL GOVERNMENTS: None.
- ❖OTHER PERSONS: None.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Individuals will still have to take a rehabilitation program through the courts if they are convicted of driving under the influence of alcohol.

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

Public Safety  
 Driver License  
 Calvin Rampton Complex  
 4501 South 2700 West  
 PO Box 30560  
 Salt Lake City, UT 84130-0560, or  
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:

Vinn Roos at the above address, by phone at (801) 965-4456, by FAX at (801) 965-4496, or by Internet E-mail at vroos@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 02/02/98.

THIS FILING MAY BECOME EFFECTIVE ON: 02/03/98

AUTHORIZED BY: David A. Beach, Director

**R708. Public Safety, Driver License.**

~~[R708-1. Rehabilitation of Alcohol and Drug Problem Drivers.~~

~~**R708-1-1. Authority:**~~

~~— Sections 53-3-225 and 53-3-206 Utah Code Annotated, 1953, as amended, prohibit the licensing of a habitual user of drugs and/or alcohol, which may render the user incapable of driving safely.~~

~~**R708-1-2. Policy and Procedure:**~~

~~— (a) When a driver history reflects two or more convictions for driving under the influence committed within six years prior to relicensure, the driver must complete or be actively involved in an alcohol rehabilitation program administered by one of the agencies on the approved lists of the department. The completion date of the program must be subsequent to the last DUI violation.~~

~~— (b) In the event any combination of two or more of the following are listed as violations committed within six years on the driver history (A08, A12, A26, M84(alc), M84(non-alc), A98), the driver should be referred to a hearing officer to discuss eligibility requirements before relicensure. For example: 8-10-94 M84(alc) and 7-1-95 A12 should be referred to a hearing officer since it is at the department's discretion whether or not to require alcohol rehabilitation. License status in the header record will only indicate a need to complete alcohol rehabilitation when two or more DUI convictions appear on the record or upon the hearing officer's recommendation.~~

~~— (c) When a person who is required by this office to complete or be actively involved in alcohol or drug rehabilitation before~~

being relicensed asks an employee for a referral, such referrals must come from the approved lists of the department.

~~— (d) If a court has ordered a person to complete an assessment, education, or treatment from a licensed drug or alcohol rehabilitation facility, evidence of compliance must be received from the court prior to reinstatement of driving privilege. Any official document adopted by the court as proof that the court order was complied with, shall be accepted as evidence of compliance by the Driver License Division.~~

~~— (e) The procedures described in this rule will comply with provisions of the Utah Administrative Procedures Act to the fullest practical extent, except where such provisions do not apply.~~

**KEY: rehabilitation**

~~1994~~ ~~53-3-206~~  
~~53-3-225]~~



School and Institutional Trust Lands,  
 Administration  
**R850-80**  
 Sale of Trust Lands

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 20395

FILED: 12/12/97, 11:15

RECEIVED BY: NL

**RULE ANALYSIS**

PURPOSE OF OR REASON FOR THIS FILING: Significantly more flexibility is provided for in the current statute than the current sales rule allows. As the emphasis on the sales program has increased during the last fiscal year, it has become more evident that there are many shortcomings in the existing rule. The changes being made to this rule are intended to clarify various processes and move towards a more business model of marketing trust lands.

SUMMARY: Changes have been made to the rule which allow for a variety of approaches to marketing trust lands rather than just upon receipt of an application by an outside party. Advertising requirement modifications have also been made to allow the agency to move towards a business model of marketing the trust lands instead of being restricted to a governmental-type of public notice. Changes have also been made which allow the agency to aggressively pursue obtaining full market value for the trust lands as dictated by demand, rather than receiving merely the appraised value.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Subsections 53C-1-302(1)(a)(ii) and 53C-4-101(1)

ANTICIPATED COST OR SAVINGS TO:

- ❖THE STATE BUDGET: Negotiated sales may allow state agencies to purchase trust lands without the additional



burden of the administrative costs associated with competitive sales.

❖LOCAL GOVERNMENTS: Negotiated sales may allow local governments to purchase trust lands without the additional burden of the administrative costs associated with competitive sales

❖OTHER PERSONS: Due to the competitive process associated with the sale of trust lands, the final price to purchase a parcel of land could be higher.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

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

School and Institutional Trust Lands  
Administration  
Suite 500  
675 East 500 South  
Salt Lake City, UT 84102-2818, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:

Kevin S. Carter at the above address, by phone at (801) 538-5100, by FAX at (801) 355-0922, or by Internet E-mail at [tlmain.kcarter@state.ut.us](mailto:tlmain.kcarter@state.ut.us).

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 02/02/98.

THIS FILING MAY BECOME EFFECTIVE ON: 02/03/98

AUTHORIZED BY: Kevin S. Carter, Assistant Director

**R850. School and Institutional Trust Lands, Administration.**

**R850-80. Sale of Trust Lands.**

**R850-80-300. Application Procedures Sales Initiation Process.**

The sales process may be initiated by:

1. ~~[The sale process is initiated by the submission]~~The acceptance of a completed application form pursuant to R850-3-400; or,[-]

2. A determination by the director that disposal of a parcel of property is timely and in the best interests of the trust land beneficiaries.

**R850-80-500. Sale Determination Procedures.**

1. Preliminary Analysis

(a) The director may offer for sale, without further market analysis or sale determination, trust lands which have been:

- i) designated for disposal in General Management Plans; or
- ii) offered for sale within the previous three years but not purchased.

(b) The director may also offer for sale trust lands subject to market analysis and sale determination as provided in R850-80-500(2) and R850-80-500(3) when lands are not precluded from consideration under R850-80-500(1)(c).

(c) The director shall not further consider an application for sale when:

- i) the sale results in an unmanageable or uneconomical parcel of trust land, or eliminates or materially restricts access to a remnant

holding, without additional remuneration to cover any loss in value to the remnant parcel;

~~[(ii) the land is within a state planning unit for which a General Management Plan is in progress;~~

~~[(iii) the land is designated for retention in an approved General Management Plan;~~

~~[(iv) the application is for land exceeding one full section or for two or more non-contiguous parcels of land, unless the parcels are located in the same section and it can be shown that they are so similar in topography and use that separate applications would be unnecessary; provided that the director may permit consideration of an application for more than one full section or for two or more non-contiguous parcels if the director determines that the interests of the trust would best be served by permitting such an application;]ii) the land has been, or is intended to be designated for development pursuant to R850-140;~~

~~[(v)]~~iii) the director finds that withdrawing the parcel from public application to develop a marketing plan is justified by market trends or anticipated market demand in the area; or

~~[(vi)]~~iv) the director finds that the sale may lead to development which may have a negative effect on the value, developability or marketability of any remaining land holdings.

2. Market Analysis

(a) The agency shall contract for an appraisal in accordance with agency specifications for the purpose of estimating the fair market value of the trust land. ~~[The appraisal shall divide the parcel into units of similarly valued lands and shall establish a specific value for each unit.]~~The cost of the appraisal shall be borne by the successful purchaser of the parcel. The agency will determine the minimum acceptable selling price of the subject parcel using the appraisal, the data in (b) below and any other information which is deemed relevant. The minimum acceptable selling price of the parcel, as determined by the agency, shall be provided protected records status pursuant to Section 63-2-304(1) or 63-2-304(7) until the sale is consummated, unless otherwise ordered by the director.

(b) The agency shall conduct an economic analysis of the proposal, which shall include:

- i) appraisal;
- ii) real estate trends;
- iii) market demand;
- iv) opportunity costs including potential for appreciation; and
- v) associated management costs of retention.

3. Sale Determination

If the market analysis conducted pursuant to R850-80-500(2) above indicates that the increase in income to the trust from leasing the parcel, or from retaining the parcel for appreciation purposes, can reasonably be expected to exceed the return to the trust beneficiaries from the sale of the parcel, the director shall deny the sale application.

~~4. Appeal Process~~

~~Applicants desiring reconsideration of agency action relative to sale determinations may petition for review pursuant to R850-9.]~~

**R850-80-550. Methods of Sale.**

Upon authorization to sell trust land and related assets by the director, the agency shall dispose of the land or assets using methods described below:

- 1. A public sale pursuant to R850-80-600.

2. A negotiated sale to a party, either directly or using a broker or real estate marketing entity, after prior approval by the board.

#### **R850-80-600. Public Sale Procedures.**

1. If a sale is authorized pursuant to R850-30-500(2)(h) or R850-80-400(4), the applicant shall be required to submit an amount equal to 10% of the offer to purchase. This amount shall constitute the applicant's bid for the purchase of the parcel and shall be provided protected records status pursuant to Section 63-2-304(1) or 63-2-304(7) until sealed bids are opened at a subsequent auction. The applicant will be allowed to enter into oral bidding subject to R850-80-600(5).

2. All sales shall be advertised through publication at least once each week for three consecutive weeks in one or more newspapers of general circulation in the county in which the land is located. Notices shall also be posted in the local governmental administrative building or courthouse and other appropriate locations. This advertisement shall indicate when and where the sale will be held. It shall contain a general description of the parcel to be sold including township, range and section and a brief description of where the parcel is located. The advertisement shall also indicate the agency office where parties interested in purchasing the land can obtain more information [~~in the form of a public notice~~].

3. At least 30 days prior to the sale, [~~the public~~] notice [~~referred to in paragraph 2 above~~] shall be sent by certified mail to each person who owns property adjoining the land proposed for sale, [~~and to each person who requests additional information in the form of the public notice. The notice shall contain:~~

- ~~— (a) date, place and time of the sale;~~
- ~~— (b) a general description of the parcel to be sold including township, range and section;~~
- ~~— (c) any known geological hazards;~~
- ~~— (d) terms of the sale;~~
- ~~— (e) reservations of the sale, including the seller's right to reject any bids;~~
- ~~— (f) notice that the sales rules are part of the conditions of sale;~~
- ~~— (g) agency office where further information may be obtained; and~~
- ~~— (h) general descriptions of conditions subsequent or deed restrictions to the sale.]~~

4. In addition to the requirements of R850-80-600(2), the agency may advertise sales using commonly accepted methods to the extent which the director has determined may reasonably increase the potential for additional bidding at the sale. Applicant's deposit for advertising specified by R850-80-300(1) will not be used for additional advertising.

5. ~~[A] Public sales shall [be initiated by] commence with:~~

(a) the submission of fixed price sealed bids. A sealed bid shall contain an amount equal to at least 10% of the total amount offered to purchase the property. The agency may require these funds to be in the form of a certified check. On cash sales the purchaser shall pay the purchase price in full with guaranteed funds. The agency reserves the right to reject any bid however submitted. ~~[Those]~~ No less than three of those submitting the ~~[three]~~ highest bids ~~]~~ shall be allowed to enter into oral bidding, beginning at the amount of the highest sealed bid. The number of additional parties allowed to participate in oral bidding shall be those parties who

submit a sealed bid that is within 20% of the high sealed bid. A bidder shall be held to the value of the bidder's sealed bid; or

(b) the payment of an agency-established bidding deposit [~~for sales where the agency initiates the sale~~]. When the sales method outlined in this subsection is used, the agency may waive the requirement to not disclose the minimum acceptable sales price imposed by R850-80-500(2)(a).

6. If no bid submitted pursuant to R850-80-600(5)(a) equals or exceeds the minimum selling price, then the sale shall not be made except as provided below.

(a) [~~if more than one sealed bid is submitted, the~~] The bidders who participated in the oral bidding may, at the discretion of the officer conducting the sale, be allowed to enter into additional oral bidding, with the starting amount being the previous high bid. In the event that more than one sealed bid was submitted, but there was no oral bidding, those persons having submitted a sealed bid who would have been allowed to enter into oral bidding pursuant to R850-80-600(5) shall be allowed to enter into oral bidding with the starting amount being the highest sealed bid. To facilitate the sale of the parcel, the officer conducting the sale may divulge the minimum acceptable selling price;

(b) if there is still not a successful bidder, the person submitting the highest bid may request the agency to reevaluate the minimum selling price. The agency shall contract for an independent appraisal, the cost for which shall be borne by the requesting party. If this appraisal indicates a value less than the highest bid, then the agency may elect to notify the highest bidder by certified mail and give him two weeks from the date of notice in which to purchase the property pursuant to R850-80-600(7).

7. At the consummation of the sale, the agency shall collect at least 10% of the total sale price, interest on the unpaid balance from the date of sale to the first day of the following month, the advertising and appraisal costs, and a sales closing charge. The balance shall be payable in no more than 20 annual payments. The first payment shall be payable one year from the first day of the month following the sale; subsequent payments shall be payable on the first day of the same month each year thereafter until the balance is paid in full. Payments in excess of the current obligations shall be applied to principal. Any unpaid balance, plus interest to date, may be paid in full at any time without penalty.

8. The interest rate which shall be charged against any unpaid balance at the time of sale shall be the prime rate, as published by Zion's First National Bank, plus 2 1/2% (Prime Rate + 2 1/2%) as ascertained on the date that the sale is approved. Interest shall be calculated on a 365-day basis. Every year thereafter, the interest rate which shall be charged against the unpaid balance shall be the prime rate, as published by Zion's First National Bank, plus 2 1/2% (Prime Rate + 2 1/2%) as ascertained on the Monday prior to the first of the month previous to the due date of the annual installment.

9. Third parties owning authorized improvements on the parcel at the time of the sale shall be allowed 90 days to remove the improvements, [~~pursuant to Section 53C-4-202(6):~~

~~— 10. As soon as reasonably possible following the sale, the agency shall prepare and deliver a Certificate of Sale to the purchaser. This certificate shall contain a legal description of the land purchased, and shall include information regarding the amount paid, the amount due, the time when the principal and interest shall become due, and any other terms, covenants, deed restrictions, or conditions which the agency finds appropriate. Upon payment in~~

full, the agency shall issue a patent pursuant to Section 53C-4-102(8).

~~11. Certificates of sale shall be executed by the purchaser and returned to the agency within 30 days from the date of the purchaser's receipt of the certificate. If the certificate is not received by the agency within the 30 day period, certified notice will be sent to the purchaser giving notice that after 30 days the sale will be cancelled with all monies received, including the down-payment, forfeited to the Trust Lands Administration. Notification by certified mail, return receipt requested, of this forfeiture provision shall accompany the transmittal of the certificate to the purchaser.~~

~~12. A certificate of sale shall be signed by the director after it has been signed by the purchaser and returned to the agency. The certificate and the agreement of sale shall not be final and no rights shall vest in the purchaser until the certificate is executed by the director. The agency reserves the right to reject bids for any reason prior to execution of the certificate by the director.]~~

#### **R850-80-700. Certificates of Sale.**

1. As soon as reasonably possible following the sale, the agency shall prepare and deliver a certificate of sale to the purchaser. This certificate shall contain a legal description of the land purchased, and shall include information regarding the amount paid, the amount due, the time when the principal and interest shall become due, the beneficiary of the land, and any other terms, covenants, deed restrictions, or conditions which the agency finds appropriate. Upon payment in full, the agency shall issue a patent pursuant to Section 53C-4-102(7).

2. Certificates of sale shall be executed by the purchaser and returned to the agency within 30 days from the date of the purchaser's receipt of the certificate. If the certificate is not received by the agency within the 30 day period, certified notice will be sent to the purchaser giving notice that after 30 days the sale will be canceled with all monies received, including the down-payment, forfeited to the Trust Lands Administration. Notification by certified mail, return receipt requested, of this forfeiture provision shall accompany the transmittal of the certificate to the purchaser.

3. A certificate of sale shall be signed by the director after it has been signed by the purchaser and returned to the agency. The certificate and the agreement of sale shall not be final and no rights shall vest in the purchaser until the certificate is executed by the director. The agency reserves the right to reject bids for any reason prior to execution of the certificate by the director.

~~[1]4. A certificate of sale may be assigned to any person qualified to purchase trust lands, provided that the assignment is approved by the agency, and that no assignment is effective until approval is given by the director in writing.~~

~~[2]5. An assignment must be consistent with these rules, executed by the assignee and assignor and acknowledged, and clearly set forth the certificate of sale number, the land involved, and the name and address of the assignee.~~

~~[3]6. Assignment of a certificate of sale does not relieve the assignor from responsibility under the original contract.~~

~~[4]7. Partial releases of property sold under certificates may be allowed at the discretion of the agency. The following conditions must be met:~~

~~(a) A partial release may only be made for parcels ten acres or larger;~~

(b) Access to the remainder of the land must be preserved without restriction;

(c) All utilities and infrastructure, including water, sewer and storm drains, electric power, and natural gas, installed on land covered by the certificate must have the capacity and capability to service all lands covered by the certificate;

(d) Unless the director makes a written finding that waiver of this condition would be in the best interests of the trust beneficiaries, payment shall be made to the agency in an amount equal to 125% of the price per acre paid by the purchaser under the certificate of sale, multiplied by the number of acres to be released, plus interest on that amount to the date payment is received. The payment shall be in the form of guaranteed funds, and shall be applied to principal. This payment shall not affect the amount or due dates of annual payments;

(e) Unless the director makes a written finding that waiver of this condition would be in the best interests of the beneficiaries, the 125% payment required by paragraph (d) above shall not include the 10% down payment required by statute or any other payment not designated by the payor, and accepted by the agency for that purpose;

(f) The buyer shall provide a survey and legal description prepared and sealed by a Utah Registered Land Surveyor of the parcel to be released; and

(g) The value of the remaining land shall not be reduced below the remaining principal balance of the certificate.

~~[5]8. Certificates issued pursuant to this section shall contain provisions for remedies that the agency may elect in the event of default. Those remedies shall include, without limitation, acceleration of the debt, forfeiture, any remedy which the agency may pursue under the contract of sale, suit for judgment, foreclosure as provided for under Section 57-1-19 et seq. for trust deeds, and any other remedies afforded at law or equity. Purchasers who have defaulted on certificates of sale may be required to make larger down-payments on subsequent sales.~~

#### **R850-80-800. Agency-Initiated Sales.**

1. The agency may also offer lands for sale when they have been:

(a) Subdivided by the agency pursuant to Section ~~[53C-4-102(5)]53C-4-102(4)~~; or

(b) Otherwise subdivided pursuant to state law; and the subdivision is accepted by the director.

2. Sales of parcels pursuant to this section shall be made according to the following procedures:

(a) The agency may offer the subject parcels for sale after advertising pursuant to R850-80-600(2).

(b) The minimum acceptable sales price shall be no less than the appraised fair market value of the parcel and shall be disclosed

(c) Sales shall be by public oral auction, with the minimum acceptable sales price as the starting bid. Buyers may be represented by third parties.

(d) Bidders must qualify by placing a deposit with the agency for each parcel on which they bid. The amount of the deposit shall be established by the agency for each public auction. Deposits shall be returned to unsuccessful bidders.

(e) Sealed bids shall be accepted from those unable to attend the auction and, if they equal or exceed the minimum acceptable sales price, shall be the starting bids in the oral auction. Sealed bids

must clearly designate the lot on which the bid is made, and must include the qualifying deposit.

(f) Payment by the successful bidder shall be made pursuant to the applicable provisions of R850-80-600(7).

(g) In addition to the sales price, each purchaser of a parcel shall pay:

- i) a prorated portion of the appraisal costs; and
- ii) an application and sales processing charge.

(h) Other provisions of the sale shall be administered pursuant to R850-80-600(8), R850-80-600(10) and R850-80-700.

3. Over the Counter Sales

(a) Following a public auction, the director may designate any unsold parcel for over the counter sale. The designation shall continue in force for a period determined by the director, but not to exceed two years.

(b) The minimum acceptable price of an unsold parcel on an over the counter sale shall be set by the director, using one of the following:

i) The average price of at least three parcels closest in size and characteristics which were sold at the related public auction under R850-80-800(2); or

ii) A reappraisal.

4. At the discretion of the director, unsold parcels may be retained for offering at a subsequent public auction.

5. At the discretion of the director, unsold parcels may be listed with a realtor at the minimum acceptable price plus an amount equivalent to the commission which the realtor will charge on the sale.

**KEY: administrative procedure, sales\***  
~~April 10, 1997~~ February 3, 1998

53C-1-302(1)(a)(ii)  
53C-2-201(1)(a)  
53C-4-101(1)  
53C-4-102  
53C-4-202(6)



**Tax Commission, Auditing**  
**R865-4D-2**

**Clean Special Fuel Certificate, Refund Procedures for Undyed Diesel Fuel Used Off-Highway or to Operate a Power Take-Off Unit, and Sales Tax Liability Pursuant to Utah Code Ann. Sections 59-13-301 and 59-13-304**

**NOTICE OF PROPOSED RULE**  
(Amendment)  
DAR FILE NO.: 20392  
FILED: 12/12/97, 10:54  
RECEIVED BY: NL

**RULE ANALYSIS**

PURPOSE OF OR REASON FOR THIS FILING: Section 59-13-301 states that no special fuel tax is imposed on undyed diesel fuel used to operate a power take-off unit of a vehicle.

SUMMARY: Amendment clarifies that the Power Take-Off (PTO) allowance calculated pursuant to the rule will be refunded to the extent total gallons allocated to Utah through the International Fuel Tax Agreement exceed the actual taxable gallons used in Utah, but never beyond the actual PTO use that occurred in Utah.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Sections 59-13-301 and 59-13-304

ANTICIPATED COST OR SAVINGS TO:

- ❖THE STATE BUDGET: None.
- ❖LOCAL GOVERNMENTS: None.
- ❖OTHER PERSONS: None.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

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

Tax Commission  
Auditing  
Tax Commission Building  
210 North 1950 West  
Salt Lake City, UT 84134, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
Pam Hendrickson at the above address, by phone at (801) 297-3902, by FAX at (801) 297-3919, or by Internet E-mail at txnet1.phendric@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 02/02/98.

THIS FILING MAY BECOME EFFECTIVE ON: 02/03/98

AUTHORIZED BY: Pam Hendrickson, Commissioner

**R865. Tax Commission, Auditing.**  
**R865-4D. Special Fuel Tax.**  
**R865-4D-2. Clean Special Fuel Certificate, Refund Procedures for Undyed Diesel Fuel Used Off-Highway or to Operate a Power Take-Off Unit, and Sales Tax Liability Pursuant to Utah Code Ann. Sections 59-13-301 and 59-13-304.**

A. If the vehicle is registered in Utah, the fee for a clean special fuel certificate under Section 59-13-304 is due at the time the vehicle is placed in operation and annually thereafter on the date the vehicle's registration is renewed. Certificates may be obtained from any Tax Commission office or any local motor vehicle office. If a vehicle is not registered in Utah, the fee is due on the date the vehicle begins operation in Utah. The fee paid for a vehicle placed in operation may be pro-rated on a monthly basis if the certificate

obtained for the vehicle is valid for a period of less than 12 months. Fees paid will not be refunded if a vehicle is sold or otherwise disposed of prior to the expiration date of the certificate.

B. Fuel used in a vehicle off-highway is calculated by taking off-highway miles divided by the average number of miles per gallon. Any other method of calculating undyed diesel fuel used off-highway must be supported by on-board computer information or other information that shows the number of gallons used off-highway with accuracy equal or comparable to on-board computers.

C. Where a power take-off unit is driven by the main engine of the vehicle and used to operate auxiliary equipment, a quantity, as enumerated below, of the total undyed diesel fuel delivered into the service tank of the vehicle shall be deemed to be used to operate the power take-off unit. The allowances for power take-off units are as follows:

1. concrete mixer trucks - 20 percent;
2. garbage trucks with trash compactor - 20 percent;
3. vehicles with powered pumps, conveyors or other loading or unloading devices may be individually negotiated but shall not exceed:
  - a) 3/4 gallon per 1000 gallons pumped; or
  - b) 3/4 gallon per 6000 pounds of commodities, such as coal, grain, and potatoes, loaded or unloaded.
4. Any other method of calculating the amount of undyed diesel fuel used to operate a power take-off unit must be supported by documentation and records, including on-board computer printouts or other logs showing daily power take-off activity, that establish the actual amount of power take-off activity and fuel consumption.

D. Allowances provided for in B. and C. above will be recognized only if adequate records are maintained to support the amount claimed.

E. In the case of vehicles filing form TC-922, Fuel Tax Return For International Fuel Tax Agreement (IFTA) And Special Fuel User Tax, the allowance provided for in C. will be refunded to the extent total gallons allocated to Utah through IFTA exceed the actual taxable gallons used in Utah, except that in no case will refunds be allowed for power take-off use that does not occur in Utah.

[E:]E. Undyed diesel fuel used on-highway for the purpose of idling a vehicle does not qualify for a refund on special fuel tax paid since the fuel is used in the operation of a motor vehicle.

[F:]G. Diesel fuel that is purchased exempt from the special fuel tax or for which the special fuel tax has been refunded is subject to sales and use tax, unless specifically exempted under the sales and use tax statutes.

**KEY: taxation, fuel, special fuel**

~~May 9, 1995~~1998

Notice of Continuation March 21, 1997

59-13-301

59-13-304



**Tax Commission, Motor Vehicle  
Enforcement  
R877-23V-17  
Reasonable Cause for Denial,  
Suspension, or Revocation of License  
Pursuant to Utah Code Ann. Sections  
41-3-105 and 41-3-209**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE No.: 20393

FILED: 12/12/97, 10:54

RECEIVED BY: NL

**RULE ANALYSIS**

PURPOSE OF OR REASON FOR THIS FILING: Section 41-3-105 gives the Motor Vehicle Enforcement Division administrator rulemaking authority to carry out the purposes of Title 41, Chapter 3. Section 41-3-209 sets forth a nonexhaustive list of actions that are included in reasonable cause.

SUMMARY: Proposed rule states that reasonable cause exists to deny or suspend a license issued under Title 41, Chapter 3, if certain charges have been filed against the applicant or license. The denial or suspension shall remain in effect until final resolution is reached by the court or the charges are dropped.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Sections 41-3-105 and 41-3-209

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: None.

❖LOCAL GOVERNMENTS: None.

❖OTHER PERSONS: Potential savings to the public as a result of less fraudulent activities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

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

Tax Commission  
Motor Vehicle Enforcement  
Tax Commission Building  
210 North 1950 West  
Salt Lake City, UT 84134, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:

Pam Hendrickson at the above address, by phone at (801) 297-3902, by FAX at (801) 297-3919, or by Internet E-mail at txnet1.phendric@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 02/02/98.

THIS FILING MAY BECOME EFFECTIVE ON: 02/03/98

AUTHORIZED BY: Pam Hendrickson, Commissioner

**R877. Tax Commission, Motor Vehicle Enforcement.  
R877-23V. Motor Vehicle Enforcement.  
R877-23V-17. Reasonable Cause for Denial, Suspension, or Revocation of License Pursuant to Utah Code Ann. Sections 41-3-105 and 41-3-209.**

A. Reasonable cause exists to deny or suspend any license issued under this chapter if charges have been filed with any county attorney, district attorney, or U.S. attorney against the licensee or applicant, or if the licensee or applicant has been charged in any court of competent jurisdiction, and the charges are for violation of any state or federal law involving motor vehicles, fraud, or a controlled substance.

B. Any action taken by the administrator pursuant to A. shall remain in effect until a final resolution is reached by the court involved or the charges are dropped.

**KEY: taxation, motor vehicles**  
**[July 25, 1996]1998** **41-3-105**  
**Notice of Continuation May 22, 1997** **41-3-209**



**Tax Commission, Property Tax  
R884-24P-24  
Form for Notice of Property Valuation and Tax Changes Pursuant to Utah Code Ann. Sections 59-2-918 through 59-2-924**

**NOTICE OF PROPOSED RULE**  
(Amendment)  
DAR FILE NO.: 20394  
FILED: 12/12/97, 10:54  
RECEIVED BY: NL

**RULE ANALYSIS**

PURPOSE OF OR REASON FOR THIS FILING: Sections 59-2-918 and 59-2-919 no longer require the truth-in-taxation advertisement to contain budget information.

SUMMARY: Amendment deletes language telling a taxing entity how to provide statutorily required budget information in the truth-in-taxation advertisement since the law no longer requires budget information in the advertisement; makes technical changes.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Sections 59-2-918 through 59-2-924

ANTICIPATED COST OR SAVINGS TO:

- ❖THE STATE BUDGET: Any impact would have been included in 1997 H. B. 61.
- ❖LOCAL GOVERNMENTS: Any impact would have been included in 1997 H. B. 61.
- ❖OTHER PERSONS: Any impact would have been included in 1997 H. B. 61.

(DAR Note: H. B. 61 is found at 1997 Utah Laws 292, and was effective January 1, 1997.)  
COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

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

Tax Commission  
Property Tax  
Tax Commission Building  
210 North 1950 West  
Salt Lake City, UT 84134, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
Pam Hendrickson at the above address, by phone at (801) 297-3902, by FAX at (801) 297-3919, or by Internet E-mail at txnet1.phendric@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 02/02/98.

THIS FILING MAY BECOME EFFECTIVE ON: 02/03/98

AUTHORIZED BY: Pam Hendrickson, Commissioner

**R884. Tax Commission, Property Tax.  
R884-24P. Property Tax.  
R884-24P-24. Form for Notice of Property Valuation and Tax Changes Pursuant to Utah Code Ann. Sections 59-2-918 through 59-2-924.**

A. The county auditor must notify all real property owners of property valuation and tax changes on the Notice of Property Valuation and Tax Changes form.

1. If a county desires to use a modified version of the Notice of Property Valuation and Tax Changes, a copy of the proposed modification must be submitted for approval to the Property Tax Division of the Tax Commission no later than March 1.

a) Within 15 days of receipt, the Property Tax Division will issue a written decision, including justifications, on the use of the modified Notice of Property Valuation and Tax changes.

b) If a county is not satisfied with the decision, it may petition for a hearing before the Tax Commission as provided in ~~[R861-1A-4]~~~~[R861-1A-22]~~.

2. The Notice of Property Valuation and Tax Changes, however modified, must contain the same information as the unmodified version. A ~~[legal]~~property description may be included at the option of the county.

