

UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT
Filed February 17, 1998 5:01 p.m. - March 2, 1998 5:00 p.m.

NUMBER 98-6
March 15, 1998

Kenneth A. Hansen, Director
Nancy L. Lancaster, Editor

The UTAH STATE BULLETIN is the official noticing publication of the executive branch of Utah State Government. The Department of Administrative Services, Division of Administrative Rules produces the Bulletin under authority of Section 63-46a-10, UTAH CODE ANNOTATED 1953.

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

The BULLETIN and its companion summary, the UTAH STATE DIGEST, are printed and distributed semi-monthly by Legislative Printing. Annual Subscription rates (24 issues) are \$150 for the UTAH STATE BULLETIN and \$35 for the UTAH STATE DIGEST. Inquiries concerning subscription, billing, or changes of address should be addressed to:

LEGISLATIVE PRINTING
PO BOX 140107
SALT LAKE CITY, UT 84114-0107
(801) 538-1103
FAX (801) 538-1728

ISSN 0882-4738

TABLE OF CONTENTS

1. EDITOR'S NOTES

Notice of Publication Error in the March 1, 1998, issue of the <i>Utah State Bulletin</i>	1
Legislation Affecting the Rulemaking Process	1
Enrolled copy of S.B. 85 Administrative Rules Reauthorization (Stephenson)	2
Enrolled copy of S.B. 86 Administrative Rules Amendments (Stephenson)	2
Enrolled copy of S.B. 88 Administrative Rules Cost Impacts (Poulton)	9

2. NOTICES OF PROPOSED RULES

Agriculture and Food

Plant Industry

No. 20813 (Amendment): R68-19-4. Citation	16
No. 20814 (Amendment): R70-201-4. Citation	16

Commerce

Real Estate

No. 20798 (Amendment): R162-1. Authority and Definitions	17
No. 20799 (Amendment): R162-2. Exam and License Application Requirements	19
No. 20800 (Amendment): R162-3. License Status Change	21
No. 20801 (Amendment): R162-4. Office Procedures - Real Estate Principal Brokerage	23
No. 20802 (Amendment): R162-5. Property Management	26
No. 20803 (Amendment): R162-6. Licensee Conduct	27
No. 20804 (Amendment): R162-7. Enforcement	32
No. 20805 (Amendment): R162-10. Administrative Procedures	33

Health

Health Systems Improvement, Community Health Nursing

No. 20794 (Amendment): R425-1. Nurse Education Financial Assistance	34
---	----

Health Systems Improvement, Health Facility Licensure

No. 20808 (Amendment): R432-1-4. Identification Badges	38
--	----

Insurance

Administration

No. 20815 (Amendment): R590-79-4. Definitions	39
No. 20817 (Amendment): R590-128. Unfair Discrimination Based Solely on the Failure to Maintain Automobile Insurance	41
No. 20826 (Amendment): R590-141. Licensing Rule	42

Natural Resources

Parks and Recreation
 No. 20793 (Amendment): R651-611. Fee Schedule 44

Public Safety

Law Enforcement and Technical Services, Regulatory Licensing
 No. 20806 (Repeal and Reenact): R724-4. Concealed Firearm Permit Rule 46

Peace Officer Standards and Training
 No. 20810 (Amendment): R728-404. Basic Training Basic Academy Rules 52

Tax Commission

Administration
 No. 20818 (Amendment): R861-1A-23. Designation of Adjudicative Proceedings Pursuant to Utah Code Ann. Section 63-46b-4 55

No. 20819 (Amendment): R861-1A-24. Formal Adjudicative Proceedings Pursuant to Utah Code Ann. Sections 59-1-502.1, 63-46b-8, and 63-46b-10 56

No. 20820 (Amendment): R861-1A-25. Informal Adjudicative Proceedings Pursuant to Utah Code Ann. Section 63-46b-5 57

No. 20821 (Amendment): R861-1A-26. Procedures for Formal and Informal Adjudicative Proceedings Pursuant to Utah Code Ann. Sections 59-1-501, 63-46b-5 and 63-46b-6 through 63-46b-11 57

No. 20822 (Amendment): R861-1A-27. Discovery Pursuant to Utah Code Ann. Section 63-46b-7 59

No. 20823 (Amendment): R861-1A-28. Evidence in Adjudicative Proceedings Pursuant to Utah Code Ann. Sections 59-1-210, 76-8-502, 76-8-503, 63-46b-8 59

No. 20824 (Amendment): R861-1A-32. Mediation Process Pursuant to Utah Code Section 63-46b-1 60

Auditing
 No. 20828 (Amendment): R865-19S-58. Materials and Supplies Sold to Owners, Contractors and Repairmen of Real Property Pursuant to Utah Code Ann. Sections 59-12-102 and 59-12-103 61

Transportation

Motor Carrier
 No. 20827 (Amendment): R909-1. Safety Regulations for Motor Carriers 62

3. NOTICES OF 120-DAY (EMERGENCY) RULES

Health

Health Care Financing, Coverage and Reimbursement Policy
 No. 20825: R414-10A. Transplant Services Standards 64

4. FIVE-YEAR REVIEW NOTICES OF CONTINUATION

Community and Economic Development

Community Development, Fine Arts

No. 20811: R207-1. Utah Arts Council General Program Rules 77

No. 20812: R207-2. Policy for Donations and Loans to the State Fine Art Collection 77

Insurance

Administration

No. 20816: R590-124. Loss Information Rule 78

5. NOTICES OF RULE EFFECTIVE DATES 79

6. RULES INDEX 81

EDITOR'S NOTES

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

In the March 1, 1998, issue of the *Utah State Bulletin* (98-5, page 83), two notices of effective dates for repeals from the Board of Pardons were listed, R671-502 (DAR No. 20484) and R671-506 (DAR No. 20485). These notices are invalid because those two rules expired on January 1, 1998 (see the January 15, 1998, issue of the *Utah State Bulletin* (98-2/118), and therefore were removed from the *Utah Administrative Code* so filing the effective notices for the repeals was unnecessary.

Questions regarding this error may be directed to Ken Hansen, Director, Division of Administrative Rules, PO Box 141007, Salt Lake City, UT 84114-1007, phone: (801) 538-3777, FAX: (801) 538-1773, or Internet E-mail at: asitmain.khansen@email.state.ut.us.

LEGISLATION AFFECTING THE RULEMAKING PROCESS

In its 1998 General Session, the Legislature approved three bills dealing with administrative rulemaking. As of March 4, 1998, there has been no gubernatorial action regarding these bills.

S.B. 85 Administrative Rules Reauthorization (Stephenson)

This is the Administrative Rules Review Committee's annual bill which is required by Section 63-46a-11.5. The long title of the bill describes S.B. 85 as "[a]n act . . . reauthorizing rules of state agencies . . ." This bill does not reauthorize two rules: R501-15 and R714-205. This bill does reauthorize all other administrative rules. This bill is scheduled to take effect May 1, 1998.

S.B. 86 Administrative Rules Amendments (Stephenson)

As amended, this bill makes several changes to the Utah Administrative Rulemaking Act (Title 63, Chapter 46a). Specifically, it: (1) allows agencies to incorporate by reference "state agency implementation plans mandated by the federal government for participation in the federal program"; (2) changes the five-year review requirement so that agencies provide, as part of their review, a summary of written comment received "during and since the last five-year review" rather than "after enactment"; (3) clarifies publication requirements for five-year review extensions; (4) clarifies that a five-year review or five-year review extension may be filed "on or before" the rule's anniversary date, rather than "before"; (5) provides that the Administrative Rules Review Committee "shall convene at least once each month," but that the committee chairs may suspend meetings at their discretion; (6) subjects rules in effect on February 28, instead of January 1, to the annual reauthorization bill; (7) removes the mandate that the Administrative Rules Review Committee prepare the reauthorization legislation "prior to January 1 of each year"; (8) permits the Administrative Rules Review Committee to "not reauthorize" an "entire rule, a single section, or any complete paragraph"; and (9) changes the statute of limitations for nonsubstantive changes made by the Division from four years to two years--consistent with the statute of limitations for other rule changes. This bill is scheduled to take effect July 1, 1998.

S.B. 88 Administrative Rules Cost Impacts (Poulton)

This is a revived version of 1st Sub. S.B. 136 (1996). As amended, it requires: (1) agencies to "develop and use flexible approaches in drafting rules that meet the needs of the agency and that involve persons affected by the agency's rules"; (2) department heads to "consider and comment on the fiscal impact a rule may have on businesses" before the rule is filed with the Division of Administrative Rules; and (3) the comments of the department head to be included on the rule analysis filed with proposed rules, changes in proposed rules, and 120-day (emergency) rules. This bill was supported by the Salt Lake Area Chamber of Commerce Small Business Legislative Task Force. This bill will require the Division of Administrative Rules to revise the rule analysis forms. *The revised forms will be required for rules filed after May 1, 1998, 5:00 p.m. (rules submitted for the Utah State Bulletin issue dated June 1).* Because no effective date was specified, this bill is scheduled to take effect May 4, 1998.

General Information

The text of each enrolled bill is reproduced following this notice. Up-to-date information about legislation related to rulemaking is available on the Internet at <http://www.rules.state.ut.us/law/legis.htm>. Information about legislation may be found on the Legislature's 1998 General Session page at <http://www.le.state.ut.us/~1998/1998.htm>.

Questions about these bills may be directed to Ken Hansen, Director, Division of Administrative Rules, PO Box 141007, Salt Lake City, UT 84114-1007, phone: (801) 538-3777, FAX: (801) 538-1773, or Internet E-mail at: asitmain.khansen@email.state.ut.us.

Enrolled Copy

S.B. 85

**REAUTHORIZATION OF ADMINISTRATIVE
RULES**

1998 GENERAL SESSION
STATE OF UTAH

Sponsor: Howard A. Stephenson

AN ACT RELATING TO STATE AFFAIRS IN GENERAL; REAUTHORIZING RULES OF STATE AGENCIES; LISTING THOSE RULES NOT TO BE REAUTHORIZED; AND PROVIDING AN EFFECTIVE DATE.

This act enacts uncodified material.

Be it enacted by the Legislature of the state of Utah:

Section 1. **Rules not authorized.**

All rules of Utah state agencies are reauthorized except for the following:

R501-15. Human Services, Administration, Administrative Services, Licensing, Utah

Social Services Delivery System Data Bases Screening; and

R714-205. Public Safety, Highway Patrol, Vehicle Window Tinting.

Section 2. **Effective date.**

This act takes effect on May 1, 1998.

Enrolled Copy

S.B. 86

ADMINISTRATIVE RULES AMENDMENTS

1998 GENERAL SESSION
STATE OF UTAH

Sponsor: Howard A. Stephenson

EDITOR'S NOTES

AN ACT RELATING TO STATE AFFAIRS IN GENERAL; AMENDING THE ADMINISTRATIVE RULEMAKING ACT TO ALLOW FOR INCORPORATING FEDERALLY-MANDATED STATE IMPLEMENTATION PLANS BY REFERENCE; ALLOWING THE REAUTHORIZATION LEGISLATION TO SUNSET A SECTION OF A RULE; REQUIRING THE COMMITTEE TO MEET ON A MONTHLY BASIS; CHANGING THE STATUTE OF LIMITATIONS ON DIVISION NONSUBSTANTIVE CHANGES FROM FOUR YEARS TO TWO YEARS; MAKING TECHNICAL CHANGES; AND PROVIDING AN EFFECTIVE DATE.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

63-46a-3, as last amended by Chapter 60, Laws of Utah 1996

63-46a-9, as last amended by Chapter 375, Laws of Utah 1997

63-46a-11, as last amended by Chapter 33, Laws of Utah 1997

63-46a-11.5, as last amended by Chapter 2, Laws of Utah 1997, First Special Session

63-46a-14, as last amended by Chapter 60, Laws of Utah 1996

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **63-46a-3** is amended to read:

63-46a-3. When rulemaking is required.

(1) Each agency shall:

- (a) maintain a complete copy of its current rules; and
- (b) make it available to the public for inspection during its regular business hours.

(2) In addition to other rulemaking required by law, each agency shall make rules when

agency action:

- (a) authorizes, requires, or prohibits an action;
- (b) provides or prohibits a material benefit;
- (c) applies to a class of persons or another agency; and
- (d) is explicitly or implicitly authorized by statute.

(3) Rulemaking is also required when an agency issues a written interpretation of a state or federal legal mandate.

(4) Rulemaking is not required when:

(a) agency action applies only to internal agency management, inmates or residents of a state correctional, diagnostic, or detention facility, persons under state legal custody, patients admitted to a state hospital, members of the state retirement system, or students enrolled in a state education institution;

(b) a standardized agency manual applies only to internal fiscal or administrative details of governmental entities supervised under statute;

(c) an agency issues policy or other statements that are advisory, informative, or descriptive, and do not conform to the requirements of Subsections (2) and (3); or

(d) an agency makes nonsubstantive changes in a rule, except that the agency shall file all nonsubstantive changes in a rule with the division.

(5) A rule shall enumerate any penalty authorized by statute that may result from its violation.

(6) Each agency shall enact rules incorporating the principles of law not already in its rules that are established by final adjudicative decisions within 120 days after the decision is announced in its cases.

(7) (a) Each agency may enact a rule that incorporates by reference:

(i) all or any part of another code, rule, or regulation that has been adopted by a federal agency, an agency or political subdivision of this state, an agency of another state, or by a nationally-recognized organization or association;

(ii) state agency implementation plans mandated by the federal government for participation in the federal program:

~~[(iii)]~~ (iii) lists, tables, illustrations, or similar materials that are subject to frequent change, fully described in the rule, and are available for public inspection; or

~~[(iii)]~~ (iv) lists, tables, illustrations, or similar materials that the director determines are too expensive to reproduce in the administrative code.

(b) Rules incorporating materials by reference shall:

(i) be enacted according to the procedures outlined in this chapter;

(ii) state that the referenced material is incorporated by reference;

(iii) state the date, issue, or version of the material being incorporated; and

(iv) define specifically what material is incorporated by reference and identify any agency deviations from it.

(c) The agency shall identify any substantive changes in the material incorporated by reference by following the rulemaking procedures of this chapter.

(d) The agency shall maintain a complete and current copy of the referenced material available for public inspection at the agency and at the division.

(8) (a) This chapter is not intended to inhibit the exercise of agency discretion within the limits prescribed by statute or agency rule.

(b) An agency may enact a rule creating a justified exception to a rule.

(9) An agency may obtain assistance from the attorney general to ensure that its rules meet legal and constitutional requirements.

Section 2. Section **63-46a-9** is amended to read:

63-46a-9. Agency review of rules -- Schedule of filings -- Limited exemption for certain rules.

(1) Each agency shall review each of its rules within five years of the rule's original effective date or within five years of the filing of the last five-year review, whichever is later. Rules effective prior to 1992 need not be reviewed until 1997.

(2) An agency may consider any substantial review of a rule to be a five-year review. If the agency chooses to consider a review a five-year review, it shall follow the procedures outlined in Subsection (3).

(3) At the conclusion of its review, the agency shall file a notice of review on or before the anniversary date indicating its intent to continue, amend, or repeal the rule.

EDITOR'S NOTES

- (a) If the agency continues the rule, it shall file a statement which includes:
- (i) a concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require the rule;
 - (ii) a summary of written comments received [~~after enactment~~] during and since the last five-year review of the rule from interested persons supporting or opposing the rule; and
 - (iii) a reasoned justification for continuation of the rule, including reasons why the agency disagrees with comments in opposition to the rule, if any.
- (b) If the agency repeals the rule, it shall comply with Section **63-46a-4**.
- (c) If the agency amends and continues the rule, it shall comply with the requirements of Section **63-46a-4** and file the statement required in Subsection (3)(a).
- (4) (a) The division shall publish the notice and statement in the bulletin.
- (b) The division may schedule the publication of agency notices and statements, provided that no notice and statement shall be published more than one year after the review deadline established under Subsection (1).
- (5) The division shall notify an agency of rules due for review at least 180 days prior to the anniversary date.
- (6) If an agency finds that it will not meet the deadline established in Subsection (1):
- (a) the agency may file an extension prior to the anniversary date with the division indicating the reason for the extension; and
 - (b) the division shall publish notice of the extension in the next issue of the bulletin.
- (7) An extension permits the agency to file a notice no more than 120 days after the anniversary date.
- (8) If an agency fails to file a notice of review or extension on or before the date specified in the notice mandated in Subsection [~~(4)~~] (5), the division shall:
- (a) publish a notice in the next issue of the bulletin that the rule has expired and is no longer enforceable;
 - (b) remove the rule from the code; and
 - (c) notify the agency that the rule has expired.
- (9) After a rule expires, an agency must comply with the requirements of Section **63-46a-4** to reenact the rule.
- (10) (a) Rules issued under the following provisions related to the Department of Workforce Services or Labor Commission that are in effect on July 1, 1997, are not subject to the requirements of this section until July 1, 1998:
- (i) Title 34, Labor in General;
 - (ii) Title 34A, Utah Labor Code;
 - (iii) Title 35, Labor - Industrial Commission;
 - (iv) Title 35A, Utah Workforce Services Code;
 - (v) Title 40, Chapter 2, Coal Mines; and
 - (vi) Title 57, Chapter 21, Utah Fair Housing Act.

(b) Any rule described in Subsection (10)(a) that would have expired on or after July 1, 1997 but before July 1, 1998, expires July 1, 1998, unless for that rule the Department of Workforce Services or Labor Commission files:

- (i) the notice of review, described in Subsection (3); or
- (ii) an extension described in Subsection (6).

Section 3. Section **63-46a-11** is amended to read:

63-46a-11. Administrative Rules Review Committee.

(1) (a) There is created an Administrative Rules Review Committee of ten permanent members and four ex officio members.

(b) (i) The committee's permanent members shall be composed of five members of the Senate, appointed by the president of the Senate, and five members of the House, appointed by the speaker of the House, with no more than three senators and three representatives from the same political party.

(ii) The permanent members shall convene at least once each month as a committee to review new agency rules, amendments to existing agency rules, and repeals of existing agency rules. Meetings may be suspended at the discretion of the committee chairs.

(iii) Members shall serve for two-year terms or until their successors are appointed.

(iv) A vacancy exists whenever a committee member ceases to be a member of the Legislature, or when a member resigns from the committee. Vacancies shall be filled by the appointing authority, and the replacement shall serve out the unexpired term.

(c) When the committee reviews existing rules, the committee's permanent members shall invite the Senate and House chairmen of the standing committee and the Senate and House chairmen of the appropriation subcommittee that have jurisdiction over the agency whose existing rules are being reviewed to participate as nonvoting, ex officio members with the committee.

(d) Three representatives and three senators from the permanent members are a quorum for the transaction of business at any meeting.

(2) Each agency rule as defined in Section **63-46a-2** shall be submitted to the committee at the same time public notice is given under Section **63-46a-4**.

(3) (a) The committee shall exercise continuous oversight of the process of rulemaking.

(b) The committee shall examine rules submitted by each agency to determine:

- (i) whether or not they are authorized by statute;
- (ii) whether or not they comply with legislative intent;
- (iii) their impact on the economy and the government operations of the state and local political subdivisions; and

(iv) their impact on affected persons.

(c) To carry out these duties, the committee may examine any other issues that it considers necessary. The committee may also notify and refer rules to the chairmen of the interim committee which has jurisdiction over a particular agency when the committee determines that an issue involved in an agency's rules may be more appropriately addressed by that committee.

(d) In reviewing the rules, the committee shall follow generally accepted principles of statutory construction.

(4) The committee may request that the Office of the Legislative Fiscal Analyst prepare a fiscal note on any rule.

(5) In order to accomplish its oversight functions, the committee has all the powers granted to legislative interim committees as set forth in Section **36-12-11**.

(6) (a) The committee may prepare written findings of its review of each rule and may include any recommendations, including legislative action.

(b) The committee shall provide to the agency that enacted the rule:

(i) a copy of its findings, if any; and

(ii) a request that the agency notify the committee of any changes it makes in the rule.

(c) The committee shall provide a copy of its findings to any member of the Legislature and to any person affected by the rule who requests a copy.

(d) The committee shall provide a copy of its findings to the presiding officers of both the House and the Senate, Senate and House chairmen of the standing committee, and the Senate and House chairmen of the Appropriation Subcommittee that have jurisdiction over the agency whose rules are the subject of the findings.

(7) (a) The committee may submit a report on its review of state agency rules to each member of the Legislature at each regular session.

(b) The report shall include:

(i) the findings and recommendations made by the committee under Subsection (6);

(ii) any action taken by an agency in response to committee recommendations; and

(iii) any recommendations by the committee for legislation.

Section 4. Section **63-46a-11.5** is amended to read:

63-46a-11.5. Legislative reauthorization of agency rules -- Extension of rules by governor.

(1) All grants of rulemaking power from the Legislature to a state agency in any statute are made subject to the provisions of this section.

(2) (a) Except as provided in Subsection (2)(b), every agency rule that is in effect on ~~January 1~~ February 28 of any calendar year expires on May 1 of that year unless it has been reauthorized by the Legislature.

(b) Notwithstanding the provisions of Subsection ~~[(4)]~~ (2)(a), an agency's rules do not expire if:

(i) the rule is explicitly mandated by a federal law or regulation; or

(ii) a provision of Utah's constitution vests the agency with specific constitutional authority to regulate.

(3) (a) ~~[Prior to January 1 of each year, the]~~ The Administrative Rules Review Committee shall have omnibus legislation prepared for consideration by the Legislature during its annual general session.

(b) The omnibus legislation shall be substantially in the following form: "All rules of Utah state agencies are reauthorized except for the following:".

(c) Before sending the legislation to the governor for his action, the Administrative Rules Review Committee may send a letter to the governor and to the agency explaining specifically why the committee believes any rule should not be reauthorized.

(d) For the purpose of this section, the entire rule, a single section, or any complete paragraph of a rule may be excepted for reauthorization in the omnibus legislation considered by the Legislature.

(4) The Legislature's reauthorization of a rule by legislation does not constitute legislative approval of the rule, nor is it admissible in any proceeding as evidence of legislative intent.

(5) (a) If an agency believes that a rule that has not been reauthorized by the Legislature or that will be allowed to expire should continue in full force and effect and is a rule within their authorized rulemaking power, the agency may seek the governor's declaration extending the rule beyond the expiration date.

(b) In seeking the extension, the agency shall submit a petition to the governor that affirmatively states:

- (i) that the rule is necessary; and
- (ii) a citation to the source of its authority to make the rule.

(c) (i) If the governor finds that the necessity does exist, and that the agency has the authority to make the rule, he may declare the rule to be extended by publishing that declaration in the Administrative Rules Bulletin on or before April 15 of that year.

(ii) The declaration shall set forth the rule to be extended, the reasons the extension is necessary, and a citation to the source of the agency's authority to make the rule.

(d) If the omnibus bill required by Subsection (3) fails to pass both houses of the Legislature or is found to have a technical legal defect preventing reauthorization of administrative rules intended to be reauthorized by the Legislature, the governor may declare all rules to be extended by publishing a single declaration in the Administrative Rules Bulletin on or before June 15 without meeting requirements of Subsections (5)(b) and (c).

Section 5. Section **63-46a-14** is amended to read:

63-46a-14. Time for contesting a rule -- Statute of limitations.

(1) A proceeding to contest any rule on the ground of noncompliance with the procedural requirements of this chapter shall commence within two years of the effective date of the rule.

(2) A proceeding to contest any rule on the ground of not being supported by substantial evidence when viewed in light of the whole administrative record shall commence within four years of the effective date of the challenged action.

(3) A proceeding to contest any rule on the basis that a change to the rule made under Subsection **63-46a-10(2)** or (3) substantively changed the rule shall be commenced within ~~four~~ two years of the date the change was made.

Section 6. **Effective date.**

This act takes effect on July 1, 1998.

ADMINISTRATIVE RULES IMPACT COSTS

1998 GENERAL SESSION

STATE OF UTAH

Sponsor: L. Steven Poulton

AN ACT RELATING TO STATE AFFAIRS IN GENERAL; AMENDING THE RULEMAKING ACT TO REQUIRE AGENCIES TO CONSIDER AND COMMENT ON THE FISCAL IMPACT A RULE MAY HAVE ON BUSINESSES; AND MAKING TECHNICAL CORRECTIONS.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

53C-1-201, as last amended by Chapter 126, Laws of Utah 1997

63-46a-4, as last amended by Chapter 60, Laws of Utah 1996

63-46a-7, as last amended by Chapter 10, Laws of Utah 1997

63-46a-10.5, as last amended by Chapter 60, Laws of Utah 1996

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **53C-1-201** is amended to read:

53C-1-201. Creation of administration -- Purpose -- Director.

(1) (a) There is established within state government the School and Institutional Trust Lands Administration.

(b) The administration shall manage all school and institutional trust lands and assets within the state, except as otherwise provided in Chapter 3 of this title and Section **51-7-12**.

(2) The administration is an independent state agency and not a division of any other department.

(3) (a) It is subject to the usual legislative and executive department controls except as follows:

(i) (A) the director may make rules as approved by the board that allow the administration to classify a business proposal submitted to the administration as protected under Section **63-2-304**, for as long as is necessary to evaluate the proposals;

(B) the administration shall return the proposal to the party who submitted the proposal, and incur no further duties under Title 63, Chapter 2, Government Records Access and Management Act, if the administration determines not to proceed with the proposal;

(C) the administration shall classify the proposal pursuant to law if it decides to proceed with the proposal; and

(D) Section **63-2-403** does not apply during the review period;

(ii) the director shall make rules in compliance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, except that the director, with the board's approval, may establish a procedure for the expedited approval of rules, based on written findings by the director showing:

(A) the changes in business opportunities affecting the assets of the trust;

(B) the specific business opportunity arising out of those changes which may be lost without the rule or changes to the rule;

(C) the reasons the normal procedures under Section **63-46a-4** cannot be met without causing the loss of the specific opportunity;

(D) approval by at least five board members; and

(E) that the director has filed a copy of the rule and a rule analysis, stating the specific reasons and justifications for its findings, with the Division of Administrative Rules and notified interested parties as provided in Subsection **63-46a-4**~~(4)~~(7); and

(iii) the administration shall comply with Title 67, Chapter 19, Utah State Personnel Management Act, except as follows:

(A) the board may approve, upon recommendation of the director, that exemption for specific positions under Subsections **67-19-12(2)** and **67-19-15(1)** is required in order to enable the administration to efficiently fulfill its responsibilities under the law. The director shall consult with the director of the Department of Human Resource Management prior to making such a recommendation. The positions of director, deputy director, assistant director, legal counsel appointed under Subsection **53C-1-305(2)**, administrative assistant, and public affairs officer are exempt under Subsections **67-19-12(2)** and **67-19-15(1)**;

(B) salary for exempted positions, except for the director, shall be set by the director, after consultation with the director of the Department of Human Resource Management, within ranges approved by the board. The board and director shall consider salaries for similar positions in private enterprise and other public employment when setting salary ranges; and

(C) the board may create an annual incentive and bonus plan for the director and other administration employees designated by the board, based upon the attainment of financial performance goals and other measurable criteria defined and budgeted in advance by the board; and

(iv) the administration shall comply with Title 63, Chapter 56, Utah Procurement Code, except where the board approves, upon recommendation of the director, exemption under Section **63-56-3** and simultaneous adoption of policies for procurement, which enable the administration to efficiently fulfill its responsibilities under the law.

(b) (i) The board and director shall review the exceptions under Subsection (3)(a) and make recommendations for any modification, if required, which the Legislature would be asked to consider during its annual General Session.

(ii) The board and director may include in their recommendations any other proposed exceptions from the usual executive and legislative controls the board and director consider necessary to accomplish the purpose of this title.

(4) The administration is managed by a director of school and institutional trust lands appointed by a majority vote of the board of trustees with the consent of the governor.

EDITOR'S NOTES

(5) (a) The board of trustees shall provide policies for the management of the administration and for the management of trust lands and assets.

(b) The board shall provide policies for the ownership and control of Native American remains that are discovered or excavated on school and institutional trust lands in consultation with the Division of Indian Affairs and giving due consideration to Title 9, Chapter 9, Part 4, Native American Graves Protection and Repatriation Act.

(6) In connection with joint ventures for the development of trust lands and minerals approved by the board under Subsection **53C-1-303(4)(c)**, the administration may become a member of a limited liability company under Title 48, Chapter 2b, Utah Limited Liability Company Act, and is considered a person under Subsection **48-2b-102(6)** for such purposes.

Section 2. Section **63-46a-4** is amended to read:

63-46a-4. Rulemaking procedure.

(1) Except as provided in Sections **63-46a-6** and **63-46a-7**, when making, amending, or repealing a rule agencies shall comply with:

- (a) the requirements of this section;
- (b) consistent procedures required by other statutes;
- (c) applicable federal mandates; and
- (d) rules made by the division to implement this chapter.

(2) Subject to the requirements of this chapter, each agency shall develop and use flexible approaches in drafting rules that meet the needs of the agency and that involve persons affected by the agency's rules.

~~[(2)]~~ (3) (a) Each agency shall file its proposed rule and rule analysis with the division.

(b) (i) Rule amendments shall be marked with new language underlined and deleted language struck out.

(ii) Alternatively, the repeal of an entire rule may be indicated by annotating the rule "repealed in its entirety" prominently on every page.

(c) (i) The division shall publish the information required under Subsection (3) on the rule analysis and the text of the proposed rule in the next issue of the bulletin.

(ii) For rule amendments, only the section or subsection of the rule being amended need be printed.

(iii) If the director determines that the rule is too long to publish, the director shall publish the rule analysis and shall publish the rule by reference to a copy on file with the division.

(4) Prior to filing a rule with the division, the department head shall consider and comment on the fiscal impact a rule may have on businesses.

~~[(3)]~~ (5) The rule analysis shall contain:

- (a) a summary of the rule or change;
- (b) the purpose of the rule or reason for the change;
- (c) the statutory authority or federal requirement for the rule;
- (d) the anticipated cost or savings to:
 - (i) the state budget;
 - (ii) local governments; and

- (iii) other persons;
- (e) the compliance cost for affected persons;
- (f) how interested persons may inspect the full text of the rule;
- (g) how interested persons may present their views on the rule;
- (h) the time and place of any scheduled public hearing;
- (i) the name and telephone number of an agency employee who may be contacted about the rule;
- (j) the name of the agency head or designee who authorized the rule; ~~and~~
- (k) the date on which the rule may become effective following the public comment period[-];

and

(l) comments by the department head on the fiscal impact the rule may have on businesses.

~~[(4)]~~ (6) (a) For a rule being repealed and reenacted, the rule analysis shall contain a summary that generally includes the following:

(i) a summary of substantive provisions in the repealed rule which are eliminated from the enacted rule; and

(ii) a summary of new substantive provisions appearing only in the enacted rule.

(b) The summary required under this subsection is to aid in review and may not be used to contest any rule on the ground of noncompliance with the procedural requirements of this chapter.

~~[(5)]~~ (7) A copy of the rule analysis shall be mailed to all persons who have made timely request of the agency for advance notice of its rulemaking proceedings and to any other person who, by statutory or federal mandate or in the judgment of the agency, should also receive notice.

~~[(6)]~~ (8) Following the publication date, the agency shall allow at least 30 days for public comment on the rule.

~~[(7)]~~ (9) (a) Except as provided in Sections **63-46a-6** and **63-46a-7**, a proposed rule becomes effective on any date specified by the agency that is no fewer than 30 nor more than 120 days after the publication date.

(b) The agency shall provide notice of the rule's effective date to the division in the form required by the division.

(c) The notice of effective date may not provide for an effective date prior to the date it is received by the division.

(d) The division shall publish notice of the effective date of the rule in the next issue of the bulletin.

(e) A proposed rule lapses if a notice of effective date or a change to a proposed rule is not filed with the division within 120 days of publication.

Section 3. Section **63-46a-7** is amended to read:

63-46a-7. Exceptions to rulemaking procedure.

(1) All agencies shall comply with the rulemaking procedures of Section **63-46a-4** unless an agency finds that these 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

EDITOR'S NOTES

(c) place the agency in violation of federal or state law.

(2) (a) When finding that its rule is excepted from regular rulemaking procedures by this section, the agency shall file with the division:

(i) a copy of the rule; and

(ii) a rule analysis that includes the specific reasons and justifications for its findings.

(b) The division shall publish the rule in the bulletin as provided in Subsection

63-46a-4~~[(2)]~~**(3)**.

(c) The agency shall notify interested persons as provided in Subsection **63-46a-4**~~[(5)]~~**(7)**.

(d) The rule becomes effective for a period not exceeding 120 days on the date of filing or any later date designated in the rule.

(3) If the agency intends the rule to be effective beyond 120 days, the agency shall also comply with the procedures of Section **63-46a-4**.

Section 4. Section **63-46a-10.5** is amended to read:

63-46a-10.5. Repeal and reenactment of Utah Administrative Code.

(1) When the director determines that the Utah Administrative Code requires extensive revision and reorganization, the division may repeal the code and reenact a new code according to the requirements of this section.

(2) The division may:

(a) reorganize, reformat, and renumber the code;

(b) require each agency to review its rules and make any organizational or substantive changes according to the requirements of Section **63-46a-6**; and

(c) require each agency to prepare a brief summary of all substantive changes made by the agency.

(3) The division may make nonsubstantive changes in the code by:

(a) adopting a uniform system of punctuation, capitalization, numbering, and wording;

(b) eliminating duplication;

(c) correcting defective or inconsistent section and paragraph structure in arrangement of the subject matter of rules;

(d) eliminating all obsolete or redundant words;

(e) correcting obvious errors and inconsistencies in punctuation, capitalization, numbering, referencing, and wording;

(f) changing a catchline to more accurately reflect the substance of each section, part, rule, or title;

(g) updating or correcting annotations associated with a section, part, rule, or title; and

(h) merging or determining priority of any amendment, enactment, or repeal to the same rule or section made effective by an agency.

(4) (a) To inform the public about the proposed code reenactment, the division shall publish in the bulletin:

(i) notice of the code reenactment;

(ii) the date, time, and place of a public hearing where members of the public may comment on the proposed reenactment of the code;

(iii) locations where the proposed reenactment of the code may be inspected; and

(iv) agency summaries of substantive changes in the reenacted code.

(b) To inform the public about substantive changes in agency rules contained in the proposed reenactment, each agency shall:

(i) make copies of their reenacted rules available for public inspection during regular business hours; and

(ii) comply with the requirements of Subsection **63-46a-4**~~(4)~~**(7)**.

(5) The division shall hold a public hearing on the proposed code reenactment no fewer than 30 days nor more than 45 days after the publication required by Subsection (3)(a).

(6) The division shall distribute complete copies of the proposed code reenactment without charge to:

(a) state-designated repositories in Utah;

(b) the Administrative Rules Review Committee; and

(c) the Office of Legislative Research and General Counsel.

(7) The former code is repealed and the reenacted code is effective at noon on a date designated by the division that is not fewer than 45 days nor more than 90 days after the publication date required by this section.

(8) Repeal and reenactment of the code meets the requirements of Section **63-46a-9** for a review of all agency rules.

End of the Editor's Notes Section

NOTICES OF PROPOSED RULES

A state agency may file a PROPOSED RULE when it determines the need for a new rule, a substantive change to an existing rule, or a repeal of an existing rule. Filings received between February 17, 1998, 5:01 p.m., and March 2, 1998, 5:00 p.m., are included in this, the March 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 April 14, 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 July 13, 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.

The Proposed Rules Begin on the Following Page.

Agriculture and Food, Plant Industry
R68-19-4
Citation

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE No.: 20813
FILED: 02/26/98, 15:18
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: These rules are established to regulate the use of Emergency Orders for the protection, safety, and welfare of the public.

SUMMARY: This amendment establishes a more reasonable citation amount for penalties.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Subsection 4-2-2(j)

ANTICIPATED COST OR SAVINGS TO:

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

COMPLIANCE COSTS FOR AFFECTED PERSONS: Fee established for the violation of a citation.

THE FULL TEXT OF THIS FILING MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Agriculture and Food
Plant Industry
350 North Redwood Road
PO Box 146500
Salt Lake City, UT 84114-6500, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:
Seth Winterton at the above address, by phone at (801) 538-7141, by FAX at (801) 538-7126, or by Internet E-mail at agmain.swintert@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 04/14/98.

THIS FILING MAY BECOME EFFECTIVE ON: 04/15/98

AUTHORIZED BY: Van Burgess, Deputy Commission

R68. Agriculture and Food, Plant Industry.
R68. Compliance Procedures.
R68-19-4. Citation.

The commissioner or persons designated by the commissioner, may enforce this rule by the issuance of a citation for violation, in order to secure subsequent payments of fines or the imposition of penalties:

The citation will include the following information:

- (1) name, street address, city, state, zip-code, phone-number, and title or position of the person being given the order, or name, street-address, city, state, zip-code, phone-number of the business, organization, corporation, firm, limited liability company, etc., and the name and title or position of the person in the business or organization to whom the order is given.
(2) references to the statutes or rules violated,
(3) a brief statement of findings of fact as determined by the division,
(4) a penalty or fine amount
(5) the signature of the agency representative,
(6) a space/line for the signature of the person (a signature is not required if the person refuses)
(7) a statement to the effect that a person is allowed to request an administrative hearing if the person feels that a citation was not warranted.

Fine or penalty amounts will be set by the department or the division, under the direction of the commissioner, for amounts up to \$5,000 per violation, or if the citation involves a criminal proceeding, the person may be found guilty of a class B misdemeanor. In accordance with Section 4-2-15, fine or penalty amounts shall be determined according to the following:

Table with 4 columns: TYPES OF VIOLATION, FIRST VIOLATION, SECOND VIOLATION, THIRD VIOLATION. Rows include Labeling, Distribution, Records, Licensing, Registration, Advertising, Application/Use, Quarantines/Orders.

PENALTY AMOUNTS: Citation per violation up to, but not to exceed \$500; if not paid within 15 days, 2 times citation amount; if not paid within 30 days, 4 times citation amount

KEY: agricultural law
1998

4-2-2(j)

Agriculture and Food, Regulatory
Services
R70-201-4
Citation

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE No.: 20814
FILED: 02/26/98, 15:18
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: These rules are established to regulate the use of Emergency Orders for the protection, safety, and welfare of the public.

SUMMARY: This amendment establishes a more reasonable citation amount for penalties.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Subsection 4-2-2(j)

ANTICIPATED COST OR SAVINGS TO:

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

COMPLIANCE COSTS FOR AFFECTED PERSONS: Fee established for the violation of a citation.

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

Agriculture and Food
Regulatory Services
350 North Redwood Road
PO Box 146500
Salt Lake City, UT 84114-6500, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:

Seth Winterton at the above address, by phone at (801) 538-7141, by FAX at (801) 538-7126, or by Internet E-mail at agmain.swintert@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 04/14/98.

THIS FILING MAY BECOME EFFECTIVE ON: 04/15/98

AUTHORIZED BY: Van Burgess, Deputy Commission

R70. Agriculture and Food, Regulatory Service.

R70-201. Compliance Procedures.

R70-201-4. Citation.

The Commissioner or persons designated by the Commissioner, may enforce this rule by the issuance of a citation for violation, in order to secure subsequent payments of fines or the imposition of penalties:

The citation will include the following information:

- (1) name, street address, city, state, zip-code, phone-number, and title or position of the person being given the order, or name, street-address, city, state, zip-code, phone-number of the business, organization, corporation, firm, limited liability company, etc., and the name and title or position of the person in the business or organization to whom the order is given.
- (2) references to the statutes or rules violated,
- (3) a brief statement to the findings of fact as determined by the division,
- (4) a penalty or fine amount,

- (5) the signature of the agency representative,
- (6) a space or line for the signature of the person (a signature is not required if the person refuses),

- (7) a statement to the effect that a person is allowed to request an administrative hearing if the person feels that a citation was not warranted.

Fine or penalty amounts will be set by the department or the division, under the direction of the commissioner, for amounts up to \$5,000 per violation, or if the citation involves a criminal proceeding, the person may be found guilty of a class B misdemeanor. In accordance with Section 4-2-15, fine or penalty amounts shall be determined according to the following: [

TABLE		
PENALTY AMOUNTS		
VIOLATION CATEGORY	1st OCCURRENCE	2nd OCCURRENCE
Misbranding	\$0 - \$1,000	Hearing
Adulteration	\$0 - \$1,000	Hearing
Labeling	\$0 - \$1,000	Hearing
Incorrect Weight	\$0 - \$1,000	Hearing
Incorrect Measure	\$0 - \$1,000	Hearing
Unlicensed	\$0 - \$1,000	Hearing

] PENALTY AMOUNTS: Citation per violation up to, but not to exceed \$500; if not paid within 15 days, 2 times citation amount; if not paid within 30 days, 4 times citation amount.

KEY: agricultural law
1998

4-2-2(j)



Commerce, Real Estate
R162-1
Authority and Definitions

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 20798

FILED: 02/23/98, 09:48

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: To clarify wording and definitions.

SUMMARY: This amendment changes "company license" to "company registration" and clarifies definitions.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Section 61-2-5.5

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:

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 04/14/98.

THIS FILING MAY BECOME EFFECTIVE ON: 04/15/98

AUTHORIZED BY: Ted Boyer, Director

R162. Commerce, Real Estate.
R162-1. Authority and Definitions.
R162-1-1. Authority.

1.1. The following administrative Rules, applicable to the Division of Real Estate, Department of Commerce have been established under the authority granted by Section 61-2-5.5, et seq.

1.1.1. The Division shall charge and collect fees for the (a) issuance of a new or duplicate license; (b) issuance of license history or certifications; (c) issuance of certified copies of official documents, orders, and other papers and transcripts; (d) certification of real estate schools, courses and instructors; and (e) costs of administering other duties.

1.1.2. The authority to collect the above fees is authorized by Section 61-2-9(5) and Section 61-2a-4.

R162-1-2. Definitions.

1.2. Terms used in these rules are defined as follows:

1.2.1. Active Licensee: One who: (a) has paid all applicable license fees; and (b) is affiliated with a principal brokerage.

1.2.2. Branch Manager: An associate broker who manages a branch office under the supervision of the principal broker.

1.2.3. Branch Office: A real estate office affiliated with and operating under the same name as a Principal Brokerage but located at an address different from the main office.

1.2.4. Business Opportunity: The sale, lease, or exchange of any business which includes an interest in real estate.

1.2.5. Brokerage: A real estate sales brokerage or a property management company.

1.2.5.6. Certification: The authorization issued by the Division to: (a) establish and operate a real estate school which provides courses approved for licensing requirements, [or] (b) provide courses approved for renewal requirements, or (c) function as a real estate instructor.

1.2.6.7. Company [License]Registration: A [License]Registration issued to a corporation, partnership, Limited Liability Company, association or other legal entity of a real estate

brokerage. A Company Registration is also issued [instead of] to an individual or an individual's professional corporation.

1.2.7.8. Continuing Education: Professional education required as a condition of renewal in accordance with Subsection 61-2-9(2)(a).

1.2.8.9. Expired License: A license will be deemed "expired" when the licensee fails to pay the fees due by the close of business on the expiration date. If the expiration date falls on a Saturday, Sunday or holiday the effective date of expiration shall be the next business day.

1.2.9.10. Inactivation: The placing of a license on an inactive status, either voluntarily or involuntarily.

1.2.9.10.1. Voluntary inactivation means the process initiated by an active licensee terminating affiliation with a principal brokerage.

1.2.9.10.2. Involuntary inactivation means the process of (a) inactivation of a sales agent or associate broker license resulting from the suspension, revocation, or non-renewal of the license of the licensee's principal broker, or death of the licensee's principal broker, or (b) inactivation of a sales agent or associate broker license by a principal broker when the licensee is unavailable to execute the transfer forms.

1.2.10.11. Inactive Licensee: One who: (a) has paid all applicable license fees; and (b) is not affiliated with a principal brokerage.

1.2.11.12. Net listing means a listing wherein the amount of real estate commission is the difference between the selling price of the property and a minimum price set by the seller.

1.2.12.13. Non-resident Licensee: A person who ~~is actively licensed in another state as a~~ holds a Utah real estate principal broker, associate broker, or sales agent license whose primary residence is in a jurisdiction other than Utah ~~and also holds an equivalent license in this state~~.

