

UTAH STATE BULLETIN

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Nancy L. Lancaster, Editor

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SPECIAL NOTICES

ALCOHOLIC BEVERAGE CONTROL ADMINISTRATION

2002 MEETING SCHEDULE

Public Notice is hereby given of the 2002 calendar year meeting schedule for the Utah Alcoholic Beverage Control Commission. The Commission meets monthly at the department's administrative office at 1625 South 900 West in Salt Lake City, Utah. Meetings are held on the fourth Friday of the month, January through October; and on the third Friday in November and December. Meetings start at 9:00 a.m. and are open to the public. Meetings are subject to change.

To confirm meeting dates, contact: Sharon Mackay at (801) 977-6801.

ATTORNEY GENERAL ADMINISTRATION

UTAH ATTORNEY GENERAL'S OPINION NO. 01-002: REGARDING THE LEGALITY OF DEPARTMENT OF HUMAN RESOURCE MANAGEMENT RULE R477-9-1(5) PERTAINING TO FIREARMS

November 30, 2001

Utah Attorney General's Opinion No. 01-002

The Honorable L. Alma (Al) Mansell
President of the Senate

The Honorable Martin R. Stephens
Speaker of the House of Representatives

Re: Your request regarding the Legality of Department of Human Resource Management Rule 477-9-1(5) pertaining to firearms.

Gentlemen:

By letter dated October 26, 2001 you requested a formal written opinion from me on whether the Department of Human Resource Management's rule 477-9-1(5) prohibiting state employees from carrying firearms "in any facility owned or operated by the state, or in any state vehicle, or at any time or any place while on state business" is contrary to Utah law.¹ This opinion responds to that specific request.

Background of Utah's Laws Concerning Firearms

Article I section 6 of the Utah Constitution clearly recognizes the "individual right of the people to keep and bear arms for security and defense of self, family, others, property, or the state, as well as for other lawful purposes," but also provides the Legislature with the authority to define the "lawful use of arms."² U.C.A. Section 76-10-500 affirms this constitutional limitation of authority as a function of the Legislature in order to "provide uniform laws throughout the state" and protect this constitutional right.³ Subsection (2) of that statute declares, "[a]ll authority to regulate firearms shall be reserved to the state except where the Legislature specifically delegates responsibility to local authorities or state entities. Unless *specifically authorized* by the Legislature *by statute*, a local authority or state entity *may not enact or enforce any ordinance, regulation, or rule pertaining to firearms.*" [emphasis added.]

The Legislature has only provided specific statutory authorization to regulate firearms under prescribed limitations to the following entities: municipalities,⁴ mental health facilities, law enforcement facilities, correctional facilities,⁵ the Olympic Public Safety Commander,⁶ airports,⁷ courts,⁸ houses of worship, private residences,⁹ inns,¹⁰ elementary and secondary schools,¹¹ buses and bus terminals.¹² Because the Legislature has provided such limited statutory authorization to regulate firearms to only a few entities, all other ordinances, regulations, and rules pertaining to firearms that are promulgated by any other local authorities or state entities would be illegally promulgated.¹³

The Department of Human Resource Management's Rule

The Legislature has provided that the Department of Human Resource Management "shall establish a career service system" that provides for "recruiting, selecting, and advancing employees . . . equitable and competitive compensation . . . training employees as needed to assure high-quality performance . . . [and] retaining employees on the basis of the adequacy of their performance." U.C.A. Section 67-19-3.1. Since the Legislature has not specifically delegated the authority to enact or enforce ordinances, regulations or rules pertaining to firearms to the Department of Human Resource Management, the only issue is whether U.A.C. R477-9-1(5) pertains to firearms. By its own terms it does. Consequently, the rule is not only unenforceable, it is also null and void because it has been promulgated in direct contravention of a statutory provision forbidding such a rule. It is my understanding that based on a similar informal opinion provided to the Governor's Office on October 22, 2001, DHRM is currently in the process of rescinding the rule by January 1, 2002.

Sincerely,

MARK SHURTLEFF
Attorney General

NOTES:

¹U.A.C. Rule 477-9-1. The full text reads:
Administration--Employee Conduct--Standards of Conduct.

...
(5) Employees shall not carry firearms in any facility owned or operated by the state, or in any state vehicle, or at any time or any place while on state business.

(a) This rule shall not apply to sworn officers as defined by Section 53-13-103, or employees whose assigned duties require them to use a firearm.

(b) Employees who violate this rule shall be subject to disciplinary action pursuant to R477-11.

²UT. CONST. ART. I, SECTION 6 The text of the provision reads: The individual right of the people to keep and bear arms for security and defense of self, family, others, property, or the state, as well as for other lawful purposes shall not be infringed; but nothing herein shall prevent the legislature from defining the lawful use of arms.

³U.C.A. Section 76-10-500 provides: (1) The individual right to keep and bear arms being a constitutionally protected right, the Legislature finds the need to provide uniform laws throughout the state. Except as specifically provided by state law, a citizen of the United States or a lawfully admitted alien shall not be:

(a) prohibited from owning, possessing, purchasing, selling, transferring, transporting, or keeping any firearm at his place of residence, property, business, or in any vehicle lawfully in his possession or lawfully under his control; or

(b) required to have a permit or license to purchase, own, possess, transport, or keep a firearm.

(2) This part is uniformly applicable throughout this state and in all its political subdivisions and municipalities. All authority to regulate firearms shall be reserved to the state except where the Legislature specifically delegates responsibility to local authorities or state entities. Unless specifically authorized by the Legislature by statute, a local authority or state entity may not enact or enforce any ordinance, regulation, or rule pertaining to firearms.

⁴In U.C.A. Section 10-8-47, the legislature has authorized municipalities to "*regulate and prevent the discharge of firearms, rockets, powder, fireworks or any other dangerous or combustible material.*" [emphasis added.] U.C.A. Section 10-8-94 grants towns the same authority as cities, but prohibits towns from attempting "to regulate an area which by the nature of the subject requires uniform state regulation."

⁵The Legislature, in U.C.A. Subsection 76-8-311.1(2), has specifically delegated authority to correctional, law enforcement, and mental health facilities wherein they "may establish secure areas within the facility and *may prohibit or control by rule any firearm.*" [emphasis added.]

⁶The Legislature, in U.C.A. Subsection 53-12-301.1(2)(a), has specifically delegated to the Olympic law enforcement commander the authority to establish rules "designating the locations of secure areas within Olympic venues where a firearm . . . is prohibited between January 25, 2002, and April 1, 2002."

⁷The Legislature, in U.C.A. Section 76-10-529, has specifically authorized an "airport authority, county or municipality regulating the airport" to establish a secure area where firearms are prohibited. In addition, the airport authority, county or municipality regulating the airport may use "reasonable means . . . to detect . . . firearms" and shall provide notice at the entrance of each secure area that firearms are prohibited.

⁸The Legislature, in U.C.A. Section 78-7-6, has specifically authorized the judicial council to "provide, through the rules of judicial administration, for security in or about the courthouse or courtroom, or establish a secure area" where a person may not possess a firearm unless authorized by the rules of judicial administration. In addition, the court may also prohibit an abusive cohabitant under protective order (U.C.A. Section 30-6-4.2), a person convicted of domestic violence (U.C.A. Section 77-36-5.1), or a defendant whose conviction is on appeal, while on bail (U.C.A. Section 77-20-10), from possessing a firearm.

⁹The Legislature, in U.C.A. Section 76-10-530, has specifically delegated the authority to religious organizations operating a house of worship or an owner, lessee, or person with lawful right of possession of a private residence to post signs prohibiting firearms or communicate the prohibition directly to a person transporting a firearm so that the person in possession of a firearm may not enter or remain in a house of worship or private residence with his or her firearm.

¹⁰The Legislature, in U.C.A. Subsection 29-2-103(1), has specifically delegated the authority to innkeepers wherein they may "refuse or deny accommodations, facilities, or privileges of a lodging establishment to any person who is in the reasonable belief of the innkeeper, bringing in property that may be dangerous to other persons, *including firearms*." [emphasis added.] A "lodging establishment" is defined as a place providing temporary sleeping accommodations to the public, including: a bed and breakfast establishment, a boarding house, a hotel, an inn, a lodging house, a motel, a resort, or a rooming house.

¹¹The Legislature, in U.C.A. Subsections 76-10-505.5(1) and 76-3-203.2(1), has prohibited the possession of firearms "on or about school premises" or within 1,000 feet of school grounds. Subsection 76-3-203.2(1) defines "school premises" as public or private elementary, secondary, *vocational or postsecondary* school. This prohibition does not apply to concealed firearm permit holders. U.C.A. Subsection 76-10-505.5(3). However, the Legislature, in U.C.A. Subsection 53A-3-502(2), has delegated authority to "the responsible school administrator" to approve the possession of firearms but only at public or private elementary and secondary school premises. These schools may approve a lawful activity where firearms are present and to be used in connection with the activity. Consequently, since the legislature has only authorized elementary and secondary school administrators to approve the possession of firearms, postsecondary schools, such as universities, and vocational schools have not been delegated authority to approve possession of firearms on their campuses.

¹²The Legislature, in U.C.A. Sections 76-10-1504 and 76-10-1507, has prohibited the possession of firearms aboard buses or in bus terminals. In Section 76-10-1504, the legislature made it a *second degree* felony for a person to *board* a bus while carrying a concealed dangerous weapon, but the legislature has provided an exception for "a person licensed to carry a concealed weapon." However in Section 76-10-1507 the legislature has made it a *third* degree felony for a person to carry a firearm into a bus terminal or *aboard a bus* and there is no exception for a concealed weapon permit holder. In Section 76-10-1507, the Legislature has authorized the bus company to "employ reasonable means, including mechanical, electronic or x-ray devices to detect [a firearm] concealed in baggage or upon the person of any passenger. Upon the discovery of any [firearm], the company may obtain possession and retain custody thereof until it is transferred to a peace officer."

¹³The administrative rule that is the subject of your inquiry, R477-9-1(5) may not be the only rule that has been promulgated without authorization from the Legislature. For instance, your letter requesting this opinion had as an attachment, Formal Opinion No. 98-01 from the Office of Legislative Research and General Counsel. That opinion concludes that the University of Utah's policy prohibiting students and faculty from possessing firearms on University premises was contrary to law. [As of this date, those policies are still listed in the University of Utah Policy and Procedures Manual: Policy: 8-10, Rev. 3, July 14, 1997, and Policy 2-9, Rev. 7, July 13, 1998, Section IV Subsection F.] I agree with the reasoning and conclusions of the Legislative General Counsel that those policies are unlawful and in violation of the laws of this State.

**COMMUNITY AND ECONOMIC DEVELOPMENT
COMMUNITY DEVELOPMENT, LIBRARY**

PUBLIC NOTICE OF AVAILABLE UTAH STATE PUBLICATIONS

The Utah State Library Division has made available Utah State Publications List No. 01-25, dated December 7, 2001 (<http://library.utah.gov/01-25.html>). For a copy of the complete list, contact the Utah State Library Division at: 1950 West 250 North, Suite A, Salt Lake City, UT 84116-7901; phone: (801) 715-6777; or the Division of Administrative Rules, PO Box 141007, Salt Lake City, UT 84114-1007; phone: (801) 538-3218; FAX: (801) 538-1773; or view it on the World Wide Web at the address above.

**GOVERNOR
ADMINISTRATION**

**EXECUTIVE ORDER: DIRECTING THE CHIEF INFORMATION OFFICER TO DEVELOP AND IMPLEMENT POLICY
PROMOTING SECURITY OF STATE INFORMATION AND INFORMATION SYSTEMS**

WHEREAS, it is in the State of Utah's interest to maintain secure information systems that are properly protected from threats, including error, fraud, embezzlement, improper disclosure, sabotage, terrorism, extortion, industrial espionage, privacy violation, service interruption, and natural disaster.

WHEREAS, security is an integral aspect of maintaining the "quality" of information systems.

WHEREAS, the Chief Information Officer has authority to create policy to guide the development of information systems within state government to achieve maximum economy and quality while preserving optimum user flexibility.

WHEREAS, operational responsibility for enterprise security must be clearly established.

WHEREAS, the Division of Information Technology Services has responsibility for statewide information systems and services, which has included the operational implementation of security measures for these systems.

Now, therefore, I, Michael O. Leavitt, Governor of the State of Utah, by virtue of the authority vested in me by the constitution and laws of the State of Utah, hereby order as follows:

1. The Chief Information Officer shall develop and implement policies promoting the security of State information and information systems.
2. All executive branch agencies shall collaborate in the development of these policies and shall comply with, and cooperate in the implementation of, the policies once they are established.
3. The Division of Information Technology Services, under the direction of the Chief Information Officer, shall be responsible for operational implementation of security policies in cooperation with all executive branch agencies.

IN WITNESS WHEREOF, I have here unto set my hand and cause to be affixed the Great Seal of the State of Utah. Done at the State Capitol in Salt Lake City, Utah, this 11th day of December, 2001.

(STATE SEAL)

MICHAEL O. LEAVITT
Governor

Attest:
OLENE WALKER
Lieutenant Governor

NOTICES OF PROPOSED RULES

A state agency may file a PROPOSED RULE when it determines the need for a new rule, a substantive change to an existing rule, or a repeal of an existing rule. Filings received between December 1, 2001, 12:00 a.m., and December 14, 2001, 11:59 p.m. are included in this, the January 1, 2002, issue of the *Utah State Bulletin*.

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

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

The law requires that an agency accept public comment on PROPOSED RULES published in this issue of the *Utah State Bulletin* until at least January 31, 2002. The agency may accept comment beyond this date and will list the last day the agency will accept comment in the RULE ANALYSIS. The agency may also hold public hearings. Additionally, citizens or organizations may request the agency to hold a hearing on a specific PROPOSED RULE. Section 63-46a-5 (1987) requires that a hearing request be received "in writing not more than 15 days after the publication date of the PROPOSED RULE."

From the end of the public comment period through May 1, 2002, the agency may notify the Division of Administrative Rules that it wants to make the PROPOSED RULE effective. The agency sets the effective date. The date may be no fewer than 31 days nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file a CHANGE IN PROPOSED RULE in response to comments received. If the Division of Administrative Rules does not receive a NOTICE OF EFFECTIVE DATE or a CHANGE IN PROPOSED RULE, the PROPOSED RULE filing lapses and the agency must start the process over.

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

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

The Proposed Rules Begin on the Following Page.

Health, Health Care Financing,
Coverage and Reimbursement Policy
R414-2A
Inpatient Hospital Services

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 24314

FILED: 12/14/2001, 17:42

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule creates cost-savings in the Medicaid budget to accommodate a shortfall in state revenues.

SUMMARY OF THE RULE OR CHANGE: This rule adds a subsection to allow a once annually \$220 co-insurance payment from Medicaid clients for inpatient hospital services.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 26-1-5, 26-1-15, and 26-18-6; Subsections 26-18-3(2) and 26-18-5(3) and 26-18-5(4); and 42 CFR 447.15 and 447.50

ANTICIPATED COST OR SAVINGS TO:

❖**THE STATE BUDGET:** This provision will save an estimated \$285,000 annually in the General Fund. Up to \$665,000 in federal match monies to the state budget will be lost.

❖**LOCAL GOVERNMENTS:** It is not possible to determine how many first-time Medicaid inpatient visits the six hospitals operated by local governments may experience and for how many of those they may not be able to collect. There may be some additional administrative costs but there is no firm, reliable information on which to base an estimate. Hospitals do collect co-insurance for most commercially-insured patients. We believe any administrative costs will be minimal.

