

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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EDITOR'S NOTES

NOTICE OF PUBLICATION ERROR IN THE JANUARY 1, 1998, ISSUE OF THE UTAH STATE BULLETIN

In the January 1, 1998, issue of the *Utah State Bulletin* (98-1, page 171), the DAR No. was incorrectly listed for the five-year review on R527-550 from Human Services, Recovery Services. The number published was 20520 which is the number for the amendment on R527-550 which is also in the January 1 *Bulletin*. The correct DAR No. for the five-year review is 20519.

Questions regarding this error to the *Utah State Bulletin* may be directed to: *Kenneth A. Hansen, Director, Division of Administrative Rules, PO Box 141007, Salt Lake City UT 84114-1007; Phone: (801) 538-3777; FAX: (801) 538-1773; or E-mail: asdomain.asitmain.khansen@email.state.ut.us.*

1997 INDEXES

It is customary for the Division of Administrative Rules to publish the complete Indexes for the previous year in the January 15 issue of the *Utah State Bulletin* of the next year. Because of the amount of filings for 1997 and space constraints, the Division cannot include the 1997 Indexes in this issue of the *Bulletin*. The Division anticipates that the complete Index will be available by mid-February 1998.

Any questions may be directed to: *Kenneth A. Hansen, Director, Division of Administrative Rules, PO Box 141007, Salt Lake City UT 84114-1007; Phone: (801) 538-3777; FAX: (801) 538-1773; or E-mail: asdomain.asitmain.khansen@email.state.ut.us.*

NOTICE OF CORRECTION ON THE CODIFICATION ERROR ON UTAH ADMINISTRATIVE CODE SUBSECTION R81-1-16(2)(C)

The Division of Administrative Rules (Division) has discovered an error in the codification of Subsection R81-1-16(2)(c). A nonsubstantive rule change (DAR No. 18376) filed by the Department of Alcoholic Beverage Control and recorded by the Division as effective on February 12, 1997, affected the following text. Though the Division recorded the change as having been codified, the change was not in fact processed. The correct text, which has been in effect since February 12, 1997, is printed below.

R81-1-16. Disqualification Based Upon Conviction of Crime.

(2) As used in the Act and these rules:

•••••

•••••

(c) a "crime involving moral turpitude" means a crime that involves actions done knowingly contrary to justice, honesty, or good morals. It is also described as a crime that is "malum in se" as opposed to "malum prohibitum" - actions that are immoral in themselves regardless of being punishable by law as opposed to actions that are wrong only since they are prohibited by statute. A crime of moral turpitude ordinarily involves an element of falsification or fraud or of harm or injury directed to another person or another's property. For purposes of this rule, crimes of moral turpitude may include crimes involving controlled substances, illegal drugs, and narcotics.

If you have any questions regarding this correction, please contact: *Michael G. Broschinsky, Administrative Code Editor, Division of Administrative Rules, PO Box 141007, Salt Lake City UT 84114-1007; Phone: (801) 538-3003; FAX: (801) 538-1773; or E-mail: asitmain.mbroschi@email.state.ut.us.*

SPECIAL NOTICE

DEPARTMENT OF HUMAN SERVICES

BLOCK GRANT PUBLIC HEARINGS

The Joint Appropriations Sub-Committee of the Utah State Legislature will be holding appropriations hearings on the budget of the Utah Department of Human Services between January 19 - March 4, 1998. Hearings are generally scheduled from 2:00-5:00 p.m. and will constitute the required public hearings for the following department block grants: Substance Abuse Prevention/Treatment, Mental Health, Social Services.

All hearings are scheduled at the State Capitol and are open to the public. To confirm the date, time and location of a specific hearing, contact the House of Representatives (538-1029) or the Senate (538-1035).

For further information, contact Elizabeth Hunter (538-4261), Utah Department of Human Services.

ATTORNEY GENERAL OPINION

December 22, 1997

Honorable Melvin R. Brown
House of Representatives
318 State Capitol
Salt Lake City, Utah 84114

Re: Opinion 97-4, Materials Adopted by the Utah State Board of Education

Dear Representative Brown:

Your request of November 20, 1997, for an opinion regarding State Board of Education approval of text books and materials used in school districts was referred to me for response. Your precise questions are:

1. [w]hether . . . there is a clear requirement in law that school districts must only use materials adopted by the State Board of Education?
2. If the law is not clear in all instances, what are the conditions under which school districts would be required to only purchase and use material on the adopted list?
3. What if any is the significance of whether state funds are used to purchase textbooks and other educational materials. More specifically, if no state money is used in the purchase, do school districts have the autonomy under state law to select and put into use materials which are not approved by the state?

As a preliminary matter it will be helpful to briefly describe the State system for approving texts. In Utah's system of public education the State Board of Education appoints a State Textbook Commission which considers public school textbooks and recommends appropriate textbooks for adoption by the State Board of Education, Utah Code Ann. Section 53A-14-101. The State Board then reviews the recommendations and adopts those textbooks which are appropriate. The adopted textbooks become mandatory for use in the public schools. The approved textbooks are placed on a list of adopted textbooks so every district, school administrator and State education official is aware of the specific textbooks approved for use in the public schools. Textbooks are reviewed periodically and may be added to or removed from the list, Utah Code Ann. Section 53A-14-102. Additionally, the Textbook Commission may approve a particular textbook for pilot or trial use subject to reasonable conditions and limitations for such use. Utah Administrative Code, Education, Subsection R277-408-1(J).

It is important to distinguish generally between the terms "textbook" and "materials". It appears that the general definitions from the Education Code and Board rules attempt to distinguish textbooks including textual materials in particular, from instructional materials in general. The Education Code defines "textbooks" to include workbooks necessary to a particular course of study:

For the purposes of Sections 53A-12-201 through 53A-12-206, "textbooks" includes textbooks and workbooks necessary for participation in any instructional course. Textbooks shall not include personal or consumable items, such as pencils, papers, pens, erasers, notebooks, other items of personal use, or products which a student may purchase at his option, such as school publications, class rings, annuals, and similar items.

Utah Code Ann. Section 53A-12-202.

The State Board rule defines "textbooks" in a somewhat more comprehensive manner to include textual materials intended to serve as principal sources of study over a significant portion of a particular course of study:

J. "Textbooks" means systematically arranged text materials, in harmony with the state curriculum framework and courses of study, which may be used by students as principal sources of study and which cover a significant portion of the course. These materials:

- (1) are designed for student use;

- (2) are accompanied by or contain teaching guides and study helps;
- (3) may be programmed or self-instructional; and
- (4) must appear on the list of state-adopted texts or be approved for pilot or trial use by the State Textbook Commission.

Utah Administrative Code, Subsection R277-408-1(J)

From the foregoing statutes and State board Rule it appears that the intent of current law is to distinguish between textbooks including workbooks and other systematically organized principal textual materials, which are subject to State Board approval, and supplemental, incidental and temporary instructional materials which may be appropriate, relevant and helpful for a teacher or district, but which are not subject to State Board approval. Approval of texts as principal sources of study appears to be consistent with the State Board authority to establish curriculum requirements for courses of study in the public school system. Utah Code Ann. Section 53A-13-101 et seq.

Our research reveals that there is very little litigation over use of textbooks in the public schools. In one Utah case, plaintiffs claimed that mandatory use of State approved textbooks was unconstitutional. The District Court dismissed the complaint. On appeal the Utah Supreme Court upheld the dismissal based on the individual plaintiff's lack of standing to challenge the textbook law. *Jenkins v. Swan*, 675 P.2d 1145 (Utah 1983). While the validity of the textbook statute was not directly decided, the effect of the court's decision was to preserve the statute. This result is consistent with general law in the United States which uniformly recognizes the exclusive right of the State legislature to prescribe the process by which textbooks are selected for use in the public schools. 68 Am. Jur. 2d Schools Sec. 303.

With that background I will now proceed to respond to your three particular questions:

Question 1: [Is] there is a clear requirement in law that school districts must only use materials adopted by the State Board of Education?

Response: Yes. The law requires textbooks, workbooks, and other textual materials intended to be principal sources of study over a significant portion of the course, to be approved by the State Board of Education and appear on the list of adopted textbooks. Supplementary materials, which are not textbooks or principal textual materials but which are deemed relevant and helpful in a course for incidental use by the teacher, may be used without approval of the State Board of Education if consistent with district policy and other State law.

While the law makes a distinction between principal study materials and supplemental materials, the classification of specific "materials" may prove problematic in some cases. A more precise definition of textbooks and principal textual materials by Board rule may be helpful and should be considered. The rule could also indicate that other relevant materials intended for occasional, incidental and supplemental use need not be approved by the State Board so long as they are within sound local board policy and consistent with other State law.

Question 2: If the law is not clear in all instances, what are the conditions under which school districts would be required to only purchase and use material on the adopted list?

Response: The law is clear that the district must purchase and use those textbooks and principal textual materials which are approved by the State Board and placed on the list of adopted textbooks. The local board may not purchase and use textbooks and principal textual materials which are not approved and placed on the list, or for which trial use or pilot use has not been approved.

Other teaching material may be considered relevant and helpful to the course by the teacher, but is intended only for supplemental or incidental use and not as a principal source of study over a significant portion of the course. Such supplemental material need not be approved by the State Board, but must be consistent with local board policy and other State laws.

Question 3: What if any is the significance of whether state funds are used to purchase textbooks and other educational materials. More specifically, if no state money is used in the purchase, do school districts have the autonomy under state law to select and put into use materials which are not approved by the state?

Response: No. The fact that no State funds are used to purchase textbooks and principal textual materials is not relevant to the requirement to use only those texts and textual materials approved by the State Board of Education. Textbooks may be paid for by the district from operating funds, the textbook fund or other available funds. Utah Code Ann. Subsection 53A-12-204(5). There is no prohibition against the State supplying funds for textbooks or supplying the textbooks themselves to a particular district for a particular purpose. The source of the money is not relevant to the approval and the fact that local funds

may be used cannot imply tacit authority to use a textbook or textual materials not approved by the State Board of Education. There is no authority for a district to purchase or use textbooks and textual materials without prior approval by the State Board of Education or State Textbook Commission.

CONCLUSION

Under current State statute, it is clear that textbooks and other principal textual materials must be approved by the State Board of Education prior to use in the public schools. Other related materials not intended to be a principal source of study and used only incidentally to supplement a course of study may be used without State Board approval provided such use is consistent with local board policy and other State law.

Because some confusion may arise out of indiscriminate use of the word "materials", it is suggested that the State Board of Education consider reviewing the definition of "textual materials" which are to be used with a textbook as a principal study source and therefore subject to Board approval.

Please let me know if you need more information or have further questions.

Very truly yours,

JOHN S. McALLISTER
Assistant Attorney General
Education Division

cc: Scott Bean

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 15, 1997, 5:01 p.m., and January 2, 1998, 5:00 p.m., are included in this, the January 15, 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 17, 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 15, 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
R156-56
Utah Uniform Building Standard Act
Rules

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 20595

FILED: 12/30/97, 15:24

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: Amendments to the Uniform Building Code and the International Plumbing Code that have been approved by the Uniform Building Code Commission are being proposed.

SUMMARY: Additions were made with respect to building inspector-in-training required direct supervision hours. Section R156-56-304 was added regarding dealer registration. Various corrections were made to Section R156-56-704 - Amendments to the Utah Building Code (UBC) involving changing section numbers and rewording existing amendments. Amendment made to Chapter 18, Section 1806.6.1 of the UBC. Park City Corporation adopted additional chapters of the UBC. Numerous statewide amendments are being added with respect to the International Plumbing Code.

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

Jud Weiler at the above address, by phone at (801) 530-6731, by FAX at (801) 530-6511, or by Internet E-mail at brdopl.jweiler@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 02/17/98; OR ATTENDING A PUBLIC

HEARING SCHEDULED FOR 02/06/98, 9:00 a.m., State Office Building, Room 4112, Salt Lake City, UT.

THIS FILING MAY BECOME EFFECTIVE ON: 02/18/98

AUTHORIZED BY: J. Craig Jackson, Director

R156. Commerce, Occupational and Professional Licensing.

R156-56. Utah Uniform Building Standard Act Rules.

R156-56-302. Licensure of Inspectors.

In accordance with Subsection 58-56-9(1), the licensee classifications, scope of work, qualifications for licensure, and application for license are established as follows:

(1) License Classifications. Each inspector employed by a local regulator, state regulator, compliance agency, or private agency providing inspection services to a regulator or compliance agency, shall qualify for licensure and be licensed by the division in one of the following classifications not later than July 1, 1993:

- (a) Building Inspector I - UBC;
- (b) Electrical Inspector I - NEC;
- (c) Plumbing Inspector I - IPC and UPC;
- (d) Mechanical Inspector I - UMC;
- (e) Combination Inspector I - UBC, NEC, IPC, UPC, UMC
- (f) Combination Inspector II - Limited Commercial

Combination;

- (g) Combination Inspector III - Dwelling; and
- (h) Building Inspector III - UBC;
- (i) Electrical Inspector III - NEC;
- (j) Plumbing Inspector III - IPC and UPC;
- (k) Mechanical Inspector III - UMC; and
- (l) Inspector-in-Training.

(2) Scope of Work. The scope of work permitted under each inspector classification is as follows:

- (a) Building Inspector I - UBC.

(i) In accordance with the provisions of the UBC, inspect the construction, alteration, remodeling or repair of any building or structure, or the components of any building or structure for which a standard is provided in the specific edition of the UBC adopted under these rules or amendments to the UBC as included in these rules.

(ii) Determine whether the construction, alteration, remodeling or repair is in compliance or is not in compliance with the adopted UBC.

(iii) After determination of compliance or non-compliance with the adopted building code, take appropriate action as is provided in the UBC.

- (b) Electrical Inspector I - NEC.

(i) In accordance with the NEC, inspect all electrical components of any building, structure or work for which a standard is provided in the specific edition of the NEC adopted under these rules or amendments to the NEC as included in these rules.

(ii) Determine whether the construction, alteration, remodeling, repair or installation of the electrical components of any building, structure or work is in compliance or is not in compliance with the adopted NEC.

(iii) After determination of compliance or noncompliance with the NEC, take appropriate administrative action as is provided in the UBC.

(c) Plumbing Inspector I - IPC and UPC.

(i) In accordance with the IPC and UPC, inspect all plumbing components of any building, structure or work for which a standard is provided in the specific edition of the IPC and UPC adopted under these rules or amendments to the IPC and UPC as included in these rules.

(ii) Determine whether the construction, alteration, remodeling, repair or installation of the plumbing components of any building, structure or work is in compliance or is not in compliance with the adopted IPC and UPC.

(iii) After determination of compliance or noncompliance with the IPC and UPC, take appropriate action as is provided in the IPC and UPC.

(d) Mechanical Inspector I - UMC.

(i) In accordance with the UMC, inspect all mechanical components of any building, structure or work for which a standard is provided in the specific edition of the UMC adopted under these rules or amendments to the UMC as included in these rules.

(ii) Determine whether the construction, alteration, remodeling, repair or installation of the mechanical component of any building, structure or work is in compliance or is not in compliance with the adopted UMC.

(iii) After determination of compliance or noncompliance with the UMC, take appropriate action as is provided in the UMC.

(e) Combination Inspector I - UBC, NEC, IPC, UPC and UMC.

(i) In accordance with the UBC, NEC, IPC, UPC and UMC, inspect the components of any building, structure or work for which a standard is provided in the specific edition of the aforesaid codes adopted under these rules or amendments to these codes as included in these rules.

(ii) Determine whether the construction, alteration, remodeling, repair or installation of all components of any building, structure or work is in compliance with the adopted UBC, NEC, IPC, UPC and UMC.

(iii) After determination of compliance or noncompliance with the UBC, IPC, UPC, NEC and UMC, take appropriate action as is provided in the aforesaid codes.

(f) Combination Inspector II - Limited Commercial Combination.

(i) In accordance with the provisions of the UBC, inspect the construction, alteration, remodeling or repair of any residential building not exceeding 15 units and two stories in height which is classified under an "R" occupancy in the UBC; all accessory buildings classified under a "U" occupancy in the UBC; and commercial buildings limited to those not exceeding two stories in height or 6000 square feet for buildings classified under a "A-3" occupancy in the UBC, 8000 square feet for buildings classified under a "B", "F-1", "M", "S-1", "S-3", or "S-5" occupancy in the UBC, and 3000 square feet for buildings classified under a "H-4" occupancy in the UBC.

(ii) In accordance with the NEC, IPC, UPC and UMC inspect the electrical, plumbing and mechanical components of a building defined in the above Subsection (i) of Subsection (f).

(iii) Determine whether the construction, alteration, remodeling or repair is in compliance or is not in compliance with the adopted building codes.

(iv) After determination of compliance with the adopted building codes, take appropriate action as is provided in the UBC, NEC, IPC, UPC or UMC.

(g) Combination Inspector III - Dwelling.

(i) In accordance with the provisions of the UBC, inspect the construction, alteration, remodeling or repair of any single family or two family residential building classified under an "R-3" occupancy in the UBC, accessory buildings to R-3 dwellings classified under "U-1" or "U-2" occupancy in the UBC, and agricultural buildings classified under an "U-1", "U-2", "UBC Appendix Chapter 3, Division II", or "UBC Appendix Chapter 3, Division IV" occupancy in the UBC.

(ii) In accordance with the NEC, IPC, UPC and UMC inspect the electrical, plumbing and mechanical components of a building defined in the above Subsection (i) of Subsection (g).

(iii) Determine whether the construction, alteration, remodeling or repair is in compliance or is not in compliance with the adopted building codes.

(iv) After determination of compliance with the adopted building codes, take appropriate action as is provided in the UBC, NEC, IPC, UPC or UMC.

(h) Building Inspector III - UBC.

In accordance with the provisions of the UBC, inspect the construction, alteration, remodeling, or repair of any single-family or two-family residential building classified under an "R-3" occupancy, accessory buildings to R-3 dwellings classified under "U-1" or "U-2" occupancy, and agricultural buildings classified under an "U-1", "U-2", or "UBC Appendix Chapter 3, Division IV" occupancy as defined in the UBC.

(i) Electrical Inspector III - NEC.

In accordance with the NEC, inspect the electrical components of any single-family or two-family residential building classified under an "R-3" occupancy, accessory buildings to R-3 dwellings classified under an "U-1" or "U-2" occupancy, and agricultural buildings classified under an "U-1", "U-2" or "UBC Appendix Chapter 3, Division IV" occupancy as defined in the UBC.

(j) Plumbing Inspector III - IPC and UPC.

In accordance with the IPC and UPC, inspect the plumbing components of any single-family or two-family residential building classified under an "R-3" occupancy, accessory buildings to R-3 dwellings classified under an "U-1" or "U-2" occupancy, and agricultural buildings classified under an "U-1", "U-2" or "UBC Appendix Chapter 3, Division IV" occupancy as defined in the UBC.

(k) Mechanical Inspector III - UMC.

In accordance with the UMC, inspect the mechanical components of any single-family or two-family residential building classified under an "R-3" occupancy, accessory buildings to R-3 dwellings classified under an "U-1" or "U-2" occupancy, and agricultural buildings classified under an "U-1", "U-2" or "UBC Appendix Chapter 3, Division IV" occupancy as defined in the UBC.

(l) Inspector-in-Training.

(i) Under the direct supervision of a licensed building inspector, licensed electrical inspector, licensed plumbing inspector or licensed mechanical inspector, for the purpose of training, inspect the construction, alteration, remodeling, repair and/or

installation of buildings, electrical components, plumbing components, and/or mechanical components for which a standard is provided in the adopted editions of the UBC, NEC, IPC, UPC or UMC or under amendments to those codes when the regulator, compliance agency, or private agency providing inspection services to a regulator or a compliance agency elects to employ the services of a licensed inspector-in-training. Nothing in this subsection shall be interpreted to require a regulator, compliance agency, or private agency to employ the services of a person licensed in the classification inspector-in-training.

(ii) A licensed inspector-in-training may not take any action authorized under the UBC, NEC, IPC, UPC and/or UMC upon a finding after inspection of compliance or noncompliance other than to inform the licensed inspector responsible for his supervision ~~[during the first 250 hours of]~~while under direct supervision. Thereafter the inspector-in-training may perform assigned duties under indirect supervision. Related experience and education approved by the division in collaboration with the committee ~~[of up to a maximum of 230 hours]~~in accordance with the following hours designated by code and/or classification may be credited towards the [first 250 hours of]direct supervision hours.

(iii) Building Inspector-in-training III required direct supervision hours.

(A) Uniform Building Code: 70 hours, 50 of which can be waived with documented experience and/or education.

(B) National Electrical Code: 70 hours, 50 of which can be waived with documented experience and/or education.

(C) Uniform Plumbing Code/International Plumbing Code: 60 hours, 50 of which can be waived with documented experience and/or education.

(D) Uniform Mechanical Code: 60 hours, 50 of which can be waived with documented experience and/or education.

(iv) Building Inspector-in-training II required direct supervision hours.

(A) Uniform Building Code: 80 hours, 60 of which can be waived with documented experience and/or education.

(B) National Electrical Code: 80 hours, 60 of which can be waived with documented experience and/or education.

(C) Uniform Plumbing Code/International Plumbing Code: 70 hours, 60 of which can be waived with documented experience and/or education.

(D) Uniform Mechanical Code: 70 hours, 60 of which can be waived with documented experience and/or education.

(v) Building Inspector-in-training I required direct supervision hours.

(A) Uniform Building Code: 100 hours, 70 of which can be waived with documented experience and/or education.

(B) National Electrical Code: 100 hours, 70 of which can be waived with documented experience and/or education.

(C) Uniform Plumbing Code/International Plumbing Code: 80 hours, 70 of which can be waived with documented experience and/or education.

(D) Uniform Mechanical Code: 80 hours, 70 of which can be waived with documented experience and/or education.

~~(iii)~~(vi) The supervising licensed inspector is at all times responsible for the work of the inspector-in-training while that inspector is training and assigned to be under the direction of that supervisor.

~~(iv)~~(vii) An inspector-in-training license in each single classification may be issued by the division to an individual for a period not to exceed two years.

(3) Qualifications for Licensure. The qualifications for licensure for each inspector classification are as follows:

(a) Building Inspector I - UBC.

Has passed the examination for and maintained as current the "Building Inspector Certification" issued by the International Conference of Building Officials, or has passed a Building Inspector I examination if such is developed at the direction of the division in collaboration with the commission.

(b) Electrical Inspector I - NEC.

Has passed the examination for and obtained the "Electrical Inspector Certification" issued by the International Conference of Building Officials or a "General Electrical Inspectors Certification" issued by the International Association of Electrical Inspectors, or has passed an Electrical Inspector examination if such is developed at the direction of the division in collaboration with the commission.

(c) Plumbing Inspector I - IPC and UPC.

Has passed the examination for and obtained the "Commercial Plumbing Inspector Certification" issued by the International Association of Plumbing and Mechanical Officials, the "Plumbing Inspector Certification" issued by the International Conference of Building Officials, or has passed a Plumbing Inspector examination if such is developed at the direction of the division in collaboration with the commission.

(d) Mechanical Inspector I - UMC.

Has passed the examination for and obtained the "Commercial Mechanical Inspector Certification" issued by the International Code Council or International Association of Plumbing and Mechanical Officials, the "Mechanical Inspectors Certification" issued by the International Conference of Building Officials, or has passed a Mechanical Inspector examination if such is developed at the direction of the division in collaboration with the commission.

(e) Combination Inspector I - UBC, NEC, IPC, UPC, UMC.

Has passed the examination for and maintained as current the following national certifications:

(i) the "Building Inspector Certification" issued by the International Conference of Building Officials;

(ii) the "Electrical Inspector Certification" issued by the International Conference of Building Officials or the "General Electrical Certification" issued by the International Association of Electrical Inspectors;

(iii) the "Plumbing Inspector Certification" issued by the International Conference of Building Officials, International Code Council or the International Association of Plumbing and Mechanical Officials or the "Commercial Plumbing Inspector Certification" issued by the International Code Council or International Association of Plumbing and Mechanical Officials; and

(iv) the "Mechanical Inspector Certification" issued by the International Conference of Building Officials or the "Commercial Mechanical Inspector Certification" issued by the International Association of Plumbing and Mechanical Officials.

(f) Combination Inspector II - Limited Commercial Combination.

(i) Has passed the examination for and maintained as current:

(A) the "Combination Dwelling Inspector Certification" issued by the International Conference of Building Officials; or

(B) the "Combination Inspector III State Certification" as developed at the direction of the division in collaboration with the commission; and

(C) the "Limited Commercial Combination Certification" issued by the International Conference of Building Officials.

(ii) After July 1, 1993 those newly qualifying for licensure by passing and maintaining ICBO Combination Dwelling Certification must also pass and maintain the ICBO Light Commercial Combination Certification.

(g) Combination Inspector III - Dwelling.

(i) Has passed the examination for and maintained as current the "Building Inspector III Certification" as prepared and administered under the direction of the division in collaboration with the commission or has passed the examination for and maintained as current the "Combination Dwelling Inspector Certification" issued by the International Conference of Building Officials.

(A) Proof of passing and maintaining as current a board approved national certification exam in plumbing, electrical, mechanical or building inspection exempts the applicant from having to take and pass that portion of the state exam.

(h) Building Inspector III - UBC.

Has passed the examination for and maintained as current the "Building Inspector III - Residential Building Inspector Certification" as prepared and administered under the direction of the division.

(i) Electrical Inspector III - NEC.

Has passed the examination for and maintained as current the "Electrical Inspector III - Residential Electrical Inspector Certification" as prepared and administered under the direction of the division.

(j) Plumbing Inspector III - IPC and UPC.

Has passed the examination for and maintained as current the "Plumbing Inspector III - Residential Plumbing Inspector Certification" as prepared and administered under the direction of the division.

(k) Mechanical Inspector III - UMC.

Has passed the examination for and maintained as current the "Mechanical Inspector III - Residential Mechanical Inspector Certification" as prepared and administered under the direction of the division.

(l) Inspector-in-training.

Show the applicant has graduated from high school or has obtained an equivalent certification.

(4) Application for License.

(a) An applicant for licensure shall:

(i) submit an application in a form prescribed by the division; and

(ii) pay a fee determined by the department pursuant to Section 63-38-3.2.

R156-56-304. Dealer Registration.

Dealers who are located in Utah, or located out of the state of Utah, but doing business in Utah, shall register as a dealer as required in Section 58-56-16.

R156-56-704. Amendments to the UBC.

(1) Statewide Amendments

Chapter 1, Section 101.3 is amended by adding the following paragraph:

"The appendix chapters of this code are approved for adoption in each political subdivision of the State provided that each said political subdivision shall furnish to the Division a list of adopted chapters of the appendix to be kept on file. Where this code is not adopted by any political subdivision, the use of the appendix chapters shall be as determined by the Division with the concurrence of the Commission".

Chapter 1, Section 104.1 is amended as follows:

"There is hereby established in each political subdivision of the state a code enforcement agency which shall be under the administrative and operational control of the building official. The building official shall be appointed by the local regulator. If the local regulator fails to appoint a building official, the Director of the Division of Occupational and Professional Licensing with the Commission shall appoint one".

Chapter 1, Section 107.1 is amended as follows:

"Fees assessed in accordance with the provisions of this section shall be as set forth in the fee schedule adopted by each political subdivision".

Chapter 1, Section 109.1 is amended by replacing the exception with the following:

EXCEPTION: Group R, Division 3 and Group U Occupancies; provided local jurisdictions may require a certificate of occupancy for Group R, Division 3 occupancies.

Chapter 3, Section 305.1, Division 3 is amended by adding the following exception:

EXCEPTION: Areas used for group day care purposes of not less than seven persons and not more than 12 persons may be located in a dwelling unit, provided the building substantially complies with the requirements for a Group R, Division 3 occupancy. The increased requirements in Chapter 10 for occupant loads of 10 or more shall not apply. In addition, dwellings used for day care will be provided with all of the following:

1. Areas used for group day care shall have two separate means of egress arranged so that if one is blocked, the other will be available.

a. Exit doors, other than the main exit, may be 32 inches wide.

b. When area is located in the basement or on the second floor, one of the exits must discharge directly to the outside.

c. Any interior stairway used as an exit from a basement shall be enclosed by a smoke and draft barrier which includes a self-closing, 20 minute fire-rated door assembly.

2. Group day care uses located in dwelling units shall not be located above the second floor.

3. Rooms used for sleeping shall have at least one window or door approved for emergency escape per Section 310.4.

4. Closet door latches shall be such that children can open the door from the inside of the closet.

5. Bathroom door locks shall be readily openable by staff from the outside.

6. Smoke detectors shall be installed in accordance with Section 310.9.1, including existing dwelling units.

Chapter 10, Section ~~[1005.8.1]~~1004.3.4.3.2.1, Doors is amended by ~~[adding Exception 3]~~renumbering the existing exception as No. 1 and adding Exception 2, as follows:

~~[3-]2.~~ In Group E-1 and E-2 occupancies that are fully protected by an approved fire sprinkler system, the door closers may be of the friction hold open type on classrooms only. In non-sprinkled E-1 and E-2 occupancies, classroom doors shall be held open only by a magnetic hold open device.

Chapter 10, Section ~~[1006.9]~~1003.3.3.6 is amended by adding an ~~[E]~~exception to the third paragraph~~[3]~~ as follows:

Exception:~~[3-]~~ Handrails serving an individual unit in a Group R, Division 1 or Division 3 Occupancy may have either a circular cross section with a diameter of 1 1/4 inches (32 mm) to 2 inches (51 mm), or a non-circular cross section with a perimeter dimension of at least 4 inches (102 mm) but not more than 6 5/8 inches (168 mm) and a largest cross sectional dimension not exceeding 3 1/4 inches (83 mm). The perimeter on non-circular cross sections shall be measured from one side of the cross section, 2 inches (51 mm) down from the top or crown.

An indentation is required on both sides of non-circular handrail cross sections. This indentation must be in the area of the sides between 5/8 inch (16 mm) and 1 1/2 inches (38 mm) down from the top or crown of the cross section. The indentation shall be a minimum of 1/4 inch (6 mm) deep on each side and shall be at least 1/2 inch (13 mm) high.

Edges within the handgrip shall have a minimum radius of 1/16 inch (2 mm). The handrail surface shall be smooth with no cusps so as to avoid catching clothing or skin.

Chapter 16, Section ~~[1603.6, Footnote 3]~~1612.3.2, Exception 2 is amended to read as follows:

~~[3]2~~ Snow loads over 30 psf may be reduced in accordance with Section ~~[1628.1]~~1630.1.1, Item 3 (amended), and snow loads 30 psf or less need not be combined with seismic.

Chapter 16, Section ~~[1628.1]~~1630.1.1, Item 3 is amended as follows:

~~[e]3.~~ Design snow loads of 30 psf or less need not be included. Where the snow load ~~[is greater than]~~exceeds 30 psf, the snow load shall be included. The snow load shall be adjusted in accordance with the following formula: $W_s = ((0.25 + 0.025(A-5))P_f$

WHERE: W_s = Weight of snow to be included in seismic calculations

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

P_f = ~~[Minimum]~~Design roof snow load, psf.

Chapter 18, Section 1806.6.1 is amended by adding an exception as follows:

EXCEPTION: When anchor bolt spacing does not exceed 32" on center.

Chapter 19, Section 1914.3.1 is amended by adding an exception ~~[between the first and second paragraphs]~~ as follows:

EXCEPTION: The foundations for buildings or portions thereof which are constructed in accordance with the conventional framing requirements specified in Chapter 23 of this code shall be deemed to meet the requirements of this section if they are constructed as follows:

1. Minimum wall thickness: 8 inches;
2. Maximum wall height: 8 feet;

3. Wall Steel: No. 4 deformed bars with a minimum yield strength of 60,000 psi not more than 24 inches on center vertically and horizontally, or No. 4 deformed bars with a minimum yield strength of 40,000 psi not more than 16 inches on center vertically and 24 inches on center horizontally. All bars shall be placed in the center of the wall.

4. Openings: Two No. 4 bars on all sides of openings extending so as to develop the bar beyond the corners of the openings.

5. Dowels: Dowels with a standard hook shall be placed in the footing so as to match the wall steel, and extend at least 12 inches into the wall.

6. Limitation: This exception may not be used for structures located where the difference in grade from one side of the structure to the other is more than 5 feet, or for walls retaining more than 4 feet of soil and which do not connect to floor diaphragms, or for walls containing openings more than 6 feet wide.

Chapter 23, Section ~~[2304.3.4, Item 2]~~2316.2, Item 6 is amended by adding footnote 3, reference from "two months", to read as follows:

~~(2)6~~ When the accumulated duration of the full maximum load during the life of the member does not exceed the period indicated below, the values may be increased in the tables as follows:

~~[15 percent for two months' duration;]~~3 as for snow below 5000 feet elevation~~[(the remainder of (2) is unchanged)]~~.

Chapter 23, Section ~~[2316.1]~~2307 is amended by adding exception 5 as follows:

5. Veneer of brick or stone applied as specified in Section 1403.6 may be supported on structural glued-laminated timber or laminated veneer lumber provided that the beam be designed to limit the dead load deflection to 1/800 of the span and the total load deflection to 1/600 of the span with due consideration given for shrinkage and creep. The beam shall be protected from exposure to weather as required for dwelling under Section 1402.1.

Chapter 34, Section 3403.2 is amended as follows:

The following is added after the exceptions~~[at the end of paragraph (b)]~~:

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

EXCEPTION: Group R-3 and U occupancies.

Original plans and/or structural calculations may be utilized to demonstrate that the parapets or appendages are structurally adequate. When found to be deficient because of design or deteriorated condition, the engineer shall prepare specific recommendations to anchor, brace, reinforce or remove the deficient feature.

The maximum height of an unreinforced masonry parapet above the level of diaphragm tension anchors or above the parapet braces shall not exceed one and one-half times the thickness of the parapet wall. The parapet height may be a maximum of two and one-half times its thickness in other than Seismic Zones Nos. 3 and 4. If the required parapet height exceeds this maximum height, a 16-0 for walls shall support the top of the parapet. When positive

diaphragm connections are absent, tension roof anchors are required. Approved alternate methods of equivalent strength will be considered when accompanied by engineer sealed drawings, details and calculations.

Appendix Chapter 3, Division IV, Requirements for Group R, Division 4 Occupancies, is adopted as a part of the UBC and incorporated by reference.

Appendix Chapter 11, Division I, Site Accessibility, is adopted as a part of the UBC and incorporated by reference.

Appendix Chapter 11, Division II, Accessibility For Existing Buildings, is adopted as a part of the UBC and incorporated by reference.

Appendix Chapter 13, Energy Conservation in New Building Construction, is adopted as a part of the UBC and incorporated by reference.

Appendix Chapter 13, Section 1302.2 is amended as follows:

In order to comply with the purpose of this appendix, low-rise residential buildings shall be designed to comply with the requirements of the Model Energy Code promulgated jointly by the International Conference of Building Code Officials (ICBO); the Southern Building Code Congress International, Inc. (SBCCI); the Building Officials and Code Administrators International, Inc. (BOCA); and the National Conference of States on Building Codes and Standards, dated [1993]1995. Commercial and high-rise residential buildings shall be designed to comply with the requirements of the Energy Code for Commercial and High-Rise Residential Building, which is a codification of ASHRAE/IES Standard 90.1 - 1989, Energy Efficient Design of New Buildings except Low-Rise Residential Buildings.

The Model Energy Code is amended as follows:

Section 502.2.1 Walls is amended as follows:

Equation 1 shall be used to determine acceptable combinations to meet this requirement, and when metal studs are used, U_w -values shall be those calculated using appropriate correction factors for thermal bridging of insulation as published in Section 8 of RS-1; or calculated using ASHRAE RS-4 approved methodology for either serial or parallel path thermal transfer; or U -values compiled in Table 8-Y of the "User's Manual" for ASHRAE/IES Standard 90.1-1989, which is hereby incorporated by reference and which shall be available at all offices issuing building permits or the Division of Occupational and Professional Licensing or insertion in the Model Energy Code.

Simplified prescriptive maps, tables or other compliance aids, manuals or computer programs as may be supplied by DOE/Pacific Northwest Laboratory or others, when certified by the state or its agencies, may be used to demonstrate energy code compliance.

ASHRAE/IES Standard 90.1-1989 is amended as follows:

Section 101.3.1.2 Exceptions:

(4) The building official may approve designs which do not fully conform with all of the requirements of this code where in the opinion of the building official full compliance is physically impossible and/or economically impractical.

Appendix Chapter 16, Division I, Snow Load Design is adopted and incorporated by reference.

Appendix Chapter 16, Division I, Section [1636]1639 is amended as follows:

The ground snow load, P_g , to be used in the determination of design snow loads for buildings and other structures shall be

determined by using the following formula: $P_g = (P_o^2 + S^2(A - A_o)^2)^{1/2}$ for A greater than A_o and $P_g = P_o$ for A less than A_o .

WHERE:

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

P_o = Base ground snow load (psf) from Table A-16-[R]C

S = Change in ground snow load with elevation (psf/1000 ft), from Table A-16-[R]C

A = Elevation above sea level at the location for which snow load is being determined (ft/1000)

A_o = Asymptote and zero ground snow axis intercept (ft/1000) from Table A-16-[R]C

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

TABLE NO. A-16-[R]C
STATE OF UTAH - REGIONAL SNOW LOAD FACTORS

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

Appendix Chapter 29, Minimum Plumbing Facilities, is adopted as a part of the UBC and incorporated by reference.

Appendix Chapter 29 is amended as follows:

The following is added as footnote 7:

7. When provided, there shall be an equal number of diaper changing facilities for men as for women.

Appendix Chapter 30, Elevators, Dumbwaiters, Escalators and Moving Walks, is adopted as a part of the UBC and incorporated by reference.

Appendix Chapter 30, Section 3012 is amended as follows:

The following is added at the end of Section 3012:

Exceptions to ANSI/ASME A17.1:

(1) Delete Rule 102.2(c)(3); and
 (2) Rule 102.2(c)(4) shall apply to all elevators except hydraulic elevators with 50 feet of travel or less.

Chapter 9-1 of the UBC Standards is amended as follows:

Replace the current Uniform Building Code Standard 9-1 (NFPA-13, 1991 edition) with the most current fire sprinkler standard, NFPA-13, 1994 edition.

Chapter 9-3 of the UBC Standards is amended as follows:

Replace the current Uniform Building Code Standard 9-3 (NFPA-13R, 1989 edition) with the most current fire sprinkler standard, NFPA-13R, 1994 edition.

(2) Local Amendments

Beaver County

Beaver County adopted Appendix Chapter 3, Division II.

Heber City Corporation

Heber City Corporation adopted Appendix Chapter 33.

Murray City Corporation adopted Appendix Chapter 3 Division II, Appendix Chapter 31 Division III, and Appendix Chapter 33.

City of North Salt Lake

City of North Salt Lake adopted Appendix Chapter 3, except Section 332, Appendix Chapter 9, Appendix Chapter 12, Division I, Appendix Chapter 15, Appendix Chapter 31, Division II and III and Appendix Chapter 33.

City of Orem

City of Orem adopted Appendix Chapter 3, Division I, Appendix Chapter 3, Division II, Appendix Chapter 31, Division III, and Appendix Chapter 33.

Park City Corporation

Chapter 9, Section 904.2.1 is amended by adding the following sections:

904.2.1.1 All new construction having more than 6,000 square feet on any one floor, except R-3 occupancy.

904.2.1.2 All new construction having more than two (2) stories, except R-3 occupancy.

904.2.1.3 All new construction having three (3) or more dwelling units, including units rented or leased, and including condominiums or other separate ownership.

904.2.1.4 All new construction in the Historic Commercial Business zone district, regardless of occupancy.

904.2.1.5 All new construction and buildings in the General Commercial zone district where there are side yard setbacks or where one or more side yard setbacks is less than two and one half (2.5) feet per story of height.

904.2.1.6 All existing building within the Historic District Commercial Business zone by August 15, 1996.

Park City Corporation

Chapter 15, Table No. 15-A. The following is added as footnote 6:

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

PROHIBITION/EXEMPTION TABLE

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

Park City Corporation

Chapter 33, Section 3306.2 is amended as follows:

Omit paragraph 1 and add a period after the word "excavation" in the third line of paragraph 2 and omit "nor exempt any excavation having an unsupported height greater than 5 feet after the completion of such structure". Delete paragraphs 8 and 9. Re-number the sections and add a new paragraph 7 requiring a permit for removal of substantial vegetation, shrubs, trees and stabilizing grass, but not to include weeds.

Park City Corporation adopted Appendix Chapter 3 Division II, Chapter 4 Division II, Chapter 11, Chapter 12 Division II, Chapter 13, Chapter 15, Chapter 23 Division I and IV, Chapter 31 Division I, Chapter 32, Chapter 33, Chapter 35, Chapter 51, Chapter 53 and Chapter 70.

Salt Lake County

Salt Lake County adopted Chapter 15, Chapter 16, Division III, Chapter 31, Division II, Chapter 31, Division III and Chapter 33.

City of St. George

City of St. George adopted Appendix Chapter 3 and Appendix Chapter 33.

Sandy City

Chapter 9, Section 904.2 is amended as follows:

An automatic fire sprinkler system shall be installed in all occupancies where the required fire flow exceeds 2,000 gallons per minute based on Table A-III-A-1 of the 1994 Uniform Fire Code.

Exception: Automatic fire sprinklers are not required in buildings used solely for worship, Group R, Division 3 and Group U occupancies.

Summit County

Summit County adopted Appendix Chapter 33.

Summit County

Chapter 9, Section 904.2

1. All new construction having more than 6,000 square feet on any one floor, except R-3 and U occupancies.

2. All new construction having more than two (2) stories, except R-3 and U occupancies.

3. All new construction having three (3) or more dwelling units, including units rented or leased and including condominiums or other separate ownership.

4. All newly constructed structures used as dwelling units in a multi-unit structure shall have at least an one hour fire resistive separation between units.

Washington City

Washington City adopted Appendix Chapter 33.

City of West Jordan

City of West Jordan adopted Appendix Chapter 3, Division II, Appendix Chapter 4, Division II, Appendix Chapter 13 and Appendix Chapter 33.

R156-56-706. Amendments to the IPC.

(1) Statewide Amendments

Section 103 is deleted in its entirety.

Section 104.9 is added as follows:

TABLE
 WILDFIRE HAZARD SEVERITY SCALE

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

104.9 Liability. The code official, officer or employee charged with the enforcement of this code, while acting for the jurisdiction, shall not thereby be rendered liable personally, and is hereby relieved from all personal liability for any damage accruing to persons or property as a result of any act required or permitted in the discharge of official duties.

Any suit instituted against any officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of this code shall be defended by the legal representative of the jurisdiction until the final termination of the proceedings. The code instituted in pursuance of the provision of this code, and any officer of the department of plumbing inspection, acting in good faith and without malice, shall be free from liability for acts performed under any of its provisions or by reason of any act or omission in the performance of official duties in connection therewith.

Section 107.1.1 is deleted in its entirety.

Section 109 is retitled as "Board of Appeal".

Section 109.1 is deleted and replaced with the following:

109.1 General. In order to hear and decide appeals of orders, decisions or determinations made by the code official relative to the application and interpretation of experience and training to pass on matters pertaining to interpretation of this code, there shall be and is hereby created a board of appeals consisting of members who are qualified by experience and training to pass on matters pertaining to building construction and who are not employees of the jurisdiction. The code official shall be an ex officio member of and shall act as secretary to said board but shall have no vote on any matter before the board. The board of appeals shall be appointed by the governing body and shall hold office at its pleasure. The board shall adopt rules of procedure for conducting its business, and shall render all decisions and finding in writing to the appellant with a duplicate copy to the code official.

Sections 109.2 through 109.7 are deleted in their entirety.

Section 202 General Definitions is revised as follows:

The definition for "Backflow Backpressure, Low Head" is deleted in its entirety.

The definition for "Backsiphonage" is deleted and replaced with the following:

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

The following definition is added:

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

The definition for "Code Official" is deleted and replaced with the following:

Code Official. The individual official, board, department or agency established and authorized by a state, county, city or other political subdivision created by law to administer and enforce the provisions of the plumbing code as adopted or amended. This definition shall include the code official's duly authorized representative.

The definition for "Cross Connection" is deleted and replaced with the following:

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

The definition for "Potable Water" is deleted and replaced with the following:

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

Section 312.9 is deleted in its entirety.

Section 403.1 is deleted and replaced with the following:

403.1 Minimum number of fixtures. Plumbing fixtures shall be provided for the type of occupancy and in the minimum number shown in Appendix Chapter 29, Uniform Building Code.

Table 403.1 is deleted in its entirety.

Section 403.2 is deleted and replaced with the following:

403.2 Hand sink location. Hand sinks in commercial food establishments shall be located accessible to food preparation areas, food service areas, dishwashing areas, and toilet rooms in accordance with Rule R392-100-5, Utah Administrative Code.

Section 403.2.1 is added as follows:

403.2.1 Fixture height. In nurseries, daycare facilities and schools, separate facilities shall be provided for children six years of age and younger. Such facilities shall meet the following requirements.

1. Lavatories shall be located a maximum of 22 inches above the floor. Counters containing such lavatories shall be a maximum of 20 inches deep, front to back.

2. Water closet seat height shall be a maximum of 11 inches high.

3. Urinal lip height, if provided, shall be a maximum of 17 inches above the floor.

Exception: Individual family dwellings.

Sections 403.4, 403.5 and 403.6 are deleted in their entirety.

Section 409.1 is deleted and replaced with the following:

409.1 Approval. Domestic dishwashing machines shall conform to ASSE 1006. Commercial dishwashing machines shall conform to ASSE 1004, NSF 3 or NSF 26.

Section 412.5 is added as follows:

412.5 Public toilet rooms. All public toilet rooms shall be equipped with at least one floor drain.

Section 418.1 is deleted and replaced with the following:

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

Section 425.1.1 - The following exception is added after the paragraph.

Exception: Multiple urinals with an automatic flushing device.

Section 502.6 is added as follows:

502.6 Water Heater Seismic Bracing. In seismic zones 3 and 4, water heaters shall be anchored or strapped in the upper third of the appliance to resist a horizontal force equal to one third the operating weight of the water heater, acting in any horizontal

direction, or in accordance with the appliance manufacturers recommendations.

Section 602.3 is deleted and replaced with the following:

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

Sections 602.3.1, 602.3.3, 602.3.4, 603.3.5 and 602.3.5.1 are deleted in their entirety.

Section 604.4.1 is added as follows:

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

Section 606.2 is deleted and replaced with the following:

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

1. On the fixture supply to each plumbing fixture.

Exception: 1) bath tubs and showers.

Exception: 2) in individual guest rooms that are provided with unit shutoff valves in hotels, motels, boarding houses and similar occupancies.

2. On the water supply pipe to each sillcock.

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

Section 606.5 is deleted and replaced with the following:

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

Section 606.5.11 is added as follows:

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

Section 607.2 is deleted and replaced with the following:

607.2 Hot water supply temperature maintenance. Hot water shall be provided at the outlet to the fixture within 30 seconds of opening the faucet or valve. Where the developed length of hot water piping from the source of hot water supply to the farthest fixture does not allow hot water to reach the fixture within 30 seconds, the hot water supply water system shall be provided with a method of maintaining the temperature of hot water to allow for the hot water to reach the fixture within 30 seconds. The methods of maintaining the temperatures shall not expend more energy than required by a recirculating system.

Exception: Single family dwellings.

Section 608.1 - The following sentence is added at the end of the paragraph: Connection without an air gap between potable water piping and sewer-connected waste shall not exist under any condition.

Table 608.1 is deleted and replaced with the following:

TABLE
General Methods of Protection

Assembly (applicable standard)	Degree of Hazard	Application	Installation Criteria
Air Gap	High or Low	Backsiphonage	See Table 608.15.1 (ASME A112.2)
Reduced Pressure Backflow Preventer (AWWA C511, USC-FCCCHR, ASSE 1013)	High or Low	Backpressure or Backsiphonage	a. The bottom of each RP assembly shall be a minimum of 12 inches above the ground or floor.
CSA CNA/CSA-B64.4) and Reduced Pressure Detector Assembly (ASSE 1047, USC-FCCCHR)			b. RP assemblies shall NOT be installed in a pit.
			c. The relief valve on each RP assembly shall not be directly connected to any waste disposal line, including sanitary sewer, storm drains, or vents.
			d. The assembly shall be installed in a horizontal position only unless listed or approved for vertical installation.
Double Check Backflow Prevention Assembly	Low	Backpressure or Backsiphonage	a. If installed in a pit, the DC assembly shall be installed with a minimum of 12 inches of clearance between all sides of the vault including the floor and roof or ceiling with adequate room for testing and maintenance.
			b. Shall be installed in a horizontal position unless listed or approved for vertical installation.
Vacuum Breaker Assembly (ASSE 1020, USC-FCCCHR)	High or Low	Backsiphonage	a. Shall not be installed in an area that could be subjected to backpressure or back drainage conditions.
			b. Shall be installed a minimum of 12 inches above all downstream piping and the highest point of use.

c. Shall not be installed below ground or in a vault or pit.
 d. Shall be installed in a vertical position only.

Spill Resistant Vacuum Breaker (ASSE 1056, USC-FCCCHR) High or Low Backsiphonage 1/4" - 2"
 a. Shall not be installed in an area that could be subjected to backpressure or back drainage conditions.
 b. Shall be installed a minimum of 6 inches above all downstream piping and the highest point of use.
 c. Shall not be installed below ground or in a vault or pit.
 d. Shall be installed in a vertical position only.

Atmospheric Vacuum Breaker (ASSE 1001, USC-FCCCHR, CSA CAN/CSA-B64.1.1) High or Low Backsiphonage
 a. Shall not be installed in an area that could be subjected to backpressure or back drainage conditions.
 b. Shall not be installed where it may be subjected to continuous pressure for more than 12 consecutive hours at any time.
 c. Shall be installed a minimum of six inches above all downstream piping and the highest point of use.
 d. Shall be installed on the discharge (downstream) side of any valves.
 e. The AVB shall be installed in a vertical position only.