1.2.13.14. Principal Brokerage: The main real estate or property management office of a principal broker.

1.2.14.15. Property Management: The business of providing services relating to the rental or leasing of real property, including: advertising, procuring prospective tenants or lessees, negotiating lease or rental terms, executing lease or rental agreements, supervising repairs and maintenance, collecting and disbursing rents.

1.2.15.16. Regular Salaried Employees: For purposes of this Chapter, "regular salaried employee" shall mean an individual employed other than on a contract basis, who has withholding taxes taken out by the employer.

1.2.16.17. Reinstatement: To restore to active or inactive status, a license which has expired or been suspended.

1.2.17.18. Reissuance: The process by which a licensee may obtain a license following revocation.

1.2.18.19. Renewal: To extend an active or inactive license for an additional licensing period.

1.2.19.20. DBA (doing business as): The authority issued by the Division of Corporations and Commercial Code to transact business under an assumed name.

1.2.21. Real Estate Sales Agent or Sales Agent: Any person employed or engaged as an independent contractor by or on behalf of a licensed Principal Broker to provide the acts set out in Subsections 61-2-2(12) or 61-2-2(13).

KEY: real estate business, licensing
[1994]1998
Notice of Continuation July 1, 1997

61-2-5.5

R162. Commerce, Real Estate.
R162-2. Exam and License Application Requirements.

.....

Commerce, Real Estate
R162-2
Exam and License Application
Requirements

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 20799
FILED: 02/23/98, 09:48
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: To revise procedures and requirements for licensing principal brokers.

SUMMARY: This amendment revises procedures and requirements for licensing principal brokers.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Section 61-2-5.5

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:

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 04/14/98.

THIS FILING MAY BECOME EFFECTIVE ON: 04/15/98

AUTHORIZED BY: Ted Boyer, Director

R162-2-2. Licensing Procedure.

2.2. Within 90 days after successful completion of the exam, the applicant shall return to the Division each of the following:

2.2.1. A report of the examination indicating that both portions of the exam have been passed within a six-month period of time.

2.2.2. The license application form required by the Division. The application form shall include the licensee's business and home address. A post office box without a street address is unacceptable as a business or home address. The licensee may designate any address to be used as a mailing address.

2.2.3. The non-refundable fees which will include the appropriate license fee as authorized by Section 61-2-9(5) and the Recovery Fund fee as authorized by Section 61-2a-4.

2.2.4. Documentation indicating successful completion of the required education taken within the year prior to licensing. If the applicant has been previously licensed in another state which has substantially equivalent licensing requirements, he may apply to the Division for a waiver of all or part of the educational requirement.

2.2.4.1. ~~[The]~~Candidates for the license of sales agent ~~[applicant]~~will successfully complete 90 classroom hours of approved study in principles and practices of real estate. Experience will not satisfy the education requirement. Membership in the Utah State Bar will waive this requirement.

2.2.4.2. ~~[The]~~Candidates for the license of associate broker or principal broker~~[applicant]~~ will successfully complete 120 classroom hours of approved study consisting of at least ~~[30]~~24 classroom hours in brokerage management, ~~[30]~~24 classroom hours in advanced appraisal, ~~[30]~~24 classroom hours in advanced finance, 24 hours in advanced property management and ~~[30]~~24 classroom hours in advanced real estate law. Experience will not satisfy the education requirement. The Division may waive all or part of the educational requirement by virtue of equivalent education.

2.2.5. The principal broker and associate broker applicant will submit the forms required by the Division documenting a minimum of three years real estate experience and a total of at least 60 points accumulated~~[one year full-time experience and the accumulation]~~ within the five years prior to licensing~~[of 180 points of real estate experience]~~. A minimum of two years (24 months) and at least 45 points will be accumulated from Tables I and/or II. The remaining 15 points may be accumulated from Tables I, II or III.~~[based on the following criteria:]~~

TABLE I - REAL ESTATE TRANSACTIONS

	MINIMUM	MAXIMUM
MANDATORY	POINTS	POINTS
One year full-time as an active real estate sales agent or broker, 5 points per month		60
RESIDENTIAL - points can be accumulated from either the selling or the listing side of a real estate closing:		
(a) One unit dwelling		2.5 points
(b) Two- to four-unit dwellings		5 points
(c) Apartments, 5 units or over		10 points
(d) Improved lot		2 points
(e) Vacant land/subdivision		10 points

<u>COMMERCIAL</u>	
(f) Hotel or motel	10 points
(g) Industrial or warehouse	10 points
(h) Office building	10 points
(i) Retail building	10 points
(j) Leasing of commercial space	5 points

TABLE II - PROPERTY MANAGEMENT

<u>RESIDENTIAL</u>	
(a) Each unit managed	.25 pt/month

<u>COMMERCIAL - hotel/motel, industrial/warehouse, office, or retail building</u>	
(b) Each contract OR each separate property address or location for which licensee has direct responsibility	1 pt/month

2.2.6. The Principal Broker may accumulate additional experience points by having participated in real estate related activities such as the following:

TABLE III - OPTIONAL

<u>[OPTIONAL]</u>	
An active licensee engaged full time in property management, 30 points per year	60
Real Estate Attorney [30 points per year]	[60] 1 pt/month
CPA-Certified Public Accountant [30 points per year]	[60] 1 pt/month
Mortgage Loan Officer [30 points per year]	[60] 1 pt/month
Licensed Escrow Officer [30 points per year]	[60] 1 pt/month
Licensed Title Agent [30 points per year]	[60] 1 pt/month
Designated Appraiser [2 year minimum]	[60] 1 pt/month
Licensed General Contractor [30 points per year]	[60] 1 pt/month
Bank Officer in Real Estate Loans [30 points per year]	[60] 1 pt/month
Certified Real Estate Prelicensing Instructor [2 year minimum]	[30] .5 pt/month

2.2.7. If the review of an application has been performed by the Division and the Division has denied the application based on insufficient experience, and if the applicant believes that the Experience Points Tables do not adequately reflect the amount of the applicant's experience, the applicant may petition the Real Estate Commission for reevaluation by making a written request within 30 days after the denial stating specific grounds upon which relief is requested. The Commission shall thereafter consider the request and issue a written decision.

2.2.[6]8. An applicant previously licensed in another state will provide a written record of his license history from that state and documentation of disciplinary action, if any, against his license.

2.2.[7]9. Determining fitness for licensure. The Commission and the Division will consider information necessary to determine whether an applicant meets the requirements of honesty, integrity, truthfulness, reputation and competency, which shall include the following:

2.2.[7]9.1. Whether an applicant has been denied a license to practice real estate, property management, or any regulated profession, business, or vocation, or whether any license has been suspended or revoked[7] or subjected to any other disciplinary sanction by this or another jurisdiction;

2.2.[7]9.2. Whether an applicant has been guilty of conduct or practices which would have been grounds for revocation or

suspension of license under Utah law had the applicant then been licensed;

2.2.9.3. Whether a civil judgement has been entered against the applicant based on a real estate transaction, and whether the judgement has been fully satisfied;

2.2.[7.3:]9.4. Whether a civil judgment has been entered against the applicant based on fraud, misrepresentation or deceit, and whether the judgment has been fully satisfied.

2.2.[7.4:]9.5. Whether restitution ordered by a court in a criminal conviction has been fully satisfied;

2.2.[7.5:]9.6. Whether the probation in a criminal conviction or a licensing action has been completed and fully served; and

2.2.[7.6:]9.7. Whether there has been subsequent good conduct on the part of the applicant. If, because of lapse of time and subsequent good conduct and reputation or other reason deemed sufficient, it shall appear to the Commission and the Division that the interest of the public will not likely be in danger by the granting of a license, the Commission and the Division may approve the applicant relating to honesty, integrity, truthfulness, reputation and competency.

R162-2-3. Company Registration.

2.3.1. A Principal Broker shall register with the Division the name under which his real estate brokerage or property management company will operate. Registration will require payment of applicable non-refundable fees and evidence that the name of the new company has been approved by the Division of Corporations, Department of Commerce.

2.3.1.1. ~~[The company]~~The real estate brokerage shall at all times have affiliated with it a principal broker who shall demonstrate that he is authorized to use the company name.

2.3.1.2. Misleading or deceptive business names. The Division will not accept a proposed ~~[company]~~business name when there is a substantial likelihood that the public will be misled by the name into thinking that they are not dealing with a licensed real estate brokerage or property management company.

R162-2-4. Company License:

2.3.2. Registration of Entities Operating a Principal Brokerage.

2.[4:]3.2.1. A[ny] corporation, partnership, Limited Liability Company, [or]association or other entity[~~may apply for a license to~~] which operates a principal brokerage [by]shall comply[ing] with R162-2.3 and the following conditions:

~~[2.4.1. The applicant shall submit to the Division a duly verified application on the form required by the Division together with the proper non-refundable application fee.~~

~~[2.4.2. The company shall at all times have affiliated with it a principal broker who shall demonstrate that he is authorized to use the company name.]~~

2.3.2.2. Individuals associated with the ~~[company]~~entity shall not engage in activity which requires a real estate license unless they are affiliated with the principal broker and licensed with the Division. Upon a change of principal broker, the ~~[company]~~entity shall be responsible to insure that the outgoing and incoming principal brokers immediately provide to the Division, on forms required by the Division, evidence of the change.

2.3.2.2.1.[4.2.1.] If the outgoing principal broker is not available to properly execute the form required to effect the change

of principal brokers, the change may still be made provided a letter advising of the change is mailed by the ~~company~~entity by certified mail to the last known address of the outgoing principal broker. A verified copy of the letter and proof of mailing by certified mail shall be attached to the form when it is submitted to the Division.

2.3.2.3.~~[4.3.]~~ If the change of members in a partnership either by the addition or withdrawal of a partner creates a new legal entity, the new entity cannot operate under the authority of the ~~[license issued]~~registration of ~~[to]~~the previous partnership. The dissolution of a corporation, partnership, Limited Liability Company, association or other entity which has been ~~[licensed]~~registered terminates the ~~[license previously granted to it]~~registration. The Division shall be notified of any change in a partnership or dissolution of a corporation ~~[to whom a license has been granted,]~~which has registered prior to the effective date of the change.

R162-2-4[5]. Licensing of Non-Residents.

2.4[5]. In addition to meeting the requirements of rules 2.1 and 2.2, an applicant living outside of the state of Utah may be issued a license in Utah by successfully completing specific educational hours required by the Division with the concurrence of the Commission, and by passing the real estate licensing examination. The applicant shall also meet each of the following requirements:

2.4[5].1. If the applicant is an associate broker or sales agent, the principal broker with whom he will be affiliated shall hold an active license in Utah.

2.4[5].2. If the applicant is a principal broker, he shall establish a real estate trust account in this state. He shall also maintain all office records in this state at a principle business location as outlined in R162-4.1.

2.4[5].3. The application for licensure in Utah shall be accompanied by an irrevocable written consent allowing service of process on the Commission or the Division.

2.4[5].4. The applicant shall provide a written record of his license history, if any, and documentation of disciplinary action, if any, against his license.

R162-2-5[6]. Reciprocity.

2.5[6]. The Division, with the concurrence of the Commission, may enter into specific reciprocity agreements with other states on the same basis as Utah licensees are granted licenses by those states.

KEY: real estate business

~~[June 4, 1996]~~1998

Notice of Continuation July 1, 1997

61-2-5.5



Commerce, Real Estate
R162-3
License Status Change

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 20800

FILED: 02/23/98, 09:48

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: Change to license procedures for making status changes.

SUMMARY: Permits principal broker to make status changes.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Section 61-2-5.5

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:

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 04/14/98.

THIS FILING MAY BECOME EFFECTIVE ON: 04/15/98

AUTHORIZED BY: Ted Boyer, Director

R162. Commerce, Real Estate.

R162-3. License Status Change.

R162-3-1. Status Changes.

3.1. A licensee must notify the Division within ten working days of any status change. Status changes are effective on the date the properly executed forms and appropriate non-refundable fees are received by the Division. Notice must be on the forms required by the Division.

3.1.1. Change of name requires submission of official documentation such as a marriage or divorce certificate, or driver's license.

3.1.2. Change of business, home address or mailing address requires written notification. A post office box without a street

address is unacceptable as a business or home address. The licensee may designate any address to be used as a mailing address.

3.1.3₂ Change of name of a brokerage must be accompanied by evidence that the new name has been approved by the Division of Corporations, Department of Commerce.

3.1.4₂ Change of Principal Broker of a [~~Registered Company~~]real estate brokerage which is a sole proprietorship, requires closure of the [~~R~~]registered [~~Company~~]entity. The new principal broker will activate the Registered Company and provide proof from the Division of Corporations of the authorization to use the DBA. Change cards will be required for the terminating Principal Broker, new Principal Broker and all licensees affiliated with the brokerage.

3.1.5₂ Change of a Principal Broker within an entity which is not a sole proprietorship[~~holding a Company License~~] requires written notice from the entity signed by both the terminating Principal Broker and the new Principal Broker.

R162-3-2. Unavailability of Licensee.

3.2₂ If a licensee is not available to properly execute the form required for a status change, the status change may still be made provided a letter advising of the change is mailed by certified mail to the last known address of the unavailable licensee. A verified copy of the letter and proof of mailing by certified mail must be attached to the form when it is submitted to the Division.

R162-3-3. Transfers.

3.3₂ Prior to transferring from one principal broker to another principal broker, the licensee must mail or deliver to the Division written notice of the change on the form required by the Division.

R162-3-4. Inactivation.

3.4₂ To voluntarily inactivate a license, the licensee must deliver or mail to the Division a written request for the change signed by both [~~sales agent~~]the licensee and principal broker.

3.4.1₂ Prior to placing his license on an inactive status, a principal broker must provide written notice to each licensee affiliated with him of that licensing status change. Evidence of that written notice must be provided to the Division in order to process the status change. The inactivation of the license of a principal broker will also cause the licenses of all affiliated licensees to be immediately inactivated if they do not transfer their licenses in accordance with R162-3.3 prior to the effective date of the principal broker's status change.

3.4.2₂ The non-renewal, suspension, or revocation of the license of a principal broker will cause the licenses of all affiliated licensees to be immediately inactivated if they do not transfer their licenses in accordance with R162-3.3 prior to the effective date of the principal broker's status change.

3.4.2.1₂ When a principal broker is notified that his license will be suspended or revoked, he must, prior to the effective date of the suspension or revocation, provide written notice to each licensee affiliated with him of that status change. In addition, the Division shall send written notice to each sales agent, ~~or~~ associate broker, ~~or branch broker~~ of the effective date of inactivation and the process for transfer.

3.4.3₂ The principal broker may involuntarily inactivate the license of the sales agent or associate broker by complying with R162-3.2.

R162-3-5. Activation.

3.5₂ All licensees changing to active status must submit to the Division the applicable non-refundable activation fee and a written request for activation on the form required by the Division. If the license has been on an "inactive" status in excess of one year, the licensee must provide to the Division a certificate evidencing completion of the education or examination requirements set forth in Section 61-2-9. At the time of the licensee's next renewal, education which was used to activate the license may not be used again for continuing education purposes.

R162-3-6. Renewal.

3.6₂ A license renewal notice shall be sent by the Division to the licensee at the mailing address shown on the division records. The licensee must return the completed renewal notice, proof of completion of 12 hours of continuing education and the applicable non-refundable renewal fee to the Division on or before the expiration shown on the notice. Renewal of an active Principal Broker license[~~or company license~~] requires certification that the business name under which the licensee is operating is still current and in good standing with the Division of Corporations and that all real estate trust accounts are current.

3.6.1₂ If the renewal fee and documentation are not received within the prescribed time period, the license shall expire.

3.6.2₂ When an active license expires, the licensee's affiliation with a principal brokerage automatically terminates. The license may be renewed for a period of thirty days after the expiration date upon payment of a non-refundable late fee in addition to the requirements of R162-3.5 and R162-3.6.

3.6.3₂ After this 30-day period and until six months after the expiration date the license may be reinstated by paying a non-refundable reinstatement fee, and providing proof of satisfactory completion of the Utah portion of the prelicensing education required under Section 61-2-6 or passing the Utah portion of the real estate examination, in addition to the requirements of R162-3.5 and R162-3.6.

3.6.4₂ A principal broker's failure to renew his license when due, which causes the licenses of those affiliated with him to be placed on an inactive status, shall be separate grounds for disciplinary action against the principal broker.

3.6.5₂ If the Division has received a licensee's renewal documents in a timely manner but the information is incomplete, the licensee shall be extended a 15-day grace period to complete the application.

3.6.6₂ Education credit will be given for a course taken in another state provided the course has been certified for continuing education purposes in another state. These courses shall meet the Utah requirement of protection of the public, except that credit will not be given for education where the subject matter pertains to another state's license laws.

3.6.6.1₂ Prior approval must be obtained from the division before credit will be granted. Evidence must be provided to the Division that the course was certified by another licensing jurisdiction at the time the course was taken.

~~[— 3.6.7 An active licensee may be exempted from the continuing education requirement for a period of not to exceed more than two renewal periods upon a finding by the Commission and Division of reasonable cause which resulted in prolonged absence from the~~

state, for example, active duty military service. Illness may not be used to satisfy this exemption.]

KEY: real estate business
[June 4, 1996]1998
Notice of Continuation July 1, 1997

61-2-5.5

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 04/14/98.

THIS FILING MAY BECOME EFFECTIVE ON: 04/15/98

AUTHORIZED BY: Ted Boyer, Director



Commerce, Real Estate
R162-4
Office Procedures - Real Estate
Principal Brokerage

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 20801
FILED: 02/23/98, 09:48
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: To revise trust account rules and to further define what a branch office is.

SUMMARY: This amendment permits interest bearing trust accounts in certain cases where the interest on the account could be used to fund an affordable housing program; it also further explains who is to manage a branch office.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Section 61-2-5.5

ANTICIPATED COST OR SAVINGS TO:

- ❖THE STATE BUDGET: None.
- ❖LOCAL GOVERNMENTS: None.
- ❖OTHER PERSONS: It is unknown what the ultimate cost will be to the banks and savings institutions who have not been required in the past to pay interest on real estate brokers trust accounts.

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.

R162. Commerce, Real Estate.
R162-4. Office Procedures - Real Estate Principal Brokerage.
R162-4-1. Records and Copies of Documents.

4.1. The principal broker must maintain in his office and make available for inspection and copying by the Division all records pertaining to a real estate transaction for a period of at least three calendar years following the year in which an offer was rejected or the transaction either closed or failed.

4.1.1. Location of Records. Unless otherwise authorized by the Division in writing, the business records of the principal broker shall be maintained at his principal business location or, where applicable, at the branch office [~~as set forth in R162-4.3.2~~]. If a brokerage closes its operation the principal broker must, within ten days after the closure, notify the Division in writing of where the records will be maintained in order to comply with R162-4.1 above. If a brokerage files for bankruptcy, the principal broker must, upon filing, notify the Division in writing of the filing and the current location of brokerage records.

4.1.2. Transaction Identification. All transactions, whether pending, closed or failed, must be numbered consecutively and identifiable in a manner that, in the opinion of the representative of the Division, the transaction can be readily followed in all pertinent documents. A sequential transaction number is to be assigned to every offer, and a separate transaction file is to be maintained for every offer, including rejected offers involving funds deposited to the brokerage trust account. A sequential transaction number need not be assigned to rejected offers which do not involve funds deposited to trust. The principal broker may, at his option, maintain a separate transaction file for each rejected offer which does not involve funds deposited to trust or keep such rejected offers in a single file.

4.1.3. Statement of Account. At the expiration of 30 days after an offer has been made by a buyer and accepted by a seller, either party may demand, and the principal broker must furnish, a detailed statement showing the current status of the transaction. On demand by either party, the principal broker must furnish an updated statement at 30-day intervals thereafter until the transaction is closed.

4.1.4. Closing Statements. A principal broker charged with closing a sale shall cause to be prepared and delivered to the buyer and seller, upon completion of a transaction, a detailed closing statement of all their respective accounts showing receipts and disbursement.

4.1.4.1. Closing statements for all real estate [~~or business opportunity~~] transactions in which a real estate principal broker participates must show the following: the date of closing; the total purchase price of the property; an itemization of all adjustments, money, or things of value received or paid, and to whom each item

is credited or debited. The dates of the adjustments must be shown if they are not the same as the date of the closing. Also shown must be the balances due from the respective parties to the transaction, and the names of the payees, makers, and assignees of all notes paid, made, or assumed. The statements furnished to each party to the transaction must contain an itemization of credits and debits as pertain to each party.

4.1.4.2₂ The principal broker or his authorized representative must attend all closings. The principal broker is responsible for the content and accuracy of all closing statements regardless of who closes the transaction.

4.1.4.3₂ The principal broker closing the transaction must show proof of delivery of the closing statement to the buyer and seller. Signatures of the buyer and seller on the file copy of the closing statement or a copy of a transmittal letter sent by certified mail, return receipt requested, when signatures are not attainable, will satisfy this requirement.

4.1.5₂ Death or Disability of Principal Broker: Upon the death or inability of a principal broker to act as a principal broker the following procedures shall apply:

4.1.5.1₂ In the case of a corporation, ~~[or] partnership, Limited Liability Company, association, or other legal entity~~ the provisions of R162-2-2.3.2. ~~[4 relating to company licenses]~~ shall apply.

4.1.5.2₂ In the case of a sole proprietor all brokerage activity must cease and a family attorney or representative ~~[should]~~ shall: (1) notify the Division and all licensees affiliated with the principal broker in writing of the date of death or disability; (2) advise the Division as to the location where records will be stored; (3) notify each listing and management client in writing to the effect that the principal broker is no longer in business and that the client may enter a new listing or management agreement with the firm of his choice; (4) notify each party and cooperating broker to any existing contracts; and (5) retain trust account monies under the control of the administrator, executor or co-signer on the account until all parties to each transaction agree in writing to disposition or until a court of competent jurisdiction issues an order relative to disposition.

R162-4-2. Trust Accounts.

4.2₂ All monies received in a real estate transaction regulated under Section 61-2-1, et seq., must be deposited in a separate non-interest bearing "Real Estate Trust Account," or, if the broker and the parties to the transaction agree in writing, into an "Interest Bearing Real Estate Trust Account," in a Utah bank, credit union, or other approved escrow depository in this state. The principal broker will be held personally responsible for deposits at all times. The principal broker must notify the Division in writing of the location and account numbers of all real estate trust accounts which he maintains. The "Real Estate Trust Account" and the "Interest Bearing Real Estate Trust Account" shall be used exclusively for real estate transactions regulated under Section 61-2-1, et seq. Funds received in connection with rental of tourist accommodations for any period of less than 30 consecutive days shall not be deposited in the "Real Estate Trust Account" or the "Interest Bearing Real Estate Trust Account."

4.2.1₂ Deposits. All monies received by a licensee in a real estate transaction, whether it be cash or check, must be delivered to the principal broker and deposited within three banking days after receipt of the funds by the licensee. This rule does not apply when:

4.2.1.1₂ The Real Estate Purchase Contract or other agreement states that the earnest money or other funds are to be held for a specific length of time or are to be deposited upon acceptance by the seller; or

4.2.1.2₂ The Real Estate Purchase Contract or other agreement states that the earnest money or other funds are to be made out and paid to the seller, or to the person or company named as the escrow closing agent; or

4.2.1.3₂ A promissory note is given as the earnest money deposit or otherwise credited to the transaction. The promissory note must name the seller as payee and be retained in the principal broker's file until closing. If a promissory note is used in a real estate transaction, the Real Estate Purchase Contract or other agreement must disclose that the consideration is in the form of a promissory note.

4.2.2₂ Commingling. Not more than \$100 of the principal broker's own funds can remain in the "Real Estate Trust Account" or the "Property Management Trust Account," or the Division will consider the account to be commingled.

4.2.3₂ Builder Deposits. If a principal broker, who is also a builder or developer, receives deposit money under a Real Estate Purchase Contract, construction contract, or other agreement which provides for the construction of a dwelling, the deposit money must be placed in the "Real Estate Trust Account" or if the broker and the parties to the transaction agree in writing, the "Interest Bearing Real Estate Trust Account" and not be used for construction purposes unless specifically provided in the document or by separate written consent of the purchaser.

4.2.4₂ Interest Bearing Account. If an earnest money deposit is received and the parties believe that it would be uneconomical to place the money on demand in the "Real Estate Trust Account," or the parties want interest earned on the deposit to be used for an affordable housing program, such as the Utah Association of REALTORS Housing Opportunity Fund (UARHOF), the principal broker may, upon the written request of the parties, place the money in a separate ~~[-interest bearing trust account]~~ "Interest Bearing Real Estate Trust Account." The written request must designate to whom the interest will be paid upon completion or failure of the sale.

4.2.5₂ Liability for Receipt. All consideration represented as received by a licensee on a Real Estate Purchase Contract or other document must have, in fact, been received by the licensee. A licensee must not rely on a buyer's or a lessee's promise to deliver the consideration at a future date.

4.2.6 Property Management Trust Account. Each principal broker engaged in property management ~~[must]~~ shall establish a separate "Property Management Trust Account." A principal broker who collects rents for others only occasionally or who does so as a convenience for his clients, and manages no more than six accounts, may use the "Real Estate Trust Account" for this purpose and need not maintain a "Property Management Trust Account".

4.2.7₂ Disbursements. All cash and like payments in lieu of cash received by a principal broker in a real estate transaction are to be disbursed only in accordance with the terms of the Real Estate Purchase Contract which authorizes such disbursement, other proper written authorization of the parties having an interest in the payments, or by court order.

4.2.7.1₂ The withdrawal of any portion of the principal broker's sales commission must not take place without written authorization from the seller and buyer or until the closing

statements have been delivered to the buyer and seller and the buyer or seller has been paid for the amount due as determined by the closing statement.

4.2.7.2. Commissions due the principal broker, other licensees associated with the principal broker, or other principal brokers may be paid directly from the trust account only after the transaction is closed or otherwise terminated. If commissions are so disbursed, a record of each disbursement is to be recorded on the trust account ledger sheet for the transaction.

4.2.7.3. When it becomes apparent to the principal broker that a transaction has failed, or if a party to the failed transaction requests disbursement of the earnest money or other trust funds, those funds may only be disbursed by the principal broker as provided in R162-4.2.7 above.

4.2.7.4. In the event a dispute arises over the return or forfeiture of the earnest money or other trust funds, and no party has filed a civil suit arising out of the transaction, the principal broker shall, within 15 days of notice of the dispute, provide the parties written notice of the dispute and request them to meet to mediate the matter. If the parties have contractually agreed to submit disputes arising out of their contract to mediation, the principal broker shall notify the parties of their obligation to submit the dispute over funds to an independent mediator agreed upon by the parties. If the parties have not contractually agreed to independent mediation, the principal broker holding the earnest money or trust funds shall use good faith best efforts to mediate.

4.2.7.4.1. In the event the dispute is not resolved in either a broker or independent mediation attempt, the principal broker shall maintain the disputed funds in a non-interest bearing real estate trust account. If the parties authorize, or if they previously authorized, deposit into a separate interest bearing trust account as provided in R162-4.2.4, the disputed funds may be maintained in a separate interest bearing trust account for disputed funds. The funds shall only be disbursed by the principal broker: (1) upon written authorization of the parties who will not receive the funds; (2) pursuant to the order of a court of competent jurisdiction; or (3) as provided in Section 4.2.7.4.2.

4.2.7.4.2. If the principal broker has not received written notice of a claim to the funds, including interest if any, within five years after the failure of the transaction, the principal broker may remit the funds to the State Treasurer's Office as "abandoned" property according to the provisions of Utah Code Section 67-4a-101, et seq.

4.2.8. Records. A principal broker must maintain at his principal business location a complete record of all consideration received or escrowed for real estate transactions in the following manner:

4.2.8.1. A duplicate deposit slip must show the amount of money received, the transaction number, and the date and place of deposit.

4.2.8.2. A set of checks and deposit slips must be used denoting the principal broker's business name and address, stating "Real Estate Trust Account" or "Property Management Trust Account," with the checks numbered consecutively. Checks drawn on this account are to be identified to the specific transaction. Deposits to this account are to be identified to the specific transaction. Voided trust checks are to be marked "Void" and the original check retained in the principal broker's file. A principal broker may establish as many bank trust accounts as desired.

However, each trust account must be identified with the type of activity for which the account is to be used and the Division must be notified in writing when each account is established.

4.2.8.3. A check register or check stubs must be maintained which itemize deposits and disbursements in consecutive order showing the date, payee or payor, the transaction information, check number, amount of disbursement or deposit, and the current balance remaining in the account.

4.2.8.4. An individual trust ledger sheet must be established upon deposit of any consideration and assigned a sequential transaction number for each transaction--be it rental, sale, or other. The ledger sheet must show the names of the parties, location of the property, the date and amount of each deposit or disbursement, the name of the payee and payor, the current balance remaining, and any other relevant transaction information. Each ledger sheet, after the transaction is closed, must show the final disposition of the consideration and be retained in the principal broker's file for a minimum of three years following the year in which the transaction was closed.

4.2.8.5. The trust account is to be reconciled with the bank statement at least monthly. The trust liability, which is the total of ledger cards, and similar books, records, and accounts must be kept up to date.

R162-4-3. Branch Office.

4.3. A branch office must be registered with the Division prior to operation.

4.3.1. Exemptions. A branch office does not include a model home, a project sales office, or a facility established for twelve months or less as a temporary site for marketing activity, such as a model home, project sales office, or an exhibit booth.

4.3.2. Operation. A branch office must operate under the same business name as the principal brokerage.

4.3.3. Trust Account. The principal broker or branch broker must notify the Division in writing of the location and account number of all real estate trust accounts in which the funds received at each branch office will be deposited.

4.3.4. Branch ~~Manager~~ Broker. Each branch office must have a branch ~~manager~~ broker who will actively manage the office. ~~[Effective January 1, 1989, each branch manager must be an associate broker.]~~The branch ~~manager~~ broker must be an associate broker. The principal broker must actively supervise the branch ~~manager~~ broker.

4.3.5. Registration. To register a branch office, the principal broker must submit to the Division, on the forms required by the Division, the location of the branch, the name of the branch ~~manager~~ broker and the names of all associate brokers and sales agents assigned to the branch, accompanied by the applicable fee.

4.3.6. Change of Branch ~~Manager~~ Broker. The principal broker must notify the Division in writing on the forms required by the Division at the time of a change of branch ~~manager~~ broker.

KEY: real estate business

~~[October 3, 1997]~~1998

61-2-5.5

Notice of Continuation July 1, 1997



Commerce, Real Estate
R162-5
Property Management

NOTICE OF PROPOSED RULE
(Amendment)

DAR FILE No.: 20802
FILED: 02/23/98, 09:48
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: To revise this rule to broaden the right of brokers to manage properties.

SUMMARY: This amendment broadens the rights of brokers to act as a property manager and increases supervision.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Section 61-2-5.5

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:

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 04/14/98.

THIS FILING MAY BECOME EFFECTIVE ON: 04/15/98

AUTHORIZED BY: Ted Boyer, Director

R162. Commerce, Real Estate.
R162-5. Property Management.
R162-5-1. Definition.

5.1. For purposes of this rule, property management requiring a real estate license includes advertising real estate for lease or rent, procuring prospective tenants or lessees, negotiating lease or rental terms, executing lease or rental agreements, collecting rent and accounting for and disbursing the money collected, arranging for

repairs to be made to the real estate, and all other acts listed in Section 61-2-2(9)(c). It does not include the leasing or management of surface or subsurface minerals, or oil and gas interests, which is separate from a sale or lease of the surface estate.

R162-5-2. Exemptions.

5.2. The following individuals are not required to hold active real estate licenses to engage in property management:

5.2.1. Owners. An owner of real estate who manages his own property;

5.2.2. Employees. A regular salaried employee of an owner of real estate who manages property owned by his employer;

5.2.3. Apartment Managers. An individual who manages the apartments at which he resides in exchange for free or reduced rent on his apartment.

5.2.4. Homeowner's Association Employees. A full time salaried employee of a homeowner's association who manages units subject to the declaration of condominium which established the homeowner's association.

R162-5-3. [Separate-]Property Management by Real Estate Brokerage[Company].

~~5.3 A principal broker may operate a separate property management company under a name different than that of his real estate brokerage only if he licenses the separate property management company with the Division:~~

~~5.3.1 A license to operate a separate property management company will be granted upon compliance with the following conditions:~~

~~5.3.1.1 Application. Submission of the property management company application form required by the Division together with the proper application fees:~~

~~5.3.1.2 Business Name Approval. Compliance with R162-2.3 in the case of a property management company registration or R162-2.4 in the case of a property management company license:~~

~~5.3.2 The business of the separate property management company must be exclusively property management. The property management company and any associate broker or sales agent affiliated with the property management company may not act as broker or agent in any sales transaction:~~

~~5.3.3 The principal broker shall designate on the forms required by the Division whether each licensee affiliated with him is affiliated with his real estate brokerage or his separate property management company:~~

~~5.3.4 Support Services Personnel. Individuals who are employees of a licensed property management company may perform the following services under the supervision of the principal broker without holding active real estate licenses: providing a prospective tenant with access to a vacant apartment; providing secretarial, bookkeeping, maintenance, or rent collection services; quoting pre-determined rent and lease terms; and filling out pre-printed lease or rental agreements, the terms of which are not negotiable by the person completing the form:~~

~~5.3.5 Supervision. All property management activities by an associate broker or sales agent affiliated with the company and all activities on behalf of the company by support services personnel are to be actively supervised by the principal broker of the company.]5.3. All property management performed by a real estate brokerage which has not obtained a separate property management~~

company registration, or any licensees or unlicensed assistants affiliated with the brokerage, shall be done under the name of the brokerage and not under a separate business name.

5.3.1. All property management activities by a sales agent or associate broker affiliated with a principal broker shall be actively supervised by that principal broker. In the case of a branch office, the branch broker shall also actively supervise the licensees and unlicensed assistants affiliated with that branch.

R162-5-4. Property Management by ~~[Real Estate Brokerage]~~ Separate Property Management Company.

~~[5.4 All property management performed by a real estate brokerage which has not applied for a separate property management company registration or license must be done under the name of the brokerage and not under a separate business name.~~

~~5.4.1 All property management activities by a sales agent or associate broker shall be actively supervised by the principal broker with whom the licensee is affiliated.]~~ 5.4. A separate property management company registration must be obtained in order to conduct property management business under a name different than that of the real estate brokerage.

5.4.1. The business of a separate property management company shall be exclusively property management. No real estate sales activity may be conducted by a property management company.

5.4.2. A license to operate a property management company will be granted upon compliance with the following conditions:

5.4.2.1. Application. Submission of the property management company application form required by the division, signed by an actively licensed principal broker, together with the proper application fees.

5.4.2.2. Business Name Approval. Compliance with the name approval provisions in R162-2.3. in the case of a principal broker who registers the name of his property management company with the division or R162-2.4. in the case of a property management company registration issued to a corporation, partnership, Limited Liability Company or association.

5.4.2.3. Property management by unlicensed principals or owners prohibited. Individuals who are principals or owners of a corporation, partnership, Limited Liability Company or association which is issued a property management company registration shall not engage in activity which requires a license unless they are licensed with the division and properly affiliated with the management broker for the corporation, partnership, Limited Liability Company or association.

5.4.3. The principal broker shall sign and submit the forms required by the division to affiliate with the property management company of each associate broker, branch broker and sales agent who will conduct property management services for the property management company.

5.4.4. Support Services Personnel. Individuals who are employees of a property management company may perform the following services under the supervision of the principal broker without holding active real estate licenses: providing a prospective tenant with access to a vacant apartment; providing secretarial, bookkeeping, maintenance, or rent collection services; quoting predetermined rent and lease terms; and filling out pre-printed lease or rental agreements.

5.4.5. Supervision. All property management activities by an associate broker or sales agent affiliated with the management company and all activities on behalf of the company by support services personnel shall be actively supervised by the principal broker of the company. In the case of a branch office, the branch broker shall also actively supervise the licensees and support services personnel affiliated with that branch.

KEY: real estate business

~~[1992]~~1998

61-2-5

Notice of Continuation July 1, 1997



Commerce, Real Estate
R162-6
Licensee Conduct

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 20803

FILED: 02/23/98, 09:48

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: To revise agency disclosure rules.

SUMMARY: This amendment revises agency disclosure requirements to require disclosure to all clients and also to unrepresented parties. "Clients" are further defined to include lessors and lessees.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Section 61-2-5.5

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:

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 04/14/98.

THIS FILING MAY BECOME EFFECTIVE ON: 04/15/98

AUTHORIZED BY: Ted Boyer, Director

R162. Commerce, Real Estate.

R162-6. Licensee Conduct.

R162-6-1. Improper Practices.

6.1.1. False devices. A licensee shall not propose, prepare, or cause to be prepared any document, agreement, closing statement, or any other device or scheme, which does not reflect the true terms of the transaction, nor shall a licensee knowingly participate in any transaction in which a similar device is used.

6.1.1.1. Loan Fraud. A licensee shall not participate in a transaction in which a buyer enters into any agreement that is not disclosed to the lender, which, if disclosed, may have a material effect on the terms or the granting of the loan.

6.1.1.2. Double Contracts. A licensee shall not use or propose the use of two or more purchase agreements, one of which is not made known to the prospective lender or loan guarantor.

6.1.2. Signs. It is prohibited for any licensee to have a sign on real property without the written consent of the property owner.

6.1.3. Licensee's Interest in a Transaction. A licensee shall not buy, sell, or lease or rent any real property as a principal, either directly or indirectly, without first disclosing in writing on the purchase agreement or the lease or rental agreement his true position as principal in the transaction. A licensee will be considered to be a principal for the purposes of this rule if he is an owner, officer, director, partner, member, or employee of an entity which is a principal in the transaction. In the case of a licensee who is a stockholder but who is not an officer, director or employee of a corporation which is a principal in the transaction, the licensee will be considered to be a principal for the purposes of this rule if he owns more than 10% of the stock of the corporation.

6.1.4. Listing Content. The real estate licensee completing a listing agreement is responsible to make reasonable efforts to verify the accuracy and content of the listing.

6.1.4.1. Net listings are prohibited and shall not be taken by a licensee.

6.1.5. Advertising. This rule applies to all advertising materials, including newspaper, magazine, radio, and television advertising, direct mail promotions, business cards, door hangers, and signs.

6.1.5.1. Any advertising by active licensees that does not include the name of the real estate brokerage as shown on Division records is prohibited except as otherwise stated herein.

6.1.5.2. If the licensee advertises property in which he has an ownership interest and the property is not listed, the ad need not appear over the name of the real estate brokerage if the ad includes the phrase "owner-agent" or the phrase "owner-broker".

6.1.5.3. Names of individual licensees may be advertised in addition to the brokerage name. If the names of individual licensees are included in advertising, the brokerage must be identified in a clear and conspicuous manner. This requirement may be satisfied

by identifying the brokerage in lettering which is at least one-half the size of the lettering which identifies the individual licensees.

6.1.5.4. Advertising teams, groups, or other marketing entities which are not licensed as brokerages is prohibited if the advertising states "owner-agent" or "owner-broker" instead of the brokerage name.

6.1.5.5. Advertising teams, groups, or other marketing entities which are not licensed as brokerages is permissible in advertising which includes the brokerage name upon the following conditions:

(a) The brokerage must be identified in a clear and conspicuous manner. This requirement may be satisfied by identifying the brokerage in lettering which is at least one-half the size of the lettering which identifies the team, group, or other marketing entity; and

(b) The advertising shall clearly indicate that the team, group, or other marketing entity is not itself a brokerage and that all licensees involved in the entity are affiliated with the brokerage named in the advertising.

6.1.5.6. If any photographs of personnel are used, the actual roles of any individuals who are not licensees must be identified in terms which make it clear that they are not [~~sales agents or brokers~~]licensees.

6.1.5.7. Any artwork or text which states or implies that licensees have a position or status other than that of sales agent or associate broker affiliated with a brokerage is prohibited.

6.1.5.8. Under no circumstances may a licensee advertise or offer to sell or lease property without the written consent of the owner of the property or the listing broker. Under no circumstances may a licensee advertise or offer to sell or lease property at a lower price than that listed without the written consent of the seller or lessor.

6.1.6. Double Commissions. In order to avoid subjecting the seller to paying double commissions, licensees must not sell listed properties other than through the listing broker. A licensee shall not subject a principal to paying a double commission without the principal's informed consent.

6.1.6.1. A licensee shall not enter or attempt to enter into a concurrent agency representation agreement with a buyer or a seller, a lessor or a lessee, when the licensee knows or should know of an existing agency representation agreement with another licensee.

6.1.7. Retention of Buyer's Deposit. A principal broker holding an earnest money deposit shall not be entitled to any of the deposit without the written consent of the buyer and the seller.

6.1.8. Unprofessional conduct. No licensee shall engage in any of the practices described in Section 61-2-2, et seq., whether acting as agent or on his own account, in a manner which fails to conform with accepted standards of the real estate sales, leasing or management industries and which could jeopardize the public health, safety, or welfare and includes the violation of any provision of Section 61-2-2, et seq. or the rules of this chapter.

6.1.9. Finder's Fees. A licensee may not pay a finder's fee or give any valuable consideration to an unlicensed person or entity for referring a prospect in a real estate transaction, except as provided in this rule.

6.1.9.1. Token gifts. A licensee may give a gift valued at \$50 or less to an individual in appreciation for an unsolicited referral of a prospect which resulted in a real estate transaction.

6.1.10. Referral fees from lenders. A licensee may not receive a referral fee from a lender.

6.1.11. Failure to have written agency agreement. To avoid representing more than one party without the informed consent of all parties, principal brokers and licensees acting on their behalf shall have written agency agreements with their principals. The failure to define an agency relationship in writing will be considered unprofessional conduct and grounds for disciplinary action by the Division.

6.1.11.1. A principal broker and licensees acting on his behalf who represent a seller shall have a written agency agreement with the seller defining the scope of the agency.

6.1.11.2. A principal broker and licensees acting on his behalf who represent a buyer shall have a written buyer agency agreement with the buyer defining the scope of the agency.

6.1.11.3. A principal broker and licensees acting on his behalf who represent both buyer and seller shall have written agency agreements with both buyer and seller which define the scope of the limited agency and which demonstrate that the principal broker has obtained the informed consent of both buyer and seller to the limited agency as set forth in Section R162-6.2.16.3.1.

6.1.11.4. A licensee affiliated with a brokerage other than the listing brokerage who wishes to act as a sub-agent for the seller, shall, prior to showing the seller's property:

(a) obtain permission from the principal broker with whom he is affiliated to act as a sub-agent;

(b) notify the listing brokerage that sub-agency is requested;

(c) enter into a written agreement with the listing brokerage consenting to the sub-agency and defining the scope of the agency; and

(d) obtain from the listing brokerage all information about the property which the listing brokerage has obtained.

6.1.11.5. A principal broker and licensees acting on his behalf who act as a property manager shall have a written property management agreement with the owner of the property defining the scope of the agency.

6.1.11.6. A principal broker and licensees acting on his behalf who represent a tenant shall have a written agreement with the tenant defining the scope of the agency.

R162-6.2. Standards of Practice.

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

(a) June 12, 1996, Real Estate Purchase Contract (mandated use of this form is January 1, 1997);

(b) October 1, 1988, Earnest Money Sales Agreement for Residential Construction;

(c) January 1, 1987, Uniform Real Estate Contract;

(d) October 1, 1983, All Inclusive Trust Deed;

(e) October 1, 1983, All Inclusive Promissory Note Secured by All Inclusive Trust Deed;

(f) June 12, 1996, Addendum/Counteroffer to Real Estate Purchase Contract (mandated use of this form is January 1, 1997);

(g) June 12, 1996, Seller Financing Addendum to Real Estate Purchase Contract (mandated use of this form is January 1, 1997);

(h) June 12, 1996, Survey Addendum to Real Estate Purchase Contract (mandated use of this form is January 1, 1997);

(i) June 12, 1996, Buyer Financial Information Sheet (mandated use of this form is January 1, 1997);

(j) ~~June 12~~ November 22, 1996, FHA/VA Loan Addendum to Real Estate Purchase Contract (mandated use of this form is January 1, 1997);

(k) June 12, 1996, Assumption Addendum to Real Estate Purchase Contract (mandated use of this form is January 1, 1997);

(l) September 5, 1996, Lead-based Paint Addendum to Real Estate Purchase Contract;

(m) September 5, 1996, Disclosure and Acknowledgment Regarding Lead-based Paint and/or Lead-based Paint Hazards.