B. The Notice of Property Valuation and Tax Changes must be completed by the county auditor in its entirety, except in the following circumstances:

1. New property is created by a new legal description; or
2. The status of the improvements on the property has changed.
3. In instances where partial completion is allowed, the term nonapplicable will be entered in the appropriate sections of the Notice of Property Valuation and Tax Changes.

4. If the county auditor determines that conditions other than those outlined in this section merit deletion, the auditor may enter the term "nonapplicable" in appropriate sections of the Notice of Property Valuation and Tax Changes only after receiving approval from the Property Tax Division in the manner described in A.

C. Real estate assessed under the Farmland Assessment Act of 1969 must be reported at full market value, with the value based upon Farmland Assessment Act rates shown parenthetically.

D. All completion dates specified for the disclosure of property tax information must be strictly observed.

1. Requests for deviation from the statutory completion dates must be submitted in writing on or before June 1, and receive the approval of the Property Tax Division in the manner described in A.

E. If the proposed rate exceeds the certified rate, jurisdictions in which the fiscal year is the calendar year are required to hold public hearings even if budget hearings have already been held for that fiscal year.

F. If the cost of public notice required under Sections 59-2-918 and 59-2-919 is greater than one percent of the property tax revenues to be received, an entity may combine its advertisement with other entities, or use direct mail notification.

G. Calculation of the amount and percentage increase in property tax revenues required by Sections 59-2-918 and 59-2-919, shall be computed by comparing property taxes levied for the current year with property taxes collected the prior year, without adjusting for revenues attributable to new growth. ~~[Calculations of the amount and percentage increase or decrease in the total budget shall be based on total budgeted revenues.]~~

H. If a taxing district has not completed the tax rate setting process as prescribed in Sections 59-2-919 and 59-2-920 by August 17, the county auditor must seek approval from the Tax Commission to use the certified rate in calculating taxes levied.

I. The value of property subject to the uniform fee under Section 59-2-405 is excluded from taxable value for purposes of calculating new growth, the certified tax rate, and the proposed tax rate.

J. The value and taxes of property subject to the uniform fee under Section 59-2-405, as well as tax increment distributions and related taxable values of redevelopment agencies, are excluded when calculating the percentage of property taxes collected as provided in Section 59-2-913.

K. The following formulas and definitions shall be used in determining new growth:

1. New growth shall be computed as follows:
  - a) the taxable value for the current year adjusted for redevelopment minus year-end taxable value for the previous year adjusted for redevelopment; then

b) plus or minus changes in value as a result of factoring; then  
 c) plus or minus changes in value as a result of reappraisal; then

d) plus or minus any change in value resulting from a legislative mandate or court order.

2. Adjusted new growth equals new growth multiplied by the mean collection rate for the previous five years.

L. The following definitions and formulas shall be used in determining the certified tax rate:

1. Current year adjusted taxable value equals the taxable value for the current year adjusted for redevelopment; then

- a) adjusted for estimated value losses due to appeals, using an average percentage loss for the past three years; then
- b) adjusted for estimated collection losses.

2. The certified tax rate shall be computed as follows:

a) Last year's taxes collected, excluding redemptions, penalties, interest, ~~rollback~~ roll-back taxes, and other miscellaneous collections.

b) Divided by the sum of the current year adjusted taxable value less adjusted new growth.

3. Entities required to set levies for more than one fund must compute an aggregate certified rate. The aggregate certified rate is the sum of the certified rates for individual funds for which separate levies are required by law. The aggregate certified rate computation applies where:

- a) the valuation bases for the funds are contained within identical geographic boundaries; and
- b) the funds are under the levy and budget setting authority of the same governmental entity.

4. Exceptions to L.3. are the county assessing and collecting levy, as described in Section 59-2-906.1(3), and the additional levies for property valuation and reappraisal, as described in Section 59-2-906.3.

a) These levies may not be included as part of a county's aggregate certified rate. Instead, they must be segregated into a separate aggregate certified rate.

b) The separate aggregate certified rate representing these levies is subject to the proposed tax increase requirements of Sections 59-2-918 and 59-2-919.

M. For purposes of determining the certified tax rate of a municipality incorporated on or after July 1, 1996, the levy imposed for municipal-type services or general county purposes shall be the certified tax rate for municipal-type services or general county purposes, as applicable.

N. No new entity, including a new city, may have a certified tax rate or levy a tax for any particular year unless that entity existed on the first day of that calendar year.

**KEY: taxation, personal property, property tax, appraisal**  
~~[December 20, 1996]1998~~ **59-2-918 through 59-2-924**  
**Notice of Continuation May 8, 1997**



# Workforce Services, Employment Development

## R986-303-301

### A, B and D Medicaid and A, B and D Institutional Medicaid Coverage Groups

#### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 20319

FILED: 12/02/97, 18:02

RECEIVED BY: NL

#### RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: The Balanced Budget Act of 1997, Pub. L. No. 105-133, added a coverage group which protects Medicaid eligibility for certain children who have been Supplemental Security Income (SSI) recipients but are no longer considered disabled. The effective date for this coverage is July 1, 1997. Pub. L. No. 105-133 also requires states to pay the Part B premium, in whole or in part, for two new groups of qualifying individuals up to the amount of federal funds allocated to the state. Some technical changes in citations were also made.

SUMMARY: This rule change adds Medicaid coverage for children who were receiving Supplemental Security Income (SSI) payments on August 22, 1996 but who have lost their SSI payments because of the change in the definition of disability for children enacted by Pub. L. No. 104-193 which was passed on August 22, 1996. The majority of these children are already on Medicaid, so there will be minimal budget impact. Pub. L. No. 105-133 also adds coverage for Medicare recipients who would otherwise be eligible for the Specified Low-Income Medicare Beneficiary program except that their income exceeds 120% of the federal poverty limit but is less than 175% of the federal poverty limit. Coverage is limited to payment of the Part B Medicare premium or a portion of such premium as determined by the Department of Health and Department of Human Services. Funding for payments is 100% federal funds with an annual allocation limit. Administrative costs are matched 50%.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Title 26, Chapter 18

FEDERAL MANDATE FOR THIS FILING: Pub. L. No. 105-133 Sections 4732 and 4913; and Subection 1902(a)(10)(E) of the Compilation of the Social Security Laws, 1995 ed.

THIS FILING INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: Social Security Laws, 1995 ed., Pub. L. No. 105-133

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: \$32,200 (Federal match = \$32,200 for total cost of \$64,400. Based on estimate of number of applications processed.)

❖LOCAL GOVERNMENTS: None.

❖OTHER PERSONS: An individual who qualifies for payment of their Part B Medicare premium (under Section 4732 of Pub. L. No. 105-33) can save up to \$525 in a year on the cost of their health care coverage.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

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

Workforce Services  
Employment Development  
Fifth Floor  
140 East 300 South  
PO Box 45245  
Salt Lake City, UT 84145-0249, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
Shawn Potter at the above address, by phone at (801) 531-3783, by FAX at (801) 531-3785, or by Internet E-mail at spotter@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 02/02/98.

THIS FILING MAY BECOME EFFECTIVE ON: 02/03/98

AUTHORIZED BY: Curtis Johnson, Director

#### R986. Workforce Services, Employment Development.

##### R986-303. Coverage Groups.

##### R986-303-301. A, B and D Medicaid and A, B and D Institutional Medicaid Coverage Groups.

1. The department shall provide Medicaid coverage to individuals as described in 42 CFR 435.116, 435.120, 435.122, 435.131 through 435.133, 435.135, 435.138, 435.210, 435.211, 435.301, 435.320, 435.322, 435.324, 435.340, and 435.541, 1992 ed., which are incorporated by reference. The department shall provide coverage to individuals as described in 20 CFR 416.901 through 416.1094, 1992 ed., which is incorporated by reference. The department shall provide coverage to individuals as required by ~~Public Law 74-271~~ Sections ~~[(f)470]~~ through ~~[(f)479]~~, ~~[(f)1634](b), (c) and (d), [(f)1902](a)(10)(E) and 1902(e) of the~~ Compilation of the Social Security Laws, 1995 ed. The department shall provide coverage to individuals as required by Pub. L. No. 105-33, Sections 4732 and 4913 which is incorporated by reference.

2. Current department practices:

a. Proof of disability includes a certification of disability from the State Medicaid Disability Office, Supplemental Security Income (SSI) status, or proof that a disabled client is recognized as disabled by the Social Security Administration (SSA).

b. A client who earns more than \$500 a month will be denied disability without being reviewed by the State Medicaid Disability Office.

c. If a client has been denied SSI or SSA and claims to have become disabled since the SSI or SSA decision, the State Medicaid Disability Office shall review current medical information to determine if the client is disabled.

d. The age requirement for A Medicaid is 65 years of age.



e. For children described in Pub. L. No. 105-33, Section 4913, periodic redeterminations shall be conducted as determined by the state to assure that the child continues to meet the SSI eligibility criteria as required by such section.

f. Coverage for qualifying individuals described in Pub. L. No. 105-33, Section 4732, is limited to the amount of funds allocated under such section for a given year. Applicants will be denied coverage when the uncommitted allocated funds are insufficient to provide such coverage.

**KEY: income, coverage groups\***

**[~~April 1, 1996~~1998**

**26-18**



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## NOTICES OF CHANGES IN PROPOSED RULES

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After an agency has published a PROPOSED RULE in the *Utah State Bulletin*, it may receive public comment that requires the PROPOSED RULE to be altered before it goes into effect. A CHANGE IN PROPOSED RULE allows an agency to respond to comments it receives.

As with a PROPOSED RULE, a CHANGE IN PROPOSED RULE is preceded by a RULE ANALYSIS. This analysis provides summary information about the CHANGE IN PROPOSED RULE including the name of a contact person, anticipated cost impact of the rule, and legal cross-references.

Following the RULE ANALYSIS, the text of the CHANGE IN PROPOSED RULE is usually printed. The text shows only those changes made since the PROPOSED RULE was published in an earlier edition of the *Utah State Bulletin*. Additions made to the rule appear underlined (e.g., example). Deletions made to the rule appear struck out with brackets surrounding them (e.g., [example]). A row of dots in the text (•••••) indicates that unaffected text was removed to conserve space. If a CHANGE IN PROPOSED RULE is too long to print, the Division of Administrative Rules will include only the RULE ANALYSIS. A copy of rules that are too long to print is available from the agency or from the Division of Administrative Rules.

While a CHANGE IN PROPOSED RULE does not have a formal comment period, there is a 30-day waiting period during which interested parties may submit comments. The 30-day waiting period for CHANGES IN PROPOSED RULES published in this issue of the *Utah State Bulletin* ends February 2, 1998. At its option, the agency may hold public hearings.

From the end of the waiting period through May 1, 1998, the agency may notify the Division of Administrative Rules that it wants to make the CHANGE IN PROPOSED RULE effective. When an agency submits a NOTICE OF EFFECTIVE DATE for a CHANGE IN PROPOSED RULE, the PROPOSED RULE as amended by the CHANGE IN PROPOSED RULE becomes the effective rule. The agency sets the effective date. The date may be no fewer than 30 days nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file another CHANGE IN PROPOSED RULE in response to additional comments received. If the Division of Administrative Rules does not receive a NOTICE OF EFFECTIVE DATE or another CHANGE IN PROPOSED RULE, the CHANGE IN PROPOSED RULE filing, along with its associated PROPOSED RULE, lapses and the agency must start the process over.

CHANGES IN PROPOSED RULES are governed by UTAH CODE Section 63-46a-6 (1996); and UTAH ADMINISTRATIVE CODE Rule R15-2, and Sections R15-4-3, R15-4-5, R15-4-7, and R15-4-9.

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Commerce, Occupational and  
Professional Licensing  
**R156-54**  
Radiology Technologist and Radiology  
Practical Technician Licensing Act  
Rules

**NOTICE OF CHANGE IN PROPOSED RULE**

DAR FILE NO.: 20173  
FILED: 12/15/97, 09:01  
RECEIVED BY: NL

**RULE ANALYSIS**

PURPOSE OF OR REASON FOR THIS FILING: After a public hearing and comments received, changes are being made to the proposed rules.

SUMMARY: Several nonsubstantive changes have been made regarding spelling or correct names of associations. The most significant change is changing the examination requirements for radiology practical technicians back to requiring passing examinations in specific areas rather than combining all examinations.

**(DAR Note:** The original proposed amendment upon which this change in proposed rule is based was published in the November 15, 1997, issue of the *Utah State Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Section 58-54-1, and Subsections 58-1-106(1) and 58-1-202(1)

ANTICIPATED COST OR SAVINGS TO:

- ❖THE STATE BUDGET: None.
- ❖LOCAL GOVERNMENTS: None.
- ❖OTHER PERSONS: None.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

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

Commerce  
Occupational and Professional Licensing  
Fourth Floor, Heber M. Wells Building  
160 East 300 South  
PO Box 146741  
Salt Lake City, UT 84114-6741, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:

David Fairhurst at the above address, by phone at (801) 530-6621, by FAX at (801) 530-6511, or by Internet E-mail at [brdopl.dfairhur@email.state.ut.us](mailto:brdopl.dfairhur@email.state.ut.us).

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 02/02/98.

THIS FILING MAY BECOME EFFECTIVE ON: 02/03/98

AUTHORIZED BY: J. Craig Jackson, Division Director

**R156. Commerce, Occupational and Professional Licensing, R156-54. Radiology Technologist and Radiology Practical Technician Licensing Act Rules.**

**R156-54-102. Definitions.**

In addition to the definitions in Title 58, Chapters 1 and 54, as used in Title 58, Chapters 1 and 54 or these rules:

(1) "ARRT" means the American Registry of Radiologic[~~at~~] Technologists.

(2) "Supervision", "general supervision" or "direct supervision" as used in Subsections 58-54-2(5), (6) and (7) and Section 58-54-8 means that the supervising radiologist or radiology practitioner shall be available for consultation while the radiology technologist or the radiology practical technician is performing any radiographic procedures. Consultation may be in person, by telephone, by radio or any other means of direct verbal communication. The supervising radiologist or radiology practitioner shall be responsible for the radiographic procedures performed by the radiology technologist or the radiology practical technician.

(3) "Unprofessional conduct" as defined in Title 58, Chapters 1 and 54, is further defined, in accordance with Subsection 58-1-203(5), in Section R156-54-502.

**R156-54-301. Equivalent Education Requirements for Licensure as a Radiology Technologist.**

In accordance with Subsection 58-54-5(2)(a), a four year bachelors of science degree in radiology is an equivalent radiological educational program approved for licensure as a radiology technologist.

**R156-54-302a. Examination Requirements - Radiology Technologist.**

In accordance with Subsection 58-54-5(2)(b), the examination requirement for licensure as a radiology technologist requires passing:

(1) one of the following ARRT Examinations in Radiology Technology with a minimum passing score of 75%:

- (a) Radiography;
- (b) Nuclear Medicine Technology;
- (c) Radiation Therapy Technology; or

(2) the Nuclear ~~[Medical]~~Medicine Technology Certification Board Examination with a passing score as established by the Nuclear Medicine Technology Certification Board; and

(3) the Utah Radiology Technologist and Radiology Practical Technician Law and Rule Examination with a minimum passing score of 75%.

**R156-54-302b. Examination Requirements - Radiology Practical Technician.**

In accordance with Subsection 58-54-5(3), the examination requirement for licensure as a radiology practical technician requires passing:

(1) the ARRT Limited Scope of Practice in Radiography Examination with a minimum ~~[combined average]~~ passing score of 65% for ~~each~~[~~all~~] of the following~~[sections]~~:

- (a) core;~~and~~

(b) one or more of the following sections:

- (i) chest;
- (e)ii) extremities;
- (d)iii) skull/sinuses;
- (e)iv) spine; and
- (f)v) podiatric; or

(2) the Utah Limited Scope of Practice in Radiography Examination with a minimum [~~combined average~~]passing score of [70]65% for each[~~at~~] of the following[~~sections~~]:

(a) core; and  
(b) one or more of the following sections:

- (b)i) chest;
- (c)ii) extremities;
- (d)iii) skull/sinuses;
- (e)iv) spine;
- (f)v) podiatric; and
- (g)vi) osteoporotic; and

(3) the Utah Radiology Technologist and Radiology Practical Technician Law and Rule Examination with a minimum passing score of 75%.

**R156-54-304. Professional Education.**

(1) In accordance with Subsection 58-54-6(2), each licensee shall be required to complete a program of professional education during each two year period commencing June of each odd numbered year.

(2) The required number of hours of professional education for an individual who first becomes licensed during the two year period shall be decreased in a pro-rata amount equal to any part of that two year period preceding the date on which that individual first becomes licensed.

(3) Qualified professional education under this section shall:

- (a) be relevant to the licensee's professional practice;
- (b) be prepared and presented by individuals who are qualified by education, training and experience; and
- (c) have a method of verification of attendance.

(4) Unlimited hours of professional education shall be recognized for professional education completed in blocks of time not less than 50 minutes in formally established classroom courses, seminars, lectures, labs, training sessions or conferences which are approved by or conducted under the sponsorship of:

- (a) an accredited institution of higher education;
- (b) American Society of Radiologic Technologists[ARRT] or other similar professional organizations;
- (c) an acute care hospital or medical treatment facility; or
- (d) a professional association representing one of the licensed professions regularly engaged in radiologic procedures.

(5) Ten hours of professional education shall be recognized on a one time basis for passing the Utah Radiology Technologist and Radiology Practical Technician Law and Rule Examination if the exam was not required at the time of licensure.

(6) Each licensee shall be responsible for keeping documentation of his professional education hours for a period of four years after close of the two year period to which the records pertain.

(7) A licensee who has a serious health condition or has left the United States for an extended period of time which prevent the licensee from meeting the professional education requirements established under this section may be excused from the requirement

for that period of time. However, it is the responsibility of the licensee to document the reasons and justify why the requirement could not be met.

**KEY: licensing, radiology technologist\*, radiology practical technician\***

~~[1997]~~1998

Notice of Continuation May 12, 1997

58-54-1

58-1-106(1)

58-1-202(1)



Workforce Services, Employment  
Development  
**R986-417**  
Documentation

**NOTICE OF CHANGE IN PROPOSED RULE**

DAR FILE NO.: 20208

FILED: 12/05/97, 13:23

RECEIVED BY: NL

**RULE ANALYSIS**

PURPOSE OF OR REASON FOR THIS FILING: This change clarifies and improves the readability of the rule.

SUMMARY: The rule affected by this change contains the requirements for the Department to conduct face-to-face interviews for Food Stamp households. Several parts of this rule have been rewritten to improve clarity.

(**DAR Note:** The original proposed amendment upon which this change in proposed rule is based was published in the December 1, 1997, issue of the *Utah State Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Section 62A-9-105

FEDERAL MANDATE FOR THIS FILING: 7 CFR 273.10(f), 7 CFR 273.14

ANTICIPATED COST OR SAVINGS TO:

- ❖THE STATE BUDGET: None.
- ❖LOCAL GOVERNMENTS: None.
- ❖OTHER PERSONS: The new reporting requirements, which are less restrictive, could mean that households with increasing income would continue to receive higher benefits because some changes are only reporting quarterly under these revised rules.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

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

Workforce Services  
Employment Development  
Fifth Floor  
140 East 300 South  
PO Box 45245  
Salt Lake City, UT 84145-0249, or

at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
Shawn Potter at the above address, by phone at (801) 531-3783, by FAX at (801) 531-3785, or by Internet E-mail at spotter@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 02/02/98.

THIS FILING MAY BECOME EFFECTIVE ON: 02/03/98

AUTHORIZED BY: Curtis Johnson, Director

**R986. Workforce Services, Employment Development.  
R986-417. Documentation.**

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**R986-417-716. Certification Periods.**

The department adopts 7 CFR 273.10(f), 1992 ed. which is incorporated by reference.

- 1. Current Department Practices
  - a. Certification periods are calendar months rather than fiscal months.
  - b. All households must have a face-to-face interview at the time of application and at the time of review, or at least once every 12 months.
    - i. Households with earned income are only required to~~with~~ have the face-to-face interview ~~waived except for~~ once every 12 months.
    - ii. However, if a household requests a face-to-face interview, one must be conducted. The interview must be conducted on the same day that the household brings the review form to the office ~~otherwise the face-to-face must be waived~~.
    - iii. Telephone interviews can be done when a face-to-face is waived if one is necessary to determine continued eligibility or the benefit amount.

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**KEY: food stamps, benefits**  
**[1997]1998** **62A-9-105**  
**Notice of Continuation February 10, 1997** **7 CFR 273.14**



## NOTICES OF 120-DAY (EMERGENCY) RULES

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An agency may file a 120-DAY (EMERGENCY) RULE when it finds that the regular rulemaking procedures would:

- (a) cause an imminent peril to the public health, safety, or welfare;
- (b) cause an imminent budget reduction because of budget restraints or federal requirements; or
- (c) place the agency in violation of federal or state law (UTAH CODE Subsection 63-46a-7(1) (1996)).

As with a PROPOSED RULE, a 120-DAY RULE is preceded by a RULE ANALYSIS. This analysis provides summary information about the 120-DAY RULE including the name of a contact person, justification for filing a 120-DAY RULE, anticipated cost impact of the rule, and legal cross-references. A row of dots in the text (••••) indicates that unaffected text was removed to conserve space.

A 120-DAY RULE is effective at the moment the Division of Administrative Rules receives the filing, or on a later date designated by the agency. A 120-DAY RULE is effective for 120 days or until it is superseded by a permanent rule.

Because 120-DAY RULES are effective immediately, the law does not require a public comment period. However, when an agency files a 120-DAY RULE, it usually files a PROPOSED RULE at the same time, to make the requirements permanent. Comment may be made on the proposed rule.

Emergency or 120-DAY RULES are governed by UTAH CODE Section 63-46a-7 (1996); and UTAH ADMINISTRATIVE CODE Section R15-4-8.

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### Education, Administration

## R277-468

### Possession of Alcoholic Beverages on School Property

#### NOTICE OF 120-DAY (EMERGENCY) RULE

DAR FILE NO.: 20329  
FILED: 12/03/97, 14:27  
RECEIVED BY: NL

#### RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: This rule forbids the possession or consumption of alcohol at a school.

SUMMARY: The rule forbids the possession or consumption of alcohol at school activities or on school grounds, provides for supervision by education official, and provides an exception if school premises are leased long term and full time.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Section 53A-13-102

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: None.
- ❖ LOCAL GOVERNMENTS: None.
- ❖ OTHER PERSONS: None.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

EMERGENCY FILING JUSTIFICATION: REGULAR RULEMAKING PROCEDURES WOULD cause an imminent peril to the public health, safety, or welfare.

Because there was uncertainty as to the interpretation and breadth of "operated by the public education system" and a community group has petitioned the Department of Alcoholic Beverage Control to serve alcohol at a social function after school hours in the immediate future.

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

Education  
Administration  
250 East 500 South  
Salt Lake City, UT 84111, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:

Carol B. Lear at the above address, by phone at (801) 538-7835, by FAX at (801) 538-7768, or by Internet E-mail at clear@usoe.k12.ut.us.

THIS FILING IS EFFECTIVE ON: 12/03/97

AUTHORIZED BY: Carol B. Lear, Education Specialist

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#### **R277. Education, Administration.**

#### **R277-468. Possession of Alcoholic Beverages on School Property.**

#### **R277-468-1. Definitions.**

- A. "Board" means the Utah State Board of Education.

B. "Alcoholic beverages" means "beer" and "liquor" as the terms are defined under Section 32A-1-105.

**R277-468-2. Authority and Purpose.**

A. This rule is authorized by Utah Constitution Article X Section 3 which vests general control and supervision of the public education system in the Board, Section 53A-13-102 which directs the Board to adopt rules for instruction on the harmful effects of alcohol and to cooperate with community organizations and state agencies in efforts which are compatible with the purposes of that Section, and Section 53A-1-401(3) which addresses the Board's authority to make rules in accordance with its responsibilities.

B. The purpose of this rule is to interpret the scope of Section 53A-3-501 which prohibits the possession or use of alcoholic beverages on property operated by a part of the public education system.

**R277-468-3. Possession or Consumption of Alcohol on School Property.**

A. The possession or consumption of an alcoholic beverage inside or on the grounds of any building or other real property owned or operated by a part of the public education system is prohibited at all times.

B. Public education officials shall also exercise appropriate supervision to ensure that neither the possession nor consumption of alcoholic beverages is permitted in those portions of any building, park, or stadium which are being used for an activity sponsored by or through any part of the public education system.

**R277-468-4. Exceptions.**

A. Subsection R277-468-3A does not apply to property owned by a school district in contemplation of future use for school purposes while the property is under lease to another party.

B. A lease meeting the requirements of this Subsection must be for an unbroken and undivided period of not less than three years.

C. During the period of the lease, the property may not be used for school purposes at any time.

**KEY: school buildings  
December 3, 1997**

**Art X Sec 3  
53A-13-102  
53A-1-401(3)**



Health, Health Systems Improvement,  
Child Care Licensing

**R430-30**

Adjudicative Procedure

**NOTICE OF 120-DAY (EMERGENCY) RULE**

DAR FILE No.: 20343  
FILED: 12/05/97, 07:16  
RECEIVED BY: NL

**RULE ANALYSIS**

PURPOSE OF OR REASON FOR THIS FILING: This rule is required due to the transition of child care licensing from the Department of Human Services to the Department of Health. The rule defines the Adjudicative process for child care providers licensed by the State. The current emergency rule expires on January 7, 1998.

SUMMARY: This is a new rule in the Department of Health. It outlines all requirements to appeal any action the Department takes against a child care provider.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Title 26, Chapter 39

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: Direct fund transfer from Workforce Services - no changes .

❖LOCAL GOVERNMENTS: None.

❖OTHER PERSONS: None.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

EMERGENCY FILING JUSTIFICATION: REGULAR RULEMAKING PROCEDURES WOULD place the agency in violation of federal or state law.

In March of 1997, the Legislature moved the child care licensing authority from the Department of Human Services to the Department of Health, effective July 1, 1997. The time frame for the transition to the Department of Health was not adequate to allow for normal rulemaking procedures.

**(DAR Note:** The first 120-day (emergency) rule that is effective as of September 9, 1997, is under DAR No. 19851 in the October 1, 1997, issue of the *Utah State Bulletin*. A corresponding proposed new rule is under DAR No. 20268 in the December 15, 1997, issue of the *Utah State Bulletin*. This emergency rule supersedes the first one. The two bills passed in the Legislature are: 1st Sub. H. B. 113 which is found at 1997 Utah Laws 196 and was effective July 1, 1997; and 2nd Sub. H. B. 124 which is found at 1997 Utah Laws 127 and will be effective January 1, 1998.)

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

Health  
Health Systems Improvement,  
Child Care Licensing  
Second Floor, Cannon Health Building  
288 North 1460 West  
Box 142853  
Salt Lake City, UT 84116, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:

Debra Wynkoop-Green at the above address, by phone at (801) 538-6152, by FAX at (801) 538-6325, or by Internet E-mail at dwynkoop@email.state.ut.us.

THIS FILING IS EFFECTIVE ON: 12/05/97

AUTHORIZED BY: Rod Betit, Executive Director

**R430. Health, Health Systems Improvement, Child Care Licensing.****R430-30. Adjudicative Procedure.****R430-30-1. Purpose.**

This rule is adopted pursuant to Title 26, Chapter 39.

**R430-30-2. Definitions.**

(1) "Department" means the Utah Department of Health, Bureau of Licensing.

(2) "Initial agency determination" means a decision by department staff, without conducting adjudicative proceedings, of the legal rights, duties, privileges, immunities, or other legal interests of one or more identifiable persons, including all determinations to grant, deny, revoke, suspend, modify, annul, withdraw, or amend an authority, right, or license, all as limited by Subsection 63-46b-1(2).

(3) "Notice of agency action" means the formal notice meeting the requirements of Subsection 63-46b-3(2) that the department issues to commence an adjudicative proceeding.

(4) "Request for agency action" means the formal written request meeting the requirements of Subsection 63-46b-3(3) that requests the department to commence an adjudicative proceeding.

**R430-30-3. Commencement of Adjudicative Proceedings.**

(1) All adjudicative proceedings under Title 26, Chapter 39, Utah Child Care Licensing Act, and under R430, Child Care Facility Rules, are formal adjudicative proceedings.

(2) The Department may commence an adjudicative proceeding by filing and serving a notice of agency action in accordance with Subsection 63-46b-3(2) when the Department's actions are of a nature that require an adjudicative proceeding before the Department makes a decision.

(3) A person affected by an initial agency determination may commence an adjudicative proceeding and meet the requirements for a request for agency action under Subsection 63-46b-3(3) by completing the "Facility Licensure Request for Agency Action" form and filing the form with the Department.

**R430-30-4. Responses.**

(1) A respondent to a notice of agency action shall file and serve a written response within 30 calendar days of the postmarked mailing date or last publication date of the notice of agency action.

(2) A respondent who has filed a request for agency action, and has received notice from the presiding officer under Section 63-46b-3(3)(d)(iii) that further proceedings are required to determine the Department's response to the request, shall file and serve a written response within 30 calendar days of the postmarked mailing date or last publication date of the presiding officer's notice.

(3) The written response shall:

(a) include the information specified in Subsection 63-46b-6(1);

(b) be signed by the respondent or the respondent's representative; and

(c) be filed with the Department during the time period specified in Subsection R430-30-4(1) or R430-30-4(2).

(4) The respondent shall send one copy of the response by certified mail to each party.

(5) A person who has filed a request for agency action and has received notice from the presiding officer under Section 63-46b-3(3)(d)(ii) that the request is denied may request a hearing before the Department to challenge the denial. The person must complete and submit the Department hearing request form to the presiding officer within 30 calendar days of the postmarked mailing date of the presiding officer's notice.

(6) The presiding officer, upon motion of a party or upon the presiding officer's own motion, may allow any pleadings to be amended or corrected. Defects which do not affect substantial rights of the parties shall be disregarded.

**R430-30-5. Discovery.**

(1) Any party to a formal adjudicative proceeding may engage in discovery consistent with the provisions of this rule.