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

The body of the assembly shall not be closer than 12 inches to any wall, ceiling or incumbrance, and shall be accessible for testing, repair and/or maintenance.
 In cold climates, assemblies shall be protected from freezing by a means acceptable to the code official.
 Assemblies shall be maintained as an intact assembly.

Table 608.1.2 is added as follows:

TABLE 608.1.2
 Specialty Backflow Devices for low hazard use only

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

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

Section 608.3.1 - The following sentence is added at the end of the paragraph: All piping and hoses shall be installed below the atmospheric vacuum breaker.

Section 608.7 is deleted in its entirety.

Section 608.8 - The following sentence is added at the end of the paragraph: In addition each nonpotable water outlet shall be

labeled with the words "CAUTION: UNSAFE WATER, DO NOT DRINK".

Section 608.11 - The following sentence is added at the end of the paragraph: The coating shall conform to NSF Standard 61 and application of the coating shall comply with the manufacturers instructions.

Section 608.13.3 is deleted and replaced with the following:

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

Section 608.13.4 is deleted in its entirety.

Section 608.15.3 is deleted and replaced with the following:

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

Section 608.15.4 is deleted and replaced with the following:

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

Section 608.15.4.2 - The following is added at the end of the paragraph: In climates where freezing temperatures occur, a listed, self-draining frost proof hose bibb with an integral backflow preventer shall be used.

Section 608.16.1 is deleted and replaced with the following:

608.16.1 Beverage dispensers. Potable water supply to carbonators shall be protected by a stainless steel vented dual check valve installed according to the requirements of this chapter.

Section 608.16.2 - The first sentence of the paragraph is deleted and replaced as follows:

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

Section 608.16.7 is deleted and replaced with the following:

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

Section 608.16.8 is deleted and replaced with the following:

608.16.8 Portable cleaning equipment. Where the portable cleaning equipment connects to the water distribution system, the water supply system shall be protected against backflow in

accordance with Section 608.13.1, Section 608.13.2 or Section 608.13.8.

Section 608.16.9 is deleted and replaced with the following:

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

Section 608.16.10 is added as follows:

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

Section 608.17 is deleted in its entirety.

Section 608.18 is added as follows:

Section 608.18 Backflow assembly testing. The premise owner or his designee shall have backflow prevention assemblies operation tested at the time of installation, repair and relocation and at least on an annual basis thereafter, or more frequently as required by the authority having jurisdiction. Testing shall be performed by a Certified Backflow Preventer Assembly Tester. The assemblies that are subject to this paragraph are the Spill Resistant Vacuum Breaker, the Pressure Vacuum Breaker Assembly, the Double Check Backflow Prevention Assembly, the Double Check Detector Assembly Backflow Preventer, the Reduced Pressure Principle Backflow Preventer, and the Reduced Pressure Detector Assembly.

Section 701.2 - The following is added at the end of the paragraph: The sewer is considered as available when within 300 feet of the property line in accordance with Section 10-8-38, Utah Code Ann. (1953), as amended. Private sewage disposal systems shall conform with Rule R317-501 through R317-513 and Rule R317-5, Utah Administrative Code, as administered by the Department of Environmental Quality, Division of Water Quality.

Section 802.1.1 is deleted and replaced with the following:

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

Section 802.3.2 is deleted in its entirety.

Section 904.6 - The following sentence is added at the end of the paragraph: Vents extending through the wall shall terminate not less than 12 inches from the wall with an elbow pointing downward.

Section 917.2.1 is added as follows:

917.2.1 Installations Compliance. A plumbing system utilizing an air admittance valve is considered an alternative engineered design which requires compliance to the intent of the code as described by Chapters 1, 7, and 9. This includes the submittal of signed and sealed construction documents by a registered professional engineer and periodic and final inspections by the registered professional engineer.

Section 1003.3.3 is added as follows:

1003.3.3 Grease trap restriction. Unless specifically required or permitted by the code official, no food waste grinder or dishwasher shall be connected to or discharge into any grease trap.

Section 1104.2 is deleted and replaced with the following:

1104.2 Combining storm with sanitary drainage. The sanitary and storm drainage systems of a structure shall be entirely separate.

Section 1108 is deleted in its entirety.

Section 1201.2 is deleted and replaced with the following:

1201.2 Fuel piping systems. All fuel piping systems shall be sized, installed, tested and placed in operation in accordance with

the requirements of Appendix B, Chapter 13 of the 1994 Uniform Mechanical Code.

Appendix G, Section G110 is deleted, renumbered and replaced with the following:

Section 1202 CNG GAS-DISPENSING SYSTEMS

1202.1 Dispenser protection. The gas dispenser shall have an emergency switch to shut off the power to the dispenser. An approved backflow device that prevents the reverse flow of gas shall be installed on the gas supply pipe or in the gas dispenser.

1202.2 Ventilation. Gas-dispensing systems installed inside the structure shall be ventilated by mechanical means in accordance with The Mechanical Code.

1202.3 Compressed natural gas vehicular fuel systems. Compressed natural gas (CNG) fuel-dispensing systems for CNG-fueled vehicles shall be designed and installed in accordance with NFPS 52 and the fire code.

Chapter 14, Referenced Standards, is amended as follows:

NSF - Standard Reference Number 61-95 - The following

referenced in code section number is added: 608.11

The following reference standard is added:

TABLE

USC- Foundation for Cross-Connection Control Table 608.1
FCCCHR Control and Hydraulic Research
9th University of Southern California
Edition KAP-200 University Park NC-2531
Manual Los Angeles CA 90089-2531
of Cross
Connection

KEY: contractors, building codes, building inspection, licensing
1998 58-1-106(1)
Notice of Continuation June 3, 1997 58-1-202(1)
58-56-1
58-56-4(2)
58-56-6(2)(a)

Commerce, Occupational and Professional Licensing
R156-60b
Marriage and Family Therapist Licensing Act Rules

NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE NO.: 20581
FILED: 12/26/97, 10:01
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: Added definition for "face to face supervision"; added that an earned doctorate or master's degree qualifying an applicant for licensure as a marriage and family therapist shall be accredited by a regional institutional accrediting body identified in the "Accredited Institutions of Postsecondary Education"; changes were made in experience requirement section to combine marriage and family therapy and mental health therapy training requirements; Section R156-60b-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 marriage and family therapist for not less than two years (4000 hours) immediately preceding the date of the application; deleted examination requirement to take the Utah Marriage and Family Therapy Law and Ethics examination; combined qualifications to be approved as a supervisor of marriage and family therapy or mental health therapy training; revised duties and responsibilities of a supervisor of marriage and family therapist and mental health therapist training; added to license reinstatement requirements, that, upon the recommendation of the Board, the marriage and family therapist applying for reinstatement shall establish a plan of supervision; changed that a marriage and family therapist 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 58-60-301; Subsections 58-1-106(1) and 58-1-202(1)

THIS FILING INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: Model Code of Ethics for Marriage and Family Therapists, American Association of Marriage and Family Therapy Regulatory Boards, October 7, 1993

ANTICIPATED COST OR SAVINGS TO:

- ❖THE STATE BUDGET: None.
❖LOCAL GOVERNMENTS: None.
❖OTHER PERSONS: Savings of \$55 to marriage and family therapist applicants since they will no longer be required to take law and ethics examination.
COMPLIANCE COSTS FOR AFFECTED PERSONS: Savings of \$55 to marriage and family therapist applicants since they will no longer be required to take law and ethics examination.

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 02/17/98; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 02/06/98, 10:00 a.m., 160 East 300 South, Room 428, Salt Lake City, UT.

THIS FILING MAY BECOME EFFECTIVE ON: 02/18/98

AUTHORIZED BY: J. Craig Jackson, Division Director

**R156. Commerce, Occupational and Professional Licensing.
R156-60b. Marriage and Family Therapist Licensing Act Rules.
R156-60b-102. Definitions.**

In addition to the definitions in Title 58, Chapters 1 and 60, as used in Title 58, Chapters 1 and 60, or these rules:

(1) "AAMFT" means the American Association for Marriage and Family Therapy.

(2) "Candidacy status by the COAMFTE" means that an education program leading to an earned master's or doctor's degree in marriage and family therapy has been formally recognized by COAMFTE as a candidate for accreditation.

(3) "COAMFTE" means the Commission on Accreditation for Marriage and Family Therapy Education.

(4) "Face to face supervision", as used in Subsection 58-60-305(6), means one to one supervision between the supervisor and the supervisee or group supervision between the supervisor and up to two supervisees. During group supervision, one and a half hours is equivalent to one clock hour of supervision.

(5) "Unprofessional conduct" as defined in Title 58, Chapters 1 and 60, is further defined, in accordance with Subsection 58-1-203(5), in Section R156-60b-502.

R156-60b-302a. Qualifications for Licensure - Education Requirements.

(1) An institution or program of higher education qualifying an applicant for licensure as a marriage and family therapist, to be recognized or approved by the division in collaboration with the board under Subsections 58-60-305(4)(a) and (c), shall be a marriage and family therapy education program accredited by or in candidacy status by the COAMFTE at the time the applicant received the required earned degree.

(2) An earned doctorate or master's degree in a field of education emphasizing human behavioral studies and skill in therapy or counseling qualifying an applicant for licensure as a marriage and family therapist under Subsections 58-60-305(4)(b) and (d), shall:

(a) be accredited by a regional institutional accrediting body identified in the "Accredited Institutions of Postsecondary Education", 1996-97 edition, published for the Commission of Recognition of Postsecondary Accreditation of the American Council on Education; and

(b) include successful completion of the following graduate level course work and a clinical practicum:

(a) six semester hours/nine quarter hours of course work in theoretical foundations of marital and family therapy;

(b) nine semester hours/12 quarter hours of course work in assessment and treatment in marriage and family therapy;

(c) six semester hours/nine quarter hours of course work in human development and family studies which include ethnic minority issues, and gender issues including sexuality, sexual functioning, and sexual identity;

(d) three semester hours/three quarter hours in professional ethics;

(e) three semester hours/three quarter hours in research methodology and data analysis;

(f) three semester hours/three quarter hours in electives in marriage and family therapy; and

(g) a clinical practicum of not less than 500 hours of face to face supervised clinical practice of which not less than 250 hours shall be with couples or families who are physically present in the therapy room.

(3) An earned doctorate or master's degree in a field of religious study with a documented emphasis in marriage and family therapy qualifying an applicant for licensure as a marriage and family therapist under Subsection 58-60-305(4)(e), shall meet the requirements set forth under Subsections (2)(a) through (g).

R156-60b-302b. Qualifications for Licensure - Experience Requirements.

(1) In accordance with Subsections 58-60-305(5) and (6), each individual entering into supervised marriage and family therapy training and mental health therapy 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 marriage and family therapy 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 Subsections 58-60-305(5) and (6) and Section R156-60b-302b.~~

~~(4) Supervised marriage and family therapy 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)3] Marriage and family therapy and mental health therapy training consisting of a minimum of 4,000 hours qualifying an applicant for licensure as a marriage and family therapist under Subsections 58-60-305(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 marriage and family therapist;~~

~~(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 marriage and family therapist meeting the requirements under Sections R156-60b-302(e) and R156-60b-302(f);

(d) in accordance with Subsection 58-60-305(6), include a minimum of 500 hours in conjoint, couple or family therapy; and

(e) hours completed in a group therapy session may count only if the supervisee functions as the primary therapist.

[~~(6) Supervised training in mental health therapy of a minimum of 1,000 hours qualifying an applicant for licensure as a marriage and family therapist under Subsection 58-60-305(6), which may be included as a part of the 4,000 hours required under Subsection (5), 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 under the supervision of an approved 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) contain a minimum of 500 hours in conjoint couple or family therapy, which may be included as a part of the 1,000 hours required under Subsection 58-60-305(6); and~~

~~(e) be completed under a program of supervision by a marriage and family therapist meeting the requirements under Section R156-60b-302(e) 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) An applicant for licensure as a marriage and family therapist, who is not seeking licensure by endorsement based upon licensure in another jurisdiction, who has completed all or part of the marriage and family 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 58-60-305(5) and (6), and Subsection [5] R156-60b-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.

R156-60b-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 marriage and family therapist for not less than two years (4000 hours) immediately preceding the date of the application. [An applicant for licensure by endorsement as a marriage and family therapist 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 marriage and family therapist 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 marriage and family therapy program approved by the board for five of the seven years immediately preceding the application for licensure; and

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

R156-60b-302d. Qualifications for Licensure - Examination Requirements.

[The examination requirement[s] which must be met by an applicant for licensure as a marriage and family therapist under Subsection 58-60-305(7) are:

(a) passing the Utah Marriage and Family Therapy Law and Ethics Examination; and

(b) passing the Examination of Marital and Family Therapy written for the Association of Marital and Family Therapy Regulatory Boards.

R156-60b-302e. Qualifications for Designation as an Approved Marriage and Family Therapist Training Supervisor and Mental Health Therapist Training Supervisor.

To be approved by the division in collaboration with the board as a supervisor of marriage and family therapist and mental health therapy training required under Subsection 58-60-305(5) and (6) [and as a supervisor of mental health therapy training under Subsection 58-60-305(6)], an individual shall:

(1) be currently approved by AAMFT as a marriage and family therapist supervisor; or

(2) be currently licensed or certified in good standing as a marriage and family therapist in the state in which the supervised training is being performed; and meet the following requirements:

(a) demonstrate practice as a licensed marriage and family therapist engaged in the practice of mental health therapy for not less than 4,000 hours in a period of not less than two years;

(b) successfully complete 30 clock hours of instruction approved by the division in collaboration with the board in the theory, practice, and process of supervision;

(c) successfully complete 36 clock hours of training related to the practice of supervision under the direction of an approved marriage and family therapist training supervisor; and

(d) 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; or

(3) 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 respect met the qualifications for a supervisor within the state under this section.

(4) A marriage and family therapist approved as a supervisor under Subsection (2) must reapply for approval every five years.

R156-60b-302f. Duties and Responsibilities of a Supervisor of Marriage and Family Therapist and Mental Health Therapy Training.

The duties and responsibilities of a marriage and family therapist supervisor are further defined, clarified or established as follows[~~providing supervision to an individual completing supervised marriage and family therapist training requirements for licensure as a marriage and family therapist 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) provide 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 40 hours of marriage and family therapy training;~~

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

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

(6) monitor the performance of the supervisee for compliance with laws, standards, and ethics applicable to the practice of marriage and family therapy 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 marriage and family therapist training and mental health therapist training, including the supervisor's evaluation of the supervisee's competence in the practice of marriage and family therapy and mental health therapy;~~

~~[(8)9] complete four hours of the required 40 hours of continuing professional education directly related to marriage and family therapy supervisor training in each two year continuing professional education period established; and~~

~~[(9)10] supervise not more than three supervisees at any given time unless approved by the board and division.~~

~~[R156-60b-302g. Duties and Responsibilities of a Marriage and Family Therapy Supervisor of Mental Health Therapist Training.~~

~~The duties and responsibilities of a licensed marriage and family therapist providing supervision of an individual engaged in the supervised practice of mental health therapy required under Subsection 58-60-305(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 ten hours of mental health therapy training;~~

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

~~— (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.]~~

R156-60b-306. License Reinstatement - Requirements.

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) 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 marriage and family therapist 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 4000 hours of marriage and family therapy and mental health therapy training as a marriage and family therapy trainee~~[pass the Utah Marriage and Family Therapy Law and Ethics Examination];~~

(3) pass the Examination of Marital and Family Therapy of the American Association for Marriage and Family Therapists 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 marriage and family therapist; and

(4) 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 marriage and family therapist.

R156-60b-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 R156-60b-302e and R156-60b-302f;

(2) engaging in the supervised practice of mental health therapy when not in compliance with Subsections R156-60b-302b(3) and R156-60b-302f(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 marriage and family therapist 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 marriage and family therapist 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;

(19) failure to abide by the provisions of the Model Code of Ethics for Marriage and Family Therapists as adopted by the American Association of Marriage and Family Therapy Regulatory Boards (AAMFTRB) effective October 7, 1993, which is adopted and incorporated by reference; and

(20) failure to abide by the [violation of any] provisions of the Code of Ethics of the American Association for Marriage and

Family Therapy (AAMFT) as adopted by the AAMFT effective August 1, 1991, which is adopted and incorporated by reference.

KEY: licensing, therapists, marriage and family therapist*

[1996]1998

58-1-106(1)

58-1-202(1)

58-60-301



Commerce, Real Estate
R162-107
 Unprofessional Conduct

NOTICE OF PROPOSED RULE

(New)

DAR FILE NO.: 20625

FILED: 01/02/98, 14:45

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: Section 61-2b-29 provides that disciplinary action may be taken for unprofessional conduct as defined by statute or rule. This rule defines unprofessional conduct.

SUMMARY: Provides two examples of unprofessional conduct.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Section 61-2b-8

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
 Real Estate
 Second Floor, Heber Wells Building
 160 East 300 South
 PO Box 146711
 Salt Lake City, UT 84114-6711, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:

Karen Post at the above address, by phone at (801) 530-6753, by FAX at (801) 530-6749, or by Internet E-mail at kpost@br.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 02/17/98.

THIS FILING MAY BECOME EFFECTIVE ON: 02/18/98

AUTHORIZED BY: Theodore "Ted" Boyer, Jr., Director

R162-103. Commerce, Real Estate.

R162-107. Unprofessional Conduct.

R162-107-1. Unprofessional Conduct.

Unprofessional conduct includes the following specific acts or omissions:

(a) Violating or disregarding a disciplinary order of the Utah Appraiser Registration and Certification Board or the division; and

(b) Signing an appraisal report containing a statement indicating that an appraiser has inspected a property if the appraiser has not inspected the property.

KEY: real estate appraisal, conduct 1998

61-2b-8



Community and Economic
Development, Community
Development, History

R212-12

Computerized Record of Cemeteries,
Burial Locations and Plots, and
Granting Matching Funds

NOTICE OF PROPOSED RULE

(New)

DAR FILE NO.: 20528

FILED: 12/17/97, 15:34

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: S.B. 72 and S.B. 154 (1997 General Session) provides funding and grants to create and maintain an inventory of cemeteries in the state. This is an opportunity for cemeteries to establish a central and standard database of burials in the state with the assistance of a state grant. This will be important for several reasons including research, finding relatives, etc.

SUMMARY: Provide rules for managing grants to assist cemeteries in computerizing their burial records.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Subsection 9-8-203(3)(c)

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: S.B. 72: \$250,000 for grants and related cost, and S.B. 154: \$9,000 to create and maintain database.

❖LOCAL GOVERNMENTS: At their discretion - no requirement.

❖OTHER PERSONS: Cemeteries who will match grants.

(DAR Note: S.B. 72 is found at 1997 Utah Laws 353, and was effective July 1, 1997. S.B. 154 is found at 1997 Utah Laws 371, and was effective July 1, 1997.)

COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

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

Community and Economic Development
Community Development, History
Room 224
300 Rio Grande
Salt Lake City, UT 84101-1182, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:

Wilson Martin or Lynette Lloyd at the above address, by phone at (801) 533-3552 or (801) 533-3556, by FAX at (801) 533-3503, or by Internet E-mail at ushs@history.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 02/17/98.

THIS FILING MAY BECOME EFFECTIVE ON: 02/18/98

AUTHORIZED BY: Max J. Evans, Director

R212. Community and Economic Development, Community Development, History.

R212-12. Computerized Record of Cemeteries, Burial Locations and Plots, and Granting Matching Funds.

R212-12-1. Scope and Applicability.

To provide grants to assist cemeteries, computerize their records, and to develop a centralized database of names, dates of death, burial locations, and other information. This data base will include data on individuals interred in cemeteries and burial locations where a previous record exists regarding the burial in accordance with UCA 9-8-203(3)(c).

R212-12-2. Definitions.

1. "Board" means the Board of State History.

2. "Burial locations" means locations of human burials outside of established cemeteries where written records exist on the deceased.

3. "Burial Plot" means the burial location of an individual within a cemetery.

4. "Cemeteries" means formal groupings of burial locations, including public and private facilities, whether abandoned or currently used and maintained.

5. "Director" means the Director of the Division of State History.

6. "Division" means the Division of State History.

7. "Eligible Organizations" means cemeteries, genealogical associations, and other nonprofit groups interested in cemeteries and burial locations.

8. "GIS" means Geographic Information System. A system that links information to geographic locations.

9. "In kind" means volunteer hours, labor, equipment, etc., to match grant contributed after July 1, 1997.

10. "Matching grants" means grants made to eligible organizations that are matched, ordinarily on a fifty/fifty basis, through cash or in kind.

11. "Record" means existing record of name and other available information on the interred individual.

12. "Computerized record" means an electronic version of a record meeting the standards established by the Division.

R212-12-3. Application and Distribution of Funds.

Eligible organizations may apply for matching grants on a form approved by the Division. Matching grants shall be provided beginning no later than the fall of 1997. No grant will be awarded to any single cemetery for more than \$10,000. Larger cemeteries needing more than \$10,000 may reapply in phases. Successful applicants may request fifty percent of the funds at the time of approval of the contract. The second fifty percent will be distributed upon receipt of acceptable final report and computerized records in the format agreed upon.

Grants will be allocated to applying eligible organizations on a first come, first served basis. The Division will award the grants and provide a list of successful applicants to the Board.

R212-12-4. Reports and Deliverables.

The grantee must submit complete computer files for the project in a format approved by the Division. The Division may verify the accuracy of the information prior to making final payment. In addition, a final report shall be completed by the grantee in a format designated by the Division. The report shall include a summary of the project, an accounting of matching share contributions, and a request for final payment.

KEY: burial, cemetery, plots **9-8-203(3)(c)**
February 18, 1998



Environmental Quality, Solid and Hazardous Waste
R315-6-7
Transfer Facility Requirements

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 20538
FILED: 12/18/97, 16:41
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 language that was inadvertently deleted in previous rulemaking. Specifically, it exempts from certain regulations, hazardous waste that is stored at an approved transfer facility for ten days or less.

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 02/17/98.

THIS FILING MAY BECOME EFFECTIVE ON: 02/18/98

AUTHORIZED BY: Dennis R. Downs, Director

R315. Environmental Quality, Solid and Hazardous Waste.

R315-6. Hazardous Waste Transporter Requirements.

R315-6-7. Transfer Facility Requirements.

A transporter who stores 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 is not subject to regulation under rules R315-3, R315-7, R315-8, and R315-13 with respect to the storage of those wastes.

KEY: hazardous waste
[July 15, 1997]1998 **19-6-105**
Notice of Continuation March 12, 1997 **19-6-106**



Health, Health Care Financing, Coverage and Reimbursement Policy

R414-3X

Restriction on Use of CPT-4 Psychiatric Codes

NOTICE OF PROPOSED RULE

(Repeal)

DAR FILE NO.: 20542

FILED: 12/19/97, 10:00

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: This rule is out of date and is no longer of any use. The information in the rule is found in R414-10 and is current. The information in R414-10 is also systematically updated in the Medicaid Information Bulletin (MIB) as needed.

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:

Urla Jeane Maxfield at the above address, by phone at (801) 538-9144, by FAX at (801) 538-6099, or by Internet E-mail at umaxfiel@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 02/17/98.

THIS FILING MAY BECOME EFFECTIVE ON: 02/18/98

AUTHORIZED BY: Rod L. Betit, Executive Director

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

[R414-3x. Restriction on Use of CPT-4 Psychiatric Codes:

R414-3x-1. Billing Codes:

A HCFA 1500 Form shall be used by the physician when billing psychiatric codes. These codes are:

Table with 4 columns of CPT codes: 90801, 90825, 90835, 90841, 90843, 90844, 90847, 90848, 90862, 90870, 90872, 90880, 90882.

The following CPT-4 Psychiatric Codes are for use only by Physicians in seeking reimbursement for direct care provided to clients in a private practice setting or in an approved outpatient hospital psychiatric clinic.

CPT-4 Psychiatric Codes
General Clinical Psychiatric Diagnostic or Evaluative Interview Procedures:

90801 Psychiatric diagnostic interview examination including history, mental status, or disposition (may include communication with family or other sources, ordering and medical interpretation of laboratory or other medical diagnostic studies, in certain circumstances other informants will be seen in lieu of the patient).

Special Clinical Psychiatric Diagnostic or Evaluative Procedures:

90825 Psychiatric evaluation of hospital records, other psychiatric reports, psychometric and/or projective tests, and other accumulated data for medical diagnostic purposes (without other informants or patient interview):

90835 Narcosynthesis for psychiatric diagnostic and therapeutic purposes, eg, sodium amobarbital (amytal) interview.

Psychiatric Therapeutic Procedures:
Medical Psychotherapy:

90841 Individual medical psychotherapy with continuing medical diagnostic evaluation, and drug management when indicated, including psychoanalysis, insight-oriented, behavior modifying or supportive psychotherapy; time unspecified:

90843 approximately 20 to 30 minutes.
90844 approximately 45 or 50 minutes.

90847 Family Medical Psychotherapy (Conjoint Psychotherapy) with continuing medical diagnostic evaluation, and drug management when indicated; of two family members:

90848 of three or more members of one family:
90853 Group medical psychotherapy (other than of a multiple-family group) with continuing medical diagnostic evaluation, and drug management when indicated:

Psychiatric Somatotherapy:

90862 Chemotherapy management, including prescription, use, and review of medication with no more than minimal medical psychotherapy:

90870 Electroconvulsive therapy:

90872 Subconvulsive electric shock treatment:

Other Psychiatric Therapy:
90880 Medical hypnotherapy:

- 90882 Environmental intervention for medical management purposes on a psychiatric patient's behalf with agencies, employers, or institutions.
- 90887 Interpretation or explanation of results of psychiatric, other medical examinations and procedures, or other accumulated data to family or other responsible persons or advising them how to assist patient.
- Other Procedures:
- 90899 Unlisted psychiatric service or procedure.

~~KEY: medicaid~~
~~1987~~ ~~26-1-5~~
~~Notice of Continuation 1992]~~



Health, Health Care Financing,
 Coverage and Reimbursement Policy
R414-10X
 Pharmacy Policy

NOTICE OF PROPOSED RULE
 (Repeal)
 DAR FILE NO.: 20612
 FILED: 12/31/97, 14:45
 RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: The information in the rule is redundant, as it is process-related and is incorporated by contract in the Provider Manual.

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:
 RaeDell Ashley at the above address, by phone at (801) 538-6495, by FAX at (801) 538-6099, or by Internet E-mail at rashley@email.stste.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 02/17/98.

THIS FILING MAY BECOME EFFECTIVE ON: 02/18/98

AUTHORIZED BY: Rod L. Betit, Executive Director

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

~~[R414-10x. Pharmacy Policy:~~

~~R414-10x-1:~~

~~It is the policy of the Department of Health, Division of Health Care Financing that all Federal and State regulations pertaining to the professional standards of the licensed pharmacist must be maintained. Violation will result in imposed sanctions in accordance with 42 Code of Federal Regulations (CFR).~~

~~Dispensing medications in excess of the practitioner's order is not a covered Medicaid service. If special circumstances warrant, written documentation must be provided and be available for review by the Division of Health Care Financing.~~

~~All refills on any prescriptions must be identified with date and initials of dispensing pharmacist documented on the back of the prescription.~~

~~Schedule II medications must be dispensed as written.~~

~~A new hand written prescription is required for each dispensing of Schedule II medications.~~

~~Limitations and prior approval requirements of the Pharmacy program are outlined in the Utah State Plan Attachments 3.1-A, and 3.1-B.~~

~~The Pharmacy Provider manual explains the program in detail.~~

~~KEY: medicaid~~
~~1987~~ ~~26-1-5~~
~~Notice of Continuation 1992]~~



Health, Health Care Financing,
 Coverage and Reimbursement Policy
R414-25X
 Policy Concerning the Time Frame in
 Which Medicaid Claims Must be
 Submitted for Payment

NOTICE OF PROPOSED RULE

(Repeal)

DAR FILE NO.: 20613

FILED: 12/31/97, 14:45

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: The information in the rule is redundant, as it is process-related and is incorporated by contract in the Provider Manual.

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.

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 02/17/98.

THIS FILING MAY BECOME EFFECTIVE ON: 02/18/98

AUTHORIZED BY: Rod L. Betit, Executive Director

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

~~[R414-25x. Policy Concerning the Time Frame in Which Medicaid Claims Must be Submitted for Payment.~~

~~R414-25x-1:~~

~~Effective January 1, 1982:~~

~~For claims with dates of service (or first dates of service) on or after July 1, 1981, the Medicaid claims payment policy will be as follows:~~

~~- Payment for services will be made only if claims are submitted to Medicaid within 12 months from the date of service (or first date of service):~~

~~For Medicaid/Medicare crossover, claims with dates of payment on or after July 1, 1981, the new Medicaid claims payment policy will be as follows:~~

~~- Payment will be made for Medicare/Medicaid "crossover claims" only if claims are submitted within six months from the date of Medicare payment stated on the Medicare Explanation Of Medical Benefits (E.O.M.B.):~~

~~KEY: medicaid~~

~~1987~~

~~26-1-5~~

~~Notice of Continuation 1992]~~



**Health, Health Systems Improvement,
 Health Facility Licensure
 R432-16
 Hospice Inpatient Facility Construction**

NOTICE OF PROPOSED RULE

(New)

DAR FILE NO.: 20582

FILED: 12/29/97, 12:49

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: The bureau has had requests from interested individuals and the Hospice Association to allow freestanding hospice facilities to be licensed. This rule was developed to provide the construction standards for a freestanding hospice facility.

SUMMARY: This new construction rule allows freestanding hospice facilities, with a home-like setting, to be licensed.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Title 26, Chapter 21

ANTICIPATED COST OR SAVINGS TO:

- ❖THE STATE BUDGET: None.
- ❖LOCAL GOVERNMENTS: None.
- ❖OTHER PERSONS: This rule provides for a less expensive alternative to a hospital, but the difference in cost is too difficult to quantify.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule provides for a less expensive alternative to a hospital, but the difference in cost is too difficult to quantify.

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

Health
 Health Systems Improvement,
 Health Facility Licensure
 Cannon Health Building
 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 by Internet E-mail at dwynkoop@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 02/17/98.

THIS FILING MAY BECOME EFFECTIVE ON: 02/18/98

AUTHORIZED BY: Rod Betit, Executive Director

R432. Health, Health Systems Improvement, Health Facility Licensure.

R432-16. Hospice Inpatient Facility Construction.

R432-16-1. Legal Authority.

This rule is promulgated pursuant to Title 26, Chapter 21.

R432-16-2. Purpose.

The purpose of this rule is to promote quality of life in a home-like setting through the establishment and enforcement of construction standards for hospice inpatient facilities.

R432-16-3. Definitions.

(1) "Hospice Inpatient Facility" means a freestanding licensed hospice facility or a licensed hospice unit in an existing health care facility.

(2) "Small Hospice Inpatient Facility" means a hospice facility capable of housing two to eight patients.

(3) "Large Hospice Inpatient Facility" means a hospice facility capable of housing nine or more patients.

R432-16-4. Hospice Unit.

(1) Each Hospice Unit is an area identified by the Licensee within a licensed health care facility and consists of at least two resident beds, resident care spaces, and service spaces.

(2) If licensed health care facilities share spaces and service areas, as permitted in this rule, the shared spaces and service areas shall be contiguous to each health care facility served.

(3) A hospice inpatient facility operated in conjunction with another licensed health care facility shall comply with all provisions of this section. Dietary, storage, pharmacy, maintenance, laundry, housekeeping, medical records, and laboratory functions may be shared by two or more health care facilities.

(4) Facility service areas shall be accessible from common areas without compromising resident privacy.

R432-16-5. General Design Requirements.

R432-4-1 through R432-4-22 apply with the following modifications.

(1) All public, common, and at least 10 percent of resident toilet rooms and bathrooms shall have fixtures that comply with Americans with Disabilities Act Accessibility Guidelines, (ADAAG) 28 CFR 36, Appendix A, (July 1993).

(2) These rooms shall be wheelchair accessible with wheelchair turning space within the rooms.

(3) "Room or Office" when used in this rule describes a specific, separate, enclosed space for the service. When room or office is not used, multiple services may be accommodated in one enclosed space.

R432-16-6. Administrative Areas.

(1) There shall be space and equipment for the administrative services as follows:

(a) In large hospice inpatient facilities, an administrative office of sufficient size to store records and equipment.

(b) In small hospice inpatient facilities, an area may be designated for administrative activities and record storage.

(2) Storage shall be provided for securing staff belongings.

(3) A large hospice inpatient facility shall provide a public reception or information area.

(4) A telephone shall be provided for private use by residents and visitors.

R432-16-7. Resident Rooms.

(1) Maximum room occupancy is two residents.

(2) Minimum room areas for new construction (exclusive of toilets, closets, lockers, wardrobes, alcoves or vestibules) shall be 120 square feet in single bed rooms and 100 square feet per bed in multiple-bed room. Existing buildings or spaces being licensed as a hospice shall have a minimum of 80 square feet of clear floor area per bed in multiple-bed areas and 100 square feet of clear floor area in single-bed rooms.

(3) In multiple-bed rooms, clearance shall allow for the movement of beds and equipment without disturbing residents. The dimensions and arrangement of rooms shall be such that there is a minimum of three feet clearance at least at one side, the foot, and between another bed.

(4) A nurse call system shall be provided. Each bed shall be provided with a call device. Two call devices serving adjacent beds may be served by one calling station. Calls in a large inpatient hospice facility shall also activate a visible signal in the corridor at the resident's door.

(5) A nurse emergency call device shall be provided at each inpatient toilet, bath, and shower room. The call device shall be accessible to a collapsed resident lying on the floor. Inclusion of a pull cord will satisfy this standard. The emergency call system shall be designed so that a signal activated at a resident's calling station will initiate a visible and audible signal distinct from the regular nurse call system and can be turned off only at the resident calling station. The signal shall activate an annunciator panel at the nurse station or other location appropriate to ensure immediate nurse notification. Emergency calls in a large hospice inpatient facility shall also activate a visible signal in the corridor at the resident's door.

(6) Each resident shall have access to a toilet room without having to enter the corridor area. One toilet room shall serve not more than four beds and no more than two resident rooms. The toilet room shall contain a water closet and a lavatory. The toilet room door shall swing outward.

(7) At least one single-bed room with a private toilet room containing a toilet, lavatory, and bathing facility shall be provided for each eight beds, or fraction thereof, in a hospice facility.

(a) In addition to the lavatory in the toilet room, in new construction and remodeling, a lavatory or hand washing sink shall be provided in the patient room.

(b) Ventilation shall be in accordance with Table 6 of Section 8 of the Guidelines for Construction and Equipment of Hospital and Medical Facilities, 1992-93 edition, which is adopted and incorporated by reference.

(8) Each resident room shall have a window that meets the requirements of R432-4-23(7).

(9) Each resident closet shall be a minimum of 22 inches deep by 36 inches wide with a shelf to store clothing and a clothes rod positioned at 70 inches to hang full length garments.

(10) Visual privacy shall be provided for each resident in multiple-bed rooms. Design for privacy shall not restrict resident access to the toilet, lavatory, or room entrance.

R432-16-8. Service Requirements.

(1) A nurse station shall be provided and have space for charting, storage, medication security, and administrative activities.

(2) Toilet room(s) with hand washing facilities for staff shall be provided and may be unisex.

(3) Hand washing facilities shall be located immediately adjacent to the nursing station and the drug distribution station.

(4) Provisions shall be made for 24-hour distribution of medications by providing a medicine preparation room or a self-contained medicine dispensing unit. If a medical cart is used it shall be under visual control of staff.

(5) A clean workroom or clean holding room shall be provided for resident care items.

(a) The clean work room shall contain a counter, hand washing facilities and storage facilities.

(b) The work counter and hand washing facilities may be omitted in rooms used only for storage and holding, as part of a larger system for distribution of clean and sterile supply materials.

(6) A soiled workroom shall be provided.

(a) The soiled workroom shall contain a clinical sink, a sink equipped for hand washing, a work counter, waste receptacles, and a linen receptacle.

(b) Hand washing sinks, clinical sinks, and work counters may be omitted in rooms used only for temporary holding of soiled, bagged material.

(c) In small hospice inpatient facilities, accommodations shall be available for cleaning and sanitizing patient service items.

(7) Clean linen shall be stored in a separate closet or room. If a closed cart is used for clean linen storage, it shall be stored in a room with a self closing door. Storage in an alcove in a corridor is prohibited. Clean linen may be stored in the clean work room or a clean holding room.

(8) Resident bathing facilities shall be provided in each hospice unit at a ratio of one bathing facility for each eight beds, or fraction thereof, not otherwise served by bathing facilities within individual resident rooms.

(a) Each resident bathtub or shower shall be in a separate room or enclosure large enough to ensure privacy and to allow staff to assist with bathing, drying, and dressing.

(b) A toilet and hand sink shall be provided at each common bathing area.

(9) An equipment storage room with a minimum area of five square feet for each licensed bed, but no less than 30 square feet, for portable equipment shall be provided.

(10) In small hospice inpatient facilities, accommodation shall be made for storage of portable equipment.

R432-16-9. Resident Support Areas.

(1) There shall be resident living areas equipped with tables, reading lamps, and comfortable chairs designed to be usable by all residents. The total area set aside for dining, resident lounges, and recreation area shall be at least 35 square feet per bed with a minimum total area of at least 225 square feet. At least 20 square feet per bed shall be available for dining.

(2) There shall be a general purpose room with a minimum area of 100 square feet. It shall accommodate family gatherings and shall be equipped with a table, comfortable chairs and incandescent lighting. In small hospice inpatient facilities, this room may be omitted if the required living area includes an enclosed lounge.

(3) A minimum area of ten square feet per bed shall be provided for outdoor recreation. This space shall be provided in addition to the setbacks on street frontages required by local zoning ordinances.

R432-16-10. General Services.

(1) Large inpatient hospice facilities shall have linen services that comply with R432-4-24(3).

(2) Small inpatient hospice facilities shall have space and equipment to store and process clean and soiled linen as required for patient care.

(3) There shall be one housekeeping room for each hospice unit. There shall be an exhaust for this room that exhausts air to the outside.

(4) Yard equipment and supply storage areas shall be located so that equipment may be moved directly to the exterior without passing through building rooms or corridors.

R432-16-11. Food Service.

(1) Food service facilities and equipment shall comply with R392-100, the Utah Department of Health Food Service Sanitation Rules.

(2) Food service space and equipment shall be provided as follows:

(a) Storage area for food supplies, including a cold storage area for a seven-day supply of staple foods and a three-day supply of perishable foods;

(b) Food preparation area;

(c) An area to serve and distribute resident meals;

(d) An area for receiving, scraping, sorting, and washing soiled dishes and tableware;

(e) A storage area for waste located next to an outside facility exit for direct pickup;

(f) An area for meal planning.

R432-16-12. Waste Storage and Disposal.

Facilities and equipment shall be provided for the sanitary storage and treatment or disposal of all categories of waste, including hazardous and infectious wastes if applicable, using

techniques required by the Utah Department of Environmental Quality, and the local health department having jurisdiction.

R432-16-13. Details and Finishes.

Details and finishes shall comply with the following:

- (1) Corridor handrails shall be provided and shall comply with ADAAG.
- (2) Cubicle curtains and draperies shall be affixed to permanently mounted tracks or rods. Portable curtains or visual barriers are not permitted.
- (3) Signs shall be provided as follows:
 - (a) general and circulation direction signs in corridors;
 - (b) identification at each door; and
 - (c) emergency directional signs;
 - (d) all signs in corridors shall comply with ADAAG.
- (4) All partition and all floor and ceiling construction in resident areas shall comply with the noise reduction criteria of Table 1 for sound control.
- (5) Floor materials shall be easily cleanable.
- (6) Floors in areas used for food preparation or food assembly shall be water-resistant. Floor surfaces, including tile joints, shall be resistant to food acids.
- (7) In areas subject to frequent wet-cleaning, the floor materials shall be sealed to prevent contamination by germicidal cleaning solutions.
- (8) Floors and wall bases of kitchens, toilet rooms, bath rooms, and housekeeping rooms shall be homogeneous or joints shall be tightly sealed. Bases shall be integrated with the floor and coved.
- (9) Wall finishes shall be washable and, in the immediate vicinity of plumbing fixtures, smooth and moisture-resistant.
- (10) Finish, trim, floor, and wall construction in food preparation areas shall be free of insect and rodent harboring spaces.
- (11) Floor and wall openings for pipes, ducts, conduits, and joints of structural elements shall be tightly sealed to prevent entry of pests.
- (12) Carpet and padding shall be stretched taut and be free of loose edges.
- (13) Finishes of all exposed ceilings and ceiling structures in resident rooms and staff work areas shall be cleanable.
- (14) Finished ceilings are not required in mechanical and equipment spaces, shops, general storage areas, and similar spaces, unless required for fire resistive purposes.
- (15) Finished ceilings shall be provided in areas where dust fallout might occur.

TABLE 1

Sound Transmission Limitations
in Hospice Care Facilities

Airborne Sound Transmissions
Class (STC)(a)

<u>Class (IIC) (b) (Residents')</u>	<u>Partitions</u>	<u>Floors</u>
<u>room to resident's room</u>	35	40
<u>Public space to (residents) room (b)</u>	40	40
<u>Service areas to (residents') room (c)</u>	45	45

(a) Sound transmissions (STC) shall be determined by tests in accordance with Standard E90 and ASTM Standard E413. Where partitions do not extend to the structure above, the designer shall consider sound transmissions through ceilings and composite STC performance.

(b) Public space includes lobbies, dining rooms, recreation rooms, treatment rooms, and similar space.

(c) Service areas include kitchens, elevators, elevator machine rooms, laundry rooms, garages, maintenance rooms, boilers and mechanical equipment rooms and similar spaces of high noise. Mechanical equipment located on the same floor or above patient rooms, offices, nurses' stations, and similarly occupied space shall be effectively isolated from the floor.

R432-16-14. Mechanical Standards.

- (1) Mechanical tests shall be conducted prior to final Department construction inspection.
- (2) Written test results shall be retained in facility maintenance files and available for Department review.
- (3) Insulation containing any asbestos is prohibited.
- (4) Air conditioning, heating, and ventilating systems shall include:
 - (a) A heating system capable of maintaining a temperature of 80 degrees Fahrenheit in areas occupied by residents.
 - (b) A cooling system capable of maintaining a temperature of 72 degrees Fahrenheit in areas occupied by residents.
 - (c) Evaporative coolers may not be used.
 - (d) Isolation rooms may be ventilated by reheat induction units in which only the primary air supplied from a central system passes through the reheat unit. No air shall be recirculated into the building system.
 - (e) Supply and return systems must be within a duct. Common returns using corridor or attic spaces as return plenums are prohibited.
 - (f) Filtration shall be provided when mechanically circulated outside air is used.
 - (g) Gravity exhaust may be used, where conditions permit, for boiler rooms, central storage, and other nonresident areas.
- (5) Plumbing and other Piping Systems shall include:
 - (a) Hand washing facilities that are arranged to provide sufficient clearance for single-lever operating handles.
 - (b) Dishwashers, disposals and appliances that are National Sanitation Foundation (NSF) approved and have the NSF seal affixed.
 - (c) Kitchen grease trap location shall comply with local health department rules.
 - (d) Hot water provided in patient tubs, showers, whirlpools, and hand washing facilities shall be regulated by thermostatically controlled automatic mixing valves. These valves may be installed on the recirculating system or on individual inlets to appliances. The temperature of hot water for patient fixtures shall range between 105 and 115 degrees Fahrenheit.

R432-16-15. Electric Standards.

- (1) The Licensee shall maintain written certification to the Department verifying that systems and grounding comply with NFPA 99 and NFPA 70.
- (2) Approaches to buildings and all spaces within buildings occupied by people, machinery, or equipment shall have fixtures for lighting in accordance with the requirements of the Illuminating Engineering Society of North America (IESNA). Parking lots shall have fixtures for lighting to provide light levels as recommended in

IES Lighting Handbook 1987, Volume 2, Applications by Illuminating Engineering Society of North America.

(3) Automatic emergency lighting shall be provided in accordance with NFPA 99 and NFPA 101.

(4) General lighting shall be provided as required in R432-150-33, Table 1.

KEY: health facilities
1998

26-21-5
26-21-16



Health, Health Systems Improvement,
Health Facility Licensure
R432-102
Specialty Hospital - Chemical
Dependency/Substance Abuse

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 20558
FILED: 12/23/97, 10:41
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: During the five-year review of the rule a subcommittee appointed by the Health Facility Committee has recommended changes to the rule. An informal hearing was held at the Health Facility Committee meeting on May 15, 1997 and the changes were approved by the affected parties and the committee.

SUMMARY: The rule changes include the elimination of redundancy within the rule; reduce the rule text to adopt by reference the sections of the General Acute Hospital rule; specify which clinical services are required to be provided by the hospital; and define the optional services which may be provided by the hospital.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Section 26-21-2

ANTICIPATED COST OR SAVINGS TO:

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

COMPLIANCE COSTS FOR AFFECTED PERSONS: The changes proposed in the rule will apply to one licensed facility which meets the proposed rule.

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

Health
Health Systems Improvement,
Health Facility Licensure
Cannon Health Building

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 by Internet E-mail at dwynkoop@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 02/17/97.

THIS FILING MAY BECOME EFFECTIVE ON: 02/18/97

AUTHORIZED BY: Rod Betit, Executive Director

R432. Health, Health Systems Improvement, Health Facility Licensure.

R432-102. Specialty Hospital - Chemical Dependency/Substance Abuse.

R432-102-2. Purpose.

This rule applies to the hospital that chooses to be licensed as a specialty hospital and which has as its major single service the treatment of patients with chemical dependency~~[-and-]~~/substance abuse. If a specialty hospital chooses to have a dual major service, e.g., chemical dependency~~[-or-]~~/substance abuse and psychiatric care, then both of the appropriate specialty hospital rules apply.

R432-102-3. Time for Compliance.

All specialty hospitals, - chemical dependency~~[-or-]~~/substance abuse, obtaining licensure for the first time shall fully comply with this rule.

R432-102-6. General Construction Rules.

~~[Refer to R432-8;]~~Specialty Hospital - Chemical Dependency[or-]/Substance Abuse Hospital Construction Rules, R432-8, apply to construction and remodel of the facility.

R432-102-7. Organization~~[-and Staff]~~.

~~[(1) The hospital shall be staffed, organized and operated to coordinate all offered services of the hospital.~~

~~—(2) The responsibility for administrative direction should be vested in a trained chemical dependency/substance abuse counselor or other licensed health care professional with experience or training acceptable to the governing board.~~

~~—(3) A trained chemical dependency or substance abuse counselor or other professionally licensed staff member, as permitted by law and hospital policy, shall serve as the primary therapist.~~

~~—(4) A multi-disciplinary team including a physician, registered nurse, and substance abuse counselor shall be responsible for program and treatment services.~~

~~—(5) There shall be written policies and procedures approved by the board and reviewed annually that address at least the following:~~

- ~~—(a) staff and their responsibilities;~~
- ~~—(b) program services;~~

~~—(c) patient assessment;
—(d) treatment and discharge]~~Refer to R432-100-4, Governing Body.

R432-102-8. [Professional Staff]Administrator.

~~[The chemical dependency or substance abuse services of the hospital shall be organized, staffed and supported according to the nature, scope and extent of the services provided. All staff must be licensed, registered or certified by the Utah Department of Commerce for their respective disciplines]Refer to R432-100-5, Administrator.~~

R432-102-9. Medical and Professional Staff.

~~[The medical direction of the chemical dependency or substance abuse care and services of the hospital shall be the responsibility of a licensed physician who is a member of the medical staff and appointed by the governing body:]~~

~~(1) Refer to R432-100-6, Medical and Professional Staff.~~

~~(2) Medical and Professional staff members may be retained either on a full-time basis, a part-time basis or by contract to fulfill the requirements and needs of the treatment programs offered.~~

~~(3) Medical and Professional staff shall be assigned specific responsibilities on the treatment team as qualified by training and educational experience and as permitted by hospital policy and the scope of their license.~~

R432-102-10. [Allied Health Care Professional Staff]Nursing.

~~[(1) The hospital shall have qualified health care professional and support staff available to assess and address patient needs within the hospital's scope of services. Qualified professional staff includes licensed clinical psychologists, licensed clinical social workers, licensed nurses, trained substance abuse counselors and other health care professionals, to include Drug Enforcement Administration registration as appropriate, in sufficient number to provide services offered by the hospital.~~

~~—(2) A licensed clinical psychologist, licensed clinical social worker and a trained substance abuse counselor shall be employed as part of the professional staff and shall function under the direction of the medical staff.~~

~~—(3) When qualified professional staff members are not available on a full-time basis, they shall be provided on a part-time basis or by contract agreement to fulfill the requirements and needs of the treatment programs offered.~~

~~—(4) Allied health care professionals may be assigned specific responsibilities on the treatment team as qualified by training and educational experience and as permitted by hospital policy and the scope of their license:]Refer to R432-100-8, Nursing.~~

R432-102-11. Personnel Management Service.