❖**OTHER PERSONS:** Up to \$285,000 annually will be paid either by Medicaid clients or hospitals, but it is not possible to determine how many Medicaid recipients will pay the co-insurance payment. There may be some additional administrative costs but there is no firm, reliable information on which to base an estimate. Hospitals do collect co-insurance for most commercially-insured patients. We believe any administrative costs will be minimal.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Medicaid clients who require hospitalization will pay \$220 annually for the first service. A hospital may not always be able to collect the co-insurance payment. It is not possible to determine how many first-time Medicaid inpatient visits a hospital may experience and for how many of those it may not be able to collect. There may be some additional administrative costs but there is no firm, reliable information on which to base an estimate. Hospitals do collect co-insurance for most commercially-insured patients. We believe any administrative costs will be minimal.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The current shortfall in state

revenues for FY2002 makes it necessary to trim Medicaid expenditures to stay within Legislative appropriations. The annual \$220 co-insurance payment for some Medicaid recipients is expected to save \$285,000 in the state General Fund. It may also have the added benefit of reducing inappropriate utilization of hospital services. Encouraging individual responsibility for payment of a small portion of the cost of a hospital stay also brings the Medicaid program more in line with the requirements imposed on those that have commercial insurance. Rod L. Betit

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

HEALTH
HEALTH CARE FINANCING,
COVERAGE AND REIMBURSEMENT POLICY
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Michael J Deily at the above address, by phone at 801-538-6406, by FAX at 801-538-6478, or by Internet E-mail at mdeily@doh.state.ut.us

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 01/31/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 02/01/2002

AUTHORIZED BY: Rod Betit, Executive Director

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

R414-2A. Inpatient Hospital Services.

R414-2A-100. Authority and Purpose.

(1) This rule defines the scope of inpatient hospital benefits available for the care and treatment of Medicaid clients who meet the level of care criteria for admission to an acute-care general hospital for treatment of disorders other than mental disease.

(2) Inpatient hospital services are required under Section 1901 et seq. and Section 1905(a)(1) of the Social Security Act, and by 42 CFR 440.10 (October 1, 1991, edition).

(3) This rule is authorized by Sections 26-1-5, 26-1-15, and 26-18-6, and by Subsections 26-18-3(2) and 26-18-5(3) and (4) and by 42 CFR 447.15 and 447.50, Oct. 1, 2000 ed.

R414-2A-300. Program Access Requirements.

(1) Each hospital providing inpatient services must have a utilization review plan, as described in 42 CFR 482.30 (October 1, 1991, edition), which is incorporated by reference.

(2) The attending physician or other practitioner of the healing arts must sign a physician attestation statement that meets the requirements of 42 CFR 412.46 (October 1, 1991, edition), which is incorporated by reference.

(3) The attending physician must certify and recertify the need for inpatient care as described in 42 CFR 441.152 and 456.60 (October 1, 1991, edition), which are incorporated by reference.

(4) All hospital admissions are subject to review by the department for appropriateness and medical necessity as detailed in R414-2A.

(5) For purposes of reimbursement, the day of admission is counted as a full day; the day of discharge is not counted.

(6) When a patient receives SNF-level, ICF-level, or other sub-acute care in an acute-care hospital or in a hospital with swing-bed approval, payment shall be made at the SNF or ICF rate.

(7) Inpatient hospital psychiatric services are covered Medicaid services for clients who live in the counties identified in Table 1 only when such services are coordinated through the contractor identified for the specified county:

TABLE 1

| | | |
|------|-------------|---|
| I. | Counties: | Salt Lake County Summit County |
| | Contractor: | Salt Lake Valley Mental Health, Salt Lake City, Utah |
| II. | Counties: | Carbon County Emery County Grand County |
| | Contractor: | Four Corners Community Mental Health Center, Price, Utah |
| III. | Counties: | Beaver County Garfield County Kane County Iron County Washington County |
| | Contractor: | Southwest Utah Mental Health Center, St. George, Utah |

R414-2A-400. Services.

(1) Inpatient hospital services encompass all medically necessary and therapeutic Medicaid services and supplies that are ordered by a physician or other practitioner of the healing arts and are appropriate for the adequate diagnosis and treatment of a patient's illness. These services include nursing, therapy services, use of hospital facilities, the technical portion of clinical laboratory and radiology services, and medical social services. These services shall be furnished by the hospital.

(2) Drugs and biologicals, approved by the federal Food and Drug Administration and appropriate for inpatient care, are covered Medicaid services based on individual need and a physician's written order.

(3) Supplies, appliances, and equipment required for the care and treatment of a client during an inpatient stay are covered Medicaid services based on individual need and a physician's written order.

(4) Inpatient hospital intensive physical rehabilitation services are covered Medicaid services, as specified in R414-2B.

(5) Organ transplantation services are covered Medicaid services, as specified in R414-10A.

(6) Inpatient hospital psychiatric services are covered Medicaid services only when the severity of a patient's illness and the intensity of service required are such that these services cannot be provided in an alternative setting.

(7) Cosmetic, reconstructive, or plastic surgery is limited to:

(a) correction of a congenital anomaly;

(b) restoration of body form following an accidental injury; or

(c) revision of severe disfiguring and extensive scars resulting from neoplastic surgery.

(8) Inpatient hospital care for treatment of alcoholism or drug dependency is limited to medical treatment of symptoms associated with drug or alcohol detoxification.

(9) Abortion procedures are limited to those certified as medically necessary, approved by division consultants, and determined to meet the requirements of Section 26-18-4 and 42 CFR 441.203 (October 1, 1991, edition), which is incorporated by reference.

(10) Sterilization and hysterectomy procedures are limited to those that meet the requirements of 42 CFR 441, Subpart F (October 1, 1991, edition), which is incorporated by reference.

R414-2A-500. Limitations.

(1) Treatment of syndromes or disorders for which no specific therapies have been identified except for therapies that border on behavior modification or experimental or unproven practices, or for which medical necessity, appropriate utilization, and cost effectiveness cannot be assured, are not covered Medicaid services. The treatments are:

(a) treatment of sleep apnea, or sleep studies, or both;

(b) pain clinic services;

(c) treatment of eating disorders.

(2) Miscellaneous supplies, dressings, durable medical equipment, and drugs are not covered take-home supplies.

(3) Cosmetic, reconstructive, and plastic surgery procedures other than those specified in R414-2A-400(7), including all related supplies, and any institutional costs, are not covered Medicaid services.

(4) An inpatient admission for 24 hours or more solely for observation or diagnostic evaluation is not a covered Medicaid service.

(5) Nonphysician psychosocial counseling services are not covered Medicaid services.

(6) An off-unit pass is limited to an inpatient rehabilitation or psychiatric admission pursuant to a written order by the attending physician, planned by the physician or interdisciplinary team through established goals and objectives, and adequately documented and evaluated in the progress notes of the patient's chart as supporting the patient's plan of care.

(7) A therapeutic leave of absence is limited to inpatient rehabilitation admissions pursuant to a written order by the attending physician, planned by the physician or interdisciplinary team through established goals and objectives, and adequately documented and evaluated in the progress notes of the patient's chart as supporting the patient's plan of care.

(8) Except as provided in subsections (c) through (e), a Medicaid client must pay a co-insurance payment for inpatient services.

(a) The Medicaid client out-of-pocket expense is limited to \$220 per calendar year for inpatient hospital services.

(b) The Department shall deduct \$220 from the reimbursement paid to the provider that provides the initial inpatient service.

(c) Medicaid clients in the following categories are exempt from co-insurance requirements

(1) children;

(2) pregnant women;

(3) institutionalized individuals; and

(4) individuals whose total gross income, before exclusions or deductions, is below the Temporary Assistance to Needy Families standard payment allowance.

(d) Emergency services are exempt from the co-insurance payment requirements.

(e) Inpatient services for family planning purposes are exempt from the co-insurance requirements.

R414-2A-600. Prior Authorization.

(3) All services related to organ transplantations require prior authorization.

(4) All inpatient psychiatric and rehabilitation services require prior authorization.

KEY: medicaid

~~[1992]~~2002

Notice of Continuation December 2, 1997

26-1-5

26-1-15

26-18-3(2)

26-18-5(3)

26-18-5(4)

26-18-6

▼ ————— ▼

Insurance, Administration
R590-206-4
Definitions

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 24310

FILED: 12/14/2001, 12:30

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The changes being proposed are to change the definition of "Customer Relationship."

SUMMARY OF THE RULE OR CHANGE: Subsection R590-206-4(10)(b)(i) eliminates from the definition of when a consumer has a continuing relationship with a licensee, Subsection (C), "the consumer is a beneficiary or claimant under a policy and has submitted a claim under a policy choosing an option involving an on going relationship with the licensee." Subsection R590-206-4(10)(ii) eliminates from the definition of when a consumer does not have a continuing relationship with a licensee when "choosing a lump sum settlement."

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 31A-2-201, 31A-2-202 and 31A-25-317; and 15 U.S.C. 6805

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: This will have no impact on the department or the general fund. No additional work will be required of the department and no form or rate filings will be required of the insurer, which if required would result in a filing fee paid to the department.

❖ LOCAL GOVERNMENTS: This rule will not affect local government. The rule is regulated by a state government agency.

❖ OTHER PERSONS: The proposed changes will have minimal effect on structured settlements creating some savings to the insurance companies and probably no savings to consumers.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed changes will have minimal effect on structured settlements creating some savings to the insurance companies and probably no savings to consumers.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The changes to this rule will have some cost saving for insurance companies in the area of structured settlements. This is a very narrow and minimal number of their insureds.

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

INSURANCE
ADMINISTRATION
Room 3110 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY UT 84114-1201, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jilene Whitby at the above address, by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at jwhitby@insurance.state.ut.us

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 01/31/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 02/01/2002

AUTHORIZED BY: Jilene Whitby, Information Specialist

R590. Insurance, Administration.

R590-206. Privacy of Consumer Financial and Health Information Rule.

R590-206-4. Definitions.

As used in this rule, unless the context requires otherwise:

(1) "Affiliate" means any company that controls, is controlled by or is under common control with another company.

(2)(a) "Clear and conspicuous" means that a notice is reasonably understandable and designed to call attention to the nature and significance of the information in the notice.

(b) Examples.

(i) Reasonably understandable. A licensee makes its notice reasonably understandable if it:

(A) Presents the information in the notice in clear, concise sentences, paragraphs, and sections;

(B) Uses short explanatory sentences or bullet lists whenever possible;

(C) Uses definite, concrete, everyday words and active voice whenever possible;

(D) Avoids multiple negatives;

(E) Avoids legal and highly technical business terminology whenever possible; and

(F) Avoids explanations that are imprecise and readily subject to different interpretations.

(ii) Designed to call attention. A licensee designs its notice to call attention to the nature and significance of the information in it if the licensee:

(A) Uses a plain-language heading to call attention to the notice;

(B) Uses a typeface and type size that are easy to read;

(C) Provides wide margins and ample line spacing;

(D) Uses boldface or italics for key words; and

(E) In a form that combines the licensee's notice with other information, uses distinctive type size, style, and graphic devices, such as shading or sidebars.

(iii) Notices on web sites. If a licensee provides a notice on a web page, the licensee designs its notice to call attention to the nature and significance of the information in it if the licensee uses text or visual cues to encourage scrolling down the page if necessary to view the entire notice and ensures that other elements on the web site (such as text, graphics, hyperlinks or sound) do not distract attention from the notice, and the licensee either:

(A) Places the notice on a screen that consumers frequently access, such as a page on which transactions are conducted; or

(B) Places a link on a screen that consumers frequently access, such as a page on which transactions are conducted, that connects directly to the notice and is labeled appropriately to convey the importance, nature and relevance of the notice.

(3) "Collect" means to obtain information that the licensee organizes or can retrieve by the name of an individual or by identifying number, symbol or other identifying particular assigned to the individual, irrespective of the source of the underlying information.

(4) "Commissioner" means the Utah insurance commissioner.

(5) "Company" means a corporation, limited liability company, business trust, general or limited partnership, association, sole proprietorship or similar organization.

(6)(a) "Consumer" means an individual who seeks to obtain, obtains or has obtained an insurance product or service, from a licensee that is to be used primarily for personal, family or household purposes, and about whom the licensee has nonpublic personal information, directly or through a legal representative.

(b) Examples.

(i) An individual who provides nonpublic personal information to a licensee in connection with obtaining or seeking to obtain financial, investment or economic advisory services relating to an insurance product or service is a consumer regardless of whether the licensee establishes an ongoing advisory relationship.

(ii) An applicant for insurance prior to the inception of insurance coverage is a licensee's consumer.

(iii) An individual who is a consumer of another financial institution is not a licensee's consumer solely because the licensee is acting as agent for, or provides processing or other services to, that financial institution.

(iv) An individual is a licensee's consumer if:

(A)(I) the individual is a beneficiary of a life insurance policy underwritten by the licensee;

(II) the individual is a claimant under an insurance policy issued by the licensee;

(III) the individual is an insured or an annuitant under an insurance policy or an annuity, respectively, issued by the licensee; or

(IV) the individual is a mortgagor of a mortgage covered under a mortgage insurance policy; and

(B) the licensee discloses nonpublic personal financial information about the individual to a nonaffiliated third party other than as permitted under Sections 14, 15 and 16 of this rule.

(v) Provided that the licensee provides the initial, annual and revised notices under Sections 5, 6 and 9 of this rule to the plan sponsor, group or blanket insurance policyholder or group annuity contractholder, workers' compensation plan policyholder, and further provided that the licensee does not disclose to a nonaffiliated third party nonpublic personal financial information about such an individual other than as permitted under Sections 14, 15 and 16 of this rule, an individual is not the consumer of the licensee solely because he or she is:

(A) A participant or a beneficiary of an employee benefit plan that the licensee administers or sponsors or for which the licensee acts as a trustee, insurer or fiduciary;

(B) Covered under a group or blanket insurance policy or group annuity contract issued by the licensee; or

(C) A beneficiary in a workers' compensation plan.

(vi)(A) The individuals described in Subsection R590-206-4.(6)(b)(v)(A) through (C) of this Paragraph are consumers of a licensee if the licensee does not meet all the conditions of Subsection R590-206-4.(6)(b)(v).

(B) In no event shall the individuals, solely by virtue of the status described in Subsection R590-206-4.(6)(b)(v)(A) through (C) above, be deemed to be customers for purposes of this rule.

(vii) An individual is not a licensee's consumer solely because he or she is a beneficiary of a trust for which the licensee is a trustee.

(viii) An individual is not a licensee's consumer solely because he or she has designated the licensee as trustee for a trust.

(7) "Consumer reporting agency" has the same meaning as in Section 603(f) of the federal Fair Credit Reporting Act (15 U.S.C. 1681a(f)).

(8) "Control" means:

(a) Ownership, control or power to vote 25% or more of the outstanding shares of any class of voting security of the company, directly or indirectly, or acting through one or more other persons;

(b) Control in any manner over the election of a majority of the directors, trustees or general partners, or individuals exercising similar functions, of the company; or

(c) The power to exercise, directly or indirectly, a controlling influence over the management or policies of the company, as the commissioner determines.

(9) "Customer" means a consumer who has a customer relationship with a licensee.

(10)(a) "Customer relationship" means a continuing relationship between a consumer and a licensee under which the licensee provides one or more insurance products or services to the consumer that are to be used primarily for personal, family or household purposes.

(b) Examples.