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

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

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

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

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

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

6.2.4. Employee Licensee. A real estate licensee working as a regular salaried employee as defined in section 1 of these rules, who sells real estate owned by the employer or leases real estate owned by the employer, may only do so and may only be compensated directly by the employer under one of the following conditions: (1) the licensee is a principal broker; (2) the employer has on its staff a principal broker with whom the licensee affiliates for sales or management transactions; or (3) the employer contracts

with a principal broker so that all employed licensees are affiliated with and supervised by a principal broker.

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

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

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

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

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

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

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

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

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

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

(c) Guaranteed Sales Agreements. Every guaranteed sales agreement must be in writing and contain all of the conditions and other terms under which the property is guaranteed to be sold or purchased, including the charges or other costs for the service or plan, the price for which the property will be sold or purchased and the approximate net proceeds the seller may reasonably expect to receive.

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

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

~~"AGENCY DISCLOSURE: At the signing of this contract the listing agent represents () Buyer () Seller, and the selling agent represents () Buyer () Seller. Buyer and Seller confirm that prior to signing this contract written disclosure of the agency relationship(s) was provided to him/her. () (Buyer's Initials) () (Seller's Initials)."~~

6.2.7.2. When a lease or rental agreement is signed, a separate provision shall be incorporated in or attached to it confirming the prior agency disclosure. The agency disclosure shall be in the form stated in R162-6.2.7.1, but shall substitute terms applicable for a rental transaction for the terms "buyer", "seller", "listing agent", and "selling agent".

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

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

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

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

(a) An affiliated licensee violates a provision of Section 61-2-1, et seq., or the rules promulgated thereunder, in contravention of the supervising broker's specific written policies or instructions; and

(b) Reasonable procedures were established by the broker to ensure that licensees receive adequate supervision and the broker has followed those procedures; and

(c) Upon learning of the violation, the broker attempted to prevent or mitigate the damage; and

(d) The broker did not participate in the violation; and

(e) The broker did not ratify the violation; and

(f) The broker did not attempt to avoid learning of the violation.

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

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

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

6.2.12. Fees from Manufactured Housing Dealers. If a licensee refers a prospect to a manufactured home dealer or a mobile home dealer, under terms as defined in Section 58-56-1, et seq., any fee paid for the referral of a prospect must be paid to him by the principal broker with whom he is licensed~~[-and affiliated if the sale of the manufactured home or mobile home was made in conjunction with the sale or lease of real property. If the sale was not made as part of a transaction involving the sale or lease of real property, the fee is not a real estate commission and need not be paid to the licensee by his principal broker; however, the fee must be disclosed as required by R162-6.2.10;]~~

6.2.13. Gifts and Inducements. A gift given by a principal broker to a buyer or seller, lessor or lessee, in a real estate transaction as an inducement to use the services of a real estate brokerage, or in appreciation for having used the services of a brokerage, is permissible and is not an illegal sharing of commission. If an inducement is to be offered to a buyer or seller, lessor or lessee, who will not be obligated to pay a real estate commission in a transaction, the principal broker must obtain from the party who will pay the commission written consent that the inducement be offered.

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

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

(a) Clerical duties, including making appointments for prospects to meet with real estate licensees, but only if the contact has been initiated by the prospect and not by the unlicensed person;

(b) At an open house, distributing ~~[pre-printed]~~preprinted literature written by a licensee, so long as a licensee is present and the unlicensed person furnishes no additional information concerning the property or financing and does not become involved in negotiating, offering, selling or filling in contracts;

(c) Acting only as a courier service in delivering documents, picking up keys, or similar services, so long as the courier does not engage in any discussion of, or filling in of, the documents;

(d) Placing brokerage signs on listed properties;

(e) Having keys made for listed properties; and

(f) Securing public records from the County Recorders' Offices, zoning offices, sewer districts, water districts, or similar entities.

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

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

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

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

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

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

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

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

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

(e) Reasonable care and diligence;

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

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

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

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

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

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

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

agent to misrepresent, either affirmatively or by omission, the buyer's or lessee's financial condition or ability to perform;

(e) Reasonable care and diligence;

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

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

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

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

(a) The principal broker or a licensee acting on his behalf shall explain to buyer and seller, or lessor and lessee, that they are giving up their right to demand undivided loyalty from the agent, although the agent, acting in this neutral capacity, shall advance the interest of each party so long as it does not conflict with the interest of the other party. In [~~that~~]the event of conflicting interests, the agent will be held to the standard of neutrality; and

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

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

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

6.2.16.3.2. In addition, a limited agent owes the following fiduciary duties to [~~both buyer and seller~~]all parties:

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

(b) Reasonable care and diligence;

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

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

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

KEY: real estate business

[~~January 1, 1997~~]1998

61-2-5.5

Notice of Continuation July 1, 1997



Commerce, Real Estate **R162-7** Enforcement

NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 20804

FILED: 02/23/98, 09:48

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: To clarify that licensees must respond to contact from the Division and to eliminate the corrective action requirement.

SUMMARY: This amendment requires licensees to respond to contact from the Division and eliminates the corrective action requirement.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Section 61-2-5.5

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:

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 04/14/98.

THIS FILING MAY BECOME EFFECTIVE ON: 04/15/98

AUTHORIZED BY: Ted Boyer, Director

**R162. Commerce, Real Estate.
R162-7. Enforcement.**

.....

R162-7-2. Notice of Complaint.

7.2. When the Division notifies a licensee of a complaint against him[~~the notice must be in writing.~~ F]the licensee must respond to the complaint within ten business days after receipt of the notice from the Division. Failure to respond to the notice of complaint or any subsequent requests for information from the Division within the required time period will be considered an additional violation of these rules and separate grounds for disciplinary action against the licensee.

R162-7-3. Investigation and Enforcement.

7.3. The investigative and enforcement activities of the Division shall include the following: investigation of information provided on new license applications; evaluation and investigation of complaints; auditing licensees' business records, including trust account records; meeting with complainants, respondents, witnesses and attorneys; making recommendations for dismissal or prosecution; preparation of cases for formal or informal hearings, restraining orders or injunctions; working with the assistant attorney general and representatives of other state and federal agencies; and entering into proposed stipulations for presentation to the Commission and the director.

R162-7-4. Corrective Notice.

7.4. In addition to disciplinary action under Section 61-2-11, [F]the Division may give a licensee written notice of specific violations of these rules and may grant a licensee a reasonable period of time, not exceeding 30 days, to correct a defect in that licensee's practices or operations. The licensee's failure to correct the defect within the time granted shall constitute separate grounds for disciplinary action against the licensee. The Division is not required to give a corrective notice and allow an opportunity to correct a defect before it may commence disciplinary action against a licensee.

**KEY: real estate business
[November 1, 1997]1998
Notice of Continuation July 1, 1997**

61-2-5.5



Commerce, Real Estate
R162-10
Administrative Procedures

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 20805

FILED: 02/23/98, 09:48

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: To provide for a post revocation hearing in certain cases.

SUMMARY: This amendment adds language in order to provide for a post revocation hearing if the applicant failed to disclose criminal history.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Section 61-2-5.5

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:

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 04/14/98.

THIS FILING MAY BECOME EFFECTIVE ON: 04/15/98

AUTHORIZED BY: Ted Boyer, Director

R162. Commerce, Real Estate.

R162-10. Administrative Procedures.

R162-10-1. Formal Adjudicative Proceedings.

10.1. Any adjudicative proceeding as to the following matters shall be conducted on a formal basis:

10.1.1. Except as otherwise expressly provided herein, the revocation, suspension or probation of a real estate license, school or instructor certification or fine levied against a licensee.

10.1.2. The revocation, suspension or probation of any registration issued pursuant to the Time Share and Camp Resort Act.

10.1.3. Any proceedings conducted subsequent to the issuance of cease and desist orders.

R162-10-2. Informal Adjudicative Proceedings.

10.2. Any adjudicative proceedings as to the following matters shall be conducted on an informal basis:

10.2.1. The issuance of a real estate license, the renewal of an active, inactive or expired license, or the activation of an inactive license.

10.2.2. Any action on a sales agent's license based upon the revocation or suspension of a principal broker's license or the failure of the principal broker to renew his license.

10.2.3. The issuance of renewal or certification of real estate schools or instructors.

10.2.4. The revocation of a real estate license due to payment made from the Real Estate Recovery Fund.

10.2.5. The issuance, renewal, suspension or revocation of registration pursuant to the Land Sales Practices Act.

10.2.6. The exemption from, or the amendment of, registration pursuant to the Land Sales Practices Act.

10.2.7. The issuance or renewal of any registration pursuant to the Time Share and Camp Resort Act.

10.2.8. Any waiver of, or exemption from, registration requirements pursuant to the Time Share and Camp Resort Act.

10.2.9. The issuance of any declaratory order determining the applicability of a statute, rule or order when enforcement or implementation of the statute, rule or order lies within the jurisdiction of the Division of Real Estate.

10.2.10. The post-revocation hearing following the revocation of license pursuant to Utah Code Section 61-2-9(1)(e)(i) for failure to accurately disclose a criminal history.

R162-10-3. Proceedings Not Designated.

10.3. All adjudicative proceedings as to any other matters not specifically listed herein shall be conducted on an informal basis.

KEY: real estate business

~~1990~~1998

Notice of Continuation December 1, 1995

61-2-5.5

63-46b-1(5)

Health, Health Systems Improvement,
Community Health Nursing
R425-1
Nurse Education Financial Assistance

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 20794

FILED: 02/19/98, 14:54

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: To clarify the procedures and administration of the Nurse Education Financial Assistance Program.

SUMMARY: This amendment does the following: sets forth revised criteria for eligible employment site determination; clarifies the responsibilities of the Committee and the Department with respect to scholarship and grant administration; and revises the penalty for breach of a scholarship contract.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Title 26, Chapter 9d

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: None.

❖LOCAL GOVERNMENTS: Because the Program requires a two-year service commitment, costs associated with employee turnover at participating local governments are reduced.

❖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,
Community Health Nursing
Cannon Health Building
288 North 1460 West
Box 142851
Salt Lake City, UT 84114-2851, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:

Don Beckwith at the above address, by phone at (801) 538-6818, by FAX at (801) 538-7053, or by Internet E-mail at hlhsi.dbeckwit@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 04/14/98.

THIS FILING MAY BECOME EFFECTIVE ON: 04/15/98

AUTHORIZED BY: Rod Betit, Executive Director

R425. Health, Health Systems Improvement, Community Health Nursing.
R425-1. Nurse Education Financial Assistance.

.....

R425-1-2. Definitions.

(1) Definitions for this rule are found in Section 26-9d-1.

(2) [In addition, "eligible]"Eligible employment site" means a public or private health care institution or agency or a nursing

education institution approved by the committee at which a recipient may perform obligated service.

(3) "Grant" means a loan repayment under Section 26-9d-5.

(4) "Scholarship" means a scholarship under Section 26-9d-6.

(5) "Committee" means the Nurse Financial Assistance Committee created by Section 26-1-7.

R425-1-3. ~~[Eligible Employment Site Determination:] Designation of Nursing Shortage and Needed Nursing Specialty Areas.~~

~~[(4)]~~The committee shall ~~[determine]~~designate nursing shortage areas and needed nursing specialty areas based on nursing needs assessments~~[-]~~ and other relevant data.~~[- The committee shall place recipients in nursing shortage areas or needed nursing specialty areas, or both, as determined by the nursing needs assessments:~~

~~— (2) The Department of Health shall conduct an initial survey to assess nursing needs of nursing employment sites that are health care facilities licensed in the state under Title 26, Chapter 21, and of schools of nursing in the state. The results of the survey shall be submitted to the committee to assist it in determining eligible employment sites:~~

~~— (3) Once an initial survey has been completed, the Department shall periodically assess nursing needs by surveying eligible employment sites, nursing employment sites that are licensed health care facilities in the state, schools of nursing in the state, and nursing employment sites requesting to become eligible employment sites. The results shall be submitted to the committee to assist in determining eligible employment sites:~~

~~— (4) The committee may give greater consideration for employment site eligibility to those nursing employment sites completing and returning the survey within fifteen calendar days of mailing.]~~

R425-1-4. Scholarship Administration.

(1) A scholarship may be provided only for those courses required by the educational institution for completion of nursing education.

(2) Before receiving a scholarship, the applicant must enter into a contract with the Department that binds him to the terms of the program.

(3) As requested by the committee, ~~[the]~~a scholarship recipient shall provide information reasonably necessary for administration of the program.

(4) The committee shall determine the total amount of each scholarship.

~~[(4) An applicant may not enter into a scholarship contract other than the program established in Title 26, Chapter 9d until the service obligation agreed upon in the state contract is satisfied:]~~(5) For each academic year, the committee may award a scholarship recipient the lesser of \$15,000 or the total sum of educational expenses as determined by the committee.

~~[(5) The committee may reimburse a scholarship recipient for increased federal, state and local taxes due to receipt of the portion of the scholarship that is not tax-exempt:]~~(6) The committee may approve payment to a scholarship recipient for increased federal, state and local taxes due to receipt of the portion of the scholarship that is not tax-exempt.

(7) The reasonable living expenses portion of the scholarship may not exceed 50% of the scholarship for each academic year.

~~[(6)]~~(8) The [committee]Department shall pay tuition and fees directly to the school of nursing,[- and shall determine the amount and frequency of direct payment of reasonable living expenses to the student:]

(9) The committee shall determine the amount of educational expenses other than tuition and fees, that are paid directly to the student.

~~[(7) The committee shall determine where the scholarship recipient may fulfill his obligated service:]~~(10) The committee shall evaluate whether the scholarship recipient's proposed employment site for his obligated service is an eligible employment site.

~~[(8)]~~(11) If there is no available eligible employment site upon a scholarship recipient's graduation, the recipient shall repay the scholarship amount as negotiated in the scholarship contract.

~~[(9) For each academic year, the committee may award a scholarship recipient the lesser of \$15,000 or the total sum of educational expenses as determined by the committee:]~~

~~[(10) A scholarship recipient's reasonable living expenses may not exceed 50% of the recipient's total educational expenses for each academic year.]~~

R425-1-5. Scholarship Contract-Contents.

(1) Before receiving a scholarship, each applicant selected shall enter into a scholarship contract with the state agreeing to the terms and conditions upon which the scholarship is given.

(2) The scholarship contract shall include the terms and conditions to carry out the purposes and intent of Title 26, Chapter 9d and these rules.

(3) The scholarship contract shall contain:

(a) a statement of the damages to which the state is entitled for the recipient's breach of the scholarship contract; and

(b) such other statements of the rights and liabilities of the Department, the committee, and the scholarship applicant, not inconsistent with Title 26, Chapter 9d.

R425-1-6. Scholarship Application.

(1) The committee may consider for scholarship candidacy only those applicants who have matriculated into a graduate program at a school of nursing.

(2) A scholarship applicant shall provide evidence of eligibility, demographic data, residential history, documented educational history, employment history, personal and employment references, economic status, a Utah nursing license in good standing, and an essay describing plans for working in a needed nursing specialty area, as required and in the format requested by the committee.

(3) A scholarship applicant shall disclose to the committee any other funds applied for, or received in connection with his nursing education.

~~[(3)]~~(4) The Department shall promptly provide written notice [promptly]to a scholarship applicant on the committee's approving the applicant's participation in the scholarship program, or the committee's disapproving [am]the applicant's participation in the scholarship program.

(a) Within 30 days following provision of the written notice, the applicant shall notify the Department of his intent to accept or reject the scholarship award. If the Department has not received the

applicant's notification within 30 days, the Department may cancel the award.

R425-1-7. Scholarship Recipient Eligibility and Selection.

(1) To be eligible for a scholarship, an applicant must:

(a) submit a completed scholarship application to the Department;

(b) ~~[have been accepted]~~ be matriculated [into]in a school of nursing;

(c) have been selected by the committee to receive a scholarship;

(d) declare an intent to work in a needed nursing specialty area of the state after completion of graduate training; and

(e) be a nurse who has a license in good standing to practice in the state under Title 58, Chapter 31, Nurse Practice Act.

(2) In selecting an applicant to receive a scholarship, the committee shall evaluate the applicant based on the following criteria:

(a) residential history;

(b) documented educational history;

(c) employment history;

(d) educational, personal and employer references;

(e) economic status;

(f) an essay describing plans for working in a needed nursing specialty area;

(g) commitment to serve in a needed nursing specialty area;

(h) applicant's proposed time for completion of education;

(i) length of the applicant's proposed service obligation, with greater consideration being given to applicants who agree to serve for longer periods of time;

(j) the applicant's area of graduate education, with preference given to applicants who choose to specialize in critical areas of need as determined by the committee;

(k) projected nursing education expenses.

(3) The committee may request that the applicant supplement the information requested under R425-1-7 (2) to make an informed decision on an application.

~~(3)~~(4) To remain eligible to receive a scholarship, an applicant must maintain a passing grade and be a matriculated student.

R425-8. Scholarship Recipient Obligations.

(1) Within three months before, and not exceeding one month following completion of nursing education and prior to beginning fulfillment of service obligation, a scholarship recipient shall provide the Department documented evidence from the eligible employment site of its intent to hire the scholarship recipient.

(2) A scholarship recipient must maintain minimum continuous registration to maintain graduate student status until he completes all requirements for his degree. The maximum years leading to a degree may not exceed five years, and must be specified in the recipient's contract, as negotiated with the committee.

(3) A scholarship recipient must begin employment at the eligible employment site determined by the committee within five months of completing the nursing education covered by the scholarship.

(4) A scholarship recipient shall perform full-time work as defined by the recipient's employer, and as specified in the recipient's contract with the Department.

(5) The minimum length of obligated service is two years, or such longer period to which the applicant and the committee may agree.

(6) ~~[The]~~A scholarship recipient shall obtain approval from the committee prior to any change in the eligible employment site where the service obligation is fulfilled.

R425-1-9. Release of Scholarship Recipient from Obligation.

(1) The committee may release, in full or in part, a recipient from any obligation under the scholarship contract without penalty:

(a) if the service obligation has been fulfilled;

(b) if the recipient is unable to complete nursing education or fulfill his service obligation due to permanent disability that prevents the recipient from performing any work for remuneration or profit;

(c) if the recipient dies;

(d) because of extreme hardship; or

(e) for other good cause shown, as determined by the committee.

R425-1-10. Extension of Contract with Scholarship Recipient.

The committee may extend the time within which the recipient must complete his nursing education as agreed upon in the contract for good cause shown.

R425-1-11. Schedule of Repayment-Scholarship.

(1) A scholarship recipient who ~~[fails to complete the obligated service]~~breaches his contract with the Department shall begin to repay within 30 days of the breach. The Department may submit for immediate collection all amounts due from a breaching scholarship recipient who does not begin to repay within 30 days.

(2) The breaching scholarship recipient shall pay the total amount due within one year of breaching the contract. The scheduled payback may not be less than four equal quarterly payments.

~~[(3) The amount to be paid back shall be calculated from the end of the month in which the scholarship recipient breached the contract as if the recipient had breached at the end of the month.]~~(4) A scholarship recipient who breaches his contract with the Department while he is in school, shall repay twice the amount of all funds received from the Department.

(5) A scholarship recipient who breaches his contract with the Department during his service obligation shall repay the Department, according to the following calculation:

~~[(4) The calculation of the amount to be paid back shall be determined by:]~~

(a) ~~[determining]~~determine the percentage of retired service obligation by dividing the number of months of retired service obligation by the number of months of total service obligation,

(b) ~~[subtracting]~~subtract the amount in (a) from 1.00,

(c) ~~[multiplying]~~multiply the amount obtained in (b) by 2,

(d) ~~[multiplying]~~multiply the amount obtained in (c) by the total amount of the recipient's scholarship[-];

(e) The amount to be paid back shall be calculated from the end of the month in which the scholarship recipient breached the contract as if the recipient had breached at the end of the month.

(6) The breaching scholarship recipient shall pay simple interest at the rate of 12% per annum on all funds received under

the scholarship contract, from the date he received each installment under the contract.

~~[(5)](7)~~ Any unretired amount following the scheduled payback period is subject to collection.

R425-1-12. Reporting Requirements for Scholarship Recipients.

(1) Each recipient shall assure that the nursing school completes and returns the student status form provided by the Department, ~~[by January 31 of each year.]~~

(2) After beginning service and for the duration of the service obligation, the scholarship recipient shall assure that the eligible employment site submits a quarterly statement of verification of employment indicating the recipient's continued employment to the Department within ten business days following the end of each quarter.

R425-1-13. Grant Administration.

(1) A grant may be provided to repay loans taken only for those courses that were required by the educational institution for completion of nursing education.

(2) Before receiving a grant, the applicant must enter into a contract with the Department that binds him to the terms of the program.

(3) As requested by the committee, ~~[the]~~ a grant recipient shall provide information reasonably necessary for administration of the program.

(4) The committee shall determine the total amount of each loan repayment grant.

(5) For each year of a grant recipient's full-time service at an eligible employment site, the committee may award the recipient the lesser of \$15,000 or the outstanding loan principal for educational expenses, as determined by the committee. ~~[(4) An applicant may not enter into a grant contract other than the program established in Title 26, Chapter 9d until the service obligation agreed upon in the state contract is satisfied.~~

~~—(5) The Department shall make grant payments to a recipient at the end of the first six months of service, and every six months thereafter for the duration of the contract.]~~

(6) The committee may approve payment to a grant recipient for increased federal, state, and local taxes caused by receipt of the grant. ~~[(6) The Department shall issue state warrants for grants jointly in the name of the recipient and the lender, or lenders named on the recipient's loan repayment application. The warrant shall list the loan number, which shall be identical to the number of the loan approved for payment by the committee.]~~

(7) The Department shall make grant payments to a recipient at the end of the first six months of service. The Department shall make subsequent payments at least every six months thereafter for the duration of the contract, except that the committee may approve a different schedule of subsequent payments as requested by the recipient.

~~[(7)](8)~~ The Department shall not pay for a nursing education loan of ~~[an]~~ a grant applicant ~~[that]~~ who is in default at the time of an application.

~~[(8) The committee may reimburse a grant recipient for increased federal, state and local taxes caused by receipt of the grant.~~

~~—(9) The committee shall determine where the grant recipient may fulfill his obligated service.]~~ (9) The committee shall evaluate

whether the grant recipient's proposed employment site for his obligated service is an eligible employment site.

~~[(10) For each year of a grant recipient's full-time service at an eligible employment site, the committee may award the grant recipient the lesser of \$15,000, or the principal plus all accrued interest for educational expenses, as determined by the committee.]~~

R425-1-14. Grant Contract-Contents.

(1) Before receiving a grant, each applicant selected shall enter into a grant contract with the state agreeing to the terms and conditions upon which the grant is given.

(2) The grant contract shall include the terms and conditions to carry out the purposes and intent of Title 26, Chapter 9d and these rules.

(3) The grant contract shall contain:

(a) a statement of the damages to which the state is entitled for the applicant's breach of the grant contract; and

(b) such other statements of the rights and liabilities of the Department, the committee and the grant applicant, not inconsistent with Title 26, Chapter 9d.

R425-1-15. Grant Application.

(1) A grant applicant shall provide evidence of eligibility, demographic data, residential history, documented educational history, employment history, personal and employment references, economic status, a Utah nursing license in good standing, other service obligations, loan certification, and an essay describing plans for working in a nursing shortage area, as required and in the format requested by the committee.

~~[(2) An applicant shall provide the Department documented evidence from the eligible employment site of its intent to hire the grant recipient.]~~ (2) A grant applicant shall disclose to the committee any other funds applied for or received in connection with his nursing education.

(3) A grant applicant shall provide the Department documentation from the eligible employment site that:

(a) the applicant is currently employed at the site; or

(b) the site intends to hire the applicant.

~~[(3)](4)~~ The Department shall promptly provide written notice to ~~[an]~~ a grant applicant ~~[promptly]~~ on the committee's approving the applicant's participation in the grant program, or the committee's disapproving ~~[an]~~ the applicant's participation in the grant program.

(a) Within 30 days following provision of the written notice, the applicant shall notify the Department of his intent to accept or reject the grant award. If the Department has not received the applicant's notification within 30 days, the Department may cancel the award.

R425-1-16. Grant Recipient Eligibility and Selection.

(1) To be eligible for a grant, an applicant must:

(a) submit a completed grant application to the Department;

~~[(a)](b)~~ provide proof of graduation from a school of nursing;

~~[(b)](c)~~ be a nurse who has a license in good standing to practice in the state under Title 58, Chapter 31, Nurse Practice Act[-];

~~[(c) submit a completed grant application to the Department;]~~

(d) have been selected by the committee to receive a grant[-];

(e) be available to begin service at an eligible employment site within one month of entering into a contract with the Department; and

(f) provide documented evidence from the eligible employment site of the intent to hire the grant recipient.

(2) In selecting an applicant to receive a grant, the committee shall evaluate the applicant based on the following selection criteria:

- (a) residential history;
- (b) documented educational history;
- (c) employment history;
- (d) employer, educational and personal [~~and employment~~]

references;

- (e) economic status;
- (f) an essay describing plans for working in a nursing shortage area;

- (g) commitment to serve in a nursing shortage area;
- (h) amount of the nursing education loan;

(i) length of the applicant's proposed service obligation, with greater consideration being given to applicants who agree to serve for longer periods of time;

(j) the applicant's level of nursing education, with preference given to applicants who can meet shortage area nursing needs, as determined by the committee.

(3) The committee may request that the grant applicant supplement the information requested under R425-1-16(2) to make an informed decision on an application.

R425-1-17. Grant Recipient Obligations.

(1) A grant recipient shall begin service at a specified eligible employment site determined by the committee within one month of entering into a contract with the Department.

(2) A grant recipient shall perform full-time work, defined at the beginning of the service obligation as full-time by the recipient's employer, and as specified in the recipient's contract with the Department.

(3) No period of clinical training required for nursing education may be counted toward satisfying a period of obligated service.

(4) The minimum length of obligated service is two years, or such longer period to which the applicant and the committee may agree.

(5) A grant recipient shall assure that the eligible employment site provides the Department a statement of the recipient's continued employment.

(6) [~~The~~]A grant recipient shall obtain approval from the committee prior to any change in the [~~area~~]eligible employment site where the service obligation is fulfilled.

R425-1-18. Release of Grant Recipient from Obligation.

(1) The committee may release, in full or in part a recipient from any obligation under the grant contract without penalty:

- (a) if the service obligation has been fulfilled;
- (b) if the recipient is unable to fulfill his service obligation due to permanent disability that prevents the recipient from performing any work for remuneration or profit;
- (c) if the recipient dies;
- (d) because of extreme hardship; or

(e) for other good cause shown, as determined by the committee.

R425-1-19. Schedule of Repayment-Grant.

(1) A grant recipient who [~~fails to complete the obligated service~~]breaches his contract with the Department shall begin to repay within 30 days of the breach. The Department may submit for immediate collection all amounts due from a breaching grant recipient who does not begin to repay within 30 days.

(2) The breaching grant recipient shall pay the total amount due within one year of breaching the contract. The scheduled payback may not be less than four equal quarterly payments.

(3) The amount to be paid back shall be determined from the end of the month in which the grant recipient breached the contract as if the recipient had breached at the end of the month.

(4) The breaching grant recipient shall repay the Department according to the following calculation:~~[(4) The calculation of the amount to be paid back shall be determined by:]~~

(a) [~~determining~~]determine the percentage of retired service obligation by dividing the number of months of retired service obligation by the number of months of total service obligation,

(b) [~~subtracting~~]subtract the amount in (a) from 1.00,

(c) [~~multiplying~~]multiply the amount obtained in (b) by 2,

(d) [~~multiplying~~]multiply the amount obtained in (c) by the total amount of the recipient's grant[-].

(5) The breaching grant recipient shall pay simple interest at the rate of 12% per annum on all funds received under the grant contract, from the date he received each installment under the contract.

~~(5)~~(6) Any unretired amount following the scheduled payback period is subject to collection.

R425-1-20. Reporting Requirements for Grant Recipients.

After beginning service and for the duration of the service obligation, the grant recipient shall assure that the eligible employment site submits a quarterly statement of verification of employment indicating the grant recipient's continued employment to the Department within ten business days following the end of each quarter.

KEY: [~~community health services,~~]grants, scholarships, nurses [1993]1998 26-9d



Health, Health Systems Improvement,
Health Facility Licensure

R432-1-4

Identification Badges

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 20808

FILED: 02/24/98, 11:47

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: During the 1996 Legislative Session, H.B. 251 would have required identification badges for health care workers. It was decided that this requirement could be placed in an administrative rule instead of statute.

SUMMARY: The proposed rule requires health care facility employees and volunteers to wear an identification badge.

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: Although many of the large health care facilities have already initiated this requirement voluntarily, it is estimated that 500 employees of the smaller facilities may need to purchase an identification badge at \$5 each for a total cost of \$2,500.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Health Care facilities who do not have identification badges will need to purchase a badge at an estimated \$5 per employee.

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

Health
 Health Systems Improvement,
 Health Facility Licensure
 Second Floor, Cannon Health Building
 288 North 1460 West
 PO Box 142003
 Salt Lake City, UT 84114-2003, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO: Debra Wynkoop-Green at the above address, by phone at (801) 538-6152, by FAX at (801) 538-6325, or by Internet E-mail at dwynkoop@doh.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 04/14/98.

THIS FILING MAY BECOME EFFECTIVE ON: 04/15/98

AUTHORIZED BY: Rod Betit, Executive Director

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

R432-1. General Health Care Facility Rules.

R432-1-4. Identification Badges.

(1) Health care facilities and agencies shall ensure that the following persons, shall wear an identification badge:

(a) professional and non-professional employees who provide direct care to patients; and

(b) volunteers.

(2) The identification badge shall include the following:

(a) the person's first or last name; however, the badge does not have to reveal the persons full name; and

(b) the person's title or position, in terms generally understood by the public.

KEY: health facilities

[May 1, 1996]1998

26-21-2



Insurance, Administration

R590-79-4

Definitions

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 20815

FILED: 02/26/98, 15:44

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: To distinguish which edition date of the "Life Insurance Buyer's Guide" the rule is referring to.

SUMMARY: Section R590-79-4 is the only part of the rule being changed. Subsection R590-79-4(A) contains the only substantive change. All of the other changes are nonsubstantive creating no change in meaning or intent. The one substantive change is the change of the name of the buyer's guide to include its edition date.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Section 31A-2-201

ANTICIPATED COST OR SAVINGS TO:

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

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

Insurance
 Administration
 3110 State Office Building
 Salt Lake City, UT 84114, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO: Jilene Whitby at the above address, by phone at (801) 538-3803, by FAX at (801) 538-3829, or by Internet E-mail at jwhitby@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 04/15/98.

THIS FILING MAY BECOME EFFECTIVE ON: 04/17/98

AUTHORIZED BY: Jilene Whitby, Information Specialist

R590. Insurance Administration.

R590-79. Life Insurance Disclosure Rule.

R590-79-4. Definitions.

For the purposes of this rule, the following definitions shall apply:

A. Buyer's Guide. A Buyer's Guide is a document which contains, and is limited to, the language contained in the "1997 Life Insurance Buyer's Guide," as published by, and available from the National Association of Insurance Commissioners, 1997 edition, which is incorporated in this rule by reference [~~and is available from the National Association of Insurance Commissioners (NAIC)~~].

B. Guaranteed Rate Schedule. The Guaranteed Rate Schedule is a schedule showing the maximum premiums that will be charged or the minimum cash values or death or other benefits that will be available, if there is no change in the basis of these items as guaranteed in the policy at the time of issue.

C. Equivalent Level Death Benefit. The Equivalent Level Death Benefit of a policy or term life insurance rider is an amount calculated as follows:

1. Accumulate the amount payable upon death, regardless of the cause of death, at the beginning of each policy year for ten and [twenty]20 years at [five percent]5% interest compounded annually to the end of the tenth and twentieth policy years respectively.

2. Divide each accumulation of Step 1 by an interest factor that converts it into one equivalent level annual amount that, if paid at the beginning of each year, would accrue to the value in Step 1 over the respective periods stipulated in Step 1. If the period is ten years, the factor is 13.207 and if the period is [twenty]20 years, the factor is 34.719.

D. Generic Name. Generic Name means a short title which is descriptive of the premium and benefit patterns of a policy or a rider.

E. Cost Comparison Indexes.

1. Surrender Cost Comparison Index - Guaranteed Basis. The Surrender Cost Comparison Index - Guaranteed Basis - is calculated by applying the following steps, assuming that the company charges the maximum premiums and provides the minimum cash values and, provides the minimum death benefits allowed by the policy, and, if the policy is participating, pays no dividends.

a. Determine the cash surrender value, if any, available at the end of the tenth and twentieth policy years, based on the company's Guaranteed Rate Schedule.

b. Divide the result of Step a by an interest factor that converts it into an equivalent level annual amount that, if paid at the beginning of each year, would accrue to the value in Step a over the respective periods stipulated in Step a. If the period is ten years, the factor is 13.207 and if the period is [twenty]20 years, the factor is 34.719.

c. Determine the equivalent level premium by accumulating each annual premium payable for the basic policy or rider, based on the company's Guaranteed Rate Schedule, at [five percent]5% interest compounded annually to the end of the period stipulated in Step a and dividing the result by the respective factors stated in Step

b. (This amount is the annual premium payable for a level premium plan.)

d. Subtract the result of Step b from Step c.

e. Divide the result of Step d by the number of thousands of the Equivalent Level Death Benefit, using the company's Guaranteed Rate Schedule to determine the amount payable upon death, to arrive at the Surrender Cost Comparison Index - Guaranteed Basis.

(2) Net payment Cost Comparison Index - Guaranteed Basis. The Net Payment Cost Comparison Index - Guaranteed Basis is calculated in the same manner as the comparable Surrender Cost Comparison Index - Guaranteed Basis, except that the cash surrender value and any terminal dividend are set at zero.

F. Policy Summary.

(1) For the purposes of this rule, Policy Summary means a written statement describing only the guaranteed elements of the policy. If an illustration subject to the requirements of R590-177, Life Insurance Illustrations Rule, is used in the sale of a policy, a policy summary does not have to be provided. A policy summary must include the following information:

(a) A prominently placed title as follows: STATEMENT OF POLICY COST AND BENEFIT INFORMATION.

(b) The name and address of the insurance agent, or, if no agent is involved, a statement of the procedure to be followed in order to receive responses to inquiries regarding the policy summary.

(c) The full name and home office or administrative office address of the company in which the life insurance policy is to be or has been written.

(d) The Generic Name of the basic policy and each rider.

(e) The following amounts, where applicable, for the first five policy years and representative policy years thereafter sufficient to clearly illustrate the premium and benefit patterns, including, but not necessarily limited to, the tenth and twentieth policy years, and at least one age from 60 through 65 or maturity, which ever is earlier.

(i) The annual premium for the basic policy.

(ii) The annual premium for each optional rider.

(iii) Guaranteed amount payable upon death, at the beginning of the policy year regardless of the cause of death other than suicide, or other specifically enumerated exclusions, which is provided by the basic policy and each optional rider, with benefits provided under the basic policy and each rider shown separately.

(iv) Total guaranteed cash surrender values at the end of the year with values shown separately for the basic policy and each rider.

(v) Guaranteed endowment amounts payable under the policy which are not included under guaranteed cash surrender values above.

(f) The effective policy loan annual percentage interest rate, if the policy contains this provision, specifying whether this rate is applied in advance or in arrears. If the policy loan interest rate is adjustable, the policy summary shall indicate the maximum annual percentage rate, and shall also indicate that the annual percentage rate will be determined by the company in accordance with the provisions of the policy and the applicable law.

(g) The Cost Comparison Indexes for ten and [twenty]20 years but in no case beyond the premium paying period. Indexes shall be shown on the Guaranteed Basis. Separate indexes shall be

displayed for the basic policy and for each optional term life insurance rider. Such indexes need not be included for optional riders which are limited to benefits such as accidental death benefits, disability waiver of premium, preliminary term life insurance coverage of less than 12 months and guaranteed insurability benefits nor for the basic policies or optional riders covering more than one life.

(h) A statement in close proximity to the Cost Comparison Indexes that an explanation of the intended use of the indexes is provided in the Life Insurance Buyer's Guide.

(i) The date on which the policy summary is prepared.

(2) The policy summary must consist of a separate document.

All information required to be disclosed must be set out in such a manner as not to minimize or render any portion thereof obscure. Any amounts which remain level for two or more years of the policy may be represented by a single number if it is clearly indicated what amounts are applicable for each policy year. Amounts in item F.(1)(e) of this section shall be listed in total, not on a per thousand nor per unit basis. If more than one insured is covered under one policy or rider, death benefits shall be displayed separately for each insured or for each class of insureds if death benefits do not differ within the class. Zero amounts shall be displayed as zero and ~~shall~~ may not be displayed as a blank space.

G. Preneed Funeral Contract or Prearrangement. An agreement by or for an individual before that individual's death relating to the purchase or provisions of specific funeral or cemetery merchandise or services.

KEY: insurance law
[January 1, 1997]1998
Notice of Continuation 1994

31A-2-201



Insurance, Administration

R590-128

Unfair Discrimination Based Solely on
 the Failure to Maintain Automobile
 Insurance

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 20817

FILED: 02/26/98, 15:44

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: The purpose for the revision is to clarify the wording of the rule. There is no change to the intent. Over the years we have found that insurers have had a difficult time interpreting the rule as it was written. The revision, through revised wording and format, seeks to make the rule more understandable.

SUMMARY: In Section R590-128-1, the references to Section 31A-2-201 are deleted and Subsection 31A-23-302(3) is

added. Section R590-128-4 has been reworded to be more definitive as to the ways an insurer is determined to be unfairly discriminatory: 1) it is unfair to charge applicants different rates for same coverage by surcharging one for not having prior coverage and crediting another for having prior coverage; and 2) it is unfair to designate an applicant as sub or non-standard to place them in a specific company or rating tier. Section R590-128-4 lists two reasons that an insurer may reject or surcharge an applicant for no prior coverage: 1) if they have proof the applicant operated a vehicle during that time; and 2) if the applicant represents himself as having prior insurance, then fails to show evidence of prior coverage. A new addition to this section also states that an applicant's coverage is not to be considered lapsed if it occurred when the insurer and/or agent had advised the insured that there was coverage.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Section 31A-23-302

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: None.

❖LOCAL GOVERNMENTS: None.

❖OTHER PERSONS: None.

COMPLIANCE COSTS FOR AFFECTED PERSONS: It is hard to know how much, if at all, this will impact auto insurers. The rule with its changes is essentially that same as the rule in its original form, just more definitive.

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

Insurance
 Administration
 3110 State Office Building
 Salt Lake City, UT 84114, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:

Jilene Whitby at the above address, by phone at (801) 538-3803, by FAX at (801) 538-3829, or by Internet E-mail at jwhitby@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 04/14/98; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 04/09/98, 10:00 a.m., 4112 State Office Building, Salt Lake City, UT 84114.

THIS FILING MAY BECOME EFFECTIVE ON: 04/17/98

AUTHORIZED BY: Jilene Whitby, Information Specialist

R590. Insurance, Administration.

R590-128. Unfair Discrimination Based[Solely] on the Failure to Maintain Automobile Insurance. (Revised.)

R590-128-1. Authority.

This rule is promulgated pursuant to Section ~~[31A-2-201(1) and 31A-2-201(3)(a) Utah Code in which the commissioner is empowered to administer and enforce this title and to make rules to implement the provisions of this title.]~~31A-23-302(3), which

provides guidelines for determining what is unfair discrimination, and Section 31A-23-302(8), which allows the commissioner to make rules defining unfair marketing acts or practices.

.....

R590-128-4. Rule.

(1) The following are hereby identified as acts or practices which, when applied because of failure to maintain automobile insurance for a period of time prior to the issuance of a policy, constitute unfair discrimination among members of the same class:

a) ~~[Refusing]refusing~~ to insure or refusing to continue to insure~~[-or]~~;

b) limiting the amount, extent or kinds of coverage available~~[-or]~~;

c) charging ~~[an individual a]~~applicants different ~~[rate]rates~~ for the same coverage~~[-, or charging a surcharge upon the usual premium, or placing the coverage with a different company, solely because of failure to maintain automobile insurance for a period of time prior to the issuance of a policy:]~~ by either surcharging one applicant for not having prior insurance or crediting another applicant for having prior insurance; or

d) designating the applicant as a non-standard, sub-standard, or otherwise worse than average risk for the purpose of placing the applicant in a specific company or rating tier.

(2) In the application of Subsection (1) the following shall apply:

a) An insurer may reject or surcharge an applicant if the insurer can demonstrate through driving records or other objective means that the applicant has at any time in the immediately prior three years been operating a motor vehicle in violation of any state's compulsory auto insurance laws.

b) An insurer may reject or surcharge an applicant if the applicant represents that prior insurance existed, but fails to provide evidence to the insurer, or fails to assist the insurer in securing evidence that said prior insurance actually existed.

c) Inadvertent lapses in coverage due to the applicant's belief in and reliance on information from an insurance agent or company that he was insured are not considered to be a failure to maintain automobile insurance.

R590-128-5. Penalties.

Violations of this ~~[Rule]rule~~ are punishable pursuant to Section 31A-2-308~~[-Utah Code]~~.

KEY: insurance companies

~~[1990]1998~~

Notice of Continuation April 15, 1995

~~[31A-2-201]~~

31A-23-302[

31A-3-308]



Insurance, Administration
R590-141
Licensing Rule

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 20826

FILED: 02/27/98, 16:17

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: Changes have been made in the rule simply to clarify the process of reinstating agent/agency licenses.

SUMMARY: Penalties and fees remain the same. This amendment clarifies that appointments and designations are not canceled within the first month of lapse of the agent/agency license. It simply clarifies the agent/agency reinstatement process.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Sections 31A-23-216 and 31A-26-213

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:

Insurance
Administration
3110 State Office Building
Salt Lake City, UT 84114, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:

Jilene Whitby at the above address, by phone at (801) 538-3803, by FAX at (801) 538-3829, or by Internet E-mail at jwhitby@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 04/14/98.

THIS FILING MAY BECOME EFFECTIVE ON: 04/17/98

AUTHORIZED BY: Jilene Whitby, Information Specialist

R590. Insurance, Administration.

R590-141. ~~[Licensing]Individual and Agency License Lapse and Reinstatement Rule.~~

R590-141-1. Authority.

This rule is promulgated pursuant to ~~[Subsection 31A-2-201(3)(a) in which the commissioner is empowered to administer and enforce this title and to make rules to implement the provisions of this title;]~~ Subsections 31A-23-216(3) and 31A-26-213(3), that authorize the commissioner to write a rule prescribing license renewal and reinstatement procedures for licensees under Chapters 23 and 26~~[-, and Section 31A-2-308, that provides for penalties for any person who violates any insurance statute or rule].~~

R590-141-2. Scope.

This rule applies to all individuals and ~~[organizations]~~ agencies previously licensed under this chapter ~~[whose licenses have lapsed because of failure to renew, or whose licenses must be renewed:]~~ who did not renew their license on or prior to the license expiration date.

R590-141-3. Rule.

A. ~~[An individual licensee who has failed to renew a license by the required date shall be entitled to reinstate that license by completing the requirements outlined below:]~~ The individual and agency license renewal process is as follows:

(1) ~~[If request for reinstatement is up to six months after the license expiration date:]~~ Renewal notices are mailed to the licensee's business address as shown on the records of the Insurance Department. Licensees who fail to notify the department when their business address changes may face administrative penalties.

~~— (a) complete all continuing education requirements;~~
~~— (b) pay all current and past due fees; and~~
~~— (c) pay a penalty in the amount of the renewal fee.]~~

(2) ~~[If request for reinstatement is between six months and one year after the license expiration date:]~~ Licenses are lapsed if they are not renewed on or prior to the license expiration date.