(2) The provisions of Rules 26, 27, 28, 29, 30, 32, 34, 36, and 37 of the Utah Rules of Civil Procedure, current January 1, 1995, are adopted and incorporated by reference.

(a) Where the incorporated Utah Rules of Civil Procedure refer to the court or to the clerk, the reference shall be to the presiding officer.

(b) Statutory restrictions on the release of information held by governmental entity shall be honored in controlling what is discoverable.

(c) All response times that are greater than 10 working days in the incorporated Utah Rules of Civil Procedure are amended to be 10 working days from the postmark of the mailing date of the request, unless otherwise ordered by the presiding officer.

(d) The parties shall ensure that all discovery is completed at least 10 calendar days before the day of the hearing. The parties may not make discovery requests to which the response time falls beyond 10 calendar days before the day of the hearing.

(e) Depositions may be recorded by audio recording equipment. However, any deposition to be introduced at the hearing must be first transcribed to a written document.

(f) Service of any discovery request or subpoena may be made upon any person upon whom a summons may be served in accordance with the Utah Rules of Civil Procedure. Service may be made by mail, by the party or by the party's agent.

(g) Subpoenas to compel the attendance of witnesses as provided in Rule 30(a) shall conform to R430-30-6.

**R430-30-6. Witnesses and Subpoenas.**

(1) Each party is responsible for the presence of that party's witnesses at the hearing.

(2) The presiding hearing officer may issue a subpoena to compel the attendance of a witness or the production of evidence, in accordance with the following:

(a) the officer may issue the subpoena upon a party's motion supported by affidavit showing sufficient need, or upon the officer's own motion;

(b) the party to whom the hearing officer has issued a subpoena shall cause the subpoena and a copy of the affidavit, if any, to be served.

(c) every subpoena shall be issued by the presiding officer under the seal of the Department, shall state the title of the action, and shall command every person to whom it is directed to attend and give testimony at time and place therein specified.



(d) a supporting affidavit for a subpoena duces tecum for the production by a witness of books, accounts, memoranda, correspondence, photographs, papers, documents, records, or other tangible thing shall include the following:

(i) the name and address of the entity upon whom the subpoena is to be served;

(ii) a description of what the party seeks to have the witness bring;

(iii) a showing of the materiality to the issue involved in the hearing;

(iv) a statement by the party that to the best of his knowledge the witness has such items in his possession or under his control.

**R430-30-7. Certificate of Service.**

There shall appear on all documents required to be served a certificate of service dated and signed by the party or his agent in substantially the following form:

I certify that I served the foregoing document upon all parties to this proceeding by delivering (or mailing postage prepaid and properly addressed, or causing to be delivered) a copy of it to (provide the name of the person).

**R430-30-8. Stays and Temporary Remedy.**

(1) During the pendency of judicial review, a party may petition for a stay of the order or other temporary remedy by filing a written petition with the presiding officer within seven calendar days of the day the order is issued.

(2) The presiding officer shall issue a written decision within ten working days of the filing date of the request. The presiding officer may grant a stay or other temporary remedy if such an action is in the best interest of the children.

(3) The request for a stay or temporary remedy shall be considered denied if the presiding officer does not issue a written decision within ten days of the filing of a written petition.

(4) The presiding officer may grant a stay or other temporary remedy on the presiding officer's own motion.

**The Remainder of This Page  
Is Intentionally Left Blank.**

**R430-30-9. Declaratory Orders.**

Any person or agency may petition for a Department declaratory ruling on orders issued by the Department where there is statutory authority to issue orders by following the procedures outlined in Rule R380-5.

**KEY: child care facilities**

**December 5, 1997**

**26-39**



# FIVE-YEAR REVIEW NOTICES OF CONTINUATION

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Within five years of an administrative rule's original enactment or last five-year review, the responsible agency is required to review the rule. This review is designed to remove obsolete rules from the *Utah Administrative Code*.

Upon reviewing a rule, an agency may: repeal the rule by filing a PROPOSED RULE; continue the rule as it is by filing a NOTICE OF CONTINUATION; or amend the rule by filing a PROPOSED RULE and by filing a NOTICE OF CONTINUATION. By filing a NOTICE OF CONTINUATION, the agency indicates that the rule is still necessary.

NOTICES OF CONTINUATION 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 OF CONTINUATION are effective when filed.

Five-Year Review NOTICES OF CONTINUATION are governed by UTAH CODE Section 63-46a-9 (1996).

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## Administrative Services, Fleet Operations **R27-1** Identification Mark for State Motor Vehicles

### FIVE-YEAR REVIEW NOTICE OF CONTINUATION

DAR FILE NO.: 20309  
FILED: 12/02/97, 13:36  
RECEIVED BY: NL

#### NOTICE AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 63A-9-601 requires all state-owned motor vehicles to display an identification mark. It also requires the division to enact rules describing the size and design of the identifying mark. Section 41-1a-407 mandates use of "EX" plates and identification marks on vehicles owned by government entities. It also provides for exceptions.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Statute mandates the division to enact a rule regarding identifying marks. It is in the state's interest and public safety to mark the vehicles in a consistent manner.

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

Administrative Services  
Fleet Operations

4120 State Office Building  
Salt Lake City, UT 84114-1102, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
Shirley Robinson at the above address, by phone at (801) 538-9672, by FAX at (801) 538-1773, or Internet E-mail at srobinso@fo.state.ut.us.

AUTHORIZED BY: Steven W. Saltzgiver, Director

EFFECTIVE: 12/02/97

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## Administrative Services, Fleet Operations, Surplus Property **R28-7** Surplus Property Rate Schedule

### FIVE-YEAR REVIEW NOTICE OF CONTINUATION

DAR FILE NO.: 20310  
FILED: 12/02/97, 13:36  
RECEIVED BY: NL

#### NOTICE AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 63A-9-801 requires the division to make rules establishing a surplus property program for accounting disbursement and payment procedures for disposal and acquisition of surplus properties by each state agency.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Statute mandates rule to be enacted regarding the elements of the rates or other charges assessed by the division for services and handling. This rule insures consistency across the state concerning costs paid to the division through surplus property.

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

Administrative Services  
Fleet Operations  
4120 State Office Building  
Salt Lake City, UT 84114-1102, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:

Shirley Robinson at the above address, by phone at (801) 538-9672, by FAX at (801) 538-1773, or Internet E-mail at srobinso@fo.state.ut.us.

AUTHORIZED BY: Steven W. Saltzgiver, Director

EFFECTIVE: 12/02/97

communications network, and minimize duplication of effort and expenses. Actions the Division of Information Technology Services take regarding telecommunications affect all state agencies, except as noted, and therefore are required to be documented in rule by Section 63-46a-3(2).

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

Administrative Services  
Information Technology Services  
6000 State Office Building  
450 N Main St  
PO Box 141172  
Salt Lake City, UT 84114-1172, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:

Russ D. Fairless at the above address, by phone at (801) 538-3492, by FAX at (801) 538-3622, or Internet E-mail at asitmain.rfairles@email.state.ut.us.

AUTHORIZED BY: Leon Miller, Director

EFFECTIVE: 12/15/97

Administrative Services, Information  
Technology Services  
**R29-2**  
Telecommunications Services and  
Requirements

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE No.: 20491  
FILED: 12/15/97, 08:31  
RECEIVED BY: NL

**NOTICE 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: As provided in Section 63A-6-106, all state agencies must subscribe to the telecommunications services of the Division of Information Technology Services, unless excepted by law. The purpose of this rule is to specify the standards and procedures required of state agencies for telecommunications services.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: As identified in statute, it is in the state's interest to maintain an integrated

Administrative Services, Purchasing  
**R33-5**  
Construction and Architect-Engineer  
Selection

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE No.: 20353  
FILED: 12/08/97, 17:30  
RECEIVED BY: NL

**NOTICE 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: Sections 63-56-7, 63-56-14, 63-56-36 through 40, and 63-56-42 through 63-56-44, assign to the Procurement Policy Board the responsibility to adopt rules governing the procurement of construction and services such as architect and engineer services.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rules regarding the procurement of construction, architect and engineering services continue to be needed.

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

Administrative Services  
Purchasing  
3150 State Office Building  
PO Box 141061  
Salt Lake City, UT 84114-1061, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
Douglas Richins at the above address, by phone at (801) 538-3143, by FAX at (801) 538-3882, or Internet E-mail at drichins@state.ut.us.

AUTHORIZED BY: Douglas G. Richins, Director

EFFECTIVE: 12/08/97

**Administrative Services, Purchasing  
R33-8  
Property Management**

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE NO.: 20354  
FILED: 12/08/97, 17:58  
RECEIVED BY: NL

**NOTICE AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 63-56-7 assigns to the Procurement Policy Board the responsibility to adopt rules governing the management, and control of any and all supplies to be procured by the state.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rules regarding the management of property and supplies continue to be needed.

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

Administrative Services  
Purchasing  
3150 State Office Building  
PO Box 141061  
Salt Lake City, UT 84114-1061, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
Douglas Richins at the above address, by phone at (801) 538-3143, by FAX at (801) 538-3882, or Internet E-mail at drichins@state.ut.us.

AUTHORIZED BY: Douglas G. Richins, Director

EFFECTIVE: 12/08/97

**Community and Economic  
Development, Community  
Development, Community Services  
R202-100  
Community Services Block Grant Rules**

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE NO.: 20347  
FILED: 12/08/97, 08:19  
RECEIVED BY: NL

**NOTICE 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 State of Utah receives Community Services Block Grant Funding under the provision of the Federal Omnibus Budget Reconciliation Act of 1981, Title XVII (Chapter 2, Block Grant Funds) and Title VI (Subtitle B, Community Services Block Grant Programs), Public Law 97-35(c) as amended.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments were received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Under Section 675, the Federal law requires that the State provide fiscal control and fund accounting procedures as may be necessary to assure the proper disbursement of and accounting for Federal funds paid to the State under this subtitle, including procedures for monitoring the assistance provided under this subtitle. The State Community Services Office Rules are necessary to maintain compliance.

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

Community and Economic Development  
Community Development, Community Services  
Suite 500  
324 South State Street  
Salt Lake City, UT 84111, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
Matthew Minkevitch at the above address, by phone at (801) 538-8639, by FAX at (801) 538-8888, or Internet E-mail at mminkevi@dced.state.ut.us.

AUTHORIZED BY: Kerry William Bate, Administrator  
State Community Services Office

EFFECTIVE: 12/08/97

**Corrections, Administration**  
**R251-710**  
**Search**

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE No.: 20378  
FILED: 12/11/97, 09:47  
RECEIVED BY: NL

**NOTICE AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 64-13-14(1) directs the Department to maintain and operate secure correctional facilities for the incarceration of offenders. Subsection 64-13-17(2) states that persons visiting the institution may be required to submit to a search or inspection of their persons and properties as a condition of visitation.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

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 in order to maintain the safety and security of correctional facilities.

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

Corrections  
Administration  
Suite 400  
6100 South Fashion Blvd.  
Murray, UT 84107, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
Pam Elliott at the above address, by phone at (801) 265-5514, by FAX at (801) 265-5726, or Internet E-mail at crdeptdo.crdept.pelliott@email.state.ut.us.

AUTHORIZED BY: H. L. Haun, Executive Director

EFFECTIVE: 12/11/97



**Environmental Quality, Water Quality**  
**R317-1**  
**Definitions and General Requirements**

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE No.: 20396  
FILED: 12/12/97, 13:49  
RECEIVED BY: NL

**NOTICE AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 19-5-104(1)(a) authorizes the Utah Water Quality Board to develop programs for the prevention, control, and abatement of new or existing pollution of the waters of the state. Subsection 19-5-104(1)(f) authorizes the Board to make rules which implement or effectuate the powers and duties of the Board.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Since the rule was enacted, it has been amended several times. The limited comments which have been received on the rule have generally been of a technical and non-controversial nature. Comments received during hearings and public comment periods for rule changes have been addressed through preparation of Responsiveness Summaries by Division of Water Quality staff and have been presented to the Water Quality Board for their consideration during the rulemaking process.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule provides definitions and general requirements for implementation of the Utah Water Quality Act. It is central to the implementation of the Act, in that it provides the general framework for control of water pollution, including the requirements for construction permits, compliance with state Water Quality Standards, and requirements for waste discharges.

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

Environmental Quality  
Water Quality  
Cannon Health Building, 3rd Floor  
288 North 1460 West  
PO Box 144870  
Salt Lake City, UT 84114-4860, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
David Wham at the above address, by phone at (801) 538-6052, by FAX at (801) 538-6016, or Internet E-mail at dwham@deq.state.ut.us.

288 North 1460 West  
PO Box 144870  
Salt Lake City, UTs 84114-4860, or  
at the Division of Administrative Rules.

AUTHORIZED BY: Brent Bradford, Deputy Director

DIRECT QUESTIONS REGARDING THIS FILING TO:  
David Wham at the above address, by phone at (801) 538-6052, by FAX at (801) 538-6016, or Internet E-mail at dwham@deq.state.ut.us.

EFFECTIVE: 12/12/97

AUTHORIZED BY: Brent Bradford, Deputy Director

EFFECTIVE: 12/12/97

◆ ----- ◆  
**Environmental Quality, Water Quality  
R317-2  
Standards of Quality for Waters of the  
State**

◆ ----- ◆  
**Environmental Quality, Water Quality  
R317-3  
Design Requirements for Wastewater  
Collection, Treatment and Disposal  
Systems**

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE No.: 20397  
FILED: 12/12/97, 13:49  
RECEIVED BY: NL

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE No.: 20398  
FILED: 12/12/97, 13:49  
RECEIVED BY: NL

**NOTICE AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 19-5-104(1)(e) authorizes the Utah Water Quality Board to adopt, modify, or repeal standards of quality of the waters of the state and classify those waters according to their reasonable uses. Subsection 19-5-104(1)(f) authorizes the Board to make rules which implement or effectuate the powers and duties of the Board.

**NOTICE AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 19-5-104(1)(h) authorizes the Water Quality Board to review plans, specifications, or other data relative to wastewater disposal systems or any part of disposal systems, and issue construction permits for the installation or modification of treatment works or any parts of them. Subsection 19-5-104(1)(f) authorizes the Board to make rules which implement or effectuate the powers and duties of the Board.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Since the rule was enacted, it has been amended several times. The limited comments which have been received on the rule have generally been of a technical and non-controversial nature. Comments received during hearings and public comment periods for rule changes have been addressed through preparation of responsiveness summaries by Division of Water Quality staff and have been presented to the Water Quality Board for their consideration during the rulemaking process.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Since the rule was enacted, it has been amended several times. The limited comments which have been received on the rule have generally been of a technical and non-controversial nature. Comments received during hearings and public comment periods for rule changes have been addressed through preparation of responsiveness summaries by Division of Water Quality staff and have been presented to the Water Quality Board for their consideration during the rulemaking process. During the last major revision to the rule, a technical review committee consisting of the regulated community and other interested and affected parties was formed to provide input to the Division of Water Quality and the Board.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule classifies waters of the state according to their beneficial uses and sets numerical standards of quality for those waters. The existence of the rule is central to implementation of water quality protection programs under the Utah Water Quality Act.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
Environmental Quality  
Water Quality  
Cannon Health Building, 3rd Floor

COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule sets design requirements for construction of wastewater collection, treatment and disposal systems. The Water Quality Board is charged with review and approval of these systems. The rule is required to meet this charge.

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

Environmental Quality  
Water Quality  
Cannon Health Building, 3rd Floor  
288 North 1460 West  
PO Box 144870  
Salt Lake City, UT 84114-4860, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
David Wham at the above address, by phone at (801) 538-6052, by FAX at (801) 538-6016, or Internet E-mail at dwham@deq.state.ut.us.

AUTHORIZED BY: Brent Bradford, Deputy Director

EFFECTIVE: 12/12/97



Environmental Quality, Water Quality  
**R317-5**  
Large Underground Wastewater  
Disposal Systems

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**  
DAR FILE No.: 20399  
FILED: 12/12/97, 13:49  
RECEIVED BY: NL

**NOTICE AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 19-5-104(1)(h) authorizes the Water Quality Board to review plans, specifications, or other data relative to wastewater disposal systems or any part of disposal systems, and issue construction permits for the installation or modification of treatment works or any parts of them. Subsection 19-5-104(1)(f) authorizes the Board to make rules which implement or effectuate the powers and duties of the Board.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Since the rule was enacted, it has been amended several times. The limited comments which have been received on the rule have generally been of a technical and non-controversial nature. Comments received during hearings and public comment periods for rule changes have been addressed through preparation of responsiveness summaries by Division of Water Quality staff and have been

presented to the Water Quality Board for their consideration during the rulemaking process.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule sets design requirements for construction of wastewater collection, treatment and disposal systems. The Water Quality Board is charged with review and approval of these systems. The rule is required to meet this charge.

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

Environmental Quality  
Water Quality  
Cannon Health Building, 3rd Floor  
288 North 1460 West  
PO Box 144870  
Salt Lake City, UT 84114-4860, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
David Wham at the above address, by phone at (801) 538-6052, by FAX at (801) 538-6016, or Internet E-mail at dwham@deq.state.ut.us.

AUTHORIZED BY: Brent Bradford, Deputy Director

EFFECTIVE: 12/12/97



Environmental Quality, Water Quality  
**R317-6**  
Ground Water Quality Protection

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**  
DAR FILE No.: 20400  
FILED: 12/12/97, 13:49  
RECEIVED BY: NL

**NOTICE AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 19-5-104(1)(a) authorizes the Utah Water Quality Board to develop programs for the prevention, control, and abatement of new or existing pollution of the waters of the state; Subsection 19-5-104(1)(f) authorizes the Board to make rules which implement or effectuate the powers and duties of the Board.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Since the rule was enacted, it has been amended several times. The limited comments which have been received on the rule have generally been of a technical and non-controversial nature. Comments received during

hearings and public comment periods for rule changes have been addressed through preparation of responsiveness summaries by Division of Water Quality staff and have been presented to the Water Quality Board for their consideration during the rulemaking process.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule is required for the Water Quality Board to implement the state's Ground Water Protection Program. It provides the structure for the ground water discharge permit, defines ground water classes, protection levels, and sets ground water quality standards.

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

Environmental Quality  
Water Quality  
Cannon Health Building, 3rd Floor  
288 North 1460 West  
PO Box 144870  
Salt Lake City, UT 84114-4860, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
David Wham at the above address, by phone at (801) 538-6052, by FAX at (801) 538-6016, or Internet E-mail at dwham@deq.state.ut.us.

AUTHORIZED BY: Brent Bradford, Deputy Director

EFFECTIVE: 12/12/97



**Environmental Quality, Water Quality  
R317-8  
Utah Pollutant Discharge Elimination  
System (UPDES)**

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE NO.: 20401  
FILED: 12/12/97, 13:49  
RECEIVED BY: NL

**NOTICE AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 19-5-104(1)(i) authorizes the Utah Water Quality Board to require discharge permits to control the management of sewage sludge or to prevent or control the discharge of pollutants, including effluent limitations for the discharge of wastes into the waters of the state; Subsection 19-5-104(1)(f) authorizes the Board to make rules which implement or effectuate the powers and duties of the Board.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Since the rule was enacted, it has been amended several times. The limited comments which have been received on the rule have generally been of a technical and non-controversial nature. Comments received during hearings and public comment periods for rule changes have been addressed through preparation of responsiveness summaries by Division of Water Quality staff and have been presented to the Water Quality Board for their consideration during the rulemaking process.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule is required for the Water Quality Board to implement Utah's Pollutant Discharge Elimination System (UPDES). It provides the structure for the surface water discharge permit. The rule is required to maintain state primacy for administering the UPDES program. If Utah does not obtain and maintain primacy to enforce UPDES rules at least equivalent to the federal rules, then the Environmental Protection Agency will enforce the federal rules using direct implementation procedures. In promulgating the rule, the Water Quality Board made the determination that the UPDES Program is best administered at the state level.

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

Environmental Quality  
Water Quality  
Cannon Health Building, 3rd Floor  
288 North 1460 West  
PO Box 144870  
Salt Lake City, UT 84114-4860, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
David Wham at the above address, by phone at (801) 538-6052, by FAX at (801) 538-6016, or Internet E-mail at dwham@deq.state.ut.us.

AUTHORIZED BY: Brent Bradford, Deputy Director

EFFECTIVE: 12/12/97



**Environmental Quality, Water Quality  
R317-10  
Certification of Wastewater Works  
Operators**

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE NO.: 20402  
FILED: 12/12/97, 13:49  
RECEIVED BY: NL



**NOTICE AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsections 19-5-104(1)(p) and 19-5-104(2) authorize the Utah Water Quality Board to adopt and enforce rules and establish fees to cover the costs of testing for certification of operators of treatment works and sewerage systems operated by political subdivisions.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Since the rule was enacted, it has been amended several times. The limited comments which have been received on the rule have generally been of a technical and non-controversial nature. Comments received during hearings and public comment periods for rule changes have been addressed through preparation of responsiveness summaries by Division of Water Quality staff and have been presented to the Water Quality Board for their consideration during the rulemaking process. During the enactment of the rule, a technical review committee, consisting of the regulated community and other interested and affected parties, was formed to provide input to the Division of Water Quality and the Board.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule is required for the Water Quality Board to implement the state's Wastewater Operator Certification Program as outlined in the Water Quality Act. The certification program is established in order to assist in protecting the quality of waters in the state of Utah by helping ensure that personnel in charge of wastewater works are trained, experienced, reliable and efficient; to protect the public health and the environment and provide for the health and safety of wastewater works operators; and to establish standards and methods whereby wastewater works operating personnel can demonstrate competency.

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

Environmental Quality  
Water Quality  
Cannon Health Building, 3rd Floor  
288 North 1460 West  
PO Box 144870  
Salt Lake City, UT 84114-4860, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
David Wham at the above address, by phone at (801) 538-6052, by FAX at (801) 538-6016, or Internet E-mail at dwham@deq.state.ut.us.

AUTHORIZED BY: Brent Bradford, Deputy Director

EFFECTIVE: 12/12/97



Environmental Quality, Water Quality  
**R317-100**  
Utah State Project Priority System and  
List for the Utah Wastewater Loan  
Programs

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE NO.: 20403  
FILED: 12/12/97, 13:49  
RECEIVED BY: NL

**NOTICE AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 19-5-104(1)(f)(i)(D) authorizes the Utah Water Quality Board to adopt rules to implement awarding construction loans to political subdivisions and municipal authorities under Section 11-8-2, including development of a priority schedule for awarding loans.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Since the rule was enacted, it has been amended several times. The limited comments which have been received on the rule have generally been of a technical and non-controversial nature. Comments received during hearings and public comment periods for rule changes have been addressed through preparation of responsiveness summaries by Division of Water Quality staff and have been presented to the Water Quality Board for their consideration during the rulemaking process.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Priority System and List are used to rank wastewater projects for possible State and Federal funding assistance. The Priority List is updated annually through rulemaking and incorporated by reference into Section R317-100-1. The proposed rule is required in order for the State to be eligible for federal funds.

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

Environmental Quality  
Water Quality  
Cannon Health Building, 3rd Floor  
288 North 1460 West  
PO Box 144870  
Salt Lake City, UT 84114-4860, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
David Wham at the above address, by phone at (801) 538-6052, by FAX at (801) 538-6016, or Internet E-mail at dwham@deq.state.ut.us.

AUTHORIZED BY: Brent Bradford, Deputy Director

Salt Lake City, UT 84114-4860, or  
at the Division of Administrative Rules.

EFFECTIVE: 12/12/97

DIRECT QUESTIONS REGARDING THIS FILING TO:  
David Wham at the above address, by phone at (801) 538-6052, by FAX at (801) 538-6016, or Internet E-mail at dwham@deq.state.ut.us.

◆ ————— ◆  
**Environmental Quality, Water Quality  
R317-501  
Individual Wastewater Disposal  
Systems**

AUTHORIZED BY: Brent Bradford, Deputy Director

EFFECTIVE: 12/12/97

◆ ————— ◆  
**Environmental Quality, Water Quality  
R317-502  
Individual Disposal Wastewater  
Systems--General Requirements**

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE No.: 20404  
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**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE No.: 20405  
FILED: 12/12/97, 13:49  
RECEIVED BY: NL

**NOTICE AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 19-5-104(1)(f)(iv) authorizes the Utah Water Quality Board to adopt rules to protect the public health for the design, construction, operation, and maintenance of individual wastewater disposal systems, liquid scavenger operations, and vault and earthen pit privies.

**NOTICE AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 19-5-104(1)(f)(iv) authorizes the Utah Water Quality Board to adopt rules to protect the public health for the design, construction, operation, and maintenance of individual wastewater disposal systems, liquid scavenger operations, and vault and earthen pit privies.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Since the rule was enacted, it has been amended several times. The limited comments which have been received on the rule have generally been of a technical and non-controversial nature. Comments received during hearings and public comment periods for rule changes have been addressed through preparation of responsiveness summaries by Division of Water Quality staff and have been presented to the Water Quality Board for their consideration during the rulemaking process. During the last major revision to the rule, a technical review committee consisting of the regulated community and other interested and affected parties was formed to provide input to the Division of Water Quality and the Board.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Since the rule was enacted, it has been amended several times. The limited comments which have been received on the rule have generally been of a technical and non-controversial nature. Comments received during hearings and public comment periods for rule changes have been addressed through preparation of responsiveness summaries by Division of Water Quality staff and have been presented to the Water Quality Board for their consideration during the rulemaking process. During the last major revision to the rule, a technical review committee consisting of the regulated community and other interested and affected parties was formed to provide input to the Division of Water Quality and the Board.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rules R317-501 through R317-513, and Rules R317-550 and R317-560 are required to protect the public health for the design, construction, operation, and maintenance of individual wastewater disposal systems, liquid scavenger operations, and vault and earthen pit privies.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rules R317-501 through R317-513, and Rules R317-550 and R317-560 are required to protect the public health for the design, construction, operation, and maintenance of individual wastewater disposal systems, liquid scavenger operations, and vault and earthen pit privies.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
Environmental Quality  
Water Quality  
Cannon Health Building, 3rd Floor  
288 North 1460 West  
PO Box 144870

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

Environmental Quality  
Water Quality  
Cannon Health Building, 3rd Floor  
288 North 1460 West  
PO Box 144870  
Salt Lake City, UT 84114-4860, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
David Wham at the above address, by phone at (801) 538-6052, by FAX at (801) 538-6016, or Internet E-mail at dwham@deq.state.ut.us.

AUTHORIZED BY: Brent Bradford, Deputy Director

EFFECTIVE: 12/12/97



**Environmental Quality, Water Quality  
R317-503  
Soil and Ground Water Requirements**

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE NO.: 20406  
FILED: 12/12/97, 13:49  
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**NOTICE AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 19-5-104(1)(f)(iv) authorizes the Utah Water Quality Board to adopt rules to protect the public health for the design, construction, operation, and maintenance of individual wastewater disposal systems, liquid scavenger operations, and vault and earthen pit privies.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Since the rule was enacted, it has been amended several times. The limited comments which have been received on the rule have generally been of a technical and non-controversial nature. Comments received during hearings and public comment periods for rule changes have been addressed through preparation of responsiveness summaries by Division of Water Quality staff and have been presented to the Water Quality Board for their consideration during the rulemaking process. During the last major revision to the rule, a technical review committee consisting of the regulated community and other interested and affected parties was formed to provide input to the Division of Water Quality and the Board.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH

COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rules R317-501 through R317-513, and Rules R317-550 and R317-560 are required to protect the public health for the design, construction, operation, and maintenance of individual wastewater disposal systems, liquid scavenger operations, and vault and earthen pit privies.

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

Environmental Quality  
Water Quality  
Cannon Health Building, 3rd Floor  
288 North 1460 West  
PO Box 144870  
Salt Lake City, UT 84114-4860, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
David Wham at the above address, by phone at (801) 538-6052, by FAX at (801) 538-6016, or Internet E-mail at dwham@deq.state.ut.us.

AUTHORIZED BY: Brent Bradford, Deputy Director

EFFECTIVE: 12/12/97



**Environmental Quality, Water Quality  
R317-504  
Building Sewer**

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE NO.: 20407  
FILED: 12/12/97, 13:49  
RECEIVED BY: NL

**NOTICE AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 19-5-104(1)(f)(iv) authorizes the Utah Water Quality Board to adopt rules to protect the public health for the design, construction, operation, and maintenance of individual wastewater disposal systems, liquid scavenger operations, and vault and earthen pit privies.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Since the rule was enacted, it has been amended several times. The limited comments which have been received on the rule have generally been of a technical and non-controversial nature. Comments received during hearings and public comment periods for rule changes have been addressed through preparation of responsiveness summaries by Division of Water Quality staff and have been presented to the Water Quality Board for their consideration during the rulemaking process. During the last major revision

to the rule, a technical review committee consisting of the regulated community and other interested and affected parties was formed to provide input to the Division of Water Quality and the Board.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rules R317-501 through R317-513, and Rules R317-550 and R317-560 are required to protect the public health for the design, construction, operation, and maintenance of individual wastewater disposal systems, liquid scavenger operations, and vault and earthen pit privies.

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

Environmental Quality  
Water Quality  
Cannon Health Building, 3rd Floor  
288 North 1460 West  
PO Box 144870  
Salt Lake City, UT 84114-4860, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
David Wham at the above address, by phone at (801) 538-6052, by FAX at (801) 538-6016, or Internet E-mail at dwham@deq.state.ut.us.