(i) A consumer has a continuing relationship with a licensee if:

(A) The consumer is a current policyholder of an insurance product issued by or through the licensee; or

(B) The consumer obtains financial, investment or economic advisory services relating to an insurance product or service from the licensee for a fee. ~~or~~

~~—(C) The consumer is a beneficiary or claimant under a policy and has submitted a claim under a policy choosing an option involving an on-going relationship with the licensee.]~~

(ii) A consumer does not have a continuing relationship with a licensee if:

(A) The consumer applies for insurance but does not purchase the insurance;

(B) The licensee sells the consumer airline travel insurance in an isolated transaction;

(C) The individual is no longer a current policyholder of an insurance product or no longer obtains insurance services with or through the licensee;

(D) The consumer is a beneficiary or a claimant under a policy and has submitted a claim under that policy [~~choosing a lump sum settlement option~~];

(E) The customer's policy is lapsed, expired, or otherwise inactive or dormant under the licensee's business practices, and the licensee has not communicated with the customer about the relationship for a period of 12 consecutive months, other than annual privacy notices, material required by law or rule, communication at the direction of a state or federal authority, or promotional materials;

(F) The individual is an insured or an annuitant under an insurance policy or annuity, respectively, but is not the policyholder or owner of the insurance policy or annuity; or

(G) For the purposes of this rule, the individual's last known address according to the licensee's records is deemed invalid. An address of record is deemed invalid if mail sent to that address by the licensee has been returned by the postal authorities as undeliverable and if subsequent attempts by the licensee to obtain a current valid address for the individual have been unsuccessful.

(11)(a) "Financial institution" means any institution the business of which is engaging in activities that are financial in nature or incidental to such financial activities as described in Section 4(k) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(k)).

(b) Financial institution does not include:

(i) Any person or entity with respect to any financial activity that is subject to the jurisdiction of the Commodity Futures Trading Commission under the Commodity Exchange Act (7 U.S.C. 1 et seq.);

(ii) The Federal Agricultural Mortgage Corporation or any entity charged and operating under the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.); or

(iii) Institutions chartered by Congress specifically to engage in securitizations, secondary market sales (including sales of servicing rights) or similar transactions related to a transaction of a consumer, as long as the institutions do not sell or transfer nonpublic personal information to a nonaffiliated third party.

(12)(a) "Financial product or service" means any product or service that a financial holding company could offer by engaging in an activity that is financial in nature or incidental to such a financial activity under Section (4)(k) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(k)).

(b) Financial service includes a financial institution's evaluation or brokerage of information that the financial institution collects in connection with a request or an application from a consumer for a financial product or service.

(13) "Health care" means:

(a) Preventive, diagnostic, therapeutic, rehabilitative, maintenance or palliative care, services, procedures, tests or counseling that:

(i) Relates to the physical, mental or behavioral condition of an individual; or

(ii) Affects the structure or function of the human body or any part of the human body, including the banking of blood, sperm, organs or any other tissue; or

(b) Prescribing, dispensing or furnishing to an individual drugs or biologicals, or medical devices or health care equipment and supplies.

(14) "Health care provider" means a physician or other health care practitioner licensed, accredited or certified to perform specified health services consistent with state law, or a health care facility.

(15) "Health information" means any information or data except age or gender, whether oral or recorded in any form or medium, created by or derived from a health care provider or the consumer that relates to:

(a) The past, present or future physical, mental or behavioral health or condition of an individual;

(b) The provision of health care to an individual; or

(c) Payment for the provision of health care to an individual.

(16)(a) "Insurance product or service" means any product or service that is offered by a licensee pursuant to the insurance laws of this state.

(b) Insurance service includes a licensee's evaluation, brokerage or distribution of information that the licensee collects in connection with a request or an application from a consumer for a insurance product or service.

(17)(a) "Licensee" means all licensed insurers, producers and other persons licensed or required to be licensed, or authorized or required to be authorized, or registered or required to be registered pursuant to the insurance laws of this state.

(b) A licensee is not subject to the notice and opt out requirements for nonpublic personal financial information set forth in Sections 1 through 17 of this rule if the licensee is an employee, agent or other representative of another licensee, "the principal," and:

(i) The principal otherwise complies with, and provides the notices required by, the provisions of this rule; and

(ii) The licensee does not disclose any non-public personal financial information or a consumer or customer to any person other than the principal from or through which such consumer or customer seeks to obtain, or has obtained, a product or service or its affiliates in a manner permitted by this rule.

(c)(i) Subject to Subsection R590-206-4.(17)(b)(ii), "licensee" shall also include an unauthorized insurer that accepts business placed through a licensed surplus lines broker in this state, but only in regard to the surplus lines placements placed pursuant to Section 31A-15-103 of this state's laws.

(ii) A surplus lines broker or surplus lines insurer shall be deemed to be in compliance with the notice and opt out requirements for nonpublic personal financial information set forth in Sections 1 through 17 of this rule provided:

(A) The broker or insurer does not disclose nonpublic personal financial information of a consumer or a customer to nonaffiliated third parties for any purpose, including joint servicing or marketing under Section 14 of this rule, except as permitted by Section 15 or 16 of this rule; and

(B) The broker or insurer delivers a notice to the consumer at the time a customer relationship is established on which the following is printed in 16-point type:

PRIVACY NOTICE

"NEITHER THE U.S. BROKERS THAT HANDLED THIS INSURANCE NOR THE INSURERS THAT HAVE

UNDERWRITTEN THIS INSURANCE WILL DISCLOSE NONPUBLIC PERSONAL FINANCIAL INFORMATION CONCERNING THE BUYER TO NONAFFILIATES OF THE BROKERS OR INSURERS EXCEPT AS PERMITTED BY LAW.

(18)(a) "Nonaffiliated third party" means any person except:

- (i) A licensee's affiliate; or
- (ii) A person employed jointly by a licensee and any company that is not the licensee's affiliate (but nonaffiliated third party includes the other company that jointly employs the person).

(b) Nonaffiliated third party includes any company that is an affiliate solely by virtue of the direct or indirect ownership or control of the company by the licensee or its affiliate in conducting merchant banking or investment banking activities of the type described in Subsection R590-206-4.(k)(4)(H) or insurance company investment activities of the type described in Section 4(k)(4)(I) of the federal Bank Holding Company Act (12 U.S.C. 1843(k)(4)(H) and (I)).

(19) "Nonpublic personal information" means nonpublic personal financial information and nonpublic personal health information.

(20)(a) "Nonpublic personal financial information" means:

- (i) Personally identifiable financial information; and
- (ii) Any list, description or other grouping of consumers, and publicly available information pertaining to them, that is derived using any personally identifiable financial information that is not publicly available.

(b) Nonpublic personal financial information does not include:

- (i) Health information;
- (ii) Publicly available information, except as included on a list described in Subsection R590-206-4.(20)(a)(ii); or
- (iii) Any list, description or other grouping of consumers, and publicly available information pertaining to them, that is derived without using any personally identifiable financial information that is not publicly available.

(c) Examples of lists.

(i) Nonpublic personal financial information includes any list of individuals' names and street addresses that is derived in whole or in part using personally identifiable financial information that is not publicly available, such as account numbers.

(ii) Nonpublic personal financial information does not include any list of individuals' names and addresses that contains only publicly available information, is not derived in whole or in part using personally identifiable financial information that is not publicly available, and is not disclosed in a manner that indicates that any of the individuals on the list is a consumer of a financial institution.

(21) "Nonpublic personal health information" means health information:

(a) That identifies an individual who is the subject of the information; or

(b) With respect to which there is a reasonable basis to believe that the information could be used to identify an individual.

(22)(a) "Personally identifiable financial information" means any information:

(i) A consumer provides to a licensee to obtain an insurance product or service from the licensee;

(ii) About a consumer resulting from a transaction involving an insurance product or service between a licensee and a consumer; or

(iii) The licensee otherwise obtains about a consumer in connection with providing an insurance product or service to that consumer.

(b) Examples.

(i) Information included. Personally identifiable financial information includes:

(A) Information a consumer provides to a licensee on an application to obtain an insurance product or service;

(B) Account balance information and payment history;

(C) The fact that an individual is or has been one of the licensee's customers or has obtained an insurance product or service from the licensee;

(D) Any information about the licensee's consumer if it is disclosed in a manner that indicates that the individual is or has been the licensee's consumer;

(E) Any information that a consumer provides to a licensee or that the licensee or its agent otherwise obtains in connection with collecting on a loan or servicing a loan;

(F) Any information the licensee collects through an Internet cookie, an information-collecting device from a web server; and

(G) Information from a consumer report.

(ii) Information not included. Personally identifiable financial information does not include:

(A) Health information;

(B) A list of names and addresses of customers of an entity that is not a financial institution; and

(C) Information that does not identify a consumer, such as aggregate information or blind data that does not contain personal identifiers such as account numbers, names or addresses.

(23)(a) "Publicly available information" means any information that a licensee has a reasonable basis to believe is lawfully made available to the general public from:

(i) Federal, state or local government records;

(ii) Widely distributed media; or

(iii) Disclosures to the general public that are required to be made by federal, state or local law.

(b) Reasonable basis. A licensee has a reasonable basis to believe that information is lawfully made available to the general public if the licensee has taken steps to determine:

(i) That the information is of the type that is available to the general public; and

(ii) Whether an individual can direct that the information not be made available to the general public and, if so, that the licensee's consumer has not done so.

(c) Examples.

(i) Government records. Publicly available information in government records includes information in government real estate records and security interest filings.

(ii) Widely distributed media. Publicly available information from widely distributed media includes information from a telephone book, a television or radio program, a newspaper or a web site that is available to the general public on an unrestricted basis. A web site is not restricted merely because an Internet service provider or a site operator requires a fee or a password, so long as access is available to the general public.

(iii) Reasonable basis.

(A) A licensee has a reasonable basis to believe that mortgage information is lawfully made available to the general public if the licensee has determined that the information is of the type included on the public record in the jurisdiction where the mortgage would be recorded.

(B) A licensee has a reasonable basis to believe that an individual's telephone number is lawfully made available to the general public if the licensee has located the telephone number in the

telephone book or the consumer has informed you that the telephone number is not unlisted.

KEY: insurance law
~~[July 1, 2001]~~2002
 31A-2-201
 31A-2-202
 31A-25-317
 15 U.S.C. 6805

Transportation, Administration **R907-1** Appeal of Departmental Actions

NOTICE OF PROPOSED RULE

(Amendment)
 DAR FILE NO.: 24313
 FILED: 12/14/2001, 16:44

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To change the Department's administrative procedural appeal process to use the informal mechanism more efficiently.

SUMMARY OF THE RULE OR CHANGE: The current sections of Rule R907-1 that deal with administrative procedures are being removed and this proposed amendment will implement new language instead. The new sections are intended to give more specificity to the manner in which informal proceedings are carried out, to identify hearing officers for specific issues, and specify the contents of orders and the appeal process. (DAR Note: The other proposed amendment to Rule R907-1 is under DAR No. 24312 in this Bulletin.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 72-1-102; and Title 63, Chapter 46b

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** There should be no increase or decrease in costs with this change. It is merely replacing old language that is being simultaneously removed.
- ❖ **LOCAL GOVERNMENTS:** This rule does not effect local governments; therefore, there should be no fiscal impact.
- ❖ **OTHER PERSONS:** There should be no increase in costs because it is only replacing old language that is being removed at the same time.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be no additional compliance costs for any person since this amendment only replaces existing sections on departmental procedure and does not add steps that have increased costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There should be no fiscal impact on business since this change only replaces existing sections on departmental procedure and does not add steps that have increased costs.

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

TRANSPORTATION
 ADMINISTRATION
 CALVIN L RAMPTON COMPLEX
 4501 S 2700 W
 SALT LAKE CITY UT 84119-5998, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

James Beadles at the above address, by phone at 801-965-4168, by FAX at 801-965-4796, or by Internet E-mail at jbeadles@dot.state.ut.us

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 01/31/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 02/02/2002

AUTHORIZED BY: John R Njord, Executive Director

R907. Transportation, Administration.

R907-1. Appeal of Departmental Actions.

R907-1-1. General Administrative Procedures.

All applications, Requests for Agency Action, and appeals from Notices of Agency Action shall be processed as informal adjudicative proceedings pursuant to Title 63, Chapter 46b, Utah Administrative Procedures Act (UAPA), unless another rule specifically designates a proceeding as formal. An evidentiary hearing will be held only for formal adjudicative proceedings. However, nothing in this rule is intended to prohibit the person who hears a matter on agency review from holding a meeting of all parties for purposes of settlement, fleshing out of the issues, oral argument, or presentation of evidence. Adjudicative proceedings are subject to agency review pursuant to Utah Code Ann. Section 63-46b-12 only when statute or a rule specifically provides for review. This rule does not apply to employee grievances, personnel actions, or requests for records under the Governmental Records Access and Management Act (GRAMA).

R907-1-2. Commencement by department -- Notice of Agency Action -- Procedures.

(1) An adjudicative proceeding commenced by the department is initiated by the mailing or delivery by personal service of a Notice of Agency Action to the person or persons against whom the action is proposed to be taken (respondents).

(2) A Notice of Agency Action shall include the following information:

(a) the names and mailing addresses of all respondents and any other persons to whom notice is being given;

(b) the department's file number or other reference number;

(c) a name or caption of the adjudicative proceeding, i.e., Utah Department of Transportation, Motor Carrier Safety Division v. XXXX Trucking Company;

(d) the date on which the Notice was placed in U.S. Mail, or personally served upon the respondents;

(e) a statement that the adjudicative proceeding will be conducted informally pursuant to these rules unless either the

department or the respondent requests conversion to a formal adjudicative proceeding and the appropriate hearing officer identified in R907-1-3(2) grants the request;

(f) a statement of the legal authority and jurisdiction under which the adjudicative proceeding is to be maintained;

(g) the name, title, mailing address, and telephone number of the office initiating the Notice of Agency Action and the appropriate hearing officer;

(h) a general statement of the purpose of the adjudicative proceeding and, to the extent known, the questions to be decided;

(i) if the department is proposing to assess a fine or penalty, the amount of the fine or penalty and a summary of the evidence supporting the proposed amount;

(j) a statement that the respondent is entitled to agency review if he or she files a Request for Agency Review with the initiating division or office within 30 days from the date the Notice is deposited in U.S. Mail or personally served.

(3) Absent filing of a timely request, the department will issue an order that the respondent is in default. If the defaulting party is the sole respondent, the Notice of Agency Action will then become the department's final order. The initiating division, office, or appropriate hearing officer shall revise the Notice of Agency Action to effect this change, captioning the Notice as the Final Order, affixing the appropriate signature the new date. The department may not change the contents in any substantive manner. However, the final order shall include a provision that notifies the respondent of his right to judicial. The department shall then either mail or personally serve the respondent with a copy of the default order and the final order.

(4) If the defaulting party is not the sole respondent, the initiating division, office, or the appropriate hearing officer shall mail the Order of Default to all parties. The adjudicative proceeding may continue and the department may determine all issues in the proceeding, including those affecting the defaulting party.

(5) A defaulting party may seek agency review of an Order of Default by appealing to the appropriate hearing officer identified in R907-1-3(2). If the Order of Default was issued by that hearing officer, then the defaulting party must seek reconsideration of the Order of Default pursuant to R907-3-1. The sole issue is whether entering default was appropriate.

(6) UDOT shall:

(a) mail or personally serve the Notice of Agency Action to each party;

(b) publish the Notice of Agency Action if required by statute, any other rule, or the Utah Transportation Commission.