~~(1) [Organization:~~

~~—]The hospital shall provide sufficient medical and professional staff and support personnel who are able and competent to perform their respective duties, services, and functions to meet hospital service and patient care needs.~~

~~(2) [Policies and Procedures. Refer to R432-101-13(2):]Written personnel policies and procedures shall include:~~

~~a) job descriptions for each position, including job title, job summary, responsibilities, minimum qualifications, required skills and licenses, and physical requirements;~~

~~(b) a method to handle and resolve grievances from the staff.~~

~~(3) [Orientation and Staff Development:~~

~~—(a)]All employees shall be oriented as to job requirements and personnel policies, and provided with job training beginning the first day of employment. Documentation shall be signed by the employee and supervisor to indicate basic orientation has been completed during the first month of employment.~~

~~(a) Registered nurses and licensed practical nurses shall receive additional orientations to include the following:~~

~~(i) concepts of treatment provided within the hospital for patients with chemical dependency[~~—or—~~]substance abuse [problems]diagnoses;~~

~~(ii) roles and functions of nurses in treatment programs for patients with chemical dependency/substance abuse [problems]diagnoses;~~

~~(iii) medications used in the treatment of chemical dependency/substance abuse [problems]diagnoses.~~

~~(b) In-service sessions shall be planned and held at least quarterly.~~

~~(c) Documentation shall be maintained to demonstrate that all staff have attended an annual in-service on the reporting requirements for abuse, neglect and exploitation for adults and children.~~

~~(4) The hospital shall ensure that all personnel are licensed, certified or registered as required by the Utah Department of Commerce.]~~

~~—(a)] Copies of the license, registration, or certificate shall be maintained for Department review in the personnel files.]~~

~~—(b) Failure to ensure that the individual is appropriately licensed, registered or certified may result in sanctions to the facility license:]~~

~~(5) Volunteers may be utilized in the daily activities of the hospital but shall not be included in the hospital's staffing plan in lieu of hospital employees.~~

~~(a) Volunteers shall be screened by the administrator or designee and supervised according to hospital policy.~~

~~(b) Volunteers shall be familiar with the hospital's policies and procedures on volunteers, including patient rights and facility emergency procedures.~~

R432-102-12. [Admission Criteria and Policy:

~~—(1) Refer to R432-101-20:~~

~~—(2) Commitment of minors must be in accordance with Section 62A-8-501.~~

R432-102-13. Other Policies and Procedures:

~~—(1) For the following policies and procedures, R432-100 shall apply:~~

~~—(a) The Governing Body, R432-100-4:~~

~~—(b) Administrator, R432-100-5:~~

~~—(c) Nursing, R432-100-8:~~

~~—(2) For the following policies and procedures, R432-101 shall apply:~~

~~—(a) Volunteers, R432-101-13(4):~~

~~—(b) Quality Assurance, R432-101-14:~~

~~—(c) Patient Rights, R432-101-18:~~

~~—(d) Emergency and Disaster, R432-101-19:~~

~~—(e) Admission and Discharge, R432-101-20:~~

~~—(f) Transfer Agreements, R432-101-21:~~

— (g) ~~Pets In Hospitals, R432-101-22.~~

R432-102-14.]Clinical Services.

(1) ~~The [A] hospital [may] shall [provide]organize and establish an [inpatient or outpatient chemical dependency and substance abuse rehabilitation]inpatient clinical services program that includes the following elements: detoxification; counseling; and, a referral process to outpatient programs.~~

([+]a) ~~[Inpatient Services:~~

— ~~Services shall include at least the following:~~

— (a) ~~d]Detoxification services i.e., the systematic reduction or elimination of a toxic agent in the body by use of rest, fluids, medication, counseling and nursing care[;] shall be provided according to medical orders and facility protocols.~~

(b) ~~[e]Counseling services i.e., [in at least one of the following areas:]individual, group, or family [counseling]therapy shall be provided as indicated in the individual treatment plan. [In addition; f]There shall be provision for educational, employment, or other counseling as needed[;].~~

(c) ~~There shall be a referral [treatment services]process to outpatient treatment services coordinated with other hospital and community services for continuity of care. Counselors shall refer clients to public or private agencies for substance abuse rehabilitation, employment and educational counseling, as indicated in the individual treatment plan.[This service shall be documented in the patient's record:]~~

(2) ~~[Residential Treatment services shall comply with R432-101-25.~~

(3) ~~Adolescent or child treatment programs shall comply with R432-101-24]The hospital may provide therapy programs and services on an outpatient basis. These programs and services shall be organized, staffed and managed according to the requirements and needs of the services offered. The therapy programs and services shall be subject to the same medical, administrative and quality assurance oversight as inpatient clinical services programs.~~

R432-102-[15. Restraints and Seclusion:

(1) ~~Physical restraints, including seclusion, and chemical restraints shall only be used to protect the patient from injury to himself or to others or to assist patients to attain and maintain optimum levels of physical and emotional functioning.~~

(a) ~~Restraints shall not be used for the convenience of staff, for punishment or discipline, or as substitutes for direct patient care, activities, or other services.~~

(b) ~~Simple safety devices are deemed to be a type of physical restraint.~~

(2) ~~Each hospital shall develop written policies and procedures to govern the use of physical restraints, seclusion and chemical restraints. A major focus of these policies shall be on patient safety. Policies shall incorporate and address at least the following:~~

(a) ~~examples of the types of restraints and safety devices that are acceptable for use and possible patient conditions for which the restraint may be used;~~

(b) ~~guidelines for periodic release and position change or exercise, with instructions for documentation of this action;~~

(3) ~~Bed sheets or other linens shall not be used as restraints.~~

(4) ~~Restraints shall not unduly hinder evacuation of the patient in the event of fire or other emergency.~~

R432-102-16]13.[Outpatient Emergency] Crisis Intervention Services.

(1) ~~[Organization:~~

(a) ~~If offered, the crisis intervention service shall be organized [as a service specifically designated for this purpose and shall be] under the direction of the medical director or designee.~~

(b) ~~Services shall be available at any hour to persons presenting themselves for assistance.~~

(c) ~~The following public [facilities]areas shall be available in the crisis intervention service area:~~

(i) ~~an interview and treatment area for both individuals and families;~~

(ii) ~~a reception and control area;~~

(iii) ~~a public waiting area with telephone, drinking fountain and toilet facilities.~~

(2) ~~If the hospital chooses not to offer [emergency outpatient]crisis intervention services, [it]the hospital shall have a written referral plan for persons making inquiry regarding such services or presenting themselves for assistance.~~

(3) ~~[Staff Coverage:~~

(a) ~~Provision] The crisis intervention service shall [be made for]have physician coverage [at all]24 hours a day.~~

(b) ~~Nursing and other allied health professional staff shall be available in the hospital.~~

(c) ~~Staff may have collateral duties elsewhere in the hospital, but must be able to respond when needed without adversely affecting patient care or treatment elsewhere in the hospital.~~

(4) ~~[Policies, General:~~

(a) ~~The crisis intervention service shall [be supported by]implement policies and procedures which includ[ing]e admission, treatment, medical procedures and applicable reference materials. [~~

(b) ~~Seclusion or i] Involuntary detention of a person must be done according to [applicable] hospital policy and Utah Law.~~

R432-102-[17. Other Services:

— ~~Where the following services are used, R432-100 shall apply:~~

— (1) ~~Special Care Unit, R432-100-14.~~

— (2) ~~Outpatient Services, R432-100-18.~~

— (3) ~~Pediatric Clinical Services, R432-100-19.~~

— (4) ~~Inpatient Hospice, R432-100-23.~~

— (5) ~~Where the following services are used, R432-101 shall apply:~~

— (a) ~~Psychiatric Clinical Services, R432-101-23.~~

— (b) ~~Restraints - Physical, R432-101-26(7).~~

— (c) ~~Restraints - Chemical, R432-101-26(8).~~

— (d) ~~Seclusion Time Out, R432-101-26(9) and (10).~~

— (e) ~~Behavior Management, R432-101-26(11).~~

— (f) ~~Emergency Services, R432-101-28.~~

R432-102-18. Complementary Services:

— ~~Where the following services are used, R432-100 shall apply:~~

— (1) ~~Physical Therapy, R432-100-28.~~

- (2) Radiology Services, R432-100-29;
- (3) Respiratory Care Services, R432-100-30;

R432-102-19. Ancillary Services:

The following services shall be provided in-house as basic services:

- (1) Laboratory, R432-101-29;
- (2) Pharmacy, R432-101-30;
- (3) Social Services, R432-101-31;
- (4) Activity Therapy, R432-101-32;
- (5) Central Supply Services, R432-100-32;
- (6) Dietary Service, R432-100-33;
- (7) Laundry Services, R432-100-34;
- (8) Maintenance Services, R432-100-37;
- (9) Housekeeping Services, R432-38;

R432-102-20]14. Patient Record.

- (1) Refer to R432-100-35, Medical Records.
- (2) The content of the patient record shall contain [at least the following]in addition:
 - (a) progress notes, including description and date of service, with a summary of client progress, signed by the therapist or service provider;
 - (d) a discharge summary, including final evaluation of treatment and goals attained and signed by the therapist.
- (3) A written individual treatment plan shall be initiated for each patient upon admission and completed no later than 7 working days after admission.
 - (a) The individual treatment plan shall be part of the patient record and signed by the person responsible for the patient's care. Patient care shall be administered according to the individual treatment plan.
 - (b) Individual treatment plans must be reviewed on a weekly basis for the first three months, and thereafter at intervals determined by the treatment team but not to exceed every other month.
 - (c) The written individual treatment plan shall be based on a comprehensive functional medical, psycho-social, substance abuse, and treatment history assessment of each patient. When appropriate, the patient and family shall be invited to participate in the development and review of the individual treatment plan. Patient and family participation shall be documented.
 - (d) The individual treatment plan shall be available to all personnel who provide care for the patient.
 - (e) The Utah State Hospital is exempt from the time frames for initiating and reviewing the individual treatment plan. The Utah State Hospital shall initiate for each patient admitted an individual treatment plan within 14 days and shall review the plan on a monthly basis.

(3) The confidentiality of the records of substance abuse patients shall be maintained according to the federal guidelines is adopted and incorporated as reference 42 CFR, Part 2, "Confidentiality of Alcohol and Drug Abuse Patient Records."

R432-102-15. Required Hospital Services.

The following sections of the General Hospital Standards, R432-100, and the Specialty Hospital - Psychiatric Standards, R432-101, are adopted by reference. These services shall be provided as part the of the hospital's patient care service milieu:

- (1) R432-100-33, Dietary Services;
- (2) R432-100-34, Laundry Services;
- (3) R432-100-37, Maintenance Services;
- (5) R432-100-38, Housekeeping Services;
- (6) R432-101-11, Quality Assurance;
- (7) R432-101-15, Patient Rights;
- (8) R432-101-16, Emergency and Disaster;
- (9) R432-101-17, Admission and Discharge Policy;
- (10) R432-101-18, Transfer Agreement;
- (11) R432-101-19, Pets in Hospitals;
- (12) R432-101-23, Restraints and Seclusion;
- (13) R432-101-27, Laboratory;
- (14) R432-101-28, Pharmacy;
- (15) R432-101-29, Social Services; and,
- (16) R432-101-30, Activity Therapy.

R432-102-16. Optional Hospital Services.

The following sections of the General Hospital Standards, R432-100, and the Specialty Hospital - Psychiatric Standards, R432-101, are adopted by reference. These sections shall apply when these services are adopted into, or are required by, the hospital's patient care service milieu.

- (1) R432-100-14, Special Care Unit;
- (2) R432-100-19, Pediatric Services;
- (3) R432-100-23, Inpatient Hospice;
- (4) R432-100-28, Physical Therapy;
- (5) R432-100-29, Radiology Services;
- (6) R432-100-30, Respiratory Services;
- (7) R432-100-32, Central Supply Services; and,
- (8) R432-101-10(1), Inpatient (Psychiatric) Services.

KEY: health facilities
[1995]1998

26-21-5
26-21-2.1
26-21-20

◆ ————— ◆

**Health, Health Systems Improvement,
Health Facility Licensure
R432-550
Birthing Centers (Five or Less Birth
Rooms)**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 20559

FILED: 12/23/97, 10:41

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: Based on the five-year review of the birthing center rule, changes were proposed to clarify the language in specific sections, correct citations and change format.

SUMMARY: Corrected wording, citations, format and eliminated redundancy within the birthing center rule.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Title 26, Chapter 21

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 Systems Improvement,
Health Facility Licensure
Cannon Health Building
288 North 1460 West
PO 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 by Internet E-mail at dwynkoop@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 02/17/97.

THIS FILING MAY BECOME EFFECTIVE ON: 02/18/97

AUTHORIZED BY: Rod Betit, Executive Director

R432. Health, Health Systems Improvement, Health Facility Licensure.

R432-550. Birthing Centers (Five or Less Birth Rooms).

R432-550-7. Governing Body.

(1) ~~[Direction:~~

—]The licensee shall appoint in writing an individual or group to constitute the facility's governing body.

(2) ~~[Responsibilities:~~

—]The governing body shall:

(a) comply with federal, state and local laws, rules and regulations;

(b) adopt written policies and procedures which describe the functions and services of the birthing center and protect patient rights;

(c) adopt a policy prohibiting discrimination because of race, color, sex, religion, ancestry, or national origin in accordance with Sections 13-7-1 through 4.

(d) develop an organizational structure establishing lines of authority and responsibility;

(e) when the governing body is more than one individual, conduct meetings in accordance with facility policy, but at least annually, and maintain written minutes of the meetings;

(f) appoint by name and in writing a qualified administrator;

(g) appoint by name and in writing a qualified director of the clinical staff;

(h) notify the licensing agency in writing no later than five days after a change of administrator, identifying the name of the new administrator and the effective date of the change;

(i) appoint members of the clinical staff and delineate their clinical privileges;

(j) review and approve at least annually a quality assurance program for birthing center operation and patient care provided. R432-550-12.

(k) establish a system for financial management and accountability;

(l) provide for resources and equipment to provide a safe working environment for personnel;

(m) act on findings and recommendations of facility-created committees relevant to compliance with these birthing center rules;

(n) ensure that facility patient admission eligibility criteria are strictly applied by clinical staff and are evaluated through quality assurance review in accordance with R432-550-12.

(3) ~~[Policies and Procedures:~~

—]Written policies and procedures shall:

(a) clearly, accurately and comprehensively define the methods by which the facility will be operated to protect the health and safety of patients;

(b) provide for meeting the patient's needs;

(c) provide for continuous compliance with federal, state and local laws, rules and regulations.

(d) Written policies and procedures shall include~~[-but not be limited to]:~~

(i) defining the term "low risk maternal patient" which shall include eligibility criteria for birth services offered in the birthing center;

(ii) defining specific criteria,~~[to include as a minimum the criteria set forth in R432-550-29;]~~ which shall in normally anticipated circumstances render a maternal patient ineligible for birth services or continued care at the birthing center;

(iii) identifying and outlining methods for transferring patients who, during the course of pregnancy, labor or recovery, are determined to be ineligible for birthing center services or continued care at the birthing center;

(iv) planning for consultation, back-up services, transfer and transport of a newborn and maternal patient to a hospital where necessary care is available;

(v) documenting the maternal patient has been informed of the benefits, risks and eligibility requirements of an out-of-hospital birthing center labor and birth;

(vi) providing for the education of patients, family and support persons in postpartum and newborn care;

(vii) planning for post-discharge follow-up of patients;

(viii) registering birth, fetal death or death certificates in accordance with Sections 26-2-5, 26-2-13, 26-2-14, 26-2-23 and rules promulgated pursuant thereto in R436.

(ix) prescribing and instilling a prophylactic solution approved by the Department of Health in the eyes of the newborn in accordance with R386-702-9, Special Measures for the Control of Ophthalmia Neonatorum;

(x) performing phenylketonuria (PKU) and other metabolic disease tests in accordance with Department of Health Laboratory rules developed pursuant to Section 26-10-6;

(xi) providing for prenatal laboratory screening~~[including but not limited to]:~~

- (A) blood type and Rh Factor and provision for appropriate use of Rh immunoglobulin;
- (B) hematocrit or hemoglobin;
- (C) antibody screen;
- (D) rubella;
- (E) syphilis;
- (F) urine glucose and protein.

(xii) providing for infection control to include housekeeping; cleaning, sterilization, sanitization and storage of supplies and equipment; and prevention of transmission of infection in personnel, patients and visitors.

R432-550-8. Administrator.

(1) Direction.

(a) The administrator shall be responsible for the overall management and operation of the birthing center.

(b) The administrator shall designate in writing a competent employee to act as administrator in the temporary absence of the administrator.

(c) The administrator's designee shall have authority and responsibility to:

- (i) act in the best interests of patient safety and well-being;
- (ii) operate the facility in a manner which ensures compliance with these birthing center rules.

(2) Qualifications.

The administrator and administrator's designee shall be knowledgeable:

- (a) by education, training or experience in administration and supervision of personnel and qualified as required by facility policy;
- (b) in birthing center protocols;
- (c) in applicable federal, state and local laws, rules and regulations.

(3) ~~Responsibilities:~~

~~—(a)—~~The administrator's responsibilities shall be included in a written job description available for Department review.[

~~—(b)—~~ The administrator shall:

- (~~i~~) complete, submit and file records and reports required by the Department;
- (~~ii~~) develop and implement facility policies and procedures;
- (~~iii~~) review facility policies and procedures at least annually and report to the governing body on the review;
- (~~iv~~) employ or contract with competent personnel whose qualifications are commensurate with job responsibilities and authority and who have the appropriate Utah license or certificate of completion;
- (~~v~~) develop, for all employee positions, job descriptions that delineate functional responsibilities and authority;
- (~~vi~~) review and act on incident or accident reports.

R432-550-9. Clinical Director.

(1) ~~Direction:~~

~~—~~The clinical director shall be responsible for implementing, coordinating and assuring the quality of patient care services.

(2) ~~Qualifications:~~

~~—~~The clinical director shall:

- (a) be currently licensed to practice medicine or midwifery in Utah;

(b) have training and expertise in obstetric and newborn services offered to ensure adequate supervision of patient care services.

(3) ~~Responsibilities:~~

~~—(a)—~~The clinical director's responsibilities shall be included in a written job description available for Department review.[

~~—(b)—~~ The clinical director shall:

- (~~i~~) review and update facility protocols;
- (~~ii~~) review and evaluate clinical staff privileges and revise them as necessary;
- (~~iii~~) recommend, to the governing body, names of qualified licensed health care practitioners to perform approved procedures and the corresponding clinical staff privileges to be granted;
- (~~iv~~) coordinate, direct and evaluate clinical operations of the facility;
- (~~v~~) evaluate and recommend to the administrator the type and amount of equipment needed in the facility;
- (~~vi~~) ensure that qualified staff are on the premises when patients are in the facility;
- (~~vii~~) ensure clinical staff documentation is recorded immediately and reflects a description of care given;
- (~~viii~~) ensure that planned birthing center services are within the scope of privileges granted to the clinical staff;
- (~~ix~~) recommend to the administrator appropriate remedial action and disciplinary action, when necessary, to correct violations of clinical protocols.

R432-550-10. Personnel.

(1) The administrator shall employ a sufficient number of qualified professional and support staff who are competent to perform their respective duties, services and functions.

(~~1~~) ~~Personnel Policies:~~

~~—(a)2—~~ The facility shall maintain written personnel policies and procedures which shall be available to personnel and shall address~~[at least]~~ the following:

- (~~i~~) content of personnel records;
- (~~ii~~) job descriptions, qualifications and validation of licensure or certificates of completion as appropriate for the position held;
- (~~iii~~) conditions of employment;
- (~~iv~~) management of employees.
- (~~b~~)3) The facility shall maintain personnel records for employees and shall retain personnel records for terminated employees for a minimum of one year following termination of employment.

(~~2~~) ~~Health Surveillance:~~

~~—(a)4—~~ The facility shall establish a personnel health program through written personnel health policies and procedures which shall protect the health and safety of personnel and patients commensurate with the services offered.

(~~b~~)5) An employee placement health evaluation ~~[to]~~shall include ~~[at least]~~ at a health inventory which shall be completed when an employee is hired.[

~~—(e)—~~ The health inventory shall obtain ~~[at least]~~ the employee's history of the following:

- (~~i~~) conditions that predispose the employee to acquiring or transmitting infectious diseases;
- (~~ii~~) conditions which may prevent the employee from performing certain assigned duties satisfactorily.

(~~d~~6) Employee health screening and immunization components of personnel health programs shall be developed in accordance with R386-702, Code of Communicable Disease Rules.

(~~e~~7) Employee skin testing by the Mantoux method shall be done annually or at the time of exposure and follow-up for tuberculosis shall be done in accordance with R386-702-5, Special Measures for the Control of Tuberculosis.

(~~3~~) ~~In-service Training and Orientation:~~

—(~~a~~8) The birthing center shall provide staff development programs to include at least documented orientation for new staff and ongoing in-service training for personnel.

(~~b~~1a) Facility policy shall define an orientation program, standardized for employee category of responsibility, and shall specify the time for completion.

(~~e~~b) The in-service training program shall define the frequency and content of training to include~~[-at least]~~:

(i) an annual review of facility policies and procedures;

(ii) infection control, personal hygiene and each employee's responsibility in the personnel health program.

(~~d~~c) Personnel shall have ready access to the facility's policy and procedure manuals when on duty.

(~~4~~) ~~Licensing:~~

—(~~a~~9) Personnel shall maintain current licensing, certification or registration appropriate for the work performed and as required by the Utah Department of Commerce.

(~~b~~1a) Personnel shall provide evidence of current licensure, registration or certification to the Department upon request.

(~~e~~b) Failure to ensure personnel are licensed, certified or registered may result in sanctions to the facility license.

R432-550-11. Contracts and Agreements.

(1) [~~C~~ontracts:

—(~~a~~)—]The licensee shall secure a written contract or agreement for services not provided directly by the facility.[

—(~~b~~)—] Contracts or agreements shall include a statement that contract personnel shall:

(~~i~~1a) perform according to facility policies and procedures;

(~~i~~1b) conform to standards required by laws, regulations and rules;

(~~i~~1c) provide services that meet professional standards and are timely.

(~~e~~2) Contracts or transfer agreements shall be available for Department review.

(~~2~~) ~~Transfer Agreements:~~

—(~~a~~3) The licensee shall maintain transfer agreements for one or both of the following:

(~~i~~1a) admitting privileges for clinical staff at a general hospital within 30 minutes travel distance of the birthing center;

(~~i~~1b) a written transfer agreement with one or more general hospitals located within 30 minutes travel distance of the birthing center.

(~~b~~4) The general hospital transfer agreement shall include provisions for:

(~~i~~1a) transfer of information needed for proper care and treatment of the individual transferred;

(~~i~~1b) security and accountability of the personal effects of the individual being transferred.

R432-550-13. Emergency and Disaster.

(1) The administrator shall make provisions to maintain a safe environment in the event of an emergency or disaster. An emergency or disaster includes but is not limited to utility interruption, explosion, fire, earthquake, bomb threat, flood, windstorm, epidemic and injury.

(2) The administrator shall educate, train and drill staff to respond appropriately in an emergency in accordance with NFPA 101-31-4, Life Safety Code 1991.

(3) The administrator shall review the written emergency procedures at least annually and update them as appropriate.

(4) Personnel shall have ready access to written emergency and disaster plans when on duty.

(5) The administrator shall review the disaster plan with local disaster agencies as appropriate.

(6) [~~S~~moking Policies:

—]The smoking policy shall comply with Title 26, Chapter 38, the "Utah Clean Air Act" and Section 31-4.4 of the Life Safety Code, 1991 edition.

R432-550-14. Patients' Rights.

(~~1~~) [~~P~~olicies and Procedures:

—]Written patients' rights shall be established and made available to the patient as determined by facility policy which shall include the following:[:

—(~~2~~) ~~Statement of Patients' Rights:~~

—(~~a~~) Facility staff shall ensure the rights of patients:

—(~~b~~) A patient receiving care has the following rights:]

(~~i~~1) to be fully informed, prior to or at the time of admission, and during stay, of these rights and of facility rules that pertain to the patient;

(~~i~~2) to be fully informed, prior to admission, of the treatment to be received, potential complications and expected outcomes;

(~~i~~3) to refuse treatment to the extent permitted by law and to be informed of the medical consequences of such refusal;

(~~i~~4) to be informed, prior to or at the time of admission and during stay, of services available in the facility and of any expected charges for which the patient may be liable;

(~~i~~5) to be afforded the opportunity to participate in decisions involving personal health care, except when contraindicated;

(~~i~~6) to refuse to participate in experimental research;

(~~i~~7) to be ensured confidential treatment of personal and medical records and to approve or refuse release to any individual outside the facility, except in the case of transfer to another health facility, or as required by law or third party payment contract;

(~~i~~8) to be treated with consideration, respect and full recognition of personal dignity and individuality, including privacy in treatment and in care for personal needs.

R432-550-17. Nursing Services.

(1) The birthing center shall provide nursing care services to meet the needs of the patients served.

(2) Licensed nursing service personnel shall plan and deliver nursing care as defined in written facility policy and in accordance with Title 58, Chapters 31 and 44a; and R156-31 and R156-44a; and other applicable laws and rules.

(3) The administrator shall employ sufficient licensed and auxiliary nursing staff to meet the total nursing needs of the patients.

R432-550-19. Pharmacy Service.

(1) The administrator shall provide documentation that facility pharmacy services comply with R156-17a, Board of Pharmacy Rules; Section 58-17a, Pharmacy Practice Act; Section 58-37, Controlled Substances Act; and with other applicable state and federal laws, rules and regulations.

(2) Licensed personnel shall prescribe order and administer medication in accordance with applicable professional practice acts, pharmacy and controlled substances laws.

R432-550-20. Anesthesia Services.

(1) ~~[Organization:~~

~~—]~~The birthing center shall provide facilities and equipment for the provision of anesthesia services commensurate with the obstetric procedures planned for the facility.

(2) ~~[Policies and Procedures:~~

~~—(a)]~~The clinical director shall ensure the safety of anesthesia services administered to patients by clinical staff through written policies and protocols approved by the clinical staff for anesthetic agents, delivery of anesthesia and potential hazards of anesthesia.

~~[(b)a]~~ Protocols for administration of anesthesia by a certified nurse-midwife shall be in accordance with R156-44a-2 and R156-44a-601.

~~[(e)b]~~ A clinical staff member shall monitor patients who receive anesthesia or analgesics.

R432-550-21. Laboratory and Radiology Services.

(1) ~~[General Requirements:~~

~~—(a)]~~The birthing center shall provide direct or contract laboratory, radiology and associated services according to facility policy and to meet the needs of patients.

~~[(b)2]~~ Laboratory and radiology reports or results shall be reported promptly to the attending clinical staff member and documented in the patient's medical record.

~~[(2) Laboratory Services:~~

~~—(a)3]~~ Laboratory services shall be provided by a CLIA approved laboratory which meets requirements of R432-100-26.[

~~—(b)]~~ In-house laboratory facilities shall meet the requirements for laboratories in the construction portion of this rule.

~~[(3) Radiology Services:~~

~~—]4]~~ Radiology services shall comply with applicable sections of R313-12 Radiation Control and R432-100-24.

R432-550-22. Medical Records.

(1) ~~[Organization:~~

~~—(a)]~~Medical records shall be complete, accurately documented and systematically organized to facilitate retrieval and compilation of information.

~~[(b)2]~~ An employee designated by the administrator shall be responsible and accountable for the processing of medical records.

~~[(2) Retention and Storage:~~

~~—(a)3]~~ The medical record and its contents shall be safeguarded from loss, defacement, tampering, fires and floods.

~~[(b)4]~~ Medical records shall be protected against access by unauthorized individuals.

~~(a) Medical record information shall be confidential.~~

~~(b) The birthing center may disclose medical record information only to authorized persons in accordance with federal, state and local laws.~~

~~(c) The birthing center shall obtain consent from the patient before releasing client information identifying the client, including photographs, unless release is otherwise allowed or required by law.~~

~~[(c)5]~~ Medical records shall be retained for at least five years after the last date of patient care. Records of minors, including records of newborn infants, shall be retained for three years after the minor reaches legal age under Utah law, but in no case less than five years.[

~~—(3) Confidentiality and Release of Information:~~

~~—(a) Medical record information shall be confidential:~~

~~—(b) The birthing center may disclose medical record information only to authorized persons in accordance with federal, state and local laws.~~

~~—(c) The birthing center shall obtain consent from the patient before releasing client information identifying the client, including photographs, unless release is otherwise allowed or required by law.]~~

~~[(4) Content of Medical Records:~~

~~—(a)6]~~ The birthing center shall maintain an individual medical record for each patient which shall include but is not limited to written documentation of the following:

~~[(i)a]~~ admission record with demographic information and patient identification data;

~~[(ii)b]~~ history and physical examination which shall be up-to-date upon the patient's admission;

~~[(iii)c]~~ written and signed informed consent;

~~[(iv)d]~~ orders by a clinical staff member;

~~[(v)e]~~ record of assessments, plan of care and services provided;

~~[(vi)f]~~ record of medications and treatments administered;

~~[(vii)g]~~ laboratory and radiology reports;

~~[(viii)h]~~ discharge summary for mother and newborn to include a note of condition, instructions given and referral as appropriate;[

~~—(b) In addition to the requirements for medical records specified in R432-550-22(4)(a), obstetrical records shall include the following:~~

~~—(i) (i) prenatal care record containing at least prenatal blood serology, Rh factor determination, past obstetrical history and physical examination and documentation of fetal status;~~

~~[(ii)j]~~ monitoring of progress in labor with assessment of maternal and newborn reaction to the process of labor;

~~[(iii)k]~~ fetal monitoring record;

~~[(iv)l]~~ labor and delivery record, including type of delivery, record of anesthesia and operative procedures if any;

~~[(v)m]~~ record of administration of Rh immune globulin;

~~[(vi)n]~~ documentation that the patient is informed of the statement of patient rights.[

~~—(c) In addition to the requirements for medical records specified in R432-550-22(4)(a),]~~

~~(7) The records of newborn infants shall include the following:~~

~~[(i)a]~~ date and hour of birth, birth weight and length, period of gestation, sex and condition of infant on delivery including Apgar scores and resuscitative measures;

~~[(ii)b]~~ mother's name or unique identification;

(iii)c record of ophthalmic prophylaxis;
(iv)d identification number of the screening kit used to screen for metabolic diseases, documentation that metabolic screening was done and the genetic screening, PKU or other metabolic disorders report.

R432-550-23. Housekeeping Services.

(1) ~~Direction:~~
—]The facility shall provide adequate housekeeping services to maintain a clean and sanitary environment.

(2) ~~Policies and Procedures:~~
—]The facility shall develop and implement written housekeeping policies and procedures.

R432-550-24. Laundry Services.

~~The facility shall provide clean linens as required for patient care:~~

(1) ~~Policies and Procedures:~~
—](1) The facility shall develop and implement written policies and procedures for storage and processing of clean and soiled linen.

(2) ~~Clean Linen:~~
—(a) Clean linen shall be stored, handled and transported to prevent contamination.

—(b) Linens shall be maintained in good repair and shall not be threadbare.

(3) ~~Soiled Linen:~~
—]Soiled linen shall be handled, transported, stored and processed in a manner to prevent both leakage and the spread of infection.

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R432-550-29. Limitations of Services.

(1) Birthing center maternal patients shall be limited to women initially determined to be at low maternity risk and evaluated regularly throughout pregnancy to ensure they remain at low risk for a poor pregnancy outcome.

(2) Birthing center policy shall establish a written risk assessment system to assess the individual risk for each maternal patient.

(3) A clinical staff member shall perform and document a risk assessment for each maternal patient, which shall include evaluating the maternal patient for the criteria in R432-550-22(4) and facility policy.

(4) In order to be given care in a birth center a patient shall exhibit no evidence of the following:

- (a) severe anemia or blood dyscrasia;
- (b) insulin dependent diabetes mellitus;
- (c) symptomatic cardiovascular disease, including active thrombophlebitis;
- (d) compromised renal function;
- (e) substance abuse;
- (f) pregnancy-induced hypertension to include moderate to severe hypertension, preeclampsia and toxemia;
- (g) known or suspected active herpes genitalis;
- (h) viral infections during pregnancy known to adversely affect fetal well-being;

(i) previous caesarean section, major uterine wall surgery or obstetrical complications likely to recur;

(j) multiple gestation;

(k) pre-term labor (~~36~~37 weeks or less) or post-term gestation (43 weeks or greater);

(l) prolonged rupture of membranes;

(m) intrauterine growth retardation or macrosomia;

(n) suspected serious congenital anomaly;

(o) fetal presentation other than vertex;

(p) oligohydramnios, polyhydramnios or chorioamnionitis;

(q) abruptio placenta or placenta previa;

(r) fetal distress which will be likely to adversely affect the infant in labor or at birth, including moderate to heavy meconium stained amniotic fluid;

(s) need for anesthesia or analgesia other than those used in a setting where anesthesia and analgesia are limited in accordance with the facility's written protocols;

(t) a desire for transfer from birthing center care;

(u) any condition identified intrapartum or postpartum which will be likely to adversely affect the health of the maternal patient or infant and will require management in a general hospital.

KEY: health facilities

~~1995~~1998

26-21-5

26-21-16



**Health, Health Systems Improvement,
Health Facility Licensure**

R432-600

Abortion Clinic Rule

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 20560

FILED: 12/23/97, 10:41

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: Based on the five-year review of the abortion clinic rule, changes were proposed to clarify the language in specific sections.

SUMMARY: Corrected wording, citations and eliminated redundancy within the abortion clinic rule.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Title 26, Chapter 21

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 Systems Improvement,
 Health Facility Licensure
 Cannon Health Building
 288 North 1460 West
 PO 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 by Internet E-mail at dwynkoop@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 02/17/97.

THIS FILING MAY BECOME EFFECTIVE ON: 02/18/97

AUTHORIZED BY: Rod Betit, Executive Director

R432. Health, Health Systems Improvement, Health Facility Licensure.

R432-600. Abortion Clinic Rule.

R432-600-4. Licensure.

~~[(1)]~~ A license is required to operate an abortion clinic. [
~~(2) Documentation that the~~ The licensee and facility shall maintain documentation that they are members in good standing with the National Abortion Federation which is required for licensure.

R432-600-6. Organization.

- (1) Each clinic shall be operated by a licensee. If the licensee is other than a single individual, there shall be an organized functioning governing body to assure accountability.
- (2) The licensee shall be responsible for the organization, management, operation, and control of the facility.
- (3) Responsibilities shall include at least the following:
 - (a) Comply with all applicable federal, state and local laws, rules and requirements;
 - (b) Adopt and institute by-laws, protocols, policies and procedures relative to the operation of the clinic;
 - (c) Appoint, in writing, a qualified administrator to be responsible for the implementation of facility bylaws, policies and procedures, and for the overall management of the facility;
 - (d) Appoint, in writing, a qualified medical director to be responsible for clinical services;
 - (e) Establish a quality assurance committee in conjunction with the medical staff;
 - (f) Secure contracts for services not provided directly by the clinic;
 - (g) Receive and respond to the annual licensure inspection report by the Department;
 - (h) Notify the Department in writing the name of a new administrator within five days of a change of administrator.

- (i) Compile statistics on the distribution of the informed consent material as required in Section 76-7-305.5~~(4)~~(3).

R432-600-8. Administrator.

- (1) Each facility shall designate, in writing, an administrator who shall have sufficient freedom from other responsibilities to be on the premises of the clinic a sufficient number of hours in the business day to permit attention to the management and administration of the facility.
 - (2) The administrator shall designate a person to act as administrator in his absence. This person shall have sufficient power, authority, and freedom to act in the best interests of patient safety and well-being. It is not the intent to permit a de facto administrator to supplant or replace the designated facility administrator.
 - (3) The administrator shall be 21 years of age or older.
 - (4) The administrator shall be experienced in administration and supervision of personnel, and shall be knowledgeable about the medical aspects of abortions to interpret and be conversant in medical protocols.
 - (5) The administrator's responsibilities shall be included in a written job description.
 - (6) Responsibilities shall include at least the following:
 - (a) Develop and implement facility policies and procedures;
 - (b) Maintain an adequate number of qualified and competent staff to meet the needs of clinic patients;
 - (c) Develop clear and complete job descriptions for each position;
 - (d) Implement recommendations made by the quality assurance committee;
 - (e) Notify the Department promptly in the event of the death of a patient;
 - (f) Notify appropriate authorities when a serious communicable disease is diagnosed;
 - (g) File a fetal death certificate as required in Section 26-2-14, for each fetal death of 20 weeks gestation or more calculated from the date the last normal menstrual period began to date of delivery;
 - (h) Review all incident and accident reports and ~~take appropriate~~ document what action was taken.
- R432-600-16. Emergency and Disaster.**
- (1) Each facility has the responsibility to assure the safety and well-being of patients in the event of an emergency or disaster. An emergency or disaster may include but is not limited interruption of public utilities, explosion, fire, earthquake, bomb threat, flood, windstorm, epidemic, and injury.
 - (2) The administrator shall be in charge of facility operations during any significant emergency. If not on the premises, he should make every reasonable effort to get to the facility to relieve subordinates and take charge during the emergency.
 - (3) The licensee and the administrator shall be responsible for the development of a plan, coordinated with state and local emergency or disaster authorities, to respond to emergencies and disasters.
 - (a) This plan shall be in writing and shall be distributed or made available to all facility staff to assure prompt and efficient implementation.
 - (b) The plan shall be reviewed and updated at least annually by the administrator and the licensee.

(4) The names and telephone numbers of clinic staff, emergency medical personnel, and emergency service systems shall be posted.

(5) ~~[Emergency Plan:~~

~~—]The facility's emergency plan shall address the following:~~

- ~~(a) Evacuation of occupants to a safe place within the facility or to another location;~~
- ~~(b) Delivery of emergency care and services to facility occupants when staff is reduced by an emergency;~~
- ~~(c) The person or persons with decision-making authority for fiscal, medical, and personnel management;~~
- ~~(d) An inventory of available personnel, equipment, and supplies and instructions on how to acquire additional assistance;~~
- ~~(e) Assignment of personnel to specific tasks during an emergency;~~
- ~~(f) Names and telephone numbers of on-call physicians and staff at each nurses' station;~~
- ~~(g) Documentation of emergency events.~~

(6) ~~[Fire Emergency:~~

~~—(a)—]The licensee and administrator shall develop a written fire emergency and evacuation plan in consultation with qualified fire safety personnel.~~

~~(b)a) The evacuation plan shall identify evacuation routes, location of fire alarm boxes, fire extinguishers, and emergency telephone numbers of the local fire department and shall be posted throughout the facility.~~

~~(c)b) The written fire emergency plan shall include fire-containment procedures and how to use the facility alarm systems and signals.~~

~~(d)c) Fire drills shall be held [at least]quarterly--one drill per shift per quarter. The actual evacuation of patients during a drill is optional.~~

R432-600-17. Patients' Rights.

(1) The clinic shall provide informed consent material (see Section 76-7-305.5) to any patient or potential patient~~[upon her request].~~

(2) Written policies regarding the rights of patients shall be made available to the patient, public, and the Department upon request.

(3) Each patient admitted to the facility shall have the following rights:

- (a) To be fully informed, prior to or at the time of admission and during stay, of these rights and of all facility rules that pertain to the patient;
- (b) To be fully informed, prior to or at the time of admission and during stay, of services available in the facility and of any charges for which the patient may be liable;
- (c) To refuse to participate in experimental research;
- (d) To refuse treatment and to be informed of the medical consequences of such refusal;
- (e) To be assured confidential treatment of personal and medical records and to approve or refuse release to any individual outside the facility, except in the case of transfer to another health facility, or as required by law or third party payment contract;
- (f) To be treated with consideration, respect, and full recognition of personal dignity and individuality, including privacy in treatment and in care for personal needs.

.....

R432-600-26. Laundry Services.

(1) Each facility shall have provisions for storage and processing of clean and soiled linen as required for patient care.

(2) Processing may be done within the facility, in a separate building or in a commercial or shared laundry.[

~~—(c) Cart storage area for separate parking of clean and soiled linen carts out of traffic.~~

~~—(d) Hand washing lavatory shall be provided in each area where unbagged soiled linen is handled.~~

~~—(5) If facility processes its own laundry (within or in a separate building) there shall be provision for the following:~~

~~—(a) Receiving, holding, and sorting room for control and distribution of soiled linen. Discharge from soiled linen chutes may occur within this room or in a separate room. Prewash may be provided;~~

~~—(b) A washing room with washing machines adequate for the quantity and type of laundry to be processed;~~

~~—(c) A drying room with dryers adequate for the quantity and type of laundry to be processed;~~

~~—(d) A clean linen storage room with space and shelving adequate to store one half of all linen processed;~~

~~—(e) Rooms may be grouped in either of the two following configurations:~~

~~—(i) Three room configuration:~~

~~—(A) A soiled linen receiving, sorting and holding room with prewash and hand washing lavatory; and~~

~~—(B) A washer/dryer room arranged with traffic flow from soiled receiving to washers to dryers to clean storage; and~~

~~—(C) A clean storage room with folding, sorting and storage facilities and hand washing lavatory;~~

~~—(ii) Two room configuration:~~

~~—(A) One room housing soiled linen receiving, sorting, holding, prewash and washers with handwashing facilities; and~~

~~—(B) A room housing dryers, clean linen folding, sorting and storage with hand washing lavatory;~~

~~—(iii) Physical separation shall be maintained between the rooms by means of self closing doors:~~

~~—(f) Functional separation shall be maintained on a continual basis between rooms:~~

~~—(i) Air movements shall be from clean areas to soiled areas.~~

~~—(ii) Air from soiled areas shall be exhausted directly to the outside.~~

~~—(iii) Hand washing lavatories shall be provided and located within the laundry areas to be utilized in maintaining the functional separation of the clean and soiled process:~~

~~—(iv) Rooms shall be so arranged to prevent the transporting of soiled laundry through clean areas and the transporting of clean laundry through soiled areas.~~

~~—(g) Convenient access to employee lockers and lounge;~~

~~—(h) Storage for laundry supplies;~~

~~—(i) Cart storage area for separate parking of clean and soiled linen carts out of traffic.~~

] (3) Each facility shall develop and implement policies and procedures relevant to operation of the laundry which shall be reviewed and updated annually.

(4) ~~[Clean Linen:~~

—(a)—Clean linen shall be stored, handled, and transported in a manner to prevent contamination.

(b)a Clean linen shall be stored in clean ventilated closets, rooms, or alcoves used only for that purpose.

(c)b Clean linen shall be covered if stored in alcoves and transported through the facility.

(d)c Clean linen from a commercial laundry shall be delivered to a designated clean area in a manner that prevents contamination.

(e)d Linens shall be maintained in good repair.

(f)e A supply of clean washcloths and towels shall be provided and available to staff to meet the care needs of patients.

(5) ~~Soiled Linen:~~

—(a)—Soiled linen shall be handled, stored and processed in a manner that will prevent the spread of infections.

(b)a Soiled linen shall be sorted in a separate room by methods affording protection from contamination, according to facility policy and applicable rules.

(c)b Soiled linen shall be stored and transported in a closed container which prevents airborne contamination of corridors, areas occupied by patients, and precludes cross contamination of clean linens.

(d)6 Laundry chutes shall be maintained in a clean sanitary state.

R432-600-30. Oxygen.

If oxygen is utilized:

(1) Provision shall be made for safe handling and storage of oxygen according to the National Fire Protection Association 101 manual.

(2) Facility personnel shall not transfer gas from one cylinder to another.

(3) Piped oxygen system shall be tested in accordance with NFPA 56F and 56K.

(4) ~~And a~~ A written report shall be filed with the Utah Department of Health as follows:

- (a) Upon completion of initial installation;
- (b) Whenever changes are made to a system; and
- (c) Whenever the integrity of the system has been breached.

KEY: health facilities

~~1995~~1998

26-21-5

26-21-16

Health, Health Systems Improvement,
Health Facility Licensure

R432-700

Home Health Agency Rule

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 20561

FILED: 12/23/97, 10:41

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: A subcommittee has studied the home health agency rule and proposes to add a new category for licensing as a Home Health Agency for Personal Care Services. In addition, the subcommittee and the Health Facility Committee have completed a five-year review of the rule.

SUMMARY: The rule adds the definition of a service agreement for Personal Care Services; corrects the section on health surveillance for employees; clarifies the requirements for patient records; deletes the section on non-licensed personnel; adds criteria for providing personal care aide services; permits the transmission of physician orders by FAX; clarifies the duties of the rehabilitation therapists; and adds criteria to apply for a Home Health - Personal Care Agency designation.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Title 26, Chapter 21

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: If new providers apply to be designated as a Home Health - Personal Care Agency, fees will be assessed of \$500 to be deposited to the General Fund.

❖LOCAL GOVERNMENTS: None.

❖OTHER PERSONS: New operators will be assessed a \$500 license fee to be deposited in the General Fund. Individuals may contract with a Home Health - Personal Care Agency to receive services which do not include skilled nursing care, the cost to the recipient of services would be less than a Home Health Agency who provides Skilled or Rehabilitation services.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The Medicare moratorium prohibits the certification of any new Home Health Agency, however agencies may continue to be licensed. The proposed rule change permits a Home Health Agency who wants to provide only "personal care services" to receive a state license and assist patients who do not require a skilled nursing need and who do not meet the definition of "home bound" to receive Medicare services. The hourly rate for personal care services may be \$1 - \$2 an hour less, since the oversight and administrative costs would not be as high as charged by a Medicare certified agency. Licensing fees will be collected for new providers of \$500.

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THIS FILING MAY BECOME EFFECTIVE ON: 02/18/97

AUTHORIZED BY: Rod Betit, Executive Director

R432. Health, Health Systems Improvement, Health Facility Licensure.

R432-700. Home Health Agency Rule.

R432-700-4. Definitions.

(1) See common definitions rule R432-1-3.

(2) Special definitions:

(a) "Branch Office," means a location from which a home health agency provides services within a portion of the total geographic area served by the parent agency. The branch office is a part of the parent home health agency and shares administration and services.

(b) "Parent Home Health Agency," means the agency that has administrative control of branch offices.

(c) "Service Agreement" means a written agreement for services between the client and the personal care provider which outlines how the services are to be provided according to the requirements of R432-700-30.

R432-700-6. Services Provided by a Home Health Agency.

(1) A home health agency shall provide services to patients in their place of residence, or in special circumstances, the place of employment.

(2) Services shall be directed and supervised by a licensed practitioner. These services may help avoid premature or inappropriate institutionalization.

(3) Professional and supportive personnel shall be responsible to the agency for any of the following services which they may perform:

(a) Provision of skilled services authorized by a physician;

(b) Nursing services assessed, provided, or supervised by registered nurses;

(c) Other related health services approved by a licensed practitioner;

~~— (4) Hospice Services may be provided:~~

~~— (a) See R432-750-5 for eligibility requirements.~~

~~— (b) Home health agencies are not required to obtain a Hospice license, but shall comply with the following requirements:~~

~~— (i) If, during the care planning process for a terminally ill patient, bereavement services, clergy services, hospice counseling services, or volunteer services are determined to be appropriate under a hospice program of care, the facility shall provide the identified services in accordance with the applicable requirements of R432-750;~~

~~— (ii) Facility staff responsible for delivering the identified service shall be properly oriented and trained in the hospice concept and philosophy of care and the proper performance of assigned duties.]~~

R432-700-11. Health Surveillance.

(1) ~~[The Facility shall establish a personnel health program through written personnel health policies and procedures which shall protect the health and safety of personnel and clients commensurate with the service offered.]The agency shall establish and implement a policy and procedure for health screening of all agency health care workers (persons with direct patient contact) to identify any situation which would prevent the employee from performing assigned duties in a satisfactory manner.~~

(2) ~~[An employee placement health evaluation to include at least a health inventory shall be completed when an employee is hired:~~

~~— (3) The health inventory shall obtain at least the employee's history of the following:~~

~~— (a) conditions that predispose the employee to acquiring or transmitting infectious diseases;~~

~~— (b) condition which may prevent the employee from performing certain assigned duties satisfactorily.~~

~~— (4) —]Employee health screening and immunization components of personnel health programs shall be developed in accordance with R386-704, Communicable Disease Rules.~~

~~(5)3] [Employee skin]Skin testing by the Mantoux Method and follow up for tuberculosis shall be done in accordance with R386-702-5, Special Measures for Control of Tuberculosis.~~

(a) Skin testing must be conducted on each ~~[employee]health care worker who has direct patient contact~~ annually and after ~~[suspect]known~~ exposure to a ~~[resident]patient~~ with active tuberculosis.

(b) Skin testing shall be exempted for all employees with known positive reaction to skin tests.

~~(6)4] All infections and communicable diseases reportable by law shall be reported by the facility to the local health department in accordance with R386-702-2.~~

R432-700-12. Orientation.

(1) There shall be documentation that all employees ~~[and contract personnel]are~~ oriented to the agency and the job for which they are hired.

(2) Orientation shall include but is not limited to:

(a) The functions of agency employees and the relationships between various positions or services;

(b) Job descriptions;

(c) Duties for which persons are trained, hold a registration, certificate, or are licensed;

(d) Ethics, confidentiality, and patients' rights;

(e) Information about other community agencies including emergency medical services;

(f) Opportunities for continuing education appropriate to the patient population served;

(g) Reporting requirements for suspected abuse, neglect or exploitation.

R432-700-13. Contracts.

(1) The administrator shall secure written contract or agreement from other providers, or independent contractors, who

provide patient services through the home health agency and shall arrange for an orientation to ensure that the contractor is prepared to meet the job expectations.

(2) The contract shall be available for review by the Department.

(3) The contract shall include:

- (a) The effective and expiration dates;
- (b) A description of goods or services to be provided;
- (c) A [€]copy of the professional license must be available, upon Department request.

R432-700-15. Termination of Services Policies.

(1) The agency may discharge a patient under any of the following circumstances:

- (a) A licensed practitioner signs a discharge statement for termination of services;
- (b) Treatment objectives are met;
- (c) The patient's status changes, which makes treatment objectives unattainable, and new treatment objectives are not an alternative;
- (d) The family situation changes and affects the delivery of services;
- (e) The patient or family is uncooperative in efforts to attain treatment objectives;
- (f) The patient moves from the geographic area served by the agency;
- (g) The physician fails to renew orders as required by the rules for skilled nursing or therapy services, or, the patient changes physician's and the agency cannot obtain orders for continuation of services from the new physician;
- (h) The patient's payment sources are exhausted and the agency is fiscally unable to provide free or part-cost care;
- (i) The agency discontinues a particular service or terminates all services;
- (j) The agency can no longer provide quality care in the place for residence;
- (k) The patient or family requests agency services to be discontinued;
- (l) The patient dies;
- (m) the patient or family is unable or unwilling to provide an environment that ensures safety for the both the patient and provider of service; or
- (n) The patient's payor excludes the agency from participating as a covered provider or refuses to authorize services the agency determines are medically necessary.