~~— (a) complete all continuing education requirements;~~
~~— (b) pay all current and past due fees; and~~
~~— (c) pay a penalty in the amount of \$50.]~~

(3) ~~[If request for reinstatement is later than one year but prior to the second year following the license expiration date:]~~ Individuals and agencies with lapsed licenses may not engage in the business of insurance during any period between the date of expiration of the license and the date of reinstatement of that license.

~~— (a) complete all continuing education requirements;~~
~~— (b) pay all current and past due fees; and~~
~~— (c) take and successfully pass the proper agent licensing examination or, if exempt from licensing examination, pay a penalty in the amount of \$75.]~~

(4) Lapsed licenses can be reinstated subject to the provisions outlined below.

B. ~~[An individual who fails to reinstate a license that has been cancelled for nonrenewal within two years of the renewal date shall be required to apply for a license as if he/she were a new applicant:]~~ Reinstatement of Lapsed Individual Licenses.

(1) Reinstatement within first month following the license expiration date:

~~(a) complete all continuing education requirements;~~
~~(b) pay all current and past due fees - renewal, continuing education, etc; - and~~

~~(c) pay a penalty fee equal to the renewal fee.~~

~~(d) No agency designations or appointments are canceled nor are agencies and insurers notified of non-renewal during this one month period.~~

(2) Reinstatement between one and six months following the license expiration date:

~~(a) complete all continuing education requirements;~~

~~(b) pay all current and past due fees - renewal, continuing education, etc; - and~~

~~(c) pay a penalty fee equal to the renewal fee.~~

~~(d) New producer contracts, new agency designations and new insurer appointments must be completed before the reinstated~~

~~licensee can resume doing business because the licensee's agencies and insurers will have been notified that the licensee's license lapsed.~~

~~(3) Reinstatement between seven months and 12 months following the license expiration date:~~

~~(a) complete all continuing education requirements;~~

~~(b) pay all current and past due fees - renewal, continuing education, etc; - and~~

~~(c) pay a penalty fee equal to the renewal fee plus \$50.~~

~~(d) New producer contracts, new agency designations and new insurer appointments must be completed before the reinstated licensee can resume doing business because the licensee's agencies and insurers will have been notified that the licensee's license lapsed.~~

~~(4) Reinstatement between 13 months and 24 months following the license expiration date:~~

~~(a) complete all continuing education requirements;~~

~~(b) pay all current and past due fees - renewal, continuing education, etc; - and~~

~~(c) take and successfully pass the proper agent licensing examination; and~~

~~(d) pay a penalty fee equal to the renewal fee. If exempt from licensing examination, pay a penalty fee equal to the renewal fee plus \$75;~~

~~(e) New producer contracts, new agency designations and new insurer appointments must be completed before the reinstated licensee can resume doing business because the licensee's agencies and insurers will have been notified that the licensee's license lapsed.~~

~~(5) A license that has not been reinstated within 24 months following its expiration date cannot be reinstated. An application for a new license must be made and the applicant must comply with all the requirements applicable to a new license.~~

C. ~~[An organization license under this chapter, that has been cancelled for nonrenewal, may only be reinstated within a period of two years from the license expiration date, provided that:]~~ Reinstatement of Lapsed Agency Licenses.

~~(1) [all fees are paid current, including those that are past due; and] Reinstatement within first month following the license expiration date:~~

~~(a) pay all current and past due fees - renewal, etc; - and~~

~~(b) pay a penalty fee equal to the renewal fee.~~

~~(c) No agency designations or insurer appointments are canceled nor are agency designees and insurers notified of non-renewal during this one month period.~~

~~(2) [a penalty in the amount of \$50 is paid:] Reinstatement between one and 24 months following the license expiration date:~~

~~(a) pay all current and past due fees - renewal, etc; - and~~

~~(b) pay a penalty fee equal to the renewal fee plus \$50.~~

~~(c) New contracts and appointments with insurers and new designations for agents representing the agency must be completed before the reinstated licensee can resume doing business because the licensee's designees and insurers will have been notified that the licensee's license lapsed.~~

~~(3) A license that has not been reinstated within 24 months following its expiration date cannot be reinstated. An application for a new license must be made and the applicant must comply with all the requirements applicable to a new license.~~

~~[(4)]~~ In the event an [organization]agency fails to renew or reinstate its license within the prescribed time, the name of the [organization]agency is not available for use for a period of three years from the date the license lapsed.~~[of license cancellation]~~

~~E. All appointments are terminated at the time of license cancellation. New appointments must be obtained by the agent or organization after the license has been reinstated.]~~

.....

KEY: insurance

~~[March 8, 1996]~~1998

Notice of Continuation December 3, 1997

~~[31A-2-308]~~

~~[31A-2-308]~~

31A-23-216

31A-26-213



Natural Resources, Parks and Recreation
R651-611
Fee Schedule

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 20793

FILED: 02/19/98, 10:46

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: To amend or add fees and instructions to cover costs for services throughout the state park system.

SUMMARY: This amendment updates the 1997-98 fee schedule as approved by the State Parks Board at their February 1998 board meeting.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Subsection 63-11-17(2)(b)

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: None.

❖LOCAL GOVERNMENTS: None.

❖OTHER PERSONS: The general public is affected by the changes in the following fees: establishing parking fees for winter recreationists at Monte Cristo Trailhead and lowering fees at Great Salt Lake to where they were previously. Also, a section on curation was entered that was inadvertently omitted from a previous rule amendment.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The latest update to the Division of Parks and Recreation fee schedule is minimal in comparison with other changes. Briefly, only a few parks are affected by these modifications. Jordan River State Park recently entered into a concession contract with a contractor who will take over the operation of the Off Highway Vehicle riding center on the Jordan River. Cost

savings to the park will be approximately \$20,000 in personnel and current expense. The revenue from the contract franchise fees should be approximately the same as the direct fee collected by our personnel. Boat dock rentals at Great Salt Lake State Park will be brought back to the same level as last year, or \$4.50 per foot for docks with utilities. Bear Lake will remain at the previous change level of \$5 per foot. No significant change in revenue or cost is anticipated. Curation fees have not changed but were not reflected in the rules. For this reason they are added by this change request. Last year these fees generated \$11,200 in curation storage revenue and are anticipated to remain at that level for 1998 and 1999. The snowmobile parking fee is a new fee for the Monte Cristo snowmobile trailhead. This fee will generate approximately \$3,000 which will pay for snow removal costs of the same amount. The parking lot was developed with money from the Off Highway Vehicle Restricted Fund and the fees charged here will defray costs of operation. These costs and revenue estimates, in addition to the previous changes made last November, represent the entire fee schedule revisions for 1998.

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

Natural Resources
Parks and Recreation
Suite 116
1594 West North Temple
Box 146001
Salt Lake City, UT 84114-6001, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:

Dee Guess at the above address, by phone at (801) 538-7320, by FAX at (801) 537-3144, or by Internet E-mail at nrdomain.dguess@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 04/14/98.

THIS FILING MAY BECOME EFFECTIVE ON: 04/15/98

AUTHORIZED BY: David K. Morrow, Deputy Director

R651. Natural Resources, Parks and Recreation.
R651-611. Fee Schedule.
R651-611-1. Use Fees.

All fees required under this fee schedule are to be paid in advance of occupancy or use of facilities.

A. Fees for services covering one or more months, for docks and dry storage, must be paid in advance for the season as determined by the Division.

B. Fee permits and passes are not refundable or transferable. Duplicate annual permits and special fun tags will be issued only upon completion of an affidavit and payment of the required fee. Inappropriate use of fee permits and passes may result in confiscation by park authorities.

C. Fees shall not be waived, reduced or refunded unless authorized by Division guideline; however, park or unit managers may determine and impose equitable fees for unique events or situations not covered in the current fee schedule. The director has the prerogative to waive or reduce fees.

D. The Multiple Park Permit, Single Park Permit, Special Fun Tag, Heritage Park Pass, Five Day Pass, Camping Permit and Daily Private Vehicle Permit are good for one private vehicle with up to eight occupants, with the exception of any special charges. Multiple Park Permits, Heritage Park Passes, and Five Day Passes are not honored at This Is The Place State Park[-] or the OHV center at Jordan River State Park.

E. No charge for persons five years old and younger.

F. With the exception of the Multiple Park Permit and Five Day Pass, fees are applicable only to the specific park or facility where paid and will not be honored at other parks or facilities.

G. Fees for This Is The Place State Park and the OHV center at Jordan River State Park will be set by the contract operator with approval of the Division Director.

.....

R651-611-4. Special Fees.

A. Golf Course Fees

1. Jordan River rental and green fees.
 - a. Nine holes general public - weekends and holidays - \$5.50
 - b. Nine holes weekdays (except holidays) - \$4.50
 - c. Nine holes Jr./Sr. weekdays (except holidays) - \$3.50
 - d. 20 round card pass - \$75.00
 - e. Promotional pass weekdays (except holidays) - \$250.00
 - f. Companion fee - adult - \$2.00
 - g. Companion fee - child - \$1.00
 - h. Motorized cart (9 holes) - Prohibited
 - I. Pull carts (9 holes) - \$1.00
 - j. Club rental - \$3.00
2. Palisade rental and green fees.
 - a. Nine holes general public - \$8.00
 - b. Nine holes Jr./Sr. weekdays (except holidays) - \$6.50
 - c. 20 round card pass - \$130.00
 - d. Promotional pass - single person (any day) - \$375.00
 - e. Promotional pass - single person (weekdays only) - \$275.00
 - f. Promotional pass - couples (any day) - \$650.00
 - g. Promotional pass - family (any day) - \$850.00
 - h. Companion fee - walking, non-player - \$4.00
 - I. Motorized cart (9 holes) - \$8.00
 - j. Motorized cart (9 holes single rider) - \$4.00
 - k. Pull carts (9 holes) - \$2.25
 - l. Club rental (9 holes) - \$5.00
 - m. School teams - No fee for practice rounds with coach and team roster. Tournaments are \$3.00 per player.
 - n. Driving range - small bucket - \$2.25
 - o. Driving range - large bucket - \$3.25
3. Wasatch Mountain rental and green fees.
 - a. Nine holes general public - \$9.00
 - b. Nine holes general public (weekends and holidays) - \$10.00
 - c. Nine holes Jr./Sr. weekdays (except holidays) - \$8.00
 - d. 20 round card pass - \$160.00
 - e. Companion fee - walking, non-player - \$4.00
 - f. Motorized cart (9 holes - mandatory on Mt. course) - \$10.00

- g. Motorized cart (9 holes single rider) - \$5.00
- h. Pull carts (9 holes) - \$2.25
- I. Club rental (9 holes) - \$6.00
- j. School teams - No fee for practice rounds with coach and team roster (Wasatch Co. only).
 - Tournaments are \$3.00 per player.
 - k. Tournament fee (per player) - \$2.00
 - l. Driving range - small bucket - \$2.25
 - m. Driving range - large bucket - \$4.50
4. Green River rental and green fees.
 - a. Nine holes general public - \$8.00
 - b. Nine holes Jr./Sr. weekdays (except holidays) - \$7.00
 - c. Eighteen holes general public - \$15.00
 - d. 20 round card pass - \$130.00
 - e. Promotional pass - single person (any day)- \$325.00
 - f. Promotional pass - single person (Jr/Sr weekdays) - \$275.00
 - g. Promotional pass - couple (any day) - \$600.00
 - h. Promotional pass - family (any day) - \$750.00
 - I. Companion fee - walking, non-player - \$4.00
 - j. Motorized cart (9 holes) - \$8.00
 - k. Motorized cart (9 holes single rider) - \$4.00
 - l. Pull carts (9 holes) - \$2.25
 - m. Club rental (9 holes) - \$5.00
 - n. School teams - No fee for practice rounds with coach and team roster. Tournaments are \$3.00 per player.
5. Golf instruction (all parks).
 - a. Individual - \$25.00 per hour
 - b. Groups - \$50.00 per hour
6. Golf course hours are daylight to dark
7. No private, motorized golf carts are allowed, except where authorized by existing contractual agreement.
8. Jr. golfers are 17 years and under. Sr. golfers are 62 and older.
- B. Boat Mooring and Dry Storage
 1. Mooring Fees:
 - a. Day Use - \$5.00
 - b. Overnight Boat Parking - \$7.00 until 8:00 a.m.
 - c. Overnight Boat Camping until 2:00 p.m. - \$10.00
 - d. Monthly - \$4.00/ft.
 - e. Monthly with Utilities - (Bear Lake) \$5.00/ft.
 - f. Monthly with Utilities - (Other Parks) \$4.50/ft.
 - g. Monthly (December - February) - \$2.00/ft
 - h. Monthly (December - February with utilities) - \$2.50/ft
 2. Dry Storage Fees:
 - a. Overnight (until 2:00 p.m.) - \$5.00
 - b. Monthly (April - October) - \$40.00
 - c. (November - March) - \$20.00
- C. Meeting Rooms and Buildings
 1. Day Use: 1-4 hours between 8:00 a.m. and 6:00 p.m.
 - a. Up to 50 persons - \$50.00
 - b. 51 to 100 persons - \$70.00
 - c. 101 to 150 persons - \$90.00
 - d. Add 50% for after 6:00 p.m.
 - e. Fees include day use fee
 2. Overnight Use 2:00 p.m. until 2:00 p.m.
 - Up to 100 people:
 - a. Monday through Thursday - \$100.00
 - b. Friday through Sunday and Holidays - \$150.00
 - c. November through March - Add 10%

D. Ice and Roller Skating Fees.

TABLE 6

Public Hours	Territorial	Utah Lake
	Two Hour Sessions	Two Hour Sessions
1. Adults	\$2.00	\$3.00
2. Children 6 through 11	\$1.00	\$2.00
3. 20-Skate Card		
a. Adult		\$50.00
b. Children under 11		\$35.00
4. Skate Rental	\$1.00	\$1.00
5. Ice Skate Sharpening	\$3.00	
6. Group Reservations	\$30.00/hr	\$75.00/hr

E. Other Miscellaneous Fees.

1. Canoe Rental (includes safety equipment).
 - a. Up to one hour - \$ 5.00
 - b. Up to four hours - \$10.00
 - c. All day to 6:00 p.m. \$20.00
2. Paddleboat Rental (includes safety equipment).
 - a. Up to one (1) hour \$10.00
 - b. Up to four (4) hours \$20.00
 - c. All day to 6:00 p.m. \$30.00
3. Cross Country Skiing Trails.
 - a. \$4.00 per person, 12 and older.
 - b. \$2.00 per person, 6 through 11.
4. Pavilion - 8:00 a.m. - 10:00 p.m. (non-fee areas).
 - a. \$10.00 per day - (single unit).
 - b. \$30.00 per day - (group unit).
5. Recreation Field (non-fee areas) - \$25.00.
6. Sports Equipment Rental - \$10.00.
7. Day Use Shower Fee - \$2.00.
(where facilities can accommodate)
8. Cemetery Fees.
 - a. \$150.00 Veteran or as allowed by Veterans Administration
 - b. \$400.00 Spouse or dependent child (under 18 or handicapped).
 - c. \$150.00 Extra for Saturday burials.
 - d. \$200.00 Extra for Sunday or holiday burials.
 - e. \$200.00 Cleaning deposit for all non-funeral functions.
 - f. \$100.00 Two hour chapel use.
 - g. \$125.00 Two hour chapel use (non-funeral).
 - h. \$50.00 additional charge for chapel use on Saturday, Sunday and holidays.
 - i. \$300.00 Casket disinterments.
 - j. \$150 Cremation disinterments.
9. Application Fees - Non-refundable PLUS Negotiated Costs.
 - a. Grazing Permit - \$20.00
 - b. Easement - \$50.00
 - c. Construction/Maintenance - \$50.00
 - d. Special Use Permit - \$50.00
 - e. Commercial Filming - \$50.00
 - f. Waiting List - \$10.00
10. Assessment and Assignment Fees.
 - a. Duplicate Document - \$10.00
 - b. Contract Assignment - \$20.00
 - c. Returned checks - \$20.00
 - d. Staff time - \$30.00/hr
 - e. Equipment - \$30.00/hr

- f. Vehicle - \$20.00/hr
- g. Researcher - \$5.00/hr
- h. Photo copy - \$.10/each
- I. Fee collection - \$10.00

11. Curation Fees.

- a. Annual curation agreement \$50.00
- b. Curation storage Edge of Cedars \$400.00/cu.ft.
- c. Curation storage other parks \$250.00/cu.ft.
- d. All curation storage fees are one time only.

12. Snowmobile Parking Fee - Monte Cristo Trailhead.

- a. Day use (6:00 AM to 10:00PM) - \$3.00
- b. Overnight (10:00PM to 10:00PM) - \$5.00
- c. Season Pass (Day use only) - \$30.00
- d. Season Pass (Overnight) - \$50.00

KEY: parks, fees

~~January 1, 1998~~ April 15, 1998

63-11-17-(2)

Notice of Continuation February 10, 1997

◆ ————— ◆

**Public Safety, Law Enforcement and
Technical Services, Regulatory
Licensing
R724-4
Concealed Firearm Permit Rule**

NOTICE OF PROPOSED RULE

(Repeal and Reenact)

DAR FILE No.: 20806

FILED: 02/23/98, 13:28

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: To assist the department in carrying out its statutory requirement to administer the Concealed Weapons Act, Section 53-5-7.

SUMMARY: The substance of the original rule remains intact with a reorganization of the topics to group like information together. The following are substantive additions to the rule: (1) an expanded definition to narcotics offenses to clarify that any narcotics offense may be ground for denial or revocation; (2) the addition of a national instant check system as a required database back ground check when it is available from the F.B.I.; (3) clarification of the procedures for out of state applications; (4) the addition of requirements for application, requalification, and denial and revocation for a certificate of qualification; and (5) the addition of requirements for certification as an instructor for certificate of qualifications.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Section 53-3-7

ANTICIPATED COST OR SAVINGS TO:

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

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

Public Safety
Law Enforcement and Technical Services,
Regulatory Licensing
Second Floor, Calvin L. Rampton Building
4501 South 2700 West
Box 148280
Salt Lake City, UT 84114-8280, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:

Todd Peterson at the above address, by phone at (801) 965-3810, by FAX at (801) 965-4749, or by Internet E-mail at psdomain.psmain.tpeterso@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 04/14/98.

THIS FILING MAY BECOME EFFECTIVE ON: 04/15/98

AUTHORIZED BY: Stuart Smith, Captain

R724. Public Safety, Law Enforcement and Technical Services, Regulatory Licensing.

R724-4. Concealed Firearm Permit Rule.

[R724-4-1. Purpose:

~~The purpose of this rule is to set forth the process whereby the Division of Law Enforcement and Technical Services administers permits to carry concealed firearms in accordance with Title 53, Chapter 5, Part 7, "Concealed Weapon Act."~~

R724-4-2. Authority:

~~This rule is authorized under Section 53-5-704 which requires the Division to issue concealed firearm permits and to otherwise administer the concealed firearm permit program under Sections 53-5-704 through 53-5-709.~~

R724-4-3. Definitions:

Terms used in this rule shall be defined as follows:

- A. "Affidavit" means a written statement made under oath before a notary public.
- B. "Approved Firearms Instructor" means a person approved by the Division who can certify that an applicant meets the general firearm familiarity requirement of Subsection 53-5-704(7).
- C. "Board" means the Concealed Weapons Review Board created in Section 53-5-703.
- D. "Concealed" means that which is covered, hidden, or secreted in a manner that the public would not be aware of its presence and is readily accessible for immediate use.
- E. "Crime Of Violence" means any crime defined as such in Subsection 76-10-501(2)(b).

— F. "Division" means the Division of Law Enforcement and Technical Services of the Utah Department of Public Safety.

— G. "Domestic Violence" means any of the crimes listed in Subsection 77-36-1(2) when committed by one cohabitant against another.

— H. "Equivalent experience with a firearm through participation in law enforcement" means experience showing that the applicant has within the last five years met the firearms requirement of his/her department as evidenced by verifiable documentation from his/her department.

— I. "Equivalent experience with a firearm through participation in the military" means experience showing that the applicant has within the last five years successfully met the firearms requirements of his/her military organization as evidenced by verifiable documentation from his/her military organization, provided that such training meets the requirements of Subsection 53-5-704(7)(a).

— J. "Equivalent experience with a firearm through participation in an organized shooting competition" means experience showing that the applicant has within the last five years competed in an organized shooting competition as evidenced by verifiable documentation from the organization sanctioning or conducting the organized shooting competition, provided the organized shooting competition meets the requirements of Subsection 53-5-704(7)(a).

— K. "Felony" means any criminal conduct other than those crimes defined as misdemeanors or infractions in the statutes of this state.

— L. "Mitigating Circumstances" means circumstances which reduce culpability for purposes of assessing good character.

— M. "Moral Turpitude" means a conviction for criminal conduct under the statutes of this state or any other jurisdiction of any of the following offenses:

- 1. theft;
- 2. fraud;
- 3. tax evasion;
- 4. issuing bad checks;
- 5. robbery;
- 6. aggravated robbery;
- 7. bribery;
- 8. perjury;
- 9. extortion;
- 10. arson or aggravated arson;
- 11. criminal mischief;
- 12. falsifying government records;
- 13. forgery;
- 14. receiving stolen property;
- 15. firearms violations involving a crime of violence;
- 16. burglary or aggravated burglary;
- 17. vandalism;
- 18. kidnapping, aggravated kidnapping, or child kidnapping;
- 19. crimes involving unlawful sexual conduct as described in Title 76, Chapter 5, Part 4, Chapter 5a, Chapter 7, Part 1, and Chapter 10, Part 13; and
- 20. violations of the pornographic and harmful materials and performances act, as defined in Title 76, Chapter 10, Part 12.

— N. "Offenses involving the use of alcohol" means any of the following offenses:

- 1. Any violation of Sections 41-6-44 through 41-6-44.20; and
- 2. Violations of Title 32A, Chapter 12, Part 2 involving the illegal use or consumption of an alcoholic beverage.

— O. "Offenses involving the use of narcotics" means any offense involving the use of any narcotic or drug as defined in Title 58, Chapter 37.

— P. "Past pattern of behavior" means verifiable incidents, with or without an arrest or conviction, that would lead a reasonable person to believe that an individual has a violent nature and would be a danger to themselves or others.

R724-4-4. Application Process.

— A. It is the purpose of this section to set forth the procedure for obtaining and renewing a permit to carry a concealed firearm in accordance with Title 53, Chapter 5, Part 7.

— B. Application for a permit to carry a concealed firearm shall be made in writing to the Division on forms provided by the Division. An application package shall include:

- 1. A completed application form;
- 2. Proof that the applicant is 21 years of age or older at the time application is made;
- 3. Evidence of general familiarity with the types of firearms to be concealed, verified by a signed certificate from an approved firearms instructor;
- 4. A five-year employment history;
- 5. A five-year residential history;
- 6. Two letters of character reference;
- 7. Two recent color photographs of passport quality, measuring 2"x 2", and
- 8. Two completed fingerprint cards.

— C. An applicant shall pay a nonrefundable processing fee of \$59.00 at the time the application is filed. This fee consists of \$35.00 mandated by Section 53-5-707 and a \$24.00 Federal Bureau of Investigation finger print processing fee. Payment shall be in the form of cash, cashier's check or money order. The Division is not responsible for cash lost in the mail.

— D. An applicant may request an interview prior to submitting the application form. The Division may require an interview subsequent to the submission of the application form.

— E. A background investigation shall be conducted on all applicants to determine if they are of good character as required by Section 53-5-704. The background investigation shall consist of:

- 1. Verifying the accuracy of the application information;
- 2. Checking the applicant's criminal history through local and state computer files which include:
 - a. Utah Computerized Criminal History;
 - b. National Crime Information Center;
 - c. Utah Law Enforcement Information Network;
 - d. Drivers license information;
 - e. Statewide Warrants File;
 - f. Criminal Justice Juvenile Files; and the
 - g. Criminal History Expungement System.
- 3. Forwarding the fingerprint cards to the FBI for a review of the applicant's criminal history record pursuant to Sections 53-5-704 and 706.

— F. The Division will review all the above information and approve or deny the application.

- 1. Notice of approval may be given by telephone or in writing.
- 2. Notice of denial shall be given in writing and shall state the reasons for denial.

— G. Renewal of a permit to carry a concealed firearm is required every two years.

— 1. The renewal form is available from the Division.

— 2. A renewal applicant shall pay a nonrefundable fee of \$5.00. Payment shall be made in the form of cash, cashier's check or money order. The Division is not responsible for cash lost in the mail.

— H. A peace officer who has honorably retired from full-time employment within five years of making application shall be exempt from the following requirements:

- 1. Two letters of character reference;
- 2. Two sets of fingerprints;

R724-4-5. Temporary Permit.

— A. The purpose of this section is to set forth the procedure for approval of a temporary permit to carry a concealed firearm in accordance with Section 53-5-705.

— B. To be eligible to obtain a temporary permit to carry a concealed firearm, an applicant must:

- 1. Have applied for a permit under Section 53-5-704;
- 2. Have applied for a temporary permit under Section 53-5-705;
- 3. Demonstrate good character; and
- 4. Demonstrate extenuating circumstances that would justify the need for a temporary permit.

— C. Provisions regarding denial or revocation of a temporary permit are set forth in Subsection R724-4-10(D) of this rule.

R724-4-6. Out-of-State Applicants.

— A. Out-of-state applicants will be subject to the same application process as in-state applicants. The State of Utah does not recognize reciprocity between other states in granting concealed firearm permits.

— B. A permit to carry a concealed firearm issued by any other state will not be recognized as valid in the State of Utah.

R724-4-7. Permit Holders to Notify Peace Officer When Stopped.

— When a permit holder is stopped for questioning by a peace officer based on reasonable suspicion in accordance with Section 77-7-15 and the permit holder has a concealed firearm in his/her possession, the permit holder shall immediately advise the peace officer that he/she is a permit holder and has a concealed firearm in his/her possession.

R724-4-8. Approved Firearms Instructors.

— A. It is the purpose of this section to set forth the procedure whereby the Division approves firearms instructors as provided in Subsection 53-5-704 (7) (b)(ii):

— B. Application to become an approved firearms instructor shall be made in writing to the Division on forms provided by the Division. The application shall include:

- 1. A completed application form;
- 2. Evidence that the applicant has completed a firearms instructor training program sponsored by the National Rifle Association or Peace Officer Standards and Training or a program equivalent thereto; and
- 3. A notarized release of information form.

— C. A firearms instructor applicant shall pay a nonrefundable fee of \$5.00. Payment shall be made in the form of cash, cashier's

check or money order. The Division is not responsible for cash lost in the mail:

— D. The applicant must submit with the application a copy of a course of instruction that meets the course content requirements established by the Division and as required by Subsection 53-5-704(7)(a):

— E. The applicant must have a criminal history free of any convictions specified in Subsections 53-5-704(2)(a) through (f):

R724-4-9. Records Access.

— A. The purpose of this section is to define access to concealed firearm permit records in accordance with Title 63, Chapter 2, and Subsection 53-5-708(1):

— B. Except as provided in Subsection 53-5-708(1) information supplied to the Division by an applicant shall be considered "private" in accordance with Subsection 63-2-302(2)(d):

— C. Information gathered by the Division and placed in the applicant's file shall be considered "protected" in accordance with Subsections 63-2-304(8) and (9). However, if such information was used as the basis for denial, such information shall be considered "private" in accordance with Subsection 63-2-302(2)(d) and the applicant shall have access to it in accordance with Subsection 53-5-704(10)(c):

R724-4-10. Adjudicative Procedures.

— A. It is the purpose of this section to set forth:

— 1. The reasons why a permit may be denied or revoked;

— 2. The reasons why a temporary permit may be denied or revoked;

— 3. The reasons why approval as a firearms instructor may be denied or revoked; and

— 4. The procedures whereby appeal may be made to the board by a person whose permit has been denied or revoked:

— 5. The procedures whereby appeal may be made to the board by a firearms instructor whose approval has been denied or revoked:

— B. Denial or revocation of a temporary permit is not appealable to the board:

— C. A permit may be denied or revoked for any of the following reasons:

— 1. Knowingly and willfully providing false information on the application for a concealed firearm permit;

— 2. Failing to meet the criteria for good character as required by Section 53-5-704:

— D. A temporary permit may be denied or revoked for any of the following reasons;

— 1. The circumstances justifying the temporary permit no longer exist;

— 2. The holder of the permit has knowingly and willfully provided false information regarding his character; or

— 3. The holder of the temporary permit does not meet the requirements for a permit under Section 53-5-704:

— E. Approval as a firearms instructor may be denied or revoked for any of the following reasons:

— 1. Knowingly and willfully providing false information on the application for approval as a firearms instructor;

— 2. Failing to meet the criteria for good character as required by Section 53-5-704:

— 3. Failing to teach from a course of instruction that meets the training requirements set forth in Subsections 53-5-704(7)(a)(i) and (ii);

— 4. Failing to maintain records that verify whether or not a concealed firearm permit applicant has passed the required course of instruction:

— F. A permit or temporary permit revoked by the Division must be surrendered to the Division immediately upon demand by the Division:

— G. A permit applicant, permit holder, or firearms instructor may request a hearing before the board on a denial or revocation by filing an appeal to the Division within 60 days from the date the notice of denial or revocation is received:

— 1. The hearing before the board will be conducted informally in accordance with Section 63-46b-5:

— 2. The board shall issue a signed order to the parties giving the decision, reasons for the decision, and notice of appeal rights within a reasonable time after the hearing:

— 3. A default order may be entered against a party who fails to participate in the hearing in accordance with Section 63-46b-11:

— H. Reconsideration of the board's decision may be requested in writing within 20 days of the date of the decision pursuant to Section 63-46b-13:

— I. Judicial review of all final actions resulting from informal adjudicative proceedings is available pursuant to Section 63-46b-15:

R724-4-11. Mandatory Revocation and Suspension.

— A. A permit or temporary permit shall be revoked if the holder fails to maintain good character as evidenced by conviction of any crime referred to in Section 53-5-704:

— B. A permit or temporary permit shall be suspended if the holder is charged with a crime of violence:

— C. A permit or temporary permit that was suspended because the holder was charged with a crime of violence, shall be immediately reinstated upon notice that the holder has been acquitted or the charges have been dropped:

KEY: concealed firearm permit

October 2, 1995 ~~53-5-704~~
~~63-46b~~

R724-4-1. Purpose.

The purpose of this rule is to set forth the process whereby the Division of Law Enforcement and Technical Services administers the Concealed Weapons Act in accordance with Title 53, Chapter 5, Part 7.

R724-4-2. Authority.

This rule is authorized by Subsection 53-5-704(12).

R724-4-3. Definitions.

Terms used in this rule shall be defined as follows:

A. "Affidavit" means a written statement made under oath before a notary public.

B. "Approved firearms instructor" means a person approved by the Division who can certify that an applicant meets the general firearm familiarity requirement of Subsection 53-5-704(7) and is an instructor who is certified pursuant to Sections R724-4-13 and 14.

C. "Board" means the Concealed Weapons Review Board referred to in Section 53-5-703.

D. "Concealed" means that which is covered, hidden, or secreted in a manner that the public would not be aware of its presence and is readily accessible for immediate use.

E. "Crime of violence" means any crime defined as such in Subsection 76-10-501(2)(b).

F. "Division" means the Division of Law Enforcement and Technical Services of the Utah Department of Public Safety.

G. "Domestic violence" means any of the crimes listed in Subsection 77-36-1(2) when committed by one co-habitant against another.

H. "Equivalent experience with a firearm through participation in law enforcement" means experience showing that the applicant has within the last five years met the firearms requirement of his/her department as evidenced by verifiable documentation from his/her department.

I. "Equivalent experience with a firearm through participation in the military" means experience showing that the applicant has within the last five years successfully met the firearms requirements of his/her military organization as evidenced by verifiable documentation from his/her military organization, provided that such training meets the requirements of Subsection 53-5-704(7)(a).

J. "Equivalent experience with a firearm through participation in an organized shooting competition" means experience showing that the applicant has within the last five years competed in an organized shooting competition as evidenced by verifiable documentation from the organization sanctioning or conducting the organized shooting competition, provided the organized shooting competition meets the requirements of Subsection 53-5-704(7)(a).

K. "Felony" means any criminal conduct other than those crimes defined as misdemeanors or infractions by the statutes of this state. It also includes any criminal conduct that is punishable by more than one year in prison by a federal statute, or by the statute of some other state.

L. "Mitigating circumstances" means circumstances which reduce culpability for purposes of assessing good character.

M. "Moral turpitude" means a conviction for criminal conduct under the statutes of this state or any other jurisdiction involving any of the following offenses:

1. theft;
2. fraud;
3. tax evasion;
4. issuing bad checks;
5. robbery;
6. aggravated robbery;
7. bribery;
8. perjury;
9. extortion;
10. arson or aggravated arson;
11. criminal mischief;
12. falsifying government records;
13. forgery;
14. receiving stolen property;
15. firearms violations;
16. burglary or aggravated burglary;
17. vandalism;
18. kidnaping, aggravated kidnaping, or child kidnaping;

19. crimes involving unlawful sexual conduct as described in Title 76, Chapter 5, Part 4, Chapter 5a, Chapter 7, Part 1, and Chapter 10, Part 13; and

20. violations of the pornographic and harmful materials and performances act, as defined in Title 76, Chapter 10, Part 12.

N. "Offenses involving the use of alcohol" means any of the following offenses:

1. any violation of Sections 41-6-44 through 41-6-44.20;
2. violations of Title 32A, Chapter 12, Part 2 involving the illegal use or consumption of an alcoholic beverage; and
3. a violation of 76-10-528.

O. "Offenses involving the use of narcotics" means any offense involving the use, possession, manufacturing or distribution of any narcotic or drug as defined in Title 58, Chapter 37, 37a, 37b, 37c, 37d, and 37e or a violation of 76-10-528.

P. "Past pattern of behavior" means verifiable incidents, with or without an arrest or conviction, that would lead a reasonable person to believe that an individual has a violent nature and would be a danger to themselves or others.

R724-4-4. Application For a Concealed Firearm Permit.

A. Application for a permit to carry a concealed firearm shall be made in writing to the Division on forms provided by the Division. An application package shall include:

1. a completed application form;
2. proof that the applicant is 21 years of age or older at the time application is made;
3. evidence of general familiarity with the types of firearms to be concealed, verified by a signed certificate from an approved firearms instructor;
4. a five-year employment history;
5. a five-year residential history;
6. two letters of character reference;
7. two recent color photographs of passport quality, measuring 2"x 2"; and
8. two completed fingerprint cards.

B. An applicant shall pay a non-refundable processing fee of \$59.00 at the time the application is filed. This fee consists of \$35.00 mandated by Section 53-5-707 and a \$24.00 Federal Bureau of Investigation finger print processing fee. Payment shall be in the form of cash, cashier's check, or money order. The Division is not responsible for cash lost in the mail.

C. An applicant may request an interview prior to submitting the application. The Division may require an interview subsequent to the submission of the application.

D. A background investigation shall be conducted on all applicants to determine if they are of good character as required by Section 53-5-704. The background investigation shall consist of:

1. verifying the accuracy of the application information;
2. checking the applicant's criminal history through local, state and national computer files which include:
 - a. Utah computerized criminal history;
 - b. national crime information center;
 - c. Utah law enforcement information network;
 - d. drivers license information;
 - e. statewide warrants file;
 - f. criminal justice juvenile files;
 - g. criminal history expungement system; and
 - h. national instant check system (when available).

3. The fingerprint cards will be sent to the FBI for a review of the applicant's criminal history record pursuant to Sections 53-5-704 and 706.

E. The Division will review all the above information and approve or deny the application.

1. Notice of approval may be given by telephone or in writing.

2. Notice of denial shall be given in writing and shall state the reasons for denial.

F. Renewal of a permit to carry a concealed firearm is required every two years.

1. The renewal form is available from the Division.

2. A renewal applicant shall pay a non-refundable fee of \$5.00 as required by Section 53-5-707. Payment shall be made in the form of cash, cashier's check or money order. The Division is not responsible for cash lost in the mail.

G. A peace officer who has honorably retired from full-time employment within five years of making application shall be exempt from the following requirements:

1. two letters of character reference; and

2. two sets of fingerprints.

R724-4-5. Temporary Concealed Firearm Permit.

A. To be eligible to obtain a temporary permit to carry a concealed firearm, as provided for in Section 53-5-705, an applicant must:

1. apply for a permit under Section 53-5-704;

2. apply for a temporary permit under Section 53-5-705;

3. demonstrate good character; and

4. prove to the satisfaction of the Division extenuating circumstances justifying the need for a temporary permit.

B. Provisions regarding denial, suspension or revocation of a temporary permit are set forth in Subsection R724-4-18(F).

R724-4-6. Out-of-State Concealed Firearm Permit Applicants.

Out-of-state applicants for a concealed firearm permit will be subject to the same application process as in-state applicants.

R724-4-7. Out of State Concealed Firearm Permits.

A. In accordance with Subsection 76-10-523(2)(b) the Division will conduct research annually to determine which states have requirements for the issuance of a concealed firearm permit that meet or exceed the requirements for issuance of a concealed firearm permit in this state.

B. A list of the out of state permits that will be honored in this state will be maintained by the Division. The list will be available to the public upon request.

R724-4-8. Application for a Certificate of Qualification.

A. Application for a certificate of qualification shall be made in writing to the Division on forms provided by the Division and will be subject to the same application requirements as concealed firearm permit applicants set forth in Section R724-4-4. The applicant must also provide proof to the satisfaction of the Division that they are a law enforcement official or judge as defined in Section 53-5-711.

B. A certificate of qualification will act as identification to verify that the holder is exempt from weapons laws in accordance with Section 76-10-523.

R724-4-9. Additional Training Requirements for Obtaining a Certificate of Qualification.

Training requirements for obtaining a certificate of qualification, as set forth in Subsection 53-5-711(2)(b), will be established by the commissioner. A copy of the training requirements will be available in the Division office upon request. The commissioner may make changes or additions to the training requirements as needed. It is the responsibility of the applicant to acquire the training through their agency.

R724-4-10. Annual Regualification Requirement for Obtaining a Certificate of Qualification.

Proof of annual regualification must be submitted to the Division, in writing, no earlier than November 1 and no later than November 30 of each year. If an applicant has received an initial certificate of qualification after August 1, regualification will not be required until the following year. Failure to provide proof of annual regualification by November 30 of each year will result in revocation of the certificate of qualification.

R724-4-11. Duty of Certificate of Qualification Holder to Notify the Division Upon Termination of Status as a Law Enforcement Official or Judge.

A certificate of qualification holder who resigns or is terminated from their position must notify the Division within six months after leaving their position. If the holder obtains other employment as a Law Enforcement Official or Judge within the six month period, the Division will allow the certificate of qualification to remain current provided the holder has not committed an offense that is grounds for revocation under Title 53 Chapter 5 Part 7. If a holder of a certificate of qualification has not obtained another position as a Law Enforcement Official or Judge, the certificate of qualification will be revoked and a concealed firearm permit will be issued provided the holder has not committed an offense that is grounds for revocation under Title 53 Chapter 5 Part 7.

R724-4-12. Denial, Suspension, or Revocation of a Concealed Firearm Permit or Certificate of Qualification.

A concealed firearm permit or certificate of qualification may be denied, suspended or revoked for any of the reasons set forth in Subsections 53-5-704 (3)(a) and (c), or for failure to maintain good character as defined in Subsection 53-5-704(2).

R724-4-13. Requirement to Notify Peace Officer When Stopped.

When a concealed firearm permit holder or certificate of qualification holder is stopped for questioning by a peace officer based on reasonable suspicion in accordance with Section 77-7-15 and the holder has a concealed firearm in his/her possession, the holder shall immediately advise the peace officer that he/she is a lawful holder and has a concealed firearm in his/her possession.

R724-4-14. Concealed Firearm Permit Instructors.

A. The Division will certify concealed firearm permit instructors as provided for in Subsection 53-5-704(7)(b)(ii).

B. Application to become a concealed firearm permit instructor shall be made in writing to the Division on forms provided by the Division. The application shall include:

- 1. a completed application form;
 - 2. evidence that the applicant has completed a firearms instructor training program sponsored by the National Rifle Association, or Peace Officer Standards and Training, or a program equivalent thereto; and
 - 3. a notarized release of information form.
- C. A concealed firearm permit instructor applicant shall pay a non-refundable fee of \$5.00. Payment shall be made in the form of cash, cashier's check or money order. The Division is not responsible for cash lost in the mail.
- D. The applicant must submit with the application a copy of a course of instruction that meets the course content requirements established by the Division as required by Subsection 53-5-704(7)(a).
- E. The applicant must meet the good character requirements set forth in Subsections 53-5-704(2)(a) through (g).

R724-4-15. Certificate of Qualification Instructors.

- A. The Division will certify certificate of qualification instructors as provided for in Subsection 53-5-711(4)(c). An applicant for a certificate of qualification instructor shall:
- 1. be certified as a firearms instructor by Peace Officer Standards and Training;
 - 2. make a written request to the Division for approval;
 - 3. meet the good character requirements set forth in Subsections 53-5-704(2)(a) through (g); and
 - 4. demonstrate to the satisfaction of the Division that their approval would provide a benefit to the training program.
- B. The number of certificate of qualification instructors approved by the Division will be limited to the needs of the program.

R724-4-16. Denial, Suspension, or Revocation of Approval as a Concealed Firearm Permit Instructor or Certificate of Qualification Instructor.

- Approval as a concealed firearm permit instructor or certificate of qualification instructor may be denied, suspended or revoked for any of the following reasons:
- 1. failing to meet the requirements of Sections R724-4-14 or 15;
 - 2. failing to teach from an approved course of instruction;
 - 3. failing to maintain records verifying that an applicant has passed a required course of instruction; or
 - 4. knowingly and wilfully providing false information to the Division.

R724-4-17. Records Access.

- A. The purpose of this section is to define access to concealed firearm permit and certificate of qualification records in accordance with Title 63, Chapter 2, and Subsection 53-5-708(1).
- B. Except as provided in Subsection 53-5-708(1), information supplied to the Division by an applicant shall be considered "private" in accordance with Subsection 63-2-302(2)(d).
- C. Information gathered by the Division and placed in the applicant's file shall be considered "protected" in accordance with Subsections 63-2-304(8)and(9). However, if such information is used as the basis for denial of a concealed firearm permit or certificate of qualification, such information shall be considered "private" in accordance with Subsection 63-2-302(2)(d) and the

applicant shall have access to it in accordance with Subsection 53-5-704(10)(c).

R724-4-18. Adjudicative Procedures.

- A. Any applicant denied a concealed firearm permit or certificate of qualification may request a hearing before the board by filing an appeal to the Division within 60 days from the date the notice of denial is issued. This appeal process also applies to a concealed firearm permit holder or certificate of qualification holder whose concealed firearm permit or certificate of qualification has been suspended or revoked.
- B. Board hearings will be conducted informally in accordance with Section 63-46b-5.
- C. Board decisions shall be issued within 30 days from the date of the hearing in accordance with Subsection 53-5-704(10)(E) and shall comply with the requirements of Subsection 63-46b-5(1)(i).
- D. In accordance with Section 63-46b-11 the board may enter a default order against any party who fails to participate in a hearing.
- E. Judicial review of all final actions resulting from informal adjudicative proceedings is available pursuant to Section 63-46b-15.
- F. Denial, suspension, or revocation of a temporary permit is not appealable to the board.
- G. A concealed firearm permit instructor or certificate of qualification instructor has the same appeal rights as set forth in this section for concealed firearm permit holders and certificate of qualification holders.

KEY: concealed firearm permit 1998

53-5-704 63-46b



Public Safety, Peace Officer Standards and Training
R728-404
 Basic Training Basic Academy Rules

NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE No.: 20810
 FILED: 02/24/98, 15:49
 RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: This filing is the result of a division review.

SUMMARY: This amendment reflects the new physical training direction given by the Peace Officer Standards and Training (POST) Council. It also makes language more clear as suggested by Kent Bishop - Rules Consultant, Governor's Office of Planning and Budget.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Section 53-6-105

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:

Public Safety
 Peace Officer Standards and Training
 4525 South 2700 West
 Box 141775
 Salt Lake City, UT 84114-1775, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:

Steve DeMille or Bonnie Braegger at the above address, by phone at (801) 965-4370 or (801) 965-4099, by FAX at (801) 965-4619, or by Internet E-mail at psdomain.psmain.bbraegge@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 04/14/98.