R907-1-3. Commencement by a Member of the Public -- Complete or Partial Denials of Applications or Requests for Agency Action -- Default.

(1) If the Department decides to deny, either completely or in part, an application or request for agency action and that action is subject to agency review, the division or office making that decision shall send to the applicant a written reply as promptly as possible. The reply should include a brief summary of the reasons for the decision along with a listing of any statutes or rules that were interpreted or relied upon for it, along with UDOT's file or reference number. It shall advise the applicant of his or her right to request agency review by filing a written request with the initiating division or office within 30 days after issuance of the notice. The reply shall constitute the proposed order of the division or office making the

decision. If there is no appeal within 30 days, it shall become the final order of the department.

(2) Upon receiving a request for agency review, the division or office shall first review it to determine whether it meets the requirements of Utah Code Ann. Section 63-46b-12(1)(b), i.e., whether it is signed, states the grounds upon which review is requested, the relief sought, and stating the date upon which it was mailed. If the request does not meet the statutory requirements, or was received at the division or office after the 30-day appeals period, it shall be returned to the sender with explanation as to the reason for the return. If the request meets the statutory requirements, the division or office shall promptly forward the material and a copy of any relevant material in its files to:

(a) the State Operations Engineer, if the action involves Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act;

(b) the deputy director, if the action involves Title 72, Chapter 9, Motor Carrier Safety Act;

(c) the Project Development Director or designee, if the matter relates to:

(i) construction contract disputes; or

(ii) construction bids or the Disadvantaged Business Enterprise (DBE) program, in which case, the agency review also constitutes "administrative reconsideration" under federal regulation;

(d) the Region Director, if the action involves something other than the items listed in Subsections (a), (b), or (c), and a specific appellate procedure is not otherwise specified in these rules or in statute;

(e) the executive director or designee, if the action involves something other than the items listed in subsections (a), (b), (c), or (d) and was initiated by Department personnel located at Department headquarters at the Calvin Rampton Complex.

(3) Absent filing of a timely request, the department will issue an order that the respondent is in default. If the defaulting party is the sole respondent, the Request for Agency Action will be dismissed. The department shall either mail a copy of the default order and the dismissal order to the person who requested the action.

(4) If the defaulting party is not the sole requester, the initiating division, office, or the appropriate hearing officer shall mail the Order of Default to all parties. The adjudicative proceeding may continue and the department may determine all issues in the proceeding, including those affecting the defaulting party.

(5) A defaulting party may seek agency review of an Order of Default by appealing to the appropriate hearing officer identified in R907-1-3(2). If the Order of Default was issued by that hearing officer, then the defaulting party must seek reconsideration of the Order of Default pursuant to R907-1-5. The sole issue is whether entering default was appropriate.

R907-1-4. Administrative Appeals -- Procedures.

(1) Upon receiving notice from the division or office of the filing of an appeal either in response to a Notice of Agency Action or a complete or partial denial of an application or Request for Agency Action, the person making the review shall send a letter to the appellant notifying him or her that the appeal has been received and notifying the appellant of the opportunity to submit further documentation in support of the appeal by a date certain. That date should not be less than 10 days nor more than 20 days after the letter is sent.

(2) Discovery is prohibited, but subpoenas may be issued for the production of necessary evidence. Upon request, the applicant shall have access to information contained in the agency's files and

to all materials and information gathered in any investigation, except as otherwise provided by law.

(3) Within 20 days after receipt of a request for agency review, any party, including the division or office that issued the original decision, may submit additional documentation, which may include legal briefs, to the person required to decide on review. The person deciding on review may grant either party an extension of time. The decision should be made on the record appearing after the responses have been submitted, but the person deciding on review may meet with the parties, if he considers it necessary. This meeting is not a hearing as contemplated under Title 63, Chapter 46b, Utah Administrative Procedures Act.

(4) The person deciding the review shall issue a final agency order as promptly as possible. The order shall contain:

(a) a designation of the statute or rule permitting or requiring review;

(b) a statement of the issues reviewed;

(c) findings as fact as to each of the issues;

(d) conclusions of law as to each of the issues;

(e) the reasons for the disposition;

(f) whether the decision of the division or office initiating the decision is affirmed, reversed, modified, or remanded;

(g) the right to judicial review pursuant to Utah Code Ann. Section 63-46b-15 by filing a complaint in district court within 30 days.

R907-1-5. Reconsideration.

(1) Within 20 days after issuance of the final order, any party may request reconsideration, stating the specific grounds upon which relief is requested.

(2) The person filing the request shall mail a copy to each party.

(3) The executive director, or his designee, shall issue a written order either denying or granting the request. If no order is issued within 20 days, the request shall be considered denied. If the request is granted in any part and a new final order is issued, it shall include the same information listed in R907-1-4, or R907-1-6 if the matter concerned motor carriers.

R907-1-6. Administrative Procedures for Motor Carrier Actions.

(1) When a motor carrier appeals the imposition of a penalty under Title 72, Chapter 9, Motor Carrier Safety Act, he or she shall follow the procedures established in R907-1. This proceeding is an informal adjudicative proceeding under Title 63, Chapter 46b, Utah Administrative Procedures Act; therefore, discovery is prohibited, but the administrative hearing officer may issue subpoenas or other orders to compel production of necessary evidence. The Department shall provide the applicant, upon request, information in the agency's files, including records that are part of any investigation unless those records are otherwise made confidential or protected from disclosure.

(2) If the proceeding is converted to a formal adjudicative proceeding and an evidentiary hearing held, the Department's deputy director may act as the administrative hearing officer. He may also designate another in his stead. At the hearing, the motor carrier shall go first and is burdened to show why the Department's civil penalties should not be assessed. The division shall respond, with the motor carrier being given an opportunity to rebut the division's evidence. If the administrative hearing officer decides doing so will be beneficial to his understanding of the issues, he may allow

closing statement or arguments and he may tape the proceedings. The rules of evidence do not apply.

(3) The person deciding the review shall issue a final agency order as promptly as possible. The order shall contain:

(a) a designation of the statute or rule permitting or requiring review;

(b) a statement of the issues reviewed;

(c) findings as fact as to each of the issues;

(d) conclusions of law as to each of the issues;

(e) the reasons for the disposition;

(f) whether the decision of the division or office initiating the decision is affirmed, reversed, modified, or remanded;

(g) the right to judicial review pursuant to Utah Code Ann. Section 63-46b-15 by filing a complaint in district court within 30 days.

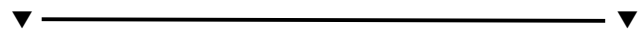
KEY: administrative procedure, enforcement (administrative)

~~April 1, 1997~~ 2002

Notice of Continuation February 10, 1997

63-46b-1 through 20

72-1-102



Transportation, Administration **R907-1** Administrative Procedures

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 24312

FILED: 12/14/2001, 16:38

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The department's current rule for informal adjudicative proceedings is being amended and, in another amendment, new sections are being proposed. The purpose of the change is to better structure the adjudicative process and use informal processes more efficiently.

SUMMARY OF THE RULE OR CHANGE: This amendment is simply deleting the current informal adjudicative proceeding sections.

The proposed new sections are in another amendment. (DAR Note: The other proposed amendment to Rule R907-1 is under DAR No. 24313 in this Bulletin.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 72-1-102; and Title 63, Chapter 46b

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** No change from the deletion of these sections since new sections are taking their place and will be implemented at the same time.

❖ **LOCAL GOVERNMENTS:** This rule does not affect local government; therefore, there is no anticipated cost or saving.

❖ **OTHER PERSONS:** No change because the cost is expected to remain the same in the proposed new sections.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No change because the cost is expected to remain the same in the proposed new sections.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There should be no fiscal impact on business because the cost is expected to remain the same.

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

TRANSPORTATION
ADMINISTRATION
CALVIN L RAMPTON COMPLEX
4501 S 2700 W
SALT LAKE CITY UT 84119-5998, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

James Beadles at the above address, by phone at 801-965-4168, by FAX at 801-965-4796, or by Internet E-mail at jbeadles@dot.state.ut.us

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 01/31/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 02/02/2002

AUTHORIZED BY: John R Njord, Executive Director

R907. Transportation, Administration.

[R907-1. Administrative Procedures.

R907-1-0. Purpose.

~~— R907-1-1 through R907-1-20 are made pursuant to Chapter 46b, Title 63 the Administrative Procedures Act. These rules are intended to apply to all adjudicative proceedings of the Utah Department of Transportation and Transportation Commission. These rules apply to all adjudicative proceedings of the Department, except for the Tramway Committee.~~

R907-1-1. Informal Proceedings.

~~— (1) All adjudicative proceedings conducted pursuant to the Rules of the Transportation Commission or the Utah Department of Transportation shall be characterized as commencing "informally" and shall be processed in accordance with R907-1.~~

~~— (2) All adjudicative proceedings shall be commenced initially before the Executive Director of the Utah Department of Transportation or a designee.~~

~~— (3) The procedures for the adjudicative process are identified in R907-1. All other requirements of Rules adopted by the Transportation Commission or the Utah Department of Transportation shall apply when they supplement these Rules governing the adjudicative process and when not in conflict with any of R907-1. In case of conflict between these "Administrative Procedures" of R907-1 and any other provision of the Rules Adopted by the Transportation Commission or the Utah Department of Transportation, these "Administrative Procedures" Rules and~~

~~Regulation of R907-1 shall control and govern the adjudicative process.~~

R907-1-2. Definitions.

~~— As used in these rules:~~

~~— (1) "COMMISSION" or "TRANSPORTATION COMMISSION" means the Utah State Transportation Commission.~~

~~— (2) "DIRECTOR" means the Executive Director of the Utah Department of Transportation or a designee.~~

~~— (3) "RULE" refers to R907-1.~~

~~— (4) "UDOT" means the Utah Department of Transportation.~~

R907-1-3. Commencement of Adjudicative Proceedings.

~~— The Director is the Presiding Officer for adjudicative proceedings under these rules which commence informally or which become formal as a result of a request for formal hearing. The Director may appoint a Hearings Examiner for any hearing which shall be a Presiding Officer of the hearing and subject to rules specified herein for the formal adjudicative process. At the discretion of the Director and with concurrence of the Transportation Commission, or when otherwise required by law, the Transportation Commission shall be the Presiding Officer and conduct the formal hearing under these Rules and reference in these rules, under this circumstance, to "Director" shall mean the Transportation Commission.~~

~~— (1) Except for emergency orders described further in these rules, all adjudicative proceedings, which commence in the informal phase, shall be commenced by either:~~

~~— (a) A Notice of Agency Action, if proceedings are commenced by the Director; or~~

~~— (b) A request for Agency Action, if proceedings are commenced by persons other than the Director.~~

~~— (2) A Notice of Agency Action and a Request for Agency Action shall be filed and served according to the following requirements:~~

~~— (a) When adjudicative proceedings are commenced by the Director, the Notice of Agency Action shall be in writing, signed by the Director, and shall include:~~

~~— (i) The names and mailing addresses of all respondents and other persons to whom notice is being given by the Director, and the name, title, and mailing address of any attorney or employee who has been designated to appear for UDOT;~~

~~— (ii) UDOT's file number or other reference number;~~

~~— (iii) The name of the adjudicative proceeding;~~

~~— (iv) The date that the Notice of Agency Action was mailed;~~

~~— (v) A statement that the adjudicative proceeding is to be conducted informally according to the provision of these Rules and Section 63-46b-4 and 63-46b-5 unless a request for formal hearing is timely filed in which case a final order will not be issued in the informal process and the matter will proceed with a formal hearing before the Director in conformance with Sections 63-46b-6 to 63-46b-11;~~

~~— (vi) A statement that the parties may request a formal hearing before the Director within ten days of the date of mailing or publication and that failure to make such a request for hearing may preclude that party from any further participation, appeal or judicial review in regard to the subject adjudicative proceeding;~~

~~— (vii) A statement of the legal authority and jurisdiction under which the adjudicative proceeding is to be maintained;~~

~~— (viii) The name, title, mailing address, and telephone number of the Director; and~~

~~—(ix) A statement of the purpose of the adjudicative proceeding and, to the extent known by the Director, the questions to be decided.~~

~~—(b) UDOT shall:~~

~~—(i) Mail the Notice of Agency Action to each party; and~~

~~—(ii) Publish the Notice of Agency Action if required by statute or by any Rules of UDOT or the Transportation Commission.~~

~~—(c) All the adjudicative processes that commence informally may be petitioned for by a person other than the Director. That person's Request for Agency Action shall be in writing and signed by the person invoking the jurisdiction of the Director or by his or her attorney, and shall include:~~

~~—(i) The names and addresses of all persons to whom a copy of the Request for Agency Action is being sent;~~

~~—(ii) A space for UDOT's file number or their reference number;~~

~~—(iii) The name of the adjudicative proceeding, if known;~~

~~—(iv) Certificate of mailing of the Request for Agency Action to the Director and all persons;~~

~~—(v) A statement of the legal authority and jurisdiction under which agency action is requested;~~

~~—(vi) A statement of the relief sought from the Director; and~~

~~—(vii) A statement of the facts and reasons forming the basis for relief.~~

~~—(d) The person requesting the Director action shall use the forms provided by UDOT with the additional information required by this R907-1. The Director is hereby authorized to codify said forms in conformance with this Rule. Said forms shall be deemed a "Request for Agency Action." The person requesting agency action shall file the request with the Director and shall, send a copy by mail to each person known to have a direct interest in the requested agency action.~~

~~—(e) In the case of a Request for Agency Action, the Director shall, unless waived, insure that notice by mail has been promptly given to all parties, or by publication when required by statute or any of the Rules of UDOT or the Transportation Commission. The written notice shall:~~

~~—(i) Give UDOT's file number or other reference number;~~

~~—(ii) Give the name of the proceeding;~~

~~—(iii) Designate that the proceeding is to be conducted informally according to the provisions of these Rules and Sections 63-46b-4 and 63-46b-5 unless a request for hearing is timely filed in which case no final order will be issued and the matter will proceed with a formal hearing before the Director in conformance with these Rules and Section 63-26b-6 to 63-46b-11;~~

~~—(iv) A statement that the parties' may request a formal hearing before the Director within ten days of the date of mailing or publication and that failure to make such a request may preclude that party from any further participation, appeal or judicial review in regard to the subject adjudicative proceeding;~~

~~—(v) Give the name, title, mailing address, and telephone number of the Director; and~~

~~—(vi) If the purpose of the adjudicative proceeding is to award a license or other privilege as to which there are multiple competing applicants, the Director may, by rule or order, conduct a single adjudicative proceeding to determine the award of that license or privilege.~~

R907-1-4. Conversion of Informal to Formal Phase.

~~—(1) Any time before a final order is issued in any adjudicative proceeding before the Director, the Director may convert an~~

~~informal adjudicative proceeding to a formal adjudicative proceeding if:~~

~~—(a) Conversion of the proceeding is in the public interest; and~~

~~—(b) Conversion of the proceeding does not unfairly prejudice the rights of any party.~~

~~—(2) An adjudicative proceeding which commences informally may be converted to a formal proceeding by the Director if a request for hearing is timely filed under these Rules. Such request requires a formal hearing process before the Director to best protect the interests of the public as well as the parties involved.~~

R907-1-5. Procedures for Informal Phase.