AUTHORIZED BY: Brent Bradford, Deputy Director

EFFECTIVE: 12/12/97



Environmental Quality, Water Quality  
**R317-505**  
Septic Tanks

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**  
DAR FILE NO.: 20408  
FILED: 12/12/97, 13:49  
RECEIVED BY: NL

**NOTICE AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 19-5-104(1)(f)(iv) authorizes the Utah Water Quality Board to adopt rules to protect the public health for the design, construction, operation, and maintenance of individual wastewater disposal systems, liquid scavenger operations, and vault and earthen pit privies.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Since the rule was enacted, it has been amended several times. The limited comments which have

been received on the rule have generally been of a technical and non-controversial nature. Comments received during hearings and public comment periods for rule changes have been addressed through preparation of responsiveness summaries by Division of Water Quality staff and have been presented to the Water Quality Board for their consideration during the rulemaking process. During the last major revision to the rule, a technical review committee consisting of the regulated community and other interested and affected parties was formed to provide input to the Division of Water Quality and the Board.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rules R317-501 through R317-513, and Rules R317-550 and R317-560 are required to protect the public health for the design, construction, operation, and maintenance of individual wastewater disposal systems, liquid scavenger operations, and vault and earthen pit privies.

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

Environmental Quality  
Water Quality  
Cannon Health Building, 3rd Floor  
288 North 1460 West  
PO Box 144870  
Salt Lake City, UT 84114-4860, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
David Wham at the above address, by phone at (801) 538-6052, by FAX at (801) 538-6016, or Internet E-mail at dwham@deq.state.ut.us.

AUTHORIZED BY: Brent Bradford, Deputy Director

EFFECTIVE: 12/12/97



Environmental Quality, Water Quality  
**R317-506**  
Discharge to Absorption System

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**  
DAR FILE NO.: 20409  
FILED: 12/12/97, 13:49  
RECEIVED BY: NL

**NOTICE AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 19-5-104(1)(f)(iv) authorizes the Utah Water Quality Board to adopt rules to protect the public health for the design, construction, operation, and maintenance of individual

wastewater disposal systems, liquid scavenger operations, and vault and earthen pit privies.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Since the rule was enacted, it has been amended several times. The limited comments which have been received on the rule have generally been of a technical and non-controversial nature. Comments received during hearings and public comment periods for rule changes have been addressed through preparation of responsiveness summaries by Division of Water Quality staff and have been presented to the Water Quality Board for their consideration during the rulemaking process. During the last major revision to the rule, a technical review committee consisting of the regulated community and other interested and affected parties was formed to provide input to the Division of Water Quality and the Board.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rules R317-501 through R317-513 and rules R317-550 and R317-560 are required to protect the public health for the design, construction, operation, and maintenance of individual wastewater disposal systems, liquid scavenger operations, and vault and earthen pit privies.

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

Environmental Quality  
Water Quality  
Cannon Health Building, 3rd Floor  
288 North 1460 West  
PO Box 144870  
Salt Lake City, UT 84114-4860, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
David Wham at the above address, by phone at (801) 538-6052, by FAX at (801) 538-6016, or Internet E-mail at dwham@deq.state.ut.us.

AUTHORIZED BY: Brent Bradford, Deputy Director

EFFECTIVE: 12/12/97



Environmental Quality, Water Quality  
**R317-507**  
Absorption System

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**  
DAR FILE No.: 20410  
FILED: 12/12/97, 13:49  
RECEIVED BY: NL

**NOTICE AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 19-5-104(1)(f)(iv) authorizes the Utah Water Quality Board to adopt rules to protect the public health for the design, construction, operation, and maintenance of individual wastewater disposal systems, liquid scavenger operations, and vault and earthen pit privies.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Since the rule was enacted, it has been amended several times. The limited comments which have been received on the rule have generally been of a technical and non-controversial nature. Comments received during hearings and public comment periods for rule changes have been addressed through preparation of responsiveness summaries by Division of Water Quality staff and have been presented to the Water Quality Board for their consideration during the rulemaking process. During the last major revision to the rule, a technical review committee consisting of the regulated community and other interested and affected parties was formed to provide input to the Division of Water Quality and the Board.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rules R317-501 through R317-513, and Rules R317-550 and R317-560 are required to protect the public health for the design, construction, operation, and maintenance of individual wastewater disposal systems, liquid scavenger operations, and vault and earthen pit privies.

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

Environmental Quality  
Water Quality  
Cannon Health Building, 3rd Floor  
288 North 1460 West  
PO Box 144870  
Salt Lake City, UT 84114-4860, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
David Wham at the above address, by phone at (801) 538-6052, by FAX at (801) 538-6016, or Internet E-mail at dwham@deq.state.ut.us.

AUTHORIZED BY: Brent Bradford, Deputy Director

EFFECTIVE: 12/12/97



Environmental Quality, Water Quality  
**R317-508**  
 Plan Information for Individual  
 Wastewater Disposal Systems

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE NO.: 20411  
 FILED: 12/12/97, 13:49  
 RECEIVED BY: NL

**NOTICE AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 19-5-104(1)(f)(iv) authorizes the Utah Water Quality Board to adopt rules to protect the public health for the design, construction, operation, and maintenance of individual wastewater disposal systems, liquid scavenger operations, and vault and earthen pit privies.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Since the rule was enacted, it has been amended several times. The limited comments which have been received on the rule have generally been of a technical and non-controversial nature. Comments received during hearings and public comment periods for rule changes have been addressed through preparation of responsiveness summaries by Division of Water Quality staff and have been presented to the Water Quality Board for their consideration during the rulemaking process. During the last major revision to the rule, a technical review committee consisting of the regulated community and other interested and affected parties was formed to provide input to the Division of Water Quality and the Board.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rules R317-501 through R317-513, and Rules R317-550 and R317-560 are required to protect the public health for the design, construction, operation, and maintenance of individual wastewater disposal systems, liquid scavenger operations, and vault and earthen pit privies.

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

Environmental Quality  
 Water Quality  
 Cannon Health Building, 3rd Floor  
 288 North 1460 West  
 PO Box 144870  
 Salt Lake City, UT 84114-4860, or  
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
 David Wham at the above address, by phone at (801) 538-6052, by FAX at (801) 538-6016, or Internet E-mail at dwham@deq.state.ut.us.

AUTHORIZED BY: Brent Bradford, Deputy Director

EFFECTIVE: 12/12/97

Environmental Quality, Water Quality  
**R317-509**  
 Design, Installation, and Maintenance  
 of Sewage Holding Tanks

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE NO.: 20412  
 FILED: 12/12/97, 13:49  
 RECEIVED BY: NL

**NOTICE AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 19-5-104(1)(f)(iv) authorizes the Utah Water Quality Board to adopt rules to protect the public health for the design, construction, operation, and maintenance of individual wastewater disposal systems, liquid scavenger operations, and vault and earthen pit privies.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Since the rule was enacted, it has been amended several times. The limited comments which have been received on the rule have generally been of a technical and non-controversial nature. Comments received during hearings and public comment periods for rule changes have been addressed through preparation of responsiveness summaries by Division of Water Quality staff and have been presented to the Water Quality Board for their consideration during the rulemaking process. During the last major revision to the rule, a technical review committee consisting of the regulated community and other interested and affected parties was formed to provide input to the Division of Water Quality and the Board.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rules R317-501 through R317-513, and Rules R317-550 and R317-560 are required to protect the public health for the design, construction, operation, and maintenance of individual wastewater disposal systems, liquid scavenger operations, and vault and earthen pit privies.

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

Environmental Quality  
Water Quality  
Cannon Health Building, 3rd Floor  
288 North 1460 West  
PO Box 144870  
Salt Lake City, UT 84114-4860, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
David Wham at the above address, by phone at (801) 538-6052, by FAX at (801) 538-6016, or Internet E-mail at dwham@deq.state.ut.us.

AUTHORIZED BY: Brent Bradford, Deputy Director

EFFECTIVE: 12/12/97



**Environmental Quality, Water Quality  
R317-510  
Review Criteria for Establishing the  
Feasibility of Proposed Housing  
Subdivisions and Other Similar  
Developments**

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**  
DAR FILE NO.: 20413  
FILED: 12/12/97, 13:49  
RECEIVED BY: NL

**NOTICE AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 19-5-104(1)(f)(iv) authorizes the Utah Water Quality Board to adopt rules to protect the public health for the design, construction, operation, and maintenance of individual wastewater disposal systems, liquid scavenger operations, and vault and earthen pit privies.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Since the rule was enacted, it has been amended several times. The limited comments which have been received on the rule have generally been of a technical and non-controversial nature. Comments received during hearings and public comment periods for rule changes have been addressed through preparation of responsiveness summaries by Division of Water Quality staff and have been presented to the Water Quality Board for their consideration during the rulemaking process. During the last major revision to the rule, a technical review committee consisting of the regulated community and other interested and affected

parties was formed to provide input to the Division of Water Quality and the Board.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rules R317-501 through R317-513, and Rules R317-550 and R317-560 are required to protect the public health for the design, construction, operation, and maintenance of individual wastewater disposal systems, liquid scavenger operations, and vault and earthen pit privies.

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

Environmental Quality  
Water Quality  
Cannon Health Building, 3rd Floor  
288 North 1460 West  
PO Box 144870  
Salt Lake City, UT 84114-4860, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
David Wham at the above address, by phone at (801) 538-6052, by FAX at (801) 538-6016, or Internet E-mail at dwham@deq.state.ut.us.

AUTHORIZED BY: Brent Bradford, Deputy Director

EFFECTIVE: 12/12/97



**Environmental Quality, Water Quality  
R317-511  
Percolation Test Requirements**

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**  
DAR FILE NO.: 20414  
FILED: 12/12/97, 13:49  
RECEIVED BY: NL

**NOTICE AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 19-5-104(1)(f)(iv) authorizes the Utah Water Quality Board to adopt rules to protect the public health for the design, construction, operation, and maintenance of individual wastewater disposal systems, liquid scavenger operations, and vault and earthen pit privies.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Since the rule was enacted, it has been amended several times. The limited comments which have been received on the rule have generally been of a technical and non-controversial nature. Comments received during

hearings and public comment periods for rule changes have been addressed through preparation of responsiveness summaries by Division of Water Quality staff and have been presented to the Water Quality Board for their consideration during the rulemaking process. During the last major revision to the rule, a technical review committee consisting of the regulated community and other interested and affected parties was formed to provide input to the Division of Water Quality and the Board.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rules R317-501 through R317-513, and Rules R317-550 and R317-560 are required to protect the public health for the design, construction, operation, and maintenance of individual wastewater disposal systems, liquid scavenger operations, and vault and earthen pit privies.

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

Environmental Quality  
Water Quality  
Cannon Health Building, 3rd Floor  
288 North 1460 West  
PO Box 144870  
Salt Lake City, UT 84114-4860, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
David Wham at the above address, by phone at (801) 538-6052, by FAX at (801) 538-6016, or Internet E-mail at dwham@deq.state.ut.us.

AUTHORIZED BY: Brent Bradford, Deputy Director

EFFECTIVE: 12/12/97



Environmental Quality, Water Quality  
**R317-512**  
Approved Building Sewer Pipe and  
Distribution Pipe for Individual  
Wastewater Disposal Systems

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE NO.: 20415  
FILED: 12/12/97, 13:49  
RECEIVED BY: NL

**NOTICE AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE

PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 19-5-104(1)(f)(iv) authorizes the Utah Water Quality Board to adopt rules to protect the public health for the design, construction, operation, and maintenance of individual wastewater disposal systems, liquid scavenger operations, and vault and earthen pit privies.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Since the rule was enacted, it has been amended several times. The limited comments which have been received on the rule have generally been of a technical and non-controversial nature. Comments received during hearings and public comment periods for rule changes have been addressed through preparation of responsiveness summaries by Division of Water Quality staff and have been presented to the Water Quality Board for their consideration during the rulemaking process. During the last major revision to the rule, a technical review committee consisting of the regulated community and other interested and affected parties was formed to provide input to the Division of Water Quality and the Board.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rules R317-501 through R317-513, and Rules R317-550 and R317-560 are required to protect the public health for the design, construction, operation, and maintenance of individual wastewater disposal systems, liquid scavenger operations, and vault and earthen pit privies.

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

Environmental Quality  
Water Quality  
Cannon Health Building, 3rd Floor  
288 North 1460 West  
PO Box 144870  
Salt Lake City, UT 84114-4860, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
David Wham at the above address, by phone at (801) 538-6052, by FAX at (801) 538-6016, or Internet E-mail at dwham@deq.state.ut.us.

AUTHORIZED BY: Brent Bradford, Deputy Director

EFFECTIVE: 12/12/97





Environmental Quality, Water Quality  
**R317-513**  
Recommendations for the Maintenance  
of Septic Tanks and Absorption  
Systems

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE NO.: 20416  
FILED: 12/12/97, 13:49  
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**NOTICE AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 19-5-104(1)(f)(iv) authorizes the Utah Water Quality Board to adopt rules to protect the public health for the design, construction, operation, and maintenance of individual wastewater disposal systems, liquid scavenger operations, and vault and earthen pit privies.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Since the rule was enacted, it has been amended several times. The limited comments which have been received on the rule have generally been of a technical and non-controversial nature. Comments received during hearings and public comment periods for rule changes have been addressed through preparation of responsiveness summaries by Division of Water Quality staff and have been presented to the Water Quality Board for their consideration during the rulemaking process. During the last major revision to the rule, a technical review committee consisting of the regulated community and other interested and affected parties was formed to provide input to the Division of Water Quality and the Board.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rules R317-501 through R317-513, and Rules R317-550 and R317-560 are required to protect the public health for the design, construction, operation, and maintenance of individual wastewater disposal systems, liquid scavenger operations, and vault and earthen pit privies.

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

Environmental Quality  
Water Quality  
Cannon Health Building, 3rd Floor  
288 North 1460 West  
PO Box 144870  
Salt Lake City, UT 84114-4860, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
David Wham at the above address, by phone at (801) 538-6052, by FAX at (801) 538-6016, or Internet E-mail at dwham@deq.state.ut.us.

AUTHORIZED BY: Brent Bradford, Deputy Director

EFFECTIVE: 12/12/97



Environmental Quality, Water Quality  
**R317-550**  
Rules for Waste Disposal By Liquid  
Scavenger Operations

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE NO.: 20417  
FILED: 12/12/97, 13:49  
RECEIVED BY: NL

**NOTICE AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 19-5-104(1)(f)(iv) authorizes the Utah Water Quality Board to adopt rules to protect the public health for the design, construction, operation, and maintenance of individual wastewater disposal systems, liquid scavenger operations, and vault and earthen pit privies.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Since the rule was enacted, it has been amended several times. The limited comments which have been received on the rule have generally been of a technical and non-controversial nature. Comments received during hearings and public comment periods for rule changes have been addressed through preparation of responsiveness summaries by Division of Water Quality staff and have been presented to the Water Quality Board for their consideration during the rulemaking process. During the last major revision to the rule, a technical review committee consisting of the regulated community and other interested and affected parties was formed to provide input to the Division of Water Quality and the Board.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rules R317-501 through R317-513, and Rules R317-550 and R317-560 are required to protect the public health for the design, construction, operation, and maintenance of individual wastewater disposal systems, liquid scavenger operations, and vault and earthen pit privies.

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

Environmental Quality  
Water Quality  
Cannon Health Building, 3rd Floor  
288 North 1460 West  
PO Box 144870  
Salt Lake City, UT 84114-4860, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
David Wham at the above address, by phone at (801) 538-6052, by FAX at (801) 538-6016, or Internet E-mail at dwham@deq.state.ut.us.

AUTHORIZED BY: Brent Bradford, Deputy Director

EFFECTIVE: 12/12/97



Environmental Quality, Water Quality  
**R317-560**  
Rules for the Design, Construction, and  
Maintenance of Vault Privies and  
Earthen Pit Privies

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**  
DAR FILE NO.: 20418  
FILED: 12/12/97, 13:49  
RECEIVED BY: NL

**NOTICE AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 19-5-104(1)(f)(iv) authorizes the Utah Water Quality Board to adopt rules to protect the public health for the design, construction, operation, and maintenance of individual wastewater disposal systems, liquid scavenger operations, and vault and earthen pit privies.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Since the rule was enacted, it has been amended several times. The limited comments which have been received on the rule have generally been of a technical and non-controversial nature. Comments received during hearings and public comment periods for rule changes have been addressed through preparation of responsiveness summaries by Division of Water Quality staff and have been presented to the Water Quality Board for their consideration during the rulemaking process. During the last major revision to the rule, a technical review committee consisting of the regulated community and other interested and affected parties was formed to provide input to the Division of Water Quality and the Board.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rules R317-501 through R317-513, and Rules R317-550 and R317-560 are required to protect the public health for the design, construction, operation, and maintenance of individual wastewater disposal systems, liquid scavenger operations, and vault and earthen pit privies.

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

Environmental Quality  
Water Quality  
Cannon Health Building, 3rd Floor  
288 North 1460 West  
PO Box 144870  
Salt Lake City, UT 84114-4860, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
David Wham at the above address, by phone at (801) 538-6052, by FAX at (801) 538-6016, or Internet E-mail at dwham@deq.state.ut.us.

AUTHORIZED BY: Brent Bradford, Deputy Director

EFFECTIVE: 12/12/97



Health, Health Care Financing  
**R410-14**  
Division of Health Care Financing  
Administrative Hearing Procedures for  
Medicaid/UMAP Applicants, Recipients  
and Providers, and Non-  
Medicaid/UMAP Nursing Home  
Residents as per "OBRA"  
Preadmission Screening and Annual  
Resident Review (PASARR)  
Determinations/Resident Rights  
Requirements

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**  
DAR FILE NO.: 20311  
FILED: 12/02/97, 14:00  
RECEIVED BY: NL

**NOTICE AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 26-18-2.1 creates the Division, which shall be responsible for

implementing, organizing, and maintaining the Medicaid program and the Utah Medical Assistance Program established in Section 26-18-10, in accordance with the provisions of this chapter and applicable law. Section 26-23-2 notes that any person aggrieved by any action or inaction of the department or its executive director may request an adjudicative proceeding by following the procedures and requirements of Title 63, Chapter 46b, the Administrative Procedures Act. Section 26-1-5 notes that the Department shall have the power to adopt, amend, or rescind rules necessary to carry out the provisions of this title.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Review by Division and Bureaus recommends continuation of this rule. No other comments received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule must be continued because it defines and establishes Medicaid policy for adjudicative procedures. No opposing comments were received.

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

Health  
Health Care Financing  
Cannon Health Building  
288 North 1460 West  
Box 142906  
Salt Lake City, UT 84114-2906, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
Robert Stewart at the above address, by phone at (801) 538-6404, by FAX at (801) 538-6099, or Internet E-mail at rstewart@email.state.ut.us.

AUTHORIZED BY: Rod L. Betit, Executive Director

EFFECTIVE: 12/02/97

**NOTICE AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 26-18-2.1 creates the Division, which is responsible for implementing, organizing, and maintaining the Medicaid program. Section 26-1-5 notes that the Department shall have the power to adopt, amend, or rescind rules necessary to carry out the provisions of this title.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Review by Division and Bureaus recommends continuation of this rule. No other comments received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule must be continued because it establishes guidelines for inpatient hospital services for Medicaid eligible individuals. The rule establishes the right to the services as well as limitations on the service. No opposing comments were received.

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

Health  
Health Care Financing,  
Coverage and Reimbursement Policy  
Cannon Health Building  
288 North 1460 West  
Box 142906  
Salt Lake City, UT 84114-2906, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
Urla Jeane Maxfield at the above address, by phone at (801) 538-9144, by FAX at (801) 538-6099, or Internet E-mail at umaxfiel@email.state.ut.us.

AUTHORIZED BY: Rod L. Betit, Executive Director

EFFECTIVE: 12/02/97

Health, Health Care Financing,  
Coverage and Reimbursement Policy

**R414-2A**

Inpatient Hospital Services

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE NO.: 20312  
FILED: 12/02/97, 14:00  
RECEIVED BY: NL

Health, Health Care Financing,  
Coverage and Reimbursement Policy

**R414-2B**

Inpatient Hospital Intensive Physical  
Rehabilitation Services

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE NO.: 20344  
FILED: 12/05/97, 15:35  
RECEIVED BY: NL

**NOTICE AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 26-18-2.1 creates the Division, which shall be responsible for implementing, organizing, and maintaining the Medicaid program. Section 26-1-5 notes that the Department shall have the power to adopt, amend, or rescind rules necessary to carry out the provisions of this title.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Review by Division and Bureaus recommends continuation of this rule. No other comments received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule must be continued because it defines and establishes patient rights to these services as well as access requirements, limitations, and restrictions of the services. No opposing comments were received.

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

Health  
Health Care Financing,  
Coverage and Reimbursement Policy  
Cannon Health Building  
288 North 1460 West  
Box 142906  
Salt Lake City, UT 84114-2906, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
Urla Jeane Maxfield at the above address, by phone at (801) 538-9144, by FAX at (801) 538-6099, or Internet E-mail at umaxfiel@email.state.ut.us.

AUTHORIZED BY: Rod L. Betit, Executive Director

EFFECTIVE: 12/05/97

**NOTICE AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 26-18-2.1 creates the Division, which is responsible for implementing, organizing, and maintaining the Medicaid program. Section 26-1-5 notes that the Department shall have the power to adopt, amend, or rescind rules necessary to carry out the provisions of this title.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Review by Division and Bureaus recommends continuation of this rule. No other comments received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule must be continued because it establishes guidelines for outpatient hospital services for Medicaid eligible individuals. The rule establishes the right to the services as well as limitations on the service. No opposing comments were received.

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

Health  
Health Care Financing,  
Coverage and Reimbursement Policy  
Cannon Health Building  
288 North 1460 West  
Box 142906  
Salt Lake City, UT 84114-2906, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
Urla Jeane Maxfield at the above address, by phone at (801) 538-9144, by FAX at (801) 538-6099, or Internet E-mail at umaxfiel@email.state.ut.us.

AUTHORIZED BY: Rod L. Betit, Executive Director

EFFECTIVE: 12/02/97

Health, Health Care Financing,  
Coverage and Reimbursement Policy

**R414-3A**

Outpatient Hospital Services

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE NO.: 20313  
FILED: 12/02/97, 14:00  
RECEIVED BY: NL

Health, Health Care Financing,  
Coverage and Reimbursement Policy

**R414-29**

Client Review/Education and  
Restriction Policy

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE NO.: 20314  
FILED: 12/02/97, 14:00  
RECEIVED BY: NL

**NOTICE AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 26-18-2.1 creates the Division, which is responsible for implementing, organizing, and maintaining the Medicaid program. Section 26-1-5 notes that the Department shall have the power to adopt, amend, or rescind rules necessary to carry out the provisions of this title.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Review by Division and Bureaus recommends continuation of this rule. No other comments received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule must be continued because it establishes guidelines for identifying and correcting overutilization of services, as well as outlining sanctions for overutilization of services.. No opposing comments were received.

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

Health  
Health Care Financing,  
Coverage and Reimbursement Policy  
Cannon Health Building  
288 North 1460 West  
Box 142906  
Salt Lake City, UT 84114-2906, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
Robert Knudson at the above address, by phone at (801) 538-6167, by FAX at (801) 538-6099, or Internet E-mail at rknudson@email.state.ut.us.

AUTHORIZED BY: Rod L. Betit, Executive Director

EFFECTIVE: 12/02/97



**Health, Health Systems Improvement,  
Emergency Medical Services**

**R426-1**

**Ambulance Rules**

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE NO.: 20355  
FILED: 12/09/97, 13:19  
RECEIVED BY: NL

**NOTICE 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 Emergency Medical Services (EMS) Systems Act, Section 26-8-4, gives the EMS Committee the responsibility to establish rules for the licensure of EMS personnel, for issuing permits to emergency response vehicles, for the training, certification, and recertification of EMS personnel, for operational standards for EMS personnel, establish a schedule of fees for licenses and permits, maximum rates that may be charged for providing emergency medical services, standards governing inspections, establish a schedule of fees for use of department-owned training equipment, establish procedures for patient management in medical emergencies, establish standards for the amounts and types of insurance coverage required for licensed providers, and establish a pediatric emergency care quality improvement program. Section 26-8-5 gives the Department of Health the responsibility to coordinate emergency medical services in the State of Utah. It also gives the Department the responsibility to administer and enforce rules, license EMS providers, issue vehicle permits, establish a data system, develop EMS personnel training programs, test and certify personnel, develop hospital critical care categorization guidelines, develop public emergency medical training programs, and oversee disaster response activities.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Changes proposed to R426-1 - Maximum Ambulance Transportation Rates and Charges - Comments regarding a change in how the ambulance services must reimburse paramedic services for transports: a) Four services objected to the rule change. They felt the rule change had been spawned for the convenience of a few advanced life support (ALS) providers; b) Four services sent written comments approving the proposed rule change; c) Sandy City asked that the term "paramedic rescue service" be changed to "paramedic ambulance provider." Two public hearings were held and the EMS Committee approved changing the rules as written. A public hearing was held and a number of comments were made at the public hearing. The Bureau hired KPMG Peat Marwick, LLP, to do an independent audit on the rates. Most of the comments received regarding the rate increase were positive. There was one consumer who spoke against the increase. The decision was to make some increases in the ambulance rates. The hearing results went to the EMS Committee and they approved the change in the rates.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rules must be continued to delineate certification/recertification requirements and requisites for licensure and operation of ambulance services. Rules must also be maintained to establish maximum rates for ambulance services.

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

Health  
Health Systems Improvement,  
Emergency Medical Services  
Cannon Health Building  
288 North 1460 West  
Box 142852  
Salt Lake City, UT 84114-2852, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
Leslie Johnson at the above address, by phone at (801) 538-6292, by FAX at (801) 538-6808, or Internet E-mail at hlhsi.ljohnso@email.state.ut.us.

AUTHORIZED BY: Rod Betit, Executive Director

EFFECTIVE: 12/09/97

◆ ————— ◆  
**Health, Health Systems Improvement,  
Emergency Medical Services**

**R426-2**

**Air Medical Service Rules**

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE NO.: 20356  
FILED: 12/09/97, 13:19  
RECEIVED BY: NL

**NOTICE 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 Emergency Medical Services (EMS) Systems Act, Section 26-8-4, gives the EMS Committee the responsibility to establish rules for the licensure of EMS personnel, for issuing permits to emergency response vehicles, for the training, certification, and recertification of EMS personnel, for operational standards for EMS personnel. At one time the Air Ambulance Rules were part of the Ambulance Rules. However, the Federal Airline Deregulation Act deregulated air ambulances and it was necessary to specifically define Air Ambulance Rules because the regulations were different. Section 26-8-5 gives the Department of Health the responsibility to coordinate emergency medical services in the State of Utah. It also gives the Department the responsibility to administer and enforce rules, license EMS providers, and issue vehicle permits.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: 1. Comments that word "all" in the rules was too broad of a word. The rules were changed to delete the word "all." 2. Air Ambulances must have national CAAMS (Commission on Accreditation of Air Medical

Services) licensure. A comment was made that this licensure would be expensive going through CAAMS. This was not changed. 3. Should air medical services have back up plan if they provide service? Shouldn't be shut down for repairs? No change was made because some of the smaller services only have one air ambulance and all air ambulances are licensed for the entire state and someone else could respond. 4. Felt Department should set time limits for inspections. No change was made since travel and cost restrictions on Department may not allow a time restriction.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rules must be defined as to the requisites for air ambulance licensure and operation in Utah.

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

Health  
Health Systems Improvement,  
Emergency Medical Services  
Cannon Health Building  
288 North 1460 West  
Box 142852  
Salt Lake City, UT 84114-2852, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
Leslie Johnson at the above address, by phone at (801) 538-6292, by FAX at (801) 538-6808, or Internet E-mail at hlhsi.ljohnso@email.state.ut.us.

AUTHORIZED BY: Rod Betit, Executive Director

EFFECTIVE: 12/09/97

◆ ————— ◆  
**Health, Health Systems Improvement,  
Emergency Medical Services**

**R426-3**

**Utah Mobile Paramedic Rules**

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE NO.: 20357  
FILED: 12/09/97, 13:19  
RECEIVED BY: NL

**NOTICE 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 Emergency Medical Services (EMS) Systems Act, Section 26-8-4, gives the EMS Committee the responsibility to establish rules for the licensure of EMS personnel, for the training, certification, and recertification of EMS personnel, establish procedures for patient management in medical emergencies, and

establish a pediatric emergency care quality improvement program. Section 26-8-5 gives the Department of Health the responsibility to coordinate emergency medical services in the State of Utah. It also gives the Department the responsibility to administer and enforce rules, license EMS providers, establish a data system, develop EMS personnel training programs, and test and certify personnel.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No changes have been made to the Paramedic Rules since before 01/01/93. We have not received any comments since 01/01/93.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The EMS Systems Act, Title 26, Chapter 8, states that the EMS committee shall establish rules for the training, certification and recertification of basic and advanced life support personnel. Paramedic-level training is considered advanced life support and rules must be established for the training, certification, licensure and operational standards for paramedic personnel.

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

Health  
Health Systems Improvement,  
Emergency Medical Services  
Cannon Health Building  
288 North 1460 West  
Box 142852  
Salt Lake City, UT 84114-2852, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
Leslie Johnson at the above address, by phone at (801) 538-6292, by FAX at (801) 538-6808, or Internet E-mail at hlhsi.ljohnso@email.state.ut.us.

AUTHORIZED BY: Rod Betit, Executive Director

EFFECTIVE: 12/09/97



Health, Health Systems Improvement,  
Emergency Medical Services

**R426-4**

Emergency Medical Dispatcher Rules

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE No.: 20315  
FILED: 12/02/97, 15:22  
RECEIVED BY: NL

**NOTICE 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 Emergency Medical Services (EMS) Systems Act, Section 26-8-4, gives the EMS Committee the responsibility to establish rules for the licensure of EMS personnel, for the training, certification, and recertification of EMS personnel, and for operational standards for EMS personnel. Section 26-8-5 gives the Department of Health the responsibility to coordinate emergency medical services in the State of Utah. It also gives the Department the responsibility to administer and enforce rules, develop EMS personnel training programs, and test and certify personnel.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Amendments have been made to the dispatch rules, but no comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule must be continued to define certification/recertification processes and requisites for emergency medical dispatch service.