THIS FILING MAY BECOME EFFECTIVE ON: 04/15/98

AUTHORIZED BY: Steven D. DeMille, Deputy Director

R728. Public Safety, Peace Officer Standards and Training.
R728-404. Basic Training Basic Academy Rules.

.....

R728-404-2. Graduation Requirements.

A. Written Examinations and Quizzes.

1. Examinations and quizzes are a necessary method of testing not only the student's substantive knowledge, but also their reading, comprehension, and reasoning abilities, all of which are essential criteria for proper performance of peace officer functions. They will be given as indicated in the curriculum schedule. Examinations are given on the honor basis. Evidence of dishonor will result in dismissal from the Academy. Students must score a minimum of 70% on all exams except the first aid, arrest control, and certification exams where a minimum of 80% must be scored.

2. All quizzes will be figured together to make one major examination. 70% must be scored in order to pass. This examination will be treated like all other examinations for retake purposes.

3. If a student fails a preliminary examination, he will be allowed to take a make-up exam. Regardless of what passing grade is earned on the make-up exam, the student will be given the minimum passing grade of 70% or 80% depending on which exam it is. If the score is less than the required score on the make-up examination, the student will be dismissed from the Academy and

invited to return at a later date and attend another session. Should the student pass the make-up exam, but at a later date fail a second examination, he will not be allowed to take a second make-up exam and will be dismissed from the Academy but invited to return at a later date and attend another session.

4. A final Certification Examination will be required of each student in order to achieve peace officer/special function officer certification or become certifiable. A minimum score of 80% must be scored. If the score is less than 80%, the student will be allowed to take one make-up exam to achieve the required 80%. Make-up exams must be taken prior to one year from the date of the initial exam. If the student fails to achieve 80% on the make-up certification examination, he will be required to go through the training again to achieve certification or become certifiable[?] (be eligible to be certified when hired in a position requiring certification.) It will be the policy of the Academy to cover the expenses of a returning sponsored student; however, if a sponsored student is twice suspended from the Academy and that student continues in his attempt to complete the Academy, it will become the responsibility of the sponsoring agency and/or the student to pay the tuition assessed by the Academy. Returning self-sponsored students will be responsible for their expenses and tuition.

B. Participation.

Students will actively participate in physical fitness training, practical problems, classroom work, tours, graduation exercises, and any other activities unless specifically excused by the training supervisor.

C. Reports.

Students may be required to complete written reports. All reports will be graded on a pass/fail basis.

D. Firearms Qualification.

1. Requirements.

Students attending a basic peace officer training course will:
a. participate in firearms training and demonstrate the ability to safely handle a firearm, and
b. pass the POST approved qualification course(s) at or above the required score.

2. Retesting.

Students who fail to qualify on any qualification course will receive one opportunity to retake the course(s) and qualify. Retests will be scheduled by the POST Firearms Instructor and applicable training supervisor.

Note: The POST Staff Firearms Instructor has the discretion of deciding if mitigating circumstances should be taken into consideration when a student fails any qualification or requalification course. Mitigating circumstances include:

- a. weather,
- b. quality/quantity of instructors,
- c. equipment problems,
- d. medical problems,
- e. etc.

If the POST Staff Firearms Instructor decides there were one or more circumstances beyond the control of the student or the instructor and the student fails to qualify, the POST Staff Firearms Instructor may schedule a retest.

E. Vehicle Operation.

1. Requirements.

Students attending a basic peace officer training course will:

a. participate in all scheduled classroom and practical vehicle operation training (any training missed must be made up before a student can graduate and be certified or become certifiable),

b. demonstrate the ability to safely handle a vehicle in an emergency situation, and

c. pass the POST approved qualification course(s) at or above the required score.

2. Retesting.

Students who fail to qualify on any qualification course will:

a. have four more opportunities to qualify on the day of the test;

b. after remedial training the student will have three more opportunities to qualify at a later date which will be scheduled by the driving instructor and the training supervisor.

Note: The POST Staff Vehicle Operation Instructor has the discretion of deciding if mitigating circumstances should be taken into consideration when a student fails any qualification or requalification course. Mitigating circumstances include but are not limited to:

- a. weather,
- b. quality/quantity of instructors,
- c. equipment problems,
- d. medical problems,
- e. etc.

If the POST Staff Vehicle Operation Instructor decides there were one or more circumstances beyond the control of the student and the student fails to qualify, the POST Staff Vehicle Operation Instructor may schedule a retest.

F. Physical Training.

~~[Students entering the academy will be required to take and pass the POST physical assessment test at the completion of their training. Students will be required to take the physical assessment at the end of the core program. This test is the final exam for correction, special function and reserve officers and needs to be passed at the 50th percentile or above in all areas.~~

~~—Students going from the "core" program into the seven week peace officer program and students entering the seven week program having previously completed a "core" program must take the physical assessment test and score at the 40th percentile in each exercise. One retake will be permitted if the student is reasonably close to passing and the student or the student and his department wants a retake to be given. Each case will be evaluated individually with all concerned parties involved. In some cases a retake may be discouraged because the score is so low; however, if a department or in a self-sponsored case, the student wants the retake, POST will administer it.]~~ Participation in physical training is required during the ~~[peace officer]~~ basic academy program. Students will be required to take the physical assessment test at the end of the peace officer program and score at the 50th percentile in each exercise to graduate~~[-, and before being certified]~~. If a student fails to pass the physical assessment test, one retest will be administered before the graduation ceremony. Should students fail to meet the physical fitness testing requirements, they will not be permitted to have their picture taken with the class or graduate with the class.

G. Arrest Control/Baton.

1. Requirements.

Students attending a basic peace officer training course will:

a. participate in scheduled arrest control/baton training,

b. demonstrate the ability to apply arrest control and baton techniques, and

c. pass a POST approved practical examination.

2. Retesting.

H. Failure to Qualify in a Skill Area.

1. Students who fail to qualify in any skill area during a basic training program, will have four years to meet the approved standard before they will be required to go back through an academy program.

2. Retesting during the four year period will be at the convenience of POST and a testing fee will be imposed each time a test is administered.

3. POST may refuse to administer a test at any time if POST feels it's in the best interest of the individual and/or POST.

~~[—4. Students who are certified as Special Function Officers, Reserve Officers or Correctional Officers and who are attending an upgrade academy will have no time limit imposed to meet any skill area requirement.]~~

I. Counsel.

Individual counseling is available to any student on request to his class training supervisor.

J. Make-Up Policy.

1. All requirements must be satisfied before a student can graduate and become certifiable or certified.

2. Basic training supervisors will notify the student and his department head of any deficiencies in meeting graduation requirements.

3. The student and department head will be advised of the policy and procedures involved in the make-up of any deficiencies for graduation and certification.

4. Should a student become ill or injured to such an extent that it is impossible or unwise to participate in any part of the academy training, a doctor must be seen by the student. A written explanation must be obtained from the doctor and presented to the student's training supervisor.

K. Attendance.

1. Students will be required to attend all training unless an emergency exists or a valid excuse is given.

2. More than three unexcused absences may result in suspension from the Academy. Acceptable excuses include but are not limited to illness, court, and death of an immediate family member. Whenever possible, absences will be cleared through the student's Academy supervisor before the absence occurs. It is the student's responsibility to contact the Academy supervisor when he is absent or late. Attendance information may be made available to department heads periodically.

3. Anyone who is tardy three times without an acceptable excuse may be subject to disciplinary action.

4. In no case will a student be certified or become certifiable who has missed more than 10% of the basic course until the necessary make-up work has been completed.

5. If a student has missed a significant part of any block of instruction, as determined by the POST staff, he will not be certified or become certifiable until the necessary make-up work is completed.

6. Under no circumstances will a student graduate if he misses any of the following classes until they are made-up:

- a. Ethics and Professionalism,

- b. Laws of Arrest,
 - c. Laws of Search and Seizure,
 - d. Use of Force,
 - e. First Aid (CPR only),
 - f. Emergency Vehicle Operation,
 - g. Vehicle Operation Liability,
 - h. Vehicle Operation Practical,
 - i. Arrest Control Practical Examination,
 - j. Firearms Safety,
 - k. Firearms Range/Day Shooting (qualification only),
 - l. Firearms Range/Night Shooting,
 - m. Reasonable Force,
 - n. Firearms Decision Making, or
 - o. Crimes-In-Progress (practical only).
 - L. Grounds for Dismissal From Basic Training:
 - 1. failure to meet the minimum academic standard,
 - 2. failure to meet the physical fitness standard,
 - 3. failure to achieve 80% on the State Certification exam,
 - 4. evidence of any health problem that would keep the student from successfully completing the basic training program,
 - 5. failure to comply with Academy rules,
 - 6. failure to meet the standards as stated in Section 53-6-203,
- or
- 7. failure to satisfactorily perform in any of the skill areas required during basic training.

.....

KEY: law enforcement officers, basic academy rules*

~~[April 15, 1997]~~ April 15, 1998

53-6-105

53-6-106

53-6-107



Tax Commission, Administration
R861-1A-23
 Designation of Adjudicative
 Proceedings Pursuant to Utah Code
 Ann. Section 63-46b-4

NOTICE OF PROPOSED RULE

(Amendment)
 DAR FILE NO.: 20818
 FILED: 02/26/98, 15:55
 RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: Section 63-46b-4 allows an agency to designate categories of adjudicative proceedings to be conducted informally.

SUMMARY: This amendment deletes language allowing informal proceedings before the Tax Commission

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Section 63-46b-4

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: None.

❖LOCAL GOVERNMENTS: None.

❖OTHER PERSONS: None.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

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

Tax Commission
 Administration
 Tax Commission Building
 210 North 1950 West
 Salt Lake City, UT 84134, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:

Pam Hendrickson at the above address, by phone at (801) 297-3902, by FAX at (801) 297-3919, or by Internet E-mail at txnet1.phendric@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 04/14/98.

THIS FILING MAY BECOME EFFECTIVE ON: 04/15/98

AUTHORIZED BY: Pam Hendrickson, Commissioner

R861. Tax Commission, Administration.

R861-1A. Administrative Procedures.

R861-1A-23. Designation of Adjudicative Proceedings Pursuant to Utah Code Ann. Section 63-46b-4.

~~[A. The following matters are designated for informal proceedings:~~

- ~~1. appeals from county boards of equalization;~~
- ~~2. assessment of penalties and interest;~~
- ~~3. motor vehicle issues; and~~
- ~~4. revocation, suspension or denial of licenses or permits.~~

~~These actions may be converted to formal proceedings upon request of the petitioner and agreement by the respondent, or at the discretion of the presiding officer. If converted, the matter will be set for a prehearing and scheduling conference pursuant to R861-1A-26.~~

~~[B.]A. All matters [other than those described in section A.] shall be designated as formal [or informal] proceedings [as agreed by the parties or, if no agreement is reached, at the discretion of the presiding officer. The presiding officer may override the agreement of the parties for good cause shown. The designation shall be made during the] and set for a prehearing conference, an initial hearing, [and] or a scheduling conference pursuant to R861-1A-26.~~

~~[C.]B. A matter may be diverted to a mediation process pursuant to R861-1A-32 upon agreement of the parties and the presiding officer.~~

KEY: developmentally disabled, grievance procedures, taxation, disclosure requirements
[August 21, 1997]1998 63-46b-4
Notice of Continuation May 20, 1997

AUTHORIZED BY: Pam Hendrickson, Commissioner



Tax Commission, Administration
R861-1A-24
Formal Adjudicative Proceedings
Pursuant to Utah Code Ann. Sections
59-1-502.1, 63-46b-8, and 63-46b-10

NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE NO.: 20819
FILED: 02/26/98, 15:55
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: To make technical changes only.

SUMMARY: This amendment contains technical changes only. The word "Section" is added in front of statutory citations.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Sections 59-1-502.1, 63-46b-8, and 63-46b-10

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: None.
❖LOCAL GOVERNMENTS: None.
❖OTHER PERSONS: None.
COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

THE FULL TEXT OF THIS FILING MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Tax Commission
Administration
Tax Commission Building
210 North 1950 West
Salt Lake City, UT 84134, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:
Pam Hendrickson at the above address, by phone at (801) 297-3902, by FAX at (801) 297-3919, or by Internet E-mail at txnet1.phendric@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 04/14/98.

THIS FILING MAY BECOME EFFECTIVE ON: 04/15/98

R861. Tax Commission, Administration.
R861-1A. Administrative Procedures.
R861-1A-24. Formal Adjudicative Proceedings Pursuant to Utah Code Ann. Sections 59-1-502.1, 63-46b-8, and 63-46b-10.

A. At a formal proceeding, an administrative law judge appointed by the commission or a commissioner may preside.

1. Assignment of a presiding officer to a case will be made pursuant to agency procedures and not at the request of any party to the appeal.

2. Once assigned, the presiding officer will preside at all steps of the formal proceeding except as otherwise indicated in these rules or as internal staffing requirements dictate.

B. Unless waived by the petitioner, a formal proceeding includes an initial hearing pursuant to Section 59-1-502.5, and may also involve a formal hearing on the record.

1. Initial Hearing.

a) An initial hearing pursuant to Section 59-1-502.5 shall be in the form of a conference.

b) Any issue may be settled in the initial hearing, but any party has a right to a formal hearing on matters that remain in dispute at the conclusion of the initial hearing. As to those matters, a party must pursue a formal hearing and final agency action before pursuing judicial review of unsettled matters.

2. Formal Hearing on the Record.

a) Formal hearings on the record shall be conducted by a presiding officer under 2.b) or by the commission sitting as panel under 2.c).

b) Except as provided in 2.c., all formal hearings will be heard by the presiding officer.

(1) Within the time period specified by statute, the presiding officer shall sign a decision and order in accordance with Section 63-46b-10 and forward the decision to the Commission for automatic agency review.

(2) A quorum of the commission shall review the decision. If a majority of the participating commissioners concur with the decision, a statement affirming the decision shall be affixed to the decision and signed by the concurring commissioners to indicate that the decision represents final agency action. The order is subject to petition for reconsideration or to judicial review.

(3) If, on agency review, a majority of the commissioners disagree with the decision, the case may be remanded to the presiding officer for further action, amended or reversed. If the presiding officer's decision is amended or reversed, the commission shall issue its decision and order, and that decision and order shall represent final agency action on the matter.

c) The commission, on its own motion, upon petition by a party to the appeal, or upon recommendation of the presiding officer, may sit as a panel at the formal hearing on the record if the case involves an important issue of first impression, complex testimony and evidence, or testimony requiring a prolonged hearing.

(1) A panel of the commission shall consist of two or more commissioners

(2) An order issued from a hearing before a panel of commissioners shall constitute final agency action, and it is subject to petition for reconsideration or to judicial review.

KEY: developmentally disabled, grievance procedures, taxation, disclosure requirements
[August 21, 1997]1998 63-46b-7 through 63-46b-11
Notice of Continuation May 20, 1997 59-1-502.1

AUTHORIZED BY: Pam Hendrickson, Commissioner



Tax Commission, Administration
R861-1A-25
Informal Adjudicative Proceedings
Pursuant to Utah Code Ann. Section
63-46b-5

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 20820
FILED: 02/26/98, 15:55
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: Section 63-46b-5 allows an agency to prescribe procedures for informal proceedings if the agency has chosen to designate certain proceedings as informal. Section R861-1A-25 is no longer needed.

SUMMARY: Section R861-1A-25 is repealed.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Section 63-46b-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:

Tax Commission
Administration
Tax Commission Building
210 North 1950 West
Salt Lake City, UT 84134, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:

Pam Hendrickson at the above address, by phone at (801) 297-3902, by FAX at (801) 297-3919, or by Internet E-mail at txnet1.phendric@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 04/14/98.

THIS FILING MAY BECOME EFFECTIVE ON: 04/15/98

R861. Tax Commission, Administration.
R861-1A. Administrative Procedures.
~~[R861-1A-25. Informal Adjudicative Proceedings Pursuant to Utah Code Ann. Section 63-46b-5.~~
~~—A. Informal hearings shall be conducted on the record according to section 63-46b-5.~~
~~—B. Within the time period specified by statute, the presiding officer shall sign a decision and order pursuant to 63-46b-5(1)(i)-(k) and forward the decision to the Commission for agency review by a quorum of the commission.~~
~~—1. If a majority of commissioners concur with the decision, a statement affirming the decision shall be affixed to the decision and signed by the concurring commissioners to indicate that the decision represents final agency action. The order is subject to petition for reconsideration or to judicial review.~~
~~—2. If, on agency review, a majority of the commissioners disagree with the decision, the case may be remanded to the presiding officer for further action as directed by the commission; or the order may be amended or reversed. The commission shall issue its decision and order representing final agency action.]~~

KEY: developmentally disabled, grievance procedures, taxation, disclosure requirements
[August 21, 1997]1998 63-46b-5
Notice of Continuation May 20, 1997



Tax Commission, Administration
R861-1A-26
Procedures for Formal and Informal
Adjudicative Proceedings Pursuant to
Utah Code Ann. Sections
59-1-501, 63-46b-5 and 63-46b-6
through 63-46b-11

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 20821
FILED: 02/26/98, 15:55
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: Sections 63-46b-6 through 63-46b-11 set forth authority and responsibilities to hear appeals.

SUMMARY: This amendment deletes language relating to informal hearings and makes technical changes.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Sections 59-1-50 and 63-46b-6 through 63-46b-11

ANTICIPATED COST OR SAVINGS TO:

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

COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

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

Tax Commission
Administration
Tax Commission Building
210 North 1950 West
Salt Lake City, UT 84134, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:

Pam Hendrickson at the above address, by phone at (801) 297-3902, by FAX at (801) 297-3919, or by Internet E-mail at txnet1.phendric@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 04/14/98.

THIS FILING MAY BECOME EFFECTIVE ON: 04/15/98

AUTHORIZED BY: Pam Hendrickson, Commissioner

R861. Tax Commission, Administration.

R861-1A. Administrative Procedures.

R861-1A-26. Procedures for Formal [~~and Informal~~] Adjudicative Proceedings Pursuant to Utah Code Ann. Sections 59-1-501[~~, 63-46b-5~~] and 63-46b-6 through 63-46b-11.

A. Prehearing and Scheduling Conference.[~~Except for petitions concerning appeals designated as informal by R861-1A-23, all matters shall be subject to a prehearing and scheduling conference.~~]

1. At the conference, the parties and the presiding officer shall:

[~~a~~)]a) designate the proceeding as formal or informal, or divert the action to a mediation process;

b)]a) establish ground rules for discovery;

[~~e~~)]b) discuss scheduling;

[~~f~~)]c) clarify other issues;[~~and~~]

d) determine whether to divert the action to a mediation process; and

e) [~~in the case of formal proceedings,~~]determine whether the initial hearing will be waived and whether the commission will preside as a panel at the formal hearing on the record pursuant to R861-1A-24.

2. [~~Upon designation of the proceeding as formal and upon agreement of the parties, the~~]The prehearing and scheduling conference may be converted to an initial hearing upon agreement of the parties.

B. Notice of Hearing. At least ten days prior to a hearing date, the Commission shall notify the petitioning party or the petitioning party's representative by mail, e-mail, or facsimile of the date, time and place of any hearing or proceeding.[~~In the case of notices for~~

~~informal proceedings, the notice shall inform the parties of deadlines for exchanging witness lists or other information.]~~

C. Proceedings Conducted by Telephone. Any proceeding may be held with one or more of the parties on the telephone if the presiding officer determines that it will be more convenient or expeditious for one or more of the parties and does not unfairly prejudice the rights of any party. Each party to the proceeding is responsible for notifying the presiding officer of the telephone number where contact can be made for purposes of conducting the hearing.

D. Representation.

1. A party may pursue a petition without assistance of counsel or other representation. However, a party may be represented by legal counsel or other representation at every stage of adjudication. Failure to obtain legal representation shall not be grounds for complaint at a later stage in the adjudicative proceeding or for relief on appeal from an order of the commission.

a) Legal counsel must enter an appearance.

b) Any representative other than legal counsel must submit a signed power of attorney authorizing the representative to act on the party's behalf and binding the party by the representative's action.

c) All documents will be directed to the party's representative. Documents may be transmitted by facsimile number, e-mail address or other electronic means if such transmission does not breach confidentiality. Otherwise, documents will be mailed to or served upon the representative's street address as shown in the petition for agency action.

2. Any division of the commission named as party to the proceeding may be represented by the Attorney General's Office.

E. Subpoena Power.

1. The presiding officer may issue subpoenas to secure the attendance of witnesses or the production of evidence.

a) The party requesting the subpoena must prepare it and submit it to the presiding officer for signature.

b) Service of the subpoena shall be made by the party requesting it in a manner consistent with the Utah Rules of Civil Procedure.

F. Motions.

[~~1. Conversion. Upon notice to the parties, the presiding officer may, on his own motion or on the motion of any party, convert the proceeding to a different type of proceeding under conditions specified in R861-1A-23.~~]

[~~2. Consolidation. The presiding officer has discretion to consolidate cases when the same tax assessment, series of assessments, or issues are involved in each, or where the fact situations and the legal questions presented are virtually identical.~~]

[~~3. Continuance. A continuance may be granted at the discretion of the presiding officer.~~]

[~~4. Default. The presiding officer may enter an order of default against a party in accordance with [section]Section 63-46b-11.~~]

a) The default order shall include a statement of the grounds for default and shall be delivered to all parties by electronic means or, if electronic transmission is unavailable, by U.S. mail.

b) A defaulted party may seek to have the default set aside according to procedures set forth in the Utah Rules of Civil Procedure.

[~~5. Ruling on Procedural Motions. Procedural motions may be made during the hearing or by written motion.~~]

a) Each motion shall include the grounds upon which it is based and the relief or order sought. Copies of written motions shall be served upon all other parties to the proceeding.

- b) Upon the filing of any motion, the presiding officer may:
 - (1) grant or deny the motion; or
 - (2) set the matter for briefing, hearing, or further proceedings.

KEY: developmentally disabled, grievance procedures, taxation, disclosure requirements

~~[August 21, 1997]~~1998

Notice of Continuation May 20, 1997

59-1-501
63-46b-5
63-46b-6
63-46b-7 through 63-46b-11



Tax Commission, Administration
R861-1A-27
Discovery Pursuant to Utah Code Ann.
Section 63-46b-7

NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE NO.: 20822
FILED: 02/26/98, 15:55
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: Section 63-46b-7 allows an agency to prescribe, by rule, the means of discovery.

SUMMARY: This amendment deletes language relating to discovery in informal proceedings.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Section 63-46b-7

ANTICIPATED COST OR SAVINGS TO:

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

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

Tax Commission
Administration
Tax Commission Building
210 North 1950 West
Salt Lake City, UT 84134, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:

Pam Hendrickson at the above address, by phone at (801) 297-3902, by FAX at (801) 297-3919, or by Internet E-mail at txnet1.phendric@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 04/14/98.

THIS FILING MAY BECOME EFFECTIVE ON: 04/15/98

AUTHORIZED BY: Pam Hendrickson, Commissioner

R861. Tax Commission, Administration.

R861-1A. Administrative Procedures.

R861-1A-27. Discovery Pursuant to Utah Code Ann. Section 63-46b-7.

~~[A. Discovery in informal proceedings is limited by sections 63-46b-5, 59-1-403 and the Government Records Access and Management Act:~~

~~—B.]A.~~ Discovery procedures in formal proceedings shall be established during the prehearing and scheduling conference in accordance with the Utah Rules of Civil Procedure and other applicable statutory authority.

~~[C.]B.~~ The party requesting information or documents may be required to pay in advance the costs of obtaining or reproducing such information or documents.

KEY: developmentally disabled, grievance procedures, taxation, disclosure requirements

~~[August 21, 1997]~~1998

63-46b-7 through 63-46b-11

Notice of Continuation May 20, 1997



Tax Commission, Administration
R861-1A-28
Evidence in Adjudicative Proceedings
Pursuant to Utah Code Ann. Sections
59-1-210, 76-8-502,
76-8-503, 63-46b-8

NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE NO.: 20823
FILED: 02/26/98, 15:55
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: Sections 63-46b-5 and 63-46b-8 provide guidance on discovery in agency adjudicative proceedings.

SUMMARY: This amendment deletes reference to informal proceedings.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Sections 59-1-210, 76-8-502, 76-8-506, and 64-46b-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:

Tax Commission
 Administration
 Tax Commission Building
 210 North 1950 West
 Salt Lake City, UT 84134, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:

Pam Hendrickson at the above address, by phone at (801) 297-3902, by FAX at (801) 297-3919, or by Internet E-mail at txnet1.phendric@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 04/14/98.

THIS FILING MAY BECOME EFFECTIVE ON: 04/15/98

AUTHORIZED BY: Pam Hendrickson, Commissioner

R861. Tax Commission, Administration.

R861-1A. Administrative Procedures.

R861-1A-28. Evidence in Adjudicative Proceedings Pursuant to Utah Code Ann. Sections 59-1-210, 76-8-502, 76-8-503, 63-46b-8.

A. Except as otherwise stated in this rule, formal proceedings shall be conducted in accordance with the Utah Rules of Evidence, and the degree of proof in a hearing before the commission shall be the same as in a judicial proceeding in the state courts of Utah. [~~Informal proceedings shall be conducted under relaxed rules of evidence.~~]

B. Every party to an adjudicative proceeding has the right to introduce evidence. The evidence may be oral or written, real or demonstrative, direct or circumstantial.

1. The presiding officer may admit any reliable evidence possessing probative value which would be accepted by a reasonably prudent person in the conduct of his affairs.

2. The presiding officer may admit hearsay evidence. However, no decision of the commission will be based solely on hearsay evidence.

3. If a party attempts to introduce evidence into a hearing, and that evidence is excluded, the party may proffer the excluded testimony or evidence to allow the reviewing judicial authority to pass on the correctness of the ruling of exclusion on appeal.

C. At the discretion of the presiding officer or upon stipulation of the parties, the parties may be required to reduce their testimony to writing and to prefile the testimony.

1. Prefiled testimony may be placed on the record without being read into the record if the opposing parties have had reasonable access to the testimony before it is presented. Except upon finding of good cause, reasonable access shall be not less than ten working days.

2. Prefiled testimony shall have line numbers inserted at the left margin and shall be authenticated by affidavit of the witness.

3. The presiding officer may require the witness to present a summary of the prefiled testimony. In that case, the witness shall reduce the summary to writing and either file it with the prefiled testimony or serve it on all parties within 10 days after filing the testimony.

4. If an opposing party intends to cross-examine the witness on prefiled testimony or the summary of prefiled testimony, that party must file a notice of intent to cross-examine at least 10 days prior to the date of the hearing or within a time frame agreed upon by the parties.

D. The presiding officer shall rule and sign orders on matters concerning the evidentiary and procedural conduct of the proceeding.

E. Oral testimony at a formal [~~or informal~~]hearing will be sworn. The oath will be administered by the presiding officer or a person designated by him. Anyone testifying falsely under oath may be subject to prosecution for perjury in accordance with the provisions of [~~Utah Code Ann.~~]Sections 76-8-502 and 76-8-503.

F. Any party appearing in an adjudicative proceeding may submit a memorandum of authorities. The presiding officer may request a memorandum from any party if deemed necessary for a full and informed consideration of the issues.

KEY: developmentally disabled, grievance procedures, taxation, disclosure requirements
~~[August 21, 1997]~~**1998** 59-1-210
 Notice of Continuation May 20, 1997 76-8-502
76-8-503
63-46b-7 through 63-46b-11



Tax Commission, Administration
R861-1A-32
 Mediation Process Pursuant to Utah
 Code Section 63-46b-1

NOTICE OF PROPOSED RULE
(Amendment)

DAR FILE NO.: 20824
FILED: 02/26/98, 15:55
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: Section 63-46b-1 allows an agency to meet with parties to encourage settlement of disputes.

SUMMARY: This amendment provides how if mediation produces a settlement agreement, the settlement agreement shall be prepared and adopted. It also provides the procedure if mediation does not resolve all issues in dispute.

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:

Tax Commission
Administration
Tax Commission Building
210 North 1950 West
Salt Lake City, UT 84134, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:

Pam Hendrickson at the above address, by phone at (801) 297-3902, by FAX at (801) 297-3919, or by Internet E-mail at txnet1.phendric@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 04/14/98.

THIS FILING MAY BECOME EFFECTIVE ON: 04/15/98

AUTHORIZED BY: Pam Hendrickson, Commissioner

R861. Tax Commission, Administration.

R861-1A. Administrative Procedures.

R861-1A-32. Mediation Process Pursuant to Utah Code Section 63-46b-1.

A. Except as otherwise precluded by law, a resolution to any matter of dispute may be pursued through mediation.

1. The parties may agree to pursue ~~mediation~~ mediation any time before the formal ~~or informal~~ hearing on the record.

2. The choice of mediator and the apportionment of costs shall be determined by agreement of the parties.

B. If mediation produces a settlement agreement, the agreement shall be submitted to the presiding officer pursuant to R861-1A-33.

1. The settlement agreement shall be prepared by the parties or by the mediator, and promptly filed with the presiding officer.

2. The settlement agreement shall be adopted by the commission if it is not contrary to law.

3. If the mediation does not resolve all of the issues, the parties shall prepare a stipulation that identifies the issues resolved and the issues that remain in dispute.

~~[(C):3.] [If mediation fails to resolve the dispute, the matter] If any issues remain unresolved, the appeal will be scheduled for a formal ~~or informal~~ hearing pursuant to R861-1A-23.~~

KEY: developmentally disabled, grievance procedures, taxation, disclosure requirements

~~August 21, 1997~~ **1998**

63-46b-1

Notice of Continuation May 20, 1997



Tax Commission, Auditing
R865-19S-58
Materials and Supplies Sold to Owners, Contractors and Repairmen of Real Property Pursuant to Utah Code Ann. Sections 59-12-102 and 59-12-103

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 20828

FILED: 03/02/98, 13:38

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: Section 59-12-103 imposes sales tax on the sale of tangible personal property.

SUMMARY: This amendment deletes language that specified that public utility pipelines are tangible personal property.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Sections 59-12-102 and 59-12-103

ANTICIPATED COST OR SAVINGS TO:

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

COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

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

Tax Commission
Auditing
Tax Commission Building
210 North 1950 West
Salt Lake City, UT 84134, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:

Pam Hendrickson at the above address, by phone at (801) 297-3902, by FAX at (801) 297-3919, or by Internet E-mail at txnet1.phendric@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 04/14/98.

THIS FILING MAY BECOME EFFECTIVE ON: 04/15/98

AUTHORIZED BY: Pam Hendrickson, Commissioner

R865. Tax Commission, Auditing.

R865-19S. Sales and Use Tax.

R865-19S-58. Materials and Supplies Sold to Owners, Contractors and Repairmen of Real Property Pursuant to Utah Code Ann. Sections 59-12-102 and 59-12-103.

A. Sales of construction materials and other items of tangible personal property to real property contractors and repairmen of real property are generally subject to tax if the contractor or repairman converts the materials or items to real property.

1. "Construction materials" include items of tangible personal property such as lumber, bricks, nails and cement that are used to construct buildings, structures or improvements on the land and typically lose their separate identity as personal property once incorporated into the real property.

2. Fixtures or other items of tangible personal property such as furnaces, built-in air conditioning systems, built-in appliances, or other items that are appurtenant to or incorporated into real property and that become an integral part of a real property improvement are treated as construction materials for purposes of this rule.

B. The sale of real property is not subject to sales tax, nor is the labor performed on real property. For example, the sale of a completed home or building is not subject to the tax, but sales of materials and supplies to contractors for use in building the home or building are taxable transactions as sales to final consumers.

1. The contractor or repairman who converts the personal property to real property is the consumer of tangible personal property regardless of the type of contract entered into--whether it is a lump sum, time and material, or a cost-plus contract.

2. Except as otherwise provided in B.4, the contractor or repairman who converts the construction materials, fixtures or other items to real property is the consumer of the personal property whether the contract is performed for an individual, a religious or charitable institution, or a government entity.

3. Sales of construction materials or fixtures made to religious or charitable institutions are exempt only if the items are sold as tangible personal property.

4. Sales of materials are considered made to religious or charitable institutions and, therefore, exempt from sales tax, if:

- a) the religious or charitable institution makes payment for the materials directly to the vendor; or
- b) the materials are purchased on behalf of the religious or charitable institution.

(i) Materials are purchased on behalf of the religious or charitable institution if the materials are clearly identified and segregated and installed or converted to real property owned by the religious or charitable institution.

5. Purchases not made pursuant to B.4. are assumed to have been made by the contractor and are subject to sales tax.

C. Sales of materials and supplies to contractors for use in out-of-state jobs are taxable unless sold in accordance with Section 59-12-104(33) of Tax Commission Rule R865-19S-44.

D. If the contractor or repairman purchases all materials and supplies from vendors who collect the Utah tax, no sales tax license is required unless the contractor makes direct sales of tangible personal property in addition to the work on real property.

1. If direct sales are made, the contractor shall obtain a sales tax license and collect tax on all sales of tangible personal property to final consumers.

2. The contractor must accrue and remit tax on all merchandise bought tax-free and converted to real property. Books and records must be kept to account for both material sold and material consumed.

E. This rule does not apply to contracts where the retailer sells and installs personal property that does not become part of the real property. Examples of items that remain tangible personal property even when attached to real property are:

1. moveable items that are attached to real property merely for stability or for an obvious temporary purpose;

2. manufacturing equipment and machinery and essential accessories appurtenant to the manufacturing equipment and machinery; ~~and~~

3. items installed for the benefit of the trade or business conducted on the property that are affixed in a manner that facilitates removal without substantial damage to the real property or to the item itself; ~~and~~

~~4. public utility lines or pipelines].~~

KEY: sales

~~[August 21, 1997]~~ **1998**

59-12

Notice of Continuation May 22, 1997



**Transportation, Motor Carrier
R909-1
Safety Regulations for Motor Carriers**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 20827

FILED: 02/27/98, 16:20

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: To incorporate a Safety Fitness Rating Methodology. This will be used to measure the safety fitness of motor carriers according to the safety fitness standard contained in 49 CFR 385. To revise requirements concerning glazing materials, windshield condition, coloring and tinting of windshields and windows, and obstructions to the driver's field of view for commercial motor vehicles. This will also remove obsolete regulatory language.

SUMMARY: This amendment establishes the guidelines used to measure a motor carrier's safety fitness. Motor Carriers will receive a safety fitness rating within 30 days of a Compliance Review. It will provide motor carriers with 45 days to challenge said rating before it becomes effective. Appendix B to Part 385 gives an explanation of the Safety Rating Process and "acute and critical" regulations that will be used in this process. This rule states that a motor vehicle

must be equipped with a windshield. This rule will also set guidelines to allow coloring or tinting of windshields and the windows to the immediate right and left of the driver of commercial motor vehicles provided the parallel luminous transmittance through the colored or tinted glazing is not less than 70 percent of the light at normal incidence in those portions of the windshield or windows which are marked as having a luminous transmittance of at least 70 percent. Carriers must assure that glazing materials are marked in accordance with FMVSS 205.S6. This is the type of indication which the manufacturers make to show compliance with the FMVSS. It allows for the mounting of transponders to the windshield provided transponders are mounted at the approximate center of the top of the windshield. Such devices could not be placed lower than 152 mm (6 inches) from the upper edge of the windshield, must be outside the area swept by the windshield wipers and must be outside of the driver's sight lines to the road and highway signs or signals. Decals and stickers mounted on the windshield, such as Commercial Vehicle Safety Alliance inspection decals, and stickers and/or decals required under federal or state laws may be placed at the bottom or sides of the windshield provided such decals or stickers do not extend upward more than 4.5 inches (11.5cm) from the bottom of the windshield and are located outside the area swept by the windshield wipers and outside the driver's sight lines to the road and highway signs or signals.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Section 27-17-103
FEDERAL MANDATE FOR THIS FILING: Title 49 CFR 350-399

THIS FILING INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: Regulations Management Corporation, 49 CFR 350 through 399, October 1, 1997, edition, as amended through February 1, 1998.

ANTICIPATED COST OR SAVINGS TO:

- ❖THE STATE BUDGET: \$64 cost.
- ❖LOCAL GOVERNMENTS: None.
- ❖OTHER PERSONS: None.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be an approximate \$64 cost to the Office of Motor Carriers. This will be due to approximately 200 motor carriers being rated in a year and letters of proposed rating needing to be mailed. Since the Safety Fitness Rating Methodology is not establishing any new regulations for the motor carriers, but providing them with the process by which they will be rated there is no cost associated with it. The requirements for commercial motor vehicles to have a windshield is already defined under state law, this will not add a financial burden upon the motor carrier.

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

Transportation
Motor Carrier
Calvin Rampton Building
4501 South 2700 West
Box 148240
Salt Lake City, UT 84114-8240, or

at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:

Tamy L. Scott at the above address, by phone at (801) 965-4752, by FAX at (801) 965-4847, or by Internet E-mail at src0fs02.tscott@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 04/14/98.

THIS FILING MAY BECOME EFFECTIVE ON: 04/15/98

AUTHORIZED BY: Tamy L. Scott, Transportation Safety Investigator

R909. Transportation, Motor Carrier.
R909-1. Safety Regulations for Motor Carriers.
R909-1-1. Adoption of Federal Regulations.

A. Safety Regulations for Motor Carries, 49 CFR Parts 350 through the end of part 399, and their amendments as of [~~September 1, 1997~~February 1, 1998, in the October 1, [~~1996~~1997 edition as printed in the Regulations Management Corporation service, are incorporated by reference, except for parts 395.1(l),395.1(m), 395.1(n) and 395.1(o). This applies to all motor carrier(s) as defined in CFR Title 49 Part 390.5 engaged in Interstate and/or Intrastate Commerce.

B. In the instance of a driver who is used primarily in the transportation of construction materials and equipment, as defined under 395.2, to and from an active construction site, any period of 7 or 8 consecutive days may end with the beginning of any off-duty period of 36 or more successive hours.

KEY: trucks, transportation safety
[~~November 26, 1997~~April 1998

27-17-103
27-17-104



End of the Proposed Rules Section

NOTICES OF 120-DAY (EMERGENCY) RULES

An agency may file a 120-DAY (EMERGENCY) RULE when it finds that the regular rulemaking procedures would:

- (a) cause an imminent peril to the public health, safety, or welfare;
- (b) cause an imminent budget reduction because of budget restraints or federal requirements; or
- (c) place the agency in violation of federal or state law (UTAH CODE Subsection 63-46a-7(1) (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.

Health, Health Care Financing, Coverage and Reimbursement Policy **R414-10A** Transplant Services Standards

NOTICE OF 120-DAY (EMERGENCY) RULE

DAR FILE NO.: 20825
FILED: 02/26/98, 15:55
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: Continued coverage under the present rule would exceed the Department budget assigned to transplant services.

SUMMARY: This rule is identical to a 120-day (emergency) rule currently on file. There is also an amendment on file identical to both emergency rules, but its first possible effective date is 03/04/98 and the first emergency rule lapses on 02/28/98. This filing will cover the time between the lapse of the first emergency rule and whatever effective date can be achieved on the amendment.

(DAR Note: This second emergency rule filing supersedes the emergency rule filing (DAR No. 20188) that was published in the November 15, 1997, issue of the *Utah State Bulletin*, that was effective 10/31/97. A corresponding

proposed amendment is under DAR No. 20652 in the February 1, 1998, issue of the *Utah State Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Sections 26-1-5 and 26-18-1

FEDERAL MANDATE FOR THIS FILING: Section 9507 of COBRA 1985, Section 1903(i)(1) ssa

ANTICIPATED COST OR SAVINGS TO:

- ❖THE STATE BUDGET: The Department will be able to stay within its allotted budget for transplants.
 - ❖LOCAL GOVERNMENTS: None.
 - ❖OTHER PERSONS: None.
- COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

EMERGENCY FILING JUSTIFICATION: REGULAR RULEMAKING PROCEDURES WOULD cause an imminent budget reduction because of budget restraints or federal requirements.

The Department would exceed current fiscal appropriations if current coverage was continued.

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:
Dr. John Hylen at the above address, by phone at (801) 538-6019, by FAX at (801) 538-6099, or by Internet E-mail at jhylen@email.state.ut.us.

THIS FILING IS EFFECTIVE ON: 02/26/98

AUTHORIZED BY: Rod L. Betit, Executive Director

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

R414-10A. Transplant Services Standards.

.....

R414-10A-2. Definitions.

For purposes of R414-10A:

- (1) "Abstinence" means the documented non-use of any abusable psychoactive substance.
- (2) "Active infection" means current presumptive evidence of invasion of tissue or body fluids by bacteria, viruses, fungi, rickettsiae, or parasites which is not demonstrated to be effectively controlled by the host, antibiotic or antimicrobial agents.
- (3) "Age group" means patients documented in the medical literature with an age at the time of transplantation related to the current age of the client as listed below:
 - (a) Birth through 12 months;
 - (b) One through 12 years;
 - (c) 13 through 20 years;
 - (d) 21 through 30 years;
 - (e) 31 through 40 years; or
 - (f) 41 through 54 years.
 - (g) Department medical consultants may consider other age groups, documented by the medical literature and the transplant center to have conclusive relevance to the client's survival.
- (4) "Active substance abuse" means the current use of any abusable psychoactive substance which is not appropriately prescribed and taken under the direction of a physician or is not medically indicated.
- (5) "Allogenic" means having a different genetic constitution but belonging to the same species.
- (6) "Autologous" means the products or components of the same individual person.
- (7) "Client" means an individual eligible to receive covered Medicaid services from an enrolled Medicaid provider.
- (8) "Department" means the Utah Department of Health.
- (9) "Emergency transplantation" means any transplantation which for reasons of medical necessity requires that a transplant be performed less than five days after determination of the need for the procedure.
- (10) "Increase in life expectancy" means the difference in the average number of years of life between the life expectancy of the control group of patients compared to the life expectancy of the transplantation group.
- (11) "Intestine transplantation" means transplantation of both the small bowel and colon.

(12) "Life expectancy" means the average number of years of life remaining for the age group of the client at the time the Department receives the prior authorization request.

(13) "Medical literature" means articles and medical information which have been peer reviewed and accepted for publication or published.

(14) "Medically necessary" means a client's medical condition which meets all the criteria and none of the contraindications for the type of transplantation requested.

(15) "Multiple transplantations" means, except for corneas, the transplantation of more than one tissue or organ during the same or different operative procedure.

(16) "Multivisceral transplantation" means the transplantation of liver, pancreas, omentum, stomach, small intestine and colon.

(17) "Patient" means a person who is receiving covered professional services provided or directed by a licensed practitioner of the healing arts enrolled as a Medicaid provider.

(18) "Remission" means the lack of any evidence of the leukemia on physical examination and hematological evaluation, including normocellular bone marrow with less than five percent blast cells, and peripheral blood counts within normal values, except for clients who are receiving maintenance chemotherapy.

(19) "Services" means the type of medical assistance specified in sections 1905(a)(1) through (24) of the Social Security Act and interpreted in the 42 CFR Section 440, Subpart A, October 1992 edition, which is adopted and incorporated by reference.

(20) "Substance abuse rehabilitation program" means a rehabilitation program developed and conducted by an inpatient facility that, at a minimum, meets the standards of organization and staff of a chemical dependency/substance abuse specialty hospital specified in R432-102-4,5.

(21) "Syngeneic" means possessing identical genotypes, as monozygotic or identical twins.

(22) "Transplantation" means the transfer of a human organ or tissue from one person to another or from one site to another in the same individual, except for skin, tendon, and bone.

(23) "Vital end-organs" means organs of the body essential to life, e.g., the heart, the liver, the lungs, and the brain.

.....

R414-10A-6. Prior Authorization.

- (1) Prior authorization is required for all transplantation services except for cornea and kidney transplantation.
- (2) The prior authorization request for transplantation services must be initiated by the client's referring physician. Failure to submit all required information with the prior authorization request will delay processing of the request for transplantation.
- (3) The initial request for prior authorization of any transplantation, except cornea or kidney, must contain all of the following: ~~information and documentation~~
 - (a) A request for Prior Authorization Form 24-06-37, completed and signed by the physician.
 - (b) A description of the medical condition which necessitates a transplantation.