~~—(1) A Request for Agency Action or Notice of Agency Action shall be the method of commencement of an adjudicative process as previously discussed in these Rules.~~

~~—(2) The mailing requirements of these Rules shall be met.~~

~~—(3) The Notice of Agency Action shall be published in a newspaper of general circulation likely to give notice to interested persons when required by statute or by any Rules of UDOT or the Transportation Commission.~~

~~—(4) All notices required herein shall indicate the date of publication or mailing and specify that any affected person may file with the Director within ten days of said date, a written objection and request for formal hearing before the Director and that failure to make such a request may preclude that person from further participation, appeal or judicial review in regard to the subject adjudicative proceeding. Said ten day period shall be waived if the Director receives a waiver signed by those entitled to notice under these rules.~~

~~—(5) Hearings shall be conducted in accordance with the Utah Administrative Procedures Act and as described by these Rules below.~~

~~—(6) If the parties fail to file a timely request for hearing and the application is to be approved or approved with conditions acceptable to the applicant, the Director within a reasonable time thereafter shall issue a written, signed final order. If no formal hearing was held and the application is to be denied or approved with conditions unacceptable to the applicant, then only a tentative order shall be issued. The applicant shall be given ten days from notification of such tentative order to file a written request for formal hearing. Within a reasonable time after the applicant fails to request a hearing under such circumstances, the Director shall issue a written, signed order. No final order is issued in the informal process if a request for a formal hearing is timely filed. Any order issued in the informal process shall include the elements required by the statute.~~

~~—(7) The Director's order in the informal process shall be based on the facts appearing in UDOT's files and on any facts presented in evidence.~~

~~—(8) A copy of the Director's order shall be promptly mailed to each of the parties.~~

~~—(9) Nothing in this section restricts or precludes any investigative right or power given to the Transportation Commission or Director by another statute.~~

~~—(10) Default. The Director may enter an order of default against a party if the party fails to participate in the adjudicative proceeding. The order shall include a statement of the grounds for default and shall be mailed to all parties. A defaulted party may seek to have the Director set aside the default order according to procedures outlined in the Utah Rules of Civil Procedure. After issuing the order of default, the Director shall conduct any further proceedings necessary to complete the adjudicative proceeding~~

without the participation of the party in default and shall determine all issues in the adjudicative proceeding, including those affecting the defaulting party.

~~—(11) Written Request for Formal Hearing. Any written request for hearing shall be treated as converting the process from an informal process to a formal process and processed in accordance with the Rules described hereinbelow and the Utah Administrative Procedures Act.]~~

KEY: administrative procedure, enforcement (administrative)
~~[April 1, 1997]2002~~
Notice of Continuation February 10, 1997
63-46b-1 through 20

▼ ————— ▼

Workforce Services, Employment Development

R986-700-714

CC Payment Method

NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 24311
FILED: 12/14/2001, 12:31

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Electronic Benefit Transfer (EBT) payment of child care assistance payments is a more accurate, cost-effective, secure method than the two-party checks presently in use.

SUMMARY OF THE RULE OR CHANGE: The Department is moving toward EBT of Child Care. This rule change represents the first step in that process by instituting EBT for child care providers in center settings with 16 or more children.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 35A-3-310

ANTICIPATED COST OR SAVINGS TO:

❖**THE STATE BUDGET:** There will be a slight savings to the State since EBTs are less expensive than issuing checks. It is not expected that this savings will be significant, certainly less than a \$1,000 per year.

❖**LOCAL GOVERNMENTS:** This rule does not apply to local government and therefore, there are no costs or savings to local government.

❖**OTHER PERSONS:** There will be no costs associated with these changes to our clients because the Department is merely changing one method of payment and replacing it with another. There may be costs to the child care providers covered by this rule if they choose the point-of-sale option as explained in compliance costs for affected persons below. There will be no other costs to any other persons as the rule change only applies to clients and providers.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The providers will have two electronic payment options. They may choose a point-of-sale machine which child care providers may lease for

approximately \$18 per month. Their other option is a toll-free interactive voice-recording system which is free of charge.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule change will have no impact on businesses.

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

WORKFORCE SERVICES
EMPLOYMENT DEVELOPMENT
140 E 300 S
SALT LAKE CITY UT 84111-2333, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Suzan Pixton at the above address, by phone at 801-526-9645, by FAX at 801-526-9211, or by Internet E-mail at spixton.wsadmpo@state.ut.us

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 02/01/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 04/01/2002

AUTHORIZED BY: Robert C Gross, Executive Director

R986. Workforce Services, Employment Development.
R986-700. Child Care Assistance.
R986-700-714. CC Payment Method.

(1) CC payments to parents will be generated monthly by a two-party check issued in the parent's name and the chosen provider's name, except as noted in paragraph (2) below. The check is mailed to the client. In the event of an emergency, a payment up to a maximum of \$125 can be made on the Horizon card. Emergency payments can only be made where a parent is in danger of not being able to obtain necessary child care if the parent is required to wait until the two party check can be issued.

(2) CC payments to center providers licensed for 16 or more children will be made by electronic benefit transfer (EBT) either through a point of sale (POS) machine or interactive voice recording (IVR) system. The provider may elect which option of EBT to use. The provider must sign an agreement with the Department's contractor in order to be eligible to receive CC payments. If the provider elects to use the POS method of payment, the provider must lease a POS machine at the provider's own expense. Providers paid at the nationally accredited center rate will continue to receive the two-party check.

(~~2~~)³ In the event that a check is reported as lost or stolen, both the parent and the provider are required to sign a statement that they have not received funds from the original check before a replacement check can be issued. The statement must be signed on an approved Department form and the signing witnessed, and in some cases notarized, at a local office of the Department. If the provider is unable to come into a Department office to sign the form, the form may be accepted if the signature is notarized. If the original check has been redeemed, a copy of the check will be reviewed and both the parent and provider must provide a sworn,

notarized statement that the signature on the endorsed check is a forgery. The Department may require a waiting period prior to issuing a replacement check.

KEY: child care
July 1, 2001 | 2002
35A-3-310



End of the Notices of Proposed Rules Section

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the responsible agency is required to review the rule. This review is designed to remove obsolete rules from the *Utah Administrative Code*.

Upon reviewing a rule, an agency may: repeal the rule by filing a PROPOSED RULE; continue the rule as it is by filing a NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (NOTICE); or amend the rule by filing a PROPOSED RULE and by filing a NOTICE. By filing a NOTICE, the agency indicates that the rule is still necessary.

NOTICES are not followed by the rule text. The rule text that is being continued may be found in the most recent edition of the *Utah Administrative Code*. The rule text may also be inspected at the agency or the Division of Administrative Rules. NOTICES are effective when filed. NOTICES are governed by *Utah Code* Section 63-46a-9 (1998).

Administrative Services, Facilities Construction and Management **R23-25** Administrative Rules Adjudicative Proceedings

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 24300
FILED: 12/03/2001, 14:39

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 63-46b-4 requires that an agency establish what, if any, adjudicative proceedings may be conducted informally. Section 63-46b-5 requires that, if an agency designates one or more categories of adjudicative proceedings as informal, the agency shall enact a rule setting forth procedures for the informal adjudicative proceedings. The Division of Facilities Construction and Management has determined that certain categories of adjudicative proceedings shall be handled on an informal basis. This rule provides for that determination and the required informal procedures.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The continuation of this rule is necessary in order to comply with Sections 63-46b-4 and 63-46b-5. The categories of proceedings identified in the rule continue to meet the requirements for informal adjudicative proceedings.

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

ADMINISTRATIVE SERVICES
FACILITIES CONSTRUCTION AND MANAGEMENT
Room 4110 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY UT 84114-1201, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Kenneth Nye at the above address, by phone at 801-538-3284, by FAX at 801-538-3378, or by Internet E-mail at knye@dfcm.state.ut.us

AUTHORIZED BY: Joseph A Jenkins, Director

EFFECTIVE: 12/03/2001



Community and Economic Development, Community Development **R199-11** Community Development Block Grants (CDBG)

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 24298
FILED: 12/03/2001, 09:26

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 9-4-202 requires the state to assist communities through available federal programs.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule needs to be continued to provide community development block grants to eligible entities.

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

COMMUNITY AND ECONOMIC DEVELOPMENT
COMMUNITY DEVELOPMENT
Room 500
324 S STATE ST
SALT LAKE CITY UT 84111-2388, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Keith Heaton at the above address, by phone at 801-538-8700, by FAX at 801-538-8888, or by Internet E-mail at kheaton@dced.state.ut.us

AUTHORIZED BY: Kerry Bate, Director

EFFECTIVE: 12/03/2001

Corrections, Administration

R251-111

Government Records Access and Management

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 24304
FILED: 12/07/2001, 07:24

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 63-2-204 authorizes a governmental agency to make rules specifying where and to whom requests for records access shall be directed.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule needs to be continued in order to inform the public and other agencies about the process for requesting records from the Department of Corrections.

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

CORRECTIONS
ADMINISTRATION
14717 S MINUTEMAN DR
DRAPER UT 84020-9549, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Pam Elliott at the above address, by phone at 801-545-5514, by FAX at 801-545-5523, or by Internet E-mail at pelliott@udc.state.ut.us

AUTHORIZED BY: Michael P Chabries, Executive Director

EFFECTIVE: 12/07/2001

Crime Victim Reparations, Administration

R270-1

Award and Reparation Standards

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 24305
FILED: 12/10/2001, 09:45

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 63-25a-406(c) provides for clarification, implementation, and administration of the Crime Victim Reparations (CVR) Act.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have not been any written comments for or against this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule continues to provide important interpretation and standards for administering the program and should be continued.

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

CRIME VICTIM REPARATIONS
ADMINISTRATION
Room 200
350 E 500 S
SALT LAKE CITY UT 84111-3347, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Connie Wettlaufer or Dan Davis at the above address, by phone at 801-238-2371 or 801-238-2367, by FAX at 801-533-4127 or 801-533-4127, or by Internet E-mail at cwettlau@gov.state.ut.us or ddavis@gov.state.ut.us

AUTHORIZED BY: Dan Davis, Director

EFFECTIVE: 12/10/2001

**Crime Victim Reparations,
Administration**

R270-2

**Crime Victim Reparations Adjudicative
Proceedings**

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 24306
FILED: 12/10/2001, 09:49

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: The rule was enacted under the Crime Victim Reparations statute, Subsection 63-25a-415.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have not been any written comments for or against this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule continues to clarify contested procedures for the Crime Victim Reparations office and needs to be continued.

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

CRIME VICTIM REPARATIONS
ADMINISTRATION
Room 200
350 E 500 S
SALT LAKE CITY UT 84111-3347, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Dan Davis or Connie Wettlaufer at the above address, by phone at 801-238-2367 or 801-238-2371, by FAX at 801-533-4127 or 801-533-4127, or by Internet E-mail at ddavis@gov.state.ut.us or cwettlau@gov.state.ut.us

AUTHORIZED BY: Dan Davis, Director

EFFECTIVE: 12/10/2001

**Human Resource Management,
Administration**

R477-14

**Substance Abuse and Drug-Free
Workplace**

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 24307
FILED: 12/11/2001, 16:12

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 67-19-34 requires the Department of Human Resource Management (DHRM) to make rules implementing Section 67-19-36, Drug testing of state employees, and Section 67-19-37 Discipline of employees. Two federal acts require the state to set standards as a condition to receive federal grants in excess of \$25,000. These are the Drug Free Workplace Act of 1988, 41 USC, which sets standards for a drug-free workplace and the Omnibus Transportation Employee Testing Act of 1991, 49 USC, which requires stricter standards for employees in safety sensitive positions.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Input concerning this rule has come from two sources; human resource (HR) professionals within state government, and the Utah Public Employees Association (UPEA). By far, the greatest amount of input has come from HR professionals who have made proposals for amendments based on their experience. These include: a recommendation to more clearly define "safety sensitive positions" in accordance with federal guidelines which were adopted in July 1999; a recommendation to require follow-up testing for employees who choose rehabilitation in lieu of discipline was adopted in July 1999; and the incorporation of federal guidelines for blood concentration levels of controlled substances was adopted in 2000. One recommendation from DHRM was not adopted after consulting with the Attorney General. It was proposed that an employee be required to report all drug- and alcohol-related convictions to the agency head. Counsel informed us that the Drug Free Workplace Act restricts reportable convictions to those related to the workplace.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The primary justification for the continuation of this rule is the requirement in Section 67-19-34 that the executive director of DHRM make rules regulating: 1) the discipline of employees in the area of

substance abuse; 2) the testing of employees for controlled substances; 3) the confidentiality of tests; and 4) minimum blood concentration levels of controlled substances. In addition, federal law requires public entities who receive grants in excess of \$25,000 to have policies on these issues. Specifically these are the Drug Free Workplace Act of 1988, 41 USC, and the Omnibus Transportation Employee Testing Act of 1991, 49 USC. In the past five years, there has only been one objection to the amendments either proposed or adopted into this rule. This came from UPEA in 2000. They requested that the blood alcohol concentration levels for impairment on the job be lowered from .04 to .08. This has reference to the incorporation of federal standards for transportation in Subsection R477-14-1(3)(c) and applying them to all state employees. This level is .04 percent blood alcohol content while Utah Code sets the level at .08 percent for legal impairment. The central issue for the state is impairment on the job and the inability to perform assigned job tasks regardless of the blood alcohol level. The state law setting the legal level of impairment at .08 percent is for the operation of motor vehicles and is unrelated to impairment on the job. Management still determines the ability of an employee to perform on the job and this must be determined on a case-by-case basis. Utah law requires DHRM to make rules governing the minimum blood levels of alcohol and drug content for work effectiveness (Section 67-19-34) but does not require different standards for employees in safety sensitive positions. The only distinction is that employees in safety sensitive positions may be subject to random drug testing (Section 67-19-36).

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

HUMAN RESOURCE MANAGEMENT
ADMINISTRATION
Room 2120 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY UT 84114-1201, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Conroy Whipple at the above address, by phone at 801-538-3067, by FAX at 801-538-3081, or by Internet E-mail at cwhipple.pedhrm@state.ut.us

AUTHORIZED BY: Karen Suzuki-Okabe, Executive Director

EFFECTIVE: 12/11/2001



Human Services, Recovery Services
R527-231
Review and Adjustment of Child
Support Order

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 24301
FILED: 12/03/2001, 15:10

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Sections 62A-11-320.5, 62A-11-320.6, and 78-45-7.2 require that support orders for dependent children be reviewed and, if in the best interest of the child, adjusted. The criteria listed in Rule R527-231 establish when an adjustment may not be in the best interest of the dependent children.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule should be continued because the laws and policies dealing with review and adjustment are still in effect and the rule gives essential clarification, procedure, and explanation relating to those laws and policies.

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

HUMAN SERVICES
RECOVERY SERVICES
515 E 100 S
SALT LAKE CITY UT 84102-4211, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
LeAnn Wilber at the above address, by phone at 801-536-8950, by FAX at 801-536-8509, or by Internet E-mail at lwilber@hs.state.ut.us

AUTHORIZED BY: Emma Chacon, Director

EFFECTIVE: 12/03/2001



Public Safety, Driver License
R708-16
Pedestrian Vehicle Rule

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 24299
FILED: 12/03/2001, 12:48

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 41-6-82.50 defines what a pedestrian vehicle is and who can use it. An individual who is disabled, and cannot walk, can ride a pedestrian vehicle as defined by statute both on public roads and sidewalks.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule needs to be continued so disabled individuals can use this type of transportation as outlined in Section 41-6-82.50. The statute also requires the division to make a rule specifying conditions in which a user can use the vehicle in traffic and on sidewalks.