(2) The person who is assigned to supervise and coordinate care for a particular patient must complete a discharge summary when services to the patient are terminated.

R432-700-16. Patients' Rights.

(1) Written patients' rights shall be established and made available to the patient, guardian, next of kin, sponsoring agency, representative payee, and the public.

(2) Agency policy may determine how patients' rights information is distributed.

(3) The agency shall insure that each patient receiving care has the following rights:

(a) To be fully informed of these rights and all rules governing patient conduct, as evidenced by documentation in the clinical record;

(b) To be fully informed of services and related charges for which the patient or a private insurer may be responsible, and to be informed of all changes in charges;

(c) To be fully informed of the patient's health condition, unless medically contraindicated and documented in the clinical record;

(d) To be afforded the opportunity to participate in the planning of home health services, including referral to health care institutions or other agencies, and to refuse to participate in experimental research;

(e) To refuse treatment to the extent permitted by law and to be informed of the medical consequences if treatment is refused;

(f) To be assured confidential treatment of personal and medical records, and to approve or refuse their release to any individual outside the agency, except in the case of transfer to another agency or health facility, or as required by law or third-party payment contract;

(g) To be treated with consideration, respect, and full recognition of dignity and individuality, including privacy in treatment and in care for personal needs;

(h) To be assured the patient and the family or significant others will be taught about required services, so the patient can develop or regain self-care skills and the family or others can understand and help the patient;

(i) To be assured that personnel who provide care demonstrate competency through education and experience to carry out the services for which they are responsible;

(j) To receive proper identification from the individual providing home health services;

(k) To receive information concerning the procedures to follow to voice complaints about services being performed.

R432-700-17. Physician's Orders.

(1) Physician's orders shall be incorporated into the plan of care when skilled care is being provided.

(2) Physician's orders may include:

- (a) Diet and nutritional requirements;
- (b) Medications;
- (c) Frequency and type of service;
- (d) Treatments;
- (e) Medical equipment and supplies;
- (f) Prognosis. [

~~(3) A Physician shall authorize the following services:~~

~~(a) Skilled Nurses Services;~~

~~(b) Services related to a medical diagnosis and provided by non-licensed personnel.]~~

R432-700-18. Patient Records.

(1) The agency shall develop and implement record keeping policies and procedures that address use of patient records by authorized staff, content, confidentiality, retention, and storage.

(2) Records shall be ~~organized in a uniform medical record] maintained in an organized~~ format.

(3) The agency shall maintain an identification system to facilitate location of each patient's current or closed record.

(4) An accurate, up-to-date record must be maintained for every patient receiving service through the home health agency.

(5) Each person who has patient contact or provides a service in the patient's place of residence must enter a clinical note of that contact or service in the patient's record.

(6) All entries shall be dated and authenticated with the signature, or identifiable initials~~[-and title]~~ of the person making the entry.

(7) Services provided by the agency and outcomes of these services must be documented in the individual patient record.

(8) ~~[Record Content:~~

~~—]~~Each patient's record shall contain at least the following information:

(a) Identification data including patient's name, address, age, date of birth, name and address of nearest relative or responsible person, name and telephone number of physician with primary responsibility for patient care, and if applicable, the name and telephone number of the person or family member who, in addition to agency staff, provides care in the place of residence;

(b) ~~[Diagnosis;~~

~~—(c)]~~A written plan of care;

~~[(d)]~~(c) A signed and dated patient assessment which ~~[includes strengths and problems of the patient and family]~~identifies pertinent information required to carry out the plan of care;

~~—(e)~~ Pertinent medical and surgical history;

~~—]([f)]~~(d) Reasons for referral to home health agency;

~~—(g)~~ A list of medications and treatments;

~~—(h)~~ Allergies or reactions to drugs or other substances;

~~—(i)]~~(e) Statement of the suitability of the patient's place of residence for the provision of health care services;

(f) Documentation of telephone consultation or case conferences with other individuals providing services;

(j) Signed and dated clinical notes for each patient contact or home visit including services provided~~[-a description of patient condition and significant changes, such as:~~

~~—(i)~~ Objective signs of illness, disorders, body malfunction;

~~—(ii)~~ Subjective information from the patient and family;

~~—(iii)~~ General physical condition;

~~—(iv)~~ General emotional condition;

~~—(v)~~ Positive or negative physical and emotional responses to treatments and services;

~~—(vi)~~ General behavior;

~~—(vii)~~ General appearance.

~~—(k)~~ Documentation of telephone consultation or case conferences with other individuals providing services;

~~—(l)~~ Clinical summaries or other documents obtained when necessary for promoting continuity of care, especially when a patient receives care elsewhere--such as a hospital, ambulatory surgical center, nursing home, physician or consultant's office or other home health agency;

~~[(m)]~~(h) A written Termination of Services summary which describes:

(i) The care or services provided;

(ii) The course of care and services;

(iii) The reason for discharge;

(iv) The status of the patient at time of discharge;

(v) The name of the agency or facility if the patient was referred or transferred.

(9) For those patients who receive skilled services the following items shall be included in the patient record in addition to R432-700-18(8):

(a) Diagnosis;

(b) Pertinent medical and surgical history;

(c) A list of medications and treatments;

(d) Allergies or reactions to drugs or other substances;

(e) Clinical notes to include a description of the patient condition and significant changes such as:

(i) Objective signs of illness, disorders, body malfunction;

(ii) Subjective information from the patient and family;

(iii) General physical condition;

(iv) General emotional condition;

(v) Positive or negative physical and emotional responses to treatments and services;

(vi) General behavior; and

(vii) General appearance.

(f) Clinical summaries or other documents obtained when necessary for promoting continuity of care, especially when a patient receives care elsewhere, such as a hospital, ambulatory surgical center, nursing home, physician or consultant's office or other home health agency.

R432-700-21. Nursing Services.

(1) Nursing services provided through a home health agency shall be under the supervision of a director of nursing services.

(2) Nursing services shall be provided by or under the supervision of a registered nurse and according to the plan of care.

(3) When an agency provides or contracts for services, the service shall be provided according to the plan of care and supervised by designated, qualified personnel.

(4) Nursing staff shall observe, report, and record written clinical notes.

(5) Nursing services should recognize and use opportunities to teach health concepts to the patient and family.

(6) All registered nurses or licensed practical nurses employed by, or on contract with, the agency shall have a valid license from the Utah Department of Commerce, Title 58, Chapter 31.

(7) Licensed nurses shall have the following responsibilities:

(a) Administer prescribed medications and treatments according to law and as permitted within the scope of the individual's license;

(b) Perform nursing care according to the needs of the patient and as indicated in the written plan of care;

(c) Inform the physician and other personnel of changes in the patient's condition and needs;

(d) Write clinical notes in the individual patient record for each visit or contact;

(e) Teach self-care techniques to the patient or family, or both;

(f) Develop plans of care;

(g) Participate in in-service programs.

(8) ~~[Director of Nursing Services:~~

~~—]~~The director of nursing services shall be responsible for and shall be accountable for the following functions:

(a) Designate a registered nurse to act as director of nursing services during his absence;

(b) Assume responsibility for the quality of nursing services provided by the agency;

(c) Develop nursing service policies and procedures that must be reviewed annually and revised as necessary;

(d) Establish work schedules for nursing personnel according to patient needs;

(e) Assist in development of job descriptions for nursing personnel;

(f) Complete performance evaluations for nursing personnel according to agency policy;

(g) Direct in-service programs for all nursing personnel.

(9) ~~Registered Nurses:~~

—]In addition to the general responsibilities, a registered nurse shall have the following responsibilities:

(a) Make the initial nursing evaluation visit;

(b) Re-evaluate nursing needs based on the patient's status and condition;

(c) Initiate the plan of care and make necessary revisions;

(d) Provide services which require specialized nursing skill;

(e) Initiate appropriate preventive and rehabilitative nursing procedures;

(f) ~~Make staff assignments based on specific patient needs, family capabilities, staff training and experience, and degree of supervision needed.]~~ Supervise staff assignments based on specific patient needs, family capabilities, staff training and experience, and degree of supervision needed;

(g) Assist in coordinating all services provided;

(h) Prepare termination of services statements;

(i) Supervise and consult with licensed practical nurses as necessary;

(j) Provide written instructions for ~~[personal care aides and]~~ home health aides to ensure provision of required services written in the plan of care;

(k) Supervise home health aides in the patient's home as necessary, and be readily available for consultation by telephone;

(l) Make supervisory visits with or without the home health aide's presence as follows:

(i) Initial assessment;

(ii) Every two weeks to patients who receive skilled services;

(iii) Every three months to patients who require long-term maintenance services;

(iv) ~~[Every other month but not to exceed six-month intervals to persons who need personal care services;~~

—(v)—]Any time there is a question of change in the patient's condition.

(10) ~~Licensed Practical Nurses:~~

—In addition to the general responsibilities described in R432-700-22, the] The licensed practical nurse shall have the following responsibilities:

(a) Work under the supervision of a registered nurse;

(b) Observe, record, and report to the immediate supervisor the general physical or mental condition of the patient;

(c) Assist the registered nurse in performing specialized procedures;

(d) Assist in development of the plan of care.

[R432-700-22. Non-Licensed Personnel:

—(1) ~~Non-licensed personnel include home health aides, and personal care aides. Services they may provide shall be based on patient need, staff training and experience, and the degree and type of supervision required.~~

—(2) ~~Non-licensed personnel shall be at least of 18 years old and shall have the following qualifications:~~

—(a) ~~Have the ability to read, understand and carry out written and verbal instructions, write simple clinical notes, and record messages;~~

—(b) ~~Have received a certificate of completion for the employment position;~~

—(i) ~~The curriculum or the comparable challenge exam shall be offered under the auspices of the Utah Board of Education.~~

—(ii) ~~If the employee does not have the certificate of completion for the position at the time of employment, completion of the course of study or challenge exam shall occur within six months of the date of hire.~~

—(3) ~~Non-licensed personnel shall have the following job responsibilities:~~

—(a) ~~Work under supervision of a registered nurse to provide either direct or contract services approved in the plan of care;~~

—(b) ~~Receive written instructions from the registered nurse supervisor or licensed therapists;~~

—(c) ~~Provide information to the health team and help identify the patient's strengths and weaknesses in the plan of care;~~

—(d) ~~Write clinical notes in individual patient records for each visit or contact.~~

]

R432-700-2[3]2. Home Health Aides.

The home health aide shall have the following responsibilities:

(1) Provide only those services written in the plan of care and received as written instructions from the registered nurse supervisor. If the service is an extension of therapy, the instructions shall be written by the licensed therapist;

(2) Perform normal household services essential to health care at home;

(3) Make occupied or unoccupied beds;

(4) The home health aide may supervise the patient's self-administration of medication by:

(a) Reminding the patient it is time to take medications;

(b) Opening the bottle cap;

(c) Reading the medication label to patients;

(d) Checking the self-administered dosage against the label of the container;

(e) Reassuring the patient that he is taking the correct dose;

(f) Observing the patient taking his medication.

(5) Perform simple diagnostic activities;

(6) Perform activities of daily living as written in plan of care;

(7) Give nail care as described in the plan of care;

(8) Observe and record food and fluid intake when ordered;

(9) Change dry dressings according to written instructions from the supervisor;

(10) Administer emergency first aid;

(11) Provide escort and transportation to doctor's appointments and elsewhere as part of patient-care services;

(12) Provide social interaction and reassurance to the patient and family in accordance with the plan of care;

(13) Write clinical notes in individual patient records.

(14) Home health aides shall be at least 18 years old.

(15) Home health aides shall have received a certificate of completion for the employment position:

(a) The curriculum or the comparable challenge exam shall be offered under the direction of the Utah Board of Education;

(b) If the employee does not have a certificate of completion for the position at the time of employment, completion of the course of study or challenge exam shall occur within six months of the date of hire.

R432-700-2[4]3. Personal Care Aides.

(1) Personal care aides shall be at least 18 years of age and have the following responsibilities:

([+]a) Receive written instructions from the supervisor;

([2]b) Perform only the tasks and duties [ordered by a registered nurse, avoid providing services which the patient or family can perform independently]outlined in the service agreement;

(c) Have knowledge of agency policy and procedures;

(d) Be trained in first aid;

(e) Be oriented and trained in all aspects of care to be provided to clients;

(f) Be able to demonstrate competency in all areas of training for personal care; and

(g) Maintain a minimum of six hours of in-service per calendar year, prorated for the first year of employment;

(2) Personal Care Aides may assist clients with the following activities:

(a) Self-administration of medications by:

(i) reminding the client to take medications, and

(ii) opening containers for the client;

(b) Housekeeping;

(c) Personal grooming and dressing;

(d) Eating and meal preparation;

(e) Oral hygiene and denture care;

(f) Toileting and toilet hygiene;

(g) Arranging for medical and dental care including transportation to and from the appointment;

(h) taking and recording oral temperatures;

(i) Administering emergency first aid;

(j) Providing or arranging for social interaction;

(k) Providing transportation.

(3) Personal Care Aides shall document observations and services in the individual client record.[

~~— (3) May remind the person to take medication, and may observe the person who is able to self-administer medication;~~

~~— (4) Make unoccupied beds;~~

~~— (5) Perform household services essential to health care at home;~~

~~— (6) Provide minimal assistance with activities of daily living;~~

~~— (7) Give nail care as written in the plan of care;~~

~~— (8) Provide meal service including serving special diets, meal planning, preparation, feeding if necessary, and clean-up;~~

~~— (9) Assist person with ambulation by providing arm support for independent transfers and walking, or assisting the person to go to the bathroom;~~

~~— (10) Assist ambulatory persons by reminding the person to go to the toilet, assisting the person to use a urinal or commode, assisting the person to go to the toilet;~~

~~— (11) Take proper measures for patient safety and comfort;~~

~~— (12) Administer emergency first aid;~~

~~— (13) Provide escort and transportation, to assist the patient with independent living skills;~~

~~— (14) Provide social interaction and reassure the patient and family;~~

~~— (15) Document observations and treatment in the clinical notes in individual records.]~~

R432-700-2[5]4. Plan of Care.

(1) A plan of care shall be established and documented in the patient's record to describe any direct or contract services, care, or treatment provided by the home health agency.

(2) A plan of care shall be developed and signed by a licensed health care professional.

(3) The plan of care shall be developed with consultation, as needed, from other agency staff or contract personnel.

(4) Modifications or additions to the initial plan of care shall be made as necessary.

(5) Each plan of care shall be reviewed and approved by the licensed health care professional as the patient's condition warrants, at intervals not to exceed 63 days.

(6) For patients receiving skilled services, the written plan of care shall be approved by a physician at intervals not to exceed 63 days.

(7) The person who is assigned to supervise and coordinate care for a patient shall have the primary responsibility to notify the attending physician and other agency staff of any significant changes in the patient's status.

(8) All care plans and notifications shall be made part of the patient's record.

(9) The plan of care, usually developed in accordance with the referring physician's orders, shall include:

(a) Name of the patient;

(b) Diagnoses (required for patients receiving skilled services);

(c) Treatment goals stated in measurable terms;

(d) Services to be provided, at what intervals, and by whom;

(e) Needed medical equipment and supplies;

(f) Medications to be administered by designated, licensed agency personnel;

(g) Supervision of self-administered medication;

(h) Diet or nutritional requirements;

(i) Necessary safety measures;

(j) Instructions, if any, to patient and/or family;

(k) Date plan was initiated and dates of subsequent review.

R432-700-2[6]5. Medication and Treatment.

(1) Medications or skilled treatments shall be administered only by licensed personnel to comply with signed orders from a person lawfully authorized to give the order. This order may be given over the telephone but shall be subsequently signed by the person giving the order within 31 days.

(2) All telephone orders shall be received and verified only by licensed personnel lawfully authorized to accept the order. Telephone orders shall be recorded in the patient's record.

(3) If medications are administered by agency personnel, the orders and subsequent changes in orders, shall be signed by the physician and included in the patient's record.

(4) Orders for therapy services shall include the procedures to be used, the frequency of therapy, and the duration of therapy.

(5) Orders for skilled services shall be reviewed or renewed by the attending physician at intervals not to exceed 63 days. Physician's signature and date shall be evidence of this review or renewal.

(6) Physician orders may be transmitted by facsimile machine. The agency must be able to obtain the original signature, upon request, if verification of the signature is requested.

R432-700-2[7]6. Therapy Services.

(1) Physical, occupational, speech, and nutrition therapy services offered by the agency, as either direct or contract services, shall be provided by, or under the supervision of, a licensed or certified therapist in accordance with the plan of care under Title 58.

(2) The qualified therapist shall have the following general responsibilities:

(a) Provide treatment as ordered and approved by the attending physician;

(b) Evaluate the home environment and make recommendations;

(c) Develop the plan of care for therapy;

(d) Observe and report findings about the patient's condition to the attending physician and other agency staff, and document information in the patient's record;

(e) Advise, consult, and instruct when necessary, other agency personnel and family about the patient's therapy program;

(f) Provide written instructions for the home health aide to promote extension of therapy services;

(g) Supervise other agency personnel when appropriate;

(h) Participate in in-service programs.

(3) In addition to the general responsibilities, a physical, speech or occupational therapist may perform the following:

(a) Provide written instructions for personal care aides and home health aides to ensure provision of required services written in the plan of care;

(b) Supervise aides in the patient's home as necessary, and be readily available for consultation by phone;

(c) Make supervisory visits with or without the aide's presence, as required.

R432-700-2[8]7. Medical Supplies and Equipment.

The agency shall develop and follow written policies and procedures which describe:

(1) Agency provision of or use of durable medical equipment, and disposable and semi-disposable medical supplies;

(2) Categories of medical supplies and equipment available through the home health agency;

(3) Charges and reimbursement for medical supplies and equipment;

(4) Processes for billing medical supplies and equipment to the patient, insurance carrier, or other payment source.

R432-700-2[9]8. Emergency and After-Hours Care.

Emergency and after-hours care shall be described in written policies and procedures and made available to the patient and family.

R432-700-[30]29. Social Services.

(1) When medical social services are provided, they shall be provided by a certified social worker (CSW) or by a social service worker (SSW) supervised by a certified social worker, in accordance with the plan of care.

(2) The social worker shall be responsible to:

(a) Assist team members in understanding significant social and emotional factors related to health problems;

(b) Participate in the development of the plan of care;

(c) Prepare clinical notes according to rules and agency policy;

(d) Utilize community resources;

(e) Participate in in-service programs.

R432-700-30. Home Health - Personal Care Service Agency.

(1) A Home Health - Personal Care Service Agency provides personal care services exclusively.

(2) The agency shall develop written policies and procedures that address the delivery of personal care services.

(3) The licensee shall appoint by name and in writing a qualified administrator who is responsible for the agency's overall functions.

(a) The administrator shall have at least one year or managerial or supervisory experience.

(b) The administrator shall designate in writing a qualified person who shall act in his absence and the designee shall have sufficient power, authority, and freedom to act in the best interests of the client safety and well being;

(c) The administrator or designee shall be available during the agency's hours of operation.

(4) Each employee shall be licensed, certified or registered as required in R432-700-10.

(5) Each employee shall complete a health screening as described in R432-700-11.

(6) The agency may accept clients for service if the client's needs do not exceed the level of personal care to be provided by the Home Health- Personal Care Service Agency.

(7) A functional assessment shall be completed for each client, prior to admission to the agency and annually thereafter, or at earlier intervals when a significant change in condition occurs.

(a) The functional assessment shall be performed by a licensed health care professional. The assessment shall include a statement from the licensed health care professional that the personal care services can be provided safely to the client.

(b) If the functional assessment reveals that the client's needs exceed the personal care services, the health care professional shall make a referral to a home health agency or other alternative service.

(8) The agency shall obtain a signed and dated service agreement from the client and his responsible party, if available.

The service agreement shall include the following:

(a) A description of services to be performed by the Personal Care Aide;

(b) Charges for the services;

(c) A statement that a 30-day notice shall be given prior to a change in charges.

(9) The Home Health-Personal Care Service Agency shall maintain and secure client records for each client receiving services.

(a) Client records shall be retained by the agency for three years following the last date of service:

(b) The client record shall contain the following:

(i) Client's name, date of birth and address;

(ii) Client service agreement;

(iii) Name, address, and telephone number of the individual to be notified in case of accident, emergency or death;

(iv) Documentation of date and reason for the termination of services, which may include the following:

(A) Payment for services cannot be met;

(B) The safety of the client or provider cannot be assured;

(C) The needs of the client exceed the level of care provided by the agency;

(D) The client requests termination of services; or

(E) The agency discontinues services.

(v) Documentation of the Personal Care Aide visit.

(10) Personal Care Aides shall meet the qualification of R432-700-23 and be supervised by an individual with the following qualifications:

(a) A Certified Home Health Aide with at least two years experience in personal or home care; or

(b) A licensed health care professional.

(c) A Certified Nurse Aide does not meet this requirement.

(11) The supervisor shall evaluate and document the quality of the personal care services provided in the client's place of residence every six months.

**KEY: health facilities
[1995]1998**

26-21-5
26-21-2.1



Health, Health Systems Improvement,
Health Facility Licensure
R432-750
Hospice Rule

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 20562
FILED: 12/23/97, 10:41
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: During the five-year review of the rule a subcommittee appointed by the Health Facility Committee has recommended changes to the rule. An informal rule hearing was held at the Health Facility Committee meeting on August 22, 1997 and the changes were approved by the affected parties and the committee.

SUMMARY: The rule changes include changing definitions used throughout the rule; adding the requirements for

employee health evaluations; clarifying the acceptance and termination criteria for patients; specifying the records required to be maintained by the agency; describing the specific hospice services to be delivered; defining the medical social work services to be consistent with federal regulations; clarifying the professional counseling services to be provided consistent with the federal regulations; and making nonsubstantive changes to format.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Title 26, Chapter 21

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: May increase the license fees collected at \$500 per agency for new providers.

❖LOCAL GOVERNMENTS: None.

❖OTHER PERSONS: New providers must pay a \$500 license fee to be deposited in the General Fund.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Hospital and Nursing Homes were permitted to advertise for hospice services without the need to obtain a license in the past, with this rule change all agencies who elect to provide "hospice services" shall be required to obtain a license and pay \$500 annual license fee. It is not known how many agencies will be affected, most hospitals and nursing facilities contract with a licensed hospice agency to provide care or they provide "terminal care services."

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

Health
Health Systems Improvement,
Health Facility Licensure
Cannon Health Building
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 by Internet E-mail at dwynkoop@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 02/17/97.

THIS FILING MAY BECOME EFFECTIVE ON: 02/18/97

AUTHORIZED BY: Rod Betit, Executive Director

R432. Health, Health Systems Improvement, Health Facility Licensure.

R432-750. Hospice Rule.

R432-750-2. Purpose.

A hospice program provides support and care for persons with a limited life expectancy so that they might live as fully and comfortably as possible.

(1) A hospice program recognizes dying as a normal process ~~[whether or not]~~ resulting from disease or injury.

(2) A hospice service neither hastens nor postpones death.

(3) A hospice program exists in the hope and belief that, through appropriate care and the promotion of a caring community sensitive to their needs, patients and families may be free to attain a degree of mental and spiritual preparation for death that is satisfactory to them.

(4) The hospice program is a health care agency or facility which offers palliative and supportive services providing physical, ~~[psychological, —social]~~ psychosocial, ~~[and —]~~ spiritual and bereavement care for dying persons and their families.

(5) Services are provided by an interdisciplinary team of professionals and volunteers.

(6) Hospice services are available in both the home and an inpatient setting.

R432-750-3. Time for Compliance.

All hospice agencies shall be licensed and in full compliance with these rules by ~~[March 1, 1995]~~ March 1, 1998.

R432-750-4. Definitions.

(1) See common definitions rule R432-1-3.

(2) Special definitions:

(a) "Appropriate" means especially suitable or compatible; fitting.

(b) "Bereavement" means the period of time, usually occurring within the first year after the loss, during which a person or group of people experiences, responds emotionally to, and adjusts to the loss by death of another person.

(c) "Care" means to perceive and respond to the needs of another.

~~[(d)]~~ "Clergy" means an individual who has received a degree from an accredited theological school and has fulfilled appropriate denominational seminary requirements; or an individual who, by ordination and authorization from the individual's denomination, has been approved to function in a pastoral capacity. ~~The clergy member must have experience in pastoral duties and be capable of providing for hospice patients' spiritual needs.]~~

~~[(d)]~~ ~~[(e)]~~ "Continuum" means the uninterrupted provision of services appropriate to the needs of the patient and family; these services are planned, coordinated, and made available by the hospice program.

~~[(e)]~~ ~~[(f)]~~ "Family" means a group of individuals living under one roof and under one head; a group of persons of common ancestry; a group of individuals having a personal commitment one to the another.

~~[(f)]~~ ~~[(g)]~~ "Grief" means the response to loss that often occurs in stages of varying length. Stages are differentiated by changes in feeling, thought, and behavior.

~~[(g)]~~ ~~[(h)]~~ "Hospice" means a public agency or private organization or subdivision of either of these that is primarily engaged in providing care to terminally ill individuals and their families ~~[program of care for the terminally ill and their families which occurs in a home or in a health facility and which provides medical, palliative, psychological, spiritual, and supportive care and treatment].~~

~~[(h)]~~ ~~[(i)]~~ "Hospice ~~[Director]~~ Administrator" means a person who is appointed in writing by the governing body of the hospice

organization and who shall be accountable and responsible for implementing the policies and programs approved by the governing body.

~~[(i)]~~ "Hospice Care" means the care given to the terminally ill and their families which occurs in a home or in a health facility and which includes medical, palliative, psychosocial, spiritual, bereavement and supportive care and treatment.

~~[(j)]~~ "Interdisciplinary Team" means a team composed of physician (attending and medical director), nurse, social worker, pastoral care provider, volunteer, patient and family, and any other professionals as indicated.

~~[(k)]~~ ~~[(j)]~~ "Palliative Treatment" means treatment and comfort measures directed toward relief of symptoms and pain management rather than treatment to cure. ~~[controlling pain and focusing on the special needs of the patient and family as they experience the stress of the dying process, rather than treatment aimed at intervention for the purpose of cure or prolongation of life.]~~

~~[(l)]~~ "Palliative Care" means the care given to the terminally ill, focusing on relief of distressing symptoms

~~[(m)]~~ "Pastoral Care Provider" means an individual who has received a degree from an accredited theological school, or an individual who by ordination or by ecclesiastical endorsement from the individual's denomination has been approved to function in a pastoral capacity. A Pastoral Care Provider may also be an individual who has received certification in Clinical Pastoral Education which meets the requirements for the College of Chaplains. The individual shall have experience in pastoral duties and be capable of providing for hospice patients' and families' spiritual needs.

~~[(n)]~~ ~~[(k)]~~ "Primary Care Giver" means the family member or other person designated by the family who assumes the overall responsibility for the care of the patient in the home.

~~[(o)]~~ ~~[(l)]~~ "Special Services" means those services not represented on the interdisciplinary team that may be valuable for specific patient and family needs, including but not limited to nurses, social workers, homemakers, home health aides, recreation therapists, occupational therapists, respiratory therapists, pharmacists, dieticians, lawyers, certified public accountants, funeral directors, musical therapists, art therapists, speech therapists, physical therapists, and counselors.

~~[(p)]~~ "Spiritual" means patient's and families' beliefs and practices as they relate to the meaning of their life, death, and their connectedness to humanity which may or may not be of a religious nature.

~~[(q)]~~ ~~[(m)]~~ "Terminal Illness" means a state of disease characterized by a progressive deterioration with impairment of function which without aggressive intervention, [—and] survival is anticipated to be six months or less ~~[limited in time from several days to a few months].~~

~~[(r)]~~ "Terminal Care" means the care provided to an individual during the final stage of their illness.

~~[(s)]~~ ~~[(n)]~~ "Unit of Care" means the individual to receive hospice services; since the term "unit" means a single, whole thing, hospice defines the patient and family to be the single whole, regardless of the degree of harmony or integration of the parts within that whole.

~~[(t)]~~ ~~[(o)]~~ "Volunteer" means an individual, professional or nonprofessional, who has received appropriate orientation and training consistent with acceptable standards of hospice philosophy

and practice; one who contributes time and talent to the hospice program without economic remuneration.

R432-750-5. Licensure.

~~[(1) Categories of Hospice Programs and Services~~

~~—](1) Hospice agencies shall include institutionally based hospice programs, freestanding public and proprietary hospice agencies, and any subdivision of an organization, public agency, hospital, or nursing home licensed to provide hospice services.~~

~~(2) Refer to R432-2 for Licensure Requirements. [; see R432-2;]~~

R432-750-6. Eligibility.

(1) These provisions apply to a program advertising or presenting to be a hospice or hospice program of care, as defined in Section 26-21-(2) [4], which provides, directly or by contract Hospice services to the terminally ill. ~~[; one or more of the following services to the terminally ill:~~

~~— (a) medical care;~~

~~— (b) skilled nursing care as defined in R432-150;~~

~~— (c) home health aide care as defined in R432-700-23;~~

~~— (d) personal care as defined in R432-700-24.~~

~~(2) A facility or agency licensed under these rules must provide all services defined in R432-750:~~

~~— (3) These provisions do not apply to:~~

~~— (a) A single individual providing professional services under the authority granted by his professional license, certification or registration;~~

~~— (b) an organized program or volunteer community group providing emotional, social, respite, grieving, bereavement, or other support services, other than health care services, to the terminally ill;~~

~~— (c) Health care facilities, authorized by another license category to offer the~~

~~— services defined herein, are not required to obtain a Hospice license, but shall comply with the following requirements:~~

~~— (i) if, during the care planning process for a terminally ill patient, bereavement services, clergy services, hospice counseling services, or volunteer services are determined to be appropriate under a hospice program of care, the facility shall provide the identified services in accordance with the applicable requirements of R432-750-14.~~

~~— (ii) facility staff responsible for delivering the identified service shall be properly oriented and trained in the hospice concept and philosophy of care and the proper performance of assigned duties;]~~

R432-750-7. Governing Body and Administration.

~~— (1) Organization:]~~

~~(1)(a) The hospice agency shall be organized under a governing body that assumes full legal responsibility for the conduct of the agency.~~

~~(2)(b) The administrative structure of the agency must be shown by an organization chart.~~

~~— (2) Responsibilities:]~~

(3) The governing body shall assume responsibility to:

(a) comply with all federal regulations, state rules, and local laws;

(b) adopt policies and procedures which describe functions or services of the hospice and protect patient rights;

(c) adopt a statement that there will be no discrimination because of race, color, sex, religion, ancestry, or national origin (Sections 13-7-1 through 4);

(d) develop and implement bylaws which shall include at least:

(i) a statement of purpose;

(ii) a statement of qualifications for membership and methods to select members of the governing board;

(iii) a provision for the establishment, selection, and term of office for committee members and officers;

(iv) a description of functions and duties of the governing body officers and committees;

(v) a statement of the authority and responsibility delegated to the hospice ~~[director]~~ administrator;

(vi) a policy statement relating to conflict of interest of members of the governing body or employees who may influence agency decisions;

(e) meet at least annually, or more frequently as stated in the bylaws;

(f) appoint by name and in writing a qualified hospice ~~[director]~~ administrator who is responsible for the agency's overall functions. The written designation must be available for review in the agency;

(g) notify the licensing agency in writing 30 days prior to any proposed ~~[no later than five days after a]~~ change in the hospice ~~administrator~~ administrator ~~[director]~~, identifying the name of the new hospice ~~[director]~~ administrator and the effective date of the change;

(h) review the written annual evaluation report from the Hospice ~~[Director]~~ Administrator ~~[(see R432-750-13(1))]~~ and make recommendations as necessary. Documentation of this review shall be available to the Department;

(i) make provision for resources and equipment to provide a safe working environment for personnel;

(j) establish a system of financial management and accountability.

~~[(3) Hospice Director Responsibilities:]~~

~~(4)(a) The hospice [director]administrator [designated by the governing body] shall be responsible for the overall management of the agency.~~

~~(a)(b) The hospice [director]administrator shall designate in writing the name and title of a qualified person who shall act as hospice [director]administrator in the temporary absence of the hospice [director]administrator. This designee shall have sufficient power, authority, and freedom to act in the best interests of patient safety and well-being.~~

~~(b)(c) The hospice [director]administrator or designee shall be available during the agency's hours of operation.~~

~~(c)(d) The hospice [director]administrator shall also assume [has the] responsibility to:~~

(i) complete, submit, and file all records and reports required by the Department;

(ii) review agency policies and procedures at least annually and recommend necessary changes to the governing body. The date of review shall be documented;

(iii) implement agency policies and procedures;

- (iv) organize and coordinate functions of the agency by delegating duties and establishing a formal means of staff accountability;
- (v) appoint by name and in writing a physician or registered nurse to provide general supervision, coordination, and direction for professional services of the agency;
- (vi) appoint by name and in writing a registered nurse to be the director of nursing services;
- (vii) appoint by name and in writing the members and their terms of membership in the interdisciplinary quality assurance committee;
- (viii) appoint other committees as deemed necessary, describe committee functions and duties, and make provision for selection, term of office, and responsibilities of committee members;
- (ix) designate by name and in writing a person responsible for maintaining a clinical record system on all patients;
- (x) maintain current written designations or letters of appointment in the agency;
- (xi) employ or contract with competent personnel whose qualifications are commensurate with job responsibilities and authority, and who have the appropriate license or certificate of completion;
- (xii) develop job descriptions that delineate functional responsibilities and authority;
- (xiii) develop a staff communication system that coordinates interdisciplinary team services, coordinates implementation of plans of treatment, utilizes services or resources to meet patient needs, and promotes an orderly flow of information within the organization;
- (xiv) provide staff orientation as well as in-service training and continuing education (staff development) in applicable policies, rules, regulations, and resource materials;
- (xv) secure contracts for services not directly provided by the hospice;
- (xvi) implement a program of budgeting and accounting;
- (xvii) establish, when appropriate, a billing system which itemizes services provided and charges submitted to the payment source;
- (xviii) conduct an annual evaluation of the agency's overall function and submit a written report of the findings to the governing body.

R432-750-8. Personnel.

The hospice ~~director~~ administrator shall maintain qualified personnel who are competent to perform their respective duties, services, and functions.

~~[(1) Policies.]~~

- (1) The agency shall develop and implement written policies and procedures that address~~[-at least]~~ the following:
 - (a) job descriptions, qualifications, and validation of licensure or certificates of completion as appropriate for the position held;
 - (b) orientation for direct and contract employees, and volunteers;
 - (c) criteria for, and frequency of, performance evaluations;
 - (d) work schedules; method and period of payment; fringe benefits such as sick leave, vacation, and insurance;
 - (e) frequency and documentation of in-service training;
 - (f) contents of personnel files of employed and volunteer staff.

(2) Each employee shall be registered, certified or licensed as required by the Utah Department of Commerce.

(a) Each employee shall provide a copy of the license, certification or registration within 45 days of hire. A copy shall be maintained for Department review.

(b) Failure to ensure that personnel are licensed, certified or registered may result in sanctions to the agency license.

~~[(3) Health Surveillance.]~~

~~(3)[(a)]~~ The agency shall establish and implement a policy and procedure for health screening of all agency personnel to identify any situation which would prevent the employee or volunteer from performing assigned duties in a satisfactory manner.

~~[(b) This screening shall be performed within the first two weeks of employment and as necessary thereafter.]~~

(a) An employee placement health evaluation to include at least a health inventory shall be completed when an employee is hired.~~[(c)]~~~~[See R432-150-26(6).]~~

(b) The health inventory shall obtain at least the employee's history of the following:

(i) conditions that predispose the employee to acquiring or transmitting infectious diseases;

(ii) Conditions which may prevent the employee from performing certain assigned duties satisfactorily;

(c) Employee health screening and immunizations components of personnel health programs shall be developed in accordance with R386-704 Communicable Disease Rules.

(d) Employee skin testing by the Mantoux Method and follow up for tuberculosis shall be done in accordance with R386-702-5, Special Measures for control of Tuberculosis.

(i) Skin testing must be conducted on each employee annually and after suspect exposure to a resident with active tuberculosis.

(ii) Skin testing shall be exempted for all employees with known positive reaction to skin tests.

(iii) All infections and communicable diseases reportable by law shall be reported by the facility to the local health department in accordance with R386-702-2.

~~[(4) Orientation, In-Service Training, and Continuing Education]~~

~~(4)[(a)]~~ There shall be documentation that all employees, volunteers, and contract personnel are oriented to the agency and the job for which they are hired.

~~(a)[(b)]~~ Orientation shall include~~[-but is not limited to]:~~

- (i) the hospice concept and philosophy of care;
- (ii) the functions of agency employees and the relationships between various positions or services;
- (iii) job descriptions;
- (iv) duties for which persons are trained, hold certificates, or are licensed;
- (v) ethics, confidentiality, and patients' rights;
- (vi) information about other community agencies including emergency medical services;
- (vii) opportunities for continuing education appropriate to the patient population served;
- (viii) policies related to volunteer documentation, charting, hours and emergencies;
- (ix) reporting requirements when observing or suspecting abuse, neglect and exploitation pursuant to 62A-3-201 to 312.

(b)(~~Ⓒ~~) In-service training and continuing education shall be provided and documented on a regular basis, based on recognized need.

(i) Members of the team shall have access to in-service training and continuing education appropriate to their responsibilities and to the maintenance of skills necessary for the care of the patient and family.

(ii) The programs should include the introduction and review of effective physical and psychosocial assessment and symptom management.

(c)(~~Ⓓ~~) All personnel will be trained in the appropriate Centers for Disease Control (CDC) infectious disease protocols.

[~~(5) Coordination of Activities:~~]

(5) The interdisciplinary team is coordinated by an individual selected by the administrator and serving [a licensed health care provider] under the direction of the hospice [director] administrator. This individual [The coordinator] shall:

(a) annually review [reviews] and make [makes] recommendations where appropriate of agency policies covering admissions and discharge, medical supervision, care plans, clinical records and personnel qualifications;

(b) assure [assures] that on-going assessments of the patient and family needs and implementation of the interdisciplinary team care plans are accomplished;

(c) schedule [is responsible for scheduling] adequate quality and quantity of all levels of hospice care;

(d) assure [assures] that the team meets regularly to develop and maintain appropriate plans of care and to determine which staff will be assigned to each case.

[~~(6) Staff Support:~~]

(6) ~~[Interdisciplinary team members must have access to necessary emotional support.]~~ The hospice program [will] shall provide access to individual and/or group support for interdisciplinary team members to assist with stress and/or grief management related to providing hospice care.

R432-750-9. Contracts [~~and Agreements~~].

[~~(1) General Requirements:~~]

(1)(~~Ⓐ~~) The hospice [director] administrator shall secure a legally binding written contract for the provision of arranged patient services ~~[or agreement from each provider, or independent contractor, who provides patient services through the agency].~~

(2)(~~Ⓑ~~) The contract or agreement shall be available for review by the Department.

[~~(2) Contract Provisions:~~]

(3) The contract shall include:

(a) the effective and expiration dates of the contract;

(b) a description of goods or services provided by the contractor to the agency;

(c) provision for financial terms of the contract, including methods to determine charges, reimbursement, and the responsibility of contract personnel in the billing procedure;

(d) the method of supervision of contract personnel and the manner in which services will be controlled, coordinated, and evaluated by the agency;

(e) a statement that contract personnel shall perform according to agency policies and procedures, and shall conform to standards required by laws, rules, or regulations;

(f) a description of the contractor's role in the development of plans of treatment, and how to keep agency staff informed about the patient's needs or condition;

(g) a provision to terminate the contract;

(h) a photocopy of the professional license of contract personnel, if applicable.

R432-750-10. Acceptance and Termination.

(1) The agency shall develop written acceptance and termination policies and shall make these policies available to the public upon request.

(2) The agency [hospice] shall make available to the public, upon request, information regarding the various services provided by the hospice and the cost of the services.

[~~(3) Acceptance Criteria:~~]

(3) A patient will be accepted for treatment if there is reasonable expectation that the patient's needs can be met by the agency regardless of ability to pay for the services. ~~[The following items shall be considered in the decision to provide hospice services:]~~ The agency shall base the acceptance determination on the following:

(a) The patient, family and attending physician agree that hospice ~~[or palliative]~~ care is appropriate and request it.

(i) ~~[There shall be a]~~ A signed, completed informed consent document from the patient and a family member, if available, or other primary care person as appropriate, requesting hospice services.

(ii) If no primary care person is available, the agency shall complete an evaluation to determine the patient's eligibility for service. ~~[an evaluation by the agency regarding patient eligibility for hospice care must be accomplished:]~~

(b) A physician's order in writing for hospice care. ~~[Hospice care shall be ordered by a physician:]~~

(c) The agency's ability to meet the patient's needs to include personnel, [arrangements for] equipment, and resources ~~[to provide services required by the patient shall be available].~~

[~~(d) An evaluation by the agency concerning the attitudes of the patient and family toward receiving hospice care at home.~~]

(d)(~~Ⓒ~~) The hospice agency ~~[An evaluation and documentation by the agency [makes a determination]]~~ that the patient's place of residence is adaptable and safe for the provision of hospice services.

[~~(4) Termination Criteria:~~]

(4)(~~Ⓐ~~) The agency may terminate services to a patient if ~~[under]~~ any of the following circumstances occur:

(a) The patient is determined to no longer be terminal. ~~[(i) A physician signs a discharge statement for termination of services except when the patient dies].~~

~~[(ii) Treatment objectives are attained or the patient's status changes, which makes treatment objectives unattainable, and new treatment objectives are not an alternative:]~~

(b)(~~Ⓐ~~) The family situation changes which [and] affects the delivery of services.

(c)(~~Ⓐ~~) The patient or family is uncooperative in efforts to attain treatment objectives.

(d)(~~Ⓐ~~) The patient moves from the geographic area served by the agency.

(e)(~~Ⓐ~~) The physician fails to renew orders or the patient changes his physician and the agency cannot obtain orders for continuation of services from the new physician.

~~(f)(vii)~~ The agency can no longer provide quality care in the existing environment due to safety of staff, patient, or family.

~~(g)(viii)~~ The patient or family requests that agency services be discontinued.

~~(5)(b)~~ Upon transfer from a home program to an in-patient unit, or the reverse, the plan of care shall be forwarded to the receiving program.

R432-750-11. Patients' Rights.

~~[(1) Policies and Procedures:]~~

~~(1)(a)~~ The agency shall establish and make available to the patient written patients' rights. Written patients' rights shall be ~~[established and]~~ made available to the ~~[patient]~~, responsible party, next of kin, sponsoring agency, representative payee, and the public upon request.

~~(a)(b)~~ Agency policy may determine how patients' rights information is distributed.

~~[(2) Statement of Patients' Rights:]~~

~~(2)~~ The agency shall insure that each patient receiving care has the following rights:

(a) to receive information on patient's rights and responsibilities;

(b) to receive information on services for which the patient or a third party payor may be responsible~~[-for]~~ and to receive information on all changes in charges;

(c) to be informed of personal health conditions, unless medically contraindicated and documented in the clinical record, and to be afforded the opportunity to participate in the planning of the hospice services, including referral to health care institutions or other agencies and to refuse to participate in experimental research;

(d) to refuse treatment to the extent permitted by law and to be informed of the medical consequences of such if refused;

(e) to be assured confidential treatment of personal and medical records and to approve or refuse the release of records to any individual outside the agency except in the case of transfer to another agency or health facility, or as required by law or third-party payment contract;

(f) to be treated with consideration, respect, and full recognition of dignity and individuality, including privacy in treatment and in care for personal needs;

(g) to receive information~~[and be taught]~~ about the hospice services required in order to assist in the course of treatment;

(h) to be assured the personnel who provide care are qualified through education and experience to carry out the services for which they are responsible;

(i) to receive proper identification by the individual providing hospice services;

(j) to permit the patient the right to discontinue hospice care at any time he or she chooses.

(k) To receive information about advance directives.

R432-750-12. Patient Records.

~~[(1) General Provisions:]~~

~~(1)~~ The Administrator~~[Director]~~ shall develop and implement record keeping policies and procedures that address the use of patient records by authorized staff, content, confidentiality, retention, and storage.

(a) Records shall be organized in a uniform medical record format.

(b) The agency shall maintain an identification system to facilitate location of each patient's current or closed record.

(c) An accurate, up-to-date record shall be maintained for every patient receiving service through the hospice.

(d) Each hospice health care provider who has patient contact or provides a service shall insure that a clinical note entry of that contact or service is made in the patient's record.

(e) All entries shall be dated and authenticated with the signature and title of the person making the entry.

(f) Services provided by the agency and outcomes of these services must be documented in the individual patient record.

~~[(2) Physician Orders:]~~

~~(2)~~ Physician's orders shall be incorporated into the plan of care~~[treatment]~~. Orders shall be renewed at least every 90 days~~[three month intervals]~~. The orders shall include the physician signature and date.~~[- as evidenced by the date and physician's signature].~~

(a) Orders faxed from the physician shall be accepted as long as the original order is available upon request.

~~[(3) Content of Records:]~~

~~(3)(a)~~ Each patient's record shall contain at least the following information:

~~(a)(i)~~ demographic information~~[identification data]~~ including patient's name, address, age, date of birth, name and address of nearest relative or responsible person, name and telephone number of physician with primary responsibility for patient care, and if applicable, the name and telephone number of the person or family member who, in addition to agency staff, provides care in the place of residence;

~~(b)(ii)~~ diagnosis;

~~(iii)~~ a written plan of treatment;

~~(iv)~~ a patient assessment which includes strengths and problems of the patient and family. The assessment shall be dated and signed by the person who provides the service and include:

~~(A)~~ a written patient and family assessment;

~~(B)~~ a description of the patient's functional limitations and activities permitted;

~~(C)~~ a physical assessment noting chronic or acute pain and other physical symptoms and their management;

~~(D)~~ a psychosocial assessment of the patient and family, noting their understanding of the illness and prognosis;

~~(c)(E)~~ pertinent medical and surgical history if available;

~~(d)(F)~~ a written and signed informed consent ~~[for the patient and family member or other primary care person, as appropriate,]~~ to receive hospice services;

~~(e)(G)~~ orders by the attending physician for hospice services;

~~(f)(H)~~ medications and treatments as applicable;

(g) a patient assessment which includes strengths and problems of the patient and family. The assessment shall be dated and signed by the person who provides the service and include:

(i) a description of the patient's functional limitations;

(ii) a physical assessment noting chronic or acute pain and other physical symptoms and their management;

(iii) a psychosocial assessment of the patient and family;

(iv) a spiritual assessment;

(v)(I) a written summary report of hospice services provided, which shall be sent to the patient's attending~~[primary]~~ physician at

least every 90 days and shall become part of the patient's and family record as applicable;

(h) a written plan of care;

~~(4)(b)~~ The person who is assigned to supervise ~~or~~and coordinate care for a ~~particular~~ patient must complete a discharge summary ~~upon discharge from the hospice program or~~ when services to the patient are terminated. ~~[As a minimum]~~The summary shall include:

~~(i) a summary of the care or services provided;~~

~~(a)(ii)~~ the reason for discharge;

~~(iii) the status of the patient at the time of discharge;~~

~~(b)(iv)~~ the name of the facility or agency if the patient has been referred or transferred.

~~(4) Confidentiality and Release of Information]~~

(5) Clinical record information shall be safeguarded against loss, destruction, and unauthorized use.

(a) Written procedures shall govern the use and removal of records and conditions for release of patient information.

(b) A written consent is required for the release of patient/client information and photographing of recorded information.

(c) Policies and procedures shall be implemented to safeguard patient records against loss, destruction and unauthorized use.

(d) When a patient is transferred to another facility or agency, a copy of the record or abstract shall be sent to that service agency.

~~(5) Retention and Storage:]~~

(6)(a) The agency shall provide an accessible area for [Provision shall be made for] filing and safe storage [and easy accessibility] of medical records.

(a)(b) Patient records shall be retained for at least seven years after the last date of patient care.

(b)(c) ~~[All patient records shall be retained within the agency]~~ Upon change of ownership, all patient records shall be transferred to new owners.

R432-750-13. Quality Assurance.

(1) The governing body shall evaluate the quality, appropriateness, and scope of services provided by the agency [rendered shall be reviewed and evaluated] at least annually [by the governing body] to determine if the agency has met the agency objectives [overall effectiveness in meeting agency objectives].

(2) The hospice ~~[director]~~administrator shall conduct an annual evaluation of the agency's overall program and submit a written report of the findings to the governing body.

(3) An interdisciplinary quality assurance committee shall evaluate patient services ~~on~~ at least ~~a~~ quarterly ~~[basis]~~ and maintain a written report of findings. Recommendations from each meeting shall be submitted to the hospice ~~[director]~~administrator and shall be maintained [available] in the agency for review by the department.

(a) The administrator shall appoint the [Each] members of the quality assurance committee ~~shall be appointed by the hospice director~~ for a given term of membership ~~[(see R432-750-7(3)(d)(vii)).~~

(b) The quality assurance committee shall include [have] a minimum of three individuals [members] who represent [at least] three different [licensed] health care services [professions].

R432-750-14. Hospice Services.

~~[(1) Unit of Care:]~~

(1) In a hospice the unit of care includes the patient and the patient's family. The patient and family (or other primary care person) participate in the development and implementation of the interdisciplinary care plan according to their ability.

~~[(2) Continuity of Care:]~~

(2) Hospice care includes responding to the scheduled and unscheduled needs of the patient and family 24 hours per day [whenever they arise]. Written policies and procedures shall include:

(a) a procedure for accepting referrals in accordance with the provisions of R432-750-10;

(b) a procedure for completing an initial assessment and developing [development of] the interdisciplinary care plan;

(c) providing [provision] for and documenting [documentation] that the interdisciplinary team meets regularly to evaluate care and includes inpatient and in-home care staff;

(d) provision for the care plan to be available to team members for in-home and inpatient services;

(e) appropriate transfer of care from hospice in-home care to hospice inpatient care and vice-versa where available;

(f) provision for a clearly defined integrated administrative structure between in-home care and inpatient services;

(g) coordination of care plan between in-home hospice and inpatient hospice care.