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

Health  
Health Systems Improvement,  
Emergency Medical Services  
Cannon Health Building  
288 North 1460 West  
PO Box 142852  
Salt Lake City, UT 84114-2852, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
Leslie Johnson at the above address, by phone at (801) 538-6292, by FAX at (801) 538-6808, or Internet E-mail at hlhsi/ljohnso@email.state.

AUTHORIZED BY: Rod Betit, Executive Director

EFFECTIVE: 12/02/97



Health, Health Systems Improvement,  
Emergency Medical Services

**R426-5**

Hospital Trauma Categorization  
Standards

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE NO.: 20358  
FILED: 12/09/97, 13:19  
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**NOTICE 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 Emergency Medical Services (EMS) Systems Act, Subsection 26-8-4(7), gives the EMS Committee the authority to approve critical care categorization guidelines and treatment protocols developed by the department and to categorize all hospital critical care facilities and designate trauma facilities in the state consistent with guidelines. In order to accomplish these responsibilities, rules must be in place. Subsection 26-8-5(2) gives the department the authority to administer and enforce rules established by the committee. Subsection 26-8-5(9) gives the department the authority to develop hospital critical care categorization guidelines in consultation with the state medical association and state hospital association.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: A concern was voiced that prehospital care providers would be asked to evaluate definitive care. No changes were made in the rules because the wording says they may be asked. It was recommended that the Bureau eliminate the word "annual" in front of verifications. This was done. It was suggested that the data elements be increased in the future. This recommendation will be looked at by the Trauma Review Committee. A recommendation was made to reinstate the mandatory submission of trauma registry data for all facilities, with the stipulation that a time frame established to reach compliance, or to incorporate trauma facility criteria into the licensure rules for all acute care facilities. However, these changes will have to be reviewed by the Trauma Subcommittee. Concern was voiced about specific patient identifiers and the reply was that all identifiers are stripped once data is submitted to the Bureau. Concern was voiced about the statutory penalties and what specific violations of the rule are punishable by penalty. Bureau replied that noncompliance with any part of the rules can result in a penalty. Concern was voiced that the standards of the trauma plan should be less restrictive and more closely reflect the JCAHO's recommendation for Level II Trauma Centers. The Bureau recommended that further discussion of the facility standards would be held Trauma System Subcommittee meetings. However, no change was recommended at this time. It was recommended that there needs to be a mechanism to assure designation information is updated and current at all times. The Bureau responded that all information is updated after each designation or when deemed appropriate. Section 26-5-7. Who shall pay for the site visit and what are the standards that hospitals will be judged on and who will assign a physician to make the site visit? The Bureau responded that each hospital pays for the site visit. Must follow the American College of Surgeons standards and members are Bureau. A concern was voiced that the data input and collection recommended is excessive and would be impossible to achieve. The Bureau responded

that data is only required to be submitted by designated trauma centers, others have been asked to voluntarily comply. Concern was voiced that the rule changes will not improve care, but will increase costs to the State, hospitals, and patients. The Bureau responded that without the data analysis we cannot determine the quality of trauma care.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rules must be continued in order to approve critical care categorization guidelines and treatment protocols, categorize hospital critical care facilities and designate trauma, burn, spinal cord and poison care facilities, authorize and designate facilities to provide advanced life support medical control, and review and comment on all state agency proposals and applications. Many of the comments made were on sections that were not being changed. Some of the changes requested were because agencies did not understand the change. The Trauma Subcommittee will be reviewing the entire rule. Some of the changes requested were made as non-substantive changes.

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

Health  
Health Systems Improvement,  
Emergency Medical Services  
Cannon Health Building  
288 North 1460 West  
Box 142852  
Salt Lake City, UT 84114-2852, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
Leslie Johnson at the above address, by phone at (801) 538-6292, by FAX at (801) 538-6808, or Internet E-mail at hlhsi.ljohnso@email.state.ut.us.

AUTHORIZED BY: Rod Betit, Executive Director

EFFECTIVE: 12/09/97



Health, Health Systems Improvement,  
Emergency Medical Services  
**R426-6**  
Emergency Medical Services Grants  
Program Rules

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE NO.: 20316  
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RECEIVED BY: NL



**NOTICE 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 Emergency Medical Services (EMS) Systems Act, Section 26-8-2.5, defines funding for the EMS Grants Program. The Law also states that grants shall be distributed to "applicants based upon rules established by the state Emergency Medical Services Committee."

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The only changes made to the grant rules have been nonsubstantive.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule delineates how to distribute the \$1.5 million Emergency Medical Services (EMS) grant funds.

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

Health  
Health Systems Improvement,  
Emergency Medical Services  
Cannon Health Building  
288 North 1460 West  
PO Box 142852  
Salt Lake City, UT 84114-2852, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
Leslie Johnson at the above address, by phone at (801) 538-6292, by FAX at (801) 538-6808, or Internet E-mail at hlhsi/ljohnso@email.state.

AUTHORIZED BY: Rod Betit, Executive Director

EFFECTIVE: 12/02/97



**Health, Health Systems Improvement,  
Health Facility Licensure  
R432-100  
General Hospital Standards**

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE NO.: 20493  
FILED: 12/15/97, 10:05  
RECEIVED BY: NL

**NOTICE AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE

PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 26, Chapter 21, the Health Facility Licensure and Inspection Act, authorizes the Utah Department of Health to promulgate rules for the construction and operation of General Acute Care Hospitals. Without the authority provided, the General Acute Care Hospitals would not be regulated or licensed.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Changes have been proposed in the rule by a subcommittee which has completed the review of the General Hospital Standards. The proposed changes will be reviewed by the Utah Health Care Providers Association and the Health Facility Committee and an informal hearing is scheduled in December 1997. If the changes are approved, then a rule amendment will be filed with the Utah Department of Health and Division of Administrative Rules. In 1996, the rules were amended to clarify the provision of Obstetrical services, deleting a requirement to have physicians sign off within 24 hours for medications and treatments, adding that licensed psychologists may apply for professional staff privileges, and adding respite services for rural hospitals who have swing-bed designation.

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 required by Title 26, Chapter 21, of the Health Facility Licensure and Inspection Act. There are currently 40 general acute care hospitals licensed in the State and without the authority provided, the hospitals would not be regulated or licensed. The Health Facility Committee has appointed a subcommittee to review the rules and an amendment will be filed to the rule following their review.

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

Health  
Health Systems Improvement,  
Health Facility Licensure  
288 North 1460 West  
Box 142853  
Salt Lake City, UT 84114-2853, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
Debra Wynkoop-Green at the above address, by phone at (801) 538-6320, by FAX at (801) 538-6325, or Internet E-mail at dwynkoop@email.state.ut.us.

AUTHORIZED BY: Rod Betit, Executive Director

EFFECTIVE: 12/15/97



Health, Health Systems Improvement,  
Health Facility Licensure

**R432-102**

Specialty Hospital - Chemical  
Dependency/Substance Abuse

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE NO.: 20494  
FILED: 12/15/97, 10:05  
RECEIVED BY: NL

**NOTICE AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 26, Chapter 21, the Health Facility Licensure and Inspection Act, authorizes the Utah Department of Health to promulgate rules for the construction and operation of Specialty Hospital - Chemical Dependency/Substance Abuse. Without the authority provided, the Chemical Dependency/Substance Abuse Specialty Hospital would not be regulated or licensed.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The rule is supported by the Utah Health Care Providers Association, Specialty Hospital Council and the Health Facility Committee. No written comments have been received after enactment of the rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is required by Title 26, Chapter 21, of the Health Facility Licensure and Inspection Act. There is currently one substance abuse hospital licensed in the State and without the authority provided, the hospital would not be regulated or licensed. The Health Facility Committee has appointed a subcommittee to review the rules.

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

Health  
Health Systems Improvement  
Health Facility Licensure  
288 North 1460 West  
Box 142853  
Salt Lake City, UT 84114-2853, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
Debra Wynkoop-Green at the above address, by phone at (801) 538-6152, by FAX at (801) 538-6325, or Internet E-mail at dwynkoop@email.state.ut.us.

AUTHORIZED BY: Rod Betit, Executive Director

EFFECTIVE: 12/15/97

Health, Health Systems Improvement,  
Health Facility Licensure

**R432-104**

Specialty Hospital - Chronic Disease

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE NO.: 20495  
FILED: 12/15/97, 10:05  
RECEIVED BY: NL

**NOTICE AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 26, Chapter 21, the Health Facility Licensure and Inspection Act, authorizes the Utah Department of Health to promulgate rules for the construction and operation of Specialty Chronic Disease Hospitals. Without the authority provided, the Chronic Disease Specialty Hospitals would not be regulated or licensed.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments were received from the two licensed providers.

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 required by Title 26, Chapter 21, of the Health Facility Licensure and Inspection Act. There are currently two chronic disease hospitals licensed in the State and without the authority provided, the chronic disease hospitals would not be regulated or licensed. The Health Facility Committee has reviewed the rule and supports the proposed rule changes in citations which are pending.

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

Health  
Health Systems Improvement  
Health Facility Licensure  
288 North 1460 West  
Box 142853  
Salt Lake City, UT 84114-2853, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
Debra Wynkoop-Green at the above address, by phone at (801) 538-6320, by FAX at (801) 538-6325, or Internet E-mail at dwynkoop@email.state.ut.us.

AUTHORIZED BY: Rod Betit, Executive Director

EFFECTIVE: 12/15/97

Health, Health Systems Improvement,  
Health Facility Licensure

**R432-105**

Specialty Hospital - Orthopedic

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE NO.: 20496  
FILED: 12/15/97, 10:05  
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**NOTICE AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 26, Chapter 21, the Health Facility Licensure and Inspection Act, authorizes the Utah Department of Health to promulgate rules for the construction and operation of Specialty Orthopedic Hospitals. Without the authority provided, the Orthopedic Specialty Hospitals would not be regulated or licensed.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: One comment was received from the Orthopedic Specialty Hospital, April 9, 1997. The facility suggested that under Subsection R432-105-8(1) should delete the 9th edition and state "current edition." The Utah Department of Health, Bureau of Health Facility Licensure did not support the change since the rule manual requires all references to be dated.

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 required by Title 26, Chapter 21, of the Health Facility Licensure and Inspection Act. There are currently two orthopedic hospitals licensed in the State and without the authority provided, the hospitals would not be regulated or licensed. The Health Facility Committee has reviewed the rule and supports the rule without change.

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

Health  
Health Systems Improvement  
Health Facility Licensure  
288 North 1460 West  
Box 142853  
Salt Lake City, UT 84114-2853, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
Debra Wynkoop-Green at the above address, by phone at (801) 538-6320, by FAX at (801) 538-6325, or Internet E-mail at dwynkoop@email.state.ut.us.

AUTHORIZED BY: Rod Betit, Executive Director

EFFECTIVE: 12/15/97



Health, Health Systems Improvement,  
Health Facility Licensure

**R432-150**

Nursing Care Facility Rules

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE NO.: 20497  
FILED: 12/15/97, 10:05  
RECEIVED BY: NL

**NOTICE AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 26, Chapter 21, the Health Facility Licensure and Inspection Act, authorizes the Utah Department of Health to promulgate rules for the construction and operation of Nursing Care Facilities. Without the authority provided, the Nursing Care Facilities would not be regulated or licensed.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Changes have been proposed in the rule to combine Rules R432-149 and R432-200 with this rule to eliminate redundancy and service areas which overlap. In 1996, Respite services were added to the rule and the mandatory sanction rule was deleted. A subcommittee has been appointed to review the content of the rule for further amendments.

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 required by Title 26, Chapter 21, of the Health Facility Licensure and Inspection Act. There are currently 108 nursing care facilities licensed in the State and without the authority provided, these facilities would not be regulated or licensed. The agency agrees with the need to continue the rule, changes will occur following the review of the subcommittee appointed by the Health Facility Committee.

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

Health  
Health Systems Improvement  
Health Facility Licensure  
288 North 1460 West  
Box 142853  
Salt Lake City, UT 84114-2853, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
Debra Wynkoop-Green at the above address, by phone at (801) 538-6320, by FAX at (801) 538-6325, or Internet E-mail at dwynkoop@email.state.ut.us.

AUTHORIZED BY: Rod Betit, Executive Director

EFFECTIVE: 12/15/97

DIRECT QUESTIONS REGARDING THIS FILING TO:  
Debra Wynkoop-Green at the above address, by phone at (801) 538-6320, by FAX at (801) 538-6325, or Internet E-mail at dwynkoop@email.state.ut.us.

AUTHORIZED BY: Rod Betit, Executive Director

EFFECTIVE: 12/15/97

Health, Health Systems Improvement,  
Health Facility Licensure  
**R432-152**  
Mental Retardation Facility

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE NO.: 20498  
FILED: 12/15/97, 10:05  
RECEIVED BY: NL

**NOTICE AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 26, Chapter 21, the Health Facility Licensure and Inspection Act, authorizes the Utah Department of Health to promulgate rules for the operation of mental retardation facilities. Without the authority provided, the mental retardation facilities would not be regulated or licensed.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The rule is supported by the Utah Health Care Association and the Health Facility Committee.

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 required by Title 26, Chapter 21, of the Health Facility Licensure and Inspection Act. There are currently 14 Mental Retardation Facilities licensed in the State and without the authority provided, the facilities would not be regulated or licensed. The agency agrees with the need to continue the rule and will submit substantive amendments as approved by the Health Facility Committee.

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

Health  
Health Systems Improvement  
Health Facility Licensure  
288 North 1460 West  
Box 142853  
Salt Lake City, UT 84114-2853, or  
at the Division of Administrative Rules.

Health, Health Systems Improvement,  
Health Facility Licensure  
**R432-200**  
Small Health Care Facility (Four to Sixteen Beds)

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE NO.: 20499  
FILED: 12/15/97, 10:05  
RECEIVED BY: NL

**NOTICE AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 26, Chapter 21, the Health Facility Licensure and Inspection Act, authorizes the Utah Department of Health to promulgate rules for the construction and operation of Small Health Care Facilities. Without the authority provided, the Small Health Care Facilities would not be regulated or licensed.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Changes have been proposed in the rule to combine Rules R432-149 and R432-150 with this rule to eliminate redundancy and service areas which overlap. A subcommittee has been appointed to review the content of the rule for further amendments.

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 required by Title 26, Chapter 21, of the Health Facility Licensure and Inspection Act. There are currently six small health care facilities licensed in the State and without the authority provided, these facilities would not be regulated or licensed. The agency agrees with the need to continue the rule, changes will occur following the review of the subcommittee appointed by the Health Facility Committee.

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

Health  
Health Systems Improvement  
Health Facility Licensure  
288 North 1460 West

Box 142853  
Salt Lake City, UT 84114-2853, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
Debra Wynkoop-Green at the above address, by phone at  
(801) 538-6320, by FAX at (801) 538-6325, or Internet E-mail  
at dwynkoop@email.state.ut.us.

AUTHORIZED BY: Rod Betit, Executive Director

EFFECTIVE: 12/15/97



Health, Health Systems Improvement,  
Health Facility Licensure

**R432-201**

Mental Retardation Facility:  
Supplement "A" to the Small Health  
Care Facility Rule

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE No.: 20500  
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**NOTICE AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 26, Chapter 21, the Health Facility Licensure and Inspection Act, authorizes the Utah Department of Health to promulgate rules for the construction and operation of Mental Retardation Facilities. Without the authority provided, the Mental Retardation Facilities would not be regulated or licensed.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Changes have been proposed in the rule to combine Rules R432-149, R432-150, and R432-200 with this rule to eliminate redundancy and service areas which overlap. A subcommittee has been appointed to review the content of the rule for further amendments.

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 required by Title 26, Chapter 21, of the Health Facility Licensure and Inspection Act. There are currently six small health care facilities licensed in the State and without the authority provided, these facilities would not be regulated or licensed. The agency agrees with the need to continue the rule, changes will occur following the review of the subcommittee appointed by the Health Facility Committee.

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

Health  
Health Systems Improvement  
Health Facility Licensure  
288 North 1460 West  
Box 142853  
Salt Lake City, UT 84114-2853, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
Debra Wynkoop-Green at the above address, by phone at  
(801) 538-6320, by FAX at (801) 538-6325, or Internet E-mail  
at dwynkoop@email.state.ut.us.

AUTHORIZED BY: Rod Betit, Executive Director

EFFECTIVE: 12/15/97



Health, Health Systems Improvement,  
Health Facility Licensure

**R432-300**

Residential Health Care Facility -  
Limited Capacity - Type N

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE No.: 20501  
FILED: 12/15/97, 10:05  
RECEIVED BY: NL

**NOTICE AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 26, Chapter 21, the Health Facility Licensure and Inspection Act, authorizes the Utah Department of Health to promulgate rules for the construction and operation of Limited Capacity Residential Health Care Facilities. Without the authority provided, the Limited Capacity Residential Health Care Facilities would not be regulated or licensed.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Changes will be proposed to combine Rule R432-270 with this rule to eliminate redundancy and service areas which overlap. A subcommittee has been appointed to review the content of the rule for further amendments.

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 required by Title 26, Chapter 21, of the Health Facility Licensure and Inspection Act. There are currently 10 Limited Capacity Residential Health Care Facilities licensed in the

State and without the authority provided, these facilities would not be regulated or licensed. The agency agrees with the need to continue the rule, changes will occur following the review of the subcommittee appointed by the Health Facility Committee.

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

Health  
Health Systems Improvement  
Health Facility Licensure  
288 North 1460 West  
Box 142853  
Salt Lake City, UT 84114-2853, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
Debra Wynkoop-Green at the above address, by phone at (801) 538-6320, by FAX at (801) 538-6325, or Internet E-mail at dwynkoop@email.state.ut.us.

AUTHORIZED BY: Rod Betit, Executive Director

EFFECTIVE: 12/15/97



Health, Health Systems Improvement,  
Health Facility Licensure  
**R432-500**  
Freestanding Ambulatory Surgical  
Center Rules

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE NO.: 20502  
FILED: 12/15/97, 10:05  
RECEIVED BY: NL

**NOTICE AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 26, Chapter 21, the Health Facility Licensure and Inspection Act, authorizes the Utah Department of Health to promulgate rules for the construction and operation of Freestanding Ambulatory Surgical Centers. Without the authority provided, the Ambulatory Surgical Centers would not be regulated or licensed.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The rule was modified in 1996, adding a Extended Recovery Service to ASC's who wished to provide 23 hour stays. No other comments have been received after the notice for 5-year review.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is required by Title 26, Chapter 21, of the Health Facility Licensure and Inspection Act. There are currently 14 ambulatory surgical centers licensed in the State and without the authority provided, the centers would not be regulated or licensed. The agency agrees with the need to continue the rule without change. The Health Facility Committee has reviewed the rule and supports the rule without change.

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

Health  
Health Systems Improvement  
Health Facility Licensure  
288 North 1460 West  
Box 142853  
Salt Lake City, UT 84114-2853, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
Debra Wynkoop-Green at the above address, by phone at (801) 538-6320, by FAX at (801) 538-6325, or Internet E-mail at dwynkoop@email.state.ut.us.

AUTHORIZED BY: Rod Betit, Executive Director

EFFECTIVE: 12/15/97



Health, Health Systems Improvement,  
Health Facility Licensure  
**R432-550**  
Birthing Centers (Five or Less Birth  
Rooms)

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE NO.: 20503  
FILED: 12/15/97, 10:05  
RECEIVED BY: NL

**NOTICE AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 26, Chapter 21, the Health Facility Licensure and Inspection Act, authorizes the Utah Department of Health to promulgate rules for the construction and operation of Birthing Centers. Without the authority provided, the Birthing Centers would not be regulated or licensed.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: One comment was received clarifying Subsection R432-550-29(4)(k) that the definition of pre-term

labor should be 37 weeks or less. No comments were received from the two licensed providers.

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 required by Title 26, Chapter 21, of the Health Facility Licensure and Inspection Act. There are currently two birthing centers licensed in the State and without the authority provided, these centers would not be regulated or licensed. The agency agrees with the need to continue the rule with the identified changes. The Health Facility Committee has reviewed the rule and supports the rule with the changes.

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

Health  
Health Systems Improvement  
Health Facility Licensure  
288 North 1460 West  
Box 142853  
Salt Lake City, UT 84114-2853, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
Debra Wynkoop-Green at the above address, by phone at (801) 538-6320, by FAX at (801) 538-6325, or Internet E-mail at dwynkoop@email.state.ut.us.

AUTHORIZED BY: Rod Betit, Executive Director

EFFECTIVE: 12/15/97



Health, Health Systems Improvement,  
Health Facility Licensing

**R432-600**

Abortion Clinic Rule

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE NO.: 20504  
FILED: 12/15/97, 10:05  
RECEIVED BY: NL

**NOTICE AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 26-21-6 states that the Utah Department of Health shall enforce rules, conduct inspections of health-care facilities and make rules as necessary to implement the provisions of the chapter. Without the authority provided, Abortion Clinics would not be inspected or licensed.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR

OPPOSING THE RULE: Since the Rule R432-600 was originally enacted, two comments were received both supporting the rule with the identified changes.

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 required by Title 26, Chapter 21, of the Health Facility Licensure and Inspection Act. There is currently one abortion clinic licensed in the State and without the authority provided, the clinic would not be regulated or licensed. The agency agrees with the need to continue the rule with the identified changes. The Health Facility Committee has reviewed the rule and supports the rule with the changes.

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

Health  
Health Systems Improvement  
Health Facility Licensing  
288 North 1460 West  
Box 142853  
Salt Lake City, UT 84114-2853, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
Debra Wynkoop-Green at the above address, by phone at (801) 538-6320, by FAX at (801) 538-6325, or Internet E-mail at dwynkoop@email.state.ut.us.

AUTHORIZED BY: Rod Betit, Executive Director

EFFECTIVE: 12/15/97



Health, Health Systems Improvement,  
Health Facility Licensure

**R432-650**

End Stage Renal Disease Facility

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE NO.: 20505  
FILED: 12/15/97, 10:05  
RECEIVED BY: NL

**NOTICE AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 26, Chapter 21, the Health Facility Licensure and Inspection Act, authorizes the Utah Department of Health to promulgate rules for the operation of a End Stage Renal Disease (ESRD) Facility. Without the authority provided, the ESRD facilities would not be regulated or licensed.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR

OPPOSING THE RULE: The rule is supported by the American Nephrology Nurses' Association and the Health Facility Committee.

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 required by Title 26, Chapter 21, of the Health Facility Licensure and Inspection Act. There are currently 14 ESRD facilities with 140 stations licensed in the State and without the authority provided, the facilities would not be regulated or licensed. The bureau agrees with the need to continue the rule and will submit substantive amendments as approved by the Health Facility Committee.

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

Health  
Health Systems Improvement  
Health Facility Licensure  
288 North 1460 West  
Box 142853  
Salt Lake City, UT 84114-2853, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
Debra Wynkoop-Green at the above address, by phone at (801) 538-6320, by FAX at (801) 538-6325, or Internet E-mail at dwynkoop@email.state.ut.us.

AUTHORIZED BY: Rod Betit, Executive Director

EFFECTIVE: 12/15/97



Health, Health Systems Improvement,  
Health Facility Licensure  
**R432-700**  
Home Health Agency Rule

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE NO.: 20506  
FILED: 12/15/97, 10:05  
RECEIVED BY: NL

**NOTICE AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 26, Chapter 21, the Health Facility Licensure and Inspection Act, authorizes the Utah Department of Health to promulgate rules for the operation of Home Health Agencies. Without the authority provided, Home Health Agencies would not be regulated or licensed.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR

OPPOSING THE RULE: An Ad Hoc Personal Care committee has reviewed the rule and proposed changes to include a Home Health-Personal Care Service Agency. This proposal is supported by the Utah Home Health Association and was approved by the Health Facility Committee January 23, 1997. The Utah Home Health Association has also reviewed the Home Health Agency rules and proposed minor changes in wording. No opposing comments were received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is required by Title 26, Chapter 21, of the Health Facility Licensure and Inspection Act. There are currently 106 home health agencies licensed in the State and without the authority provided, the home health agencies would not be regulated or licensed. The Health Facility Committee has appointed a subcommittee to review the rules and an amendment will be filed to the rule following their review.

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

Health  
Health Systems Improvement  
Health Facility Licensure  
288 North 1460 West  
Box 142853  
Salt Lake City, UT 84114-2853, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
Debra Wynkoop-Green at the above address, by phone at (801) 538-6320, by FAX at (801) 538-6325, or Internet E-mail at dwynkoop@email.state.ut.us.

AUTHORIZED BY: Rod Betit, Executive Director

EFFECTIVE: 12/15/97



Health, Health Systems Improvement,  
Health Facility Licensure  
**R432-750**  
Hospice Rule

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE NO.: 20507  
FILED: 12/15/97, 10:05  
RECEIVED BY: NL

**NOTICE AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 26, Chapter 21, the Health Facility Licensure and Inspection Act, authorizes the Utah Department of Health to promulgate rules for the operation of a Hospice Agency. Without the



authority provided, the Hospice Agency would not be regulated or licensed.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The rule is supported by the Utah Hospice Association and the Health Facility Committee.

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 required by Title 26, Chapter 21, of the Health Facility Licensure and Inspection Act. There are currently 16 Hospice agencies licensed in the State and without the authority provided, the agencies would not be regulated or licensed. The agency agrees with the need to continue the rule and will submit substantive amendments as approved by the Health Facility Committee.

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

Health  
Health Systems Improvement  
Health Facility Licensure  
288 North 1460 West  
Box 142853  
Salt Lake City, UT 84114-2853, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
Debra Wynkoop-Green at the above address, by phone at (801) 538-6320, by FAX at (801) 538-6325, or Internet E-mail at dwynkoop@email.state.ut.us.

AUTHORIZED BY: Rod Betit, Executive Director

EFFECTIVE: 12/15/97



Health, Health Systems Improvement,  
Health Facility Licensure

**R432-950**

Mammography Quality Assurance

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE No.: 20508  
FILED: 12/15/97, 10:05  
RECEIVED BY: NL

**NOTICE AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 26, Chapter 21a, the Mammography Quality Assurance Act, authorizes the Utah Department of Health to promulgate rules for the operation of Mammography facilities. Without

the authority provided, the Mammography facilities would not be regulated or licensed.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments were received. The rule was modified in July of 1995.

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 required by Title 26, Chapter 21a, of the Mammography Quality Assurance Act. There are currently 43 mammography facilities licensed in the State and without the authority provided, the facilities would not be regulated or licensed. The agency agrees with the need to continue the rule without change.

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

Health  
Health Systems Improvement  
Health Facility Licensure  
288 North 1460 West  
Box 142853  
Salt Lake City, UT 84114-2853, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
Debra Wynkoop-Green at the above address, by phone at (801) 538-6320, by FAX at (801) 538-6325, or Internet E-mail at dwynkoop@email.state.ut.us.

AUTHORIZED BY: Rod Betit, Executive Director

EFFECTIVE: 12/15/97



Health, Vital Records and Health  
Statistics

**R436-1**

Duties of the Department of Health

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE No.: 20360  
FILED: 12/10/97, 13:53  
RECEIVED BY: NL

**NOTICE AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 26-2-3 authorizes the Department of Health to establish a statewide vital records system, and to adopt rules specifying the duties of certain agencies and individuals who administer that system. Section 26-2-4 requires that the format of

certificates and other documents used in the statewide system of vital statistics be prescribed by department rule.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments received after enactment of the rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule must be continued because it establishes standards for the preparation of the legal documents used in the statewide vital records system, and specifies the duties of state and local vital records offices.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
Health  
Vital Records and Health Statistics  
Cannon Health Building  
288 North 1460 West  
PO Box 142855  
Salt Lake City, UT 84114-2855, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
Barry Nangle at the above address, by phone at (801) 538-6186, by FAX at (801) 538-7012, or Internet E-mail at bnangle@state.ut.us.

AUTHORIZED BY: Rod Betit, Executive Director

EFFECTIVE: 12/10/97



Health, Vital Records and Health Statistics  
**R436-2**  
Infants of Unknown Parentage;  
Foundling Registration

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE NO.: 20361  
FILED: 12/10/97, 13:53  
RECEIVED BY: NL

**NOTICE AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 26-2-6 directs the custodian of a foundling to file a special certificate of foundling birth with the local registrar of the health district in which the infant was found. The content of the foundling certificate is left to be prescribed by department rule.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments received after enactment of the rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule must be continued because it specifies minimum information requirements for registering a foundling certificate, and establishes procedures for creating a new birth certificate if the child is ultimately identified.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
Health  
Vital Records and Health Statistics  
Cannon Health Building  
288 North 1460 West  
PO Box 142855  
Salt Lake City, UT 84114-2855, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
Barry Nangle at the above address, by phone at (801) 538-6186, by FAX at (801) 538-7012, or Internet E-mail at bnangle@state.ut.us.

AUTHORIZED BY: Rod Betit, Executive Director

EFFECTIVE: 12/10/97



Health, Vital Records and Health Statistics  
**R436-3**  
Amendment of Vital Records

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE NO.: 20362  
FILED: 12/10/97, 13:53  
RECEIVED BY: NL

**NOTICE AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 26-2-7 authorizes the department to make rules regarding the correction or omissions on vital records. Section 78-45a-7 requires the state registrar to provide for filing of voluntary declaration of paternity documents by unmarried fathers, and this rule regulates that process.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments received after enactment of the rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule must be continued because it specifies the requirements for amending vital records to preserve the integrity of the records and the legal rights of the subjects of the records.

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

Health  
Vital Records and Health Statistics  
Cannon Health Building  
288 North 1460 West  
PO Box 142855  
Salt Lake City, UT 84114-2855, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
Barry Nangle at the above address, by phone at (801) 538-6186, by FAX at (801) 538-7012, or Internet E-mail at bnangle@state.ut.us.

AUTHORIZED BY: Rod Betit, Executive Director

EFFECTIVE: 12/10/97

Health, Vital Records and Health  
Statistics  
**R436-4**  
Delayed Registration of Birth

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE No.: 20363  
FILED: 12/10/97, 13:53  
RECEIVED BY: NL

**NOTICE AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 26-2-8 permits filing of a delayed certificate of birth in accordance with rules established by the department.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments received after enactment of the rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule must be continued because it specifies the facts to be established and minimum documentary evidence required to support an application for delayed registration of birth.