(c) ~~[The client's prognosis, with and without a transplant, including estimated life expectancy]~~Medical literature from the transplant center documenting the client's life expectancy, with and without a transplant. The transplant center staff must complete and submit to the Department for staff review and evaluation, a medical literature review documenting a probability of successful clinical outcome for patients receiving transplantation for the specific age group, specific diagnosis(es), condition, and type of transplantation proposed for the client. This review of the medical literature must document an increase in life expectancy between control group(s) and transplantation group(s). The Department shall use independent research by medical consultant(s) to evaluate the documentation submitted by the transplant center.

(d) Transplantation treatment alternatives utilized previous to the transplantation request.

(e) Transplantation treatment alternatives considered and discarded, including discussion of why the alternatives have been discarded.

(f) Comprehensive examination, evaluation and recommendations completed by a board-certified or board-eligible specialist in a field directly related to the client's condition which necessitates the transplantation, such as a nephrologist, gastroenterologist, cardiologist, or hematologist.

(g) Comprehensive psycho-social evaluation of the client by a board-certified or board-eligible psychiatrist. The evaluation must include a comprehensive history regarding substance abuse and compliance with medical treatment.

(h) Psycho-social evaluation of parent(s) or guardian(s) of the client, by a board-certified or board-eligible psychiatrist if the client is less than 18 years of age. The psycho-social evaluation must include a comprehensive history regarding substance abuse, and past and present compliance with medical treatment.

(i) Comprehensive psychiatric evaluation of the client, if the client has a history of mental illness.

(j) Comprehensive psychological or developmental testing, as requested by the Department.

(k) Comprehensive infectious disease evaluation for a client with a recent or current suspected infectious episode.

(l) Documentation by the client's referring physician that a client with a history of substance abuse has successfully completed a substance abuse program or has documented abstinence for a period of at least six months before any transplantation service can be authorized.

(m) Hospital and outpatient records for at least the last two years, unless the patient is less than two years of age, in which case all records.

(n) Any other medical evidence needed to evaluate possible contraindications for the type of transplantation being considered. Contraindications are listed in this rule under each organ or transplant type.

(o) The transplant center must document, by a current medical literature review, a one-year survival rate from patients having received transplantation for the age group, specific diagnosis(es), condition and type of transplantation proposed for the client. Survival rate must be calculated by the Kaplan-Meier product-limit method or the actuarial life table method: "Kaplan, G., Meier, P. Non-Parametric estimation from incomplete observations. Journal of American Statistical Association 53:457-481, 1958. Cox, D.R., Oakes, D. Analysis of survival data. Chapman and Hill, 1984."

adopted and incorporated by reference. At least ten patients in the appropriate age group must be alive at the end of the one or three year period to document adequate confidence intervals. The Department shall use independent research by staff medical consultants to evaluate the documentation submitted by the transplant center.

(p) The transplant center must document by a current medical literature review, a one year graft function rate for patients having received pancreas, kidney or small bowel transplantation for the age group, specific diagnosis(es), condition, and type of transplantation proposed for the client. Graft function rate must be calculated by the Kaplan-Meier product-limit method or the actuarial life table method: "Kaplan, G., Meier, P. Non-Parametric estimation from incomplete observations. Journal of American Statistical Association 53:457-481, 1958. Cox, D.R., Oakes, D. Analysis of survival data. Chapman and Hill, 1984." adopted and incorporated by reference. The time to graft failure will be determined by the use of insulin post-pancreas transplantation, by the use of dialysis post-renal transplantation, and the use of total parenteral nutrition post-small bowel transplantation. At least ten patients in the appropriate age group must have documented graft function at the end of the one year period to document adequate confidence intervals. The Department shall use independent research by staff medical consultants to evaluate the documentation submitted by the transplant center.

(q) Bone marrow transplantation centers must document, by a current medical literature review, a one-year and a three-year survival rate from patients having received transplantation for the age group, specific diagnosis(es), condition and type of transplantation proposed for the client. The Department shall use independent research by staff medical consultants to evaluate the documentation submitted by the transplant center.

(r) The transplant center must provide written recommendations for each client which support the need for the transplant. The recommendations must reflect use of both the transplant center's own patient selection criteria and the Utah Medicaid program criteria as noted in R414-10A-8 through 22. Agreement of the transplant center to provide the required service must also be established.

(s) The physician must provide, for review by the Department, any additional medical information which could affect the outcome of the specific transplant being requested.

(t) The completed request for authorization, along with all required information and documentation, must be delivered to:

Utah Department of Health
Bureau of Coverage and Reimbursement Policy
Utilization Management Unit
Transplant Coordinator
288 North 1460 West
Box 142904
Salt Lake City, Utah 84114-2904

.....

R414-10A-9. Criteria and Contraindications for Bone Marrow Transplantation.

(1) Bone marrow transplantation services may be provided for a Medicaid eligible client of any age who meets the following criteria.

(2) The client for bone marrow transplantation must meet requirements of R414-10A-9(2)(a) or (b).

(a) Allogenic and syngeneic bone marrow transplantations may be approved for payment only when the client has an HLA-matched donor. The donor must be compatible for all or a five-out-of-six match of World Health Organization recognized HLA-A, -B, and -DR antigens as determined by appropriate serologic typing methodology.

(i) A search of related family members, for a suitable donor, is authorized for payment only after a written prior authorization request has been received by the Department.

(ii) A search of unrelated persons by HLA-type, for a suitable donor, will not be authorized for payment by the Department until the client has been documented to meet all other criteria in this rule for bone marrow transplantation except an HLA-matched donor.

(iii) The transplant center staff must complete, and submit to the Department for evaluation, a current medical literature review, documenting a [~~minimum~~]probability of successful clinical outcome by having a greater than or equal to 75 percent one-year survival rate, or by having a greater than or equal to 55 percent three-year survival rate or by meeting the one-year and three-year survival rates for patients receiving bone marrow transplantation for the age group, specific diagnosis(es), condition, and type of transplantation proposed for the client. The Department shall use independent research by staff medical consultants to evaluate the documentation submitted by the transplant center.

(b) Autologous bone marrow or peripheral blood stem cell transplantation performed in conjunction with total body radiation or high dose chemotherapy, may be approved for payment only if a current medical literature review, completed by the transplant center staff and sent to the Department for staff review and evaluation, documenting a [~~minimum~~]probability of successful clinical outcome by having a greater than or equal to 75 percent one-year survival rate, or by having a greater than or equal to 55 percent three-year survival rate or by meeting the one-year and three-year survival rates for patients receiving bone marrow transplantation for the age group, specific diagnosis(es), condition, and type of transplantation proposed for the client. The Department shall use independent research by staff medical consultants to evaluate the documentation submitted by the transplant center.

(c) Clients for autologous bone marrow transplantations must have adequate marrow function and no evidence of marrow involvement by the primary malignancy at the time the marrow is harvested.

(3) In addition to meeting the requirements of R414-10A-9(2)(a) or (b), the client for bone marrow transplantation must meet the requirements of at least R414-10A-9(3)(a) or (b).

(a) The client must have irreversible, progressive bone marrow disease with a life expectancy of one year or less without transplantation or must have greater than a five year increase in life expectancy with transplantation, with no other reasonable medical or surgical alternative to transplantation available.

(b) The transplant center staff must complete, and submit to the Department for staff review and evaluation, a medical literature review documenting that the client's condition will cause irreversible, progressive disease to vital end-organs within two years following the application for transplant and have no other reasonable medical or surgical alternative to transplantation available. The medical literature must also document that the bone

marrow transplantation will prevent irreversible, progressive disease to the client's vital end-organs and must document that it will increase the life expectancy of the client by greater than five years. The Department shall use independent research by staff medical consultants to evaluate the documentation submitted by the transplant center.

(4) In addition to meeting the requirements listed in R414-10A-9, (1) through (3), the client must meet all of the following requirements:

(a) Medical assessment that the client is a reasonable risk for surgery with a likelihood of tolerance for immunosuppressive therapy.

(b) Medical assessment by the client's referring physician that the client has sufficient mental, emotional and social stability and support to ensure that the client and parent(s) or guardian(s) will strictly adhere to the long-term follow-up and the immunosuppressive program which is required.

(c) Psycho-social assessment by a board-certified or board-eligible psychiatrist that the client has sufficient mental, emotional and social stability and support to ensure that the client and parent(s) or guardian(s) will strictly adhere to the long-term follow-up and the immunosuppressive program which is required.

(d) The client must have a strong motivation to undergo the procedure as documented by the medical and psycho-social assessment.

(e) If the client has a history of substance abuse, then the client must successfully complete a substance abuse rehabilitation program or must have documented abstinence for a period of at least six months before the Department reviews a request for transplantation services.

(f) A current medical literature review, completed by the transplant center staff and submitted to the Department for staff review and evaluation, documenting that the underlying original bone marrow disease will not recur and limit survival to less than 75% one-year survival rate, or to less than 55% three-year survival rate. The Department shall use independent research by staff medical consultants to evaluate the documentation submitted by the transplant center.

(5) Any single contraindication listed below precludes approval for Medicaid payment for bone marrow transplantation:

(a) Active infection.

(b) Acute severe hemodynamic compromise at the time of transplantation if accompanied by significant compromise of one or more vital end-organs.

(c) Active substance abuse.

(d) Presence of systemic dysfunction or malignant disease which could limit successful clinical outcome or interfere with compliance with a disciplined medical regimen or rehabilitation after transplantation.

(e) Human Immunodeficiency Virus (HIV) antibody positive.

(f) Neuropsychiatric disorder which could lead to non-compliance or inhibit rehabilitation of the patient.

(g) Pulmonary diseases:

(i) Cystic fibrosis.

(ii) Obstructive pulmonary disease (FEV1 less than 50% of predicted).

(iii) Restrictive pulmonary disease (FVC less than 50% of predicted).

(iv) Unresolved pulmonary roentgenographic abnormalities of unclear etiology.

(v) Recent or unresolved pulmonary infarction.

(h) Cancer, unless treated and eradicated for two or more years or unless a current medical literature review, completed by the transplant center staff and submitted to the Department for staff review and evaluation, documents a greater than or equal to 75% one-year survival rate, or a greater than or equal to 55 percent three-year survival rate, or by meeting the one-year and three-year survival rates after transplantation for the age group, specific cancer, diagnosis(es), condition, and type of transplantation proposed for the client. The Department shall use independent research by staff medical consultants to evaluate the documentation submitted by the transplant center.

(i) Cardiovascular diseases:

(i) Intractable cardiac arrhythmias.

(ii) Symptomatic or occlusive peripheral vascular or cerebrovascular disease.

(iii) Severe generalized arteriosclerosis.

(j) Evidence of other major organ system disease or anomaly which could decrease the probability of successful clinical outcome or decrease the potential for rehabilitation.

(k) Behavior pattern documented in the client's medical or psycho-social assessment which could interfere with a disciplined medical regimen. An indication of non-compliance by the client is documented by any of the following:

(i) Non-compliance with medications or therapy.

(ii) Failure to keep scheduled appointments.

(iii) Leaving the hospital against medical advice.

(iv) Active substance abuse.

(6) Prior to the approval of transplantation, the transplantation team must document a plan of care, agreed to by the parent(s) or guardian(s) of a client who is under 18 years of age, to assure compliance to medication and follow-up care, if an indication of non-compliance documented by any of the behaviors listed in R414-10A-9(5)(k)(i) through (iv) is demonstrated by the parent(s) or guardian(s) of the client.

R414-10A-10. Criteria and Contraindications for Heart Transplantation.

(1) Heart transplantation services may be provided for a Medicaid eligible client of any age who meets the following criteria.

(2) The client for heart transplantation must meet requirements of at least R414-10A-10(2)(a) or (b).

(a) The client must have irreversible, progressive heart disease, with a life expectancy of one year or less[;] without transplantation, or documented evidence of progressive pulmonary hypertension, and with no other reasonable medical or surgical alternative to transplantation available.

(b) The transplant center staff must complete, and submit to the Department for staff review and evaluation, a medical literature review documenting that the client's condition will cause irreversible, progressive disease to vital end-organs within two years following the application for transplant and have no other reasonable medical or surgical alternative to transplantation available. The medical literature must also document that the heart transplantation will prevent irreversible, progressive disease to the client's vital end-organs and must document that it will increase the life expectancy of the client by greater than five years. The

Department shall use independent research by staff medical consultants to evaluate the documentation submitted by the transplant center.

(3) In addition to meeting at least one of the requirements listed in R414-10A-10(2), the client must meet all of the following requirements:

(a) The transplant center staff must complete, and submit to the Department for staff review and evaluation, a current medical literature review documenting a probability of successful clinical outcome by having a greater than or equal to 75 percent one-year survival rate for patients receiving heart transplantation for the age group, specific diagnosis(es), condition, and type of transplantation proposed for the client. The Department shall use independent research by staff medical consultants to evaluate the documentation submitted by the transplant center.

(b) Severe cardiac dysfunction.

(c) Medical assessment that the client is a reasonable risk for surgery with a likelihood of tolerance for immunosuppressive therapy.

(d) Medical assessment by the client's referring physician that the client has sufficient mental, emotional and social stability and support to ensure that the client and parent(s) or guardian(s) will strictly adhere to the long-term follow-up and the immunosuppressive program which is required.

(e) Psycho-social assessment by a board-certified or board-eligible psychiatrist that the client has sufficient mental, emotional and social stability and support to ensure that the client and parent(s) or guardian(s) will strictly adhere to the long-term follow-up and the immunosuppressive program which is required.

(f) The client must have strong motivation to undergo the procedure, as documented by the medical and psycho-social assessment.

(g) If the client has a history of substance abuse, then the client must successfully complete a substance abuse rehabilitation program or must have documented abstinence for a period of at least six months before the Department reviews a request for transplantation services.

(h) A current medical literature review, completed by the transplant center staff and submitted to the Department for staff review and evaluation, documenting that the underlying original heart disease will not recur and limit survival to less than 75% one-year survival rate. The Department shall use independent research by staff medical consultants to evaluate the documentation submitted by the transplant center.

(4) Any single contraindication listed below precludes approval for Medicaid payment for heart transplantation:

(a) Active infection.

(b) Acute severe hemodynamic compromise at the time of transplantation if accompanied by significant compromise of one or more non-cardiac vital end-organs.

(c) Active substance abuse.

(d) Presence of systemic dysfunction or malignant disease which could limit successful clinical outcome, interfere with compliance with a disciplined medical regimen or rehabilitation after transplantation.

(e) Human Immunodeficiency Virus (HIV) antibody positive.

(f) Neuropsychiatric disorder which could lead to non-compliance or inhibit rehabilitation of the patient.

(g) Pulmonary diseases:

- (i) Cystic fibrosis.
- (ii) Obstructive pulmonary disease (FEV1 less than 50% of predicted).
- (iii) Restrictive pulmonary disease (FVC less than 50% of predicted).
- (iv) Unresolved pulmonary roentgenographic abnormalities of unclear etiology.
- (v) Recent or unresolved pulmonary infarction.
- (h) Cancer, unless treated and eradicated for two or more years or unless a current medical literature review, completed by the transplant center staff and submitted to the Department for staff review and evaluation, documents a greater than or equal to 75% one-year survival rate after transplantation for the age group, specific cancer, diagnosis(es), condition, and type of transplantation proposed for the client. The Department shall use independent research by staff medical consultants to evaluate the documentation submitted by the transplant center.

- (i) Cardiovascular diseases:

- (i) Severe pulmonary hypertension documented in patients 18 years of age and older by a pulmonary vascular resistance greater than eight Wood units, or pulmonary vascular resistance of six or seven Wood units in which a nitroprusside infusion is unable to reduce the pulmonary vascular resistance to less than three Wood units or is unable to reduce the pulmonary artery systolic pressure to below 50 mmHg.

- (ii) Severe pulmonary hypertension documented in patients less than 18 years of age and more than six months of age by a pulmonary vascular resistance greater than six pulmonary vascular resistance index units (PVRI), or in which a nitroprusside infusion is unable to reduce the pulmonary vascular resistance to less than six PVRI.

- (iii) Symptomatic or occlusive peripheral vascular or cerebrovascular disease.

- (iv) Severe generalized arteriosclerosis.

- (j) Evidence of other major organ system disease or anomaly which could decrease the probability of successful clinical outcome or decrease the potential for rehabilitation.

- (k) Behavior pattern documented in the client's medical or psycho-social assessment which could interfere with a disciplined medical regimen. An indication of non-compliance by the client is documented by any of the following:

- (i) Non-compliance with medications or therapy.
- (ii) Failure to keep scheduled appointments.
- (iii) Leaving the hospital against medical advice.
- (iv) Active substance abuse.

- (5) Prior to approval of the transplantation, the transplantation team must document a plan of care, agreed to by the parent(s) or guardian(s), if an indication of non-compliance is demonstrated by the parent(s) or guardian(s) of a client who is under 18 years of age. Non-compliance is demonstrated by documentation of any of the behaviors listed in R414-10A-10(4)(k)(i) through (iv).

R414-10A-11. Criteria and Contraindications for Intestine Transplantation.

(1) Intestine transplantation services may be provided for a Medicaid eligible client of any age who meets the following criteria.

(2) The client for intestine transplantation must meet the requirements of at least R414-10A-11(2)(a) or (b).

(a) The client must have irreversible, progressive small bowel and large bowel disease, with a life expectancy of one year or less[;] without transplantation, or must have greater than a five year increase in life expectancy with transplantation, with no other reasonable medical or surgical alternative to transplantation available.

(b) The client must have short bowel syndrome that requires daily hyperalimentation with no other reasonable medical or surgical alternative to transplantation available.

(3) In addition to meeting at least one of the requirements listed in R414-10A-11(2), the client must meet all of the following requirements:

(a) The transplant center staff must complete, and submit to the Department for staff review and evaluation, a current medical literature review documenting a probability of successful clinical outcome by having a greater than or equal to 75 percent one-year small bowel graft function rate for patients receiving intestine transplantation for the age group, specific diagnosis(es), condition, and type of transplantation proposed for the client. The Department shall use independent research by staff medical consultants to evaluate the documentation submitted by the transplant center.

(b) The transplant center staff must complete, and submit to the Department for staff review and evaluation, a current medical literature review documenting a probability of successful clinical outcome by having a greater than or equal to 85 percent one-year survival rate for patients receiving intestine transplantation for the age group, specific diagnosis(es), condition, and type of transplantation proposed for the client. The Department shall use independent research by staff medical consultants to evaluate the documentation submitted by the transplant center.

(c) Medical assessment that the client is a reasonable risk for surgery with a likelihood of tolerance for immunosuppressive therapy.

(d) Medical assessment by the client's referring physician that the client has sufficient mental, emotional and social stability and support to ensure that the client and parent(s) or guardian(s) will strictly adhere to the long term follow up and the immunosuppressive program which is required.

(e) Psycho-social assessment by a board-certified or board-eligible psychiatrist that the client has sufficient mental, emotional, and social stability and support to ensure that the client and parent(s) or guardian(s) will strictly adhere to the long-term follow-up and the immunosuppressive program which is required.

(f) The client must have a strong motivation to undergo the procedure as documented by the medical and psycho-social assessment.

(g) If the client has a history of substance abuse, then he must successfully complete a substance abuse rehabilitation program or must have documented abstinence for a period of at least six months before the Department reviews a request for transplantation services.

(h) A current medical literature review, completed by the transplant center staff and submitted to the Department for staff review and evaluation, documenting that the underlying original intestinal disease will not recur and limit graft function survival to less than 75% one-year survival rate.

(i) The Department shall use independent research by staff medical consultants to evaluate the documentation submitted by the transplant center.

(4) Any single contraindication listed below precludes approval for Medicaid payment for small bowel transplantation:

- (a) Active infection.
- (b) Acute severe hemodynamic compromise at the time of transplantation, if accompanied by significant compromise of one or more vital end-organs.
- (c) Active substance abuse.
- (d) Presence of systemic dysfunction or malignant disease which could limit survival, interfere with compliance with a disciplined medical regimen or rehabilitation after transplantation.
- (e) Human Immunodeficiency Virus (HIV) antibody positive.
- (f) Neuropsychiatric disorder which could lead to non-compliance or inhibit rehabilitation of the patient.
- (g) Pulmonary diseases:
 - (i) Cystic fibrosis.
 - (ii) Obstructive pulmonary disease (FEV1 less than 50% of predicted).
 - (iii) Restrictive pulmonary disease (FVC less than 50% of predicted).
 - (iv) Unresolved pulmonary roentgenographic abnormalities of unclear etiology.
 - (v) Recent or unresolved pulmonary infarction.
 - (h) Cancer, unless treated and eradicated for two or more years, or unless a current medical literature review, completed by the transplant center staff and submitted to the Department for staff review and evaluation, documents a greater than or equal to 85% one-year survival rate after transplantation for the age group, specific cancer, diagnosis(es), condition, and type of transplantation proposed for the client. The Department shall use independent research by staff medical consultants to evaluate the documentation submitted by the transplant center.
 - (i) Cardiovascular diseases:
 - (i) Myocardial infarction within six months.
 - (ii) Intractable cardiac arrhythmias.
 - (iii) Class III or IV cardiac dysfunction by New York Heart Association criteria.
 - (iv) Prior congestive heart failure, unless a cardiovascular consultant determines adequate cardiac reserve.
 - (v) Symptomatic or occlusive peripheral vascular or cerebrovascular disease.
 - (vi) Severe generalized arteriosclerosis.
 - (j) Evidence of other major organ system disease or anomaly which could decrease the probability of successful clinical outcome or decrease the potential for rehabilitation.
 - (k) Behavior pattern documented in the client's medical or psycho-social assessment which could interfere with a disciplined medical regimen. An indication of non-compliance by the client is documented by any of the following:
 - (i) Non-compliance with medications or therapy.
 - (ii) Failure to keep scheduled appointments.
 - (iii) Leaving the hospital against medical advice.
 - (iv) Active substance abuse.
 - (5) Prior to approval of the transplantation, the transplantation team must document a plan of care, agreed to by the parent(s) or guardian(s), if an indication of non-compliance is demonstrated by the parent(s) or guardian(s) of a client who is under 18 years of age. An indication of non-compliance by the parent(s) or guardian(s) is documented by any of the behaviors listed in R414-10A-11(4)(k)(i) through (iv).

•••••

R414-10A-13. Criteria and Contraindications for Liver Transplantation.

- (1) Liver transplantation services may be provided for a Medicaid eligible client of any age who meets the following criteria.
- (2) A client for liver transplantation must meet requirements of at least R414-10A-13(2)(a) or (b).
 - (a) The client must have irreversible, progressive liver disease with a life expectancy of one year or less without transplantation, with no other reasonable medical or surgical alternative to transplantation available.
 - (b) The transplant center staff must complete, and submit to the Department for review and evaluation, a medical literature review documenting that the client's condition will cause irreversible, progressive disease to vital end-organs within two years following the application for transplant and have no other reasonable medical or surgical alternative to transplantation available. The medical literature must also document that the liver transplantation will prevent the irreversible, progressive disease to the client's vital end-organs and must document that it will increase the life expectancy of the client by greater than five years. The Department shall use independent research by staff medical consultants to evaluate the documentation submitted by the transplant center.
 - (3) In addition to meeting the requirements listed in R414-10A-13(2), the client must meet all of the following requirements:
 - (a) The transplant center staff must complete, and submit to the Department for staff review and evaluation, a current medical literature review, documenting a probability of successful clinical outcome by having a greater than or equal to 75 percent one-year survival rate for patients receiving liver transplantation for the age group, specific diagnosis(es), condition, and type of liver transplantation proposed for the client. The Department shall use independent research by staff medical consultants to evaluate the documentation submitted by the transplant center.
 - (b) Medical assessment that the client is a reasonable risk for surgery with a likelihood of tolerance for immunosuppressive therapy.
 - (c) Medical assessment by the client's referring physician that the client has sufficient mental, emotional and social stability and support to ensure that the client and parent(s) or guardian(s) will strictly adhere to the long term follow up and the immunosuppressive program which is required.
 - (d) Psycho-social assessment by a board-certified or board-eligible psychiatrist that the client has sufficient mental, emotional, and social stability and support to ensure that the client and parent(s) or guardian(s) will strictly adhere to the long-term follow-up and the immunosuppressive program which is required.
 - (e) The client must have a strong motivation to undergo the procedure as documented by the medical and psycho-social assessment.
 - (f) If the client has a history of substance abuse, then the client must successfully complete a substance abuse rehabilitation program or must have documented abstinence for a period of at least six months before the Department reviews a request for transplantation services.
 - (g) A current medical literature review, completed by the transplant center staff and submitted to the Department for staff

review and evaluation, documenting that the underlying original liver disease will not recur and limit survival to less than 75% one-year survival rate. The Department shall use independent research by staff medical consultants to evaluate the documentation submitted by the transplant center.

(4) Any single contraindication listed below precludes approval for Medicaid payment for liver transplantation:

(a) Active infection outside the hepatobiliary system.
 (b) Acute severe hemodynamic compromise at the time of transplantation, if accompanied by significant compromise of one or more non-hepatic vital end-organs.

(c) Hepatitis B surface antigen positive, except for cases of fulminant hepatitis B.

(d) Stage IV hepatic coma.

(e) Active substance abuse.

(f) Presence of systemic dysfunction or malignant disease which could limit successful clinical outcome, interfere with compliance with a disciplined medical regimen or rehabilitation after transplantation.

(g) Human Immunodeficiency Virus (HIV) antibody positive.

(h) Neuropsychiatric disorder which could lead to non-compliance or inhibit rehabilitation of the patient.

(i) Pulmonary diseases:

(i) Cystic fibrosis.

(ii) Obstructive pulmonary disease (FEV1 less than 50% of predicted).

(iii) Restrictive pulmonary disease (FVC less than 50% of predicted).

(iv) Unresolved pulmonary roentgenographic abnormalities of unclear etiology.

(v) Recent or unresolved pulmonary infarction.

(j) Cancer, unless treated and eradicated for two or more years or unless a current medical literature review, completed by the transplant center staff and submitted to the Department for staff review and evaluation, documents a greater than or equal to 75% one-year survival rate after transplantation for the age group, specific cancer, diagnosis(es), condition, and type of transplantation proposed for the client. The Department shall use independent research by staff medical consultants to evaluate the documentation submitted by the transplant center.

(k) Cardiovascular diseases:

(i) Myocardial infarction within six months.

(ii) Intractable cardiac arrhythmias.

(iii) Class III or IV cardiac dysfunction by New York Heart Association criteria: "Goldman, L. et al. Comparative reproducibility and validity of systems assessing cardiovascular functional class: Advantages of a new specific activity scale. American Heart Association Circulation 64: 1227, 1981.", adopted and incorporated by reference.

(iv) Prior congestive heart failure, unless a cardiovascular consultant determines adequate cardiac reserve.

(v) Symptomatic or occlusive peripheral vascular or cerebrovascular disease.

(vi) Severe generalized arteriosclerosis.

(l) Evidence of other major organ system disease or anomaly which could decrease the probability of successful clinical outcome or decrease the potential for rehabilitation.

(m) Behavior pattern documented in the client's medical or psycho-social assessment which could interfere with a disciplined

medical regimen. An indication of non-compliance by the client is documented by any of the following:

(i) Non-compliance with medications or therapy.

(ii) Failure to keep scheduled appointments.

(iii) Leaving the hospital against medical advice.

(iv) Active substance abuse.

(5) Prior to approval of the transplantation, the transplantation team must document a plan of care, agreed to by the parent(s) or guardian(s) of a client who is under 18 years of age, to assure compliance with medications and follow-up care, if an indication of non-compliance documented by any of the behaviors listed in R414-10A-13(4)(m)(i) through (iv) is demonstrated by the parent(s) or guardian(s) of the client.

R414-10A-14. Criteria and Contraindications for Lung Transplantation.

(1) Lung transplantation services may be provided for a Medicaid eligible client of any age who meets the following criteria.

(2) The client for lung transplantation must meet requirements of at least R414-10A-14(2)(a) or (b).

(a) The client must have end stage lung disease, with a life expectancy of one year or less[?] without transplantation, and with no other reasonable medical or surgical alternative to transplantation available.

(b) The transplant center staff must complete, and submit to the Department for staff review and evaluation, a medical literature review, specific to the client's diagnosis and condition, documenting that the condition will cause irreversible, progressive disease to vital end-organs within two years following the application for transplant and have no other reasonable medical or surgical alternative to transplantation available. The medical literature must also document that the lung transplantation will prevent the irreversible, progressive disease to the client's vital end-organs and must document that it will increase the life expectancy of the client by greater than five years. The Department shall use independent research by staff medical consultants to evaluate the documentation submitted by the transplant center.

(3) In addition to meeting the requirements listed in R414-10A-14(2), the client must meet all of the following requirements:

(a) The transplant center staff must complete, and submit to the Department for staff review and evaluation, a current medical literature review, documenting a probability of successful clinical outcome by having a greater than or equal to 75 percent one-year survival rate for patients receiving lung transplantation for the age group, specific diagnosis(es), condition, and type of transplantation proposed for the client. The Department shall use independent research by staff medical consultants to evaluate the documentation submitted by the transplant center.

(b) Medical assessment that the client is a reasonable risk for surgery with a likelihood of tolerance for immunosuppressive therapy.

(c) Medical assessment by the client's referring physician that the client has sufficient mental, emotional and social stability and support to ensure that the client and parent(s) or guardian(s) will strictly adhere to the long term follow up and the immunosuppressive program which is required.

(d) Psycho-social assessment by a board-certified or board-eligible psychiatrist that the client has sufficient mental, emotional, and social stability and support to ensure that the client and

parent(s) or guardian(s) will strictly adhere to the long-term follow-up and the immunosuppressive program which is required.

(e) The client must have a strong motivation to undergo the procedure as documented by the medical and psycho-social assessment.

(f) The client with a history of substance abuse must successfully complete a substance abuse rehabilitation program or must have documented abstinence for a period of at least six months before the Department reviews a request for transplantation services.

(g) A current medical literature review, completed by the transplant center staff and submitted to the Department for staff review and evaluation, documenting that the underlying original lung disease will not recur and limit survival to less than 75% one-year survival rate. The Department shall use independent research by staff medical consultants to evaluate the documentation submitted by the transplant center.

(4) Any single contraindication listed below shall preclude approval for payment for lung transplantation:

(a) Active infection.

(b) Acute severe hemodynamic compromise at the time of transplantation, if accompanied by significant compromise of one or more non-pulmonary vital end-organs.

(c) Active substance abuse.

(d) Presence of systemic dysfunction or malignant disease which could limit survival, interfere with compliance with a disciplined medical regimen or rehabilitation after transplantation.

(e) Human Immunodeficiency Virus (HIV) antibody positive.

(f) Neuropsychiatric disorder which could lead to non-compliance or inhibit rehabilitation for the patient.

(g) Cancer, unless treated and eradicated for two or more years or unless a current medical literature review, completed by the transplant center staff and submitted to the Department for staff review and evaluation, documents a greater than or equal to 75% one-year survival rate after transplantation for the age group, specific cancer, diagnosis(es), condition and type of transplantation proposed for the client. The Department shall use independent research by staff medical consultants to evaluate the documentation submitted by the transplant center.

(g) Cardiovascular diseases:

(i) Myocardial infarction within six months;

(ii) Intractable cardiac arrhythmias;

(iii) Class III or IV cardiac dysfunction by New York Heart Association criteria.

(iv) Prior congestive heart failure, unless a cardiovascular consultant determines adequate cardiac reserve.

(v) Symptomatic or occlusive peripheral vascular or cerebrovascular disease;

(vi) Severe generalized arteriosclerosis.

(i) Evidence of other major organ system disease or anomaly which could decrease the probability of successful clinical outcome or decrease the potential for rehabilitation.

(j) Behavior pattern documented in the client's medical or psycho-social assessment which could interfere with a disciplined medical regimen. An indication of non-compliance by the client is documented by any of the following:

(i) Non-compliance with medications or therapy.

(ii) Failure to keep scheduled appointments.

(iii) Leaving the hospital against medical advice.

(iv) Active substance abuse.

(5) Prior to approval of the transplantation, the transplantation team must document a plan of care, agreed to by the parent(s) or guardian(s), if an indication of non-compliance is demonstrated by the parent(s) or guardian(s) of a client who is under 18 years of age. An indication of non-compliance by the parent(s) or guardian(s) is documented by any of the behaviors listed in R414-10A-14(4)(j)(i) through (iv).

.....

R414-10A-16. Criteria and Contraindications for Small Bowel Transplantation.

(1) Small bowel transplantation services may be provided for a Medicaid eligible client of any age who meets the following criteria.

(2) The client for small bowel transplantation must meet requirements of at least R414-10A-16(2)(a) or (b).

(a) The client must have irreversible, progressive small bowel disease, with a life expectancy of one year or less[;] without transplantation, or must have greater than a five year increase in life expectancy with transplantation, with no other reasonable medical or surgical alternative to transplantation available.

(b) The client must have short bowel syndrome that requires daily total parenteral nutrition with no other reasonable medical or surgical alternative to transplantation available.

(3) In addition to meeting one of the requirements listed in R414-10A-16(2), the client must meet all of the following requirements:

(a) The transplant center staff must complete, and submit to the Department for staff review and evaluation, a current medical literature review documenting a probability of successful clinical outcome by having a greater than or equal to 75 percent one-year small bowel function rate for patients receiving small bowel transplantation for the age group, specific diagnosis(es), condition, and type of transplantation proposed for the client. The Department shall use independent research by staff medical consultants to evaluate the documentation submitted by the transplant center.

(b) The transplant center staff must complete, and submit to the Department for staff review and evaluation, a current medical literature review documenting a probability for successful clinical outcome by having a greater than or equal to 85 percent one-year survival rate for patients receiving small bowel transplantation for the age group, specific diagnosis(es), condition, and type of transplantation proposed for the client. The Department shall use independent research by staff medical consultants to evaluate the documentation submitted by the transplant center.

(c) Medical assessment that the client is a reasonable risk for surgery with a likelihood of tolerance for immunosuppressive therapy.

(d) Medical assessment by the client's referring physician that the client has sufficient mental, emotional and social stability and support to ensure that the client and parent(s) or guardian(s) will strictly adhere to the long term follow up and the immunosuppressive program which is required.

(e) Psycho-social assessment by a board-certified or board-eligible psychiatrist that the client has sufficient mental, emotional, and social stability and support to ensure that the client and

parent(s) or guardian(s) will strictly adhere to the long-term follow-up and the immunosuppressive program which is required.

(f) The client must have a strong motivation to undergo the procedure as documented by the medical and psycho-social assessment.

(g) If the client has a history of substance abuse, then he must successfully complete a substance abuse rehabilitation program or must have documented abstinence for a period of at least six months before the Department reviews a request for transplantation services.

(h) A current medical literature review, completed by the transplant center staff and submitted to the Department for staff review and evaluation, documenting that the underlying original small bowel disease will not recur and limit small bowel function survival to less than 85% one-year survival rate.

(i) The Department shall use independent research by staff medical consultants to evaluate the documentation submitted by the transplant center.

(4) Any single contraindication listed below shall preclude approval for Medicaid payment for small bowel transplantation:

(a) Active infection.

(b) Acute severe hemodynamic compromise at the time of transplantation, if accompanied by significant compromise of one or more vital end-organs.

(c) Active substance abuse.

(d) Presence of systemic dysfunction or malignant disease which could limit survival, interfere with compliance with a disciplined medical regimen or rehabilitation after transplantation.

(e) Human Immunodeficiency Virus (HIV) antibody positive.

(f) Neuropsychiatric disorder which could lead to non-compliance or inhibit rehabilitation of the patient.

(g) Pulmonary diseases:

(i) Cystic fibrosis.

(ii) Obstructive pulmonary disease (FEV1 less than 50% of predicted).

(iii) Restrictive pulmonary disease (FVC less than 50% of predicted).

(iv) Unresolved pulmonary roentgenographic abnormalities of unclear etiology.

(v) Recent or unresolved pulmonary infarction.

(h) Cancer, unless treated and eradicated for two or more years, or unless a current medical literature review, completed by the transplant center staff and submitted to the Department for staff review and evaluation, documents a greater than or equal to 75% one-year survival rate after transplantation for the age group, specific cancer, diagnosis(es), condition and type of transplantation proposed for the client. The Department shall use independent research by staff medical consultants to evaluate the documentation submitted by the transplant center.

(i) Cardiovascular diseases:

(i) Myocardial infarction within six months.

(ii) Intractable cardiac arrhythmias.

(iii) Class III or IV cardiac dysfunction by New York Heart Association criteria.

(iv) Prior congestive heart failure, unless a cardiovascular consultant determines adequate cardiac reserve.

(v) Symptomatic or occlusive peripheral vascular or cerebrovascular disease.

(vi) Severe generalized arteriosclerosis.

(j) Evidence of other major organ system disease or anomaly which could decrease the probability of successful clinical outcome or decrease the potential for rehabilitation.

(k) Behavior pattern documented in the client's medical or psycho-social assessment which could interfere with a disciplined medical regimen. An indication of non-compliance by the client is documented by any of the following:

(i) Non-compliance with medications or therapy.

(ii) Failure to keep scheduled appointments.

(iii) Leaving the hospital against medical advice.

(iv) Active substance abuse.

(5) Prior to approval of the transplantation, the transplantation team must document a plan of care, agreed to by the parent(s) or guardian(s), if an indication of non-compliance is demonstrated by the parent(s) or guardian(s) of a client who is under 18 years of age. An indication of non-compliance by the parent(s) or guardian(s) is documented by any of the behaviors listed in R414-10A-16(4)(k)(i) through (iv).

R414-10A-17. Criteria and Contraindications for Heart and Lung Transplantation.

(1) Heart-lung transplantation services may be provided for a Medicaid eligible client of any age who meets the following criteria.

(2) The client for heart-lung transplantation must meet requirements of at least R414-10A-17(2)(a) or (b).

(a) The client must have irreversible, progressive heart and lung disease, with a life expectancy of one year or less[;] without transplantation, and with no other reasonable medical or surgical alternative to transplantation available.

(b) The transplant center staff must complete, and submit to the Department for staff review and evaluation, a current medical literature review, documenting that the client's condition will cause irreversible, progressive disease to vital end-organs within two years following the application for transplant and have no other reasonable medical or surgical alternative to transplantation available. The medical literature must also document that the heart-lung transplantation will prevent irreversible, progressive disease to the client's vital end-organs and must document that it will increase the life expectancy of the client by greater than five years. The Department shall use independent research by staff medical consultants to evaluate the documentation submitted by the transplant center.

(3) In addition to meeting the requirements listed in R414-10A-17(2), the client must meet all of the following requirements:

(a) The transplant center staff must complete, and submit to the Department for staff review and evaluation, a current medical literature review, documenting a probability of successful clinical outcome by having a greater than or equal to 75 percent one-year survival rate for patients receiving heart-lung transplantation for the age group, specific diagnosis(es), condition, and type of transplantation proposed for the client. The Department shall use independent research by staff medical consultants to evaluate the documentation submitted by the transplant center.

(b) A current medical literature review, completed by the transplant center staff and submitted to the Department for staff review and evaluation, documenting that the underlying original disease will not recur and limit survival to less than 75% one-year survival rate. The Department shall use independent research by

staff medical consultants to evaluate the documentation submitted by the transplant center.

- (c) The requirements listed in:
 - (i) R414-10A-10(3)(b) through (h).
 - (ii) R414-10A-10(4)(a) through (h), and (j) through (k).
 - (iii) R414-10A-10(5).

R414-10A-18. Criteria and Contraindications for Intestine and Liver Transplantation.

(1) Intestine-liver transplantation services may be provided for a Medicaid eligible client of any age who meets the following criteria.

(2) The client for intestine-liver transplantation must meet requirements of at least R414-10A-18(2)(a) or (b).

(a) The client must have irreversible, progressive liver and intestinal disease, with a life expectancy of one year or less[;] without transplantation, and with no other reasonable medical or surgical alternative to transplantation available.

(b) The transplant center staff must complete, and submit to the Department for staff review and evaluation, a current medical literature review documenting that the condition will cause irreversible, progressive disease to vital end-organs within two years following the application for transplant and have no other reasonable medical or surgical alternative to transplantation available. The medical literature must also document that the intestine-liver transplantation will prevent irreversible, progressive disease to the client's vital end-organs and must document that it will increase the life expectancy of the client by greater than five years. The Department shall use independent research by staff medical consultants to evaluate the documentation submitted by the transplant center.

(3) In addition to meeting one of the requirements listed in R414-10A-18(2), the client must meet all of the following requirements:

(a) The transplant center staff must complete, and submit to the Department for staff review and evaluation, a current medical literature review documenting a probability of successful clinical outcome by having a greater than or equal to 75 percent one-year small bowel function rate for patients receiving small bowel transplantation for the age group, specific diagnosis(es), condition, and type of transplantation proposed for the client. The Department shall use independent research by staff medical consultants to evaluate the documentation submitted by the transplant center.

(b) The transplant center staff must complete, and submit to the Department for staff review and evaluation, a current medical literature review documenting a probability of successful clinical outcome by having a greater than or equal to 75 percent one-year survival rate for patients receiving intestine-liver transplantation for the age group, specific diagnosis(es), and type of transplantation proposed for the client. The Department shall use independent research by staff medical consultants to evaluate the documentation submitted by the transplant center.

(c) A current medical literature review, completed by the transplant center staff and submitted to the Department for staff review and evaluation, documents that the underlying original disease will not recur and limit survival to less than 75% one-year survival rate. The Department shall use independent research by staff medical consultants to evaluate the documentation submitted by the transplant center.

- (d) The requirements listed in:
 - (i) R414-10A-13(3)(b) through (g).
 - (ii) R414-10A-13(4)(a) through (m).
 - (iii) R414-10A-13(5).

R414-10A-19. Criteria and Contraindications for Kidney-Pancreas Transplantation.

(1) Kidney-pancreas transplantation services may be provided for a Medicaid eligible client of any age who meets the following criteria.

(2) The client for kidney-pancreas transplantation must meet requirements of at least R414-10A-19(2)(a) or (b).

(a) The client must have irreversible, progressive end-stage renal disease and type I diabetes mellitus, with a life expectancy of one year or less[;] without transplantation, and with no other reasonable medical or surgical alternative to transplantation available.

(b) The transplant center staff must complete, and submit to the Department for staff review and evaluation, a current medical literature review documenting that the condition will cause irreversible, progressive disease to vital end-organs within two years following the application for transplant and have no other reasonable medical or surgical alternative to transplantation available. The medical literature must also document that the kidney-pancreas transplantation will prevent irreversible, progressive disease to the client's vital end-organs and must document that it will increase the life expectancy of the client by greater than five years. The Department shall use independent research by staff medical consultants to evaluate the documentation submitted by the transplant center.

(3) In addition to meeting one of the requirements listed in R414-10A-19(2), the client must meet all of the following requirements:

(a) The transplant center staff must complete, and submit to the Department for staff review and evaluation, a current medical literature review documenting a probability of successful clinical outcome by having a greater than or equal to 75 percent one-year kidney and pancreas function rates for patients receiving kidney-pancreas transplantation for the age group, specific diagnosis(es), condition, and type of transplantation proposed for the client. The Department shall use independent research by staff medical consultants to evaluate the documentation submitted by the transplant center.

(b) The transplant center staff must complete, and submit to the Department for staff review and evaluation, a current medical literature review documenting a probability of successful clinical outcome by having a greater than or equal to 90 percent one-year survival rate for patients receiving kidney-pancreas transplantation for the age group, specific diagnosis(es), condition, and type of transplantation proposed for the client. The Department shall use independent research by staff medical consultants to evaluate the documentation submitted by the transplant center.

(c) A current medical literature review, completed by the transplant center staff and submitted to the Department for staff review and evaluation, documents that the underlying original disease will not recur and limit survival to less than 90% one-year survival rate. The Department shall use independent research by staff medical consultants to evaluate the documentation submitted by the transplant center.

- (d) The requirements listed in:
 - (i) R414-10A-12(2)(d) through (i).
 - (ii) R414-10A-12(3)(a) through (k).
 - (iii) R414-10A-12(4).