~~[(3) Interdisciplinary Team Services:]~~

(3)(a) Hospice care shall be [is] provided by the [an] interdisciplinary team ~~[which includes at least the following members: patient and patient's family and/or primary care giver where possible, physician, nurse, social worker, volunteer, and clergy].~~

(a)(b) Ancillary staff may be included in [are added to] the team when appropriate.

(b)(c) The team shall meet at least twice a month [meets regularly] to develop and maintain an appropriate plan of care.

~~[(4) Interdisciplinary Care Plan:]~~

(4) A care plan shall be established by the interdisciplinary team, approved and signed by the attending physician, and documented [incorporated] in the patient's record [for hospice interdisciplinary services].

~~[(b) A care plan for hospice service shall be approved and signed by the attending physician:]~~

(a)(c) The care plan [developed by the interdisciplinary team] shall include the following [cover pertinent information, including]:

(i) name of patient;

(ii) all pertinent diagnoses;

(iii) [short and long-term] objectives, interventions, and goals of treatment, based upon needs identified in a comprehensive patient assessment [expressed in objective, measurable terms];

~~[(iv) pain and symptom management;~~

~~[(v) functional limitations of the patient;~~

~~[(vi) psychosocial status of patient and family;~~

~~[(vii) activities permitted;~~

~~[(viii) nutritional requirements;~~

~~[(ix) medical supplies and equipment;~~

~~[(x) any safety measures to protect patient against injury;~~

~~(xi) instructions to patient and family;~~
~~(xii) discharge or referral plan;~~
~~(xiii) written plan for bereavement follow-up;~~
~~(iv)(xiv)~~ services to be provided, at what intervals and by whom;

~~(v)(xv)~~ date plan was initiated and dates of subsequent review.

~~(d) Each care plan shall be reviewed and approved by the attending physician as frequently as the patient's condition warrants.~~

~~(e) The professional person responsible for any specific treatment shall notify the attending physician and other professional persons and responsible agency staff of significant changes in the patient's condition.~~

~~(c)(ff)~~ All care~~[treatment]~~ plans and notifications to the attending physician shall be documented in~~[made part of]~~ the patient's medical~~[health]~~ record.

~~(d)(g)~~ The hospice shall develop a list of procedures which are not to be performed in the patient's residence.:

~~(5) Orders for Medication and Treatment.~~

~~(5)(ta)~~ No medication or treatment requiring an order may be given by hospice nurses except on the signed order of a person lawfully authorized to give such an order.

~~(a)(b)~~ ~~When medications will be given by hospice personnel.~~ Initial orders and subsequent changes in orders for the administration of medications~~[drugs]~~ shall be signed by the person lawfully authorized to give such orders and incorporated in the patient's record maintained by the program.

~~(b)(c)~~ ~~AT~~ Telephone orders shall be received by licensed personnel.

(i) Telephone orders shall be recorded immediately in the patient's medical~~[health]~~ record.

(ii) Telephone orders shall be countersigned by the initiator within 15 days of the date of issue.

~~(c)(d)~~ Orders for therapy services shall include the specific procedures to be used and the frequency and duration.

~~(d)(e)~~ ~~AT~~ Orders shall be reviewed by the attending physician at least every 90 days~~[three month intervals]~~ as evidenced by the physician's signature and date.

~~(f) Medications and treatments shall be administered as prescribed and shall be recorded in the patient's record.~~

~~(e)(g)~~ Only those hospice employees licensed to do so shall administer medications to patients.

(i) Medications and treatments that are administered by hospice employees, shall be administered as prescribed and shall be recorded in the patients record.

R432-750-15. Physician Services.

(1) Each patient admitted~~[accepted]~~ for Hospice Services shall have an attending physician who is currently licensed by the Utah Department of Commerce.

(2) Each attending physician shall provide the following~~[orders]~~:

- (a) approval for hospice care;
- (b) admitting diagnosis and prognosis;
- (c) current medical findings;
- (d) medications and treatment orders;
- (e) pertinent orders regarding the patient's terminal condition.

~~(3) Hospice Medical Director.~~

(3) The administrator shall appoint in writing a physician to be the medical director. The Medical Director must be [a physician who is] currently licensed in the State of Utah and [who, on the basis of training, experience and interest], be [is] knowledgeable about the psychosocial and medical aspects of hospice care, on the basis of training, experience and interest. The [responsibilities of the] medical director shall[include]:

~~(a) consulting with attending physicians, as requested, regarding pain and symptom management;~~

~~(a)(b)~~ act[ing] as a medical resource to the interdisciplinary team;

~~(b)(c)~~ coordinate services~~[coordinating effort]~~ with each attending physician to ensure continuity in the services provided ~~[provide care]~~ in the event the attending physician is unable to retain responsibility for patient care;

~~(c)(d)~~ act[ing] as medical liaison with physicians in the community~~[communities]~~.

R432-750-16. Nursing Services.

(1) Nursing services shall be provided by or under the direction of a registered nurse.

(2) Registered nursing personnel shall perform the following tasks:

(a) make~~[making]~~ the initial nursing evaluation visit;

(b) re-evaluate~~[re-evaluating]~~ the patient's nursing needs as required;

(c) initiate~~[initiating]~~ the plan of care and necessary revisions;

(d) provide~~[providing]~~ directly or by contract~~[under arrangement]~~ skilled nursing care;

(e) assign~~[ing]~~, supervise~~[supervising]~~ and teach~~[ing]~~ other nursing personnel and primary care person;

(f) ~~[assisting in coordinating]~~ coordinate all services provided with members of the interdisciplinary team;

(g) inform~~[informing]~~ the physician and other personnel of changes in the patient's condition and needs;

(h) prepare~~[preparing]~~ clinical progress notes;

(i) participate~~[participating]~~ in in-service training programs.

R432-750-17. Medical Social Work Services.[Professional Counseling Services.]

(1) The agency shall provide social work services by a qualified social worker who has received a degree from an accredited school of Social Work.

(2) Social work services shall be provided by a social worker licensed under the Mental Health Professional Practice Act (Title 58, Chapter 60).

(3) The social worker shall participate in in-service training to meet the care needs of the patient and family.

~~(1) The facility shall provide for professional counseling services necessary to meet the needs of clients.~~

~~(2) The licensee shall insure all persons providing professional counseling services are either licensed, registered, or certified in accordance with Title 58, Chapter 60.~~

R432-750-18. Professional Counseling Services.

(1) The agency shall provide counseling services to patients, either directly or by contract. These services may include dietary and other counseling services deemed appropriate to meet the patients' and families' needs.

(2) Counseling services shall be provided by individuals who, whether employed or contracted by the agency, are licensed, certified, registered, or qualified as to education, training, or experience according to law.

R432-750-19. Pastoral Care Services~~[18. Clergy Services.]~~

(1) Pastoral~~[Hospice spiritual]~~ services shall be~~[are]~~ provided by a qualified hospice staff person ~~[and]~~ through a working relationship with local clergy or spiritual counselors.

(2) These services shall include the following:

- (a) spiritual counseling consistent with patient and family belief systems;
- (b) communication with and support of ~~[appropriate]~~ clergy or spiritual counselors in the community as appropriate;
- (c) consultation and education to patients and families and interdisciplinary team members as requested.

R432-750-20~~[19]. Volunteer Services.~~

Hospice volunteers provide a variety of services as defined by the policies of each program and under supervision of a designated and qualified hospice staff member.

(1) Duties and responsibilities of volunteers shall be~~[are]~~ defined by the hospice program.

(2) Volunteers must receive a minimum of 12 hours of documented~~[appropriate]~~ orientation and training which shall include the following:

- (a) the hospice ~~[concept]~~ services, goals, and philosophy of care;
- ~~[(b)]~~ the hospice program's services;
- ~~[(b)]~~~~[(c)]~~ the physiological ~~[and psychological]~~ aspects of terminal disease;
- ~~[(c)]~~~~[(d)]~~ family dynamics, coping mechanisms and psychosocial and spiritual issues surrounding the terminal disease, death and bereavement;
- ~~[(d)]~~~~[(e)]~~ ~~[general]~~ communication skills.
- (e) concepts of death and dying;
- (f) care and comfort measures;
- (g) confidentiality;
- (h) patient's and family's rights;
- (i) procedures to followed in an emergency;
- (j) procedures to follow at time of patient death;
- (k) infection control and safety ~~[and stress management]~~;
- (l) stress management

~~[(m)]~~~~[(n)]~~ volunteer's role and documentation requirements;

(3) Records shall~~[must]~~ be kept regarding hours of services and activities provided by volunteers.

(4) The agency shall have on file, a copy of certification, registration, or license of any volunteer providing professional services.

R432-750-21~~[20]. Bereavement Services.~~

~~[(1) General Provisions:]~~

(1) Bereavement services shall address the family needs following the death of the patient. Services are available, as needed, to survivors for at least one year.

~~[(2) Supervision:]~~

(2) Supervision of bereavement services shall be provided by a person possessing at least a degree or documented training in a

field that addresses psychosocial needs, ~~[and a demonstrated ability in case work,]~~ counseling, and bereavement services.

~~[(3) Bereavement Staff Training:]~~

~~[(3)]~~~~[(a)]~~ ~~[There shall be evidence of a bereavement training program for]~~ All volunteers and staff who deliver bereavement services shall receive bereavement training.

~~[(a)]~~~~[(b)]~~ Bereavement services shall include the following:

- (i) survivor contact, as needed and documented, following a patient's death;
- (ii) an interchange of information between the team members regarding bereavement activities;
- (iii) a process for the assessment of possible pathological grief reactions and, as appropriate, referral for intervention.

R432-750-22~~[21]. Other Services.~~

~~[(1) Other services may become necessary for the management of a hospice patient.]~~

(2) Other services may include but are not limited to: ~~[These include the services of licensed or certified individuals, when licensing or certification is applicable in Utah, for]~~ Physical therapy, occupational therapy, speech therapy, ~~[nutritional therapy]~~, and home health ~~[or nurse]~~ aides.

(a) Services~~[ff]~~ provided directly or through contract, ~~[documentation must show that treatments]~~ shall be ordered by a physician and documented in the clinical record. ~~[are provided under order of the attending physician and that. The clinical records shall be are completed according to agency policy.~~

~~[(b) If referred out, documentation in the records must show the services that the patient is receiving, the source or provider, and the results obtained.]~~

R432-750-21~~[22]. Freestanding Inpatient Facilities.~~

In addition to the requirements outlined in the previous sections of R432-750, freestanding hospice facilities shall meet the Construction and Physical Environment requirements of R432-4, R432-5 and R432-12 depending on facility size and type of patient admitted.

KEY: health facilities

~~[1997]~~1998

26-21-5

26-21-6



Judicial Conduct Commission,
Administration
R595-1-10
Hearing

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 20527

FILED: 12/17/97, 13:30

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: Clarification which requires that the chair of the hearing panel be an active member of the Utah State Bar.

SUMMARY: Adds requirement to Subsection R595-1-10(d) that the chair of the hearing panel be an active member of the Utah State Bar. Also changes "panel" to "Commission" in Subsection R595-1-10(k).

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Art. VIII, Sec. 13; and Section 78-7-30

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:

Judicial Conduct Commission
Administration
Suite 104, Law and Justice Center
645 South 200 East
Salt Lake City, UT 84111, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:

Steven H. Stewart at the above address, by phone at (801) 533-3200, by FAX at (801) 533-3208, or by Internet E-mail at asremote.sstewart@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 02/17/98.

THIS FILING MAY BECOME EFFECTIVE ON: 02/18/98

AUTHORIZED BY: Steven H. Stewart, Executive Director

R595. Judicial Conduct Commission, Administration.

R595-1. Rules of Procedure.

R595-1-10. Hearing.

(a) At the time and place set for hearing, the Commission, or the masters, when the hearing is before masters, shall proceed with the hearing whether or not the judge has filed an answer or appears at the hearing. The examiner shall present the case in support of the charges in the notice of formal proceedings.

(b) The failure of the judge to answer or to appear at the hearing shall not, standing alone, be evidence of the truth of the facts alleged to constitute grounds for censure, reprimand, suspension, removal, or retirement. The failure of the judge to testify in the judge's own behalf or to submit a medical examination requested by the Commission or the masters may be considered, unless it appears that such failure was due to circumstances beyond the judge's control.

(c) The proceedings at the hearing shall be recorded.

(d) When the hearing is before the Commission, not fewer than ~~five members~~ a quorum shall be present when the evidence is produced. The chair of the hearing panel shall be an active member of the Utah State Bar.

(e) Before the hearing commences, the Commission and the judge shall enter into a stipulation identifying uncontroverted facts, contested issues of fact, contested issues of law, witnesses, and exhibits.

(f) Immediately following the conclusion of the hearing, the panel of commissioners or special masters shall deliberate and make a preliminary decision.

(g) A letter setting forth the preliminary decision, signed by the hearing-panel chair, shall be sent to the judge as soon as possible after the conclusion of the hearing.

(h) As soon as possible after the preliminary decision has been sent to the judge, the hearing panel chair shall prepare a memorandum decision to be signed by all the panel members.

(i) The memorandum decision shall be served on the judge and given to the Commission's Executive Director to prepare findings of fact, conclusions of law, and an order consistent with the memorandum decision.

(j) The findings of fact, conclusions of law, and order shall be reviewed ~~[and approved by at least five members of the Commission who have considered the record, at least three of whom must have been present when the evidence was produced.]~~ by a quorum of the Commission and approved by a majority of a quorum of the Commission.

(k) Upon approval, the findings of fact, conclusions of law, and order shall be signed by the ~~[panel]~~ Commission chair and served on the judge.

KEY: judges, judicial ethics, proceedings, sanctions

[August 16, 1997]1998

78-7-27

78-7-30



Natural Resources, Water Resources

R653-3

Selecting Private Consultants

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 20597

FILED: 12/30/97, 15:41

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: During the five-year review, staff of the Division of Water Resources and the Attorney General's Office determined this rule regarding selecting private consultants should be amended to make formatting and grammar changes.

SUMMARY: The changes include changing the statutory reference from Sections 58-22-2 to 58-22-102, revising the formatting, and making some grammar corrections.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Section 58-22-102

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:

Natural Resources
 Water Resources
 Suite 310, Natural Resources Building
 1594 West North Temple
 PO Box 146201
 Salt Lake City, UT 84114-6201, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:

Nancy Fullmer at the above address, by phone at (801) 538-7251, by FAX at (801) 538-7279, or by Internet E-mail at nrwres.nfullmer@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 02/17/98.

THIS FILING MAY BECOME EFFECTIVE ON: 02/18/98

AUTHORIZED BY: D. Larry Anderson, Director

R653. Natural Resources, Water Resources.

R653-3. Selecting Private Consultants.

R653-3-1. Application.

The provisions of this section apply to procurement of services within the scope of the practice of professional engineering as defined in Section 58-22-[2]102 Utah Code Annotated, except as authorized in Section 63-56-24 Utah Code Annotated (Emergency Procurements).

R653-3-2. Policy.

It is the policy of the Division of Water Resources (Division) to:

[A-](1) [g]Give public notice of all requirements for engineering services (except as noted in R653-3-1 and R653-3-5); and

[B-](2) [n]Negotiate contracts for such services on the basis of demonstrated competence and qualification for the type of service required, and at fair and reasonable prices.

R653-3-3. Annual Statement of Qualifications and Performance Data.

1. The State's Chief Procurement Officer will encourage firms engaged in providing engineer services to submit annually a statement of qualifications and performance data which should include, but not be limited to, the following:

[A-](a) [t]The name of the firm and the location of all of its offices, specifically indicating the principal place of business[-];

[B-](b) [t]The age of the firm and its average number of employees over the past five years[-];

[C-](c) [t]The education, training, and qualifications of members of the firm and key employees[-];

[D-](d) [t]The experience of the firm reflecting technical capabilities and project experience[-];

[E-](e) [t]The names of five clients who may be contacted, including at least two for whom services were rendered in the last year[-]; and

[F-](f) [a]Any other pertinent information requested by the Procurement Officer.

(2) A standard form or format may be developed for these statements of qualifications and performance data. Firms may amend statements of qualifications and performance data at any time by filing a new statement.

.....

R653-3-8. Request for Statements of Interest.

(1) A request for statements of interest (SOI) will be prepared that outlines the Division's requirements (scope of work) and sets forth the evaluation criteria. It will be distributed upon request and payment of a fee, if any.

(2) The request for SOI will include notice of any conference to be held and the criteria to be used in evaluating the statements of qualifications and performance data and selecting firms, including but not limited to:

[A-](a) [e]Competence to perform the services as reflected by technical training and education, general experience, experience in providing the required services, and the qualifications and competence of persons who will be assigned to perform the services[-];

[B-](b) [a]Ability to perform the services as reflected by workload and the availability of adequate personnel, equipment, and facilities to perform the services expeditiously[-]; and

[C-](c) [p]Past performance as reflected by the evaluations of private persons and officials of other governmental entities that have retained the services of the firm with respect to such factors as control of costs, quality of work, and an ability to meet deadlines.

.....

R653-3-10. Evaluation of Statements of Qualifications and Performance Data.

(1) The selection committee will evaluate:

[A-](a) [s]Statement of qualifications and performance data[-]; and

[B-](b) [s]Statements that may be submitted in response to the request for SOI for engineer services, including proposals for joint ventures[-]; and

[C-](c) [s]Supplemental statements of qualifications and performance data, if their submission is required.

(2) All statements and supplemental statements of qualifications and performance data will be evaluated in light of the criteria set forth in the SOI request for engineer services.

.....

R653-3-12. Discussions.

Following evaluation of the statements of interest, qualifications and performance data, the selection committee may hold discussions with the firms selected. The purposes of such discussions will be to:

[A-](1) [d]Determine each firm's general capabilities and qualifications for performing the contract[-]; and

[B-](2) [e]Explore the scope and nature of the required services and the relative accuracy, efficiency, time consumption, and cost of the alternative methods proposed to be used.

.....

R653-3-14. Negotiation and Award of Contract.

The selection committee or its designee will negotiate a contract with the most qualified firm for the required services at compensation determined to be fair and reasonable to the Division. Contract negotiations will be directed toward:

[A-](1) [c]Clarifying that the firm has an understanding of the scope of the work, specifically, the essential requirements involved in providing the required services[-];

[B-](2) [i]Insuring that the firm will make available the necessary personnel and facilities to perform the services within the required time[-]; and

[C-](3) [a]Agreeing to a compensation that is fair and reasonable, taking into account the estimated value, scope, complexity, and nature of the required services.

R653-3-15. Failure to Negotiate Contract with the Most Qualified Firm.

[A-](1) If fair and reasonable compensation, contract requirements, and contract documents cannot be agreed upon with the most qualified firm, the Division will advise the firm in writing of the termination of negotiations.

[B-](2) Upon failure to negotiate a contact with the most qualified firm, the Procurement Officer will enter into negotiations with the next most qualified firm. If fair and reasonable compensation, contract requirements, and contract documents can be agreed upon, then the contract will be awarded to that firm. If negotiations again fail, negotiations will be terminated as provided in paragraph (a) of this section and commenced with the next most qualified firm.

.....

R653-3-17. Failure to Negotiate Contract With Firms Initially Selected as Most Qualified.

Should the Division be unable to negotiate a contract with any of the firms initially selected as the most highly qualified firms, additional firms will be selected in preferential order based on their respective qualifications, and negotiations shall continue in accordance with [s]Section R653-3-15 until an agreement is reached and the contract awarded.

KEY: consultants, government purchasing
199[2]8

58-22-[2]102



Natural Resources, Water Resources

R653-5

Cloud Seeding

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 20593

FILED: 12/30/97, 10:19

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: During the five-year review, staff of the Division of Water Resources and the Attorney General's Office determined this cloud seeding rule should be amended to make it consistent with the Utah Code and current practice.

SUMMARY: The changes include formatting, grammar, changes the effective period of license from expiring at the end of the fiscal year in which it is issued to a period of one year, deletes the requirement that a licensee should file an application for renewal 30 days prior to the expiration of his license, clarifies financial liability of applicant, eliminates the requirement to file a notice of intention for publication with the Division of Water Rights since the Division of Water Resources is required to notify the Division of Water Rights, and eliminates the statement that a permit shall not be issued prior to the expiration of ten days following the last date of publication of the notice of intent.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Title 73, Chapter 15

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:

Natural Resources
Water Resources
Suite 310, Natural Resources Building
1594 West North Temple
PO Box 146201
Salt Lake City, UT 84114-6201, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:

Nancy Fullmer at the above address, by phone at (801) 538-7251, by FAX at (801) 538-7279, or by Internet E-mail at nrwres.nfullmer@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 02/17/98.

THIS FILING MAY BECOME EFFECTIVE ON: 02/18/98

AUTHORIZED BY: D. Larry Anderson, Director

R653. Natural Resources, Water Resources.

R653-5. Cloud Seeding.

R653-5-1. Definitions.

Terms used in this rule are defined as follows:

~~[A-](1)~~ "Act" or "Cloud Seeding Act" means the 1973 CLOUD SEEDING TO INCREASE PRECIPITATION ACT, Title 73, Chapter 15.

~~[B-](2)~~ "Cloud Seeding" or "Weather Modification" means all acts undertaken to artificially distribute or create nuclei in cloud masses for the purposes of altering precipitation, cloud forms, or other meteorological parameters.

~~[C-](3)~~ "Cloud Seeding Project" means a planned project to evaluate meteorological conditions, perform cloud seeding, and evaluate results.

~~[D-](4)~~ "Board" means the Utah Board of Water Resources, which is the policy making body for the Utah Division of Water Resources.

~~[E-](5)~~ "Director" means the Director of the Utah Division of Water Resources.

~~[F-](6)~~ "[Utah]Division[~~of Water Resources~~]" means the Director and staff of the Utah Division of Water Resources.

~~[G-](7)~~ "License" means a certificate issued by the Utah Division of Water Resources certifying that the holder has met the minimum requirements in cloud seeding technology set forth by the State of Utah, and is qualified to apply for a permit for a cloud seeding project.

~~[H-](8)~~ "Licensed Contractor" means a person or organization duly licensed for cloud seeding activities in the State of Utah.

~~[I-](9)~~ "Permit" means a certification of project approval to conduct a specific cloud seeding project within the State under the conditions and within the limitations required and established under the provision of these Rules.

~~[J-](10)~~ "Sponsor" means the responsible individual or organization that enters into an agreement with a licensed contractor to implement a cloud seeding project.

R653-5-2. General Provisions.

~~[A-](1)~~ Authority: The State of Utah, through the Division, ~~[of Water Resources shall be]~~ is the only entity, private or public, that ~~[shall have authority to]~~ may authorize, sponsor, or develop cloud seeding research, evaluation, or implementation projects to alter precipitation, cloud forms, or meteorological parameters within the State of Utah.

~~[B-](2)~~ Ownership of Water: All water derived as a result of cloud seeding shall be considered as a part of Utah's basic water supply the same as all natural precipitation water supplies have been heretofore, and all statutory provisions that apply to water from natural precipitation shall also apply to water derived from cloud seeding.

~~[C-](3)~~ Notice to State Engineer: The Director ~~[of the Utah Division of Water Resources]~~ shall, by written communication, notify the Director of the Utah Division of Water Rights of any applications for cloud seeding permits within ~~[ten]~~30 days of receiving such applications.

~~[D-](4)~~ Consultation and Assistance: The ~~[Utah]~~Division ~~[of Water Resources]~~ may contract with the Utah Water Research Laboratory, or any other individual or organization, for consultation or assistance in developing cloud seeding projects or in furthering necessary research of cloud seeding or other factors that may be affected by cloud seeding activities.

~~[E-](5)~~ State and County Cooperation: The ~~[Utah]~~Division ~~[of Water Resources]~~ shall encourage, cooperate, and work with individual counties, multi-county districts for planning and development, and groups of counties in the development of cloud seeding projects and issuance of permits.

~~[F-](6)~~ Statewide or Area-wide Cloud Seeding Project: The ~~[State of Utah through the]~~Division ~~[of Water Resources]~~ reserves the right to develop statewide or area-wide cloud seeding programs where ~~[the Utah Division of Water Resources]~~it may contract directly with licensed contractors to increase precipitation. The ~~[Utah]~~Division ~~[of Water Resources]~~ may also work with individual counties, multi-county districts for planning and development, organizations or groups of counties, or private organizations, to develop Statewide or area-wide cloud seeding projects.

~~[G-](7)~~ Liability:

~~[I-](a)~~ Trespass - The mere dissemination of materials and substances into the atmosphere or causing precipitation pursuant to an authorized cloud seeding project, shall not give rise to any presumption that use of the atmosphere or lands constitutes trespass or involves an actionable or enjoined public or private nuisance.

~~[Z-](b)~~ Immunity - Nothing in these Rules shall be construed to impose or accept any liability or responsibility on the part of the State of Utah or any of its agencies, or any State officials or State employees or cloud seeding authorities, for any weather modification activities of any person or licensed contractor as defined in these Rules as provided in Title 63, Chapter 30.

~~[H-](8)~~ Suspension and Waiver of Rules - The ~~[Utah]~~Division ~~[of Water Resources]~~ may suspend or waive any provision of this rule, in whole or in part, upon a showing of good cause; or ~~[R653-5-7(A)(7) and (8) and R653-5-7(B)]~~ when, ~~[at]~~in the discretion of the Director ~~[drought conditions are such that]~~the particular facts or circumstances render suspension or waiver ~~[of these Rules is]~~ appropriate.

R653-5-3. Utah Board of Water Resources.

~~[A-](1)~~ Review of License and Permit: The Board may review applications for Licenses and Permits and submit recommendations to the Director for his consideration for action on the applications.

~~[B-](2)~~ Policy Recommendations: The Board may advise and make recommendations concerning legislation, policies, administration, research, and other matters related to cloud seeding and weather modification activities to the Director and technical staff of the ~~[Utah]~~Division ~~[of Water Resources]~~.

R653-5-4. Weather Modification Advisory Committee.

~~[A-](1)~~ Creation of Weather Modification Advisory Committee: An advisory committee may be created by the Director ~~[of the Utah Division of Water Resources]~~. Members of this committee shall be appointed by the Director, and serve for a period of time as determined by the Director.

~~[B-](2)~~ Duties of Weather Modification Advisory Committee:

[1-](a) Advise the Director and technical staff of the [Utah] Division [of Water Resources] on applications for licenses and permits; and

[2-](b) Advise and make recommendations concerning legislation, policies, administration, research, and other matters related to cloud seeding and weather modification activities to the Director and technical staff of the [Utah] Division [of Water Resources].

R653-5-5. License and Permit Required.

[A-](1) License and Permit Required: It is unlawful for any person or organization, not specifically exempted by laws and [these Rules] this rule, to act or perform services as a weather modifier, without obtaining a license and permit as provided for in the Cloud Seeding Act and [these Rules] this rule.

[B-](2) To Whom License May Be Issued: Licenses to engage in activities for weather modification and control shall be issued to applicants who meet the requirements set out in the Act and Section R653-5-6 [of these Rules]. If the applicant is an organization, these requirements shall be met by the individual or individuals who are to be in control and in charge of the applicant's weather modification operations.

[C-](3) To Whom Permit May be Issued: A permit may be issued to a licensed contractor as prescribed in Section R653-5-7 [of these Rules].

[D-](4) License and Permit Not Required: Individuals and organizations engaging in the following activities are exempt from the license and permit requirements of [these Rules] this rule:

[1-](a) Research performed [wholly] entirely within laboratory facilities;

[2-](b) Cloud Seeding activities for the suppression of fog;

[3-](c) Fire fighting activities where water or chemical preparations are applied directly to fires, without intent to modify the weather;

[4-](d) Frost and fog protective measures provided through the application of water or heat by orchard heater, or similar devices, or by mixing of the lower layers of the atmosphere by helicopters or other type of aircraft where no chemicals are dispensed into the atmosphere, other than normal combustion by-products and engine exhaust; and

[5-](e) Inadvertent weather modification, namely emissions from industrial stacks.

[E-](5) Effective Period of License: Each license shall be issued for a period of one year, to expire at the end of the Utah State fiscal year in which it is issued. A licensee may renew an expired license in the manner prescribed by [these Rules] this rule.

[F-](6) Effective Period of Permit: Each permit shall be issued for a period as required by a proposed cloud seeding project, but not exceeding one year.

R653-5-6. Procedures for Acquisition and Renewal of License.

[A-](1) Application For License: In order to qualify for a cloud seeding license an applicant must:

[1-](a) Submit a properly completed application to the [Utah] Division [of Water Resources]; and

[2-](b) Submit to the [Utah] Division [of Water Resources] evidence of: [1-](i) the possession by the applicant of a baccalaureate or higher degree in meteorology or related physical science or engineering and at least five years experience in the field of

meteorology, or [2-](ii) other training and experience as may be acceptable to the [Utah] Division [of Water Resources] as indicative of sufficient competence in the field of meteorology to engage in cloud seeding activities.

[B-](2) Renewal of License: A licensee may qualify for a renewal of a license by submitting an application for renewal. If an organization has hired replacement personnel, the organization shall attach to its application for renewal a statement setting forth the names and qualifications of qualified personnel. ~~A licensee should file an application for renewal 30 days prior to the expiration date of his license.~~

R653-5-7. Procedures for Acquisition of Permit.

[A-](1) Application for Permit: ~~In order to~~ To qualify for ~~receipt of~~ a cloud seeding permit a licensee must:

[1-](a) Submit a properly completed application to the [Utah] Division [of Water Resources];

[2-](b) ~~Demonstrate to the satisfaction of the Director his ability to respond in damages for liability which might reasonably arise as a result of the applicant's proposed cloud seeding activities~~ Submit proof of financial responsibility in order to give reasonable assurance of protection to the public in the event it should be established that damages were caused to third parties as a result of negligence in carrying out a cloud seeding project;

[3-](c) ~~File~~ Submit a copy of the contract or proposed contract between the sponsor and licensed contractor relating to the project;

[4-](d) Submit copies of all pamphlets and promotional material distributed in connection with the project;

[5-](e) Submit the plan of operation for the project, including a map showing locations of all equipment to be used as well as equipment descriptions;

[6-](f) Receive preliminary approval of the project from the Director before proceeding with notices of intent described in R653-5-7(7) and (8) of [these Rules] this rule.

[7-](g) File with the [Utah] Division [of Water Resources and the Utah Division of Water Rights] a notice of intention for publication which sets forth the following:

[a-](i) the name and address of the applicant;

[b-](ii) ~~the date he received a cloud seeding license, and all dates of renewal~~ statement that a cloud seeding license has been issued by the Division;

[c-](iii) the nature and the objective of the intended operation, and the person or organization on whose behalf it is to be conducted;

[d-](iv) the specific area in which, and the approximate date and time during which the operation will be conducted;

[e-](v) the specific area which is intended to be affected by the operation;

[f-](vi) the materials and methods to be used in conducting the operation; and

[g-](vii) a statement that persons interested in the permit application should contact the [Utah] Division [of Water Resources].

[8-](h) File with the [Utah] Division [of Water Resources], within 15 days from the last date of the publication of notice, proof that the applicant caused the notice of intention to be published at least once a week for three consecutive weeks in a newspaper having a general circulation within each county in which the

operation is to be conducted and in which the affected area is located. Publication of notice shall not commence until the applicant has received approval of the form and substance of the notice of intention from the Director.

~~[B. Issuance of a Permit: A permit shall not be issued prior to the expiration of ten days following the last date of publication of the notice of intent.~~

~~[C.](2) Description of a Permit: A licensee shall comply with all the requirements set out in his permit. A permit shall include the following:~~

~~[1.](a) The effective period of the permit, which shall not exceed one year;~~

~~[2.](b) The location of the operation;~~

~~[3.](c) The methods which may be employed; and~~

~~[4.](d) Other necessary terms, requirements, and conditions.~~

~~[D.](3) Authority to Amend a Permit: The [Utah] Division [of Water Resources] may amend the terms of a permit after issuance if [the Utah Division of Water Resources] it determines that it is in the public interest.~~

R653-5-8. Revocation and Suspension of Licenses and Permits.

~~[A.](1) Automatic Suspension of a Permit: Any cloud seeding permit issued under the terms of [these Rules] this rule shall be suspended automatically if the licensee's cloud seeding license should expire, or in the case of an organization being the licensee, if the person listed on the application for the permit as being in control of, and in charge of, operations for the licensee should become incapacitated, leave the employment of the licensee, or for any other reason be unable to continue to be in control of, and in charge of, the operation in question; and a replacement approved by the Director, has not been obtained.~~

~~[B.](2) Reinstatement of Permit: A permit which is suspended, may be, at the discretion of the Director, reinstated following renewal of the expired license, or submission of an amended personnel statement nominating a person whose qualifications for controlling and being in charge of the operation are acceptable to the Director.~~

~~[C.](3) Director's Authority to Suspend or Revoke Licenses and Permits: The Director may suspend or revoke any existing license or permit for the following reasons:~~

~~[1.](a) If the licensee no longer possesses the qualifications necessary for the issuance of a license or permit;~~

~~[2.](b) If the licensee has violated any of the provisions of the Cloud Seeding Act;~~

~~[3.](c) If the licensee has violated any of the provisions of [these Rules] this rule; or~~

~~[4.](d) If the licensee has violated any provisions of [his] the license [and] or permit.~~

R653-5-9. Record Keeping and Reports.

~~[A.](1) Information to be Recorded: Any individual or organization conducting weather modification operations in Utah shall keep and maintain a record of each operation [which he conducts] conducted. For the purposes of this Section, the daily log required by Title 15, Chapter IX, Sub-Chapter A, Part 908, Section 908.8 (a), Code of Federal Regulations, November 1, 1972, as amended, and the supplemental information required by Sections 908.8 (b), (c), and (d) will be considered adequate, provided that each applicant for a weather modification permit submit with~~

~~[his] the application a list containing the name and post office address of each individual who will participate or assist in the operation, and promptly report any changes or additions to this list to the [Utah] Division [of Water Resources].~~

~~[B.](2) Reports:~~

~~[1.](a) Each individual and organization conducting weather modification operations in Utah shall submit copies of the daily log and supplemental information for each month, to the [Utah] Division [of Water Resources] by the last day of each succeeding month.~~

~~[2.](b) Information copies of all other reports required by Title 15, Chapter IX, Sub-Chapter A, Part 908, Sections 908.5, 908.6, and 908.7, Code of Federal Regulations, shall be submitted to the [Utah] Division [of Water Resources] as soon as practicable, but in no case later than the deadlines set by the Federal Regulation.~~

~~[3.](c) Copies of all reports, publications, pamphlets, and evaluations made by either the licensed contractor or sponsor regarding a cloud seeding project must be submitted to the [Utah] Division [of Water Resources] at the time these are made public.~~

~~[4.](d) In relation to any evaluations made for cloud seeding effectiveness, both the method of evaluation and the data used shall be submitted to the [Utah] Division [of Water Resources].~~

KEY: weather modification, water policy*
199[2]8

73-15[-6]



Natural Resources, Water Resources
R653-7
 Administrative Procedures for Informal Proceedings

NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE NO.: 20554
 FILED: 12/22/97, 12:54
 RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: During the five-year review, staff of the Division of Water Resources and the Attorney General's Office determined this administrative procedures rule should be amended.

SUMMARY: The main changes include formatting, headings, grammar, and reference to dates.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Section 63-46B-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:

Natural Resources
Water Resources
Suite 310, Department of Natural Resources Building
1594 West North Temple
PO Box 146201
Salt Lake City, UT 84114-6201, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:
Nancy Fullmer at the above address, by phone at (801) 538-7251, by FAX at (801) 538-7279, or by Internet E-mail at nrwres.nfullmer@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 02/17/98.

THIS FILING MAY BECOME EFFECTIVE ON: 02/18/98

AUTHORIZED BY: D. Larry Anderson, Director

R653. Natural Resources, Water Resources.
R653-7. Administrative Procedures for Informal Proceedings.
R653-7-1. Authority and Effective Date.

~~[A. These rules]~~ This rule establishes and governs administrative proceedings before the Utah Division of Water Resources and the Utah Board of Water Resources, respectively, as required by Sections 63-46b-1, et seq.

~~[B. These rules govern all adjudicative proceedings commenced on or after January 1, 1988. Adjudicative proceedings commenced prior to January 1, 1988, are governed by existing procedures.]~~

R653-7-2. Designation of Informal Proceedings.

~~[A.]~~ All adjudicative proceedings of the Division of Water Resources and the Board of Water Resources are hereby designated as ^[2]informal.^[2]

R653-7-3. Definitions.

~~[A.]~~ 1. [The definitions of the Utah Administrative Procedures Act UAPA] Terms used in this rule are defined in Section 63-46b-2. [apply in this rule.]

2. In addition:

~~[1.]~~ a. "Division" means the Utah Division of Water Resources.

~~[2.]~~ b. "Board" means the Utah Board of Water Resources.

~~[3.]~~ c. "Director" means the Director of the Division of Water Resources.

~~[4.]~~ d. "Staff" means the staff of the Division of Water Resources.

R653-7-4. Construction -- Computation of Time.

~~[A. These rules]~~ 1. This rule shall be construed in accordance with the Utah Administrative Procedures Act and supersedes any conflicting provision of procedural rules promulgated by the Division or Board.

~~[B. These rules]~~ 2. This rule shall be liberally construed to secure a just and speedy determination of all issues presented to the Division or Board.

~~[C. Deviation from Rules]~~ 3. For good cause, and where no party is prejudiced, the Division or Board may permit deviation from ~~[these rules]~~ this rule except where precluded by statute.

~~[D. Computation of Time]~~ The time within which any act shall be done shall be computed by excluding the first day and including the last, unless the last day is a Saturday, Sunday, or State holiday, and then it is excluded and the period runs until the end of the next day which is neither a Saturday, Sunday, or State holiday.

R653-7-5. Commencement of Proceedings.

~~[A. Proceedings Commenced by the Division or Board]~~ 1. All informal adjudicative proceedings commenced by the Division or Board shall be initiated as provided by ~~[applicable statute, Division rules, and]~~ Subs[S]ection 63-46b-32[a].

~~[B. Proceedings Commenced by Persons Other Than the Division or Board]~~ All informal adjudicative proceedings commenced by a person[s] other than the Division or Board shall be commenced by either completing prepared forms on file at the Division requesting agency action, or ~~[if no forms are required to initiate a particular proceeding]~~ by submitting in writing a request for agency action in accordance with Subs[S]ection 63-46b-3[2e] 3.

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R653-7-8. Intervention.

Intervention is prohibited except ~~[where]~~ as otherwise required by a federal or State statute ~~[or rule requires that a State permit intervention].~~

R653-7-9. Hearings.

~~[A.]~~ 1. The Division, Board or a Presiding Officer shall hold a hearing if a hearing is required by statute, or if a hearing is permitted by statute and is requested by a party within 30 days of the commencement of the adjudicative proceeding. The Division, Board or a Presiding Officer may at their discretion initiate a hearing to determine matters within their authority.

~~[B.]~~ 2. Notice of the hearing will be served on all parties by regular mail at least ten days prior to the hearing.

~~[C.]~~ 3. If no hearing is held in a particular adjudicative proceeding, the Presiding Officer shall issue a decision within a reasonable time.

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R653-7-12. Parties to a Hearing.

~~[A.]~~ 1. All persons defined as a "party" are entitled to participate in hearings before the Division or Board.

~~[B.]~~ 2. All parties shall be entitled to introduce evidence, examine and cross-examine witnesses, make arguments, and fully participate in the proceeding.

R653-7-13. Appearances and Representation.

~~[A. Taking Appearances]~~ 1. Parties shall enter their appearances at the beginning of a hearing or at a time as may be designated by the Presiding Officer by giving their names and addresses and stating their positions or interests in the proceeding.

~~[B. Representation of Parties]~~
~~1.]2a.~~ An individual who is a party to a proceeding, or an officer designated by a partnership, corporation, association or governmental subdivision or agency which is a party to a proceeding, may represent his or its interest in the proceeding.

~~2.]b.~~ Any party may be represented by an attorney licensed to practice in the State of Utah.

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R653-7-15. Discovery, Testimony, Evidence and Argument.

~~[A.]1.~~ Discovery is prohibited and the Division or Board may not issue subpoenas or other discovery orders.

~~[B.]2.~~ All parties shall have access to non-confidential and non-privileged information contained in Division and Board files that are public record and to all materials and information gathered in any investigation, to the extent permitted by law.

~~[C. Testimony]~~3. At any hearing, the Presiding Officer shall accept oral or written testimony from any party. Further, the Presiding Officer shall have the right to question and examine any witness called to present testimony. Testimony and statements received at hearings may be under oath.

~~[D. Rules of Evidence]~~4. A hearing may be conducted in an informal manner and without adherence to the rules of evidence required in judicial proceedings. Irrelevant, immaterial and unduly repetitious evidence may be excluded. The weight to be given to evidence shall be determined by the Presiding Officer. Hearsay evidence may not be excluded solely because it is hearsay.

~~[E. Documentary Evidence]~~5. Documentary evidence may be received in the form of copies or excerpts. However, upon request, parties shall be given an opportunity to compare the copy with the original.

~~[F. Official Notice]~~6. The Presiding Officer may take official notice of the following matters:

~~[1.]a.~~ Rules, guidelines, official reports, written decisions, orders or policies of the Board of Water Resources, Division of Water Resources and any other regulatory agency, State or federal;

~~2.]b.~~ Official documents introduced into the record by proper reference; provided, the documents shall be made available so that parties to the hearing may examine the documents and present rebuttal testimony if they so desire; and

~~3.]c.~~ Matters of common knowledge and generally-recognized technical or scientific facts within the Division's or Board's specialized knowledge and of any factual information which the Presiding Officer may have gathered from a field inspection.

~~[G. Oral Argument and Memoranda]~~7. Upon the conclusion of the taking of evidence, the Presiding Officer may, in his discretion, permit the parties to make oral arguments setting forth their positions and also to submit written memoranda within the time specified by the Presiding Officer.

R653-7-16. Record of Hearing.

~~[A.]1.~~ A record of any hearing shall be recorded at the Division's or Board's expense. When a record is made by the Division or Board, it shall be done by means of an automatic recording device. Any party, at his own expense, may have a reporter approved by the Division or Board prepare a transcript from the record of the hearing.

~~[B.]2.~~ If a party desires that the testimony be recorded by means of a court reporter, that party may employ a court reporter at his own expense and shall furnish a transcript of the testimony to the Division or Board free of charge. This transcript shall be available at the Division office to any party to the hearing.

R653-7-17. Decisions and Orders.

~~[A. Report and Order]~~1. After the Presiding Officer has reached a final decision upon any adjudicative proceeding, he shall make and enter a signed order in writing that states:

- a. ~~[stating]~~the decision[;]
- b. the reasons for the decision[;];
- c. a notice of the rights of the parties to request Division or Board review, reconsideration or judicial review, as appropriate[;]; and
- d. notice of time limits for filing a request for review, reconsideration or court appeal.

2. The order shall be based on facts appearing in any of the Division's files or records and on facts presented in evidence at any hearings.

~~[B. Service of Decisions]~~3. A copy of the Presiding Officer's order shall be mailed by regular mail to each of the parties.

R653-7-18. Request for Reconsideration.

~~[A. Who May File]~~1. Any aggrieved party may file a request for reconsideration by following the procedures of Section 63-46b-13. A request is not a prerequisite for judicial review.

~~[B. Action on the Request]~~2. The Division Director or Board shall issue a written order granting or denying the request for reconsideration. If an order is not issued within 20 days after the filing of a request, the request for rehearing shall be considered denied. Any order granting rehearing shall be strictly limited to the matter specified in the order.

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R653-7-20. Declaratory Orders.

1. Any interested person may file a request for agency action requesting that the Division or Board issue a declaratory order determining the applicability of any statute, rule, or order within the primary jurisdiction of the Division or Board pursuant to Section 63-46b-21.

2. A request for a declaratory order shall be filed in accordance with Section 63-46b-3~~2c]~~3 which request commences an informal adjudicative proceeding and~~[Any request]~~ shall set forth in detail:

- a. the specific statute, rule, or order which is in question;
- b. the specific facts for which the order is requested;
- c. the manner in which the person making the request claims the statute, rule, or order may affect him; and
- d. the specific question[s] for which a declaratory order is requested.

3. ~~[Persons may intervene in declaratory proceedings upon filing a timely petition to intervene in accordance with the provision of Section 63-46b-9.~~

~~—]~~The Division or Board may in their discretion decline to issue declaratory orders where the facts presented are deemed to be conjectural, abstract, insubstantial or where the public interest would best be served by not issuing an order.

.....

KEY: administrative procedure
199[2]8

63-46b-1



Public Service Commission,
Administration
R746-360
Universal Public Telecommunications
Service Support Fund

NOTICE OF PROPOSED RULE

(New)

DAR FILE NO.: 20599
FILED: 12/30/97, 15:56
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: These rules govern creation and maintenance of the fund, establish its revenue sources and disbursement procedures, and eliminate other sources of support for residential local access networks except for the fund and amounts collected through rates and charges paid by service end-users. All qualifying telecommunications corporations shall be able to draw from the fund, which will collect and distribute funds in a nondiscriminatory, and a competitively and technologically neutral way. The rules also govern the relationship between the fund and the trust fund established by Section 54-8b-12.

SUMMARY: The Commission filed a new rule with this same number and name. It was published on 11/01/97. Due to comments received the Commission has rewritten this rulemaking substantive changes and will let the previously filed rule lapse. This is a new rule establishing an expendable trust fund to promote equitable cost recovery and universal service by ensuring that customers have access to affordable basic telecommunications service at just and reasonable rates.

(DAR Note: The initial proposed new rule filed for Rule R746-360 is under DAR No. 20106 in the November 1, 1997, issue of the *Utah State Bulletin*. The agency plans to let the initial filing lapse, because it has been replaced with this proposed new rule. A corresponding 120-day (emergency) rule that is effective as of 12/31/97 is under DAR No. 20598 in this *Bulletin*. This rule also replaces Rule R746-408, which expired January 1, 1998, as noted in this *Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Section 54-8b-15

THIS FILING INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: Federal Communications Commission (FCC) Docket 96-45, 97-157 Sections X and XI, paragraphs 424 - 749

ANTICIPATED COST OR SAVINGS TO:

- ❖THE STATE BUDGET: Unknown.
- ❖LOCAL GOVERNMENTS: Unknown.
- ❖OTHER PERSONS: Unknown.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Approximately same as existing fund.

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

Public Service Commission
Administration
Fourth Floor, Heber M. Wells Building
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 by Internet E-mail at pupsc.bstroud@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 02/17/98.

THIS FILING MAY BECOME EFFECTIVE ON: 02/18/98

AUTHORIZED BY: Barbara Stroud, Paralegal

R746. Public Service Commission, Administration.
R746-360. Universal Public Telecommunications Service Support Fund.

R746-360-1. General Provisions.

A. Authorization -- Section 54-8b-15 authorizes the Commission to establish an expendable trust fund, known as the Universal Public Telecommunications Service Support Fund, the "universal service fund," "USF" or the "fund," to promote equitable cost recovery and universal service by ensuring that customers have access to basic telecommunications service at just, reasonable and affordable rates, consistent with the Telecommunications Act of 1996.

B. Purpose -- The purposes of these rules are:

1. to govern the methods, practices and procedures by which:

a. the USF is created, maintained, and funded by end-user surcharges applied to retail rates paid by service end-users;

b. funds are collected for and disbursed from the USF to qualifying telecommunications corporations so that they will provide basic telecommunications service at just, reasonable and affordable rates; and.

2. to govern the relationship between the fund and the trust fund established under 54-8b-12, and establish the mechanism for the phase-out and expiration of the latter fund.

C. Application of the Rules -- The rules apply to all retail providers that provide intrastate public telecommunications services.

R746-360-2. Definitions.

A. Affordable Base Rate (ABR) -- means the monthly per line retail rates, charges or fees for basic telecommunications service

which the Commission determines to be just, reasonable, and affordable for a designated support area. The Affordable Base Rate shall be established by the Commission and shall be the rate against which the USF proxy cost model results shall be compared for the purpose of computing USF support. The Affordable Base Rate does not include the applicable USF retail surcharge.

B. Average Revenue Per Line -- means the average revenue for each access line computed by dividing all revenue derived from a telecommunications corporation's provision of public telecommunications services in a designated support area by that telecommunications corporation's number of access lines in the designated support area. When a telecommunications corporation does not have access lines in a designated support area, the average revenue per line for that telecommunications corporation will be based on the simple average of the average revenue per line determinations of all other telecommunications corporations which have access lines in the designated support area.

C. Basic Telecommunications Service -- means a flat-rated local exchange service consisting of access to the public switched network without additional charge for usage or the number of local calls placed or received; touch-tone, or its functional equivalent; single-party service with telephone number listed free in directories that are received free; access to operator services; access to directory assistance, lifeline and telephone relay assistance; access to 911 and E911 emergency services; access to long-distance carriers; access to toll limitation services; and other services as may be determined by the Commission.

D. Designated Support Area -- means the geographic area used to determine USF support distributions. A designated support area, or "support area," need not be the same as a USF proxy model's geographic unit. The Commission will determine the appropriate designated support areas for determining USF support requirements.

E. Facilities-Based Provider -- means a telecommunications corporation that uses its own facilities, a combination of its own facilities and essential facilities or unbundled network elements purchased from another telecommunications corporation, or a telecommunications corporation which solely uses essential facilities or unbundled network elements purchased from another telecommunications corporation to provide public telecommunications services.

F. Geographic Unit -- means the geographic area used by a USF proxy cost model for calculating costs of basic local exchange service. The Commission will determine the appropriate geographic area to be used in determining basic local exchange service costs.