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

Health  
Vital Records and Health Statistics  
Cannon Health Building  
288 North 1460 West  
PO Box 142855  
Salt Lake City, UT 84114-2855, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
Barry Nangle at the above address, by phone at (801) 538-6186, by FAX at (801) 538-7012, or Internet E-mail at bnangle@state.ut.us.

AUTHORIZED BY: Rod Betit, Executive Director

EFFECTIVE: 12/10/97



Health, Vital Records and Health  
Statistics  
**R436-6**  
Delayed Registration of Birth or Death

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE No.: 20364  
FILED: 12/10/97, 13:53  
RECEIVED BY: NL

**NOTICE AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 26-2-15 gives the procedure for establishing facts of birth or death in a Utah court for events not registered in Utah. The registration of these events and preparation of certificates based on the facts determined by the court are specified in this rule.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments received after enactment of the rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule must be continued because it provides the means for certain foreign-born adopted children, who are becoming residents of Utah, to obtain a birth certificate which states the facts of their birth, but which does not carry the presumption of U.S. citizenship.

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

Health  
Vital Records and Health Statistics  
Cannon Health Building  
288 North 1460 West  
PO Box 142855  
Salt Lake City, UT 84114-2855, or  
at the Division of Administrative Rules.

Salt Lake City, UT 84114-2855, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
Barry Nangle at the above address, by phone at (801) 538-6186, by FAX at (801) 538-7012, or Internet E-mail at bnangle@state.ut.us.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
Barry Nangle at the above address, by phone at (801) 538-6186, by FAX at (801) 538-7012, or Internet E-mail at bnangle@state.ut.us.

AUTHORIZED BY: Rod Betit, Executive Director

AUTHORIZED BY: Rod Betit, Executive Director

EFFECTIVE: 12/10/97

EFFECTIVE: 12/10/97

◆ ————— ◆  
**Health, Vital Records and Health  
Statistics  
R436-7  
Death Registration**

◆ ————— ◆  
**Health, Vital Records and Health  
Statistics  
R436-8  
Authorization for Final Disposition of  
Deceased Persons**

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE NO.: 20365  
FILED: 12/10/97, 13:53  
RECEIVED BY: NL

DAR FILE NO.: 20366  
FILED: 12/10/97, 13:53  
RECEIVED BY: NL

**NOTICE AND STATEMENT OF CONTINUATION**

**NOTICE AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 26-2-13 gives the procedure for completing death certificates for all cases except one in which the cause of death cannot be determined within 72 hours after death. The statute states that such certificates will be completed according to department rule.

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 26-2-16 establishes the responsibilities of the funeral director to file death certificates, obtain medical certification and keep records of receipt and disposition of dead bodies and fetuses, the details of which are prescribed in this rule. Section 26-2-17 gives the requirements for obtaining permits to transport dead bodies across jurisdictions, and for disinterment and reinterment of dead bodies. The content of the permits and details of what is necessary for authorization to transport and disinter dead bodies are provided in this rule.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments received after enactment of the rule.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments received after enactment of the rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule must be continued because it specifies the manner of completion of a death certificate when cause of death is still undetermined or pending 72 hours after a death has occurred.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule must be continued because it provides specific standards for funeral directors or persons acting as funeral directors for the transport and disposition of dead bodies, and accompanying record keeping.

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

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

Health  
Vital Records and Health Statistics  
Cannon Health Building  
288 North 1460 West  
PO Box 142855

Health  
Vital Records and Health Statistics  
Cannon Health Building

288 North 1460 West  
PO Box 142855  
Salt Lake City, UT 84114-2855, or  
at the Division of Administrative Rules.

Vital Records and Health Statistics  
Cannon Health Building  
288 North 1460 West  
PO Box 142855  
Salt Lake City, UT 84114-2855, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
Barry Nangle at the above address, by phone at (801) 538-6186, by FAX at (801) 538-7012, or Internet E-mail at bnangle@state.ut.us.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
Barry Nangle at the above address, by phone at (801) 538-6186, by FAX at (801) 538-7012, or Internet E-mail at bnangle@state.ut.us.

AUTHORIZED BY: Rod Betit, Executive Director

AUTHORIZED BY: Rod Betit, Executive Director

EFFECTIVE: 12/10/97

EFFECTIVE: 12/10/97



Health, Vital Records and Health  
Statistics  
**R436-9**  
Persons and Institutions Required to  
Keep Monthly Listings of Vital Statistics  
Events

Health, Vital Records and Health  
Statistics  
**R436-10**  
Birth and Death Certificates

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE No.: 20367  
FILED: 12/10/97, 13:53  
RECEIVED BY: NL

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE No.: 20368  
FILED: 12/10/97, 13:53  
RECEIVED BY: NL

**NOTICE AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 26-2-16 requires that funeral directors keep records prescribed in department rules. Section 26-2-18 requires that sextons or persons in charge of premises where dead bodies are interred keep records on forms prescribed in department rules. Section 26-2-23 requires that administrators of health care facilities send monthly lists of vital events to the state registrar on forms prescribed in department rules.

**NOTICE AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 26-2-19 requires that local registrars transmit records to the state registrar and maintain copies of records locally, according to department rules.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments received after enactment of the rule.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments received after enactment of the rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule must be continued because it provides the details of what information must be provided in monthly lists of vital events which funeral directors, sextons, and health care facility administrators must send to the state registrar.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule must be continued because it describes procedures local registrars must use in registering and transmitting vital records to the state registrar.

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

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
Health  
Vital Records and Health Statistics  
Cannon Health Building  
288 North 1460 West  
PO Box 142855  
Salt Lake City, UT 84114-2855, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
Barry Nangle at the above address, by phone at (801) 538-6186, by FAX at (801) 538-7012, or Internet E-mail at bnangle@state.ut.us.

AUTHORIZED BY: Rod Betit, Executive Director

EFFECTIVE: 12/10/97

Health, Vital Records and Health  
Statistics  
**R436-11**  
Local Registrars

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE NO.: 20369  
FILED: 12/10/97, 13:53  
RECEIVED BY: NL

**NOTICE AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 26-2-3 authorizes the department to appoint local registrars and make rules describing their duties.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments received after enactment of the rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule must be continued because it describes the duties and the remuneration rate of certain local offices.

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

Health  
Vital Records and Health Statistics  
Cannon Health Building  
288 North 1460 West  
PO Box 142855  
Salt Lake City, UT 84114-2855, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
Barry Nangle at the above address, by phone at (801) 538-6186, by FAX at (801) 538-7012, or Internet E-mail at bnangle@state.ut.us.

AUTHORIZED BY: Rod Betit, Executive Director

EFFECTIVE: 12/10/97

Health, Vital Records and Health  
Statistics  
**R436-12**  
Certified Copies of Vital Statistics  
Records

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE NO.: 20370  
FILED: 12/10/97, 13:53  
RECEIVED BY: NL

**NOTICE AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 26-2-21 authorizes the state registrar to delegate the issuance of certified copies of vital records to local registrars, and the rule describes the qualifications for local registrars to perform that duty.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments received after enactment of the rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule must be continued because it specifies the conditions a local office must meet to issue certified copies of vital records.

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

Health  
Vital Records and Health Statistics  
Cannon Health Building  
288 North 1460 West  
PO Box 142855  
Salt Lake City, UT 84114-2855, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
Barry Nangle at the above address, by phone at (801) 538-6186, by FAX at (801) 538-7012, or Internet E-mail at bnangle@state.ut.us.

AUTHORIZED BY: Rod Betit, Executive Director

EFFECTIVE: 12/10/97

Health, Vital Records and Health Statistics

R436-13

Disclosure of Records

FIVE-YEAR REVIEW NOTICE OF CONTINUATION

DAR FILE No.: 20371
FILED: 12/10/97, 13:53
RECEIVED BY: NL

NOTICE AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 26-2-22 prohibits a custodian of vital records from disclosing information in a record, except in compliance with the statute or department rule.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments received after enactment of the rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule must be continued because it specifies who does and who does not have a direct, tangible and legitimate interest in the information contained in a vital record.

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

Health
Vital Records and Health Statistics
Cannon Health Building
288 North 1460 West
PO Box 142855
Salt Lake City, UT 84114-2855, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO: Barry Nangle at the above address, by phone at (801) 538-6186, by FAX at (801) 538-7012, or Internet E-mail at bnangle@state.ut.us.

AUTHORIZED BY: Rod Betit, Executive Director

EFFECTIVE: 12/10/97



Health, Vital Records and Health Statistics

R436-14

Copies of Data From Vital Records

FIVE-YEAR REVIEW NOTICE OF CONTINUATION

DAR FILE No.: 20372
FILED: 12/10/97, 13:53
RECEIVED BY: NL

NOTICE AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 26-2-26 authorizes the department to issue reproductions of vital records using mechanical, electronic and other means, while the rule specifies the information content and aspects of the format of those reproductions.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments received after enactment of the rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule must be continued because it governs verifications of vital records data, and certification of information copied from vital records.

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

Health
Vital Records and Health Statistics
Cannon Health Building
288 North 1460 West
PO Box 142855
Salt Lake City, UT 84114-2855, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO: Barry Nangle at the above address, by phone at (801) 538-6186, by FAX at (801) 538-7012, or Internet E-mail at bnangle@state.ut.us.

AUTHORIZED BY: Rod Betit, Executive Director

EFFECTIVE: 12/10/97



Health, Vital Records and Health Statistics

R436-15

Fees

FIVE-YEAR REVIEW NOTICE OF CONTINUATION

DAR FILE No.: 20373
FILED: 12/10/97, 13:53
RECEIVED BY: NL

**NOTICE AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 26-1-6 authorizes the department to assess fees, and the rule requires fees to be assessed for vital records services.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments received after enactment of the rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule must be continued because it specifies that fees are assessed when customers request a search for a record.

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

Health  
Vital Records and Health Statistics  
Cannon Health Building  
288 North 1460 West  
PO Box 142855  
Salt Lake City, UT 84114-2855, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
Barry Nangle at the above address, by phone at (801) 538-6186, by FAX at (801) 538-7012, or Internet E-mail at bnangle@state.ut.us.

AUTHORIZED BY: Rod Betit, Executive Director

EFFECTIVE: 12/10/97



Health, Vital Records and Health  
Statistics

**R436-16**

Violation of Rules

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE NO.: 20374  
FILED: 12/10/97, 13:53  
RECEIVED BY: NL

**NOTICE 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: Sections 26-23-3 through 26-23-8 provide the penalties for violation of provisions of the department of health statutes and rules, and this rule specifies that Rules R436-2 through R436-15 are covered by those penalties.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments received after enactment of the rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule must be continued because it specifies what statutes define the penalties for violation of vital statistics rules.

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

Health  
Vital Records and Health Statistics  
Cannon Health Building  
288 North 1460 West  
PO Box 142855  
Salt Lake City, UT 84114-2855, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
Barry Nangle at the above address, by phone at (801) 538-6186, by FAX at (801) 538-7012, or Internet E-mail at bnangle@state.ut.us.

AUTHORIZED BY: Rod Betit, Executive Director

EFFECTIVE: 12/10/97



Health, Vital Records and Health  
Statistics

**R436-17**

Review and Approval of Research  
Requests

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE NO.: 20375  
FILED: 12/10/97, 13:53  
RECEIVED BY: NL

**NOTICE AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 26-2-3 directs the department to establish a statewide system of vital statistics, and this rule is required to govern the uses of vital statistics for research. Section 26-2-22 limits inspection of vital records to purposes consistent with the vital statistics statutes and rules.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments received after enactment of the rule.



REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule must be continued because it specifies what is required to obtain approval for research using vital records.

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

Health  
Vital Records and Health Statistics  
Cannon Health Building  
288 North 1460 West  
PO Box 142855  
Salt Lake City, UT 84114-2855, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:

Barry Nangle at the above address, by phone at (801) 538-6186, by FAX at (801) 538-7012, or Internet E-mail at bnangle@state.ut.us.

AUTHORIZED BY: Rod Betit, Executive Director

EFFECTIVE: 12/10/97



**Human Services, Child and Family Services**  
**R512-1**  
**Description of Division Services, Eligibility, and Service Access**

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE No.: 20509  
FILED: 12/15/97, 11:32  
RECEIVED BY: NL

**NOTICE AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 62A-4a-109 specifies that the Division may, by rule, establish eligibility standards for consumers. Section 62A-4a-105 specifies Division responsibilities. Section 62A-4a-106 specifies services provided by the Division. Sections 62A-4a-102 and 62A-4a-109 provide for development of fee schedules and assessment of fees for services provided by the Division. Section 62A-4a-103 creates the Division and specifies the purpose for the Division. This rule clarifies statute by establishing criteria for eligibility and service access, and providing for fee collection and procedural due process.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR

OPPOSING THE RULE: No written comments have been received since the enactment of this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued in order for the Division to be in compliance with Section 62A-4a-109 in establishing eligibility criteria by rule for Division services and providing for assessment of fees. In addition, this rule is necessary because it clarifies how services are accessed, provides for a fee collection mechanism and method for waiving fees in cases of hardship, and provides for procedural due process related to fee collection and service provision.

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

Human Services  
Child and Family Services  
Room 225, Human Services Administration Building  
120 North 200 West  
Salt Lake City, UT 84103, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:

Cosette Mills at the above address, by phone at (801) 538-4058, by FAX at (801) 538-3993, or Internet E-mail at hsadmin1.cmills@email.state.ut.us.

AUTHORIZED BY: Ken Patterson, Director

EFFECTIVE: 12/15/97



**Human Services, Child and Family Services**  
**R512-20**  
**Aid to Families with Dependent Children (AFDC) Protective Payee**

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE No.: 20514  
FILED: 12/15/97, 11:55  
RECEIVED BY: NL

**NOTICE AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 62A-4a-105 authorizes the Division to promote and enforce state and federal laws for the protection of abused, neglected, and dependent children, and to take actions to protect children if provisions have not been made for them. 45 CFR 234.60 authorizes protective payments for federal cash assistance programs for a child whose relatives have demonstrated an inability to manage funds such that the funds are not used in

the best interest of the child, i.e., that the relative has misused funds in a manner that threatens the health or safety of the child. This section also places preference for the protective payee to be the agency providing protective services for families.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received regarding this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued to enable DCFS to provide for the protection of children whose relatives are utilizing cash assistance in ways that threaten the health or safety of the child.

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

Human Services  
Child and Family Services  
Room 225, Human Services Administration Building  
120 North 200 West  
Salt Lake City, UT 84103, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
Cosette Mills at the above address, by phone at (801) 538-4058, by FAX at (801) 538-3993, or Internet E-mail at hsdadmin1.cmillis@email.state.ut.us.

AUTHORIZED BY: Ken Patterson, Director

EFFECTIVE: 12/15/97



**Human Services, Child and Family Services**  
**R512-32**  
**Children with Reportable Communicable Diseases**

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**  
DAR FILE NO.: 20513  
FILED: 12/15/97, 11:46  
RECEIVED BY: NL

**NOTICE AND STATEMENT OF CONTINUATION**  
CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE

PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 62A-4a-105 authorizes the Division to provide a broad range of services and supports for the protection of abused, neglected, dependent, delinquent, ungovernable and runaway children, including the provision of care to children in the custody of the Division. Section 62A-4a-106 specifies that the Division will provide health-related services. Section 26-6-27 provides for the release of communicable disease information to the Division of Child and Family Services for a child under the age of 18. This rule was enacted to clarify statutory provisions authorizing services to children in state custody, specifically pertaining to children who have or have been exposed to communicable diseases.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received regarding this rule since enactment.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Section R512-32-2 clarifies who may access communicable disease information obtained by the Division. Section R512-32-3 provides for identification and testing of children with communicable diseases. Sections R512-32-4 through R512-32-6 address required consultation with DOH staff and others, and preparation regarding placement of a child with communicable diseases. Rules R512-7 and R512-8 address informing and assisting parents in planning for a child's care when a child with a communicable disease is returning home. This rule should be continued. It ensures that statutory provisions regarding communicable disease and children in state custody are met. It provides for confidentiality of communicable disease information which may be released by DOH to the Division. It provides for the health and safety needs of the child with communicable diseases and providers of care.

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

Human Services  
Child and Family Services  
Room 225, Human Services Administration Building  
120 North 200 West  
Salt Lake City, UT 84103, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
Cosette Mills at the above address, by phone at (801) 538-4058, by FAX at (801) 538-3993, or Internet E-mail at hsdadmin1.cmillis@email.state.ut.us.

AUTHORIZED BY: Ken Patterson, Director

EFFECTIVE: 12/15/97



Human Services, Child and Family Services

R512-40

Adoptive Home Studies, Recruitment, Approval

FIVE-YEAR REVIEW NOTICE OF CONTINUATION

DAR FILE No.: 20511
FILED: 12/15/97, 11:41
RECEIVED BY: NL

NOTICE AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 62A-4a-106 authorizes the Division to provide adoption services. This statutory provision implicitly authorizes this rule.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received since this rule was implemented.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule needs to be continued to provide clarification regarding implementation of adoption services provided by the Division, specifically addressing application to become an adoptive family for the Division.

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

Human Services
Child and Family Services
Room 225, Human Services Administration Building
120 North 200 West
Salt Lake City, UT 84103, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO: Cosette Mills at the above address, by phone at (801) 538-4058, by FAX at (801) 538-3993, or Internet E-mail at hsadmin1.cmill@email.state.ut.us.

AUTHORIZED BY: Ken Patterson, Director

EFFECTIVE: 12/15/97



Human Services, Child and Family Services

R512-42

Adoption by Relatives

FIVE-YEAR REVIEW NOTICE OF CONTINUATION

DAR FILE No.: 20512
FILED: 12/15/97, 11:43
RECEIVED BY: NL

NOTICE AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 62A-4a-106 authorizes the Division to provide adoption services. This statutory provision implicitly authorizes this rule.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received regarding this rule since implementation.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule needs to be continued to provide clarification regarding implementation of adoption services provided by the Division, specifically addressing application for adoption of a specific child in Division custody by a relative of the child.

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

Human Services
Child and Family Services
Room 225, Human Services Administration Building
120 North 200 West
Salt Lake City, UT 84103, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO: Cosette Mills at the above address, by phone at (801) 538-4058, by FAX at (801) 538-3993, or Internet E-mail at hsadmin1.cmill@email.state.ut.us.

AUTHORIZED BY: Ken Patterson, Director

EFFECTIVE: 12/15/97



Human Services, Child and Family Services

R512-50

Fee Collection for Clients Served by Pre-School Day Treatment Contract

FIVE-YEAR REVIEW NOTICE OF CONTINUATION

DAR FILE NO.: 20510
FILED: 12/15/97, 11:38
RECEIVED BY: NL

NOTICE AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 62A-4a-109 specifies that the Division shall assess fees for services. Sections 62A-4a-105 and 62A-4a-106 specify Division responsibilities and services. This rule is implicitly authorized in order for the Division to implement these statutory provisions.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received regarding this rule since implementation.

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 for implementation of statute authorizing provision of services and requiring assessment of fees.

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

Human Services
Child and Family Services
Room 225, Human Services Administration Building
120 North 200 West
Salt Lake City, UT 84103, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO: Cosette Mills at the above address, by phone at (801) 538-4058, by FAX at (801) 538-3993, or Internet E-mail at hsadmin1.cmills@email.state.ut.us.

AUTHORIZED BY: Ken Patterson, Director

EFFECTIVE: 12/15/97



Human Services, Recovery Services

R527-255

Change in Circumstances

FIVE-YEAR REVIEW NOTICE OF CONTINUATION

DAR FILE NO.: 20336
FILED: 12/04/97, 13:52
RECEIVED BY: NL

NOTICE 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: Sections 78-45-7 through 78-45-7.21 constitute the rebuttable guidelines for determination of prospective support. These guidelines apply to situations where there has been a substantial change of circumstances or an adjustment is made upon petition of a parent, legal guardian, or the Office of Recovery Services when the support order has not been issued or modified within the previous three years. Under either situation, the law specifies the minimum percentage of change required between the ordered amount and amount that would be required under the guidelines and that the change cannot be temporary in nature. Sections 62A-11-320.5 and 62A-11-320.6 deal specifically with review and adjustment of child support orders in and outside of the three-year cycle and also state that the change cannot be of a temporary nature. This rule provides the definition of what "temporary" means and makes it clear that the current support order may not be modified if the change in circumstances is temporary. It also provides direction on how to deal with more extended, but not permanent, changes and specifies that changes over 12 months are to be considered long term or permanent and therefore warrant adjustment under the guidelines statutes.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule should be continued so that it remains clear what is meant by a temporary change in circumstances, what options are available when the change is more extended but not permanent, and when proceedings for adjustment of a support award must be initiated.

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

Human Services
Recovery Services
Fourteenth Floor, Eaton/Kenway Building
515 East 100 South
PO Box 45011
Salt Lake City, UT 84145-0011, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO: Wayne Braithwaite at the above address, by phone at (801) 536-8986, by FAX at (801) 536-8509, or Internet E-mail at hsdadmin.hsrssslc.wbraithw@email.state.ut.us.

AUTHORIZED BY: Emma Chacon, Director

EFFECTIVE: 12/04/97



Human Services, Recovery Services
R527-257
Enforcing Child Support When the Obligor is Incarcerated

FIVE-YEAR REVIEW NOTICE OF CONTINUATION

DAR FILE No.: 20337
FILED: 12/04/97, 13:52
RECEIVED BY: NL

NOTICE AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 62A-11-320 allows the Office of Recovery Services to set or reset a schedule of payments at any time consistent with the income, earning capacity, and resources of the obligor and refers to rules adopted by the Office to establish payment schedules. Section 78-45-7 deals with determination of the amount of prospective support, use of guidelines in making that determination, and the effect of a substantial change in circumstances. This rule establishes the criteria for setting a support payment amount when the obligor is incarcerated and no order exists, and specifies that when a support award exists it is not subject to adjustment (due to the change of circumstances created by incarceration) and shall accrue as ordered. This rule helps define "substantial change" by excluding the situation where the obligor's income is reduced due to incarceration.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule needs to be continued because state statute references rules which establish payment schedules and this is the rule which addresses setting and collecting support payments when the obligor is incarcerated. It also clarifies that incarceration, even for an extended period of time, is not to be considered a substantial change in circumstances requiring downward adjustment of a support award. In addition, this rule clarifies that although the Office of Recovery Services may set or reset an obligor's schedule of payments, when the obligor is incarcerated it is necessary to first review the obligor's

circumstances with a Department of Corrections caseworker before proceeding with collection actions.

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

Human Services
Recovery Services
Fourteenth Floor, Eaton/Kenway Building
515 East 100 South
PO Box 45011
Salt Lake City, UT 84145-0011, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO: Wayne Braithwaite at the above address, by phone at (801) 536-8986, by FAX at (801) 536-8509, or Internet E-mail at hsdadmin.hsrssslc.wbraithw@email.state.ut.us.

AUTHORIZED BY: Emma Chacon, Director

EFFECTIVE: 12/04/97



Human Services, Recovery Services
R527-330
Posting Priority of Payments Received

FIVE-YEAR REVIEW NOTICE OF CONTINUATION

DAR FILE No.: 20338
FILED: 12/04/97, 13:52
RECEIVED BY: NL

NOTICE 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 Section 62A-11-107 which authorizes the Office of Recovery Services to adopt, amend, and enforce rules necessary to appropriately carry out its duties. This rule enables the Office to establish a system for posting payments received when the obligor has not given instructions or made arrangements for the posting of his/her payments when more than one case is involved. It also makes it clear that the Office must first apply these support payments to current support obligations before applying them to past-due support debts.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule requires an organized approach to dealing with support payments paid to the Office of Recovery Services and makes current support the first priority for payments not otherwise

designated by the obligor so that when payments are made families that are not receiving cash assistance from the state can expect to receive financial support for their current needs. It also enables the state to promptly recover monies that have been expended in cash assistance to families.

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

Human Services  
Recovery Services  
Fourteenth Floor, Eaton/Kenway Building  
515 East 100 South  
PO Box 45011  
Salt Lake City, UT 84145-0011, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
Wayne Braithwaite at the above address, by phone at (801) 536-8986, by FAX at (801) 536-8509, or Internet E-mail at hsdadmin.hsrsslc.wbraithw@email.state.ut.us.

AUTHORIZED BY: Emma Chacon, Director

EFFECTIVE: 12/04/97

Human Services, Recovery Services  
**R527-378**  
Garnishment of Social Security  
Benefits

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR File No.: 20339  
FILED: 12/04/97, 13:52  
RECEIVED BY: NL

**NOTICE 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 Section 62A-11-107 which authorizes the Office of Recovery Services to adopt, amend, and enforce rules necessary to appropriately carry out its duties. This rule provides a necessary and appropriate restriction to the withholding or garnishment of social security benefits when the obligor has no other means of support.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The basis for establishing this rule remains unchanged. Obligors whose only means of support is social security still need at least 75% of the benefit amount to support themselves.

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

Human Services  
Recovery Services  
Fourteenth Floor, Eaton/Kenway Building  
515 East 100 South  
PO Box 45011  
Salt Lake City, UT 84145-0011, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
Wayne Braithwaite at the above address, by phone at (801) 536-8986, by FAX at (801) 536-8509, or Internet E-mail at hsdadmin.hsrsslc.wbraithw@email.state.ut.us.

AUTHORIZED BY: Emma Chacon, Director

EFFECTIVE: 12/04/97

Human Services, Recovery Services  
**R527-412**  
Intercept of Unemployment  
Compensation

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR File No.: 20340  
FILED: 12/04/97, 13:52  
RECEIVED BY: NL

**NOTICE AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 35-4-18(d) was renumbered in 1996 and is now at Subsection 35A-4-103(5). It empowers Workforce Services to deduct and withhold unemployment compensation payable to individuals who owe child support and forward the payments to the state child support agency under legal process, agreement, or the amount specified by the obligor in the absence of legal process or agreement. Section 62A-11-401 dealing with income withholding in IV-D cases includes unemployment compensation benefits in the definition of income subject to withholding. This rule provides clarification that unemployment compensation income is subject to withholding when the criteria for income withholding in R527-300 are met or when garnishment is appropriate. It also clarifies that the amount submitted to Workforce Services as a child support deduction may not exceed half of an obligor's unemployment compensation benefit or the maximum amount permitted under the federal Consumer Credit Protection Act unless the obligor volunteers in writing to pay more.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued so that the conditions under which the Office of Recovery Services may collect child support from unemployment compensation, and the legal limitations on those amounts, remain clearly defined.

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

Human Services  
Recovery Services  
Fourteenth Floor, Eaton/Kenway Building  
515 East 100 South  
PO Box 45011  
Salt Lake City, UT 84145-0011, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
Wayne Braithwaite at the above address, by phone at (801) 536-8986, by FAX at (801) 536-8509, or Internet E-mail at hadmin.hsorsslc.wbraithw@email.state.ut.us.

AUTHORIZED BY: Emma Chacon, Director

EFFECTIVE: 12/04/97



Human Services, Recovery Services  
**R527-550**  
Assessment

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE No.: 20520  
FILED: 12/15/97, 14:29  
RECEIVED BY: NL

**NOTICE 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: Sections 62A-11-301, 78-3a-906, and 78-45-1, delineate the responsibility of parents to support their children, including children in foster care or youth corrections placements, and the corresponding authority and duties of the Office of Recovery Services to administratively determine and recover a support obligation from parents of children in such care. This rule clarifies the assessment, including handling of third party payments and surplus payments toward a child's care for obligations owed by parents of children placed into such care. Sections 62A-9-129, 62A-11-104, and 62A-11-201, delineate the duties of office for the office which administratively determines overpayments and the recovery of those ineligible funds. This rule clarifies the assessment, some collection options, and collection amount computation for those overpayments of public assistance and retained support debts.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued so that it remains clear how obligation assessment is determined, computed, and collected for various programs.

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

Human Services  
Recovery Services  
Fourteenth Floor  
515 East 100 South  
PO Box 45011  
Salt Lake City, UT 84145-0011, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
Linda Long/Laurie Anderson at the above address, by phone at (801) 536-8949, by FAX at (801) 536-8509, or Internet E-mail at hsorsslc.llong@email.state.ut.us or hsorsslc.landerson@email.state.ut.us.

AUTHORIZED BY: Emma L. Chacon, Director

EFFECTIVE: 12/15/97



Human Services, Recovery Services  
**R527-928**  
Lost Checks

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE No.: 20517  
FILED: 12/15/97, 14:15  
RECEIVED BY: NL

**NOTICE AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 70A-3 defines checks (negotiable instruments) including their negotiation, endorsement, enforcement, and liability. This rule clarifies acceptable identification and endorsement of department issued checks. The circumstances surrounding the cashing of a department check may create an overpayment situation. This rule establishes the responsibility for the investigation and collection of those overpayment checks as well as lost or stolen checks. Sections 62A-9-129, 62A-11-104, and 62A-11-201 delineate the duties of office, recovery of ineligible funds, administrative determination of overpayment, assistance

fraud, and civil liability for overpayment for that investigation and collection.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule should be continued so that the responsibility for investigation and collection, cashing, endorsement, and replacement of lost or stolen department checks remains clear.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
Human Services  
Recovery Services  
Fourteenth Floor  
515 East 100 South  
PO Box 45011  
Salt Lake City, UT 84145-0011, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
Laurie Anderson at the above address, by phone at (801) 536-8947, by FAX at (801) 536-8509, or Internet E-mail at hsrsslc.landersono@email.state.ut.us.

AUTHORIZED BY: Emma L. Chacon, Director

EFFECTIVE: 12/15/97



Insurance, Administration

**R590-131**

Disability Coordination of Benefits Rule

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE NO.: 20332  
FILED: 12/03/97, 16:23  
RECEIVED BY: NL

**NOTICE AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 31A-22-619 specifically requires that the commissioner adopt rules concerning the coordination of benefits between disability insurance policies. Disability policies, as referred to in the code, are health policies.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule establishes an order of priority in which plans pay claims and is useful in reducing duplication of benefits paid and claim payment delays.