R414-10A-20. Criteria and Contraindications for Combined Liver-Kidney Transplantation.

(1) Liver-kidney transplantation services may be provided for a Medicaid eligible client of any age who meets the following criteria.

(2) The client for liver-kidney transplantation must meet requirements of at least R414-10A-20(2)(a) or (b).

(a) The client must have irreversible, progressive liver-kidney disease, with a life expectancy of one year or less[;] without transplantation, and with no other reasonable medical or surgical alternative to transplantation available.

(b) The transplant center staff must complete, and submit to the Department for staff review and evaluation, a medical literature review, specific to the client's diagnosis and condition, documenting that the condition will cause irreversible, progressive disease to vital end-organs within the next two years following the application for transplant and have no other reasonable medical or surgical alternative to transplantation available. The medical literature review must also document that the liver-kidney transplantation will prevent the irreversible, progressive disease to the client's vital end-organs and must document that it will increase the life expectancy of the client by greater than five years. The Department shall use independent research by staff medical consultants to evaluate the documentation submitted by the transplant center.

(3) In addition to meeting the requirements listed in R414-10A-20(2), the client must meet all of the following requirements:

(a) The transplant center staff must complete, and submit to the Department for staff review and evaluation, a current medical literature review, documenting a probability of successful clinical outcome by having a greater than or equal to 75 percent one-year survival rate for patients receiving liver-kidney transplantation for the age group, specific diagnosis(es), condition, and type of transplantation proposed for the client. The Department shall use independent research by staff medical consultants to evaluate the documentation submitted by the transplant center.

(b) A current medical literature review, completed by the transplant center staff and submitted to the Department for staff review and evaluation, documenting a renal graft function rate greater than or equal to 75 percent at one year for patients receiving liver-kidney transplantation for the age group, specific diagnosis(es), condition, and type of transplantation proposed for the client. The Department shall use independent research by staff medical consultants to evaluate the documentation submitted by the transplant center.

(c) A current medical literature review, completed by the transplant center staff and submitted to the Department for staff review and evaluation, documenting that the underlying original disease will not recur and limit survival to less than 75% one-year survival rate. The Department shall use independent research by staff medical consultants to evaluate the documentation submitted by the transplant center.

- (d) The requirements listed in:
 - (i) R414-10A-13(3)(b) through (g).
 - (ii) R414-10A-13(4)(a) through (m).

- (iii) R414-10A-13(5).

R414-10A-21. Criteria and Contraindications for Multivisceral Transplantation.

(1) Multivisceral transplantation services may be provided for a Medicaid eligible client of any age who meets the following criteria.

(2) The client for multivisceral transplantation must meet requirements of at least R414-10A-21(2)(a) or (b).

(a) The client must have irreversible, progressive liver, pancreas and small bowel disease, with a life expectancy of one year or less[;] without transplantation, and with no other reasonable medical or surgical alternative to transplantation available.

(b) The transplant center staff must complete, and submit to the Department for staff review and evaluation, a current medical literature review documenting that the condition will cause irreversible, progressive disease to vital end-organs within two years following the application for transplant and have no other reasonable medical or surgical alternative to transplantation available. The medical literature must also document that the multivisceral transplantation will prevent irreversible, progressive disease to the client's vital end-organs and must document that it will increase the life expectancy of the client by greater than five years. The Department shall use independent research by staff medical consultants to evaluate the documentation submitted by the transplant center.

(3) In addition to meeting one of the requirements listed in R414-10A-21(2), the client must meet all of the following requirements:

(a) The transplant center staff must complete, and submit to the Department for staff review and evaluation, a current medical literature review documenting a probability of successful clinical outcome by having a greater than or equal to 75 percent one-year pancreas and small bowel function rates for patients receiving multivisceral transplantation for the age group, specific diagnosis(es), condition, and type of transplantation proposed for the client. The Department shall use independent research by staff medical consultants to evaluate the documentation submitted by the transplant center.

(b) The transplant center staff must complete, and submit to the Department for staff review and evaluation, a current medical literature review documenting a probability of successful clinical outcome by having a greater than or equal to 75 percent one-year survival rate for patients receiving multivisceral transplantation for the age group, specific diagnosis(es), condition, and type of transplantation proposed for the client. The Department shall use independent research by staff medical consultants to evaluate the documentation submitted by the transplant center.

(c) A current medical literature review, completed by the transplant center staff and submitted to the Department for staff review and evaluation, documents that the underlying original disease will not recur and limit survival to less than 75% one-year survival rate. The Department shall use independent research by staff medical consultants to evaluate the documentation submitted by the transplant center.

- (d) The requirements listed in:
 - (i) R414-10A-13(3)(b) through (g).
 - (ii) R414-10A-13(4)(a) through (m).
 - (iii) R414-10A-13(5).

R414-10A-22. Criteria and Contraindications for Liver and Small Bowel Transplantation.

(1) Liver-small bowel transplantation services may be provided for a Medicaid eligible client of any age who meets the following criteria.

(2) The client for liver-small bowel transplantation must meet requirements of at least R414-10A-22(2)(a) or (b).

(a) The client must have irreversible, progressive liver and small bowel disease, with a life expectancy of one year or less[;] without transplantation, and with no other reasonable medical or surgical alternative to transplantation available.

(b) The transplant center staff must complete, and submit to the Department for staff review and evaluation, a current medical literature review documenting that the client's condition will cause irreversible, progressive disease to vital end-organs within two years following the application for transplant and have no other reasonable medical or surgical alternative to transplantation available. The medical literature must also document that the liver-small bowel transplantation will prevent irreversible, progressive disease to the client's vital end-organs and must document that it will increase the life expectancy of the client by greater than five years. The Department shall use independent research by staff medical consultants to evaluate the documentation submitted by the transplant center.

(3) In addition to meeting one of the requirements listed in R414-10A-22(2), the client must meet all of the following requirements:

(a) The transplant center staff must complete, and submit to the Department for staff review and evaluation, a current medical literature review documenting a probability of successful clinical outcome by having a greater than or equal to 75 percent one-year small bowel function rate for patients receiving small bowel transplantation for the age group, specific diagnosis(es), condition, and type of transplantation proposed for the client. The Department shall use independent research by staff medical consultants to evaluate the documentation submitted by the transplant center.

(b) The transplant center staff must complete, and submit to the Department for staff review and evaluation, a current medical literature review documenting a probability of successful clinical outcome by having a greater than or equal to 75 percent one-year survival rate for patients receiving liver-small bowel transplantation for the age group, specific diagnosis(es), condition, and type of transplantation proposed for the client. The Department shall use independent research by staff medical consultants to evaluate the documentation submitted by the transplant center.

(c) A current medical literature review, completed by the transplant center staff and submitted to the Department for staff review and evaluation, documents that the underlying original disease will not recur and limit survival to less than 75% one-year survival rate. The Department shall use independent research by staff medical consultants to evaluate the documentation submitted by the transplant center.

- (d) The requirements listed in:
 - (i) R414-10A-13(3)(b) through (g).
 - (ii) R414-10A-13(4)(a) through (m).
 - (iii) R414-10A-13(5).

.....

**KEY: medicaid
February 26, 1998**

**26-1-5
26-18-1**



End of the 120-Day Rules Section

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).

Community and Economic Development, Community Development, Fine Arts

R207-1

Utah Arts Council General Program Rules

FIVE-YEAR REVIEW NOTICE OF CONTINUATION

DAR FILE No.: 20811
FILED: 02/25/98, 08:50
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 original legislation was in 1899 (1899 Utah Laws 29). In 1979, H.B. 383 was passed (see 1979 Utah Laws 2). Section 64-2-1, Utah Code Annotated 1953, also authorizes this rule, as amended by 1967 Utah Laws 175, as amended by 1969 Utah Laws 199.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Agency mission, which directly relates to the rule, is ongoing.

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

Community and Economic Development
Community Development, Fine Arts

Glendinning Mansion, Union Pacific Depot, and Chase Home in Liberty Park
617 East South Temple
Salt Lake City, UT 84102, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:
Terrie Buhler at the above address, by phone at (801) 236-7557, by FAX at (801) 236-7556, or Internet E-mail at tuhler@state.ut.us.

AUTHORIZED BY: Terrie Buhler, Assistant Director

EFFECTIVE: 02/25/98



Community and Economic Development, Community Development, Fine Arts

R207-2

Policy for Donations and Loans to the State Fine Art Collection

FIVE-YEAR REVIEW NOTICE OF CONTINUATION

DAR FILE No.: 20812
FILED: 02/25/98, 08:50
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 original legislation was in 1899 (1899 Utah Laws 29). In 1979, H.B. 383 was passed (see 1979 Utah Laws 2). Section 64-2-1,

Utah Code Annotated 1953, also authorizes this rule, as amended by 1967 Utah Laws 175, as amended by 1969 Utah Laws 199.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Agency mission, which directly relates to the rule, is ongoing.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Community and Economic Development
Community Development, Fine Arts
Glendinning Mansion, Union Pacific Depot, and Chase Home in Liberty Park
617 East South Temple
Salt Lake City, UT 84102, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:
Terrie Buhler at the above address, by phone at (801) 236-7557, by FAX at (801) 236-7556, or Internet E-mail at tbuhler@state.ut.us.

AUTHORIZED BY: Terrie Buhler, Assistant Director

EFFECTIVE: 02/25/98

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: Without this rule, an insurer can decline to give the loss information on the insured's commercial policy, thus making it impossible for the insured to take his business elsewhere. Thus the insured eliminates competition.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Insurance
Administration
3110 State Office Building
Salt Lake City, UT 84114, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:
Jilene Whitby at the above address, by phone at (801) 538-3803, by FAX at (801) 538-3829, or Internet E-mail at jwhitby@email.state.ut.us.

AUTHORIZED BY: Jilene Whitby, Information Specialist

EFFECTIVE: 02/26/98



Insurance, Administration
R590-124
Loss Information Rule

FIVE-YEAR REVIEW NOTICE OF CONTINUATION

DAR FILE NO.: 20816
FILED: 02/26/98, 15:44
RECEIVED BY: NL

End of the Five-Year Review Section

NOTICE AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 31A-2-201(3) is the insurance commissioner's general rulemaking authority. It allows him to write rules necessary to administer the insurance code. Subsection 31A-23-302(8) authorizes the commissioner to define unfair methods of competition. This rule requires that upon a written request from the insured, an insurer must provide the insured with the loss information on the insured's insurance policy. Without this information, an insured can not get a quote on his commercial liability, property, or workers compensation policy.

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

Commerce

Occupational and Professional Licensing

No. 20492 (AMD): R156-17a. Pharmacy Practice Act Rules.
Published: January 1, 1998
Effective: February 24, 1998

No. 20650 (AMD): R156-55a. Utah Construction Trades Licensing Act Rules.
Published: February 1, 1998
Effective: March 5, 1998

Real Estate

No. 20625 (NEW): R162-107. Unprofessional Conduct.
Published: January 15, 1998
Effective: March 4, 1998

Securities

No. 20679 (AMD): R164-4. Licensing Requirements.
Published: February 1, 1998
Effective: March 4, 1998

No. 20680 (AMD): R164-5. Broker-Dealer and Investment Adviser Books and Records.
Published: February 1, 1998
Effective: March 4, 1998

No. 20681 (AMD): R164-6-1g. Dishonest or Unethical Business Practices.
Published: February 1, 1998
Effective: March 4, 1998

No. 20682 (AMD): R164-26-6. Consent to Service.
Published: February 1, 1998
Effective: March 4, 1998

Environmental Quality

Drinking Water

No. 20290 (REP): R309-106. Source Development.
Published: December 15, 1997
Effective: March 1, 1998

No. 20291 (REP): R309-107. Disinfection.
Published: December 15, 1997
Effective: March 1, 1998

No. 20292 (REP): R309-108. Conventional Complete Treatment.
Published: December 15, 1997
Effective: March 1, 1998

No. 20293 (REP): R309-109. Miscellaneous Treatment Methods.
Published: December 15, 1997
Effective: March 1, 1998

No. 20294 (REP): R309-110. Pumping Facilities.
Published: December 15, 1997
Effective: March 1, 1998

No. 20295 (REP): R309-111. Water Storage.
Published: December 15, 1997
Effective: March 1, 1998

No. 20296 (REP): R309-112. Distribution System.
Published: December 15, 1997
Effective: March 1, 1998

Health

Health Systems Improvement, Health Facility Licensure
No. 20582 (NEW): R432-16. Hospice Inpatient Facility Construction.
Published: January 15, 1998
Effective: March 4, 1998

No. 20558 (AMD): R432-102. Speciality Hospital - Chemical Dependency/Substance Abuse.
Published: January 15, 1998
Effective: February 24, 1998

No. 20559 (AMD): R432-550. Birthing Centers (Five or Less Birth Rooms).
Published: January 15, 1998
Effective: February 24, 1998

No. 20560 (AMD): R432-600. Abortion Clinic Rule.
Published: January 15, 1998
Effective: February 24, 1998

No. 20561 (AMD): R432-700. Home Health Agency Rule.
Published: January 15, 1998
Effective: February 24, 1998

No. 20562 (AMD): R432-750. Hospice Rule.
Published: January 15, 1998
Effective: March 4, 1998

Insurance

Administration

No. 18730 (Second CPR): R590-132. Insurance Treatment of Human Immunodeficiency Virus (HIV) Infection.
Published: November 15, 1997
Effective: March 1, 1998

Natural Resources

Energy and Resource Planning

No. 20678 (NEW): R637-1. Utah Energy Saving Systems Tax Credit (ESSTC) Rules.
Published: February 1, 1998
Effective: March 5, 1998

Public Safety

Driver License

No. 20632 (AMD): R708-14. Adjudicative Proceedings For Driver License Actions Involving Alcohol and Drugs.
Published: February 1, 1998
Effective: March 4, 1998

Law Enforcement and Technical Services, Criminal Identification

No. 20629 (REP): R722-1. Non-criminal Justice Agency Access to State Criminal History Files.
Published: February 1, 1998
Effective: March 4, 1998

Tax Commission

Auditing

No. 20392 (AMD): R865-4D-2. Clean Special Fuel Certificate, Refund Procedures for Undyed Diesel Fuel Used Off-Highway or to Operate a Power Take-Off Unit, and Sales Tax Liability Pursuant to Utah Code Ann. Sections 59-13-301 and 59-13-304.
Published: January 1, 1998
Effective: February 24, 1998

Motor Vehicle Enforcement

No. 20393 (AMD): R877-23V-17. Reasonable Cause for Denial, Suspension, or Revocation of License Pursuant to Utah Code Ann. Sections 41-3-105 and 41-3-209.
Published: January 1, 1998
Effective: February 24, 1998

Property Tax

No. 20394 (AMD): R884-24P-24. Form for Notice of Property Valuation and Tax Changes Pursuant to Utah Code Ann. Sections 59-2-918 through 59-2-924.
Published: January 1, 1998
Effective: February 24, 1998

No. 20203 (AMD): R884-24P-58. One-Time Decrease in Certified Rate Based on Estimated County Option Sales Tax Pursuant to Utah Code Ann. Section 59-2-924.
Published: December 1, 1997
Effective: February 24, 1998

No. 20204 (AMD): R884-24P-59. One-Time Decrease in Certified Rate Based on Estimated Additional Resort Communities Sales Tax Pursuant to Utah Code Ann. Section 59-2-924.
Published: December 1, 1997
Effective: February 24, 1998

Transportation

Motor Carrier

No. 20271 (AMD): R909-4-11. Maximum Towing and Storage Rates.
Published: December 15, 1997
Effective: February 27, 1998

End of the Rule Effective Dates Section

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, 1998, to the present (current as of March 5, 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. (**Please note:** the toll-free number to access the bulletin board will be disconnected as of March 15, 1998.) 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; the web address is <http://web.state.ut.us/its/bbs.htm>.

RULES INDEX - BY AGENCY (CODE NUMBER)

ABBREVIATIONS

AMD = Amendment	NSC = Nonsubstantive rule change
CPR = Change in proposed rule	REP = Repeal
EMR = Emergency rule (120 day)	R&R = Repeal and reenact
NEW = New rule	* = 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
ADMINISTRATIVE SERVICES					
<u>Administration</u>					
R13-3	American With Disabilities Act Grievance Procedures	20631	5YR	01/08/98	98-3/89
<u>Facilities Construction and Management</u>					
R23-4	Suspension/Debarment From Consideration for Award of State Contracts	20702	5YR	01/28/98	98-4/128
R23-5	Contingency Funds	20703	5YR	01/28/98	98-4/128
R23-6	Value Engineering and Life Cycle Costing of State Owned Facilities Rules and Regulations	20704	5YR	01/28/98	98-4/129
R23-7	Utah State Building Board Policy Statement Master Planning	20705	5YR	01/28/98	98-4/129

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R23-8	Planning Fund Use	20706	5YR	01/28/98	98-4/130
R23-9	Building Board State/Local Cooperation Policy	20707	5YR	01/28/98	98-4/130
R23-10	Naming of State Buildings	20708	5YR	01/28/98	98-4/131
R23-11	Facilities Allocation and Sale Procedures	20709	5YR	01/28/98	98-4/131
R23-21	Division of Facilities Construction and Management Lease Procedures	20710	5YR	01/28/98	98-4/132
R23-24	Capital Projects Utilizing Non-appropriated Funds	20711	5YR	01/28/98	98-4/132
AGRICULTURE AND FOOD					
<u>Animal Industry</u>					
R58-19	Compliance Procedures	20279	NEW	01/05/98	97-24/12
<u>Plant Industry</u>					
R68-19	Compliance Procedures	20280	NEW	01/15/98	97-24/13
<u>Regulatory Services</u>					
R70-201	Compliance Procedures	20281	NEW	01/15/98	97-24/14
COMMERCE					
<u>Occupational and Professional Licensing</u>					
R156-3a	Architect Licensing Act Rules	20200	AMD	see CPR	97-23/4
R156-3a	Architect Licensing Act Rules	20200	CPR	02/18/98	98-2/79
R156-17a	Pharmacy Practice Act Rules	20492	AMD	02/24/98	98-1/3
R156-22	Professional Engineers and Professional Land Surveyors Licensing Act Rules	20696	5YR	01/27/98	98-4/133
R156-40	Recreational Therapy Practice Act Rules	20697	5YR	01/27/98	98-4/133
R156-54	Radiology Technologist and Radiology Practical Technician Licensing Act Rules	20173	AMD	see CPR	97-22/12
R156-54	Radiology Technologist and Radiology Practical Technician Licensing Act Rules	20173	CPR	02/03/98	98-1/199
R156-55a	Utah Construction Trades Licensing Act Rules	20650	AMD	03/05/98	98-3/23
R156-59	Employee Leasing Company Act Rules	20701	5YR	01/27/98	98-4/134
R156-60b	Marriage and Family Therapist Licensing Act Rules	20581	AMD	02/18/98	98-2/18
R156-60c	Professional Counselor Licensing Act Rules	20359	AMD	02/03/98	98-1/6
R156-60d	Substance Abuse Counselor Act Rules	20273	AMD	01/15/98	97-24/16
R156-61	Psychologist Licensing Act Rules	20342	AMD	02/03/98	98-1/10
<u>Real Estate</u>					
R162-107	Unprofessional Conduct	20625	NEW	03/04/98	98-2/22
<u>Securities</u>					
R164-4	Licensing Requirements	20679	AMD	03/04/98	98-3/31
R164-5	Broker-Dealer and Investment Adviser Books and Records	20680	AMD	03/04/98	98-3/38

RULES INDEX

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R164-6-1g	Dishonest or Unethical Business Practices	20681	AMD	03/04/98	98-3/40
R164-26-6	Consent to Service	20682	AMD	03/04/98	98-3/44
COMMUNITY AND ECONOMIC DEVELOPMENT					
<u>Community Development, Community Services</u>					
R202-100	Community Services Block Grant Rules	20282	AMD	01/15/98	97-24/17
<u>Community Development, Fine Arts</u>					
R207-1	Utah Arts Council General Program Rules	20811	5YR	02/25/98	98-6/77
R207-2	Policy for Donations and Loans to the State Fine Art Collection	20812	5YR	02/25/98	98-6/77
CORRECTIONS					
<u>Administration</u>					
R251-107	Executions	20160	AMD	01/15/98	97-22/16
R251-703	Vehicle Direction Station	20196	AMD	01/15/98	97-23/6
R251-707	Legal Access	20198	AMD	01/15/98	97-23/8
EDUCATION					
<u>Administration</u>					
R277-516	Library Media Certificates and Programs	20657	5YR	01/14/98	98-3/89
R277-518	Vocational-Technical Certificates	20658	5YR	01/14/98	98-3/90
R277-600	Student Transportation Standards and Policies	20659	5YR	01/14/98	98-3/90
R277-605	Extracurricular Student Activities	20660	5YR	01/14/98	98-3/91
R277-606	Interschool Competitive Sports in High School	20661	5YR	01/14/98	98-3/91
R277-610	Released-Time Classes for Religious Instruction	20662	5YR	01/14/98	98-3/91
R277-615	Foreign Exchange Students	20663	5YR	01/14/98	98-3/92
R277-700	The Elementary and Secondary School Core Curriculum and High School Graduation Requirements	20664	5YR	01/14/98	98-3/92
R277-701	Values Education	20665	5YR	01/14/98	98-3/93
R277-702	Procedures for the Utah General Educational Developmental Certificate	20666	5YR	01/14/98	98-3/93
R277-709	Education Programs Serving Youth in Custody	20667	5YR	01/14/98	98-3/94
R277-710	Accelerated Learning Programs	20668	5YR	01/14/98	98-3/94
R277-716	Alternative Language Services (ALS)	20669	5YR	01/14/98	98-3/94
R277-718	Utah Career Teaching Scholarship Program	20670	5YR	01/14/98	98-3/95
R277-721	Deadline for CACFP Sponsor Participation in Food Distribution Program	20671	5YR	01/14/98	98-3/95
R277-722	Withholding Payments and Commodities in the CACFP	20672	5YR	01/14/98	98-3/96
R277-730	Alternative High School Curriculum	20673	5YR	01/14/98	98-3/96
R277-732	Community Education	20674	5YR	01/14/98	98-3/97
ENVIRONMENTAL QUALITY					
<u>Air Quality</u>					
R307-1-1	Foreword and Definitions	20096	AMD	01/08/98	97-21/4

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R307-1-1	Foreword and Definitions	20202	AMD	01/08/98	97-23/10
R307-1-3	Control of Installations	20219	AMD	02/05/98	97-23/20
R307-1-3	Control of Installations	20740	NSC	02/05/98	Not Printed
R307-2-12	Section IX, Control Measures for Area and Point Sources, Part C, Carbon Monoxide	20099	AMD	01/08/98	97-21/14
R307-8-3	Average Oxygen Content Standard	20100	AMD	01/08/98	97-21/15
<u>Drinking Water</u>					
R309-105	Quantity Requirements	20789	EXD	02/01/98	98-5/80
R309-106	Source Development	20290	REP	03/01/98	97-24/26
R309-107	Disinfection	20291	REP	03/01/98	97-24/33
R309-108	Conventional Complete Treatment	20292	REP	03/01/98	97-24/37
R309-109	Miscellaneous Treatment Methods	20293	REP	03/01/98	97-24/47
R309-110	Pumping Facilities	20294	REP	03/01/98	97-24/56
R309-111	Water Storage	20295	REP	03/01/98	97-24/60
R309-112	Distribution System	20296	REP	03/01/98	97-24/63
<u>Radiation Control</u>					
R313-18	Notices, Instructions and Reports to Workers by Licensees or Registrants -- Inspections	20236	AMD	01/23/98	97-23/61
R313-25	License Requirements for Land Disposal of Radioactive Waste - General Provisions	20237	AMD	01/23/98	97-23/62
R313-32	Medical Use of Radioactive Material	20238	AMD	01/23/98	97-23/65
<u>Solid and Hazardous Waste</u>					
R315-1	Utah Hazardous Waste Definitions and References	20382	AMD	02/20/98	98-1/15
R315-2	General Requirements - Identification and Listing of Hazardous Waste	20383	AMD	02/20/98	98-1/17
R315-3	Application and Plan Approval Procedures for Hazardous Waste Treatment, Storage, and Disposal Facilities	20384	AMD	02/20/98	98-1/27
R315-4	Hazardous Waste Manifest	20385	AMD	02/20/98	98-1/35
R315-6-7	Transfer Facility Requirements	20538	AMD	02/20/98	98-2/24
R315-7	Interim Status Requirements for Hazardous Waste Treatment, Storage, and Disposal Facilities	20386	AMD	02/20/98	98-1/36
R315-8	Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities	20387	AMD	02/20/98	98-1/38
R315-13	Land Disposal Restrictions	20388	AMD	02/20/98	98-1/39
R315-14-7	Hazardous Waste Burned in Boilers and Industrial Furnaces	20389	AMD	02/20/98	98-1/40
R315-16	Standards for Universal Waste Management	20390	AMD	02/20/98	98-1/40
R315-50	Appendices	20391	AMD	02/20/98	98-1/50
R315-301-2	Definitions	19876	AMD	see CPR	97-19/23
R315-301-2	Definitions	19876	CPR	01/05/98	97-23/111

RULES INDEX

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
HEALTH					
<u>Health Care Financing, Coverage and Reimbursement Policy</u>					
R414-3X	Restriction on Use of CPR-4 Psychiatric Codes	20542	REP	02/20/98	98-2/25
R414-4X	Policy Statement on Denial of Payment to Medicaid Provider When Client Fails to Keep Scheduled Appointment	20648	5YR	01/12/98	98-3/97
R414-10A	Transplant Services Standards	20825	EMR	02/26/98	98-6/64
R414-10X	Pharmacy Policy	20612	REP	02/20/98	98-2/26
R414-12	Medical Supplies Durable Medical Equipment-- Prosthetics	20762	5YR	02/09/98	98-5/66
R414-15	Patients Personal Needs Fund	20232	AMD	01/13/98	97-23/80
R414-17	Policy on Use of Oxygen Concentrators	20212	REP	01/13/98	97-23/82
R414-22	Administrative Sanction Procedures and Regulations	20653	5YR	01/13/98	98-3/97
R414-24	Policy Concerning the Time Frame in Which Medicaid Claims Must be Submitted for Payment	20345	REP	02/04/98	98-1/51
R414-25X	Policy Concerning the Time Frame in Which Medicaid Claims Must be Submitted for Payment	20613	REP	02/20/98	98-2/26
R414-26	Implementation and Maintenance of the Health Care Financing Administration Common Procedure Coding System (HCPCS)	20764	5YR	02/09/98	98-5/66
R414-27	Medicare Nursing Facility Certification	20735	5YR	02/04/98	98-5/67
R414-31x	Hospital Utilization Review	20766	5YR	02/09/98	98-5/67
R414-32	Hospital Record-keeping Policy	20767	5YR	02/09/98	98-5/68
<u>Health Systems Improvement, Community Health Nursing</u>					
R425-1	Nurse Education Financial Assistance	20768	5YR	02/10/98	98-5/68
<u>Health Systems Improvement, Child Care Licensing</u>					
R430-2	General Licensing Provisions, Child Care Facilities	20264	NEW	02/04/98	97-24/66
R430-3	General Care Facility Rules Inspection and Enforcement	20265	NEW	01/21/98	97-24/69
R430-5	Child Care Facility, General Construction	20266	NEW	02/05/98	97-24/71
R430-6	Background	20267	NEW	01/20/98	97-24/75
R430-10	Notice of Intent to License, Hourly Care Provider	20645	EMR	01/09/98	98-3/86
R430-10	Notice of Intent to License, Hourly Care Provider	20684	EMR	01/20/98	98-4/122
R430-30	Adjudicative Procedure	20268	NEW	01/21/98	97-24/79
R430-100	Child Care Facilities	20269	NEW	02/05/98	97-24/79
<u>Health Systems Improvement, Health Facility Licensure</u>					
R432-16	Hospice Inpatient Facility Construction	20582	NEW	03/04/98	98-2/27
R432-102	Specialty Hospital - Chemical Dependency/Substance Abuse	20558	AMD	02/24/98	98-2/31
R432-151	Mental Disease Facility	20685	5YR	01/20/98	98-4/134
R432-550	Birth Centers (Five or Less Birth Rooms)	20559	AMD	02/24/98	98-2/34
R432-600	Abortion Clinic Rule	20560	AMD	02/24/98	98-2/39

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R432-700	Home Health Agency Rule	20561	AMD	02/24/98	98-2/42
R432-750	Hospice Rule	20562	AMD	03/04/98	98-2/49
<u>Laboratory Services, Laboratory Improvement</u>					
R444-14	Rules for the Certification of Environmental Laboratories	20521	R&R	02/19/98	98-1/51
HUMAN SERVICES					
<u>Administration, Administrative Hearings</u>					
R497-100	Adjudicative Proceedings	20248	AMD	01/26/98	97-24/88
<u>Aging and Adult Services</u>					
R510-100	Funding Formulas	20634	5YR	01/08/98	98-3/98
R510-101	Carryover Policy for Title III: Grants for State and Community Programs on Aging	20635	5YR	01/08/98	98-3/99
R510-102	Amendments to Area Plan and Management Plan	20636	5YR	01/08/98	98-3/99
R510-103	Use of Senior Centers by Long Term Care Facility Residents and Senior Citizens' Groups Participating in Activities Outside Their Planning and Service Area	20637	5YR	01/08/98	98-3/100
R510-106	Minimum Percentage of Older Americans Act, Title III: Grants for State and Community Programs on Aging Part B: Supportive Services and Senior Centers Funds That an Area Agency on Aging Must Spend on Access, In-home and Legal Assistance	20638	5YR	01/08/98	98-3/100
R510-107	Title V Senior Community Service Employment Program Standards and Procedures	20639	5YR	01/08/98	98-3/101
R510-108	Definition of Rural for Title III: Grants for State and Community Programs on Aging Reporting Under the Older Americans Act	20640	5YR	01/08/98	98-3/101
R510-109	Definition of Significant Population of Older Native Americans	20641	5YR	01/08/98	98-3/102
R510-110	Policy Regarding Contractual Involvements of Area Agencies on Aging for Private Eldercare and Case Management Services	20642	5YR	01/08/98	98-3/102
R510-200	Long-Term Care Ombudsman Program Policy	20643	5YR	01/08/98	98-3/103
R510-400	Home and Community-Based Alternative Services Policy and Procedures	20644	5YR	01/08/98	98-3/103
<u>Child and Family Services</u>					
R512-2	Child Welfare/Aid to Families with Dependent Children (AFDC) Foster Care/Adoption	20245	AMD	02/01/98	97-24/90
<u>Recovery Services</u>					
R527-3	Definitions	20647	5YR	01/12/98	98-3/104
R527-5	Release of Information	20240	AMD	01/05/98	97-23/83
R527-39	Applicant/Recipient Cooperation	20522	NEW	02/05/98	98-1/67
R527-430	Administrative Notice of Lien-Levy Procedures	20523	NEW	02/05/98	98-1/68

RULES INDEX

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R527-550	Assessment	20520	AMD	02/11/98	98-1/70
R527-928	Lost Checks	20518	AMD	02/17/98	98-1/71
INSURANCE					
<u>Administration</u>					
R590-124	Loss Information Rule	20816	5YR	02/26/98	98-6/78
R590-132	Insurance Treatment of Human Immunodeficiency Virus (HIV) Infection	18730	AMD	see CPR	97-7/36
R590-132	Insurance Treatment of Human Immunodeficiency Virus (HIV) Infection	18730	CPR (First)	see Second CPR	97-15/102
R590-132	Insurance Treatment of Human Immunodeficiency Virus (HIV) Infection	18730	CPR (Second)	03/01/98	97-22/105
JUDICIAL CONDUCT COMMISSION					
<u>Administration</u>					
R595-1-10	Hearing	20527	AMD	02/20/98	98-2/57
NATURAL RESOURCES					
<u>Administration</u>					
R634-1	Americans With Disabilities Complaint Procedure	20256	NEW	01/15/98	97-24/92
<u>Energy</u>					
R636-2	Public Petitions for Declaratory Rulings	20718	EXD	02/01/98	98-4/136
R636-4	Confidential Energy Information	20719	EXD	02/01/98	98-4/136
R636-5	Administrative Procedures	20720	EXD	02/01/98	98-4/136
<u>Energy and Resource Planning</u>					
R637-1	Utah Energy Saving Systems Tax Credit (ESSTC) Rules	20678	NEW	03/05/98	98-3/73
<u>Water Resources</u>					
R653-3	Selecting Private Consultants	20597	AMD	02/18/98	98-2/58
R653-5	Cloud Seeding	20593	AMD	02/18/98	98-2/60
R653-7	Administrative Procedures for Informal Proceedings	20554	AMD	02/18/98	98-2/63
<u>Wildlife Resources</u>					
R657-5	Taking Big Game	20241	AMD	01/15/98	97-24/95
R657-37	Cooperative Wildlife Management Units for Big Game	20243	AMD	01/15/98	97-24/104
R657-38	Dedicated Hunter Program	20244	AMD	01/15/98	97-24/105
PARDONS (BOARD OF)					
<u>Administration</u>					
R671-101	Rules	20425	AMD	02/18/98	98-1/72

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R671-102	Americans with Disabilities Act Complaint Procedure Rule	20427	AMD	02/18/98	98-1/73
R671-201	Original Parole Grant Hearing Schedule and Notice	20429	AMD	02/18/98	98-1/73
R671-202	Notification of Hearings	20431	AMD	02/18/98	98-1/74
R671-203	Victim Input and Notification	20433	AMD	02/18/98	98-1/75
R671-204	Pending Charges	20435	AMD	02/18/98	98-1/76
R671-205	Credit for Time Served	20486	AMD	02/18/98	98-1/76
R671-206	Competency of Offenders	20437	AMD	02/18/98	98-1/77
R671-207	Mentally-Ill Offender Custody Transfer	20439	AMD	02/18/98	98-1/78
R671-208	Confidentiality of Psychological Evaluations and Alienist Reports	20441	AMD	02/18/98	98-1/79
R671-301	Personal Appearance	20443	AMD	02/18/98	98-1/79
R671-302	News Media and Public Access to Hearings	20445	AMD	02/18/98	98-1/80
R671-303	Offender Access to Information	20447	AMD	02/18/98	98-1/82
R671-304	Hearing Record	20449	AMD	02/18/98	98-1/83
R671-305	Notification of Board Decision	20487	AMD	02/18/98	98-1/83
R671-307	Foreign Nationals and Offenders With Detainers	20451	AMD	02/18/98	98-1/84
R671-308	Offender Hearing Assistance	20453	AMD	02/18/98	98-1/84
R671-309	Impartial Hearings	20455	AMD	02/18/98	98-1/85
R671-310	Rescission Hearings	20457	AMD	02/18/98	98-1/86
R671-311	Special Attention Hearings and Reviews	20459	AMD	02/18/98	98-1/87
R671-312	Commutation Hearings for Death Penalty Cases	20489	AMD	02/18/98	98-1/87
R671-315	Pardons	20461	AMD	02/18/98	98-1/89
R671-316	Redetermination	20463	AMD	02/18/98	98-1/90
R671-317	Interim Decisions	20465	AMD	02/18/98	98-1/91
R671-402	Special Conditions of Parole	20469	AMD	02/18/98	98-1/91
R671-403	Restitution	20490	AMD	02/18/98	98-1/92
R671-405	Parole Termination	20471	AMD	02/18/98	98-1/93
R671-501	Warrants of Arrest	20473	AMD	02/18/98	98-1/93
R671-503	Prerevocation Hearings	20475	AMD	02/18/98	98-1/95
R671-504	Timeliness of Parole Revocation Hearings	20477	AMD	02/18/98	98-1/95
R671-505	Parole Revocation Hearings	20479	AMD	02/18/98	98-1/96
R671-507	Restarting the Parole Period	20481	AMD	02/18/98	98-1/98
R671-508	Evidentiary Hearings	20483	AMD	02/18/98	98-1/98

PROFESSIONAL PRACTICES ADVISORY COMMISSION

Administration

R686-100	Professional Practices Advisory Commission, Rules of Procedure: Complaints and Hearings	20524	NEW	02/09/98	98-1/99
----------	---	-------	-----	----------	---------

PUBLIC SAFETY

Driver License

R708-1	Rehabilitation of Alcohol and Drug Problem Drivers	20335	REP	02/10/98	98-1/107
R708-14	Adjudicative Proceedings For Driver License Actions Involving Alcohol and Drugs	20632	AMD	03/04/98	98-3/76

RULES INDEX

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<u>Fire Marshal</u>					
R710-7	Concerns Servicing Automatic Fire Suppression Systems	20277	AMD	01/15/98	97-24/108
R710-9	Rules Pursuant to the Utah Fire Prevention Law	20278	AMD	01/15/98	97-24/109
<u>Law Enforcement and Technical Services, Criminal Identification</u>					
R722-1	Non-criminal Justice Agency Access to State Criminal History Files	20629	REP	03/04/98	98-3/77
PUBLIC SERVICE COMMISSION					
<u>Administration</u>					
R746-331	Determination of Exemption of Mutual Water Corporations	20626	EMR	01/05/98	98-3/87
R746-356-2	Definitions	20592	NSC	01/06/98	Not Printed
SCHOOL AND INSTITUTIONAL TRUST LANDS					
<u>Administration</u>					
R850-80	Sale of Trust Lands	20395	AMD	02/03/98	02/03/98
TAX COMMISSION					
<u>Auditing</u>					
R865-4D-2	Clean Special Fuel Certificate, Refund Procedures for Undyed Diesel Fuel Used Off-Highway or to Operate a Power Take-Off Unit, and Sales Tax Liability Pursuant to Utah Code Ann. Sections 59-13-301 and 59-13-304	20392	AMD	02/24/98	98-1/112
<u>Motor Vehicle Enforcement</u>					
R877-23V-17	Reasonable Cause for Denial, Suspension, or Revocation of License Pursuant to Utah Code Ann. Sections 41-3-105 and 41-3-209	20393	AMD	02/24/98	98-1/113
<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
R884-24P-24	Form for Notice of Property Valuation and Tax Changes Pursuant to Utah Code Ann. Sections 59-2-918 through 59-2-924	20394	AMD	02/24/98	98-1/114
R884-24P-58	One-Time Decrease in Certified Rate Based on Estimated County Option Sales Tax Pursuant to Utah Code Ann. Section 59-2-924	20203	AMD	02/24/98	97-23/96
R884-24P-59	One-Time Decrease in Certified Rate Based on Estimated Additional Resort Communities Sales Tax Pursuant to Utah Code Ann. Section 59-2-924	20204	AMD	02/24/98	97-23/96

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
TRANSPORTATION					
<u>Motor Carrier</u>					
R909-1	Safety Regulations for Motor Carriers	20276	AMD	01/15/98	97-24/111
R909-4-11	Maximum Towing and Storage Rates	20271	AMD	02/27/98	97-24/112
<u>Motor Carrier, Ports of Entry</u>					
R912-4	Limitation of Special Permit Vehicles in Provo Canyon. Legal and Permitted Vehicles	20646	5YR	01/12/98	98-3/104
WORKFORCE SERVICES					
<u>Employment Development</u>					
R986-221	Demonstration Programs	20742	5YR	02/06/98	98-5/69
R986-301	Medicaid General Provisions	20743	5YR	02/06/98	98-5/70
R986-302	Eligibility Requirements	20224	AMD	01/02/98	97-23/97
R986-302	Eligibility Requirements	20744	5YR	02/06/98	98-5/70
R986-303	Coverage Groups	20745	5YR	02/06/98	98-5/71
R986-303-301	A, B, and D Medicaid and A, B, and D Institutional Medicaid Coverage Groups	20319	AMD	02/03/98	98-1/116
R986-304	Income and Budgeting	20746	5YR	02/06/98	98-5/71
R986-304	Income and Budgeting	20738	EMR	02/12/98	98-5/60
R986-305	Resources	20726	EMR	02/12/98	98-4/123
R986-305	Resources	20747	5YR	02/06/98	98-5/72
R986-306	Program Benefits	20748	5YR	02/06/98	98-5/72
R986-307	Eligibility Determination and Redetermination	20749	5YR	02/06/98	98-5/73
R986-308	Record Management	20750	5YR	02/06/98	98-5/73
R986-309	Utah Medical Assistance Program (UMAP)	20751	5YR	02/06/98	98-5/74
R986-309-901	UMAP General Eligibility Requirements	20732	EMR	02/12/98	98-5/62
R986-310	Demonstration Programs	20752	5YR	02/06/98	98-5/74
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	see CPR	97-23/100
R986-417	Documentation	20208	CPR	02/03/98	98-1/120
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
R986-421	Demonstration Programs	20753	5YR	02/06/98	98-5/75
R986-701	Child Care Assistance General Provisions	20754	5YR	02/06/98	98-5/75
R986-702	Conditions of Eligibility and Client Payment Amount	20755	5YR	02/06/98	98-5/76
R986-703	Child Care Programs	20756	5YR	02/06/98	98-5/77
R986-704	Income Rules and Eligibility Calculations	20757	5YR	02/06/98	98-5/77
R986-705	Resources	20758	5YR	02/06/98	98-5/78
R986-706	Provider Payment and Contracting	20759	5YR	02/06/98	98-5/78
R986-707	Eligibility	20760	5YR	02/06/98	98-5/79

RULES INDEX - BY KEYWORD (SUBJECT)

ABBREVIATIONS

AMD = Amendment	NSC = Nonsubstantive rule change
CPR = Change in proposed rule	REP = Repeal
EMR = Emergency rule (120 day)	R&R = Repeal and reenact
NEW = New rule	* = Text too long to print in <i>Bulletin</i> , or repealed text not printed in <i>Bulletin</i>
5YR = Five-Year Review	
EXD = Expired	

<u>KEYWORD</u> AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<u>ACCREDITATION</u>					
Education, Administration	20657	R277-516	5YR	01/14/98	98-3/89
<u>ADJUDICATIVE PROCEEDINGS</u>					
Public Safety, Driver License	20632	R708-14	AMD	03/04/98	98-3/76
<u>ADMINISTRATIVE PROCEDURES</u>					
Human Services, Administration, Administrative Hearings	20248	R497-100	AMD	01/26/98	97-24/88
Natural Resources, Energy	20718	R636-2	EXD	02/01/98	98-4/136
	20720	R636-5	EXD	02/01/98	98-4/136
Natural Resources, Water Resources	20554	R653-7	AMD	02/18/98	98-2/63
School and Institutional Trust Lands, Administration	20395	R850-80	AMD	02/03/98	98-1/108
<u>ADOPTION</u>					
Human Services, Child and Family Services	20245	R512-2	AMD	02/01/98	97-24/90
<u>ADULT EDUCATION</u>					
Education, Administration	20666	R277-702	5YR	01/14/98	98-3/93
<u>AGRICULTURAL LAW</u>					
Agriculture and Food, Animal Industry	20279	R58-19	NEW	01/15/98	97-24/12
Agriculture and Food, Plant Industry	20280	R68-19	NEW	01/15/98	97-24/13
Agriculture and Food, Regulatory Services	20281	R70-201	NEW	01/15/98	97-24/14
<u>AIR POLLUTION</u>					
Environmental Quality, Air Quality	20096	R307-1-1	AMD	01/08/98	97-21/4
	20202	R307-1-1	AMD	01/08/98	97-23/10
	20219	R307-1-3	AMD	02/05/98	97-23/20
	20740	R307-1-3	NSC	02/05/98	Not Printed
	20099	R307-2-12	AMD	01/08/98	97-21/14
	20100	R307-8-3	AMD	01/08/98	97-21/15
<u>ALTERNATIVE LANGUAGE SERVICES</u>					
Education, Administration	20669	R277-716	5YR	01/14/98	98-3/94
<u>ALTERNATIVE SCHOOL</u>					
Education, Administration	20673	R277-730	5YR	01/14/98	98-3/96