G. Net Fund Distributions -- means the difference between the gross fund distribution to which a qualifying telecommunications corporation is entitled and the gross fund surcharge revenues generated by that company, when the former amount is greater than the latter amount.

H. Net Fund Contributions -- means the difference between the gross fund distribution to which a qualifying telecommunications corporation is entitled and the gross fund surcharge revenues generated by that company, when the latter amount is greater than the former amount.

I. Qualifying Telecommunications Corporation -- means a telecommunications corporation that the Commission has designated an eligible telecommunications carrier, pursuant to 47

U.S.C. Section 214(e), who may receive monies from the federal and state universal service funds..

J. Retail Provider -- means telecommunications corporations, interexchange carriers, resellers, alternate operator service providers, commercial mobile radio service providers, radio common carriers, aggregators or any other person or entity providing telecommunications services that are used or consumed by an consumer or end-user.

K. Trust Fund -- means the Trust Fund established by 54-8b-12.

L. USF Proxy Model Costs -- means the average total, jurisdictionally unseparated, cost estimate for basic telecommunications service, in a geographic unit, based on the forward-looking, economic cost proxy model(s) chosen by the Commission. The level of geographic cost disaggregation to be used for purposes of assessing the need for and the level of USF support within a geographic unit will be determined by the Commission.

M. Universal Service Fund (USF or fund) -- means the Universal Public Telecommunications Service Support Fund established by 54-8b-15 and set forth by this rule.

R746-360-3. Transition from 54-8b-12 to 54-8b-15.

A. Phase out of 54-8b-12 Trust Fund and Transfer of Trust Fund Funds -- In order to permit telecommunications corporations to make the transition to the fund created by 54-8b-15 and this rule:

1. The 54-8b-12 Trust Fund mechanisms shall continue until March 31, 1998, upon which date they shall cease. Funds derived from these funding mechanisms will be deposited in the USF.

2. Balances remaining in the 54-8b-12 Trust Fund as of April 1, 1998, plus remittances of any funds pursuant to the 54-8b-12 Trust Fund shall be transferred to the USF.

B. Two-Year Continuation of Equivalent Trust Fund Funding -- Upon written notification to the Commission, telecommunications corporations that received 54-8b-12 Trust Fund support in 1997 may elect to receive support equivalent to what they would have received from the 54-8b-12 Trust Fund rather than support pursuant to the 54-8b-15 USF. These companies may continue to receive this Trust Fund equivalent support until December 31, 1999. During this time period, these companies may elect to end this equivalent support and begin to receive support pursuant to the 54-8b-15 USF by submitting a written notification to the Commission 30 days prior to the beginning of the 54-8b-15 USF support. Funds for equivalent Trust Fund support will be provided from the USF.

R746-360-4. Duties of Administrator.

A. Selection of Administrator -- The Division of Public Utilities will be the fund administrator. If the Division is unable to fulfill that responsibility, the administrator, who must be a neutral third party, unaffiliated with any fund participant, shall be selected by the Commission.

B. Cost of Administration -- The cost of administration shall be borne by the fund.

C. Access to Books -- Upon reasonable notice, the administrator shall have access to the books of account of all telecommunications corporations and retail providers, which shall be used to verify the intrastate retail revenue assessed in an end-user surcharge, to confirm the level of eligibility for USF support and to ensure compliance with this rule.

D. Maintenance of Records -- The administrator shall maintain the records necessary for the operation of the USF and this rule.

E. Report Forms -- The administrator shall develop report forms to be used by telecommunications corporations and retail providers to effectuate the provisions of this rule and the USF. An officer of the telecommunications corporation or retail provider shall attest to and sign the reports to the administrator.

F. Administrator Reports -- The administrator shall file reports with the Commission containing information on the average revenue per line calculations, projections of future USF needs, analyses of the end-user surcharges and Affordable Base Rates, and recommendations for calculating them for the following 12-month period. The report shall include recommendations for changes in determining basic telecommunications service, designated support areas, geographic units, USF proxy cost models and ways to improve fund collections and distributions.

G. Annual Review -- The administrator, under the direction of the Commission, shall perform an annual review of fund recipients to verify eligibility for future support and to verify compliance with all applicable state and federal laws and regulations.

H. Proprietary Information -- Information received by the administrator which has been determined by the Commission to be proprietary shall be treated in conformance with Commission practices.

I. Information Requested -- Information requested by the administrator which is required to assure a complete review shall be provided within 45 days of the request. Failure to provide information within the allotted time period may be a basis for withdrawal of future support from the USF or other lawful penalties to be applied.

R746-360-5. Application of Fund Surcharges to Customer Billings.

A. Commencement of Surcharge Assessments -- Commencing April 1, 1998, end-user surcharges shall be the source of revenues to support the fund. Surcharges will be applied to intrastate retail rates, and shall not apply to wholesale services.

B. Surcharge Based on a Uniform Percentage of Retail Rates -- The retail surcharge shall be a uniform percentage rate, determined and reviewed annually by the Commission and billed and collected by all retail providers.

C. Initial Surcharge -- The initial surcharge to be assessed beginning April 1, 1998, shall equal one percent of billed intrastate retail rates.

R746-360-6. Fund Remittances and Disbursements.

A. Remitting Surcharge Revenues -- Retail providers, not eligible for USF support funds, providing telecommunications services subject to USF surcharges shall collect and remit surcharge revenues to the administrator monthly.

1. Prior to the end of each month, the fund administrator shall inform each qualifying telecommunications corporation of the estimated amount of support that it will be eligible to receive from the USF for that month.

2. Net fund contributions shall be remitted to the administrator within 45 calendar days after the end of each month. If the net amount owed is not received by that date, remedies, including withholding future support from the USF, may apply.

3. The administrator will forward remitted revenues to the Utah State Treasurer's Office for deposit in a USF account.

B. Distribution of Funds -- Net Fund distributions to qualifying telecommunications corporations for a given month shall be made 60 days after the end of that month, unless withheld for failure to maintain qualification or failure to comply with Commission orders or rules.

R746-360-7. Eligibility for Fund Distributions.

A. Qualification -- A telecommunications corporation shall be in compliance with Commission orders and rules and have its average revenue per line less than the USF cost proxy model costs for each designated support area in which it desires to qualify to receive support from the fund. Each telecommunications corporation receiving support shall use that support only to provide basic telecommunications service and any other services or purposes approved by the Commission.

B. Retail Rate Ceiling -- To be eligible, a telecommunications corporation may not charge retail rates in excess of the Commission determined Affordable Base Rate for basic telecommunications service or vary from the terms and conditions determined by the Commission for other telecommunications services for which it receives Universal Service Fund support.

C. Lifeline Requirement -- A telecommunications corporation may qualify to receive distributions from the fund only if it offers Lifeline service on terms and conditions prescribed by the Commission.

D. Exclusion of Resale Providers -- Only facilities-based providers, will be eligible to receive support from the fund. Where service is provided through one telecommunications corporation's resale of another telecommunications corporation's service, support may be received by the latter only.

R746-360-8. Calculation of Fund Distributions.

A. Use of Proxy Cost Models -- The USF proxy cost model(s) selected by the Commission, the Affordable Base Rates, and average revenue per line will be used to determine fund distributions within designated support areas.

B. Impact of Other Funding Sources -- The USF proxy cost estimate for a designated support area will be reduced by the amount that basic telecommunication service costs are recovered through interstate cost allocations, from the federal USF, pursuant to 47 U.S.C. Section 254, or from any other mechanism by which intrastate costs are calculated from total costs.

C. Determination of Support Amounts -- Each qualifying telecommunications corporation shall receive funds to support each primary residential line in active service which it furnishes in each designated area for which the monthly intrastate USF proxy model cost exceeds the Affordable Base Rate established for that area. Monies from the fund will equal that numerical difference unless average revenue per line for the designated support area exceeds the USF proxy model cost results.

D. Lifeline Support -- Eligible telecommunications corporations shall receive additional USF funds to recover any discount granted to lifeline customers, participating in a Commission approved Lifeline program, that is not recovered from federal lifeline support mechanisms.

E. Exemptions -- Telecommunications corporations may petition to receive an exemption for any provision of this rule or to

receive additional USF support, for use in designated support areas, to support additional services which the Commission determines to be consistent with universal service purposes and permitted by law.

R746-360-9. One-Time Distributions from the Fund.

A. Applications for One-Time Distributions -- Telecommunications corporations or potential customers not presently receiving service may apply to the Commission for one-time distributions from the fund for extension of service to a customer, or customers, not presently served. These distributions are to be made only in extraordinary circumstances, when traditional methods of funding and service provision are infeasible.

1. In considering the one-time distribution application, the Commission will examine relevant factors including the type and grade of service to be provided, the cost of providing the service, the demonstrated need for the service, whether the customer is within the service territory of a telecommunications corporation, the provisions for service or line extension currently available, and whether the one-time distribution is in the public interest.

B. Maximum Amount -- The maximum one-time distribution will be no more than that required to make the net investment equivalent to the relevant proxy model cost estimate.

C. Impact of Distribution on Rate of Return Companies -- A one-time distribution from the fund shall be recorded on the books of a rate base, rate of return regulated LEC as an aid to construction and treated as an offset to rate base.

D. Notice and Hearing -- Following notice that a one-time distribution application has been filed, a LEC may request a hearing or seek to intervene to protect its interests.

E. Bidding for Unserved Areas -- A telecommunications corporation will be selected to serve in an unserved area on the basis of a competitive bid. The estimated amount of the one-time distribution will be considered in evaluating each bid. Fund distributions in that area will be based on the winning bid.

R746-360-10. Altering the USF Charges and the End-User Surcharge Rates.

The uniform surcharge shall be adjusted periodically to minimize the difference between amounts received by the fund and amounts disbursed.

R746-360-11. Support for Schools, Libraries, and Health Care Facilities. Calculation of Fund Distributions.

The Universal Service Fund rules for schools, libraries and health care providers, as prescribed by the Federal Communications Commission in Docket 96-45, 97-157 Sections X and XI, paragraphs 424 - 749, of Order issued May 8, 1996 and CFR Sections 54.500 through 54.623 inclusive, incorporated by this reference, is the prescribed USF method that shall be employed in Utah. Funding shall be limited to funds made available through the federal universal service fund program.

**KEY: public utilities, telecommunications, universal service*
December 31, 1997**

**54-7-25
54-7-26
54-8b-12
54-8b-15**



**Transportation, Preconstruction
R930-5
Implementation of Agreements,
Participation, Maintenance and Public
Notice Responsibilities Relating to
Railway-Highway Projects**

NOTICE OF PROPOSED RULE

(Repeal and Reenact)
DAR FILE NO.: 20544
FILED: 12/22/97, 12:18
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: Old rule was obsolete and needed to be rewritten.

SUMMARY: The new rule expands on the information that was contained in the old rule; it explains in greater detail the responsibilities of all those involved with the railroad crossings, in particular the responsibilities of the state, the railroad, local governments (county and city) and private owners of tracks. The new rule contains new information on the responsibilities of local agencies in dealing with approval of new developments when it involves the railroad, and it explains who is involved in the evaluation of railroad crossings and the specific responsibilities of each.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Sections 54-4-15, 10-8-34, 10-8-82, 63-49-4, and 63-49-16

FEDERAL MANDATE FOR THIS FILING: 23 CFR 1 Subpart J - "Highway Safety," Part 924 "Highway Safety Improvement program," and 23 CFR 6 Part 646B

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: Cost to construct railroad safety projects when justified for Federal railroad safety funds is the matching fund cost of about 7% by the state or 100% state funds when the highway crosses a railroad track and the highway is being constructed or reconstructed by the state. These costs are the same as they were under the old rule, but these costs are just explained better with the proposed new rule.

❖LOCAL GOVERNMENTS: Cost to construct railroad safety projects when justified for Federal railroad safety funds is the matching fund cost of about 7% by the local highway agency or 100% local funds when the highway crosses a railroad track and local agency is constructing or reconstructing their highway. These costs are the same as they were under the old rule, but these costs are just explained better with the proposed new rule.

❖OTHER PERSONS: When industrial tracks cross a public highway the original costs and maintenance costs are paid for by the owner of the track. These costs are the same as they were under the old rule but these costs are just better explained with the newly proposed rule.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Owners of private industrial railroad tracks crossing public highways must pay for the installation and maintenance of track materials in the public highway/railway crossings to keep the crossing in good safe operating condition.

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

Transportation
Preconstruction
Calvin Rampton Complex
4501 South 2700 West
Box 148445
Salt Lake City, UT 84114-8445, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:

Orlando Jerez at the above address, by phone at (801) 965-4176, by FAX at (801) 965-4564, or by Internet E-mail at src0fs01.ojerez@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 02/17/98.

THIS FILING MAY BECOME EFFECTIVE ON: 02/18/98

AUTHORIZED BY: Kim Schvaneveldt, Project Development

R930. Transportation, Preconstruction.

[R930-5. ~~Implementation of Agreements, Participation, Maintenance and Public Notice Responsibilities Relating to Railway-Highway Projects.~~

R930-5-1. Definitions:

- A. "UDOT" means the Utah Department of Transportation
- B. "FHPM" means the Federal-Aid Highway Program Manual, which can be reviewed at the agency office.
- C. "FHWA" means the Federal Highway Administration
- D. "PSC" means the Public Service Commission
- E. "At-Grade Crossing" means the crossing of a highway and railway at the same elevation.

R930-5-2. Authority:

— Under the Authority of Chapter 204, Laws of Utah, certain functions formerly the responsibility of the PSC have been transferred to UDOT, including those involving transportation planning, construction and safety generally. Also, prior to the initiation of actual construction of a project, an agreement between UDOT and the railroad company involved shall be prepared in accordance with the FHWA provisions of Volume 6, Chapter 4, Section 2 and Volume 1, Chapter 6, Section 3 of the FHPM. Railroad participation shall be in conformance with the FHWA provisions of Volume 6, Chapter 6, Section 2, Paragraph 6 of the FHPM.

R930-5-3. Grade Crossing Elimination:

— A. When a highway project will eliminate existing at-grade intersections of railways and highways either by grade separation facilities or relocation of the highway, railroad participation shall be

as described in the FHWA provisions of Volume 6, Chapter 6, Section 2, Paragraph 6b(3) and 6b(4) of the FHPM.

— B. ~~Limits of railroad participation of a highway-railway project shall be as described in the FHWA provisions of Volume 6, Chapter 6, Section 2, Paragraphs 6c(1), (2) and (3) of the FHPM. Responsibility for maintenance of a newly constructed grade separation facility shall be as follows:~~

— 1. ~~Where a separation facility overpasses a railroad, maintenance responsibility for the entire structure and approaches shall be assumed by UDOT.~~

— 2. ~~Where a grade separation structure underpasses a railroad, maintenance of the approaches and of the entire structure below and including the deck plate, hand rails, and parapets, shall be the responsibility of UDOT. Maintenance of the waterproofing, ballast, ties, rails and any portion of the supporting structure above the top of the ballast deck plate between parapets shall be the responsibility of the railroad company.~~

— C. ~~Cost of repairing damages to a structure, occasioned by collision, equipment failure or derailment of the railroad's equipment, shall be borne by the railroad company.~~

R930-5-4. Railway-Highway Projects:

— A. ~~Grade Crossing Protection: This group includes all projects for protection of existing at-grade crossings of highways and railways by automatic warning devices. Where it has been determined that active warning devices are warranted, automatic flashing light signals with gates at railroad crossings of two-lane highways and a combination of flashing light signals with gates and cantilever flashing light signals at railroad crossings of multilane highways will be placed. Exceptions may be allowed if recommended by the Railroad Crossing Surveillance Team. The Railroad Crossing Surveillance Team shall establish the priority in which existing crossing shall be upgraded to meet this standard insofar as funding will allow.~~

~~B. Participation:~~

— 1. ~~As specified in the FHWA provisions of the FHPM, projects for grade crossing improvements, including crossing rehabilitation and surfacing improvements, are deemed to be of no ascertainable benefit to the railroads, and there shall be no required railroad share of the costs. However, nothing shall preclude a railroad from participating in the cost of a project if they so desire. Also, other parties may voluntarily participate in the cost of crossing improvement projects.~~

— 2. ~~As specified in the National Surface Transportation Assistance Act, Federal funds are provided for railroad safety grade crossing improvement, which must be matched with state or local government funds. The local agency who owns the road shall provide the matching funds to improve the highway-railway crossing. When local funds are limited, special arrangements may be made with UDOT to spread payments over an appropriate period of time (up to three years). These funds will be repaid by automatically deducting them from the local governments' quarterly allotment of B and C funds.~~

— C. ~~Maintenance: The maintenance of automatic signal devices and the pavement area between rails including space between multiple tracks, if the railroad company owns the easement rights between the multiple tracks, and two feet beyond each outside rail shall become the responsibility of the railroad company involved. Maintenance of signals including the pavement between rails on~~

temporary highway detours shall in all cases become the responsibility of the railroad company at the expense of the highway agency.

R930-5-5. Reconstruction of Existing Railway-Highway Grade Separation:

— A project to reconstruct an existing overpass or underpass shall include the entire structure and railway and the highest approaches thereto. Since there is no railway liability for such projects, it is considered that there shall be no benefit to the railroad and railroad participation shall not be required. Responsibility for maintenance shall be the same as described under R930-5-4(C) of this rule.

R930-5-6. Existing Railroad Crossed by New Highway:

— Where a new street or highway is proposed which is not essentially a relocation of an existing street or highway and it intersects an existing railroad, the UDOT will consider the new crossing in conformance with Section 54-4-15 of the Utah Code. Public notice will be made in conformance with R930-5-8 of this rule. If approved, construction of a separation structure or the installation of a signal device at such crossing will not be considered as a benefit to the railroad and consequently, railroad participation shall not be required.

R930-5-7. Railway-Highway Project for an Existing Highway Crossed by a New Railroad:

A. Where a new railroad crosses an existing highway, UDOT will consider the new crossing in conformance with Section 54-4-15 of the Utah Code. Public notice will be made in conformance with Section R930-5-8 of this Rule. If approved, the required separation or warning devices, and any pavement work at the crossing shall not be considered to be of benefit to the road user and 100 percent railroad participation shall be required. The determination as to separation or type of protection shall be according to classification and traffic volume of the highway crossed and the predicted traffic hazard.

B. In order that a railway-highway project shall not become unduly delayed, UDOT shall consider a six-month period of time from issuance of a railroad agreement to be adequate for completion of execution by the railroad company involved. Should more than the specified period of time elapse, the UDOT shall require the railroad to proceed with the work covered by the agreement under the authority contained in Section 54-4-15 of the Utah Code and approval from FHWA will be solicited in conformance with Volume 6, Chapter 6, Section 2, Subsection 1, Paragraphs 9d(6) and 9d(7) of the FHPM.

R930-5-8. Public Notice of Intended Action:

— When UDOT is considering the execution of, or actually executes, an agreement with a railroad or other common carriers involving construction, relocation or substantial modification of a railroad crossing, railroad separation structure, signal, sign, warning device or other facility, or when in any manner the elimination, substantial modification, construction or improvement of any crossing or other facility is contemplated in connection with existing or proposed contracts, UDOT shall give notice of its intended action (signed by its Executive Director). UDOT shall publish such notice in a newspaper of general circulation and, if necessary, in the county involved at least twice with a provision that

written protests may be filed with UDOT 15 days from the date of the last publication of the notice. The notice shall identify the project, briefly describe the changes proposed, and contain general information relating to the proposed action.

R930-5-9. Public Hearing Requirements:

— All requests for a hearing shall be in writing and shall detail how a proposed action will adversely affect a group of people, firm or corporation, and if it appears that the adverse affect cannot be alleviated by UDOT, such a hearing will be conducted informally by UDOT. Any party aggrieved by any determination made by UDOT shall have their statutory right under Section 54-4-15, as amended, to petition the PSC for a hearing to be governed by the procedures of the PSC.

R930-5-10. Waive the Requirement to Publish Notice of Intended Action:

— In instances where the action proposed by UDOT does not substantially affect the general public, UDOT may waive the requirement to publish notice as provided in R930-5-8, provided all parties affected concur in writing with the action proposed. For the purposes of this section, parties affected shall mean railroads or other common parties (state, county, city or other environmental agencies, boards or commissions) having jurisdiction over any property rights or facilities, and private persons or directly affected.

R930-5-11. UDOT Authorized to Issue Notice of Intended Action:

— The Executive Director of UDOT shall be authorized to issue all notices referred to herein in the name of the UDOT.

KEY: railroads

1991 _____ 63-49-8(5)(b) and (5)(c)
54-4-15

R930-5. Establishment and Regulation of At-Grade Railroad Crossings.

R930-5-1. Policy.

(1) The policy of the Utah Department of Transportation shall be to review for safety all existing public at-grade highway/railway crossings in the state of Utah in accordance with the Manual on Uniform Traffic Control Devices, evaluate the location of new crossings, prescribe the types of at-grade crossing railroad warning devices, and determine maintenance and funding apportionments for all highway/railway projects.

(2) Highway/railway projects utilizing federal railroad safety funds shall be done in accordance with 23 Code of Federal Regulation Part 646 Subpart B and Section 63-49-4.

R930-5-2. Authority.

The provisions of this rule are authorized by the following grants of rulemaking authority: Sections 54-4-15, 10-8-34, 10-8-82, 63-49-4, 63-49-16; 23 CFR 924 and 23 CFR 646 (1995).

R930-5-3. Purpose.

The Utah Department of Transportation shall oversee all at-grade public highway/railway crossings in the state of Utah and provide for the safe, efficient operation of vehicles and pedestrians through the highway/railway intersections. UDOT shall also promote elimination of at-grade highway/railway crossings.

eliminate hazards to improve at-grade crossings, and recommend the construction of grade separation structures to replace at-grade crossings.

This rule shall describe procedures for the selection of highway/railway crossings for improvement, the selection of passive and active railroad warning devices, design, maintenance operations and the funding sources for the improvement of crossings.

R930-5-4. Incorporation by Reference.

The following federal law, federal agency manuals and association standards, railway manuals and technical requirements are adopted and incorporated by reference:

(1) 23 CFR Chapter G "Engineering and Traffic Operations" Part 646 "Railroads" Subpart B.(April 1, 1995).

(2) 23 CFR Chapter 1, Subchapter J "Highway Safety" Part 924 "Highway Safety Improvement Program".(April 1, 1995).

(3) AASHTO's Policy on Geometric Design of Highway and Streets", 1994 Edition. For incorporated material see R930-6.

(4) Manual on Uniform Traffic Control Devices, Federal Administration, 1988 edition.(For Incorporated Material See R927-1)

(5) UDOT Standard Plans

R930-5-5. Definitions.

(1) "Active warning devices" means those types of traffic control devices activated by the approach or presence of a train, such as flashing light signals, automatic gates and similar devices, as well as manually operated devices and crossing watchmen, all of which display to motorists positive warning of the approach or presence of a train;

(2) "At-Grade Crossing" means the crossing of a highway and railway at the same elevation;

(3) "CFR" means Code of Federal Regulations;

(4) "Clear roadside" means UDOT's practice to provide a roadside clear zone for safe use by errant vehicles through design, construction, and maintenance activities, implementing the clear zone as defined in AASHTO's Roadway Design Guide;

(5) "Company" shall mean any railroad or utility company including any wholly owned or controlled subsidiary thereof;

(6) "Construction" shall mean the actual physical construction to improve or eliminate a highway/railway grade crossing or accomplish other involved work;

(7) "Diagnostic team/surveillance team" means an appointed group of knowledgeable representatives of the parties of interest in a highway/railway crossing or group of crossings;

(8) "FHWA" means Federal Highway Administration;

(9) "G Funds" means those Federal-Aid highway funds which, pursuant to 23 U.S.C. 120d, may be used for projects for the elimination of hazards of highway/railway crossings not to exceed ten percent of the Federal-aid funds apportioned in accordance with 23 U.S.C. 104;

(10) "Local Agency" means a public agency or corporation authorized to do public enterprise;

(11) "Main line railroad track" means a track of a principal line of a railroad, including extensions through yards, upon which trains are operated by timetable or train order or both, or the use of which is governed by block signals or by centralized traffic control;

(12) "MUTCD" means the Federal Highway Administration's Manual of Uniform Traffic Control Devices;

(13) "Passive warning devices" means those types of traffic control device, including signs, markings and other devices located at or in advance of grade crossings to indicate the presence of a crossing but which do not change aspect upon the approach or presence of a train;

(14) "Preliminary engineering" shall mean the work necessary to produce construction plans, specifications, and estimates to the degree of completeness required for undertaking construction, including locating, surveying, designing, and related work;

(15) "PSC" means the Public Service Commission;

(16) "Roadway" means the portion of the highway, including shoulders, for vehicular use;

(17) "Railroad" shall mean all rail carriers, publicly-owned, private, and common carriers, including line haul freight and passenger railroads, switching and terminal railroads and passenger carrying railroads such as rapid transit, commuter and street railroads;

(18) "UDOT" means the Utah Department of Transportation;

(19) "Utility facility" shall mean pipe line installations or systems for transmitting or distributing communications, power, electricity, light, heat, gas, oil, petroleum products, cable television, water, sewer, steam, waste, storm water not connected with highway drainage, and other similar commodities.

R930-5-6. Types of Projects.

Projects for the elimination of hazards for both vehicles and pedestrians at highway/railway crossings may include, but not be limited to the following types of projects:

(1) Elimination of at-grade highway/railway crossings or combining of crossings;

(2) Elimination of an at-grade highway/railway crossings by the relocation of a highway;

(3) Elimination of an at-grade crossing by the construction of a new grade separation where full access control is required regardless of the volume of train or highway vehicles;

(4) Existing at-grade highway/railway crossing improvements;

(5) Reconstruction of an existing highway/railway grade separation structure;

(6) Other highway/railway projects which use railroad properties or involve adjustments to railroad facilities required by highway construction, but do not involve the elimination of hazards of railway/highway crossings;

(7) Construction of new highway crossings of a railroad track where a new street or highway is proposed that is not essentially a relocation of an existing street;

(8) Construction of a new railroad crossing of an existing highway.

R930-5-7. Planning of Improvements for Highway/Railway Crossings.

(1) UDOT shall have a program for the identification of highway/railway crossings for improvement.

(2) Improvements at the selected highway/railway intersection crossings shall be determined by a Diagnostic/Surveillance Review Team. The team shall also review railroad crossings requested by local agencies they consider to be unsafe. They shall also review railroad crossing intersections where accidents have recently occurred. The UDOT Division of Traffic and Safety's Engineering

Coordinator Railroad Inspector shall make arrangements for Diagnostic/Surveillance Reviews of selected crossings.

(a) The Diagnostic/Surveillance Team shall be composed of the following team members:

(i) Engineering Coordinator Railroad Inspector from the Division of Traffic and Safety;

(ii) Engineering Coordinator, Contracts Utility and Railroad Officer, and a Design Technician from the Railroad and Utility Unit of the Preconstruction Division;

(iii) Representatives from the railroad company;

(iv) Representatives from the local government public works department, and when available the local law enforcement groups where the highway/railway crossing is located.

(b) Duties of the Diagnostic/Surveillance Team shall include:

(i) Investigates the elimination of at-grade highway/railway crossings;

(ii) Specifies the passive railroad warning devices to be installed at crossings in accordance with the MUTCD;

(iii) Prescribes installation of active railroad warning devices at highway/railway crossings;

(iv) Specifies the type of railroad crossing materials to be installed at highway/railway crossings;

(v) Prescribes the improvement of the highway approach grades to the tracks to improve sight distance;

(vi) Specifies removal of trees, brush and foliage from the highway and railroad rights-of-way and private properties to provide better sight distance for motor vehicles;

(vii) Specifies compliance with UDOT's Standard Plan STD 715-2A for Disabled Pedestrian Access when pedestrian sidewalks cross tracks;

(viii) Reviews and approves all requests for new at-grade crossings of existing railroads;

(A) The highway agency making the request for a new crossing shall provide a master street plan showing the agency's plan to eliminate or combine existing railroad crossings before new crossings will be approved.

(B) The Surveillance Team shall specify the type of railroad crossing materials, and the active and passive railroad warning devices to be installed at crossings.

(ix) Reviews change of use of highway/railway crossings;

(A) The local agency shall verify the permitted use, public or private, of any highway/railway crossing in writing from the authorized owner of the track prior to approval of new development or change in land use or ownership.

(x) Recommends new overpass structures;

(xi) Where a new railroad crosses an existing highway, UDOT will consider the new crossing in conformance with Section 54-4-15. Public notice will be made in conformance with R930-5-14, Notice of Intended Action. If approved, the required separation or railroad warning devices, and any pavement work at the crossing shall not be considered to be of benefit to the road user and 100 percent railroad participation shall be required. The determination as to separation of type of warning devices shall be according to classification and traffic volume of the highway crossed and the predicted traffic hazard and as recommended by the Surveillance Team.

(c) Duties of Diagnostic/Surveillance Team members shall include:

(i) Engineering Coordinator Railroad inspector, Division of Traffic and Safety, schedules the Diagnostic/Surveillance Team reviews. Notifies team members who are to attend the review by letter twenty working days prior to the review date. Conducts the reviews and issues diagnostic/surveillance team reports within two weeks after the review is held and sends copies of the report to all those attending the review.

(ii) Engineering Coordinator of the Railroad and Utilities Unit establishes requirements for horizontal and vertical alignments of the roadway, determines passive and active railroad warning device locations on the roadway, and funding apportionments on federal railroad safety projects. Initiates all Notices of Intended Action for all railroad projects.

(iii) Contracts Utility and Railroad Officer of the Railroad and Utility Unit reviews the plans and contractual agreement requirements on projects requiring matching funds from local agencies.

(iv) Design Technician from the Railroad and Utility Unit obtains all necessary field data for plan site maps and takes photographs of the existing conditions of all quadrants of the intersection.

(v) The railroad company representative shall provide all train volumes and accident data and any other pertinent data regarding the railroad crossing.

(vi) Local agency public works officer shall provide highway traffic volumes, any proposed road construction activities on the highway or an approved master plan for the highway, and any other necessary data regarding the crossing.

(vii) Local agency law enforcement officer shall supply traffic accident data and other pertinent traffic problems relating to the highway/railway crossing.

R930-5-8. Design of At-Grade Highway/Railway Crossings.

UDOT shall oversee and approve the design of all highway/railway at-grade crossings.

(1) Facilities that are the responsibility of the railroad for maintenance and operation shall conform to the specifications and design standards used by the railroad in its normal practice.

(2) At-Grade crossings that are the responsibility of the local agency for maintenance and operation shall conform to the specifications and design standards and guides used by the highway agency in its normal practice subject to approval by UDOT.

(3) Traffic control devices at all grade crossing improvements shall comply with the MUTCD.

(4) All design plans shall include DOT numbers and street addresses or railroad mile posts for at-grade crossings.

(5) Railroad crossing materials shall be designed as follows:

(a) When it is determined that the railroad crossing material needs to be extended or replaced, the agency doing the design of the crossing shall determine the minimum length of the crossing material. The length shall be determined based on the proposed width of the new roadway or from the approved master plan roadway width. The crossing material length shall be in accordance with the MUTCD and extend at least two feet from the outer edge of the roadway, beyond the roadway clear zone area, or to the back of the concrete curb and gutter or out past the sidewalks. When sidewalks are required on at-grade crossings, the sidewalks shall be in conformance with UDOT's Standard Plan Drawing 715-2A for Disabled Pedestrian Access.

(b) The approach grades of the roadway to the railroad crossing material shall be designed to match the grade of the railroad crossing material and top elevation of the railroad tracks for a minimum distance of 50 feet, but preferably 100 feet, in both directions to provide a smooth crossing for vehicles. The cross slope of the roadway shall match the cross slope of the railroad tracks at the crossing and shall then be transitioned to match the cross slope of the roadway.

(c) When the existing railroad crossing material is to be extended but the existing material is too old and cannot be connected to the new material, complete replacement of the railroad crossing material shall be required.

(d) New railroad crossing materials shall always be concrete material unless another material is approved by the Diagnostic/Surveillance Team.

(6) Active railroad warning devices shall be designed as follows:

(a) When it is determined by the Diagnostic/Surveillance Team that active warning devices are required, it shall be the responsibility of the railroad company to design the devices.

(i) When curb and gutter and/or sidewalks are in place or being installed, the active warning devices shall be placed in accordance with current railroad standards and the MUTCD.

(ii) When no curb and gutter is being installed, the active warning devices shall be placed beyond the roadway clear zone area or two feet beyond the edge of the paved roadway in accordance with the MUTCD.

(iii) When the active warning devices are placed within the roadway clear zone, appropriate attenuation devices shall be installed.

(b) When an existing roadway is to be widened, the new location of the active railroad warning devices shall be determined by the railroad and highway agency and the railroad company shall relocate the devices.

(c) When active warning devices are within 200 feet of a traffic signal the railroad company shall design the preemption system and extend cable from their controller box so the owner or operator of the traffic signal can connect the cables to the signal controller and program the controller.

(d) Design plans shall show the location of the devices by both roadway and railroad milepost or station.

(7) Passive railroad warning devices at railroad crossings shall be designed as follows:

(a) The following passive warning devices shall be designed and installed by the railroad company in accordance with the MUTCD:

(i) Railroad crossing sign R15-1(crossbuck;

(ii) Railroad crossing sign R15-2 (number of tracks).

(b) Design and installation of all other passive railroad warning devices, including the following, are the responsibility of the highway agency that crosses the railroad tracks. Design and location of the devices shall be in accordance with the MUTCD and as engineering studies indicate necessary. Passive railroad warning devices shall be installed by the local highway agency on local roadways.

(i) Railroad advance warning signs W10-1, W10-2, W10-3 and W10-4;

(ii) Railroad pavement markings;

(iii) "Exempt" crossing signs R15-3 (White background), or W10-1a (yellow background). The exempt sign shall only be installed when authorized by the representative from UDOT, Traffic and Safety Division.

(iv) "No Turn on Red" sign R10-11;

(v) "Do Not Stop on Tracks" sign R8-8;

(vi) "Tracks out of Service" sign R8-9 shall be UDOT approved;

(vii) "Stop" sign R1-1 and W3-1, or "Yield" Sign R1-2 may be installed as if it had been recommended by the Diagnostic/Surveillance Team. The local agency may do an engineering study and install the stop or yield sign if warranted under MUTCD guidelines.

(c) Street light illumination at grade crossings may be recommended by the Diagnostic/Surveillance Team and shall be designed and installed in accordance with the MUTCD by the agency owning the roadway.

R930-5-9. Responsibility to Arrange for the Installation of Railroad Materials and Devices.

(1) Responsibility for installation of railroad crossing material is as follows:

(a) When a roadway is widened by a local agency, the local agency shall be responsible to arrange by agreement with the railroad company to install the railroad crossing extension.

(b) When local agencies reconstruct a roadway and new railroad crossing material is required, the local agency shall arrange by agreement with the railroad company for the complete replacement of the railroad crossing material when material cannot be extended.

(c) When a highway/railway crossing is listed on UDOT's Annual High Accident Prediction List and the Diagnostic/Surveillance Team determines railroad crossing materials need to be replaced, UDOT shall arrange by agreement with the railroad company for the replacement of the crossing material. The local agency owning the roadway shall participate in the cost with matching funds. When the local agency does not want to participate in the project with matching funds, the project is terminated.

(2) Responsibility for installation of active warning devices is as follows:

(a) When a local agency widens a roadway which changes the existing conditions of the highway/railway crossing and it requires active warning devices, the local agency shall be responsible to arrange by agreement with the railroad company for the installation of the active railroad warning devices after their plans are approved by UDOT.

(b) When a local agency widens a roadway that has existing active railroad warning devices, the local agency shall have their plans approved by UDOT and arrange by agreement with the railroad company for the relocation of the devices.

(c) When a roadside community development is approved by a local agency that changes the conditions of a highway/railway at-grade crossing by increasing traffic volumes and/or by adding new access openings onto a highway within 250 feet, the agency plans shall be approved by UDOT and the local agency shall arrange by agreement with the railroad company for any required railroad changes.

(d) When a highway/railway at-grade crossing is listed in UDOT's Annual High Accident Prediction List and active warning devices are required, UDOT shall arrange by agreement with the railroad company for the installation of the active railroad warning devices.

(e) When a local agency requests a surveillance review of a highway/railway intersection or a corridor of intersections and the Diagnostic/Surveillance Team determines that a crossing or crossings can be eliminated and other crossings are upgraded, UDOT shall determine if Federal Railroad Safety Funds may be used for any or all of the improvements. UDOT shall also arrange by agreement with the railroad company for the installation of the active railroad warning devices.

(3) Responsibility for installation of passive railroad warning devices is as follows:

(a) When local agencies widen roadways, they shall be responsible to provide and install the passive railroad warning devices.

(b) When a local agency requests a surveillance of a highway/railway intersection or a corridor of intersections and the Diagnostic/Surveillance Team determines crossings can be eliminated if other crossings are upgraded, the local agency shall be responsible to install the passive railroad warning devices.

(c) When a highway/railway crossing is listed in UDOT's Annual High Accident Prediction List and the Diagnostic/Surveillance Team determines that passive railroad warning devices are required, the local agency owning the roadway shall be responsible to provide and install the passive railroad warning devices.

R930-5-10. Maintenance.

(1) The maintenance of automatic signal devices and the pavement area between rails, including space between multiple tracks if the railroad company owns the easement rights between the multiple tracks, and two feet beyond each outside rails shall be the responsibility of the railroad company.

(2) Maintenance of signals including the pavement between the rails on temporary highway detours shall in all cases become the responsibility of the railroad company at the expense of the highway agency owning the roadway.

(3) Maintenance of the crossing approaches up to within two feet of the rails shall be the responsibility of the agency owning the roadway. When the railway is raised due to track and ballast maintenance, the railroad company shall coordinate their work with the agency owning the roadway so the pavement on the approaches can be adjusted to provide a smooth ride for motorists.

(4) Responsibility for maintenance of a newly constructed grade separation shall be as follows:

(a) Where a separation facility overpasses a railroad, maintenance responsibility for the entire structure and approaches shall be assumed by the agency owning the structure and roadway.

(b) When a grade separation structure underpasses a railroad, maintenance of the roadway and the entire structure below and including the deck plate, handrail, and parapets, shall be the responsibility of the owner of the roadway. Maintenance of the waterproofing, ballast, ties, rails and any portion of the supporting structure above the top of the ballast deck plate between parapets shall be the responsibility of the railroad company.

(c) Cost of repairing damages to a highway or a highway structure, occasioned by collision, equipment failure or derailment of the railroad's equipment, shall be borne by the railroad company.

(5) Responsibility for maintenance of private industrial trackage not owned by a railroad company that crosses public highways shall be as follows:

(a) When a facility, plant or property owner receives goods and services from a railroad company train over private industrial trackage that crosses a public highway, maintenance of the crossing shall be the responsibility of those companies receiving the goods and services.

(b) When the highway/railway crossing becomes a safety hazard to vehicles and is not maintained, UDOT and the railroad company shipping the goods and services shall notify the facility, plant or property owners in writing to maintain or replace the railroad crossing material.

(c) If the owner of the private trackage does not maintain or replace the crossing material by a specified date, UDOT shall order the railroad company to cease and desist operations across the highway/railway crossing.

(d) If the owner still does not respond to the order to maintain or replace the railroad crossing material the following action shall be taken by the highway agency owning the roadway:

(i) The highway agency shall remove the trackage from across the roadway and bill the facility owner of the trackage for the expenses to remove the trackage.

(ii) The highway agency shall not issue a permit for a new highway/railway at-grade crossing until owner of the trackage agrees to pay for the cost of removing the trackage across the roadway and agrees to pay for and install new crossing material and repair the roadway approaches to the tracks.

(6) Responsibility for removal of unused railroad tracks shall be in accordance with Sections 10-8-34 and 10-8-82. Railroad tracks may be removed if the governing body of the highway declares the tracks to be a safety hazard, nuisance, and when the railroad has not operated for long periods of time, at least nine months. UDOT's Traffic and Safety Division shall direct the governing body of the highway or the railroad company to remove the tracks.

R930-5-11. Authorizations.

(1) The costs of preliminary engineering, right-of-way acquisition, and construction incurred after the date each phase of the work is included in an approved program and authorized by FHWA are eligible for federal participation. Preliminary engineering and right-of-way acquisition costs which are otherwise eligible, but incurred by the railroad prior to authorization by FHWA, although not reimbursable, may be included as part of the railroad share of the project cost where such share is required.

(2) Prior to issuance of authorization by FHWA either to advertise the physical construction for bids to proceed with force account construction for railroad work or for other construction affected by railroad work the following must be accomplished:

(a) Plans and specifications and estimates must be approved by FHWA.

(b) A proposed agreement between the state and the railroad company must be found satisfactory by FHWA. Before Federal funds may be used to reimburse the state for railroad costs the executed agreement must be approved by FHWA.

R930-5-12. Agreements.

Where construction of a federal aid project requires use of railroad properties or adjustments to railroad facilities, UDOT shall prepare an agreement between UDOT and the railroad company.

(1) Master agreements between UDOT and a railroad company on an area wide or statewide basis may be used. These agreements shall contain the specifications, regulations and provisions required in conjunction with work performed on all projects.

(2) On a project by project basis, the written agreement between UDOT and the railroad company shall, as a minimum, include the following, where applicable:

(a) Reference to appropriate federal regulations;

(b) A detailed statement of the work to be performed by each party;

(c) Method of payment shall be actual cost;

(d) For projects which are not for elimination of hazards of highway/railway crossings, the extent to which the railroad is obligated to move or adjust facilities at the expense of the agency owning the roadway;

(e) The railroad's share of the project cost;

(f) An itemized estimate of the cost of the work to be performed by the railroad;

(g) Method to be used for performing the work, either by railroad forces or by contract;

(h) Maintenance responsibility;

(i) Form, duration, and amounts of any needed insurance;

(j) Appropriate reference to or identification of plans and specifications.

(3) On matching fund agreements between UDOT and the local agency, on a project by project basis the written agreement shall include the following:

(a) Description of work and location, city, county, state;

(b) Reference to federal regulations that matching funds will be provided by the agency having jurisdiction over the street or highway right-of-way where improvements are desired;

(c) Detailed statement of work to be performed by each party regarding design engineering, agreements, inspection and maintenance;

(d) Statement of finances of project and matching funds to be provided by local agency, deposits, invoices and cost overruns or underruns.

(4) Agreements prepared for local government and industrial trackage crossing are prepared between the agency owning the street or highway right-of-way and the industry on forms furnished by the railroad companies.

(5) In order that a highway/railway project shall not become unduly delayed, UDOT shall consider a six month period of time from issuance of the railroad agreement to be adequate for completion of execution by the railroad company involved. Should more than the specified period of time elapse, UDOT shall require the railroad to proceed with the work covered by the agreement under the authority contained in Section 54-4-15 and approval from the FHWA will be solicited in conformance with 23 CFR 646.

R930-5-13. Apportionment of Costs.

Apportionment of costs for installation, maintenance, and reconstruction of active and passive railroad warning devices at highway/railway intersections shall be in accordance with 23 CFR 646.

(1) When a roadway is widened by the state or local governmental agency, the agency shall fund all passive and active railroad warning devices determined necessary by the Diagnostic/Surveillance Team.

(2) When a roadway is widened by a local agency, and the existing railroad crossing material is old and cannot be attached to the new material, the local agency shall fund the replacement of all new existing crossing material.

(3) When a highway/railway at-grade crossing is listed on UDOT's Annual High Accident Prediction List, and it is determined by the Diagnostic/Surveillance Team that the crossing shall be upgraded, it shall be funded by federal railroad safety funds and local highway agency matching funds. The local highway agency shall install the passive warning devices at their own expense.

(4) When a local agency requests a surveillance review of a highway/railway crossing or a corridor of crossings and the Diagnostic/Surveillance Team determines a crossing or number of crossings can be eliminated, and other crossings are upgraded, federal railroad safety and local agency matching funds shall be used to upgrade the crossing. When a crossing is eliminated and others upgraded, the railroad company shall also participate in the upgrade of the crossing.

(5) If approved construction of a separation structure or the installation of a signal device at such crossing is not considered a benefit to the railroad, railroad participation shall not be required.

(6) A project to reconstruct an existing overpass or underpass shall include the entire structure and railway and the highest approaches thereto. Since there is no railway liability for such projects, it is considered that there shall be no benefit to the railroad and railroad participation shall not be required.

R930-5-14. Notice of Intended Action Process.

(1) When UDOT is considering the execution of an agreement with a railroad involving construction, of a railroad separation structure, new at-grade crossings, or in any manner the elimination, substantial modification, construction or improvement of any existing crossing or other facility in connection with existing or proposed contracts for UDOT or any other highway agency, UDOT shall advertise a notice of its intended action in a newspaper of general circulation at least twice with a provision that written protests may be filed with UDOT 15 days from the date of the last publication of the notice. The notice shall identify the project, briefly describe the changes proposed, and contain general information relating to the proposed action.

(2) Construction of a new highway crossing of a railroad track where a new street or highway is proposed which is not essentially a relocation of an existing street, the UDOT will consider the new crossing in conformance with Section 54-4-15. Public notice will be made in conformance with this rule.

(3) All requests for a public hearing shall be in writing and shall detail how a proposed action will adversely affect a group of people, firm or corporation, and if it appears that the adverse affect cannot be alleviated by UDOT. Such a hearing will be conducted informally by UDOT. Any party aggravated by any determination made by UDOT shall have their statutory right under Section 54-4-15, as amended, to petition the PSC for a hearing to be governed by the procedures of the PSC.

(4) In instances where the action proposed by UDOT does not substantially affect the general public, UDOT may waive the

requirement to public notice, provided all parties affected concur in writing with the action proposed. For the purposes of this section, parties affected shall mean railroads or other common parties, state, county, city or other environmental agencies, boards or commissions, having jurisdiction over any property rights of facilities, and private persons or directly affected.

(5) The Executive Director of UDOT shall be authorized to issue all Notices of Intended Action in the name of UDOT.

KEY: railroads, railroad crossings*

1998

10-8-34

10-8-82

54-4-15

63-49-4

63-49-16



End of the Proposed Rule Section

NOTICES OF CHANGES IN PROPOSED RULES

After an agency has published a PROPOSED RULE in the *Utah State Bulletin*, it may receive public comment that requires the PROPOSED RULE to be altered before it goes into effect. A CHANGE IN PROPOSED RULE allows an agency to respond to comments it receives.

As with a PROPOSED RULE, a CHANGE IN PROPOSED RULE is preceded by a RULE ANALYSIS. This analysis provides summary information about the CHANGE IN PROPOSED RULE including the name of a contact person, anticipated cost impact of the rule, and legal cross-references.

Following the RULE ANALYSIS, the text of the CHANGE IN PROPOSED RULE is usually printed. The text shows only those changes made since the PROPOSED RULE was published in an earlier edition of the *Utah State Bulletin*. Additions made to the rule appear underlined (e.g., example). Deletions made to the rule appear struck out with brackets surrounding them (e.g., ~~example~~). A row of dots in the text (•••••) indicates that unaffected text was removed to conserve space. If a CHANGE IN PROPOSED RULE is too long to print, the Division of Administrative Rules will include only the RULE ANALYSIS. A copy of rules that are too long to print is available from the agency or from the Division of Administrative Rules.

While a CHANGE IN PROPOSED RULE does not have a formal comment period, there is a 30-day waiting period during which interested parties may submit comments. The 30-day waiting period for CHANGES IN PROPOSED RULES published in this issue of the *Utah State Bulletin* ends February 17, 1998. At its option, the agency may hold public hearings.

From the end of the waiting period through May 15, 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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Is Intentionally Left Blank.**

Commerce, Occupational and
Professional Licensing
R156-3a
Architect Licensing Act Rules

NOTICE OF CHANGE IN PROPOSED RULE

DAR FILE NO.: 20200
FILED: 12/30/97, 15:21
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: After a public hearing and further Division and Board review, the following changes are being made.

SUMMARY: Made a change indicating that the Utah Law and Rule examination for architects is included as a part of the application process by passing all questions on an open book, take home examination. Updated edition of the National Council of Architectural Registration Board's (NCARB) Rules of Conduct.

(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 58-3a-101, and Subsections 58-1-106(1) and 58-1-202(1)

THIS FILING INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: NCARB Rules of Conduct, July 1997 edition

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: None.

❖LOCAL GOVERNMENTS: None.

❖OTHER PERSONS: Savings of approximately \$50 to applicants for licensure as an architect in that they are no longer required to take the Utah Law and Rule examination through the Division's testing agency.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Savings of approximately \$50 to applicants for licensure as an architect in that they are no longer required to take the Utah Law and Rule examination through the Division's testing agency.

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.

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 02/17/98.

THIS FILING MAY BECOME EFFECTIVE ON: 02/18/98

AUTHORIZED BY: J. Craig Jackson, Division Director

R156. Commerce, Occupational and Professional Licensing.
R156-3a. Architect Licensing Act Rules.

R156-3a-303. Qualifications for Licensure - Examination Requirements.

(1) In accordance with Subsection 58-3a-302(1)(f), an applicant for licensure as an architect shall pass the following examinations:

(a) as part of the application for licensure, pass all questions on the open book, take home[the] Utah Law and Rule Examination[with a score of at least 75]; and

(b) all divisions of the ARE as defined in Subsection R156-3a-102(4) with a passing score as established by NCARB in accordance with the following:

(i) An applicant who has passed at least one division of the ARE before July 1, 1996, may continue to take the ARE without first completing diversified practical experience.

(ii) An applicant who has not passed at least one division of the ARE before July 1, 1996, must complete an IDP before being permitted to take the ARE.

(2) In accordance with Subsection 58-3a-302(2)(e), an applicant for licensure by endorsement shall pass the following examinations:

(a) as part of the application for licensure, pass all questions on the open book, take home[the] Utah Law and Rule Examination;

(b) any previous edition of the ARE not defined in Subsection R156-3a-102(4); or

(c) based upon review of the applicant's experience by the board, pass one or more divisions of the ARE with a passing score established by NCARB, as specified by the division in collaboration with the board.