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

PUBLIC SAFETY
DRIVER LICENSE
CALVIN L RAMPTON COMPLEX
4501 S 2700 W 3RD FL
SALT LAKE CITY UT 84119-5595, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Vinn Roos at the above address, by phone at 801-965-4456, by FAX at 801-964-4482, or by Internet E-mail at vroos@dps.state.ut.us

AUTHORIZED BY: Judy Hamaker Mann, Director

EFFECTIVE: 12/03/2001

Public Service Commission,
Administration
R746-409
Pipeline Safety

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 24302
FILED: 12/03/2001, 17:33

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 54-13-2 charges the Commission with the responsibility of establishing safety standards and practices for intrastate pipeline transportation

and requires the Commission to make and enforce rules to maintain state control and regulation of intrastate pipeline transportation incorporating federal standards.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received regarding this rule since the last five-year review. The Commission did update the incorporated reference as of June 2001.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Title 54, Chapter 13, has not been repealed and therefore, the Commission has continuing responsibility for pipeline safety.

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

PUBLIC SERVICE COMMISSION
ADMINISTRATION
HEBER M WELLS BLDG
160 E 300 S
SALT LAKE CITY UT 84111-2316, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Barbara Stroud at the above address, by phone at 801-530-6714, by FAX at 801-530-6796, or by Internet E-mail at bstroud.pupsc@state.ut.us

AUTHORIZED BY: Barbara Stroud, Paralegal

EFFECTIVE: 12/03/2001

School and Institutional Trust Lands,
Administration
R850-41
Rights-of-Entry

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 24308
FILED: 12/12/2001, 09:29

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 53C-1-302(1)(a)(ii) in general and Subsection 53C-4-101(1) specifically, authorize the Director of the School and Institutional Trust Lands Administration to make "rules for the sale, exchange, lease or other disposition or conveyance of trust lands, including procedures for determining fair market value of those lands." The right to enter upon trust lands and conduct nondisturbing, short-term activities is a profitable use

of the lands, and is one of the activities covered by the "other disposition or conveyance" authorization in the statute.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received concerning this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Without the authorization to issue rights-of-entry, the respective permanent school and institutional trust funds would forego the opportunity to receive revenues which have averaged \$100,000 per year for the last several years. This rule provides a mechanism for nondisturbing activities to be conducted on trust lands, thereby benefiting education and other trust land institution revenues and the conduct of business upon trust lands throughout the state.

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

SCHOOL AND INSTITUTIONAL TRUST LANDS
ADMINISTRATION
Room 500
675 E 500 S
SALT LAKE CITY UT 84102-2818, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Kevin S Carter at the above address, by phone at 801-538-5160, by FAX at 801-355-0922, or by Internet E-mail at kcarter.tlmain@state.ut.us

AUTHORIZED BY: Kevin S Carter, Deputy Director

EFFECTIVE: 12/12/2001



End of the Five-Year Notices of Review and Statements of Continuation Section

NOTICES OF RULE EFFECTIVE DATES

These are the effective dates of PROPOSED RULES or CHANGES IN PROPOSED RULES published in earlier editions of the *Utah State Bulletin*. These effective dates are at least 31 days and not more than 120 days after the date the following rules were published.

Abbreviations

AMD = Amendment
CPR = Change in Proposed Rule
NEW = New Rule
R&R = Repeal and Reenact
REP = Repeal

Alcoholic Beverage Control

Administration

No. 24115 (AMD): R81-1-8. Advertising.
Published: November 1, 2001
Effective: December 6, 2001

No. 24112 (AMD): R81-1-17. Advertising.
Published: November 1, 2001
Effective: December 6, 2001

No. 24113 (AMD): R81-3-9. Advertising.
Published: November 1, 2001
Effective: December 6, 2001

No. 24114 (AMD): R81-4A-12. Menus; Price Lists.
Published: November 1, 2001
Effective: December 6, 2001

Commerce

Occupational and Professional Licensing

No. 24110 (AMD): R156-22. Professional Engineers and Professional Land Surveyors Licensing Act Rules.
Published: November 1, 2001
Effective: December 4, 2001

No. 24019 (CPR): R156-63. Security Personnel Licensing Act Rules.
Published: November 1, 2001
Effective: December 4, 2001

Education

Administration

No. 24121 (AMD): R277-444. Distribution of Funds to Arts and Sciences Organizations.
Published: November 1, 2001
Effective: December 5, 2001

No. 24127 (REP): R277-466. Modified Centennial Schools Program.
Published: November 1, 2001
Effective: December 5, 2001

No. 24122 (AMD): R277-473. Testing Procedures.
Published: November 1, 2001
Effective: December 5, 2001

No. 24123 (AMD): R277-474. School Instruction and Human Sexuality.
Published: November 1, 2001
Effective: December 5, 2001

No. 24128 (REP): R277-606. Interscholastic Competitive Sports in High School.
Published: November 1, 2001
Effective: December 5, 2001

No. 24124 (AMD): R277-750. Education Programs for Students with Disabilities.
Published: November 1, 2001
Effective: December 5, 2001

No. 24129 (REP): R277-752. Teenage Pregnancy Prevention Funding.
Published: November 1, 2001
Effective: December 5, 2001

No. 24125 (AMD): R277-911. Secondary Applied Technology Education.
Published: November 1, 2001
Effective: December 5, 2001

No. 24126 (NEW): R277-914. Applied Technology Education (ATE) Leadership.
Published: November 1, 2001
Effective: December 5, 2001

Environmental Quality

Radiation Control

No. 24108 (AMD): R313-16. General Requirements Applicable to the Installation, Registration, Inspection, and Use of Radiation Machines.
Published: November 1, 2001
Effective: December 14, 2001

No. 24109 (AMD): R313-28-31. General and Administrative Requirements.
Published: November 1, 2001
Effective: December 14, 2001

Water Quality

No. 24084 (AMD): R317-2-12. High Quality Waters.
Published: October 15, 2001
Effective: December 7, 2001

No. 23780 (CPR): R317-8-4. Permit Conditions.
Published: October 15, 2001
Effective: December 11, 2001

NOTICES OF RULE EFFECTIVE DATES

Public Safety

Driver License

No. 24111 (AMD): R708-34. Medical Waivers for Intrastate Commercial Driving Privileges.

Published: November 1, 2001

Effective: December 4, 2001

Regents (Board Of)

Administration

No. 24130 (AMD): R765-608. Utah Engineering and Computer Science Loan Forgiveness Program.

Published: November 1, 2001

Effective: December 4, 2001

No. 24131 (AMD): R765-610. Utah Higher Education Assistance Authority Federal Family Education Loan Program, PLUS, SLS and Loan Consolidation Programs.

Published: November 1, 2001

Effective: December 4, 2001

No. 24132 (AMD): R765-612. Lender Participation.

Published: November 1, 2001

Effective: December 4, 2001

Tax Commission

Auditing

No. 24085 (AMD): R865-4D-6. Invoices Pursuant to Utah Code Ann. Section 59-13-307.

Published: October 15, 2001

Effective: December 11, 2001

Property Tax

No. 24120 (AMD): R884-24P-33. 2002 Personal Property Valuation Guides and Schedules Pursuant to Utah Code Ann. Section 59-2-301.

Published: November 1, 2001

Effective: December 11, 2001

No. 24118 (AMD): R884-24P-53. 2001 Valuation Guides for Valuation of Land Subject to the Farmland Assessment Act Pursuant to Utah Code Ann. Section 59-2-515.

Published: November 1, 2001

Effective: December 11, 2001

Transportation

Motor Carrier

No. 24116 (NEW): R909-16. Overall Motor Carrier Safety Standing.

Published: November 1, 2001

Effective: December 4, 2001

No. 24117 (NEW): R909-17. Appeal Process for Utah Commercial Vehicle Safety Alliance Inspections.

Published: November 1, 2001

Effective: December 4, 2001

No. 24119 (AMD): R909-19. Safety Regulations for Tow Truck Operations-Tow Truck Requirements for Equipment, Operations, and Certification.

Published: November 1, 2001

Effective: December 4, 2001

End of the Notices of Rule Effective Dates Section

RULES INDEX BY AGENCY (CODE NUMBER) AND BY KEYWORD (SUBJECT)

The *Rules Index* is a cumulative index that reflects all effective changes to Utah's administrative rules. The current *Index* lists changes made effective from January 2, 2001, including notices of effective date received through December 14, 2001, the effective dates of which are no later than January 1, 2002. 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).

A copy of the *Rules Index* is available for public inspection at the Division of Administrative Rules (4120 State Office Building, Salt Lake City, UT), or may be viewed online at the Division's web site (<http://www.rules.state.ut.us/>).

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>Debt Collection</u> | | | | | |
| R21-3 | Debt Collection Through Administrative Offset | 23682 | NSC | 05/01/2001 | Not Printed |
| <u>Facilities Construction and Management</u> | | | | | |
| R23-1 | Procurement of Construction | 23870 | AMD | 08/15/2001 | 2001-14/5 |
| R23-2 | Procurement of Architect-Engineer Services | 23952 | AMD | 09/15/2001 | 2001-16/4 |
| R23-6 | Value Engineering and Life Cycle Costing of State Owned Facilities Rules and Regulations | 23697 | NSC | 05/01/2001 | Not Printed |
| R23-25 | Administrative Rules Adjudicative Proceedings | 24300 | 5YR | 12/03/2001 | 2002-1/19 |
| <u>Finance</u> | | | | | |
| R25-2 | Finance Adjudicative Proceedings | 24135 | 5YR | 10/17/2001 | 2001-22/93 |
| R25-7 | Travel-Related Reimbursements for State Employees | 23699 | AMD | 07/01/2001 | 2001-10/5 |
| R25-14 | Payment of Attorneys Fees in Death Penalty Cases | 23366 | AMD | 01/22/2001 | 2000-24/5 |
| <u>Fleet Operations</u> | | | | | |
| R27-2 | Fleet Operations Adjudicative Proceedings | 23522 | 5YR | 02/08/2001 | 2001-5/39 |
| R27-7 | Safety and Loss Prevention of State Vehicles | 23345 | NEW | 01/31/2001 | 2000-24/6 |

RULES INDEX

| CODE REFERENCE | TITLE | FILE NUMBER | ACTION | EFFECTIVE DATE | BULLETIN ISSUE/PAGE |
|---|--|-------------|--------|----------------|---------------------|
| <u>Fleet Operations, Surplus Property</u> | | | | | |
| R28-2 | Surplus Firearms | 23523 | 5YR | 02/08/2001 | 2001-5/39 |
| <u>Information Technology Services</u> | | | | | |
| R29-1 | Division of Information Technology Services Adjudicative Proceedings | 23944 | 5YR | 07/26/2001 | 2001-16/48 |
| <u>Purchasing and General Services</u> | | | | | |
| R33-3-1 | Competitive Sealed Bidding; Multi-Step Bidding | 23965 | AMD | 12/03/2001 | 2001-16/7 |
| R33-3-7 | Types of Contracts | 23962 | AMD | 12/03/2001 | 2001-16/10 |
| AGRICULTURE AND FOOD | | | | | |
| <u>Administration</u> | | | | | |
| R51-1 | Public Petitions for Declaratory Rulings | 23584 | 5YR | 03/30/2001 | 2001-8/83 |
| R51-2-11 | Appearance and Representation | 23928 | NSC | 08/01/2001 | Not Printed |
| R51-3 | Government Records Access and Management Act | 23958 | 5YR | 07/31/2001 | 2001-16/48 |
| R51-4 | ADA Complaint Procedure | 23959 | 5YR | 07/31/2001 | 2001-16/49 |
| <u>Animal Industry</u> | | | | | |
| R58-2 | Diseases, Inspections and Quarantines | 23557 | NSC | 04/01/2001 | Not Printed |
| R58-2 | Diseases, Inspections and Quarantines | 24171 | 5YR | 10/30/2001 | 2001-22/93 |
| R58-4 | Use of Animal Drugs and Biologicals in the State of Utah | 24178 | 5YR | 11/01/2001 | 2001-22/94 |
| R58-10 | Meat and Poultry Inspection | 23306 | AMD | 01/03/2001 | 2000-23/9 |
| R58-11 | Slaughter of Livestock | 23585 | 5YR | 03/30/2001 | 2001-8/83 |
| R58-12 | Record Keeping and Carcass Identification at Meat Exempt (Custom Cut) Establishments | 23586 | 5YR | 03/30/2001 | 2001-8/84 |
| R58-13 | Custom Exempt Slaughter | 23587 | 5YR | 03/30/2001 | 2001-8/84 |
| R58-14 | Holding Live Raccoons or Coyotes in Captivity | 24153 | 5YR | 10/24/2001 | 2001-22/94 |
| R58-15 | Collection of Annual Fees for the Wildlife Damage Prevention Act | 23588 | 5YR | 03/30/2001 | 2001-8/85 |
| R58-16 | Swine Garbage Feeding | 23589 | 5YR | 03/30/2001 | 2001-8/85 |
| R58-17 | Aquaculture and Aquatic Animal Health | 23534 | AMD | 04/17/2001 | 2001-6/34 |
| <u>Chemistry Laboratory</u> | | | | | |
| R63-1 | Fee Schedule | 23404 | 5YR | 01/10/2001 | 2001-3/94 |
| <u>Marketing and Conservation</u> | | | | | |
| R65-1 | Utah Apple Marketing Order | 23543 | 5YR | 03/06/2001 | 2001-7/45 |
| R65-3 | Utah Turkey Marketing Order | 23544 | 5YR | 03/06/2001 | 2001-7/45 |
| R65-4 | Utah Egg Marketing Order | 23545 | 5YR | 03/06/2001 | 2001-7/46 |
| R65-7 | Horse Racing | 24149 | 5YR | 10/19/2001 | 2001-22/95 |
| R65-8 | Management of the Junior Livestock Show Appropriation | 24003 | 5YR | 08/24/2001 | 2001-18/56 |
| <u>Plant Industry</u> | | | | | |
| R68-1 | Utah Bee Inspection Act Governing Inspection of Bees | 23434 | 5YR | 01/16/2001 | 2001-3/94 |