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

DIRECT QUESTIONS REGARDING THIS FILING TO:  
Jilene Whitby at the above address, by phone at (801) 538-3803, by FAX at (801) 538-3829, or Internet E-mail at jwhitby@email.state.ut.us.

AUTHORIZED BY: Jilene Whitby, Information Specialist

EFFECTIVE: 12/03/97



Insurance, Administration

**R590-141**

Licensing Rule

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE NO.: 20333  
FILED: 12/03/97, 16:23  
RECEIVED BY: NL

**NOTICE AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 31A-2-201 gives the commissioner the authority to write rules necessary to regulate Title 31A. Sections 31A-23-216 & 31A-26-213 give the commissioner the authority to write rules prescribing license renewal and reinstatement requirements for insurance agents and adjusters.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule sets necessary requirements, fees and deadlines for the reinstatement and renewal of agent and adjuster licenses. Included in these requirements are the continuing education requirements which dovetail with the biannual renewal of these licenses. Keeping this rule is necessary to maintain an orderly and fair renewal and reinstatement procedure.



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

Insurance Administration  
3110 State Office Building  
Salt Lake City, UT 84114, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
Jilene Whitby at the above address, by phone at (801) 538-3803, by FAX at (801) 538-3829, or Internet E-mail at jwhitby@email.state.ut.us.

AUTHORIZED BY: Jilene Whitby, Information Specialist

EFFECTIVE: 12/03/97

Insurance Administration  
3110 State Office Building  
Salt Lake City, UT 84114, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
Jilene Whitby at the above address, by phone at (801) 538-3803, by FAX at (801) 538-3829, or Internet E-mail at jwhitby@email.state.ut.us.

AUTHORIZED BY: Jilene Whitby

EFFECTIVE: 12/05/97



Insurance, Administration  
**R590-152**  
Medical Discount Programs Rule

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE No.: 20346  
FILED: 12/05/97, 16:23  
RECEIVED BY: NL

**NOTICE AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 31A-2-201 gives the commissioner the authority to write rules to implement the provisions of Title 31A. Section 31A-1-103(3)(d) allows the commissioner to write rules exempting the transaction of certain business from the regulatory authority of the Insurance Code either to protect the resident of the State of Utah or because it is impractical to do so.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule eliminates from our regulatory authority, those organizations that sign people up to receive discounted medical services from medical providers. As long as this third party organization does not pay for claims then their service is not to be considered insurance. This rule was issued five years ago when the issue first surfaced. These third party organizations are still prevalent today and the instruction in this rule is still appropriate.

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



Insurance, Administration  
**R590-153**  
Unfair Inducements and Marketing Practices in Obtaining Title Insurance Business

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE No.: 20516  
FILED: 12/15/97, 12:37  
RECEIVED BY: NL

**NOTICE AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 31A-2-201(3)(a) gives the commissioner the authority to write rules to implement the provisions of Title 31A. Subsection 31A-23-302(8) gives the commissioner specific authority to write rules after finding a particular practice to be unfairly discriminatory, misleading, deceptive, an unfair inducement or to unreasonably restrain competition. This rule specifies a variety of unfair inducement methods that have been used in the Utah marketplace by title agents, title insurers, and title insurance organizations to obtain title insurance business. These unfair inducement methods have been determined by the commissioner to be unfair methods of competition.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The unfair methods of competition specified in the rule are still being observed in the market place and as a result the rule is still necessary.

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

Insurance Administration  
3110 State Office Building  
Salt Lake City, UT 84114, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
Jilene Whitby at the above address, by phone at (801) 538-3803, by FAX at (801) 538-3829, or Internet E-mail at jwhitby@email.state.ut.us.

AUTHORIZED BY: Jilene Whitby

EFFECTIVE: 12/15/97

EFFECTIVE: 12/12/97

Pardons (Board of), Administration  
**R671-102**  
Americans with Disabilities Act  
Complaint Procedure Rule

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE NO.: 20426  
FILED: 12/12/97, 16:32  
RECEIVED BY: NL

**NOTICE 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 statute requires or gives us authority to do this. Section 67-19-32. Federal law requires ADA.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Federal ADA requirements.

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

Pardons (Board of)  
Administration  
448 East 6400 South, #300  
Murray, UT 84107, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
John Green at the above address, by phone at (801) 261-6470, by FAX at (801) 261-6481, or Internet E-mail at bpmain.jgreen@state.ut.us.

AUTHORIZED BY: Michael R. Sibbett, Chairman

EFFECTIVE: 12/12/97

Pardons (Board of), Administration  
**R671-101**  
Rules

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE NO.: 20424  
FILED: 12/12/97, 16:32  
RECEIVED BY: NL

**NOTICE AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 63, Chapter 46a

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Requires the Board to establish rules - provides notice of procedures.

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

Pardons (Board of)  
Administration  
448 East 6400 South, #300  
Murray, UT 84107, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
John Green at the above address, by phone at (801) 261-6470, by FAX at (801) 261-6481, or Internet E-mail at bpmain.jgreen@state.ut.us.

AUTHORIZED BY: Michael R. Sibbett, Chairman

Pardons (Board of), Administration  
**R671-201**  
Original Parole Grant Hearing  
Schedule and Notice

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE No.: 20428  
FILED: 12/12/97, 16:32  
RECEIVED BY: NL

**NOTICE 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: Sections 77-27-7, and 77-27-9.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Allows for review of offenders administratively.

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

Pardons (Board of)  
Administration  
448 East 6400 South, #300  
Murray, UT 84107, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
John Green at the above address, by phone at (801) 261-6470, by FAX at (801) 261-6481, or Internet E-mail at bpmain.jgreen@state.ut.us.

AUTHORIZED BY: Michael R. Sibbett, Chairman

EFFECTIVE: 12/12/97

**Pardons (Board of), Administration  
R671-202  
Notification of Hearings**

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE No.: 20430  
FILED: 12/12/97, 16:32  
RECEIVED BY: NL

**NOTICE 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: Sections 77-27-7, and 77-27-9.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Provides notice as to procedure to be followed.

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

Pardons (Board of)  
Administration  
448 East 6400 South, #300  
Murray, UT 84107, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
John Green at the above address, by phone at (801) 261-6470, by FAX at (801) 261-6481, or Internet E-mail at bpmain.jgreen@state.ut.us.

AUTHORIZED BY: Michael R. Sibbett, Chairman

EFFECTIVE: 12/12/97

**Pardons (Board of), Administration  
R671-203  
Victim Input and Notification**

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE No.: 20432  
FILED: 12/12/97, 16:32  
RECEIVED BY: NL

**NOTICE 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: Sections 77-27-9.5, 77-27-13, and 64-13-20.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Provides notice to victims on procedures to be followed.

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

Pardons (Board of)  
Administration  
448 East 6400 South, #300  
Murray, UT 84107, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
John Green at the above address, by phone at (801) 261-6470, by FAX at (801) 261-6481, or Internet E-mail at bpmain.jgreen@state.ut.us.

AUTHORIZED BY: Michael R. Sibbett, Chairman

EFFECTIVE: 12/12/97



**Pardons (Board of), Administration**  
**R671-204**  
**Pending Charges**

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE NO.: 20434  
FILED: 12/12/97, 16:32  
RECEIVED BY: NL

**NOTICE 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: Sections 77-27-7, and 77-27-11.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Outlines procedure to be followed.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
Pardons (Board of)  
Administration  
448 East 6400 South, #300  
Murray, UT 84107, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
John Green at the above address, by phone at (801) 261-6470, by FAX at (801) 261-6481, or Internet E-mail at bpmain.jgreen@state.ut.us.

AUTHORIZED BY: Michael R. Sibbett, Chairman

EFFECTIVE: 12/12/97



**Pardons (Board of), Administration**  
**R671-206**  
**Competency of Offenders**

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE NO.: 20436  
FILED: 12/12/97, 16:33  
RECEIVED BY: NL

**NOTICE 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: Sections 77-15-3, 77-15-5, 77-27-2, and 77-27-7.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Outlines procedures to be followed.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
Pardons (Board of)  
Administration  
448 East 6400 South, #300  
Murray, UT 84107, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
John Green at the above address, by phone at (801) 261-6470, by FAX at (801) 261-6481, or Internet E-mail at bpmain.jgreen@state.ut.us.

AUTHORIZED BY: Michael R. Sibbett, Chairman

EFFECTIVE: 12/12/97



**Pardons (Board of), Administration**  
**R671-207**  
**Mentally-Ill Offender Custody Transfer**

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE NO.: 20438  
FILED: 12/12/97, 16:33  
RECEIVED BY: NL

**NOTICE AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE

PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 77-16a-204.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Explains procedures to be followed.

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

Pardons (Board of) Administration 448 East 6400 South, #300 Murray, UT 84107, or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO: John Green at the above address, by phone at (801) 261-6470, by FAX at (801) 261-6481, or Internet E-mail at bpmain.jgreen@state.ut.us.

AUTHORIZED BY: Michael R. Sibbett, Chairman

EFFECTIVE: 12/12/97

Pardons (Board of) Administration 448 East 6400 South, #300 Murray, UT 84107, or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO: John Green at the above address, by phone at (801) 261-6470, by FAX at (801) 261-6481, or Internet E-mail at bpmain.jgreen@state.ut.us.

AUTHORIZED BY: Michael R. Sibbett, Chairman

EFFECTIVE: 12/12/97

Pardons (Board of), Administration R671-301 Personal Appearance

FIVE-YEAR REVIEW NOTICE OF CONTINUATION

DAR FILE No.: 20442 FILED: 12/12/97, 16:33 RECEIVED BY: NL

NOTICE 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: Sections 77-27-2, 77-27-7, 77-27-9, 77-27-29.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Explains hearing procedures and gives notice.

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

Pardons (Board of) Administration 448 East 6400 South, #300 Murray, UT 84107, or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO: John Green at the above address, by phone at (801) 261-6470, by FAX at (801) 261-6481, or Internet E-mail at bpmain.jgreen@state.ut.us.

AUTHORIZED BY: Michael R. Sibbett, Chairman

EFFECTIVE: 12/12/97

Pardons (Board of), Administration R671-208

Confidentiality of Psychological Evaluations and Alienist Reports

FIVE-YEAR REVIEW NOTICE OF CONTINUATION

DAR FILE No.: 20440 FILED: 12/12/97, 16:33 RECEIVED BY: NL

NOTICE AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 77-27-7.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Outlines procedures to be followed.

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

Pardons (Board of), Administration  
**R671-302**  
News Media and Public Access  
Hearings

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE NO.: 20444  
FILED: 12/12/97, 16:34  
RECEIVED BY: NL

**NOTICE 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: Sections 77-27-9, and 77-27-9.5.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Provide notice of procedure.

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

Pardons (Board of)  
Administration  
448 East 6400 South, #300  
Murray, UT 84107, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
John Green at the above address, by phone at (801) 261-6470, by FAX at (801) 261-6481, or Internet E-mail at bpmain.jgreen@state.ut.us.

AUTHORIZED BY: Michael R. Sibbett, Chairman

EFFECTIVE: 12/12/97

Pardons (Board of), Administration  
**R671-303**  
Offender Access to Information

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE NO.: 20446  
FILED: 12/12/97, 16:35  
RECEIVED BY: NL

**NOTICE 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 statute requires or gives us authority to do this. Labrum v. Board of Pardons, 870 P.2d 902 (Utah 1993). Neel v. Holden, 886 P.2d 1097 (Utah 1994).

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Required by Supreme Court ruling.

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

Pardons (Board of)  
Administration  
448 East 6400 South, #300  
Murray, UT 84107, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
John Green at the above address, by phone at (801) 261-6470, by FAX at (801) 261-6481, or Internet E-mail at bpmain.jgreen@state.ut.us.

AUTHORIZED BY: Michael R. Sibbett, Chairman

EFFECTIVE: 12/12/97

Pardons (Board of), Administration  
**R671-304**  
Hearing Record

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE NO.: 20448  
FILED: 12/12/97, 16:35  
RECEIVED BY: NL

**NOTICE AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 77-27-8.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH

COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Provides process for hearing record(s).

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

Pardons (Board of)
Administration
448 East 6400 South, #300
Murray, UT 84107, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO: John Green at the above address, by phone at (801) 261-6470, by FAX at (801) 261-6481, or Internet E-mail at bpmain.jgreen@state.ut.us.

AUTHORIZED BY: Michael R. Sibbett, Chairman

EFFECTIVE: 12/12/97



Pardons (Board of), Administration
R671-307
Foreign Nationals and Offenders with Detainers

FIVE-YEAR REVIEW NOTICE OF CONTINUATION

DAR FILE No.: 20450
FILED: 12/12/97, 16:36
RECEIVED BY: NL

NOTICE AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 77, Chapter 28b, Section 77-27-9.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Provide notice of procedure to be followed.

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

Pardons (Board of)
Administration
448 East 6400 South, #300
Murray, UT 84107, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO: John Green at the above address, by phone at (801) 261-6470, by FAX at (801) 261-6481, or Internet E-mail at bpmain.jgreen@state.ut.us.

AUTHORIZED BY: Michael R. Sibbett, Chairman

EFFECTIVE: 12/12/97



Pardons (Board of), Administration
R671-308
Offender Hearing Assistance

FIVE-YEAR REVIEW NOTICE OF CONTINUATION

DAR FILE No.: 20452
FILED: 12/12/97, 16:36
RECEIVED BY: NL

NOTICE 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: Sections 77-27-9, 77-27-11, and 77-27-29.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Provides notice to offenders of procedures used.

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

Pardons (Board of)
Administration
448 East 6400 South, #300
Murray, UT 84107, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO: John Green at the above address, by phone at (801) 261-6470, by FAX at (801) 261-6481, or Internet E-mail at bpmain.jgreen@state.ut.us.

AUTHORIZED BY: Michael R. Sibbett, Chairman

EFFECTIVE: 12/12/97



Pardons (Board of), Administration  
**R671-309**  
Impartial Hearings

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE NO.: 20454  
FILED: 12/12/97, 16:37  
RECEIVED BY: NL

**NOTICE 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: Sections 77-27-7, and 77-27-9.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Provides notice of procedure to be followed.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
Pardons (Board of)  
Administration  
448 East 6400 South, #300  
Murray, UT 84107, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
John Green at the above address, by phone at (801) 261-6470, by FAX at (801) 261-6481, or Internet E-mail at [bpmain.jgreen@state.ut.us](mailto:bpmain.jgreen@state.ut.us).

AUTHORIZED BY: Michael R. Sibbett, Chairman

EFFECTIVE: 12/12/97

PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 77-27-9.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Outlines procedure and provides notice of rescission process.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
Pardons (Board of)  
Administration  
448 East 6400 South, #300  
Murray, UT 84107, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
John Green at the above address, by phone at (801) 261-6470, by FAX at (801) 261-6481, or Internet E-mail at [bpmain.jgreen@state.ut.us](mailto:bpmain.jgreen@state.ut.us).

AUTHORIZED BY: Michael R. Sibbett, Chairman

EFFECTIVE: 12/12/97



Pardons (Board of), Administration  
**R671-311**  
Special Attention Hearings and  
Reviews

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE NO.: 20458  
FILED: 12/12/97, 16:38  
RECEIVED BY: NL

**NOTICE 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: Sections 77-27-5, 77-27-6, 77-27-10, and 77-27-11.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Explains procedure to be followed and gives notice.

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

Pardons (Board of), Administration  
**R671-310**  
Rescission Hearings

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE NO.: 20456  
FILED: 12/12/97, 16:37  
RECEIVED BY: NL

**NOTICE AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE



Pardons (Board of)
Administration
448 East 6400 South, #300
Murray, UT 84107, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:
John Green at the above address, by phone at (801) 261-6470, by FAX at (801) 261-6481, or Internet E-mail at bpmain.jgreen@state.ut.us.

AUTHORIZED BY: Michael R. Sibbett, Chairman

EFFECTIVE: 12/12/97

Pardons (Board of), Administration
R671-315
Pardons

FIVE-YEAR REVIEW NOTICE OF CONTINUATION

DAR FILE No.: 20460
FILED: 12/12/97, 16:38
RECEIVED BY: NL

NOTICE 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 statute requires or gives us authority to do this. Constitutional provision empowers Board to grant pardons: Utah Constitution Art. VII, Sec. 12.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Notice of Board procedure.

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

Pardons (Board of)
Administration
448 East 6400 South, #300
Murray, UT 84107, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:
John Green at the above address, by phone at (801) 261-6470, by FAX at (801) 261-6481, or Internet E-mail at bpmain.jgreen@state.ut.us.

AUTHORIZED BY: Michael R. Sibbett, Chairman

EFFECTIVE: 12/12/97

Pardons (Board of), Administration
R671-316
Redetermination

FIVE-YEAR REVIEW NOTICE OF CONTINUATION

DAR FILE No.: 20462
FILED: 12/12/97, 16:38
RECEIVED BY: NL

NOTICE 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 statute requires or gives us authority to do this. Board is to determine release of convicted felons from the Utah State Prison. Section 77-27-5.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Notice of Board procedure.

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

Pardons (Board of)
Administration
448 East 6400 South, #300
Murray, UT 84107, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:
John Green at the above address, by phone at (801) 261-6470, by FAX at (801) 261-6481, or Internet E-mail at bpmain.jgreen@state.ut.us.

AUTHORIZED BY: Michael R. Sibbett, Chairman

EFFECTIVE: 12/12/97

Pardons (Board of), Administration
R671-317
Interim Decisions

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE NO.: 20464  
FILED: 12/12/97, 16:39  
RECEIVED BY: NL

**NOTICE 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 statute requires or gives us authority to do this. Section 77-27-5. Relate to decision making process.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Provides notice of hearing procedure.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
Pardons (Board of)  
Administration  
448 East 6400 South, #300  
Murray, UT 84107, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
John Green at the above address, by phone at (801) 261-6470, by FAX at (801) 261-6481, or Internet E-mail at bmain.jgreen@state.ut.us.

AUTHORIZED BY: Michael R. Sibbett, Chairman

EFFECTIVE: 12/12/97

**Pardons (Board of), Administration  
R671-401  
Parole Incident Reports**

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE NO.: 20466  
FILED: 12/12/97, 16:39  
RECEIVED BY: NL

**NOTICE 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 statute requires or gives us authority to do this. Incident Reports regarding offender's actions. Sections 77-27-7, 77-27-11, 77-27-13, and 77-27-21.5.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Notice regarding Board procedure.

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

Pardons (Board of)  
Administration  
448 East 6400 South, #300  
Murray, UT 84107, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
John Green at the above address, by phone at (801) 261-6470, by FAX at (801) 261-6481, or Internet E-mail at bmain.jgreen@state.ut.us.

AUTHORIZED BY: Michael R. Sibbett, Chairman

EFFECTIVE: 12/12/97

**Pardons (Board of), Administration  
R671-402  
Special Conditions of Parole**

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE NO.: 20468  
FILED: 12/12/97, 16:39  
RECEIVED BY: NL

**NOTICE 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 statute requires or gives us authority to do this. Parole conditions. Sections 77-27-5, 77-27-6, 77-27-10, and 77-27-11.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Set special conditions of parole for offenders.

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

Pardons (Board of)  
Administration  
448 East 6400 South, #300

Murray, UT 84107, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
John Green at the above address, by phone at (801) 261-6470, by FAX at (801) 261-6481, or Internet E-mail at bpsmain.jgreen@state.ut.us.

AUTHORIZED BY: Michael R. Sibbett, Chairman

EFFECTIVE: 12/12/97

**Pardons (Board of), Administration  
R671-405  
Parole Termination**

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE No.: 20470  
FILED: 12/12/97, 16:40  
RECEIVED BY: NL

**NOTICE 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 statute requires or gives us authority to do this. Termination of Parole and release from custody.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Set procedure to terminate parole.

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

Pardons (Board of)  
Administration  
448 East 6400 South, #300  
Murray, UT 84107, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
John Green at the above address, by phone at (801) 261-6470, by FAX at (801) 261-6481, or Internet E-mail at bpsmain.jgreen@state.ut.us.

AUTHORIZED BY: Michael R. Sibbett, Chairman

EFFECTIVE: 12/12/97

**Pardons (Board of), Administration  
R671-501  
Warrants of Arrest**

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE No.: 20472  
FILED: 12/12/97, 16:40  
RECEIVED BY: NL

**NOTICE 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 statute requires or gives us authority to do this. Section 77-27-11. Issuance of warrants.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Procedure on issuance of warrants for an arrest of an offender.

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

Pardons (Board of)  
Administration  
448 East 6400 South, #300  
Murray, UT 84107, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
John Green at the above address, by phone at (801) 261-6470, by FAX at (801) 261-6481, or Internet E-mail at bpsmain.jgreen@state.ut.us.

AUTHORIZED BY: Michael R. Sibbett, Chairman

EFFECTIVE: 12/12/97

**Pardons (Board of), Administration  
R671-503  
Prerevocation Hearings**

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE No.: 20474  
FILED: 12/12/97, 16:41  
RECEIVED BY: NL

**NOTICE 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 statute requires or gives us authority to do this. Sections 77-27-11, 77-27-27, 77-27-28, 77-27-29, 77-27-30. Relate to parole revocation proceedings.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Changing "shall" to "will."

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Notice of parole revocation proceedings.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
Pardons (Board of)  
Administration  
448 East 6400 South, #300  
Murray, UT 84107, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
John Green at the above address, by phone at (801) 261-6470, by FAX at (801) 261-6481, or Internet E-mail at bmain.jgreen@state.ut.us.

AUTHORIZED BY: Michael R. Sibbett

EFFECTIVE: 12/12/97



**Pardons (Board of), Administration**  
**R671-504**  
**Timeliness of Parole Revocation Hearings**

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**  
DAR FILE No.: 20476  
FILED: 12/12/97, 16:41  
RECEIVED BY: NL

**NOTICE 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 statute requires or gives us authority to do this. Sections 77-27-11, 77-27-27, 77-27-28, 77-27-29, and 77-27-30. Set out time requirements for revocation.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH

COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Provide notice as to parole procedure.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
Pardons (Board of)  
Administration  
448 East 6400 South, #300  
Murray, UT 84107, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
John Green at the above address, by phone at (801) 261-6470, by FAX at (801) 261-6481, or Internet E-mail at bmain.jgreen@state.ut.us.

AUTHORIZED BY: Michael R. Sibbett, Chairman

EFFECTIVE: 12/12/97



**Pardons (Board of), Administration**  
**R671-505**  
**Parole Revocation Hearings**

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**  
DAR FILE No.: 20478  
FILED: 12/12/97, 16:41  
RECEIVED BY: NL

**NOTICE 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: Sections 77-27-11, 77-27-27, 77-27-28, 77-27-29, and 77-27-30.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Explains procedure to be followed and gives notice of procedure.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
Pardons (Board of)  
Administration  
448 East 6400 South, #300  
Murray, UT 84107, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
John Green at the above address, by phone at (801) 261-6470, by FAX at (801) 261-6481, or Internet E-mail at bmain.jgreen@state.ut.us.

AUTHORIZED BY: Michael R. Sibbett, Chairman

EFFECTIVE: 12/12/97

Pardons (Board of), Administration  
**R671-507**  
Restarting the Parole Period

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE No.: 20480  
FILED: 12/12/97, 16:42  
RECEIVED BY: NL

**NOTICE AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 76-3-202.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Provides notice of procedure to be followed.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
Pardons (Board of)  
Administration  
448 East 6400 South, #300  
Murray, UT 84107, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
John Green at the above address, by phone at (801) 261-6470, by FAX at (801) 261-6481, or Internet E-mail at bpmain.jgreen@state.ut.us.

AUTHORIZED BY: Michael R. Sibbett, Chairman

EFFECTIVE: 12/12/97

Pardons (Board of), Administration  
**R671-508**  
Evidentiary Hearings

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE No.: 20482  
FILED: 12/12/97, 16:42  
RECEIVED BY: NL

**NOTICE 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: Sections 77-27-5, 77-27-9, and 77-27-11.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Provide notice of procedure to be followed.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
Pardons (Board of)  
Administration  
448 East 6400 South, #300  
Murray, UT 84107, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
John Green at the above address, by phone at (801) 261-6470, by FAX at (801) 261-6481, or Internet E-mail at bpmain.jgreen@state.ut.us.

AUTHORIZED BY: Michael R. Sibbett, Chairman

EFFECTIVE: 12/12/97

Public Safety, Driver License  
**R708-1**  
Rehabilitation of Alcohol and Drug  
Problem Drivers

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE No.: 20334  
FILED: 12/04/97, 09:57  
RECEIVED BY: NL

**NOTICE 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: After reviewing this rule it was determined by the department's legal council that the Driver License Division has no statutory authority to require an individual to take an alcohol rehabilitation program. As a result the division has filed a repeal of this

rule. The courts, however, do require individuals convicted of driving under the influence of alcohol to take an alcohol rehabilitation program.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The division is no longer using this rule and has filed a repeal.

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

Public Safety  
Driver License  
Calvin Rampton Complex  
4501 South 2700 West  
PO Box 30560  
Salt Lake City, UT 84130-0560, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
Vinn Roos at the above address, by phone at (801) 965-4456, by FAX at (801) 964-4482, or Internet E-mail at vroos@email.state.ut.us.

AUTHORIZED BY: David A. Beach, Director

EFFECTIVE: 12/04/97

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule needs to be continued so that the division can meet the intent of the Commercial Driver Training Schools Act that allows individuals the opportunity to set up or teach at a commercial driver training school. It also allows the general public a choice on taking driver education from a public or commercial driver training school.

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

Public Safety  
Driver License  
Calvin Rampton Complex  
4501 South 2700 West  
PO Box 30560  
Salt Lake City, UT 84130-0560, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
Vinn Roos at the above address, by phone at (801) 965-4456, by FAX at (801) 964-4482, or Internet E-mail at vroos@email.state.ut.us.

AUTHORIZED BY: David A. Beach, Director

EFFECTIVE: 12/03/97



Public Safety, Driver License

**R708-2**

Commercial and Private Driver Training Schools

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE No.: 20323  
FILED: 12/03/97, 10:45  
RECEIVED BY: NL

**NOTICE 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 Commercial Driver Training Schools Act, Sections 53-3-501 through 509, allows individuals who are not associated with colleges, universities and high school driver education programs to set up their own commercial driver training schools as long as they meet certain requirements. It also allows individuals to become instructors in a commercial driver training school if they also meet certain requirements. Section 53-3-505 requires the division to make rules establishing specific requirements for schools and individuals who want to be instructors which is the purpose of this rule.



Public Safety, Driver License

**R708-7**

Functional Ability in Driving: Guidelines for Physicians

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE No.: 20325  
FILED: 12/03/97, 12:02  
RECEIVED BY: NL

**NOTICE AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 53-3-303 requires the Driver License Division to create a Driver License Medical Advisory Board comprised of health care professionals who review cases determining the physical, mental, and emotional capabilities of applicants for licenses and licensees. Section 53-3-303 requires the board to recommend written guidelines and standards for determining the physical, mental, and emotional capabilities of applicants for licenses and for licensees. The guidelines and standards shall be published by the division. If the division has reason

to believe that an applicant for a license is an impaired person, the division may require a physical examination by a health care professional and or a follow-up medical review of the applicant by a professional health care provider. This rule specifies what the guidelines and standards are and how they apply to drivers, health care professionals, medical review board, etc.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule needs to be continued so that the division can continue providing guidelines to the public and to health care professionals to ensure that those with medical problems can receive the care they need to drive vehicles safely without endangering the driving public.

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

Public Safety  
Driver License  
Calvin Rampton Complex  
4501 South 2700 West  
PO Box 30560  
Salt Lake City, UT 84130-0560, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
Vinn Roos at the above address, by phone at (801) 965-4456, by FAX at (801) 964-4482, or Internet E-mail at vroos@email.state.ut.us.

AUTHORIZED BY: David A. Beach, Director

EFFECTIVE: 12/03/97



Public Safety, Driver License  
**R708-8**  
Review Process: Driver License  
Medical Section

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE No.: 20327  
FILED: 12/03/97, 13:04  
RECEIVED BY: NL

**NOTICE AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 53-3-224 gives a person the right to have a judicial review if their driver license has been canceled, suspended, or revoked by

the division for various reasons including medical. Section 53-3-303 creates a Driver License Medical Review Board that can hold a hearing and make a recommendation to the Driver License Division for those individuals who request a hearing regarding their medical condition. This rule is needed to outline the time frames and the review process for individuals seeking a hearing with the medical review board.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule needs to be continued so that the division can give an individual an opportunity to have a hearing before the medical review board.

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

Public Safety  
Driver License  
Calvin Rampton Complex  
4501 South 2700 West  
PO Box 30560  
Salt Lake City, UT 84130-0560, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
Vinn Roos at the above address, by phone at (801) 965-4456, by FAX at (801) 964-4482, or Internet E-mail at vroos@email.state.ut.us.

AUTHORIZED BY: David A. Beach, Director

EFFECTIVE: 12/03/97



Public Safety, Driver License  
**R708-21**  
Third-Party Testing

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE No.: 20307  
FILED: 12/02/97, 13:24  
RECEIVED BY: NL

**NOTICE 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: Sections 53-3-213 and 53-3-407 allow, at the discretion of the commissioner and under standards established by the division, persons employed as commercial drivers to submit a third party certificate in lieu of having to take the driving test at a driver license office. The division is required to keep

records and set standards to certify companies desiring to qualify as third party testers. This rule establishes the standards and procedures for those desiring to be third party testers.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: It is necessary to have this rule in order to allow individuals the option of having their driving test requirements completed through a third party tester. Without the rule everyone who wanted a commercial driver license would have to go to a driver license office to pass their driving requirement.