<u>KEYWORD</u> AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<u>ANTIPOVERTY PROGRAMS</u>					
Community and Economic Development, Community Development, Community Services	20282	R202-100	AMD	01/15/98	97-24/17
<u>APPRAISAL</u>					
Tax Commission, Property Tax	20394	R884-24P-24	AMD	02/24/98	98-1/114
	20203	R884-24P-58	AMD	02/24/98	97-23/96
<u>ARCHITECTS</u>					
Commerce, Occupational and Professional Licensing	20200	R156-3a	AMD	see CPR	97-23/4
	20200	R156-3a	CPR	02/18/98	98-2/79
<u>ART IN PUBLIC PLACES</u>					
Community and Economic Development, Community Development, Fine Arts	20811	R207-1	5YR	02/25/98	98-6/77
	20812	R207-2	5YR	02/25/98	98-6/77
<u>ARTISTS</u>					
Community and Economic Development, Community Development, Fine Arts	20811	R207-1	5YR	02/25/98	98-6/77
<u>ART PRESERVATION</u>					
Community and Economic Development, Community Development, Fine Arts	20812	R207-2	5YR	02/25/98	98-6/77
<u>ARTS</u>					
Community and Economic Development, Community Development, Fine Arts	20811	R207-1	5YR	02/25/98	98-6/77
<u>ART WORKS</u>					
Community and Economic Development, Community Development, Fine Arts	20812	R207-2	5YR	02/25/98	98-6/77
<u>BANKS AND BANKING</u>					
Human Services, Recovery Services	20518	R527-928	AMD	02/17/98	98-1/71
<u>BENEFITS</u>					
Workforce Services, Employment Development	20224	R986-302	AMD	01/02/98	97-23/97
	20744	R986-302	5YR	02/06/98	98-5/70
	20208	R986-417	AMD	see CPR	97-23/100
	20208	R986-417	CPR	02/03/98	98-1/120
<u>BIG GAME SEASONS</u>					
Natural Resources, Wildlife Resources	20241	R657-5	AMD	01/15/98	97-24/95
<u>BRACHYTHERAPY</u>					
Environmental Quality, Radiation Control	20238	R313-32	AMD	01/23/98	97-23/65
<u>BUDGETING</u>					
Administrative Services, Facilities Construction and Management	20706	R23-8	5YR	01/28/98	98-4/130

RULES INDEX

<u>KEYWORD</u> <u>AGENCY</u>	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
Workforce Services, Employment Development	20746	R986-304	5YR	02/06/98	98-5/71
	20738	R986-304	EMR	02/12/98	98-5/60
<u>BUILDINGS</u>					
Administrative Services, Facilities Construction and Management	20703	R23-5	5YR	01/28/98	98-4/128
	20708	R23-10	5YR	01/28/98	98-4/131
	20709	R23-11	5YR	01/28/98	98-4/131
	20711	R23-24	5YR	01/28/98	98-4/132
<u>CAPITAL PUNISHMENT</u>					
Pardons (Board of), Administration	20486	R671-205	AMD	02/18/98	98-1/76
	20489	R671-312	AMD	02/18/98	98-1/87
<u>CAREER EDUCATION</u>					
Education, Administration	20670	R277-718	5YR	01/14/98	98-3/95
<u>CARRYOVER FUNDING</u>					
Human Services, Aging and Adult Services	20635	R510-101	5YR	01/08/98	98-3/99
<u>CHILD CARE</u>					
Workforce Services, Employment Development	20754	R986-701	5YR	02/06/98	98-5/75
	20755	R986-702	5YR	02/06/98	98-5/76
	20756	R986-703	5YR	02/06/98	98-5/77
	20757	R986-704	5YR	02/06/98	98-5/77
	20758	R986-705	5YR	02/06/98	98-5/78
	20759	R986-706	5YR	02/06/98	98-5/78
	20760	R986-707	5YR	02/06/98	98-5/79
<u>CHILD CARE FACILITIES</u>					
Health, Health Systems Improvement, Child Care Licensing	20264	R430-2	NEW	02/04/98	97-24/66
	20265	R430-3	NEW	01/21/98	97-24/69
	20266	R430-5	NEW	02/05/98	97-24/71
	20267	R430-6	NEW	01/20/98	97-24/75
	20645	R430-10	EMR	01/09/98	98-3/86
	20684	R430-10	EMR	01/20/98	98-4/122
	20268	R430-30	NEW	01/21/98	97-24/79
	20269	R430-100	NEW	02/05/98	97-24/79
<u>CHILDREN</u>					
Workforce Services, Employment Development	20754	R986-701	5YR	02/06/98	98-5/75
	20755	R986-702	5YR	02/06/98	98-5/76
<u>CHILD SUPPORT</u>					
Human Services, Recovery Services	20647	R527-3	5YR	01/12/98	98-3/104
	20240	R527-5	AMD	01/05/98	97-23/83
	20522	R527-39	NEW	02/05/98	98-1/67
	20523	R527-430	NEW	02/05/98	98-1/68
	20520	R527-550	AMD	02/11/98	98-1/70

<u>KEYWORD</u> AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<u>CHILD WELFARE</u>					
Human Services, Child and Family Services	20245	R512-2	AMD	02/01/98	97-24/90
<u>CIVIL RIGHTS</u>					
Natural Resources, Administration	20256	R634-1	NEW	01/15/98	97-24/92
<u>CLIENT PAYMENT</u>					
Workforce Services, Employment Development	20755	R986-702	5YR	02/06/98	98-5/76
<u>CLIENT RIGHTS</u>					
Workforce Services, Employment Development	20743	R986-301	5YR	02/06/98	98-5/70
<u>COMMUNICATIONS</u>					
Public Service Commission, Administration	20592	R746-356-2	NSC	01/06/98	Not Printed
<u>COMMUNITY ACTION PROGRAMS</u>					
Community and Economic Development, Community Development, Community Services	20282	R202-100	AMD	01/15/98	97-24/17
<u>COMMUNITY HEALTH SERVICES</u>					
Health, Health Systems Improvement, Community Health Nursing	20768	R425-1	5YR	02/10/98	98-5/68
<u>COMMUNITY SCHOOLS</u>					
Education, Administration	20674	R277-732	5YR	01/14/98	98-3/97
<u>CONDUCT</u>					
Commerce, Real Estate	20625	R162-107	NEW	03/04/98	98-2/22
Professional Practices Advisory Commission, Administration	20524	R686-100	NEW	02/09/98	98-1/99
<u>CONFIDENTIALITY</u>					
Human Services, Recovery Services	20240	R527-5	AMD	01/05/98	97-23/83
<u>CONFIDENTIALITY OF INFORMATION</u>					
Natural Resources, Energy	20719	R636-4	EXD	02/01/98	98-4/136
<u>CONSTRUCTION</u>					
Administrative Services, Facilities Construction and Management	20702	R23-4	5YR	01/28/98	98-4/128
<u>CONSTRUCTION COSTS</u>					
Administrative Services, Facilities Construction and Management	20704	R23-6	5YR	01/28/98	98-4/129
<u>CONSTRUCTION DISPUTES</u>					
Administrative Services, Facilities Construction and Management	20702	R23-4	5YR	01/28/98	98-4/128
<u>CONSULTANTS</u>					
Natural Resources, Water Resources	20597	R653-3	AMD	02/18/98	98-2/58
<u>CONTINGENCY FUND</u>					
Administrative Services, Facilities Construction and Management	20703	R23-5	5YR	01/28/98	98-4/128
<u>CONTRACTING</u>					
Workforce Services, Employment Development	20759	R986-706	5YR	02/06/98	98-5/78

RULES INDEX

<u>KEYWORD</u> AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<u>CONTRACTORS</u>					
Commerce, Occupational and Professional Licensing	20650	R156-55a	AMD	03/05/98	98-3/23
<u>CONTRACTS</u>					
Administrative Services, Facilities Construction and Management	20702	R23-4	5YR	01/28/98	98-4/128
<u>COOPERATIVE WILDLIFE MANAGEMENT UNIT</u>					
Natural Resources, Wildlife Resources	20243	R657-37	AMD	01/15/98	97-24/104
<u>CORRECTIONS</u>					
Corrections, Administration	20160	R251-107	AMD	01/15/98	97-22/16
	20198	R251-707	AMD	01/15/98	97-23/8
<u>COUNSELORS</u>					
Commerce, Occupational and Professional Licensing	20359	R156-60c	AMD	02/03/98	98-1/6
<u>COVERAGE GROUPS</u>					
Workforce Services, Employment Development	20745	R986-303	5YR	02/06/98	98-5/71
	20319	R986-303-301	AMD	02/03/98	98-1/116
<u>CRIMINAL COMPETENCY</u>					
Pardons (Board of), Administration	20437	R671-206	AMD	02/18/98	98-1/77
	20439	R671-207	AMD	02/18/98	98-1/78
<u>CRIMINAL RECORDS</u>					
Public Safety, Law Enforcement and Technical Services, Criminal Identification	20629	R722-1	REP	03/04/98	98-3/77
<u>CULTURE</u>					
Community and Economic Development, Community Development, Fine Arts	20811	R207-1	5YR	02/25/98	98-6/77
<u>CURRICULA</u>					
Education, Administration	20664	R277-700	5YR	01/14/98	98-3/92
	20665	R277-701	5YR	01/14/98	98-3/93
<u>DEMONSTRATION</u>					
Workforce Services, Employment Development	20742	R986-221	5YR	02/06/98	98-5/69
	20752	R986-310	5YR	02/06/98	98-5/74
	20753	R986-421	5YR	02/06/98	98-5/75
<u>DISABILITIES</u>					
Pardons (Board of), Administration	20427	R671-102	AMD	02/18/98	98-1/73
<u>DISABLED PERSONS</u>					
Administrative Services, Administration	20631	R13-3	5YR	01/08/98	98-3/89
<u>DRINKING WATER</u>					
Environmental Quality, Drinking Water	20789	R309-105	EXD	02/01/98	98-5/80
	20290	R309-106	REP	03/01/98	97-24/26
	20291	R309-107	REP	03/01/98	97-24/33
	20292	R309-108	REP	03/01/98	97-24/37
	20293	R309-109	REP	03/01/98	97-24/47

<u>KEYWORD</u> AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
	20294	R309-110	REP	03/01/98	97-24/56
	20295	R309-111	REP	03/01/98	97-24/60
	20296	R309-112	REP	03/01/98	97-24/63
<u>EDUCATION</u>					
Education, Administration	20665	R277-701	5YR	01/14/98	98-3/93
	20667	R277-709	5YR	01/14/98	98-3/94
	20670	R277-718	5YR	01/14/98	98-3/95
	20673	R277-730	5YR	01/14/98	98-3/96
<u>EDUCATIONAL TESTING</u>					
Education, Administration	20666	R277-702	5YR	01/14/98	98-3/93
<u>ELDERCARE</u>					
Human Services, Aging and Adult Services	20642	R510-110	5YR	01/08/98	98-3/102
<u>ELDERLY</u>					
Human Services, Aging and Adult Services	20634	R510-100	5YR	01/08/98	98-3/98
	20635	R510-101	5YR	01/08/98	98-3/99
	20636	R510-102	5YR	01/08/98	98-3/99
	20637	R510-103	5YR	01/08/98	98-3/100
	20638	R510-106	5YR	01/08/98	98-3/100
	20639	R510-107	5YR	01/08/98	98-3/101
	20640	R510-108	5YR	01/08/98	98-3/101
	20641	R510-109	5YR	01/08/98	98-3/102
	20643	R510-200	5YR	01/08/98	98-3/103
	20644	R510-400	5YR	01/08/98	98-3/103
<u>ELIGIBILITY</u>					
Human Services, Child and Family Services	20245	R512-2	AMD	02/01/98	97-24/90
Workforce Services, Employment Development	20749	R986-307	5YR	02/06/98	98-5/73
	20755	R986-702	5YR	02/06/98	98-5/76
	20757	R986-704	5YR	02/06/98	98-5/77
<u>EMPLOYEE LEASING COMPANY</u>					
Commerce, Occupational and Professional Licensing	20701	R156-59	5YR	01/27/98	98-4/134
<u>EMPLOYMENT</u>					
Human Services, Aging and Adult Services	20639	R510-107	5YR	01/08/98	98-3/101
<u>ENFORCEMENT (ADMINISTRATIVE)</u>					
Natural Resources, Energy	20718	R636-2	EXD	02/01/98	98-4/136
<u>ENGINEERS</u>					
Commerce, Occupational and Professional Licensing	20696	R156-22	5YR	01/27/98	98-4/133
<u>ENVIRONMENTAL HEALTH</u>					
Environmental Quality, Drinking Water	20789	R309-105	EXD	02/01/98	98-5/80
	20290	R309-106	REP	03/01/98	97-24/26

RULES INDEX

<u>KEYWORD</u> AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
	20295	R309-111	REP	03/01/98	97-24/60
	20296	R309-112	REP	03/01/98	97-24/63
<u>ENVIRONMENTAL PROTECTION</u>					
Environmental Quality, Air Quality	20099	R307-2-12	AMD	01/08/98	97-21/14
<u>EQUAL ACCESS</u>					
Public Service Commission, Administration	20592	R746-356-2	NSC	01/06/98	Not Printed
<u>ETHICS</u>					
Natural Resources, Wildlife Resources	20244	R657-38	AMD	01/15/98	97-24/105
<u>EXCEPTIONAL CHILDREN</u>					
Education, Administration	20668	R277-710	5YR	01/14/98	98-3/94
<u>EXECUTIONS</u>					
Corrections, Administration	20160	R251-107	AMD	01/15/98	97-22/16
<u>EXTRACURRICULAR ACTIVITIES</u>					
Education, Administration	20660	R277-605	5YR	01/14/98	98-3/91
	20661	R277-606	5YR	01/14/98	98-3/91
<u>FINANCIAL DISCLOSURE</u>					
Workforce Services, Employment Development	20746	R986-304	5YR	02/06/98	98-5/71
	20738	R986-304	EMR	02/12/98	98-5/60
<u>FIRE PREVENTION</u>					
Public Safety, Fire Marshal	20277	R710-7	AMD	01/15/98	97-24/108
	20278	R710-9	AMD	01/15/98	97-24/109
<u>FOOD AID PROGRAMS</u>					
Education, Administration	20671	R277-721	5YR	01/14/98	98-3/95
	20672	R277-722	5YR	01/14/98	98-3/96
<u>FOOD SALES TAX REFUNDS</u>					
Community and Economic Development, Community Development, Community Services	20282	R202-100	AMD	01/15/98	97-24/17
<u>FOOD STAMPS</u>					
Workforce Services, Employment Development	20208	R986-417	AMD	see CPR	97-23/100
	20208	R986-417	CPR	02/03/98	98-1/120
	20209	R986-419	AMD	01/02/98	97-23/102
	20210	R986-420	AMD	01/02/98	97-23/102
<u>FOREIGN STUDENTS</u>					
Education, Administration	20663	R277-615	5YR	01/14/98	98-3/92
<u>FOSTER CARE</u>					
Human Services, Child and Family Services	20245	R512-2	AMD	02/01/98	97-24/90
Human Services, Recovery Services	20520	R527-550	AMD	02/11/98	98-1/70
<u>FRAUD</u>					
Human Services, Recovery Services	20518	R527-928	AMD	02/17/98	98-1/71
<u>FUEL</u>					
Tax Commission, Auditing	20392	R865-4D-2	AMD	02/24/98	98-1/112

<u>KEYWORD</u> AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<u>FUNDING FORMULA</u>					
Human Services, Aging and Adult Services	20634	R510-100	5YR	01/08/98	98-3/98
<u>GAME LAWS</u>					
Natural Resources, Wildlife Resources	20241	R657-5	AMD	01/15/98	97-24/95
<u>GASOLINE</u>					
Environmental Quality, Air Quality	20100	R307-8-3	AMD	01/08/98	97-21/15
<u>GENERAL PROVISIONS</u>					
Workforce Services, Employment Development	20754	R986-701	5YR	02/06/98	98-5/75
<u>GIFTED CHILDREN</u>					
Education, Administration	20668	R277-710	5YR	01/14/98	98-3/94
<u>GOVERNMENT HEARINGS</u>					
Pardons (Board of), Administration	20486	R671-205	AMD	02/18/98	98-1/76
	20449	R671-304	AMD	02/18/98	98-1/83
	20487	R671-305	AMD	02/18/98	98-1/83
	20465	R671-317	AMD	02/18/98	98-1/91
	20490	R671-403	AMD	02/18/98	98-1/92
	20475	R671-503	AMD	02/18/98	98-1/95
	20477	R671-504	AMD	02/18/98	98-1/95
	20479	R671-505	AMD	02/18/98	98-1/96
	20483	R671-508	AMD	02/18/98	98-1/98
<u>GOVERNMENT PURCHASING</u>					
Natural Resources, Water Resources	20597	R653-3	AMD	02/18/98	98-2/58
<u>GRANTS</u>					
Community and Economic Development, Community Development, Community Services	20282	R202-100	AMD	01/15/98	97-24/17
Health, Health Systems Improvement, Community Health Nursing	20768	R425-1	5YR	02/10/98	98-5/68
<u>GRIEVANCE PROCEDURES</u>					
Administrative Services, Administration	20631	R13-3	5YR	01/08/98	98-3/89
<u>HAZARDOUS WASTE</u>					
Environmental Quality, Solid and Hazardous Waste	20382	R315-1	AMD	02/20/98	98-1/15
	20383	R315-2	AMD	02/20/98	98-1/17
	20384	R315-3	AMD	02/20/98	98-1/27
	20385	R315-4	AMD	02/20/98	98-1/35
	20538	R315-6-7	AMD	02/20/98	98-2/24
	20386	R315-7	AMD	02/20/98	98-1/36
	20387	R315-8	AMD	02/20/98	98-1/38
	20388	R315-13	AMD	02/20/98	98-1/39
	20389	R315-14-7	AMD	02/20/98	98-1/40
	20390	R315-16	AMD	02/20/98	98-1/40
	20391	R315-50	AMD	02/20/98	98-1/50

RULES INDEX

<u>KEYWORD</u> AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<u>HEALTH FACILITIES</u>					
Health, Health Systems Improvement, Health Facility Licensure	20582	R432-16	NEW	03/04/98	98-2/27
	20558	R432-102	AMD	02/24/98	98-2/31
	20685	R432-151	5YR	01/20/98	98-4/134
	20559	R432-550	AMD	02/24/98	98-2/34
	20560	R432-600	AMD	02/24/98	98-2/39
	20561	R432-700	AMD	02/24/98	98-2/42
	20562	R432-750	AMD	03/04/98	98-2/49
<u>HEARINGS</u>					
Professional Practices Advisory Commission, Administration	20524	R686-100	NEW	02/09/98	98-1/99
<u>HOME CARE SERVICES</u>					
Human Services, Aging and Adult Services	20644	R510-400	5YR	01/08/98	98-3/103
<u>HUMAN SERVICES</u>					
Workforce Services, Employment Development	20743	R986-301	5YR	02/06/98	98-5/70
<u>HUNTING</u>					
Natural Resources, Wildlife Resources	20244	R657-38	AMD	01/15/98	97-24/105
<u>HYDROELECTRIC POWER</u>					
Natural Resources, Energy and Resource Planning	20678	R637-1	NEW	03/05/98	98-3/73
<u>INCOME</u>					
Workforce Services, Employment Development	20742	R986-221	5YR	02/06/98	98-5/69
	20224	R986-302	AMD	01/02/98	97-23/97
	20744	R986-302	5YR	02/06/98	98-5/70
	20745	R986-303	5YR	02/06/98	98-5/71
	20319	R986-303-301	AMD	02/03/98	98-1/116
	20746	R986-304	5YR	02/06/98	98-5/71
	20738	R986-304	EMR	02/12/98	98-5/60
	20752	R986-310	5YR	02/06/98	98-5/74
	20207	R986-414	AMD	01/02/98	97-23/99
	20211	R986-421	AMD	01/02/98	97-23/103
	20753	R986-421	5YR	02/06/98	98-5/75
	20757	R986-704	5YR	02/06/98	98-5/77
<u>INMATE</u>					
Pardons (Board of), Administration	20429	R671-201	AMD	02/18/98	98-1/73
	20431	R671-202	AMD	02/18/98	98-1/74
	20435	R671-204	AMD	02/18/98	98-1/76
	20441	R671-208	AMD	02/18/98	98-1/79
	20443	R671-301	AMD	02/18/98	98-1/79
	20447	R671-303	AMD	02/18/98	98-1/82
	20453	R671-308	AMD	02/18/98	98-1/84
	20455	R671-309	AMD	02/18/98	98-1/85
	20457	R671-310	AMD	02/18/98	98-1/86

<u>KEYWORD</u> AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
	20459	R671-311	AMD	02/18/98	98-1/87
	20463	R671-316	AMD	02/18/98	98-1/90
	20465	R671-317	AMD	02/18/98	98-1/91
<u>INMATES' RIGHTS</u>					
Pardons (Board of), Administration	20447	R671-303	AMD	02/18/98	98-1/82
<u>INSPECTION</u>					
Environmental Quality, Radiation Control	20236	R313-18	AMD	01/23/98	97-23/61
<u>INSURANCE COMPANIES</u>					
Insurance, Administration	20816	R590-124	5YR	02/26/98	98-6/78
<u>INSURANCE LAW</u>					
Insurance, Administration	18730	R590-132	AMD	see CPR	97-7/36
	18730	R590-132	CPR (First)	see Second CPR	97-15/102
	18730	R590-132	CPR (Second)	03/01/98	97-22/105
<u>JUDGES</u>					
Judicial Conduct Commission, Administration	20527	R595-1-10	AMD	02/20/98	98-2/57
<u>JUDICIAL ETHICS</u>					
Judicial Conduct Commission, Administration	20527	R595-1-10	AMD	02/20/98	98-2/57
<u>JUVENILE COURTS</u>					
Education, Administration	20667	R277-709	5YR	01/14/98	98-3/94
<u>LABORATORIES</u>					
Health, Laboratory Services, Laboratory Improvement	20521	R444-14	R&R	02/19/98	98-1/51
<u>LAW</u>					
Public Safety, Fire Marshal	20278	R710-9	AMD	01/15/98	97-24/109
<u>LEASES</u>					
Administrative Services, Facilities Construction and Management	20710	R23-21	5YR	01/28/98	98-4/132
<u>LEASING SERVICES</u>					
Administrative Services, Facilities Construction and Management	20710	R23-21	5YR	01/28/98	98-4/132
<u>LEGAL AID</u>					
Corrections, Administration	20198	R251-707	AMD	01/15/98	97-23/8
<u>LIBERTIES</u>					
Natural Resources, Administration	20256	R634-1	NEW	01/15/98	97-24/92
<u>LIBRARIES</u>					
Education, Administration	20657	R277-516	5YR	01/14/98	98-3/89
<u>LICENSING</u>					
Commerce, Occupational and Professional Licensing	20200	R156-3a	AMD	see CPR	97-23/4
	20200	R156-3a	CPR	02/18/98	98-2/79
	20492	R156-17a	AMD	02/24/98	98-1/3
	20697	R156-40	5YR	01/27/98	98-4/133
	20173	R156-54	AMD	see CPR	97-22/12

RULES INDEX

<u>KEYWORD</u> AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
	20173	R156-54	CPR	02/03/98	98-1/199
	20650	R156-55a	AMD	03/05/98	98-3/23
	20701	R156-59	5YR	01/27/98	98-4/134
	20581	R156-60b	AMD	02/18/98	98-2/18
	20359	R156-60c	AMD	02/03/98	98-1/6
	20273	R156-60d	AMD	01/15/98	97-24/16
	20342	R156-61	AMD	02/03/98	98-1/10
Environmental Quality, Radiation Control	20236	R313-18	AMD	01/23/98	97-23/61
<u>LONG-TERM CARE ALTERNATIVES</u>					
Human Services, Aging and Adult Services	20644	R510-400	5YR	01/08/98	98-3/103
<u>LONG-TERM CARE OMBUDSMAN</u>					
Human Services, Aging and Adult Services	20634	R510-100	5YR	01/08/98	98-3/98
<u>MAJOR SOURCES</u>					
Environmental Quality, Air Quality	20096	R307-1-1	AMD	01/08/98	97-21/4
	20202	R307-1-1	AMD	01/08/98	97-23/10
	20219	R307-1-3	AMD	02/05/98	97-23/20
	20740	R307-1-3	NSC	02/05/98	Not Printed
<u>MARRIAGE AND FAMILY THERAPISTS</u>					
Commerce, Occupational and Professional Licensing	20581	R156-60b	AMD	02/18/98	98-2/18
<u>MEDICAID</u>					
Health, Health Care Financing, Coverage and Reimbursement Policy	20542	R414-3X	REP	02/20/98	98-2/25
	20648	R414-4X	5YR	01/12/98	98-3/97
	20825	R414-10A	EMR	02/26/98	98-6/64
	20612	R414-10X	REP	02/20/98	98-2/26
	20762	R414-12	5YR	02/09/98	98-5/66
	20232	R414-15	AMD	01/13/98	97-23/80
	20212	R414-17	REP	01/13/98	97-23/82
	20653	R414-22	5YR	01/13/98	98-3/97
	20345	R414-24	REP	02/04/98	98-1/51
	20613	R414-25X	REP	02/20/98	98-2/26
	20764	R414-26	5YR	02/09/98	98-5/66
	20735	R414-27	5YR	02/04/98	98-5/67
	20766	R414-31x	5YR	02/09/98	98-5/67
	20767	R414-32	5YR	02/09/98	98-5/68
<u>MENTAL HEALTH</u>					
Commerce, Occupational and Professional Licensing	20359	R156-60c	AMD	02/03/98	98-1/6
<u>MOTOR VEHICLES</u>					
Environmental Quality, Air Quality	20096	R307-1-1	AMD	01/08/98	97-21/4
	20202	R307-1-1	AMD	01/08/98	97-23/10
	20219	R307-1-3	AMD	02/05/98	97-23/20
	20740	R307-1-3	NSC	02/05/98	Not Printed

<u>KEYWORD</u> <u>AGENCY</u>	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
	20100	R307-8-3	AMD	01/08/98	97-21/15
Tax Commission, Motor Vehicle Enforcement	20393	R877-23V-17	AMD	02/24/98	98-1/113
<u>MUTUAL WATER CORPORATIONS</u>					
Public Service Commission, Administration	20626	R746-331	EMR	01/05/98	98-3/87
<u>NAMING PROCESS</u>					
Administrative Services, Facilities Construction and Management	20708	R23-10	5YR	01/28/98	98-4/131
<u>NATIVE AMERICAN</u>					
Human Services, Aging and Adult Services	20641	R510-109	5YR	01/08/98	98-3/102
<u>NEWS AGENCIES</u>					
Pardons (Board of), Administration	20445	R671-302	AMD	02/18/98	98-1/80
<u>NUCLEAR MEDICINE</u>					
Environmental Quality, Radiation Control	20238	R313-32	AMD	01/23/98	97-23/65
<u>NURSES</u>					
Health, Health Systems Improvement, Community Health Nursing	20768	R425-1	5YR	02/10/98	98-5/68
<u>NURSING HOMES</u>					
Human Services, Aging and Adult Services	20637	R510-103	5YR	01/08/98	98-3/100
<u>OCCUPATIONAL LICENSING</u>					
Commerce, Occupational and Professional Licensing	20650	R156-55a	AMD	03/05/98	98-3/23
<u>OMBUDSMAN</u>					
Human Services, Aging and Adult Services	20643	R510-200	5YR	01/08/98	98-3/103
<u>OVERSIZE/OVERWEIGHT TRUCKS</u>					
Transportation, Motor Carrier, Ports of Entry	20646	R912-4	5YR	01/12/98	98-3/104
<u>PARDONS</u>					
Pardons (Board of), Administration	20425	R671-101	AMD	02/18/98	98-1/72
	20461	R671-315	AMD	02/18/98	98-1/89
<u>PAROLE</u>					
Pardons (Board of), Administration	20429	R671-201	AMD	02/18/98	98-1/73
	20431	R671-202	AMD	02/18/98	98-1/74
	20435	R671-204	AMD	02/18/98	98-1/76
	20486	R671-205	AMD	02/18/98	98-1/76
	20441	R671-208	AMD	02/18/98	98-1/79
	20443	R671-301	AMD	02/18/98	98-1/79
	20447	R671-303	AMD	02/18/98	98-1/82
	20451	R671-307	AMD	02/18/98	98-1/84
	20453	R671-308	AMD	02/18/98	98-1/84
	20455	R671-309	AMD	02/18/98	98-1/85
	20457	R671-310	AMD	02/18/98	98-1/86
	20459	R671-311	AMD	02/18/98	98-1/87

RULES INDEX

<u>KEYWORD</u> AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
	20463	R671-316	AMD	02/18/98	98-1/90
	20465	R671-317	AMD	02/18/98	98-1/91
	20469	R671-402	AMD	02/18/98	98-1/91
	20490	R671-403	AMD	02/18/98	98-1/92
	20471	R671-405	AMD	02/18/98	98-1/93
	20475	R671-503	AMD	02/18/98	98-1/95
	20477	R671-504	AMD	02/18/98	98-1/95
	20479	R671-505	AMD	02/18/98	98-1/96
	20481	R671-507	AMD	02/18/98	98-1/98
	20483	R671-508	AMD	02/18/98	98-1/98
<u>PARTICULATE MATTER</u>					
Environmental Quality, Air Quality	20099	R307-2-12	AMD	01/08/98	97-21/14
<u>PERMITS</u>					
Transportation, Motor Carrier, Ports of Entry	20646	R912-4	5YR	01/12/98	98-3/104
<u>PERSONAL PROPERTY</u>					
Tax Commission, Property Tax	20394	R884-24P-24	AMD	02/24/98	98-1/114
	20203	R884-24P-58	AMD	02/24/98	97-23/96
<u>PETROLEUM</u>					
Environmental Quality, Air Quality	20100	R307-8-3	AMD	01/08/98	97-21/15
<u>PHARMACIES</u>					
Commerce, Occupational and Professional Licensing	20492	R156-17a	AMD	02/24/98	98-1/3
<u>PHARMACISTS</u>					
Commerce, Occupational and Professional Licensing	20492	R156-17a	AMD	02/24/98	98-1/3
<u>PLANNING-PROGRAMMING-BUDGETING</u>					
Administrative Services, Facilities Construction and Management	20705	R23-7	5YR	01/28/98	98-4/129
	20706	R23-8	5YR	01/28/98	98-4/130
<u>POPULATION</u>					
Human Services, Aging and Adult Services	20641	R510-109	5YR	01/08/98	98-3/102
<u>PRISON RELEASE</u>					
Pardons (Board of), Administration	20486	R671-205	AMD	02/18/98	98-1/76
<u>PRISONS</u>					
Corrections, Administration	20160	R251-107	AMD	01/15/98	97-22/16
	20196	R251-703	AMD	01/15/98	97-23/6
	20198	R251-707	AMD	01/15/98	97-23/8
<u>PRIVACY LAW</u>					
Human Services, Recovery Services	20240	R527-5	AMD	01/05/98	97-23/83
<u>PROCEEDINGS</u>					
Judicial Conduct Commission, Administration	20527	R595-1-10	AMD	02/20/98	98-2/57
<u>PROFESSIONAL COMPETENCY</u>					
Education, Administration	20657	R277-516	5YR	01/14/98	98-3/89

<u>KEYWORD</u> AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<u>PROFESSIONAL COUNSELORS</u>					
Commerce, Occupational and Professional Licensing	20359	R156-60c	AMD	02/03/98	98-1/6
<u>PROFESSIONAL EDUCATION</u>					
Education, Administration	20658	R277-518	5YR	01/14/98	98-3/90
<u>PROFESSIONAL ENGINEERS</u>					
Commerce, Occupational and Professional Licensing	20696	R156-22	5YR	01/27/98	98-4/133
<u>PROFESSIONAL LAND SURVEYORS</u>					
Commerce, Occupational and Professional Licensing	20696	R156-22	5YR	01/27/98	98-4/133
<u>PROGRAM BENEFITS</u>					
Workforce Services, Employment Development	20748	R986-306	5YR	02/06/98	98-5/72
<u>PROGRAM TYPE</u>					
Workforce Services, Employment Development	20756	R986-703	5YR	02/06/98	98-5/77
<u>PROPERTY TAX</u>					
Tax Commission, Property Tax	20394	R884-24P-24	AMD	02/24/98	98-1/114
	20203	R884-24P-58	AMD	02/24/98	97-23/96
<u>PROVIDER PAYMENT</u>					
Workforce Services, Employment Development	20759	R986-706	5YR	02/06/98	98-5/78
<u>PSYCHOLOGICAL</u>					
Pardons (Board of), Administration	20441	R671-208	AMD	02/18/98	98-1/79
<u>PSYCHOLOGISTS</u>					
Commerce, Occupational and Professional Licensing	20342	R156-61	AMD	02/03/98	98-1/10
<u>PUBLIC ASSISTANCE OVERPAYMENTS</u>					
Human Services, Recovery Services	20520	R527-550	AMD	02/11/98	98-1/70
<u>PUBLIC ASSISTANCE PROGRAMS</u>					
Human Services, Recovery Services	20518	R527-928	AMD	02/17/98	98-1/71
Workforce Services, Employment Development	20749	R986-307	5YR	02/06/98	98-5/73
	20750	R986-308	5YR	02/06/98	98-5/73
<u>PUBLIC BUILDINGS</u>					
Administrative Services, Facilities Construction and Management	20704	R23-6	5YR	01/28/98	98-4/129
	20705	R23-7	5YR	01/28/98	98-4/129
	20706	R23-8	5YR	01/28/98	98-4/130
<u>PUBLIC EDUCATION</u>					
Education, Administration	20669	R277-716	5YR	01/14/98	98-3/94
<u>PUBLIC UTILITIES</u>					
Public Service Commission, Administration	20626	R746-331	EMR	01/05/98	98-3/87
<u>RADIATION</u>					
Environmental Quality, Radiation Control	20237	R313-25	AMD	01/23/98	97-23/62

RULES INDEX

<u>KEYWORD</u> AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<u>RADIATION SAFETY</u>					
Environmental Quality, Radiation Control	20236	R313-18	AMD	01/23/98	97-23/61
<u>RADIOACTIVE MATERIAL</u>					
Environmental Quality, Radiation Control	20236	R313-18	AMD	01/23/98	97-23/61
	20238	R313-32	AMD	01/23/98	97-23/65
<u>RADIOACTIVE WASTE DISPOSAL</u>					
Environmental Quality, Radiation Control	20237	R313-25	AMD	01/23/98	97-23/62
<u>RADIOLOGY PRACTICAL TECHNICIAN</u>					
Commerce, Occupational and Professional Licensing	20173	R156-54	AMD	see CPR	97-22/12
	20173	R156-54	CPR	02/03/98	98/1/199
<u>RADIOLOGY TECHNOLOGIST</u>					
Commerce, Occupational and Professional Licensing	20173	R156-54	AMD	see CPR	97-22/12
	20173	R156-54	CPR	02/03/98	98/1/199
<u>RADIOPHARMACEUTICAL</u>					
Environmental Quality, Radiation Control	20238	R313-32	AMD	01/23/98	97-23/65
<u>REAL ESTATE APPRAISAL</u>					
Commerce, Real Estate	20625	R162-107	NEW	03/04/98	98-2/22
<u>RECORDS</u>					
Pardons (Board of), Administration	20447	R671-303	AMD	02/18/98	98-1/82
Workforce Services, Employment Development	20750	R986-308	5YR	02/06/98	98-5/73
<u>RECREATION</u>					
Natural Resources, Wildlife Resources	20244	R657-38	AMD	01/15/98	97-24/105
<u>RECREATIONAL THERAPY</u>					
Commerce, Occupational and Professional Licensing	20697	R156-40	5YR	01/27/98	98-4/133
<u>REHABILITATION</u>					
Public Safety, Driver License	20335	R708-1	REP	02/10/98	98-1/107
<u>RELIGIOUS EDUCATION</u>					
Education, Administration	20662	R277-610	5YR	01/14/98	98-3/91
<u>RESOURCES</u>					
Workforce Services, Employment Development	20726	R986-305	EMR	02/12/98	98-4/123
	20747	R986-305	5YR	02/06/98	98-5/72
	20758	R986-705	5YR	02/06/98	98-5/78
<u>RESTITUTION</u>					
Pardons (Board of), Administration	20490	R671-403	AMD	02/18/98	98-1/92
<u>RURAL POLICY</u>					
Human Services, Aging and Adult Services	20640	R510-108	5YR	01/08/98	98-3/100
<u>SAFETY REGULATIONS</u>					
Transportation, Motor Carrier	20271	R909-4-11	AMD	02/27/98	97-24/112
Transportation, Motor Carrier, Ports of Entry	20646	R912-4	5YR	01/12/98	98-3/104

<u>KEYWORD</u> AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<u>SALES</u>					
School and Institutional Trust Lands, Administration	20395	R850-80	AMD	02/03/98	98-1/108
<u>SANCTIONS</u>					
Judicial Conduct Commission, Administration	20527	R595-1-10	AMD	02/20/98	98-2/57
<u>SCHOOL BUSES</u>					
Education, Administration	20659	R277-600	5YR	01/14/98	98-3/90
<u>SCHOOL PERSONNEL</u>					
Education, Administration	20657	R277-516	5YR	01/14/98	98-3/89
<u>SCHOOL TRANSPORTATION</u>					
Education, Administration	20659	R277-600	5YR	01/14/98	98-3/90
<u>SECURITIES</u>					
Commerce, Securities	20679	R164-4	AMD	03/04/98	98-3/31
	20680	R164-5	AMD	03/04/98	98-3/38
<u>SECURITIES REGULATION</u>					
Commerce, Securities	20679	R164-4	AMD	03/04/98	98-3/31
	20680	R164-5	AMD	03/04/98	98-3/38
	20681	R164-6-1g	AMD	03/04/98	98-3/40
	20682	R164-26-6	AMD	03/04/98	98-3/44
<u>SENIOR CENTERS</u>					
Human Services, Aging and Adult Services	20637	R510-103	5YR	01/08/98	98-3/100
<u>SENTENCING</u>					
Pardons (Board of), Administration	20471	R671-405	AMD	02/18/98	98-1/93
<u>SERVICE COORDINATION</u>					
Human Services, Aging and Adult Services	20636	R510-102	5YR	01/08/98	98-3/99
<u>SMALL BUSINESS ASSISTANCE PROGRAM</u>					
Environmental Quality, Air Quality	20099	R307-2-12	AMD	01/08/98	97-21/14
<u>SOCIAL SECURITY</u>					
Workforce Services, Employment Development	20206	R986-412	AMD	01/02/98	97-23/98
<u>SOCIAL SERVICES</u>					
Human Services, Administration, Administrative Hearings	20248	R497-100	AMD	01/26/98	97-24/88
<u>SOLAR ENERGY</u>					
Natural Resources, Energy and Resource Planning	20678	R637-1	NEW	03/05/98	98-3/73
<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>SPACE UTILIZATION</u>					
Administrative Services, Facilities Construction and Management	20709	R23-11	5YR	01/28/98	98-4/131

RULES INDEX

<u>KEYWORD</u> AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<u>SPECIAL FUEL</u>					
Tax Commission, Auditing	20392	R865-4D-2	AMD	02/24/98	98-1/112
<u>STATE OFFICE BUILDINGS</u>					
Administrative Services, Facilities Construction and Management	20705	R23-7	5YR	01/28/98	98-4/129
<u>STATE PLANNING</u>					
Administrative Services, Facilities Construction and Management	20705	R23-7	5YR	01/28/98	98-4/129
<u>STUDENT COMPETENCY</u>					
Education, Administration	20666	R277-702	5YR	01/14/98	98-3/93
<u>STUDENT FINANCIAL AID</u>					
Education, Administration	20670	R277-718	5YR	01/14/98	98-3/95
<u>STUDENTS</u>					
Education, Administration	20667	R277-709	5YR	01/14/98	98-3/94
<u>SUBSTANCE ABUSE COUNSELORS</u>					
Commerce, Occupational and Professional Licensing	20273	R156-60d	AMD	01/15/98	97-24/16
<u>SURVEYORS</u>					
Commerce, Occupational and Professional Licensing	20696	R156-22	5YR	01/27/98	98-4/133
<u>SYSTEMS</u>					
Public Safety, Fire Marshal	20277	R710-7	AMD	01/15/98	97-24/108
<u>TAXATION</u>					
Tax Commission, Auditing	20392	R865-4D-2	AMD	02/24/98	98-1/112
Tax Commission, Motor Vehicle Enforcement	20393	R877-23V-17	AMD	02/24/98	98-1/113
Tax Commission, Property Tax	20177	R884-24P-7	AMD	01/06/98	97-22/75
	20394	R884-24P-24	AMD	02/24/98	98-1/114
	20203	R884-24P-58	AMD	02/24/98	97-23/96
	20204	R884-24P-59	AMD	02/24/98	97-23/96
<u>TAX CREDITS</u>					
Natural Resources, Energy and Resource Planning	20678	R637-1	NEW	03/05/98	98-3/73
<u>TEACHER CERTIFICATION</u>					
Education, Administration	20658	R277-518	5YR	01/14/98	98-3/90
Professional Practices Advisory Commission, Administration	20524	R686-100	NEW	02/09/98	98-1/99
<u>TELECOMMUNICATIONS</u>					
Public Service Commission, Administration	20592	R746-356-2	NSC	01/06/98	Not Printed
<u>THERAPISTS</u>					
Commerce, Occupational and Professional Licensing	20581	R156-60b	AMD	02/18/98	98-2/18
<u>TOLL CALLING</u>					
Public Service Commission, Administration	20592	R746-356-2	NSC	01/06/98	Not Printed
<u>TOWING</u>					
Transportation, Motor Carrier	20271	R909-4-11	AMD	02/27/98	97-24/112

<u>KEYWORD</u> AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<u>TRANSPORTATION SAFETY</u>					
Transportation, Motor Carrier	20276	R909-1	AMD	01/15/98	97-24/111
<u>TRUCKS</u>					
Transportation, Motor Carrier	20276	R909-1	AMD	01/15/98	97-24/111
	20271	R909-4-11	AMD	02/27/98	97-24/112
<u>TRUSTS</u>					
Workforce Services, Employment Development	20726	R986-305	EMR	02/12/98	98-4/123
	20747	R986-305	5YR	02/06/98	98-5/72
<u>UMAP</u>					
Workforce Services, Employment Development	20751	R986-309	5YR	02/06/98	98-5/74
	20732	R986-309-901	EMR	02/12/98	98-5/62
<u>VICTIMS OF CRIMES</u>					
Pardons (Board of), Administration	20433	R671-203	AMD	02/18/98	98-1/75
<u>VOCATIONAL EDUCATION</u>					
Education, Administration	20658	R277-518	5YR	01/14/98	98-3/90
<u>WARRANTS</u>					
Pardons (Board of), Administration	20473	R671-501	AMD	02/18/98	98-1/93
<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
<u>WATER</u>					
Public Service Commission, Administration	20626	R746-331	EMR	01/05/98	98-3/87
<u>WATER POLICY</u>					
Natural Resources, Water Resources	20593	R653-5	AMD	02/18/98	98-2/60
<u>WATERSHED MANAGEMENT</u>					
Environmental Quality, Drinking Water	20294	R309-110	REP	03/01/98	97-24/56
<u>WATER TREATMENT</u>					
Environmental Quality, Drinking Water	20291	R309-107	REP	03/01/98	97-24/33
	20292	R309-108	REP	03/01/98	97-24/37
	20293	R309-109	REP	03/01/98	97-24/47
<u>WEATHER MODIFICATION</u>					
Natural Resources, Water Resources	20593	R653-5	AMD	02/18/98	98-2/60
<u>WELFARE</u>					
Human Services, Recovery Services	20647	R527-3	5YR	01/12/98	98-3/104
<u>WILDLIFE</u>					
Natural Resources, Wildlife Resources	20241	R657-3	AMD	01/15/98	97-24/95
	20243	R657-37	AMD	01/15/98	97-24/104
	20244	R657-38	AMD	01/15/98	97-24/105
<u>WIND POWER</u>					
Natural Resources, Energy and Resource Planning	20678	R637-1	NEW	03/05/98	98-3/73

RULES INDEX

<u>KEYWORD</u> AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<u>YOUTH CORRECTIONS</u>					
Human Services, Recovery Services	20520	R527-550	AMD	02/11/98	98-1/70
<u>ZONING</u>					
Administrative Services, Facilities Construction and Management	20707	R23-9	5YR	01/28/98	98-4/130