| CODE REFERENCE | TITLE | FILE NUMBER | ACTION | EFFECTIVE DATE | BULLETIN ISSUE/PAGE |
|-----------------------------------|--|-------------|--------|----------------|---------------------|
| R68-2 | Utah Commercial Feed Act Governing Feed | 23435 | 5YR | 01/16/2001 | 2001-3/95 |
| R68-4 | Standardization, Marketing, and Phytosanitary Inspection of Fresh Fruits, Vegetables, and Other Plant and Plant Products | 23960 | 5YR | 07/31/2001 | 2001-16/49 |
| R68-6 | Utah Nursery Act | 23436 | 5YR | 01/16/2001 | 2001-3/95 |
| R68-7 | Utah Pesticide Control Act | 23973 | 5YR | 08/07/2001 | 2001-17/46 |
| R68-8 | Utah Seed Law | 23961 | 5YR | 07/31/2001 | 2001-16/50 |
| R68-10 | Quarantine Pertaining to the European Corn Borer | 23437 | 5YR | 01/16/2001 | 2001-3/96 |
| R68-12 | Quarantine Pertaining to Mint Wilt | 23438 | 5YR | 01/16/2001 | 2001-3/96 |
| R68-18 | Quarantine Pertaining to Karnal Bunt | 24004 | 5YR | 08/24/2001 | 2001-18/56 |
| <u>Regulatory Services</u> | | | | | |
| R70-101 | Bedding, Upholstered Furniture and Quilted Clothing | 23541 | 5YR | 03/06/2001 | 2001-7/46 |
| R70-101 | Bedding, Upholstered Furniture and Quilted Clothing | 23542 | AMD | 05/02/2001 | 2001-7/6 |
| R70-101-14 | Rules and Regulations for Filling Material | 23653 | NSC | 06/01/2001 | Not Printed |
| R70-330 | Raw Milk for Retail | 24005 | 5YR | 08/24/2001 | 2001-18/57 |
| R70-370 | Butter | 24006 | 5YR | 08/24/2001 | 2001-18/57 |
| R70-380 | Grade A Condensed and Dry Milk Products and Condensed and Dry Whey | 24007 | 5YR | 08/24/2001 | 2001-18/58 |
| R70-410 | Grading and Inspection of Shell Eggs With Standard Grade and Weight Classes | 24046 | 5YR | 09/12/2001 | 2001-19/43 |
| R70-410 | Grading and Inspection of Shell Eggs With Standard Grade and Weight Classes | 24043 | AMD | 11/01/2001 | 2001-19/4 |
| R70-420 | Chickens | 23428 | REP | 03/06/2001 | 2001-3/5 |
| R70-430 | Turkeys | 23429 | REP | 03/06/2001 | 2001-3/6 |
| R70-610 | Uniform Retail Wheat Standards of Identity | 23430 | 5YR | 01/16/2001 | 2001-3/96 |
| R70-610 | Uniform Retail Wheat Standards and Identity | 23431 | NSC | 02/01/2001 | Not Printed |
| R70-620 | Enrichment of Flour and Cereal Products | 23432 | 5YR | 01/16/2001 | 2001-3/97 |
| R70-620 | Enrichment of Flour and Cereal Products | 23433 | AMD | 03/06/2001 | 2001-3/7 |
| R70-910 | Voluntary Registration of Servicemen and Service Agencies for Commercial Weighing and Measuring Devices | 23728 | 5YR | 05/03/2001 | 2001-11/116 |
| R70-920 | Packaging and Labeling of Commodities | 24154 | 5YR | 10/24/2001 | 2001-22/95 |
| R70-930 | Method of Sale of Commodities | 24155 | 5YR | 10/24/2001 | 2001-22/95 |
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| R657-39 | Regional Advisory Councils | 23530 | AMD | 04/03/2001 | 2001-5/20 |
| R657-40 | Wildlife Rehabilitation | 23531 | 5YR | 02/15/2001 | 2001-5/42 |
| R657-40 | Wildlife Rehabilitation | 23532 | AMD | 04/03/2001 | 2001-5/22 |
| R657-41 | Conservation and Sportsman Permits | 23362 | AMD | 01/16/2001 | 2000-24/56 |
| R657-41 | Conservation and Sportsman Permits | 24068 | AMD | 11/15/2001 | 2001-20/40 |
| R657-42 | Exchanges, Surrenders, Refunds and Reallocation of Licenses, Certificates of Registration and Permits | 23364 | AMD | 01/16/2001 | 2000-24/60 |
| R657-42-6 | Reallocation of Permits | 23533 | AMD | 04/03/2001 | 2001-5/27 |
| R657-42-8 | Accepted Payment of Fees | 23809 | AMD | 07/18/2001 | 2001-12/70 |
| R657-43 | Landowner Permits | 23675 | AMD | 06/04/2001 | 2001-9/119 |
| R657-44 | Big Game Depredation | 23676 | AMD | 06/04/2001 | 2001-9/122 |
| R657-44 | Big Game Depredation | 24058 | AMD | 11/01/2001 | 2001-19/30 |
| R657-48 | Implementation of the Wildlife Species of Concern and Habitat Designation Advisory Committee | 23677 | NEW | 06/13/2001 | 2001-9/124 |
| R657-49 | Big Game Conservation Easements on Former School Trust Lands | 24065 | NEW | 11/15/2001 | 2001-20/44 |

PIONEER SESQUICENTENNIAL CELEBRATION COORDINATING COUNCIL (UTAH)

Administration

| | | | | | |
|--------|--|-------|-----|------------|-------------|
| R674-1 | Functional Baseline: Administration | 23739 | EXD | 05/07/2001 | 2001-11/121 |
| R674-2 | Disbursement of Discretionary Grants and Noncommercial Licensing | 23742 | EXD | 05/09/2001 | 2001-11/121 |
| R674-3 | Administration of the UPSCCC Licensing Program | 23740 | EXD | 05/07/2001 | 2001-11/121 |

PROFESSIONAL PRACTICES ADVISORY COMMISSION

Administration

| | | | | | |
|----------|---|-------|-----|------------|-------------|
| R686-100 | Professional Practices Advisory Commission, Rules of Procedure: Complaints and Hearings | 23427 | AMD | 03/06/2001 | 2001-3/67 |
| R686-100 | Professional Practices Advisory Commission, Rules of Procedure: Complaints and Hearings | 23547 | NSC | 04/01/2001 | Not Printed |

PUBLIC SAFETY

Driver License

| | | | | | |
|--------|--|-------|-----|------------|-------------|
| R708-3 | Driver License Point System Administration | 23514 | NSC | 02/22/2001 | Not Printed |
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| R708-3 | Driver License Point System Administration | 23402 | AMD | 03/06/2001 | 2001-3/75 |
| R708-16 | Pedestrian Vehicle Rule | 24299 | 5YR | 12/03/2001 | 2002-1/22 |
| R708-18 | Regulatory and Administrative Fees | 23957 | 5YR | 07/30/2001 | 2001-16/59 |
| R708-20 | Motor Vehicle Accident Prevention Course Standards | 24173 | 5YR | 10/30/2001 | 2001-22/104 |
| R708-33 | Electric Assisted Bicycle Headgear | 23833 | 5YR | 06/07/2001 | 2001-13/87 |
| R708-34 | Medical Waivers for Intrastate Commercial Driver Licenses | 23597 | AMD | 05/16/2001 | 2001-8/74 |
| R708-34 | Medical Waivers for Intrastate Commercial Driver Licenses | 24111 | AMD | 12/04/2001 | 2001-21/80 |
| R708-38 | Anatomical Gift | 23741 | NEW | 07/03/2001 | 2001-11/110 |
| <u>Fire Marshal</u> | | | | | |
| R710-3 | Assisted Living Facilities | 23579 | AMD | 05/16/2001 | 2001-8/75 |
| R710-3 | Assisted Living Facilities | 23881 | AMD | 09/04/2001 | 2001-15/26 |
| R710-4 | Buildings Under the Jurisdiction of the State Fire Prevention Board | 23339 | AMD | 01/16/2001 | 2000-24/61 |
| R710-4 | Buildings Under the Jurisdiction of the State Fire Prevention Board | 23580 | AMD | 05/16/2001 | 2001-8/77 |
| R710-6 | Liquefied Petroleum Gas Rules | 23367 | AMD | 01/16/2001 | 2000-24/63 |
| R710-6 | Liquefied Petroleum Gas Rules | 23880 | 5YR | 07/05/2001 | 2001-15/55 |
| R710-6 | Liquefied Petroleum Gas Rules | 23995 | EMR | 09/04/2001 | 2001-18/53 |
| R710-9 | Rules Pursuant to the Utah Fire Prevention Law | 23340 | AMD | 01/16/2001 | 2000-24/64 |
| <u>Law Enforcement and Technical Services, Criminal Identification (Changed to Criminal Investigations and Technical Services, Criminal Identification--02/01/2001)</u> | | | | | |
| R722-2 (Changed to R722-900) | Review and Challenge of Criminal Record | 23444 | NSC | 02/01/2001 | Not Printed |
| <u>Law Enforcement and Technical Services, Regulatory Licensing (Changed to Criminal Investigations and Technical Services, Criminal Identification--02/01/2001)</u> | | | | | |
| R724-4 (Changed to R722-300) | Concealed Firearm Permit Rule | 23445 | NSC | 02/01/2001 | Not Printed |
| R724-6 (Changed to 722-340) | Emergency Vehicles | 23446 | NSC | 02/01/2001 | Not Printed |
| R724-7 (Changed to R722-320) | Undercover Identification | 23447 | NSC | 02/01/2001 | Not Printed |
| R724-9 (Changed to R722-330) | Licensing of Private Investigations | 23448 | NSC | 02/01/2001 | Not Printed |
| R724-10 (Changed to R722-310) | Regulation of Bail Bond Recovery and Enforcement Agents | 23449 | NSC | 02/01/2001 | Not Printed |
| <u>Peace Officer Standards and Training</u> | | | | | |
| R728-205 | Council Resolution of Public Safety Retirement Eligibility | 23627 | NSC | 05/01/2001 | Not Printed |
| R728-404 | Basic Training Basic Academy Rules | 23628 | NSC | 05/01/2001 | Not Printed |

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| R728-409 | Refusal, Suspension or Revocation of Peace Officer Certification | 23629 | NSC | 05/01/2001 | Not Printed |
| R728-500 | Utah Peace Officer Standards and Training In-Service Training Certification Procedures | 23630 | NSC | 05/01/2001 | Not Printed |
| PUBLIC SERVICE COMMISSION | | | | | |
| <u>Administration</u> | | | | | |
| R746-200 | Residential Utility Service Rules for Electric, Gas, Water and Sewer Utilities | 23353 | AMD | 02/15/2001 | 2000-24/66 |
| R746-240 | Telecommunication Service Rules | 23354 | AMD | 02/15/2001 | 2000-24/67 |
| R746-340 | Service Quality for Telecommunications Corporations | 23328 | AMD | see CPR | 2000-23/49 |
| R746-340 | Service Quality for Telecommunications Corporations | 23328 | CPR | 03/27/2001 | 2001-4/56 |
| R746-341 | Lifeline Rule | 23376 | AMD | 03/01/2001 | 2001-1/30 |
| R746-347 | Extended Area Service (EAS) | 23844 | REP | 08/01/2001 | 2001-13/73 |
| R746-352 | Price Cap Regulation | 23232 | NEW | see CPR (First) | 2000-21/26 |
| R746-352 | Price Cap Regulation | 23232 | CPR (First) | see CPR (Second) | 2001-5/32 |
| R746-352 | Price Cap Regulation | 23232 | CPR (Second) | 06/15/2001 | 2001-7/38 |
| R746-360 | Universal Public Telecommunications Service Support Fund | 23271 | AMD | 02/15/2001 | 2000-22/45 |
| R746-360-4 | Application of Fund Surcharges to Customer Billings | 23886 | AMD | 09/01/2001 | 2001-15/28 |
| R746-360-9 | One-Time Distributions From the Fund | 23916 | AMD | 10/15/2001 | 2001-15/29 |
| R746-409 | Pipeline Safety | 23705 | AMD | 06/28/2001 | 2001-10/42 |
| R746-409 | Pipeline Safety | 24302 | 5YR | 12/03/2001 | 2002-1/23 |
| REGENTS (Board of) | | | | | |
| <u>Administration</u> | | | | | |
| R765-608 | Utah Engineering and Computer Science Loan Forgiveness Program | 23907 | NEW | 09/01/2001 | 2001-15/31 |
| R765-608 | Utah Engineering and Computer Science Loan Forgiveness Program | 24130 | AMD | 12/04/2001 | 2001-21/81 |
| R765-610 | Utah Higher Education Assistance Authority Federal Family Education Loan Program, PLUS, SLS and Loan Consolidation Programs | 24131 | AMD | 12/04/2001 | 2001-21/84 |
| R765-612 | Lender Participation | 24132 | AMD | 12/04/2001 | 2001-21/85 |
| R765-649 | Utah Higher Education Assistance Authority (UHEAA) Privacy Policy | 23596 | NEW | 05/16/2001 | 2001-8/78 |
| R765-649 | Utah Higher Education Assistance Authority (UHEAA) Privacy Policy | 23782 | AMD | 07/17/2001 | 2001-12/71 |
| R765-685 | Utah Educational Savings Plan Trust | 24291 | 5YR | 11/30/2001 | 2001-24/58 |
| SCHOOL AND INSTITUTIONAL TRUST LANDS | | | | | |
| <u>Administration</u> | | | | | |
| R850-8 | Adjudicative Proceedings | 24193 | 5YR | 11/06/2001 | 2001-23/149 |
| R850-41 | Rights-of-Entry | 24308 | 5YR | 12/12/2001 | 2002-1/23 |
| R850-50-400 | Permit Approval Process | 23558 | AMD | 05/02/2001 | 2001-7/22 |

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| R850-140 | Development Property | 24053 | 5YR | 09/14/2001 | 2001-19/45 |
| TAX COMMISSION | | | | | |
| <u>Administration</u> | | | | | |
| R861-1A-9 | Tax Commission as Board of Equalization Pursuant to Utah Code Ann. Sections 59-2-212, 59-2-1004, and 59-2-1006 | 23846 | AMD | 08/02/2001 | 2001-13/75 |
| R861-1A-17 | Definition of Return Pursuant to Utah Code Ann. Sections 59-1-210 and 59-1-403 | 23717 | AMD | 07/04/2001 | 2001-10/44 |
| R861-1A-24 | Formal Adjudicative Proceedings Pursuant to Utah Code Ann. Sections 59-1-502.1, 63-46b-8, and 63-46b-10 | 23988 | NSC | 09/01/2001 | Not Printed |
| R861-1A-36 | Signatures Defined Pursuant to Utah Code Ann. Sections 41-1a-209, 59-10-512, and 59-12-107 | 23403 | AMD | 04/11/2001 | 2001-3/76 |
| <u>Auditing</u> | | | | | |
| R865-4D-6 | Invoices Pursuant to Utah Code Ann. Section 59-13-307 | 24085 | AMD | 12/11/2001 | 2001-20/46 |
| R865-4D-22 | Reduction in Special Fuel Tax for Suppliers Subject to Navajo Nation Fuel Tax Pursuant to Utah Code Ann. Section 59-13-301 | 24036 | AMD | 10/16/2001 | 2001-18/43 |
| R865-6F-1 | Corporation Franchise Privilege - Right to do Business - Nature of Liability and How Terminated Pursuant to Utah Code Ann. Sections 16-10a-1501 through 16-10a-1522 | 23555 | NSC | 04/01/2001 | Not Printed |
| R865-6F-15 | Installment Basis of Reporting Income in Year of Termination Pursuant to Utah Code Ann. Section 59-7-119 | 23556 | NSC | 04/01/2001 | Not Printed |
| R865-6F-27 | Order of Credits Applied Against Utah Corporate Franchise Tax Due Pursuant to Utah Code Ann. Sections 9-2-413, 59-6-102, 59-7-104, 59-7-601 through 59-7-606, 59-10-603, and 59-13-202 | 23989 | NSC | 09/01/2001 | Not Printed |
| R865-9I-14 | Requirements of Withholding Pursuant to Utah Code Ann. Sections 59-10-401, 59-10-402, and 59-10-403 | 23910 | AMD | 09/05/2001 | 2001-15/33 |
| R865-9I-42 | Order of Credits Applied Against Utah Individual Income Tax Due Pursuant to Utah Code Ann. Sections 9-2-413, 59-6-102, 59-10-108, 59-10-108.5, 59-10-108.7, 59-10-109, 59-10-127, 59-10-128, 59-10-129, 59-10-130, 59-10-602, 59-10-603, and 59-13-202 | 23990 | NSC | 09/01/2001 | Not Printed |
| R865-13G-15 | Reduction in Motor Fuel Tax for Distributors Subject to Navajo Nation Fuel Tax Pursuant to Utah Code Ann. Section 59-13-201 | 24037 | AMD | 10/16/2001 | 2001-18/44 |
| R865-19S-4 | Collection of Tax Pursuant to Utah Code Ann. Section 59-12-107 | 23714 | AMD | 09/05/2001 | 2001-10/45 |
| R865-19S-85 | Sales and Use Tax Exemptions for New or Expanding Operations and Normal Operating Replacements Pursuant to Utah Code Ann. Section 59-12-104 | 23716 | AMD | 07/04/2001 | 2001-10/46 |
| R865-19S-90 | Telephone Service Defined Pursuant to Utah Code Ann. Section 59-12-103 | 23911 | AMD | 09/05/2001 | 2001-15/34 |
| R865-19S-93 | Waste Tire Recycling Fee Pursuant to Utah Code Ann. Sections 26-32a-101 through 26-32a-113 | 23991 | NSC | 09/01/2001 | Not Printed |