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

Public Safety  
Driver License  
Calvin Rampton Complex  
4501 South 2700 West  
PO Box 30560  
Salt Lake City, UT 84130-0560, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
Vinn Roos at the above address, by phone at (801) 965-4456, by FAX at (801) 964-4482, or Internet E-mail at vroos@email.state.ut.us.

AUTHORIZED BY: David A. Beach, Director

EFFECTIVE: 12/02/97

CFR 383, Subparts G and H; and has complied with all requirements of 49 CFR 383 and other applicable state laws and federal regulations. This rule is necessary because it defines the federal and state minimum fitness standards and exemptions for those seeking a commercial driver's license.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule needs to be continued so that the division can ensure that those seeking a commercial driver's license meet the federal and state minimum fitness standards. Without the rule we could not issue commercial driver licenses.

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

Public Safety  
Driver License  
Calvin Rampton Complex  
4501 South 2700 West  
PO Box 30560  
Salt Lake City, UT 84130-0560, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
Vinn Roos at the above address, by phone at (801) 965-4456, by FAX at (801) 964-4482, or Internet E-mail at vroos@email.state.ut.us.

AUTHORIZED BY: David A. Beach, Director

EFFECTIVE: 12/03/97

Public Safety, Driver License

**R708-25**

Commercial Driver License Applicant  
Fitness Certification

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE NO.: 20330  
FILED: 12/03/97, 15:34  
RECEIVED BY: NL

**NOTICE AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 53-3-407 states that a commercial driver license may be issued to a person who is a resident of this state or qualifies as a nonresident, has passed a test of knowledge and skills for driving a commercial motor vehicle, that complies with minimum standards established by federal regulation in 49

Public Safety, Driver License

**R708-27**

Certification of Driver Education  
Teachers in the Public Schools to  
Administer Knowledge and Driving  
Skills Tests

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE NO.: 20331  
FILED: 12/03/97, 16:10  
RECEIVED BY: NL

**NOTICE AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 53A-13-208(6)(7) states the Driver License Division and the State Board of Education shall establish procedures to



enable school districts to administer or process any tests for students to receive a class D operator's license. It further states the division and board shall establish the standards and procedures as per the rulemaking act. This rule defines those standards and procedures.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule needs to be continued so the State Board of Education can allow school district driver education teachers to assist the Driver License Division in administering tests to students who are seeking a driver license.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT: Public Safety Driver License Calvin Rampton Complex 4501 South 2700 West PO Box 30560 Salt Lake City, UT 84130-0560, or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO: Vinn Roos at the above address, by phone at (801) 965-4456, by FAX at (801) 964-4482, or Internet E-mail at vroos@email.state.ut.us.

AUTHORIZED BY: David A. Beach, Director

EFFECTIVE: 12/03/97



Public Safety, Law Enforcement and Technical Services, Regulatory Licensing R724-4 Concealed Firearm Permit Rule

FIVE-YEAR REVIEW NOTICE OF CONTINUATION DAR File No.: 20317 FILED: 12/02/97, 15:47 RECEIVED BY: NL

NOTICE AND STATEMENT OF CONTINUATION CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized by Subsection 53-5-704(12) which gives specific authorization to the commissioner to make rules necessary to administer the concealed firearm permit program.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments were received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is needed to clarify certain provisions of the concealed firearm permit statute and to outline the administration of the program.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT: Public Safety Law Enforcement and Technical Services, Regulatory Licensing Calvin Rampton Complex 4501 South 2700 West PO Box 148280 Salt Lake City, UT 84114-8280, or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO: Todd Peterson at the above address, by phone at (801) 965-3810, by FAX at (801) 965-4749, or Internet E-mail at psdomain.psmain.tpeterso@email.state.ut.us .

AUTHORIZED BY: Stuart Smith, Bureau Chief

EFFECTIVE: 12/02/97



Public Safety, Law Enforcement and Technical Services, Regulatory Licensing R724-6 Emergency Vehicles

FIVE-YEAR REVIEW NOTICE OF CONTINUATION DAR File No.: 20318 FILED: 12/02/97, 15:47 RECEIVED BY: NL

NOTICE AND STATEMENT OF CONTINUATION CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized by Section 41-6-1.5 and Subsection 53-1-108(1)(c) which allow the commissioner to make rules governing the use of a private vehicle as an emergency vehicle.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments were received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is needed to clarify the commissioner's role in designating emergency vehicles and to establish the minimum requirements of emergency vehicles.

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

Public Safety  
Law Enforcement and Technical Services, Regulatory Licensing  
Calvin Rampton Complex  
4501 South 2700 West  
PO Box 148280  
Salt Lake City, UT 84114-8280, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
Todd Peterson at the above address, by phone at (801) 965-3810, by FAX at (801) 965-4749, or Internet E-mail at psdomain.psmain.tpeterso@email.state.ut.us .

AUTHORIZED BY: Stuart Smith, Bureau Chief

EFFECTIVE: 12/02/97



Public Service Commission,  
Administration  
**R746-100**  
Practice and Procedure Governing  
Formal Hearings

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR File No.: 20348  
FILED: 12/08/97, 10:22  
RECEIVED BY: NL

**NOTICE AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized pursuant to Section 54-1-1 which requires the Commission to exercise its rulemaking powers and Section 54-1-2.5 which establishes the requirements for Commission procedure in Title 54, Chapter 7.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: In 1992 Changes to Subsection R746-100-3(F)(2) were made to clarify the procedures in the complaint process. Subsections R746-100-6B and 8(D) were

amended to include criteria for deviation from these specific rules. Mountain Fuel commented that "the language limiting representation by lawyers from other states to cases of hardship seems unnecessarily restrictive." And suggested that the Public Service Commission's (PSC) discretion in this area should be broadened. Peter J. Mattheis from Ritts, Brickfield and Kaufman commented that Subsection R746-100-6(B) was clear before the amendment. The changes referred to were made in response to the Legislative Rules Review Committee comments. In 1996 cites were added or corrected. Style and other changes made to conform to Rulewriting Manual. Subsection R746-100-3(C) changed to require ALL documents filed with the Commission to include an exact copy on disk, with the exception of complaints. There was only one comment. The Committee of Consumer Services generally supported the amendments made by the PSC and proposed an addition to include that exhibits be filed same as other filings by addition to Subsection R746-100-10(F)(2)(c).

The Rules Review Committee made suggestions periodically for amending this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R746-100 is necessary. It establishes organized and efficient procedures and guidelines to be followed in Commission hearings and in filing pleadings and other documents. It ensures consistency in the format of information, making research more efficient and effective. The Commission met and considered the comments of all interested persons, including the Rules Review Committee, filing comments regarding amendments to this rule. Amendments were made based on those comments. Subsection R746-100-10(F)(2)(c) now requires exhibits to be filed as suggested by the Committee of Consumer Services. Other nonsubstantive changes have been made periodically to clarify and improve the language of this rule.

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

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

DIRECT QUESTIONS REGARDING THIS FILING TO:  
Barbara Stroud at the above address, by phone at (801) 530-6716, by FAX at (801) 530-6796, or Internet E-mail at pupsc.bstroud@state.ut.us.

AUTHORIZED BY: Barbara Stroud, Paralegal (Designee)

EFFECTIVE: 12/08/97



Public Service Commission,  
Administration  
**R746-101**  
Statement of Rule for the Filing and  
Disposition of Petitions for Declaratory  
Rulings

Public Service Commission,  
Administration  
**R746-200**  
Residential Utility Service Rules for  
Electric, Gas, Water, and Sewer  
Utilities

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE No.: 20349  
FILED: 12/08/97, 10:37  
RECEIVED BY: NL

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE No.: 20350  
FILED: 12/08/97, 10:49  
RECEIVED BY: NL

**NOTICE AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized pursuant to Section 54-1-1 which requires the Commission to exercise its rulemaking powers. Subsection 63-46b-21(2) requires each agency to issue rules defining procedure for filing petitions for declaratory rulings.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received regarding this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R746-101 should be continued because it continues to be required by Subsection 63-46b-21(2). It identifies and sets forth the procedure for filing a Petition for Declaratory Ruling, the format of a petition, and the procedure of review and disposition of the petition. This rule makes it clear to the public what is expected from a petitioner and what they can expect from the Commission when they need an explanation of rights, status, interests or other legal relationships under a statute, rule or order.

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

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

DIRECT QUESTIONS REGARDING THIS FILING TO:  
Barbara Stroud at the above address, by phone at (801) 530-6716, by FAX at (801) 530-6796, or Internet E-mail at pupsc.bstroud@state.ut.us.

AUTHORIZED BY: Barbara Stroud, Paralegal (Designee)

EFFECTIVE: 12/08/97

**NOTICE AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 54-4-1 authorizes the Commission to regulate every public utility in Utah and supervise the business of those public utilities necessary to accomplish that regulation and supervision. Section 54-4-7 requires that the Commission provide rules to ensure that utility service and equipment is just, safe, proper, and adequate. Section 54-7-25 provides for penalties referred to in Section R746-200-9.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Comments to amendment filed 10/13/97 were received from: PacifiCorp regarding the format of the rule, i.e. numbering and citations. They also pointed out a few nonsubstantive changes that needed to be made. The Committee of Consumer Services commented that Subsection 3(A)(3) should be reworded to make it clear that the three-payment plan should include all customers, rather than just "new" customers.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Commission must continue to regulate every public utility in Utah and provide rules to ensure that utility service and equipment is just, safe, proper, and adequate. Rule R746-200 establishes and enforces utility residential service practices and procedures such as eligibility, deposits, account billing, deferred payment agreements, termination, review of consumer complaints and penalties. Amendments have been made in response to the comments received. Also, corrections have been made to correct the citation at Subsection R746-200-6(L)(2) and other nonsubstantive changes throughout the rule according to the Rulewriting Manual.

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

Public Service Commission  
Administration  
Heber M. Wells Building, Fourth Floor  
160 East 300 South

Salt Lake City, UT 84111, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
Barbara Stroud at the above address, by phone at (801) 530-6716, by FAX at (801) 530-6796, or Internet E-mail at [pubsc.bstroud@state.ut.us](mailto:pubsc.bstroud@state.ut.us).

AUTHORIZED BY: Barbara Stroud, Paralegal (Designee)

EFFECTIVE: 12/08/97



**Public Service Commission,  
Administration  
R746-310**

**Uniform Rules Governing Electricity  
Service by Electric Utilities**

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE NO.: 20351  
FILED: 12/08/97, 10:59  
RECEIVED BY: NL

**NOTICE AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 54-1-1 requires that the Commission exercise its rulemaking powers. Section 54-4-1 authorizes the Commission to regulate every public utility in Utah. Section 54-4-7 requires that the Commission provide rules to ensure that utility service and equipment is just, safe, proper, and adequate. Section 54-4-14 authorizes the Commission to promulgate rules to require utilities to conduct business in such a way as to safeguard the health and safety of its employees, customers and the public. Section 54-4-23 authorizes the Commission to prescribe a system of accounts to be kept by public utilities.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: In 1990 and 1991 Section 9, (Overbilling) was added to this rule. Mountain Fuel's comments indicated a concerns of inconsistency regarding: when a utility must refund to the customer the amount billed in error because of a fast meter; the interest paid on overbilled amounts; and the limitation period for overbilling. Utah Power and Light (UP and L) commented that in Section 8(E) would be "more clearly expressed" if we would add "... or reasonably should have known that the original billing was incorrect, or in the case of fraud or theft, in which case interest will be assessed at the rate applied to past due accounts on amounts not timely paid in accordance with the established arrangements." They also suggested that in Section 9(C)(7) "or credit" should be added after "refund." In 1992 the Rules Review Committee suggested several

changes to clarify and correct language in this rule. Commission counsel met with the Rules Review Committee and came to an agreement to make changes to clarify and correct language, cites, and references throughout the rule. In 1993 the Division of Public Utilities (DPU) recommended that Section 6 (Line Extensions) be revised by deleting subsections B through F because UP and L, the Committee of Consumer Services (CCS), the Division of Energy, and DPU had developed a revised set of regulations. DPU stated that the existing rule section had remained essentially unchanged during the last 20 years, were difficult to administer, provided subsidies to some customers at the expense of other customers and were perceived as promotional. UP and L filed an application with the Public Service Commission (PSC) for approval of a revised line extension policy reflecting an analysis of line extension issues based on current specific line extension cost data. This policy was not consistent in all respects with the existing rule. DPU's Chief Engineer supported simplifying this section as proposed and recommended this revision stating that it would be more effective for all nine retail electric cooperative's line extension policies. Section 6 has been amended as proposed by the Division of Public Utilities and the section now allows for electric utilities to provide line extensions in accordance with tariffs approved by the Commission. In 1994 UP and L filed a Petition for Rule Change to Section 8 (Billing Adjustments). The DPU, the CCS and UP and L had meetings about the proposed change and recommended to the Commission that subsection 8(D)(3) be added to clarify the procedure for sales tax on backbilling. Section 8 was amended to add subsection 8(D)(3). Nonsubstantive changes have been made throughout the rule to clarify and correct language and references.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R746-310 establishes guidelines for customer relations; meters and meter testing; station instruments, voltage and frequency restrictions; design, construction and operation of facilities; line extensions; accounting; billing adjustments; overbilling; and preservation of records. This rule is necessary. The Commission is required to regulate every public utility in Utah, including electric utilities, and to provide rules to ensure that utility service and equipment is just, safe, proper, and adequate. In each case that the Commission received comments the comments were reviewed by the Commission and when appropriate the changes were made.

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

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

DIRECT QUESTIONS REGARDING THIS FILING TO:  
Barbara Stroud at the above address, by phone at (801) 530-6716, by FAX at (801) 530-6796, or Internet E-mail at pupsc.bstroud@state.ut.us.

AUTHORIZED BY: Barbara Stroud, Paralegal (Designee)

EFFECTIVE: 12/08/97



**Public Service Commission,  
Administration  
R746-320  
Uniform Rules Governing Natural Gas  
Service by Gas Utilities**

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE NO.: 20352  
FILED: 12/08/97, 11:19  
RECEIVED BY: NL

**NOTICE AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized pursuant to Section 54-1-1 which requires the Commission to exercise its rulemaking powers and Section 54-4-1 which gives the Commission the power and jurisdiction to regulate all public utilities in Utah, and Section 54-4-7 requires that the Commission provide rules to ensure that utility service and equipment is just, safe, proper, and adequate. Section 54-4-14 authorizes the Commission to promulgate rules to require utilities to conduct business in such a way as to safeguard the health and safety of its employees, customers and the public. Section 54-4-23 authorizes the Commission to prescribe a system of accounts to be kept by public utilities.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Amendments were made to this rule to comply with the Rules Review Committee's suggestions; to correct and improve language generally; to correct and update references; and to add Subsection 6(E), Preservation of Records. The Committee of Consumer Services suggested that we add to the general provisions a statement referring to our procedural rule; they also stated that this rule is silent regarding interest charges on backbilling. Mountain Fuel suggested that the reference to the CFR 1991 edition be changed to read "latest edition"; that "the gas being saturated with water vapor: be changed to "on a dry basis"; suggested corrections to references; and other nonsubstantive wording changes. The Commission met and discussed the comments to this rule and the changes have subsequently been made.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R746-320 should be continued because it establishes guidelines for methods and conditions of service for natural gas utilities such as: quality control of equipment, standards, records and reports; testing and location of meters; plant operation and construction; records; and accounting.

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

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

DIRECT QUESTIONS REGARDING THIS FILING TO:  
Barbara Stroud at the above address, by phone at (801) 530-6716, by FAX at (801) 530-6796, or Internet E-mail at pupsc.bstroud@state.ut.us.

AUTHORIZED BY: Barbara Stroud, Paralegal (Designee)

EFFECTIVE: 12/08/97



**Regents (Board of), Administration  
R765-171  
Postsecondary Proprietary School Act  
Rules**

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE NO.: 20320  
FILED: 12/03/97, 10:15  
RECEIVED BY: NL

**NOTICE 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: R765-171 provides standards by which institutions and their agents subject to the Postsecondary Proprietary School Act are registered to operate consistent with public policy. Subsection 53B-5-104(11) provides: "(11) 'Rules' means those rules promulgated by the board under the Utah Rulemaking Act necessary to enforce and administer this chapter."

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Board of

Regents monitors the financial viability and instructional quality of almost 100 private proprietary schools by means of the Postsecondary Proprietary School Act and these rules are adopted pursuant to the Act.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
Regents (Board of)  
Administration  
Suite 550, 3 Triad Center  
355 West North Temple  
Salt Lake City, UT 84180, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
Harden R. Eyring at the above address, by phone at (801) 321-7106, by FAX at (801) 321-7199, or Internet E-mail at heyring@utahsbr.edu.

AUTHORIZED BY: Harden R. Eyring, Executive Assistant to the Commissioner

EFFECTIVE: 12/03/97



Regents (Board of), Administration  
**R765-660**  
Utah State Student Incentive Grant  
Program

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**  
DAR FILE No.: 20321  
FILED: 12/03/97, 10:15  
RECEIVED BY: NL

**NOTICE AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule provides for the State Student Incentive Grant Program and incorporates the requirements of Federal statutes and regulations governing this program including the Federal Higher Education Act of 1965, as amended, 34 CFR Parts 600, 668 and 693, and the Education Department General Administration Regulations (EDGAR).

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The program continues to receive Federal matching funds and to award grants to eligible students attending public or private non-profit institutions of higher education or public postsecondary vocational institutions.

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

Regents (Board of)  
Administration  
Suite 550, 3 Triad Center  
355 West North Temple  
Salt Lake City, UT 84180, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
Harden R. Eyring at the above address, by phone at (801) 321-7106, by FAX at (801) 321-7199, or Internet E-mail at heyring@utahsbr.edu.

AUTHORIZED BY: Harden R. Eyring, Executive Assistant to the Commissioner

EFFECTIVE: 12/03/97



Regents (Board of), University of Utah,  
Parking and Transportation Services  
**R810-1**  
University of Utah Parking Regulations

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**  
DAR FILE No.: 20423  
FILED: 12/12/97, 15:23  
RECEIVED BY: NL

**NOTICE 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: Sections 53B-3-103 and 107. Authorizes Board of Regents to enact and enforce regulations regarding parking on campus.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule required to manage limited parking resources.

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

Regents (Board of)  
University of Utah,  
Parking and Transportation Services  
Bldg 436  
1910 E. Research Road  
Salt Lake City, UT 84112, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
John Crawford at the above address, by phone at (801) 585-6941, by FAX at (801) 581-4056, or Internet E-mail at john@parking.utah.edu.

AUTHORIZED BY: John Crawford, Transportation Planner

EFFECTIVE: 12/12/97



Regents (Board of), University of Utah,  
Parking and Transportation Services  
**R810-3**  
Visitor Parking

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE No.: 20420  
FILED: 12/12/97, 15:08  
RECEIVED BY: NL

**NOTICE 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: Sections 53B-3-103 and 107. Authorizes Board of Regents to enact and enforce regulations regarding parking on campus.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule required to manage limited parking resources.

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

Regents (Board of)  
University of Utah  
Parking and Transportation Services  
Bldg 436  
1910 E. Research Road  
Salt Lake City, UT 84112, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
John Crawford at the above address, by phone at (801) 585-6941, by FAX at (801) 581-4056, or Internet E-mail at john@parking.utah.edu.

AUTHORIZED BY: John Crawford, Transportation Planner

EFFECTIVE: 12/12/97



Regents (Board of), University of Utah,  
Parking and Transportation Services  
**R810-4**  
Registration Policies

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE No.: 20421  
FILED: 12/12/97, 15:13  
RECEIVED BY: NL

**NOTICE 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: Sections 53B-3-103 and 107. Authorizes Board of Regents to enact and enforce regulations regarding parking on campus.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule required to manage limited parking resources.

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

Regents (Board of)  
University of Utah  
Parking and Transportation Services  
Bldg 436  
1910 E. Research Road  
Salt Lake City, UT 84112, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
John Crawford at the above address, by phone at (801) 585-6941, by FAX at (801) 581-4056, or Internet E-mail at john@parking.utah.edu.

AUTHORIZED BY: John Crawford, Transportation Planner

EFFECTIVE: 12/12/97



Regents (Board of), University of Utah,  
Parking and Transportation Services  
**R810-7**  
Nonresidents and Out-Of-State Plates

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE NO.: 20422  
FILED: 12/12/97, 15:17  
RECEIVED BY: NL

**NOTICE 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: Sections 53B-3-103 and 107. Authorizes Board of Regents to enact and enforce regulations regarding parking on campus.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule required to manage limited parking resources.

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

Regents (Board of)  
University of Utah  
Parking and Transportation Services  
Bldg 436  
1910 E. Research Road  
Salt Lake City, UT 84112, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
John Crawford at the above address, by phone at (801) 585-6941, by FAX at (801) 581-4056, or Internet E-mail at john@parking.utah.edu.

AUTHORIZED BY: John Crawford, Transportation Planner

EFFECTIVE: 12/12/97



Regents (Board of), University of Utah,  
Parking and Transportation Services

**R810-8**

**Vendor Regulations**

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE NO.: 20419  
FILED: 12/12/97, 14:57  
RECEIVED BY: NL

**NOTICE 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: Sections 53B-3-103 and 107. Authorizes Board of Regents to enact and enforce regulations regarding parking on campus.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule required to manage limited parking resources.

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

Regents (Board of)  
University of Utah  
Parking and Transportation Services  
Bldg 436  
1910 E. Research Road  
Salt Lake City, UT 84112, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
John Crawford at the above address, by phone at (801) 585-6941, by FAX at (801) 581-4056, or Internet E-mail at john@parking.utah.edu.

AUTHORIZED BY: John Crawford, Transportation Planner

EFFECTIVE: 12/12/97



School and Institutional Trust Lands,  
Administration

**R850-70**

Sales of Forest Products From Trust  
Lands Administration Lands

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE NO.: 20380  
FILED: 12/11/97, 12:22  
RECEIVED BY: NL

**NOTICE 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: Sections 6, 8, 10, and 12 of the Utah Enabling Act, Articles X, XVIII, and XX of the Utah Constitution, and Subsection 53C-1-302(1)(a)(ii) of the Utah Code Annotated authorize the Director of the School and Institutional Trust Lands Administration to provide for the sale of forest products, desert plants, and other vegetative material from trust lands.



SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments were received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Without the authorization to issue forest products permits and timber contracts the permanent funds, of the schools and other institutions that benefit from the lands managed by this administration, would forego the opportunity to receive revenues which are derived from said sales. Revenues are expected to exceed \$100,000 per year, for the first time, within the next fiscal year. This rule provides for the harvest of timber products that are required to ensure the continued operation of several locally based sawmills. This rule provides for the harvesting of forest products on trust lands, thereby benefitting not only the permanent funds of the beneficiaries, but the economies of rural Utah as well.

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

School and Institutional Trust Lands Administration Suite 500 675 East 500 South Salt Lake City, UT 84102-2818, or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:

Robert Hales at the above address, by phone at (801) 538-5100, by FAX at (801) 355-0922, or Internet E-mail at tlmain.rhales@state.ut.us.

AUTHORIZED BY: David T. Terry, Director

EFFECTIVE: 12/11/97



Transportation, Operations, Aeronautics

**R914-1**

Rules and Regulations of the Utah State Aeronautical Committee

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE No.: 20376 FILED: 12/10/97, 15:12 RECEIVED BY: NL

**NOTICE 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 by Section 2-1-12 of the Utah Code under authority to enhance safety for persons and property.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments regarding this rule have been received during my tenure with the Division of Aeronautics.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule should be continued to provide for the safeguarding of persons operating or using aircraft and persons and property on the ground. No comments in opposition to the rule have been received.

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

Transportation Operations, Aeronautics Utah Division of Aeronautics Building 135 North 2400 West Salt Lake City, UT 84116, or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:

Robert P. Barrett at the above address, by phone at (801) 533-5057, by FAX at (801) 533-6048, or Internet E-mail at rbarrett@state.ut.us.

AUTHORIZED BY: Robert P. Barrett, Director

EFFECTIVE: 12/10/97



Transportation, Operations, Aeronautics

**R914-2**

Safety Rules and Procedures for Aircraft Operations on Roads

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE No.: 20377 FILED: 12/10/97, 15:12 RECEIVED BY: NL

**NOTICE 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 under the authority of Subsection 2-1-16.5(2) of the Utah Code, which allows county executives to issue permits to aircraft operators to land on or take off from designated county roads in accordance with rules established by the Division of Aeronautics.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR

OPPOSING THE RULE: No written comments regarding this rule have been received during my tenure with the Division of Aeronautics.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Typically, under this rule, county executives issue permits from time to time authorizing aircraft to utilize roads for air ambulance, agricultural pesticide and public utilities requirements. The rule gives the counties latitude to issue these permits for these and for other operational needs which arise from time to time without having to refer to the Division of Aeronautics on a case by case basis.

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

Transportation  
Operations, Aeronautics  
Utah Division of Aeronautics Building  
135 North 2400 West  
Salt Lake City, UT 84116, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
Robert P. Barrett at the above address, by phone at (801) 533-5057, by FAX at (801) 533-6048, or Internet E-mail at rbarrett@state.ut.us.

AUTHORIZED BY: Robert P. Barrett, Director

EFFECTIVE: 12/10/97



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## NOTICES OF RULE EFFECTIVE DATES

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These are the effective dates of PROPOSED RULES or CHANGES IN PROPOSED RULES published in earlier editions of the *Utah State Bulletin*. These effective dates are at least 31 days and not more than 120 days after the date the following rules were published.

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### Abbreviations

AMD = Amendment  
CPR = Change in Proposed Rule  
NEW = New Rule  
R&R = Repeal and Reenact  
REP = Repeal

### Agriculture and Food

#### Plant Industry

No. 20172 (AMD): R68-2. Utah Commercial Feed Act Governing Feed.  
Published: November 15, 1997  
Effective: December 16, 1997

No. 20110 (AMD): R68-5. Grain Inspection.  
Published: November 15, 1997  
Effective: December 16, 1997

### Career Service Review Board

#### Administration

No. 20161 (AMD): R137-1. Grievance Procedure Rules.  
Published: November 15, 1997  
Effective: December 16, 1997

### Environmental Quality

#### Drinking Water

No. 19890 (AMD): R309-103. Water Quality Maximum Containment Levels (MCLs).  
Published: October 1, 1997  
Effective: December 8, 1997

#### Radiation Control

No. 20086 (R&R): R313-36. Special Requirements for Industrial Radiographic Operations.  
Published: November 1, 1997  
Effective: December 12, 1997

#### Water Quality

No. 19737 (CPR): R317-2. Standards of Quality for Waters of the State.  
Published: November 15, 1997  
Effective: December 19, 1997

### Health

Health Systems Improvement, Health Facility Licensure  
No. 19946 (AMD): R432-3-6. General Health Care Facility Rules Inspection and Enforcement.  
Published: October 15, 1997  
Effective: December 18, 1997

No. 19947 (AMD): R432-100-39. Respite Services.  
Published: October 15, 1997  
Effective: December 18, 1997

### Human Services

#### Recovery Services

No. 20183 (REP): R527-66. Authorized Representatives.  
Published: November 15, 1997  
Effective: December 16, 1997

### Natural Resources

#### Oil, Gas and Mining; Abandoned Mine Reclamation

No. 19729 (CPR): R643-870. Abandoned Mine Reclamation Regulation Definitions.  
Published: November 15, 1997  
Effective: December 12, 1997

#### Oil, Gas and Mining; Coal

No. 20009 (AMD): R645-100-200. Definitions.  
Published: October 15, 1997  
Effective: December 12, 1997

No. 20010 (AMD): R645-301-200. Soils.  
Published: October 15, 1997  
Effective: December 12, 1997

No. 20089 (AMD): R645-302. Coal Mine Permitting: Special Categories and Areas of Mining.  
Published: November 1, 1997  
Effective: December 12, 1997

#### Wildlife Resources

No. 20157 (AMD): R657-10. Taking Cougar.  
Published: November 15, 1997  
Effective: December 16, 1997

### Public Safety

#### Highway Patrol

No. 20162 (NEW): R714-550. Rule for Spending Fees Generated by the Reinstatement of Driver Licenses.  
Published: November 15, 1997  
Effective: December 17, 1997

### Public Service Commission

#### Administration

No. 19856 (AMD): R746-349. Competitive Entry.  
Published: October 1, 1997  
Effective: December 17, 1997

### Transportation

#### Motor Carrier

No. 20095 (AMD): R909-75. Safety Regulations for Motor Carriers Transporting Hazardous Materials and/or Hazardous Wastes.  
Published: November 1, 1997  
Effective: December 15, 1997

## RULES INDEX BY AGENCY (CODE NUMBER) AND BY KEYWORD (SUBJECT)

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The *Rules Index* is a cumulative index that reflects all changes to Utah's administrative rules from January 2, 1997, to the present (current as of December 21, 1997). The *Rules Index* is published in the *Utah State Bulletin* and in the annual *Index of Changes*. Nonsubstantive changes, while not published in the *Bulletin*, do become part of the *Utah Administrative Code (Code)* and are included in this *Index*, as well as 120-Day (Emergency) rules that do not become part of the *Code*. The rules are indexed by Agency (Code Number) and Keyword (Subject).

**DAR NOTE:** Because of space constraints, neither Index is included in this *Bulletin*.

**NOTE:** A copy of the indexes is available for public inspection at the Division of Administrative Rules. The indexes may also be obtained by calling UtahBBS, the State of Utah's Bulletin Board System, at (801) 538-3383, or toll-free within Utah at (800) 882-4638. A computer, a modem, and a communications software package are required to access UtahBBS. Set communications software to 8 data bits, no parity, and 1 stop bit. The indexes are located under the "Administrative Rules Conference" (conference 9), in the "Indexes--Current" option (7).

UtahBBS may also be accessed over the Internet with a telnet client (the client must support download capabilities if downloading information is desired), or with a World Wide Web client (such as Mosaic or Netscape). The telnet address is [bbs.state.ut.us](telnet://bbs.state.ut.us); the web address is <http://web.state.ut.us/its/bbs.htm>.

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