R156-3a-401. Unprofessional Conduct.

"Unprofessional conduct" includes:

(1) submitting an incomplete final plan, specification, report, or set of construction plans to:

(a) a client, when the licensee represents, or could reasonably expect the client to consider, the plan, specification, report, or set of construction plans to be complete and final; or

(b) a building official for the purpose of obtaining a building permit;

- (2) failing as a principal to exercise reasonable charge;
- (3) failing as a supervisor to exercise supervision of an employee, subordinate, associate or drafter; or
- (4) failing to conform to the generally accepted and recognized standards and ethics of the profession including those established in the ~~[1993]~~July 1997 edition of the NCARB "Rules of Conduct", which is hereby incorporated by reference.

KEY: architects, licensing
1998

58-3a-101
58-1-106(1)
58-1-202(1)



End of the Change in Proposed Rule Section

NOTICES OF 120-DAY (EMERGENCY) RULES

An agency may file a 120-DAY (EMERGENCY) RULE when it finds that the regular rulemaking procedures would:

- (a) cause an imminent peril to the public health, safety, or welfare;
- (b) cause an imminent budget reduction because of budget restraints or federal requirements; or
- (c) place the agency in violation of federal or state law (UTAH CODE Subsection 63-46a-7(1) (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.

Public Service Commission,
Administration
R746-360
Universal Public Telecommunications
Service Support Fund

NOTICE OF 120-DAY (EMERGENCY) RULE

DAR FILE No.: 20598
FILED: 12/30/97, 15:56
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: Section 54-8b-15 requires the Commission to establish this rule and requires that it be implemented by January 1, 1998. The Commission proposed a new rule filed in October 1997. The comments received made it necessary to revise the proposed rule, but time constraints make it impossible to complete a change in proposed rule or to refile a new rule and be in a position to implement the rule by January 1, 1998.

SUMMARY: This rule establishes an expendable trust fund to promote equitable cost recovery and universal service by ensuring that customers have access to basic telecommunications service at just, reasonable and affordable rates, consistent with state and federal acts.

(**DAR Note:** A corresponding proposed new rule is under DAR No. 20599 in this *Bulletin*. This emergency rule, as will the new rule when it becomes effective, replaces Rule R746-408 which expired January 1, 1998, as noted in this *Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Section 54-8b-15

THIS FILING INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: Federal Communications Commission (FCC) Docket 96-45, 97-157 Sections X and XI, paragraphs 424 - 749

ANTICIPATED COST OR SAVINGS TO:

- ❖THE STATE BUDGET: Unknown.
- ❖LOCAL GOVERNMENTS: Unknown.
- ❖OTHER PERSONS: Unknown.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Approximately same as existing fund (that this fund is replacing).

EMERGENCY FILING JUSTIFICATION: REGULAR RULEMAKING PROCEDURES WOULD place the agency in violation of federal or state law.

The Commission proposed a new rule filed in October 1997. The comments received made it necessary to revise the proposed rule, but time constraints make it impossible to complete a change in proposed rule or to refile a new rule and be in a position to implement the rule by January 1, 1998.

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

Public Service Commission
Administration
Fourth Floor, Heber M. Wells Building
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 by Internet E-mail at pubsc.bstroud@state.ut.us.

THIS FILING IS EFFECTIVE ON: 12/31/97

AUTHORIZED BY: Barbara Stroud, Paralegal

R746. Public Service Commission, Administration.
R746-360. Universal Public Telecommunications Service Support Fund.

R746-360-1. General Provisions.

A. Authorization -- Section 54-8b-15 authorizes the Commission to establish an expendable trust fund, known as the Universal Public Telecommunications Service Support Fund, the "universal service fund," "USF" or the "fund," to promote equitable cost recovery and universal service by ensuring that customers have access to basic telecommunications service at just, reasonable and affordable rates, consistent with the Telecommunications Act of 1996.

B. Purpose -- The purposes of these rules are:

1. to govern the methods, practices and procedures by which:

a. the USF is created, maintained, and funded by end-user surcharges applied to retail rates paid by service end-users;

b. funds are collected for and disbursed from the USF to qualifying telecommunications corporations so that they will provide basic telecommunications service at just, reasonable and affordable rates; and.

2. to govern the relationship between the fund and the trust fund established under 54-8b-12, and establish the mechanism for the phase-out and expiration of the latter fund.

C. Application of the Rules -- The rules apply to all retail providers that provide intrastate public telecommunications services.

R746-360-2. Definitions.

A. Affordable Base Rate (ABR) -- means the monthly per line retail rates, charges or fees for basic telecommunications service which the Commission determines to be just, reasonable, and affordable for a designated support area. The Affordable Base Rate shall be established by the Commission and shall be the rate against which the USF proxy cost model results shall be compared for the purpose of computing USF support. The Affordable Base Rate does not include the applicable USF retail surcharge.

B. Average Revenue Per Line -- means the average revenue for each access line computed by dividing all revenue derived from a telecommunications corporation's provision of public telecommunications services in a designated support area by that

telecommunications corporation's number of access lines in the designated support area. When a telecommunications corporation does not have access lines in a designated support area, the average revenue per line for that telecommunications corporation will be based on the simple average of the average revenue per line determinations of all other telecommunications corporations which have access lines in the designated support area.

C. Basic Telecommunications Service -- means a flat-rated local exchange service consisting of access to the public switched network without additional charge for usage or the number of local calls placed or received; touch-tone, or its functional equivalent; single-party service with telephone number listed free in directories that are received free; access to operator services; access to directory assistance, lifeline and telephone relay assistance; access to 911 and E911 emergency services; access to long-distance carriers; access to toll limitation services; and other services as may be determined by the Commission.

D. Designated Support Area -- means the geographic area used to determine USF support distributions. A designated support area, or "support area," need not be the same as a USF proxy model's geographic unit. The Commission will determine the appropriate designated support areas for determining USF support requirements.

E. Facilities-Based Provider -- means a telecommunications corporation that uses its own facilities, a combination of its own facilities and essential facilities or unbundled network elements purchased from another telecommunications corporation, or a telecommunications corporation which solely uses essential facilities or unbundled network elements purchased from another telecommunications corporation to provide public telecommunications services.

F. Geographic Unit -- means the geographic area used by a USF proxy cost model for calculating costs of basic local exchange service. The Commission will determine the appropriate geographic area to be used in determining basic local exchange service costs.

G. Net Fund Distributions -- means the difference between the gross fund distribution to which a qualifying telecommunications corporation is entitled and the gross fund surcharge revenues generated by that company, when the former amount is greater than the latter amount.

H. Net Fund Contributions -- means the difference between the gross fund distribution to which a qualifying telecommunications corporation is entitled and the gross fund surcharge revenues generated by that company, when the latter amount is greater than the former amount.

I. Qualifying Telecommunications Corporation -- means a telecommunications corporation that the Commission has designated an eligible telecommunications carrier, pursuant to 47 U.S.C. Section 214(e), who may receive monies from the federal and state universal service funds..

J. Retail Provider -- means telecommunications corporations, interexchange carriers, resellers, alternate operator service providers, commercial mobile radio service providers, radio common carriers, aggregators or any other person or entity providing telecommunications services that are used or consumed by an consumer or end-user.

K. Trust Fund -- means the Trust Fund established by 54-8b-12.

L. USF Proxy Model Costs -- means the average total, jurisdictionally unseparated, cost estimate for basic telecommunications service, in a geographic unit, based on the forward-looking, economic cost proxy model(s) chosen by the Commission. The level of geographic cost disaggregation to be used for purposes of assessing the need for and the level of USF support within a geographic unit will be determined by the Commission.

M. Universal Service Fund (USF or fund) -- means the Universal Public Telecommunications Service Support Fund established by 54-8b-15 and set forth by this rule.

R746-360-3. Transition from 54-8b-12 to 54-8b-15.

A. Phase out of 54-8b-12 Trust Fund and Transfer of Trust Fund Funds -- In order to permit telecommunications corporations to make the transition to the fund created by 54-8b-15 and this rule:

1. The 54-8b-12 Trust Fund mechanisms shall continue until March 31, 1998, upon which date they shall cease. Funds derived from these funding mechanisms will be deposited in the USF.

2. Balances remaining in the 54-8b-12 Trust Fund as of April 1, 1998, plus remittances of any funds pursuant to the 54-8b-12 Trust Fund shall be transferred to the USF.

B. Two-Year Continuation of Equivalent Trust Fund Funding -- Upon written notification to the Commission, telecommunications corporations that received 54-8b-12 Trust Fund support in 1997 may elect to receive support equivalent to what they would have received from the 54-8b-12 Trust Fund rather than support pursuant to the 54-8b-15 USF. These companies may continue to receive this Trust Fund equivalent support until December 31, 1999. During this time period, these companies may elect to end this equivalent support and begin to receive support pursuant to the 54-8b-15 USF by submitting a written notification to the Commission 30 days prior to the beginning of the 54-8b-15 USF support. Funds for equivalent Trust Fund support will be provided from the USF.

R746-360-4. Duties of Administrator.

A. Selection of Administrator -- The Division of Public Utilities will be the fund administrator. If the Division is unable to fulfill that responsibility, the administrator, who must be a neutral third party, unaffiliated with any fund participant, shall be selected by the Commission.

B. Cost of Administration -- The cost of administration shall be borne by the fund.

C. Access to Books -- Upon reasonable notice, the administrator shall have access to the books of account of all telecommunications corporations and retail providers, which shall be used to verify the intrastate retail revenue assessed in an end-user surcharge, to confirm the level of eligibility for USF support and to ensure compliance with this rule.

D. Maintenance of Records -- The administrator shall maintain the records necessary for the operation of the USF and this rule.

E. Report Forms -- The administrator shall develop report forms to be used by telecommunications corporations and retail providers to effectuate the provisions of this rule and the USF. An officer of the telecommunications corporation or retail provider shall attest to and sign the reports to the administrator.

F. Administrator Reports -- The administrator shall file reports with the Commission containing information on the average revenue per line calculations, projections of future USF needs, analyses of the end-user surcharges and Affordable Base Rates, and recommendations for calculating them for the following 12-month period. The report shall include recommendations for changes in determining basic telecommunications service, designated support areas, geographic units, USF proxy cost models and ways to improve fund collections and distributions.

G. Annual Review -- The administrator, under the direction of the Commission, shall perform an annual review of fund recipients to verify eligibility for future support and to verify compliance with all applicable state and federal laws and regulations.

H. Proprietary Information -- Information received by the administrator which has been determined by the Commission to be proprietary shall be treated in conformance with Commission practices.

I. Information Requested -- Information requested by the administrator which is required to assure a complete review shall be provided within 45 days of the request. Failure to provide information within the allotted time period may be a basis for withdrawal of future support from the USF or other lawful penalties to be applied.

R746-360-5. Application of Fund Surcharges to Customer Billings.

A. Commencement of Surcharge Assessments -- Commencing April 1, 1998, end-user surcharges shall be the source of revenues to support the fund. Surcharges will be applied to intrastate retail rates, and shall not apply to wholesale services.

B. Surcharge Based on a Uniform Percentage of Retail Rates -- The retail surcharge shall be a uniform percentage rate, determined and reviewed annually by the Commission and billed and collected by all retail providers.

C. Initial Surcharge -- The initial surcharge to be assessed beginning April 1, 1998, shall equal one percent of billed intrastate retail rates.

R746-360-6. Fund Remittances and Disbursements.

A. Remitting Surcharge Revenues -- Retail providers, not eligible for USF support funds, providing telecommunications services subject to USF surcharges shall collect and remit surcharge revenues to the administrator monthly.

1. Prior to the end of each month, the fund administrator shall inform each qualifying telecommunications corporation of the estimated amount of support that it will be eligible to receive from the USF for that month.

2. Net fund contributions shall be remitted to the administrator within 45 calendar days after the end of each month. If the net amount owed is not received by that date, remedies, including withholding future support from the USF, may apply.

3. The administrator will forward remitted revenues to the Utah State Treasurer's Office for deposit in a USF account.

B. Distribution of Funds -- Net Fund distributions to qualifying telecommunications corporations for a given month shall be made 60 days after the end of that month, unless withheld for failure to maintain qualification or failure to comply with Commission orders or rules.

R746-360-7. Eligibility for Fund Distributions.

A. Qualification -- A telecommunications corporation shall be in compliance with Commission orders and rules and have its average revenue per line less than the USF cost proxy model costs for each designated support area in which it desires to qualify to receive support from the fund. Each telecommunications corporation receiving support shall use that support only to provide basic telecommunications service and any other services or purposes approved by the Commission.

B. Retail Rate Ceiling -- To be eligible, a telecommunications corporation may not charge retail rates in excess of the Commission determined Affordable Base Rate for basic telecommunications service or vary from the terms and conditions determined by the Commission for other telecommunications services for which it receives Universal Service Fund support.

C. Lifeline Requirement -- A telecommunications corporation may qualify to receive distributions from the fund only if it offers Lifeline service on terms and conditions prescribed by the Commission.

D. Exclusion of Resale Providers -- Only facilities-based providers, will be eligible to receive support from the fund. Where service is provided through one telecommunications corporation's resale of another telecommunications corporation's service, support may be received by the latter only.

R746-360-8. Calculation of Fund Distributions.

A. Use of Proxy Cost Models -- The USF proxy cost model(s) selected by the Commission, the Affordable Base Rates, and average revenue per line will be used to determine fund distributions within designated support areas.

B. Impact of Other Funding Sources -- The USF proxy cost estimate for a designated support area will be reduced by the amount that basic telecommunication service costs are recovered through interstate cost allocations, from the federal USF, pursuant to 47 U.S.C. Section 254, or from any other mechanism by which intrastate costs are calculated from total costs.

C. Determination of Support Amounts -- Each qualifying telecommunications corporation shall receive funds to support each primary residential line in active service which it furnishes in each designated area for which the monthly intrastate USF proxy model cost exceeds the Affordable Base Rate established for that area. Monies from the fund will equal that numerical difference unless average revenue per line for the designated support area exceeds the USF proxy model cost results.

D. Lifeline Support -- Eligible telecommunications corporations shall receive additional USF funds to recover any discount granted to lifeline customers, participating in a Commission approved Lifeline program, that is not recovered from federal lifeline support mechanisms.

E. Exemptions -- Telecommunications corporations may petition to receive an exemption for any provision of this rule or to receive additional USF support, for use in designated support areas, to support additional services which the Commission determines to be consistent with universal service purposes and permitted by law.

R746-360-9. One-Time Distributions from the Fund.

A. Applications for One-Time Distributions -- Telecommunications corporations or potential customers not presently receiving service may apply to the Commission for one-time distributions from the fund for extension of service to a customer, or customers, not presently served. These distributions are to be made only in extraordinary circumstances, when traditional methods of funding and service provision are infeasible.

1. In considering the one-time distribution application, the Commission will examine relevant factors including the type and grade of service to be provided, the cost of providing the service, the demonstrated need for the service, whether the customer is within the service territory of a telecommunications corporation, the provisions for service or line extension currently available, and whether the one-time distribution is in the public interest.

B. Maximum Amount -- The maximum one-time distribution will be no more than that required to make the net investment equivalent to the relevant proxy model cost estimate.

C. Impact of Distribution on Rate of Return Companies -- A one-time distribution from the fund shall be recorded on the books of a rate base, rate of return regulated LEC as an aid to construction and treated as an offset to rate base.

D. Notice and Hearing -- Following notice that a one-time distribution application has been filed, a LEC may request a hearing or seek to intervene to protect its interests.

E. Bidding for Unserved Areas -- A telecommunications corporation will be selected to serve in an unserved area on the basis of a competitive bid. The estimated amount of the one-time distribution will be considered in evaluating each bid. Fund distributions in that area will be based on the winning bid.

R746-360-10. Altering the USF Charges and the End-User Surcharge Rates.

The uniform surcharge shall be adjusted periodically to minimize the difference between amounts received by the fund and amounts disbursed.

R746-360-11. Support for Schools, Libraries, and Health Care Facilities. Calculation of Fund Distributions.

The Universal Service Fund rules for schools, libraries and health care providers, as prescribed by the Federal Communications Commission in Docket 96-45, 97-157 Sections X and XI, paragraphs 424 - 749, of Order issued May 8, 1996 and CFR Sections 54.500 through 54.623 inclusive, incorporated by this reference, is the prescribed USF method that shall be employed in Utah. Funding shall be limited to funds made available through the federal universal service fund program.

**KEY: public utilities, telecommunications, universal service*
December 31, 1997**

**54-7-25
54-7-26
54-8b-12
54-8b-15**



FIVE-YEAR REVIEW NOTICES OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the responsible agency is required to review the rule. This review is designed to remove obsolete rules from the *Utah Administrative Code*.

Upon reviewing a rule, an agency may: repeal the rule by filing a PROPOSED RULE; continue the rule as it is by filing a NOTICE OF 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).

Administrative Services, Purchasing **R33-1** Utah State Procurement Rules Definitions

FIVE-YEAR REVIEW NOTICE OF CONTINUATION

DAR FILE No.: 20602
FILED: 12/30/97, 16:15
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 63-56-5 defines procurement terms. Rule R33-1 defines additional terms used in Title 63, Chapter 56, and the rules of the Division of Purchasing. Section 63-56-7 assigns the Procurement Policy Board the responsibility to adopt rules governing procurement.

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 defining procurement terms.

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: 12/30/97



Administrative Services, Purchasing **R33-2** Procurement Organization

FIVE-YEAR REVIEW NOTICE OF CONTINUATION

DAR FILE No.: 20603
FILED: 12/30/97, 16:15
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 63-56-7 assigns to the Procurement Policy Board the responsibility to adopt rules governing procurement organization.

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 relating to the organization of the state procurement function 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: 12/30/97

Administrative Services, Purchasing
R33-3
Source Selection and Contract
Formation

FIVE-YEAR REVIEW NOTICE OF CONTINUATION

DAR FILE No.: 20604
FILED: 12/30/97, 16:15
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 63-56-7 assigns to the Procurement Policy Board the responsibility to adopt rules governing the procurement of all supplies, services, and construction needed 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 providing for appropriate source selection methods to accomplish procurement 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: 12/30/97

Administrative Services, Purchasing
R33-4
Specifications

FIVE-YEAR REVIEW NOTICE OF CONTINUATION

DAR FILE No.: 20605
FILED: 12/30/97, 16:15
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 63-56-16 requires the Procurement Policy Board to adopt rules governing the preparation, maintenance, and content of specifications for supplies, services, and construction required 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: The need for rules governing the preparation, maintenance and content of specifications continues 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: 12/30/97

Auditor, Administration
R123-3
State Auditor Adjudicative Proceedings

FIVE-YEAR REVIEW NOTICE OF CONTINUATION

DAR FILE No.: 20608
FILED: 12/31/97, 11:58
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 63-46b-4 provides authority to designate categories of adjudicative proceedings as informal under certain circumstances. This rule implements that authority.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comment has been received on this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Nothing has changed since the rule was enacted to suggest it should not be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Auditor
Administration
211 State Capitol
Salt Lake City, UT 84114, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:
Betsy Ross at the above address, by phone at (801) 538-1355, by FAX at (801) 538-1383, or Internet E-mail at saaudit.bross@email.state.ut.us.

AUTHORIZED BY: Betsy L. Ross, Counsel

EFFECTIVE: 12/31/97



Auditor, Administration
R123-4
Public Petitions for Declaratory Orders

FIVE-YEAR REVIEW NOTICE OF CONTINUATION

DAR FILE No.: 20609
FILED: 12/31/97, 11:58
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 63-46b-21 requires that each agency issue rules for declaratory orders. This rule responds to that requirement.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comment has been received on this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Nothing has changed to suggest the rule not be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Auditor
Administration
211 State Capitol
Salt Lake City, UT 84114, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:
Betsy Ross at the above address, by phone at (801) 538-1355, by FAX at (801) 538-1383, or Internet E-mail at saaudit.bross@email.state.ut.us.

AUTHORIZED BY: Betsy L. Ross, Counsel

EFFECTIVE: 12/31/97



Auditor, Administration
R123-5
Audit Requirements for Audits of
Political Subdivisions and Nonprofit
Organizations

FIVE-YEAR REVIEW NOTICE OF CONTINUATION

DAR FILE No.: 20610
FILED: 12/31/97, 11:58
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 51-2-3.5 authorizes the state auditor to adopt guidelines for use in the audit procurement process, and requires the auditor to follow the Utah Administrative Rulemaking Act in doing so. This rule implements this requirement.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comment has been received on this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The auditor's responsibilities for audits of local entities have not changed in the statutes; thus, this rule is still required by law.

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

Auditor
Administration
211 State Capitol
Salt Lake City, UT 84114, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:
Betsy Ross at the above address, by phone at (801) 538-1355, by FAX at (801) 538-1383, or Internet E-mail at saudit.bross@email.state.ut.us.

AUTHORIZED BY: Betsy L. Ross, Counsel

EFFECTIVE: 12/31/97

◆ ————— ◆
Commerce, Securities
R164-1
Fraudulent Practices

FIVE-YEAR REVIEW NOTICE OF CONTINUATION
DAR FILE NO.: 20583
FILED: 12/29/97, 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: This rule was enacted under authority granted by Section 61-1-24 and Subsection 61-1-1(3). Section 61-1-24 provides the agency with rulemaking authority necessary to carry out the provisions of Title 61, Chapter 1. It further enables the agency to classify specific acts as unlawful within the meaning of Section 61-1-1 if the agency finds that the acts would operate as a fraud or part of a device, scheme, or artifice to defraud any person. This rule identifies practices by broker-dealers, broker-dealer agents, or issuer agents which would be considered a violation of Section 61-1-1.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: In 1995, the agency proposed amendments to the rule. Written comments were received in

relation to the proposed amendments. As a result of the comments, the amendments eventually lapsed and did not become effective.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule specifies the types of acts that the agency would consider to be fraudulent under Subsection 61-1-1(3). This rule is needed to put securities professionals on notice of the type of conduct that is considered unlawful. Without this rule, ambiguity would exist which would create unnecessary confusion.

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

Commerce
Securities
Second Floor, Heber M. Wells
160 East 300 South
PO Box 146760
Salt Lake City, UT 84114-6760, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:
S. Anthony Taggart at the above address, by phone at (801) 530-6600, by FAX at (801) 530-6980, or Internet E-mail at taggart@br.state.ut.us.

AUTHORIZED BY: S. Anthony Taggart, Corporate Finance Director

EFFECTIVE: 12/29/97

◆ ————— ◆
Commerce, Securities
R164-4
Licensing Requirements

FIVE-YEAR REVIEW NOTICE OF CONTINUATION
DAR FILE NO.: 20584
FILED: 12/29/97, 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: This rule was enacted under authority granted by Sections 61-1-24 and 61-1-4. Section 61-1-24 provides the agency with rulemaking authority necessary to carry out the provisions of Title 61, Chapter 1. It further enables the agency to classify securities, persons and matters within its jurisdiction and prescribe different requirements for different classes. Section 61-1-4 specifies the procedure for obtaining a license.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: In 1995, the agency proposed numerous amendments. The following written comments were received: 1) SIA, ICI and Merrill Lynch supported the amendment to recognize the series 66 exam; 2) ICI supported the amendment to permit examination waivers for applicants that are designated as a Chartered Financial Analyst; and 3) technical changes were suggested. In 1997, the agency proposed numerous amendments. The following written comments were received: 1) Institute of Certified Financial Planners questioned the requirement that investment advisers without custody provide a list of financial documents to the agency within 24 hours of falling below a minimum net worth permitted and also questioned the need for bonding of investment advisers with discretionary authority; and 2) ICI made numerous technical suggestions.

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 provide the specific filing requirements and procedure for licensing. Without the rule, licensees would have no guidance on what specific documents to file and how to obtain a license. In regards to the comments received in 1995, technical changes were made as a result of the comments. In regards to the comments received in 1997, although the amendment became effective as written, the comments are currently being analyzed and a subsequent amendment will be proposed to address the comments. At this time, the agency has not taken a position on the comments.

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

Commerce
 Securities
 Second Floor, Heber M. Wells
 160 East 300 South
 PO Box 146760
 Salt Lake City, UT 84114-6760, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:
 S. Anthony Taggart at the above address, by phone at (801) 530-6600, by FAX at (801) 530-6980, or Internet E-mail at ttaggart@br.state.ut.us.

AUTHORIZED BY: S. Anthony Taggart, Corporate Finance Director

EFFECTIVE: 12/29/97



Commerce, Securities
R164-5
 Broker-Dealer and Investment Adviser
 Books and Records

FIVE-YEAR REVIEW NOTICE OF CONTINUATION

DAR FILE No.: 20585
 FILED: 12/29/97, 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: This rule was enacted under authority granted by Sections 61-1-24 and 61-1-5. Section 61-1-24 provides the agency with rulemaking authority necessary to carry out the provisions of Title 61, Chapter 1. It further enables the agency to classify securities, persons and matters within its jurisdiction and prescribe different requirements for different classes. Section 61-1-5 provides the agency with the authority to prescribe by rule books and records and financial reports requirements.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: In 1997, the agency proposed numerous amendments. The following written comments were received: 1) ICI suggested numerous technical changes; and 2) Institute of Certified Financial Planners expressed support for the 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 specifies the books and records which licensees should maintain. It also provides financial reporting requirements. Without this rule, it would be unclear what specific records should be maintained. Changes are currently being drafted to accommodate the comments.

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

Commerce
 Securities
 Second Floor, Heber M. Wells
 160 East 300 South
 PO Box 146760
 Salt Lake City, UT 84114-6760, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:
 S. Anthony Taggart at the above address, by phone at (801) 530-6600, by FAX at (801) 530-6980, or Internet E-mail at ttaggart@br.state.ut.us.

AUTHORIZED BY: S. Anthony Taggart, Corporate Finance Director

EFFECTIVE: 12/29/97



Commerce, Securities

R164-6

Denial, Suspension or Revocation of a License

FIVE-YEAR REVIEW NOTICE OF CONTINUATION

DAR File No.: 20586
FILED: 12/29/97, 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: This rule was enacted under authority granted by Sections 61-1-24 and 61-1-6. Section 61-1-24 provides the agency with rulemaking authority necessary to carry out the provisions of Title 61, Chapter 1. It further enables the agency to classify securities, persons and matters within its jurisdiction and prescribe different requirements for different classes. Subsection 61-1-6(1)(g) permits the agency to deny or revoke a license if a person has engaged in dishonest or unethical practices. The rule clarifies specific acts or practices that are considered to be dishonest or unethical practices.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: In 1997, the agency proposed amendments to this rule. The ICI commented and suggested technical 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 needed to specify the type of conduct which may be considered dishonest or unethical which could subject a license to denial, revocation or suspension. Without the rule, licensees would have no notice as to the type of conduct the agency may use in deciding the dispensation of a license. The agency is currently considering previous comments in making new amendments.

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

Commerce
Securities
Second Floor, Heber M. Wells
160 East 300 South
PO Box 146760
Salt Lake City, UT 84114-6760, or

at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO: S. Anthony Taggart at the above address, by phone at (801) 530-6600, by FAX at (801) 530-6980, or Internet E-mail at ttaggart@br.state.ut.us.

AUTHORIZED BY: S. Anthony Taggart, Corporate Finance Director

EFFECTIVE: 12/29/97



Commerce, Securities

R164-9

Registration by Coordination

FIVE-YEAR REVIEW NOTICE OF CONTINUATION

DAR File No.: 20587
FILED: 12/29/97, 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: This rule was enacted under authority granted by Sections 61-1-24 and 61-1-9. Section 61-1-24 provides the agency with rulemaking authority necessary to carry out the provisions of Title 61, Chapter 1. It further enables the agency to classify securities, persons and matters within its jurisdiction and prescribe different requirements for different classes. Section 61-1-9 sets out the requirements for registration by coordination and provides the agency with the authority to require by rule certain documents and information.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: In 1995, the agency proposed several amendments. As a result, the following comments were received: 1) Laura Siegel of Davis, Polk and Wardell recommended that the rule clarify that electronic filing is voluntary, not mandatory; 2) ICI recommended that the rule be amended to indicate an electronic filing is considered filed when received by the agency's designee, not when the designee forwards the filing to the agency, and suggested technical changes; and 3) SIA questioned the registration requirement that an issuer provide "any additional documents or information the Division requests."

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule provides the specific requirements for registration by coordination. Without this rule, the procedure for registering by coordination would be uncertain and would cause undo confusion. Also, the statute permits the agency to request

certain documents by rule. The rule sets forth certain document requirements that are necessary in considering a registration application. Amendments were made to address most of the comments. However, the agency disagrees with the SIA comment in that the "any additional documents" requirement is necessary as the agency needs the ability to request certain documents which may only be applicable for a small number of issuers.

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

Commerce
Securities
Second Floor, Heber M. Wells
160 East 300 South
PO Box 146760
Salt Lake City, UT 84114-6760, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:

S. Anthony Taggart at the above address, by phone at (801) 530-6600, by FAX at (801) 530-6980, or Internet E-mail at ttaggart@br.state.ut.us.

AUTHORIZED BY: S. Anthony Taggart, Corporate Finance Director

EFFECTIVE: 12/29/97



Commerce, Securities
R164-10
Registration by Qualification

FIVE-YEAR REVIEW NOTICE OF CONTINUATION

DAR FILE No.: 20588
FILED: 12/29/97, 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: This rule was enacted under authority granted by Sections 61-1-24 and 61-1-10. Section 61-1-24 provides the agency with rulemaking authority necessary to carry out the provisions of Title 61, Chapter 1. It further enables the agency to classify securities, persons and matters within its jurisdiction and prescribe different requirements for different classes. Section 61-1-10 provides for registration by qualification and permits the agency to set certain requirements by 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 by the agency after enacting 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 sets out the procedure and requirements for registering by qualification. Without this rule, there would be confusion as how to register by qualification. Also, without the rule, registration statements would not be required to contain all information that is important for investors to make an investment decision.

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

Commerce
Securities
Second Floor, Heber M. Wells
160 East 300 South
PO Box 146760
Salt Lake City, UT 84114-6760, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:

S. Anthony Taggart at the above address, by phone at (801) 530-6600, by FAX at (801) 530-6980, or Internet E-mail at ttaggart@br.state.ut.us.

AUTHORIZED BY: S. Anthony Taggart, Corporate Finance Director

EFFECTIVE: 12/29/97



Commerce, Securities
R164-14
Exemptions

FIVE-YEAR REVIEW NOTICE OF CONTINUATION

DAR FILE No.: 20596
FILED: 12/30/97, 15:31
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: This rule was enacted under authority granted by Sections 61-1-24 and 61-1-14. Section 61-1-24 provides the agency with rulemaking authority necessary to carry out the provisions of Title 61, Chapter 1. It further enables the agency to classify securities, persons and matters within its jurisdiction and prescribe different requirements for different classes. Section 61-1-14 provides various exemptions from registration. Numerous exemptions require the agency to specify conditions by rule. There is also one exemption which permits the agency to create exemptions by rule.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR

OPPOSING THE RULE: In 1993 and 1994, the Pacific Stock Exchange requested that Section R164-14-1g be amended to provide their Tier I exchange with exemption for both IPO and secondary transactions. In 1995, numerous comments were received in relation to section Section R164-14-1k. However, Section R164-14-1k has since been removed. In 1995, the agency proposed amendments to Section R164-14-2b. The following comments were received in relation to Section R164-14-2b: 1) David King objected to the filing requirement for certain types of issuers and suggested removal of the requirement that restricted shares be reported in the manual; and 2) Merrill Lynch, Standard and Poor's, and SIA recommended that the changes not be made until after a NASAA committee finished considering the matter. In 1997, ICI recommended amending Section R164-14-2b to extend the exemption to issuers that have information on Edgar.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule creates numerous exemptions and also clarifies the conditions and procedure for many more exemptions. Without this rule, many issuers would be required to register their securities which would be very costly and burdensome. This rule is needed to continue these exemptions. In regards to the comments about R164-14-1g, Pacific Stock Exchange Tier I was afforded an exemption for both IPO and secondary transactions. All comments about R164-14-1k are moot since the rule was removed. The agency removed the requirement to list restricted shares in regards to David King's comment on R164-14-2b. However, the agency disagrees with the remaining comments for the following reasons: 1) the agency was familiar with the work product of the NASAA committee and decided it would not be wise to wait any further; and 2) extending the exemption to issuers that have information on Edgar is not necessary as another provision in the rules cover this type of issuer.

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

Commerce
Securities
Second Floor, Heber M. Wells
160 East 300 South
PO Box 146760
Salt Lake City, UT 84114-6760, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:
S. Anthony Taggart at the above address, by phone at (801) 530-6600, by FAX at (801) 530-6980, or Internet E-mail at ttaggart@br.state.ut.us.

AUTHORIZED BY: S. Anthony Taggart, Corporate Finance Director

EFFECTIVE: 12/30/97



Commerce, Securities R164-18 Procedures

FIVE-YEAR REVIEW NOTICE OF CONTINUATION

DAR FILE NO.: 20589
FILED: 12/29/97, 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: This rule was enacted under authority granted by Sections 61-1-24, 63-46b-4, 63-46b-5 and 63-46b-21. Section 61-1-24 provides the agency with rulemaking authority necessary to carry out the provisions of Title 61, Chapter 1. It further enables the agency to classify securities, persons and matters within its jurisdiction and prescribe different requirements for different classes. Section 63-46b-4 permits agencies to designate by rule those proceedings which will be conducted informally. Section 63-46b-5 requires agencies that have designated categories of proceedings as informal to prescribe procedures by rule. Section 63-46b-21 provides agencies with authority to issue declaratory orders and to set procedure by rule. It also permits agencies to list by rule the topics for which orders will not be issued.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received by the agency after enacting 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 is necessary to designate the types of proceedings that will be informal and to set out the procedure for these proceedings. Without the rule, all proceedings would be formal and burdensome on the agency. The rule also is needed so the agency can indicate that it will not issue declaratory orders with respect to Section 61-1-1.

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

Commerce
Securities
Second Floor, Heber M. Wells
160 East 300 South
PO Box 146760
Salt Lake City, UT 84114-6760, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:
S. Anthony Taggart at the above address, by phone at (801) 530-6600, by FAX at (801) 530-6980, or Internet E-mail at ttaggart@br.state.ut.us.

AUTHORIZED BY: S. Anthony Taggart, Corporate Finance Director

EFFECTIVE: 12/29/97



Community and Economic Development, Community Development **R199-8** Permanent Community Impact Fund Board Review and Approval of Applications for Funding Assistance

FIVE-YEAR REVIEW NOTICE OF CONTINUATION

DAR FILE No.: 20555
FILED: 12/23/97, 09:49
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: Section 9-4-305 delineates the duties of the impact board including: Subsection 9-4-305(1)(a) makes subject to the limitations of the Leasing Act, grants and loans from the amounts appropriated by the Legislature out of the impact fund to state agencies and to subdivisions that are or may be socially or economically impacted, directly or indirectly, by mineral resource development; Subsection 9-4-305(1)(b) establishes the criteria by which the loans and grants will be made; Subsection 9-4-305(1)(c) determines the order in which the projects will be funded. Rule R199-8 establishes the procedures under which the impact board operates its grant and loan 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: Continuation of rule is necessary for continued operation of the impact board's grant and loan program under its existing statutory charges.

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

Community and Economic Development
Community Development
Suite 500
324 South State
Salt Lake City, UT 84111, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO: Keith J. Burnett at the above address, by phone at (801) 538-8725, by FAX at (801) 538-8888, or Internet E-mail at kburnett@dced.state.ut.us.

AUTHORIZED BY: David B. Winder, Executive Director

EFFECTIVE: 12/23/97



Community and Economic Development, Community Development **R199-9** Policy Concerning Enforceability and Taxability of Bonds Purchased

FIVE-YEAR REVIEW NOTICE OF CONTINUATION

DAR FILE No.: 20556
FILED: 12/23/97, 09:49
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 9-4-307(3) in part states ". . . Any loan shall specify the terms for repayment and shall be evidenced by general obligation, special assessment, or revenue bonds, notes, or other obligations of the appropriate subdivision issued to the impact board pursuant to such authority for the issuance thereof as may exist at the time of the loan." Rule R199-9 establishes a policy the loans must be in the form of a tax-exempt bond and that the bond must be at full parity with other outstanding debts of the issuer.

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: Continuation of rule is necessary for continued operation of the impact board's grant and loan program under its existing statutory charges.

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

Community and Economic Development
Community Development
Suite 500
324 South State
Salt Lake City, UT 84111, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:
Keith J. Burnett at the above address, by phone at (801) 538-8725, by FAX at (801) 538-8888, or Internet E-mail at kburnett@dced.state.ut.us.

AUTHORIZED BY: David B. Winder, Executive Director

EFFECTIVE: 12/23/97

DIRECT QUESTIONS REGARDING THIS FILING TO:
Keith J. Burnett at the above address, by phone at (801) 538-8725, by FAX at (801) 538-8888, or Internet E-mail at kburnett@dced.state.ut.us.

AUTHORIZED BY: David B. Winder, Executive Director

EFFECTIVE: 12/23/97

Community and Economic
Development, Community
Development
R199-10
Procedures in Case of Inability to
Formulate Contract for Alleviation of
Impact

FIVE-YEAR REVIEW NOTICE OF CONTINUATION

DAR FILE NO.: 20557
FILED: 12/23/97, 09:49
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 9-4-306(4) authorizes the impact board to issue adjudicative rules necessary to perform its responsibilities under Sections 11-13-29 and 11-13-30. Rule R199-10 establishes the adjudicative rules necessary when the impact board is called upon to act as the adjudicative body in disputes regarding impact alleviation contracts between the Intermountain Power Project and governmental entities in Millard County.

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: Continuation of rule is necessary for continued operation of the impact board under its existing statutory charges.

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

Community and Economic Development
Community Development
Suite 500
324 South State
Salt Lake City, UT 84111, or
at the Division of Administrative Rules.

Community and Economic
Development, Community
Development, History
R212-1
Adjudicative Proceedings

FIVE-YEAR REVIEW NOTICE OF CONTINUATION

DAR FILE NO.: 20606
FILED: 12/31/97, 07:00
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 63-46b-1 et seq.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Required by Section 63-46b-21 which provides the procedures for submission, review, and disposition of petitions for agency declaratory orders on the applicability of statutes, rules, and order governing or issued by the agency.

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

Community and Economic Development
Community Development, History
300 Rio Grande
Salt Lake City, UT 84101-1182, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:

Wilson Martin or Lynette Lloyd at the above address, by phone at (801) 533-3552 or (801) 533-3556, by FAX at (801) 533-3503, or Internet E-mail at cedomain.cehistry.wmartin or cedomain.cehistry.lloyd.

AUTHORIZED BY: Max J. Evans, Director

EFFECTIVE: 12/31/97



Health, Administration
R380-50
Local Health Department Funding
Allocation Formula

FIVE-YEAR REVIEW NOTICE OF CONTINUATION

DAR FILE No.: 20569
FILED: 12/23/97, 15:24
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: This rule is required by Section 26A-1-116.

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: This rule is required by statute and provides the procedures for allocating state funds by contract to local health departments.

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

Health
Administration
Cannon Health Building
288 North 1460 West
PO Box 142802
Salt Lake City, UT 84114-2802, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:
Lyle Odendahl at the above address, by phone at (801) 538-6878, by FAX at (801) 538-9338, or Internet E-mail at lodendah@state.ut.us.

AUTHORIZED BY: Rod Betit, Executive Director

EFFECTIVE: 12/23/97



Health, Health Data Analysis
R428-1
Adoption of Health Data Plan

FIVE-YEAR REVIEW NOTICE OF CONTINUATION

DAR FILE No.: 20570
FILED: 12/23/97, 17:19
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 promulgated as required by Subsection 26-33a-104(2).

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments.

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 statute.

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

Health
Health Data Analysis
Cannon Health Building
288 North 1460 West
Box 142854
Salt Lake City, UT 84114-2854, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:
Denise Love at the above address, by phone at (801) 538-6689, by FAX at (801) 538-9916, or Internet E-mail at hlhda.dlove@state.ut.us.

AUTHORIZED BY: Rod Betit, Executive Director

EFFECTIVE: 12/23/97



Health, Health Data Analysis
R428-2
Health Data Authority Standards for
Health Data

FIVE-YEAR REVIEW NOTICE OF CONTINUATION

DAR FILE No.: 20571
FILED: 12/23/97, 17:19
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 promulgated as required by Title 26, Chapter 33a.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule establishes the reporting standards which apply to data suppliers, and the classification, control, use, and release of data received by the committee pursuant to Title 26, Chapter 33a.

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

Health
Health Data Analysis
Cannon Health Building
288 North 1460 West
Box 142854
Salt Lake City, UT 84114-2854, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:
Denise Love at the above address, by phone at (801) 538-6689, by FAX at (801) 538-9916, or Internet E-mail at hlhda.dlove@state.ut.us.

AUTHORIZED BY: Rod Betit, Executive Director

EFFECTIVE: 12/23/97

This is accomplished by submitting a written petition. The petition requests a specific statute or rule to be reviewed and committee action or response to a request for committee action.

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

Health
Health Data Analysis
Cannon Health Building
288 North 1460 West
Box 142854
Salt Lake City, UT 84114-2854, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:
Denise Love at the above address, by phone at (801) 538-6689, by FAX at (801) 538-9916, or Internet E-mail at hlhda.dlove@state.ut.us.

AUTHORIZED BY: Rod Betit, Executive Director

EFFECTIVE: 12/23/97



Health, Health Data Analysis

R428-10

Health Data Authority Hospital Inpatient Reporting Rule

FIVE-YEAR REVIEW NOTICE OF CONTINUATION

DAR FILE NO.: 20573
FILED: 12/23/97, 17:19
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 promulgated as required by Title 26, Chapter 33a.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments.

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 to assure statewide hospital/morbidity data to monitor and improve health care cost, quality, and access in order to assure that the data are collected in a uniform, continuous, and complete manner. Currently we maintain five years of hospital discharge data extensively used to analyze and distribute health care data to facilitate the promotion and accessibility of quality and cost-effective health care.

Health, Health Data Analysis

R428-5

Appeal and Adjudicative Proceedings

FIVE-YEAR REVIEW NOTICE OF CONTINUATION

DAR FILE NO.: 20572
FILED: 12/23/97, 17:19
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 promulgated as required by Title 26, Chapter 33a.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule defines and establishes procedures for any person or agency to petition the Health Data Committee for ruling of rights, status, or other legal relations under a specific statute or rule.

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

Health
Health Data Analysis
Cannon Health Building
288 North 1460 West
Box 142854
Salt Lake City, UT 84114-2854, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:
Denise Love at the above address, by phone at (801) 538-6689, by FAX at (801) 538-9916, or Internet E-mail at hlhda.dlove@state.ut.us.

AUTHORIZED BY: Rod Betit, Executive Director

EFFECTIVE: 12/23/97

Health, Health Data Analysis
R428-20
Health Data Authority Request for
Health Data Information

FIVE-YEAR REVIEW NOTICE OF CONTINUATION

DAR FILE NO.: 20574
FILED: 12/23/97, 17:19
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 promulgated as required by Title 26, Chapter 33a.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule establishes guidelines by which data suppliers shall be required to provide health data information to the Office of Health Data Analysis for the purpose of expanding the committee's health data plan.

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

Health
Health Data Analysis
Cannon Health Building
288 North 1460 West
Box 142854
Salt Lake City, UT 84114-2854, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:

Denise Love at the above address, by phone at (801) 538-6689, by FAX at (801) 538-9916, or Internet E-mail at hlhda.dlove@state.ut.us.

AUTHORIZED BY: Rod Betit, Executive Director

EFFECTIVE: 12/23/97

Health, Health Systems Improvement,
Health Facility Licensure
R432-101
Specialty Hospital - Psychiatric

FIVE-YEAR REVIEW NOTICE OF CONTINUATION

DAR FILE NO.: 20563
FILED: 12/23/97, 11:07
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 Psychiatric Hospitals. Without the authority provided, the Psychiatric 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: The rule is supported by the Utah Healthcare Providers Association, Specialty Hospital Council.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The agency agrees with the need to continue the rule and will submit substantive and nonsubstantive 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
PO 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: 12/30/97

EFFECTIVE: 12/23/97

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**Health, Health Systems Improvement,
Health Facility Licensure
R432-103
Specialty Hospital - Rehabilitation**

FIVE-YEAR REVIEW NOTICE OF CONTINUATION

DAR FILE No.: 20600
FILED: 12/30/97, 16:04
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: 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 Rehabilitation Hospitals. Without the authority provided, the Rehabilitation 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 one licensed provider.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The agency agrees with the need to continue the rule with the nonsubstantive changes. The Health Facility Committee has reviewed the rule and supports the rule with the changes that will be filed at a later time.

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

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**Health, Health Systems Improvement,
Health Facility Licensure
R432-250
Residential Health Care Facilities**

FIVE-YEAR REVIEW NOTICE OF CONTINUATION

DAR FILE No.: 20601
FILED: 12/30/97, 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: 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 Residential Health Care Facilities. Without the authority provided, the 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 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 114 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 may occur following the 1998 Legislative Session.

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: 12/30/97



Human Services, Administration
R495-861
Requirements for Local Discretionary
Social Services Block Grant Funds

FIVE-YEAR REVIEW NOTICE OF CONTINUATION

DAR FILE NO.: 20594
FILED: 12/30/97, 11:20
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 defined in Section 62A-1-114, the department is the social services authority of the state, and shall be the sole state agency for administration of federally-assisted state programs or plans such as the social services block grant.

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: Necessary to ensure the department has proper procedures to follow regarding Local Discretionary Social Services Block Grant Funds.

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

Human Services
Administration
Room 331
120 North 200 West
PO Box 45500
Salt Lake City, UT 84103, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:
Elizabeth Hunter at the above address, by phone at (801) 538-4261, by FAX at (801) 538-4248, or Internet E-mail at hsadm2.lhunter@email.state.ut.us.

AUTHORIZED BY: Robin Arnold-Williams, Director

EFFECTIVE: 12/30/97



Human Services, Mental Health
R523-1
Policies and Procedures

FIVE-YEAR REVIEW NOTICE OF CONTINUATION

DAR FILE NO.: 20525
FILED: 12/17/97, 10:32
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 62A-12-104 and 105 give authority to the Board of Mental Health and describe the responsibilities, powers and duties of the Board, allow the Board to establish and enforce rules necessary to appropriately carry out its duties, establish a fee for service schedule, and establish a formula for allocating funds to local mental health authorities. Section 62A-12-209 lists the objective of the State Hospital and other Mental Health Facilities and provides a bed allocation formula for both adult and pediatric beds at the State Hospital. Section 62A-12-283.1 allows the Division to develop rules that provide a due process procedure to children prior to any "invasive treatment " in which any constitutionally protective liberty or privacy interest will be affected.

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 its 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 is necessary because it defines the role of the Board of Mental Health, defines state and local relationships in the delivery of mental health services, establishes a funding formula, defines what a comprehensive mental health program must include, provides for bed allocation at the Utah State Hospital, and ensures due process protection for children and adults.

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

Human Services
Mental Health
Room 415
120 North 200 West
Salt Lake City, UT 84103, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:
Janina Chilton at the above address, by phone at (801) 538-4072, by FAX at (801) 538-9892, or Internet E-mail at hsadmin1.jchilton@email.state.ut.us.

AUTHORIZED BY: Meredith Alden, Director

EFFECTIVE: 12/17/97



Human Services, Services for People with Disabilities
R539-1
Eligibility

FIVE-YEAR REVIEW NOTICE OF CONTINUATION

DAR FILE No.: 20530
FILED: 12/18/97, 13:28
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 62A-5-103(11) gives the division the authority and responsibility to "establish rules governing the admission . . . of persons with disabilities . . . to facilities and programs operated by or under contract with the division"

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 continues to see the need of rules to determine who shall be determined to be eligible to receive services based on fair and equitable eligibility criteria.

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

Human Services
Services for People with Disabilities
Room 411
120 North 200 West
Salt Lake City, UT 84103, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:
Paul Day at the above address, by phone at (801) 538-4118, by FAX at (801) 538-4279, or Internet E-mail at pday@email.state.ut.us.

AUTHORIZED BY: M. Paul Day, Policy Specialist

EFFECTIVE: 12/18/97



Human Services, Services for People with Disabilities
R539-2
Civil Rights

FIVE-YEAR REVIEW NOTICE OF CONTINUATION

DAR FILE No.: 20531
FILED: 12/18/97, 13:28
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 62A-5-103(4)(b) gives the division the authority and responsibility to "ensure that the constitutionality protected liberty interests of persons with disabilities are not deprived without due process 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: Abuses and prejudice against people with disabilities suggest a continuing need for the division to protect and guarantee constitutional rights.

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

Human Services
Services for People with Disabilities
Room 411
120 North 200 West
Salt Lake City, UT 84103, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:
Paul Day at the above address, by phone at (801) 538-4118, by FAX at (801) 538-4279, or Internet E-mail at pday@email.state.ut.us.

AUTHORIZED BY: M. Paul Day, Policy Specialist

EFFECTIVE: 12/18/97



Human Services, Services for People with Disabilities
R539-4
Quality Assurance

FIVE-YEAR REVIEW NOTICE OF CONTINUATION

DAR FILE No.: 20532
FILED: 12/18/97, 13:28
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 62A-5-103(2) gives the division the authority and responsibility to "establish either directly or by contract . . . programs of outreach, information and referral, prevention, technical assistance, and public awareness, in an effort to enhance the quality of life for persons with disabilities in this state." Subsection 62A-5-103(7) states that the division shall "establish standards and rules for the administration and operation of programs operated under Parts 2"

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 continues to see the need of improving the quality of services and supports for people with disabilities as well as the overall quality of life.

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

Human Services
Services for People with Disabilities
Room 411
120 North 200 West
Salt Lake City, UT 84103, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:
Paul Day at the above address, by phone at (801) 538-4118, by FAX at (801) 538-4279, or Internet E-mail at pday@email.state.ut.us.

AUTHORIZED BY: M. Paul Day, Policy Specialist

EFFECTIVE: 12/18/97



Human Services, Services for People with Disabilities

R539-5

Preparation and Maintenance of Client Records

FIVE-YEAR REVIEW NOTICE OF CONTINUATION

DAR FILE No.: 20533
FILED: 12/18/97, 13:28
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-5-103 gives the division the authority and responsibility to establish standards and rules.

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 continues to see a need for concise documentation standards and rules concerning the division's expectation of program contractors.

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

Human Services
Services for People with Disabilities
Room 411
120 North 200 West
Salt Lake City, UT 84103, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:
Paul Day at the above address, by phone at (801) 538-4118, by FAX at (801) 538-4279, or Internet E-mail at pday@email.state.ut.us.

AUTHORIZED BY: M. Paul Day, Policy Specialist

EFFECTIVE: 12/18/97



Human Services, Services for People with Disabilities

R539-6

Purchase of Service Provider Requirements

FIVE-YEAR REVIEW NOTICE OF CONTINUATION

DAR FILE No.: 20534
FILED: 12/18/97, 13:28
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-5-103 gives the division the authority and responsibility to establish standards and rules necessary to fulfill the division's responsibilities.

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 continues to see the need to monitor and require competencies of division and provider staff to ensure professionalism and maintenance of service and support quality.

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

Human Services
Services for People with Disabilities
Room 411
120 North 200 West
Salt Lake City, UT 84103, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:
Paul Day at the above address, by phone at (801) 538-4118, by FAX at (801) 538-4279, or Internet E-mail at pday@email.state.ut.us.

AUTHORIZED BY: M. Paul Day, Policy Specialist

EFFECTIVE: 12/18/97



Human Services, Services for People with Disabilities

R539-7

Home Based Services

FIVE-YEAR REVIEW NOTICE OF CONTINUATION

DAR FILE NO.: 20535
FILED: 12/18/97, 13:28
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-5-103 and 62A-5-401 give the division the authority and responsibility to: provide home-based services, provide development and administration of home-based services to

support families, and establish standards and rules for contractors who provide home based 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: The division continues to see the need for policies that specify what type of services are available and the expected actions of contractors concerning each type of service or support. Without policies concerning the scope of services and expected outcomes home based service quality may be substantially diminished.

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

Human Services
Services for People with Disabilities
Room 411
120 North 200 West
Salt Lake City, UT 84103, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:
Paul Day at the above address, by phone at (801) 538-4118, by FAX at (801) 538-4279, or Internet E-mail at pday@email.state.ut.us.

AUTHORIZED BY: M. Paul Day, Policy Specialist

EFFECTIVE: 12/18/97



Human Services, Services for People with Disabilities

R539-8

Community-Based Services

FIVE-YEAR REVIEW NOTICE OF CONTINUATION

DAR FILE NO.: 20536
FILED: 12/18/97, 13:28
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 62A-5-103(1) gives the division the authority and responsibility to "plan, develop, and manage an array of services and supports for persons with disabilities and their families throughout the state," and Subsection 62A-5-103(7) states the division will, "establish standards and rules for the administration and operation of programs operated by or under contract with the division"

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 continues to see the need for policies that specify what type of services are available and the expected actions of contractors concerning each type of service or support provided. Without policies concerning the scope of services and expected outcomes service quality in the area of community-based services may be substantially diminished.

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

Human Services
Services for People with Disabilities
Room 411
120 North 200 West
Salt Lake City, UT 84103, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:
Paul Day at the above address, by phone at (801) 538-4118, by FAX at (801) 538-4279, or Internet E-mail at pday@email.state.ut.us.

AUTHORIZED BY: M. Paul Day, Policy Specialist

EFFECTIVE: 12/18/97



Natural Resources, Water Resources **R653-2**

Financial Assistance from the Board of Water Resources

FIVE-YEAR REVIEW NOTICE OF CONTINUATION

DAR FILE No.: 20564
FILED: 12/23/97, 13:44
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 73-10-1 provides revolving funds to give technical and financial assistance to water users to achieve the highest beneficial use of water resources within the state. This rule establishes the criteria for the funding programs and revolving funds.

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: The Board of Water Resources continues to provide funding for water projects so this rule is constantly used, reviewed and amended.

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

Natural Resources
Water Resources
Suite 310, Natural Resources Building
1594 West North Temple
PO Box 146201
Salt Lake City, UT 84114-6201, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:
Nancy Fullmer at the above address, by phone at (801) 538-7251, by FAX at (801) 538-7279, or Internet E-mail at nrwres.nfullmer@state.ut.us.

AUTHORIZED BY: D. Larry Anderson, Director

EFFECTIVE: 12/23/97



Natural Resources, Water Resources **R653-3** Selecting Private Consultants

FIVE-YEAR REVIEW NOTICE OF CONTINUATION

DAR FILE No.: 20565
FILED: 12/23/97, 13:44
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 applies to the procurement of engineering services within the scope of the practice of professional engineering as defined in Section 58-22-102.

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 of Water Resources is constantly selecting private consultants and therefore needs the criteria outlined in this rule.

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

Natural Resources
Water Resources
Suite 310, Natural Resources Building
1594 West North Temple
PO Box 146201
Salt Lake City, UT 84114-6201, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:
Nancy Fullmer at the above address, by phone at (801) 538-7251, by FAX at (801) 538-7279, or Internet E-mail at nrwres.nfullmer@state.ut.us.

AUTHORIZED BY: D. Larry Anderson, Director

EFFECTIVE: 12/23/97



Natural Resources, Water Resources
R653-4
Investigation Account

FIVE-YEAR REVIEW NOTICE OF CONTINUATION

DAR FILE NO.: 20566
FILED: 12/23/97, 13:44
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 73-10-8 establishes the Water Resources Investigation Account to provide moneys for special studies, investigations, engineering, inspections, and other expenses relating to the conservation and development of the waters of the state of Utah. This rule establishes the guidelines for use of the account.

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: The Investigation Account is still in use and guidelines for its use are required.

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

Natural Resources
Water Resources
Suite 310, Natural Resources Building
1594 West North Temple
PO Box 146201

Salt Lake City, UT 84114-6201, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:
Nancy Fullmer at the above address, by phone at (801) 538-7251, by FAX at (801) 538-7279, or Internet E-mail at nrwres.nfullmer@state.ut.us.

AUTHORIZED BY: D. Larry Anderson, Director

EFFECTIVE: 12/23/97



Natural Resources, Water Resources
R653-5
Cloud Seeding

FIVE-YEAR REVIEW NOTICE OF CONTINUATION

DAR FILE NO.: 20567
FILED: 12/23/97, 13:44
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 73, Chapter 15, created the "Cloud Seeding to Increase Precipitation Act" and gave regulatory authority to the Division of Water Resources. This rule specifies the requirements for the cloud seeding 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: The cloud seeding program is still in effect and is regulated by the Division of Water Resources. Therefore the requirements listed in this rule are crucial to operating the cloud seeding program.

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

Natural Resources
Water Resources
Suite 310, Natural Resources Building
1594 West North Temple
PO Box 146201
Salt Lake City, UT 84114-6201, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:
Nancy Fullmer at the above address, by phone at (801) 538-7251, by FAX at (801) 538-7279, or Internet E-mail at nrwres.nfullmer@state.ut.us.

AUTHORIZED BY: D. Larry Anderson, Director

EFFECTIVE: 12/23/97



Natural Resources, Water Resources
R653-6
Privatization Projects

FIVE-YEAR REVIEW NOTICE OF CONTINUATION

DAR FILE No.: 20568
FILED: 12/23/97, 13:44
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 purpose of this rule is to establish a report form for the implementation of Section 73-10d-6 under the Utah Privatization Act.

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 report form is still required under the Utah Privatization Act in Section 73-10d-6.

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

Natural Resources
Water Resources
Suite 310, Natural Resources Building
1594 West North Temple
PO Box 146201
Salt Lake City, UT 84114-6201, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:

Nancy Fullmer at the above address, by phone at (801) 538-7251, by FAX at (801) 538-7279, or Internet E-mail at nrwres.nfullmer@state.ut.us.

AUTHORIZED BY: D. Larry Anderson, Director

EFFECTIVE: 12/23/97



Natural Resources, Water Resources
R653-7
Administrative Procedures for Informal Proceedings

FIVE-YEAR REVIEW NOTICE OF CONTINUATION

DAR FILE No.: 20553
FILED: 12/22/97, 12:53
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: As required by Section 63-46b-1, the Administrative Procedures Act, this rule provides the administrative procedures for informal hearings and declaratory orders.

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: The Division of Water Resources is still required to provide administrative procedures for informal proceedings, as required by the Administrative Procedures Act.

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

Natural Resources
Water Resources
Suite 310, Department of Natural Resources Building
1594 West North Temple
PO Box 146201
Salt Lake City, UT 84114-6201, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:

Nancy Fullmer at the above address, by phone at (801) 538-7251, by FAX at (801) 538-7279, or Internet E-mail at nrwres.nfullmer@state.ut.us.

AUTHORIZED BY: D. Larry Anderson, Director

EFFECTIVE: 12/22/97



Public Safety, Highway Patrol
R714-158
Vehicle Safety Inspection Rule

FIVE-YEAR REVIEW NOTICE OF CONTINUATION

DAR FILE No.: 20545
FILED: 12/22/97, 12:23
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: Title 53, Chapter 8, Part 2, provides for the establishment of a vehicle safety inspection program. Section 53-8-203 establishes a Motor Vehicle Safety Inspection Advisory Council (Council). The Council hears appeals of administrative actions suspending or revoking inspection permits and certificates and advises the Highway Patrol on vehicle safety inspection program issues. Section 53-8-204 provides that the Highway Patrol shall administer the vehicle safety inspection program. Section 53-8-205 provides that a vehicle which is required to be registered, may not be operated without having passed safety inspection. Subsection 53-8-204(5) authorizes the Highway Patrol to make rules administering the vehicle safety inspection 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: This rule should be continued because it assists the Highway Patrol in administering the vehicle safety inspection program and provides notice to the public in general and to safety inspection stations and inspectors in particular regarding program requirements.

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

Public Safety
Highway Patrol
First Floor, Calvin L. Rampton Complex
4501 South 2700 West
Box 141775
Salt Lake City, UT 84114-1775, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:
J. Francis Valerga at the above address, by phone at (801) 965-4461, by FAX at (801) 965-4608, or Internet E-mail at psdomain.psmain.jfvalerg@email.state.ut.us.

AUTHORIZED BY: J. Francis Valerga, Special Counsel

EFFECTIVE: 12/22/97



Public Safety, Highway Patrol
R714-200
Department Standards for Lights and
Illumination Devices on Vehicles

FIVE-YEAR REVIEW NOTICE OF CONTINUATION

DAR FILE No.: 20546
FILED: 12/22/97, 12:23
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: Title 41, Chapter 6, Article 16, addresses various equipment, including lights and illuminating devices, that are required on vehicles in Utah. Section 41-6-142 provides that the department shall adopt standards governing the specifications, installation, and function of such lights and illuminating devices. Section 41-6-117 and Subsection 53-1-106(1)(a) authorize the department to make rules regarding such lights and illuminating devices.

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 because it assists the department in ensuring that vehicle lights and illuminating devices meet certain specifications and that they are installed and function consistently with the requirements of other states and with regulations of the United States Department of Transportation.

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

Public Safety
Highway Patrol
First Floor, Calvin L. Rampton Complex
4501 South 2700 West
Box 141775
Salt Lake City, UT 84114-1775, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:
J. Francis Valerga at the above address, by phone at (801) 965-4461, by FAX at (801) 965-4608, or Internet E-mail at psdomain.psmain.jfvalerg@email.state.ut.us.

AUTHORIZED BY: J. Francis Valerga, Special Counsel

EFFECTIVE: 12/22/97



Public Safety, Highway Patrol
R714-210
Air Conditioning Equipment -
Requirements

FIVE-YEAR REVIEW NOTICE OF CONTINUATION

DAR FILE No.: 20547
FILED: 12/22/97, 12:23
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 41-6-154.10 addresses vehicle air conditioning equipment. Subsection 41-6-154.10(b) provides that such equipment be manufactured, installed, and maintained with due regard for public safety. Subsection 41-6-154.10(c) allows the department to adopt rules to ensure the above.

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 because it assists the department in ensuring that vehicle air conditioning equipment meet certain public safety requirements and that such requirements conform to the requirements approved by the Society of Automotive Engineers.

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

Public Safety
Highway Patrol
First Floor, Calvin L. Rampton Complex
4501 South 2700 West
Box 141775
Salt Lake City, UT 84114-1775, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:
J. Francis Valerga at the above address, by phone at (801) 965-4461, by FAX at (801) 965-4608, or Internet E-mail at psdomain.psmain.jfvalerg@email.state.ut.us.

AUTHORIZED BY: J. Francis Valerga, Special Counsel

EFFECTIVE: 12/22/97



Public Safety, Highway Patrol
R714-220
Standards for Protective Headgear

FIVE-YEAR REVIEW NOTICE OF CONTINUATION

DAR FILE No.: 20548
FILED: 12/22/97, 12:23
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: Subsection 41-6-107.8(1) prohibits a person under age 18 from operating or riding on a motorcycle unless the person is wearing protective headgear that complies with standards established by the commissioner of public safety. Subsection 41-6-107.8(3) requires the commissioner to make rules establishing those standards.

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 because the commissioner is required to make rules establishing specifications and standards for the use of motorcycle protective headgear for persons under age 18 who operate or ride on a motorcycle and because such specifications and standards are necessary to provide for the safety of those persons.

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

Public Safety
Highway Patrol
First Floor, Calvin L. Rampton Complex
4501 South 2700 West
Box 141775
Salt Lake City, UT 84114-1775, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:
J. Francis Valerga at the above address, by phone at (801) 965-4461, by FAX at (801) 965-4608, or Internet E-mail at psdomain.psmain.jfvalerg@email.state.ut.us.

AUTHORIZED BY: J. Francis Valerga, Special Counsel

EFFECTIVE: 12/22/97



Public Safety, Highway Patrol

R714-230

Standards and Specifications for Seat Belts

FIVE-YEAR REVIEW NOTICE OF CONTINUATION

DAR FILE NO.: 20549
FILED: 12/22/97, 12:23
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 41-6-142 requires the department to adopt standards for all types of vehicle safety equipment including seat belts. Section 41-6-148.10 requires the department to adopt standards specifically for vehicle seat belts. Sections 41-6-142 and 41-6-148.10 implicitly authorize the department to make rules establishing such standards.

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 because it assists the department in ensuring that vehicle seat belts meet minimum safety requirements in terms of design and installation.

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

Public Safety
Highway Patrol
First Floor, Calvin L. Rampton Complex
4501 South 2700 West
Box 141775
Salt Lake City, UT 84114-1775, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:
J. Francis Valerga at the above address, by phone at (801) 965-4461, by FAX at (801) 965-4608, or Internet E-mail at psdomain.psmain.jfvalerg@email.state.ut.us.

AUTHORIZED BY: J. Francis Valerga, Special Counsel

EFFECTIVE: 12/22/97

Public Safety, Highway Patrol

R714-240

Standards and Specifications for Child Restraint Devices

FIVE-YEAR REVIEW NOTICE OF CONTINUATION

DAR FILE NO.: 20550
FILED: 12/22/97, 12:23
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: Subsection 41-6-148.20(2) provides that a driver transporting a child in a motor vehicle shall provide for the protection of that child by using a child restraint device or safety belt approved by the commissioner of public safety and implicitly authorizes the commissioner to make rules ensuring the appropriateness of such child restraint device or safety belt.

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 because it assists the commissioner in ensuring that motor vehicle child restraint devices and safety belts are appropriate to provide for the protection of children.

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

Public Safety
Highway Patrol
First Floor, Calvin L. Rampton Complex
4501 South 2700 West
Box 141775
Salt Lake City, UT 84114-1775, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:
J. Francis Valerga at the above address, by phone at (801) 965-4461, by FAX at (801) 965-4608, or Internet E-mail at psdomain.psmain.jfvalerg@email.state.ut.us.

AUTHORIZED BY: J. Francis Valerga, Special Counsel

EFFECTIVE: 12/22/97



Public Safety, Highway Patrol
R714-300
Brake Equipment Requirements

FIVE-YEAR REVIEW NOTICE OF CONTINUATION

DAR FILE No.: 20551
FILED: 12/22/97, 12:23
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 41-6-145 provides that motor vehicles shall have braking systems that comply with performance standards issued by the Department of Public Safety and implicitly authorizes the department to make rules providing for such standards.

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 because it assists the department in ensuring that motor vehicle braking systems are appropriate for safe operation.

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

Public Safety
Highway Patrol
First Floor, Calvin L. Rampton Complex
4501 South 2700 West
Box 141775
Salt Lake City, UT 84114-1775, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:
J. Francis Valerga at the above address, by phone at (801) 965-4461, by FAX at (801) 965-4608, or Internet E-mail at psdomain.psmain.jfvalerg@email.state.ut.us.

AUTHORIZED BY: J. Francis Valerga, Special Counsel

EFFECTIVE: 12/22/97



Public Service Commission,
Administration
R746-343
Rule for Deaf, Severely Hearing or
Speech Impaired Person

FIVE-YEAR REVIEW NOTICE OF CONTINUATION

DAR FILE No.: 20526
FILED: 12/17/97, 12:00
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: This rule is authorized pursuant to Section 54-8b-10 which requires the Commission to exercise its rulemaking powers to establish a program to provide telephone service to certified deaf, severe hearing impaired or speech impaired persons; to impose a surcharge on access lines to cover the cost of the program; and to administer the money collected.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: In 1987 comments were received from the Utah Easter Seal Society requesting "or its equivalent" be added to the definitions of audiologist and speech-language pathologist. The Exchange Carriers of Utah (ECU) commented that "the rules are silent as to the surcharge and the collection and transfer procedures." Mountain Bell stated ". . . that the surcharge is indeed a tax and should not be imposed upon tax exempt entities." They stated that they would collect the surcharge as a tax and thus not be assessed to tax-exempt customers and if the Commission wanted it otherwise they would require an order from the Commission. The Commission issued a Declaratory Ruling which ordered the collection of ". . . a telephone surcharge and not a tax and that all telephone companies, except as herein stated, must collect such a surcharge from each of its residential and business access lines." An amendment was made to the rule to incorporate provision for surcharge and collection and transfer procedures. In 1989 the Legislature increased the maximum surcharge from three cents to ten cents because revenues were inadequate to fully implement all facets of the program. A Request for hearing was filed by The Hearing and Speech Impaired Telecommunications Advisory Committee regarding ". . . further implementation of rules governing the program . . ." Senator Paul Fordham commented requesting the Public Service Commission (PSC) to study the feasibility of expanding telecommunication access services in the public and private sectors and to initiate the ". . . public awareness aspect of it." A stipulation was filed with the Commission signed and agreed to by the Division of Public Utilities (DPU), US West, the Committee of Consumer Services (CCS), the Hearing and Speech Impaired Telecommunications Advisory Committee (Advisory Committee) and the Exchange Carriers of Utah (ECU) stating the projections of the revenues needed for the program for the next three years. A hearing was held 04/13/89. An amended stipulation was filed in June of 1989 requesting an increase to seven cents to support increased costs and to change the wording on telephone bills from "1987 Legislative Deaf Tax" to "Deaf/Speech Impaired Fund." An order approving stipulation was issued by the Commission 06/22/89. The rule was amended to reflect that change. In 1990 the federal government approved the Americans with Disabilities Act (ADA) and a stipulation was filed with the

Commission signed by DPU, US West, CCS, the Advisory Committee, and ECU. This stipulation requested approval of the ten cent cap in order to meet Federal Communication Commission (FCC) regulations for universal service to all customers. It was stated that office furniture and equipment and software needed to be updated and/or replaced, a one-time expense which should be adequate for the next five to ten years. It also stated that additional operator stations were needed. In 1992 (effective 05/14/93) this rule was amended as per suggestions made by the Legislative Rules Review Committee. No comments were filed. Effective 08/03/93 was an amendment to increase the surcharge to ten cents. No comments were filed. The 1994 Legislature changed the maximum surcharge from 10 cents to 25 cents "for the acquisition, operation, maintenance, and repair of a dual party relay system." A stipulation was filed with the Commission signed by DPU, US West, CCS, the Advisory Committee, and ECU, requesting an increase from 10 cents to 18 cents because of the increase in call volume and to more fully comply with provisions contained in the ADA and FCC regulations. The DPU petitioned for an order to approve the stipulation. A hearing was held 06/24/94 to review the stipulation. Additional information was requested by the Commission. The DPU provided the additional information. An amendment was made to this rule because the increase was found to be necessary in order to continue to provide relay service in compliance with FCC requirements (effective 07/21/94). No further 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 should be continued because it establishes eligibility requirements, sets forth the procedure for approval of an application and the distribution process for telecommunications devices for the deaf (TDDs). This rule provides instructions for training, replacement of TDDs, ownership and liability, and out of state use. The rule also sets forth the liability of the telephone relay center and confidentiality and privacy requirements. Section 15 establishes the surcharge to be collected to cover the cost of the program as required by Subsection 54-8b-10(4). This rule is also necessary to comply with provisions in the Americans with Disabilities Act (ADA) and Federal Communication Commission (FCC) regulations.

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

Public Service Commission
Administration
Fourth Floor, Heber M. Wells Building
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: 12/17/97

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**Public Service Commission,
Administration
R746-346
Operator-Assisted Services**

FIVE-YEAR REVIEW NOTICE OF CONTINUATION

DAR FILE NO.: 20591
FILED: 12/29/97, 17:54
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 54-8b-13 which requires the Commission to make rules to implement requirements for operator-assisted services.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There were no comments received after enactment of this rule. Interested persons were consulted before enactment.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Section 54-8b-13 continues to require this rule. This rule ensures that customers of operator-assisted service are informed of rates, surcharges, terms, or conditions of using operator-assisted services. The rule contains requirements for information: to be provided at the telephone set; to inform customers as to which provider is providing the service, or that a call is being transferred to another provider; and requirements for providers of operator-assisted services before a call is completed and when a call is "uncompleted." Requirements for 911 calls, "0" calls, and end-user choice are also provided in this rule. Availability of customer complaint toll-free number requirements are contained in this rule, along with caller access when a call aggregator is involved. This rule also contains enforcement provisions.

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

Public Service Commission
Administration
Fourth Floor, Heber M. Wells Building
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: 12/29/97



Transportation, Operations,
Maintenance
R918-3
Snow Removal

FIVE-YEAR REVIEW NOTICE OF CONTINUATION

DAR FILE No.: 20529
FILED: 12/17/97, 16:12
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: Section 27-12-7 directs the Department of Transportation to (1) administer the state highways and exercise those powers and duties which relate to the determination and carrying out of the general policy of the state relating to the state highways; and (2) exercise control over the construction and maintenance of the state highways.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comment received by the department 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 establishes the exact guidelines for snow removal services on qualifying state roads.

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

Transportation
Operations, Maintenance
Calvin Rampton Complex
4501 South 2700 West
PO Box 148250
Salt Lake City, UT 84114-8250, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:
Judy Schneider at the above address, by phone at (801) 965-4116, by FAX at (801) 965-4769, or Internet E-mail at src0fs01.jschneid@email.state.ut.us.

AUTHORIZED BY: E. Dan Julio, Engineer for Maintenance

EFFECTIVE: 12/17/97



Transportation, Operations, Traffic and
Safety
R920-1
Manual of Uniform Traffic Control
Devices

FIVE-YEAR REVIEW NOTICE OF CONTINUATION

DAR FILE No.: 20539
FILED: 12/18/97, 16:45
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: Referencing the Utah Administrative Code, Subsection 41-6-20(1), the Department of Transportation is charged with "adopting a manual and establishing specifications for a uniform system of traffic control devices . . ."

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 continue as prescribed by the Utah Administrative Code.

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

Transportation
Operations, Traffic and Safety
Calvin Rampton Complex
4501 South 2700 West
Box 143200
Salt Lake City, UT 84114-3200, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:
Sterling C. Davis at the above address, by phone at (801) 965-4273, by FAX at (801) 965-3845, or Internet E-mail at src0fs02.sdavis@state.ut.us.

AUTHORIZED BY: Sterling C. Davis, Engineer for Traffic and Safety

EFFECTIVE: 12/18/97



Transportation, Operations, Traffic and Safety

R920-2

Traffic Control Systems for Railroad-Highway Grade Crossings

FIVE-YEAR REVIEW NOTICE OF CONTINUATION

DAR FILE NO.: 20575
FILED: 12/24/97, 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: Referencing Section 54-4-14, Safety Regulation, the commission has power to require public utilities to construct, maintain, and operate tracks and premises in such a way as to promote the health and safety of the public. The Department of Transportation shall have jurisdiction over those safety functions transferred to it by the Department of Transportation Act.

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 continue as prescribed by Section 54-4-14 in order to protect the health and safety of the public.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Transportation
Operations, Traffic and Safety
Calvin Rampton Complex
4501 South 2700 West
PO Box 143200
Salt Lake City, UT 84114-3200, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:
Sterling C. Davis at the above address, by phone at (801) 965-4273, by FAX at (801) 965-3845, or Internet E-mail at src0fs02.sdavis@state.ut.us.

AUTHORIZED BY: Sterling C. Davis, Engineer for Traffic and Safety

EFFECTIVE: 12/24/97



Transportation, Operations, Traffic and Safety

R920-3

Manual of Uniform Traffic Control Devices, Part VI

FIVE-YEAR REVIEW NOTICE OF CONTINUATION

DAR FILE NO.: 20576
FILED: 12/24/97, 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: Referencing Subsection 41-6-20(1), the Department of Transportation is charged with "adopting a manual and establishing specifications for a uniform system of traffic control devices. . . ."

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 continue in order to ensure uniformity of traffic control devices as approved by the Federal Highway Administration for highways within the state.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Transportation
Operations, Traffic and Safety
Calvin Rampton Complex
4501 South 2700 West
Box 143200
Salt Lake City, UT 84114-3200, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:
Sterling C. Davis at the above address, by phone at (801) 965-4273, by FAX at (801) 975-3845, or Internet E-mail at src0fs02.sdavis@state.ut.us.

AUTHORIZED BY: Sterling C. Davis, Engineer for Traffic and Safety

EFFECTIVE: 12/24/97



Transportation, Operations, Traffic and Safety

R920-4

Proposed Policy for Special Road Use

FIVE-YEAR REVIEW NOTICE OF CONTINUATION

DAR FILE NO.: 20540
FILED: 12/18/97, 17:06
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: Referencing Subsection 41-6-87.9 and Section 41-22-15, off-highway vehicle racing or other organized events on land or highways within the state must be approved by state or local authorities with respective jurisdictions. Since the Utah Department of Transportation (UDOT) has jurisdiction over state highways, this rule is required for UDOT to regulate state road usage.

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 needs to be continued in order for the Utah Department of Transportation (UDOT) to promote the safe utilization of highways for parades, marathons, and bicycle races.

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

Transportation
Operations, Traffic and Safety
Calvin Rampton Complex
4501 South 2700 West
Box 143200
Salt Lake City, UT 84114-3200, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO: Sterling C. Davis at the above address, by phone at (801) 965-4273, by FAX at (801) 965-3845, or Internet E-mail at src0fs02.sdavis@state.ut.us.

AUTHORIZED BY: Sterling C. Davis, Engineer for Traffic and Safety

EFFECTIVE: 12/18/97



Transportation, Operations, Traffic and Safety

R920-5

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

FIVE-YEAR REVIEW NOTICE OF CONTINUATION

DAR FILE NO.: 20577
FILED: 12/24/97, 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: Under Subsection 41-6-20(2), it states that the Utah Administrative Rulemaking Act requires the Department of Transportation (DOT) to make rules adopting a manual and establishing specifications for a uniform system of traffic control devices and school crossing guards for school crossing zones.

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 is necessary to assure uniform design and application of all types of traffic control devices which promote the safety and well being of students throughout the state.

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

Transportation
Operations, Traffic and Safety
Calvin Rampton Complex
4501 South 2700 West
Box 143200
Salt Lake City, UT 84114-3200, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO: Sterling C. Davis at the above address, by phone at (801) 965-4273, by FAX at (801) 965-3845, or Internet E-mail at src0fs02.sdavis@state.ut.us.

AUTHORIZED BY: Sterling C. Davis, Engineer for Traffic and Safety

EFFECTIVE: 12/24/97



Transportation, Operations, Traffic and Safety

R920-6

Snow Tire and Chain Requirements

FIVE-YEAR REVIEW NOTICE OF CONTINUATION

DAR FILE NO.: 20578
FILED: 12/24/97, 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: Sections 27-12-21 and 41-6-21 designate jurisdiction and control of all state highways to the Utah Department of Transportation (UDOT). The UDOT shall place traffic control devices and regulations in conformity with its manual on all state highways as it finds necessary.

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 allows the Utah Department of Transportation to designate travel restrictions on certain state highways located in canyon areas of the state that may not be safely traversed by the public or which would tend to create hazard or hamper road maintenance activities of the Department, unless the motor vehicle traveling the highway is adequately equipped with certain safety devices.

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

Transportation Operations, Traffic and Safety Calvin Rampton Building 4501 South 2700 West Box 143200 Salt Lake City, UT 84114-3200, or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO: Sterling C. Davis at the above address, by phone at (801) 965-4273, by FAX at (801) 965-3845, or Internet E-mail at src0fs02.sdavis@state.ut.us.

AUTHORIZED BY: Sterling C. Davis, Engineer for Traffic and Safety

EFFECTIVE: 12/24/97

Transportation, Operations, Traffic and Safety

R920-50

Tramway Operations Safety Rules

FIVE-YEAR REVIEW NOTICE OF CONTINUATION

DAR FILE NO.: 20579
FILED: 12/24/97, 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: Pursuant to Section 63-11-39, a Passenger Tramway Safety Committee is created within the Department of Transportation, and according to Sections 63-11-37 through 63-11-53, the policy of the state is to safeguard the life, health, property, and welfare of the citizens of Utah while using passenger tramways.

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: These safety rules are necessary to protect citizens and visitors from unnecessary mechanical hazards in the design, construction, and operation of passenger tramways by requiring periodic inspections of the tramways; proper registration of all passenger tramways; and conformity to established reasonable standards as specified in Section 63-11-46.

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

Transportation Operations, Traffic and Safety Calvin Rampton Complex 4501 South 2700 West Box 143200 Salt Lake City, UT 84114-3200, or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO: Sterling C. Davis at the above address, by phone at (801) 965-4273, by FAX at (801) 965-3845, or Internet E-mail at src0fs02.sdavis@state.ut.us.

AUTHORIZED BY: Sterling C. Davis, Engineer for Traffic and Safety

EFFECTIVE: 12/24/97



Transportation, Operations, Traffic and Safety

R920-51

Safety Regulations for Railroads

FIVE-YEAR REVIEW NOTICE OF CONTINUATION

DAR FILE No.: 20580
FILED: 12/24/97, 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: Pursuant to Section 54-4-14, The Department of Transportation has jurisdiction over the safety functions of public utilities which is granted to the Department by the Department of Transportation Act.

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: Safety regulations for railroads are necessary to promote and safeguard the health and safety of its employees, passengers, customers, and the public.

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

Transportation
Operations, Traffic and Safety
Calvin Rampton Building
4501 South 2700 West
Box 143200
Salt Lake City, UT 84114-3200, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO: Sterling C. Davis at the above address, by phone at (801) 965-4273, by FAX at (801) 965-3845, or Internet E-mail at src0fs02.sdavis@state.ut.us.

AUTHORIZED BY: Sterling C. Davis, Engineer for Traffic and Safety

EFFECTIVE: 12/24/97



Transportation, Preconstruction

R930-5

Implementation of Agreements, Participation, Maintenance and Public Notice Responsibilities Relating to Railway-Highway Projects

FIVE-YEAR REVIEW NOTICE OF CONTINUATION

DAR FILE No.: 20543
FILED: 12/22/97, 12:18
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 54-4-15, 10-8-34, 10-8-82, 63-49-4, and 63-49-16

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: To detail the responsibility and regulation of at-grade railroad crossings throughout the state.

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

Transportation
Preconstruction
Calvin Rampton Complex
4501 South 2700 West
Box 148445
Salt Lake City, UT 84114-8445, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO: Orlando Jerez at the above address, by phone at (801) 965-4176, by FAX at (801) 965-4564, or Internet E-mail at src0fs01.ojerez@email.state.ut.us.

AUTHORIZED BY: Thomas R. Warne, Executive Director

EFFECTIVE: 12/22/97



Treasurer, Unclaimed Property
R966-1
Requirements for Claims where no
Proof of Stock Ownership Exists

FIVE-YEAR REVIEW NOTICE OF CONTINUATION

DAR FILE No.: 20611
FILED: 12/31/97, 11:58
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: Administrator given responsibility to pay claims under Section 67-4a-501. This rule explains the requirements for paying stock claims when the stock certificate cannot be provided.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comment has been received on this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The process for paying stock claimants has not changed since the rule was last implemented.

End of the Five-Year Review Section

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

Treasurer
Unclaimed Property
215 State Capitol
Salt Lake City, UT 84114, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:
Betsy Ross at the above address, by phone at (801) 538-1355, by FAX at (801) 538-1383, or Internet E-mail at saudit.bross@email.state.ut.us.

AUTHORIZED BY: Betsy L. Ross, Counsel

EFFECTIVE: 12/31/97



NOTICES OF EXPIRED RULES

Rulewriting agencies are required by law to review each of their administrative rules within five years of the date of the rule's original enactment or the date of last review (UTAH CODE Section 63-46a-9 (1996)). If the agency finds that it will not meet the deadline for review of the rule (the five-year anniversary date), it may file an extension with the Division of Administrative Rules (Division). However, if the agency fails to file either the review or the extension by the five-year anniversary date of the rule, the rule expires. Upon expiration of the rule, the Division is required to remove the rule from the *Utah Administrative Code*. The agency may no longer enforce the rule, and it must follow regular rulemaking procedures to replace the rule if necessary.

The rules listed below were *not* reviewed in accordance with Section 63-46a-9 (1996). These rules have expired and have been removed from the *Utah Administrative Code*.

The expiration of administrative rules for failure to comply with the five-year review requirement is governed by UTAH CODE Subsection 63-46a-9(8) (1996).

Human Services

Administration

No. 20614: R495-877. Inquiry and Investigations into and Reporting of Alleged or Apparent Misconduct.
Enacted: 07/02/90 (No. 10801, Filed 05/15/90 at 4:15 p.m., Published 06/01/90)
Expired: 01/01/98

Administration, Administrative Services, Management Services

No. 20615: R503-1. Civil Rights.
Enacted: 07/01/87 (No. 8845, Filed 05/05/87 at 5:00 p.m., Published 05/15/87)
Expired: 01/01/98

No. 20616: R503-6. Intake/Eligibility/Service Management Activities.
Enacted: 07/01/87 (No. 8845, Filed 05/05/87 at 5:00 p.m., Published 05/15/87)
Expired: 01/01/98

Administration, Liability Management.

No. 20617: R505-874. Contractor Audit Requirements.
Enacted: 11/03/87 (No. 8974, Filed 09/17/87 at 4:34 p.m., Published 10/01/87)
Expired: 01/01/98

Natural Resources

Energy

No. 20618: R636-1. Utah Energy Saving Systems Tax Credit (ESSTC) Rules.
Enacted: 07/01/87 (No. 8845, Filed 05/05/87 at 5:00 p.m., Published 05/15/87)
Expired: 01/01/98

Water Resources

No. 20619: R653-1. Public Petitions For Declaratory Rulings.
Enacted: 07/01/87 (No. 8845, Filed 05/05/87 at 5:00 p.m., Published 05/15/87)
Expired: 01/01/98

(DAR Note: On December 22, 1997, the agency filed a NOTICE OF PROPOSED RULE to repeal this rule (DAR No. 20552). However, the rule expired before the repeal could be published in the *Utah State Bulletin*.)

Pardons (Board of)

Administration

No. 20620: R671-502. Evidence for Issuance of Warrants.
Enacted: 07/01/87 (No. 8845, Filed 05/05/87 at 5:00 p.m., Published 05/15/87)
Expired: 01/01/98

(DAR Note: This rule was in the repeal process, see DAR No. 20484 in the January 1, 1998, issue of the *Utah State Bulletin*, but expired before the repeal could be made effective.)

No. 20621: R671-506. Alternatives to Re-Incarceration of Parolees.
Enacted: 07/01/87 (No. 8845, Filed 05/05/87 at 5:00 p.m., Published 05/15/87)
Expired: 01/01/98

(DAR Note: This rule was in the repeal process, see DAR No. 20485 in the January 1, 1998, issue of the *Utah State Bulletin*, but expired before the repeal could be made effective.)

Public Service Commission

Administration

No. 20622: R746-331. Determination of Exemption of Mutual Water Corporations.
Enacted: 07/01/87 (No. 8845, Filed 05/05/87 at 5:00 p.m., Published 05/15/87)
Expired: 01/01/98

(DAR Note: A 120-day (emergency) rule was filed to reenact this rule, R746-331, on January 5, 1998. It is effective as of January 5, 1998, and will be published in the February 1, 1998, issue of the *Utah State Bulletin* under DAR No. 20626. A proposed new rule is also included under DAR No. 20627.)

No. 20623: R746-408. Universal Service Fund.
Enacted: 01/31/90 (No. 10421, Filed 12/13/89 at 12:00 p.m., Published 01/01/90)
Expired: 01/01/98

(DAR Note: The agency intended for this rule to expire. A 120-day (emergency) rule was filed to replace this rule under R746-360 on December 30, 1997. It is effective as of December 31, 1997, and is published in this *Bulletin* under DAR No. 20598. A proposed new rule for R746-360 is also published in this *Bulletin* under DAR No. 20599.)

Transportation

Motor Carrier

No. 20624: R909-2. Minimum Levels of Financial Responsibility for Motor Carriers.
Enacted: 07/01/87 (No. 8845, Filed 05/05/87 at 5:00 p.m., Published 05/15/87)
Expired: 01/01/98

End of the Expired Rules Section

NOTICES OF RULE EFFECTIVE DATES

These are the effective dates of PROPOSED RULES or CHANGES IN PROPOSED RULES published in earlier editions of the *Utah State Bulletin*. These effective dates are at least 31 days and not more than 120 days after the date the following rules were published.

Abbreviations

AMD = Amendment
CPR = Change in Proposed Rule
NEW = New Rule
R&R = Repeal and Reenact
REP = Repeal

Administrative Services

Facilities Construction and Management

No. 20233 (AMD): R23-19-5. Use of Capitol Rotunda.
Published: December 1, 1997
Effective: January 1, 1998

Commerce

Occupational and Professional Licensing

No. 19472 (CPR): R156-56. Utah Uniform Building Standard Act Rules.
Published: December 1, 1997
Effective: January 1, 1998

Community and Economic Development

Community Development, Energy Services

No. 19970 (NEW): R203-1. Utah Clean Fuels Loan Program.
Published: September 1, 1997
Effective: December 30, 1997

No. 19975 (NEW): R203-3. Utah Commercial/Industrial Energy Loan Program.
Published: September 1, 1997
Effective: December 30, 1997

No. 19971 (NEW): R203-4. Utah Public Building Energy Loan and Grant Programs.
Published: September 1, 1997
Effective: December 30, 1997

No. 19972 (NEW): R203-5. Utah Energy Technology Demonstration Program.
Published: September 1, 1997
Effective: December 30, 1997

Environmental Quality

Air Quality

No. 19681 (CPR): R307-1-1. Foreword and Definitions.
Published: November 1, 1997
Effective: January 1, 1998

No. 19680 (CPR): R307-1-3. Control of Installations.
Published: November 1, 1997
Effective: January 1, 1998

Drinking Water

No. 18929 (CPR): R309-200. Facility Design and Operation: Definitions.
Published: September 15, 1997
Effective: January 1, 1998

No. 18930 (CPR): R309-201. Facility Design and Operation: Plan Review, Operation and Maintenance Requirements.
Published: September 15, 1997
Effective: January 1, 1998

No. 18931 (CPR): R309-202. Facility Design and Operation: Minimum Treatment Requirements.
Published: September 15, 1997
Effective: January 1, 1998

No. 18932 (CPR): R309-203. Facility Design and Operation: Minimum Sizing Requirements.
Published: September 15, 1997
Effective: January 1, 1998

No. 18933 (CPR): R309-204. Facility Design and Operation: Source Development.
Published: September 15, 1997
Effective: January 1, 1998

No. 18934 (CPR): R309-205. Facility Design and Operation: Disinfection.
Published: September 15, 1997
Effective: January 1, 1998

No. 18935 (CPR): R309-206. Facility Design and Operation: Conventional Surface Water Treatment.
Published: September 15, 1997
Effective: January 1, 1998

No. 18936 (CPR): R309-207. Facility Design and Operation: Alternative Surface Water Treatment Methods.
Published: September 15, 1997
Effective: January 1, 1998

No. 18937 (CPR): R309-208. Facility Design and Operation: Miscellaneous Treatment Methods.
Published: September 15, 1997
Effective: January 1, 1998

No. 18938 (CPR): R309-209. Facility Design and Operation: Pump Stations.
Published: September 15, 1997
Effective: January 1, 1998

No. 18939 (CPR): R309-210. Facility Design and Operation: Drinking Water Storage Tanks.
Published: September 15, 1997
Effective: January 1, 1998

No. 18940 (CPR): R309-211. Facility Design and Operation: Transmission and Distribution Pipelines.
Published: September 15, 1997
Effective: January 1, 1998

Solid and Hazardous Waste

No. 19876 (CPR): R315-301-2. Definitions.
Published: December 1, 1997
Effective: January 5, 1998

Health

Health Care Financing, Coverage and Reimbursement Policy

No. 20171 (REP): R414-16. Preadmission and Continued Stay Review Policy and Procedures Manual.
Published: November 15, 1997
Effective: December 19, 1997

Human Resources

Recovery Services

No. 20240 (AMD): R527-5. Release of Information.
Published: December 1, 1997
Effective: January 5, 1998

Insurance

Administration

No. 19807 (CPR): R590-174. Diskette Filing of Annual and Quarterly Statements.
Published: November 15, 1997
Effective: January 1, 1998

No. 20221 (AMD): R590-182. Risk Based Capital Instructions.
Published: December 1, 1997
Effective: January 1, 1998

No. 19778 (CPR): R590-183. Title Plant Rule.
Published: November 15, 1997
Effective: January 1, 1998

Natural Resources

Parks and Recreation

No. 20217 (AMD): R651-611. Fee Schedule.
Published: December 1, 1997
Effective: January 1, 1998

Wildlife Resources

No. 19988 (AMD): R657-13. Taking Fish and Crayfish.
Published: October 15, 1997
Effective: January 1, 1998

Public Service Commission

Administration

No. 19822 (NEW): R746-356. Intrastate (IntraLATA) Equal Access To Toll Calling By Telecommunications Carriers.
Published: September 15, 1997
Effective: December 30, 1997

Tax Commission

Administration

No. 20176 (AMD): R861-1A-15. Requirement of Social Security and Federal Identification Numbers Pursuant to Utah Code Ann. Section 59-1-210.
Published: November 15, 1997
Effective: December 23, 1997

No. 20093 (AMD): R861-1A-16. Utah State Tax Commission Management Plan Pursuant to Utah Code Ann. Section 59-1-207.
Published: November 1, 1997
Effective: December 23, 1997

No. 20085 (AMD): R861-1A-36. Signatures on Tax Return Information Pursuant to Utah Code Ann. Sections 59-10-512 and 59-12-107.
Published: November 1, 1997
Effective: December 23, 1997

Auditing

No. 20094 (AMD): R865-6F-32. Taxation of Financial Institutions Pursuant to Utah Code Ann. Sections 59-7-302 through 59-7-321.
Published: November 1, 1997
Effective: December 23, 1997

Property Tax

No. 20177 (AMD): R884-24P-7. Assessment of Mining Properties Pursuant to Utah Code Ann. Section 59-2-201.
Published: November 15, 1997
Effective: January 6, 1998

No. 20156 (AMD): R884-24P-27. Standards for Assessment Level and Uniformity of Performance Pursuant to Utah Code Ann. Section 59-2-704.5.
Published: November 15, 1997
Effective: December 23, 1997

NOTICES OF RULE EFFECTIVE DATES

No. 20178 (AMD): R884-24P-53. 1997 Valuation Guides for Valuation of Land Subject to the Farmland Assessment Act Pursuant to Utah Code Ann. Section 59-2-515.

Published: November 15, 1997

Effective: December 23, 1997

Workforce Services

Employment Development

No. 20224 (AMD): R986-302. Eligibility Requirements.

Published: December 1, 1997

Effective: January 2, 1998

No. 20206 (AMD): R986-412. Conditions of Eligibility.

Published: December 1, 1997

Effective: January 2, 1998

No. 20207 (AMD): R986-414. Income.

Published: December 1, 1997

Effective: January 2, 1998

No. 20208 (AMD): R986-417. Documentation.

Published: December 1, 1997

Effective: January 2, 1998

No. 20209 (AMD): R986-419. Income Limits.

Published: December 1, 1997

Effective: January 2, 1998

No. 20210 (AMD): R986-420. Maximum Allotments.

Published: December 1, 1997

Effective: January 2, 1998

No. 20211 (AMD): R986-421. Demonstration Programs.

Published: December 1, 1997

Effective: January 2, 1998

End of the Effective Dates Section

**1997
RULES INDEX
BY AGENCY (CODE NUMBER)
AND
BY KEYWORD (SUBJECT)**

The *Rules Index* is a cumulative index that reflects all changes to Utah's administrative rules from January 2, 1997 through January 1, 1998. 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).

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>.

1997 INDEXES

It is customary for the Division of Administrative Rules to publish the complete Indexes for the previous year in the January 15 issue of the *Utah State Bulletin* of the next year. Because of the amount of filings for 1997 and space constraints, the Division cannot include the 1997 Indexes in this issue of the *Bulletin*. The Division anticipates that the complete Index will be available by mid-February 1998.

Any questions may be directed to: Kenneth A. Hansen, Director, Division of Administrative Rules, PO Box 141007, Salt Lake City UT 84114-1007; Phone: (801) 538-3777; FAX: (801) 538-1773; or E-mail: asdomain.asitmain.khansen@email.state.ut.us.

**1998
RULES INDEX
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AND
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RULES INDEX - BY AGENCY (CODE NUMBER)

ABBREVIATIONS

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CPR = Change in proposed rule	REP = Repeal
EMR = Emergency rule (120 day)	R&R = Repeal and reenact
NEW = New rule	* = Text too long to print in <i>Bulletin</i> , or repealed text not printed in <i>Bulletin</i>
5YR = Five-Year Review	
EXD = Expired	

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
ENVIRONMENTAL QUALITY					
<u>Solid and Hazardous Waste</u>					
R315-301-2	Definitions	19876	AMD	see CPR	97-19/23
R315-301-2	Definitions	19876	CPR	01/05/98	97-23/111
HUMAN SERVICES					
<u>Recovery Services</u>					
R527-5	Release of Information	20240	AMD	01/05/98	97-23/83

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
TAX COMMISSION					
<u>Property Tax</u>					
R884-24P-7	Assessment of Mining Properties Pursuant to Utah Code Ann. Section 59-2-201	20177	AMD	01/06/98	97-22/75
WORKFORCE SERVICES					
<u>Employment Development</u>					
R986-302	Eligibility Requirements	20224	AMD	01/02/98	97-23/97
R986-412	Conditions of Eligibility	20206	AMD	01/02/98	97-23/98
R986-414	Income	20207	AMD	01/02/98	97-23/99
R986-417	Documentation	20208	AMD	01/02/98	97-23/100
R986-419	Income Limits	20209	AMD	01/02/98	97-23/102
R986-420	Maximum Allotments	20210	AMD	01/02/98	97-23/102
R986-421	Demonstration Programs	20211	AMD	01/02/98	97-23/103

RULES INDEX - BY KEYWORD (SUBJECT)

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<u>KEYWORD</u> AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<u>BENEFITS</u>					
Workforce Services, Employment Development	20224	R986-302	AMD	01/02/98	97-23/97
	20208	R986-417	AMD	01/02/98	97-23/100
<u>CHILD SUPPORT</u>					
Human Services, Recovery Services	20240	R527-5	AMD	01/05/98	97-23/83
<u>CONFIDENTIALITY</u>					
Human Services, Recovery Services	20240	R527-5	AMD	01/05/98	97-23/83
<u>DEMONSTRATION</u>					
Workforce Services, Employment Development	20208	R986-417	AMD	01/02/98	97-23/100

RULES INDEX

<u>KEYWORD</u> AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<u>FOOD STAMPS</u>					
Workforce Services, Employment Development	20208	R986-417	AMD	01/02/98	97-23/100
	20209	R986-419	AMD	01/02/98	97-23/102
	20210	R986-420	AMD	01/02/98	97-23/102
<u>INCOME</u>					
Workforce Services, Employment Development	20224	R986-302	AMD	01/02/98	97-23/97
	20207	R986-414	AMD	01/02/98	97-23/99
	20211	R986-421	AMD	01/02/98	97-23/103
<u>PRIVACY LAW</u>					
Human Services, Recovery Services	20240	R527-5	AMD	01/05/98	97-23/83
<u>SOCIAL SECURITY</u>					
Workforce Services, Employment Development	20206	R986-412	AMD	01/02/98	97-23/98
<u>SOLID WASTE MANAGEMENT</u>					
Environmental Quality, Solid and Hazardous Waste	19876	R315-301-2	AMD	see CPR	97-19/23
	19876	R315-301-2	CPR	01/05/98	97-23/111
<u>TAXATION</u>					
Tax Commission, Property Tax	20177	R884-24P-7	AMD	01/06/98	97-22/75
<u>WASTE DISPOSAL</u>					
Environmental Quality, Solid and Hazardous Waste	19876	R315-301-2	AMD	see CPR	97-19/23
	19876	R315-301-2	CPR	01/05/98	97-23/111