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| R865-19S-98 | Sales to Nonresidents of Vehicles, Off-highway Vehicles, and Boats Required to be Registered, and Sales to Nonresidents of Boat Trailers and Outboard Motors Pursuant to Utah Code Ann. Section 59-12-104 | 23912 | AMD | 09/05/2001 | 2001-15/35 |
| R865-19S-106 | Tourism Marketing Performance Fund Pursuant to Utah Code Ann. Section 9-2-1702 and 9-2-1703 | 23913 | AMD | 09/05/2001 | 2001-15/37 |
| R865-21U | Use Tax | 23572 | 5YR | 03/27/2001 | 2001-8/88 |
| R865-21U-6 | Liability of Purchasers and Receipt for Payment to Retailers Pursuant to Utah Code Ann. Section 59-12-107 | 23553 | NSC | 04/01/2001 | Not Printed |
| <u>Collections</u> | | | | | |
| R867-2B | Delinquent Tax Collection | 23574 | 5YR | 03/27/2001 | 2001-8/89 |
| <u>Motor Vehicle</u> | | | | | |
| R873-22M-35 | Reissuance of Personalized License Plates Pursuant to Utah Code Ann. Sections 41-1a-413 and 41-1a-1211 | 23718 | AMD | 07/04/2001 | 2001-10/48 |
| <u>Property Tax</u> | | | | | |
| R884-24P-19 | Appraiser Designation Program Pursuant to Utah Code Ann. Sections 59-2-701 and 59-2-702 | 24038 | AMD | 10/16/2001 | 2001-18/44 |
| R884-24P-27 | Standards for Assessment Level and Uniformity of Performance Pursuant to Utah Code Ann. Sections 59-2-704 and 59-2-704.5 | 23992 | NSC | 09/01/2001 | Not Printed |
| R884-24P-33 | 2001 Personal Property Valuation Guides and Schedules Pursuant to Utah Code Ann. Section 59-2-301 | 23994 | AMD | 10/16/2001 | 2001-17/22 |
| R884-24P-33 | 2002 Personal Property Valuation Guides and Schedules Pursuant to Utah Code Ann. Section 59-2-301 | 24120 | AMD | 12/11/2001 | 2001-21/86 |
| R884-24P-49 | Calculating the Utah Apportioned Value of a Rail Car Fleet Pursuant to Utah Code Ann. Section 59-2-201 | 23475 | AMD | 04/11/2001 | 2001-4/42 |
| R884-24P-53 | 2001 Valuation Guides for Valuation of Land Subject to the Farmland Assessment Act Pursuant to Utah Code Ann. Section 59-2-515 | 24118 | AMD | 12/11/2001 | 2001-21/94 |
| R884-24P-62 | Valuation of State Assessed Utility and Transportation Properties Pursuant to Utah Code Ann. Section 59-2-201 | 23395 | AMD | 05/14/2001 | 2001-2/11 |
| R884-24P-65 | Proportional Assessment of Transitory Personal Property Pursuant to Utah Code Ann. Section 59-2-402 | 23316 | AMD | 02/20/2001 | 2000-23/54 |
| R884-24P-66 | Appeal to County Board of Equalization Pursuant to Utah Code Ann. Section 59-2-1004 | 23847 | AMD | 08/02/2001 | 2001-13/77 |
| TRANSPORTATION | | | | | |
| <u>Administration</u> | | | | | |
| R907-3-1 | Additional Requirements: Policy | 23633 | NSC | 05/01/2001 | Not Printed |
| R907-40 | External Relations | 23634 | NSC | 05/01/2001 | Not Printed |
| R907-63-1 | Authority and Purpose | 23623 | NSC | 05/01/2001 | Not Printed |

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| <u>Motor Carrier</u> | | | | | |
| R909-1 | Safety Regulations for Motor Carriers | 23460 | AMD | 03/20/2001 | 2001-4/44 |
| R909-1 | Safety Regulations for Motor Carriers | 23573 | NSC | 04/01/2001 | Not Printed |
| R909-1 | Safety Regulations for Motor Carriers | 23590 | NSC | 05/01/2001 | Not Printed |
| R909-1 | Safety Regulations for Motor Carriers | 24055 | AMD | 12/03/2001 | 2001-19/33 |
| R909-4 | Safety Regulations for Tow Truck (Wrecker) Operations-Tow Truck Requirements, Equipment and Operations | 23565 | NSC | 04/01/2001 | Not Printed |
| R909-16 | Overall Motor Carrier Safety Standing | 24116 | NEW | 12/04/2001 | 2001-21/97 |
| R909-17 | Appeal Process for Utah Commercial Vehicle Safety Alliance Inspections | 24117 | NEW | 12/04/2001 | 2001-21/99 |
| R909-19 | Safety Regulations for Tow Truck Operations - Tow Truck Requirements for Equipment, Operation and Certification | 23993 | NEW | 10/02/2001 | 2001-17/30 |
| R909-19 | Safety Regulations for Tow Truck Operations - Tow Truck Requirements for Equipment, Operation and Certification | 24119 | AMD | 12/04/2001 | 2001-21/100 |
| R909-75 | Safety Regulations for Motor Carriers Transporting Hazardous Materials and/or Hazardous Wastes | 23461 | AMD | 03/20/2001 | 2001-4/45 |
| R909-75 | Safety Regulations for Motor Carriers Transporting Hazardous Materials and/or Hazardous Wastes | 23857 | AMD | 08/15/2001 | 2001-14/43 |
| <u>Motor Carrier, Ports of Entry</u> | | | | | |
| R912-8 | Minimum Tire, Axle and Suspension Ratings for Heavy Vehicles and the Use of Retractable or Variable Load Suspension Axles in Utah | 23698 | 5YR | 04/27/2001 | 2001-10/91 |
| R912-16 | Special Mobile Equipment | 23625 | NSC | 05/01/2001 | Not Printed |
| <u>Operations, Construction</u> | | | | | |
| R916-2 | Prequalification of Contractors | 23608 | NSC | 05/01/2001 | Not Printed |
| R916-3 | DESIGN-BUILD Contracts | 23609 | NSC | 05/01/2001 | Not Printed |
| R916-3 | DESIGN-BUILD Contracts | 23750 | 5YR | 05/14/2001 | 2001-11/119 |
| <u>Operations, Maintenance</u> | | | | | |
| R918-3 | Snow Removal | 23379 | AMD | 02/15/2001 | 2001-1/32 |
| <u>Operations, Traffic and Safety</u> | | | | | |
| R920-2 | Traffic Control Systems for Railroad-Highway Grade Crossing | 23635 | NSC | 05/01/2001 | Not Printed |
| R920-3 | Manual of Uniform Traffic Control Devices, Part IV | 23636 | NSC | 05/01/2001 | Not Printed |
| R920-6 | Snow Tire and Chain Requirements | 23610 | NSC | 05/01/2001 | Not Printed |
| R920-7 | Public Safety Program Signing | 23611 | NSC | 05/01/2001 | Not Printed |
| <u>Program Development</u> | | | | | |
| R926-2 | Evaluation of Proposed Additions to the State Highway System | 23612 | NSC | 05/01/2001 | Not Printed |
| R926-3 | Class B and Class C Road Funds | 23613 | NSC | 05/01/2001 | Not Printed |
| R926-5 | State Park Access Highways Improvement Program | 23614 | NSC | 05/01/2001 | Not Printed |

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| R926-6 | Transportation Corridor Preservation Revolving Loan Fund | 23311 | AMD | 01/03/2001 | 2000-23/55 |
| R926-6 | Transportation Corridor Preservation Revolving Loan Fund | 24082 | AMD | 11/20/2001 | 2001-20/47 |
| <u>Preconstruction</u> | | | | | |
| R930-1 | Installation of New Mailboxes and Correction of Nonconforming Mailboxes | 23615 | NSC | 05/01/2001 | Not Printed |
| R930-2 | Public Hearings | 23616 | NSC | 05/01/2001 | Not Printed |
| R930-3 | Highway Noise Abatement | 23617 | NSC | 05/01/2001 | Not Printed |
| R930-5 | Establishment and Regulation of At-Grade Railroad Crossings | 23618 | NSC | 05/01/2001 | Not Printed |
| R930-6 | Rules for the Accommodation of Utility Facilities and the Control and Protection of State Highway Rights-of-Way | 23198 | AMD | 01/19/2001 | 2000-21/43 |
| R930-6 | Rules for the Accommodation of Utility Facilities and the Control and Protection of State Highway Rights-of-Way | 23443 | NSC | 02/12/2001 | Not Printed |
| <u>Preconstruction, Right-of-Way Acquisition</u> | | | | | |
| R933-1 | Right-of-Way Acquisition | 23637 | NSC | 05/01/2001 | Not Printed |
| R933-1 | Right-of-Way Acquisition | 24071 | AMD | 11/20/2001 | 2001-20/49 |
| R933-2 | Control of Outdoor Advertising Signs | 23942 | NSC | 08/01/2001 | Not Printed |
| R933-2-15 | Special Permits for Olympic Pageants | 23622 | AMD | 07/09/2001 | 2001-9/128 |
| R933-3 | Relocation of Modification of Existing Authorized Access Openings or Granting New Access Openings on Limited Access Highways | 23619 | NSC | 05/01/2001 | Not Printed |
| R933-4 | Bus Shelters | 23536 | AMD | 04/18/2001 | 2001-6/45 |
| WORKFORCE SERVICES | | | | | |
| <u>Employment Development</u> | | | | | |
| R986-200 | Family Employment Program | 23721 | AMD | 07/01/2001 | 2001-10/49 |
| R986-600 | Workforce Investment Act | 23722 | NEW | 07/01/2001 | 2001-10/50 |
| R986-601 | Authority and Definitions and Programs Authorized under JTPA | 23723 | REP | 07/01/2001 | 2001-10/57 |
| R986-602 | General Administrative Provisions | 23724 | REP | 07/01/2001 | 2001-10/67 |
| R986-603 | Participant Data System Procedures | 23725 | REP | 07/01/2001 | 2001-10/75 |
| R986-700 | Child Care Assistance | 23726 | AMD | 07/01/2001 | 2001-10/77 |
| R986-700-705 | Eligible Providers and Provider Settings | 23969 | NSC | 08/01/2001 | Not Printed |
| R986-700-713 | Amount of CC Payment | 23970 | AMD | 09/20/2001 | 2001-16/34 |
| R986-900-902 | Options and Waivers | 23474 | AMD | 03/20/2001 | 2001-4/47 |
| R986-900-902 | Options and Waivers | 23727 | AMD | 07/01/2001 | 2001-10/79 |
| <u>Workforce Information and Payment Services</u> | | | | | |
| R994-302 | Payment by Employer | 23744 | 5YR | 05/11/2001 | 2001-11/119 |
| R994-308 | Bond or Security Requirement | 23745 | 5YR | 05/11/2001 | 2001-11/120 |
| R994-403-102a | Filing a New Claim | 23824 | AMD | 08/09/2001 | 2001-13/78 |
| R994-404-103 | 90-Day Filing Limitation | 23825 | AMD | 10/29/2001 | 2001-13/79 |
| R994-406-304 | Appeal Time Limitation for Decisions Which are Mailed | 23525 | AMD | 04/05/2001 | 2001-5/28 |

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 | |

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| <u>ACCIDENT PREVENTION</u> | | | | | |
| Public Safety, Driver License | 24173 | R708-20 | 5YR | 10/30/2001 | 2001-22/104 |
| <u>ACCIDENTS</u> | | | | | |
| Administrative Services, Fleet Operations | 23345 | R27-7 | NEW | 01/31/2001 | 2000-24/6 |
| Natural Resources, Parks and Recreation | 23456 | R651-223 | 5YR | 01/26/2001 | 2001-4/63 |
| <u>ACCOUNTANTS</u> | | | | | |
| Commerce, Occupational and Professional Licensing | 23296 | R156-26a | AMD | 01/04/2001 | 2000-23/11 |
| <u>ACCOUNTS RECEIVABLE</u> | | | | | |
| Administrative Services, Debt Collection | 23682 | R21-3 | NSC | 05/01/2001 | Not Printed |
| <u>ADA (Americans with Disabilities Act)</u> | | | | | |
| Governor, Administration | 24101 | R355-2 | 5YR | 10/10/2001 | 2001-21/114 |
| <u>ADJUDICATIVE PROCEEDINGS</u> | | | | | |
| Natural Resources; Forestry, Fire and State Lands | 23938 | R652-8 | 5YR | 07/23/2001 | 2001-16/57 |
| School and Institutional Trust Lands, Administration | 24193 | R850-8 | 5YR | 11/06/2001 | 2001-23/149 |
| <u>ADMINISTRATIVE LAW</u> | | | | | |
| Administrative Services, Facilities Construction and Management | 24300 | R23-25 | 5YR | 12/03/2001 | 2002-1/19 |
| Human Services, Recovery Services | 23733 | R527-200 | 5YR | 05/07/2001 | 2001-11/118 |
| <u>ADMINISTRATIVE OFFSET</u> | | | | | |
| Administrative Services, Debt Collection | 23682 | R21-3 | NSC | 05/01/2001 | Not Printed |
| <u>ADMINISTRATIVE PROCEDURES</u> | | | | | |
| Administrative Services, Fleet Operations | 23522 | R27-2 | 5YR | 02/08/2001 | 2001-5/39 |
| Agriculture and Food, Administration | 23584 | R51-1 | 5YR | 03/30/2001 | 2001-8/83 |
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| | 23588 | R58-15 | 5YR | 03/30/2001 | 2001-8/85 |
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| | 23659 | R309-207 (Changed to R309-530) | AMD | 08/15/2001 | 2001-9/43 |
| | 23394 | R309-208 (Changed to R309-535) | AMD | 05/01/2001 | 2001-2/3 |
| | 23660 | R309-209 (Changed to R309-540) | AMD | 08/15/2001 | 2001-9/46 |
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| | 23845 | R309-605 | AMD | 08/27/2001 | 2001-13/20 |
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| | 23600 | R317-550-7 | CPR | 08/29/2001 | 2001-14/49 |
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| | 23964 | R277-480 | NEW | 09/20/2001 | 2001-16/25 |
| | 23855 | R277-526 | AMD | 08/01/2001 | 2001-13/13 |
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| | 23854 | R277-479 | NEW | 08/01/2001 | 2001-13/11 |
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| | 24156 | R70-940 | 5YR | 10/24/2001 | 2001-22/96 |
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| | 23583 | R590-144 | NSC | 05/01/2001 | Not Printed |
| | 23598 | R590-146 | AMD | 05/23/2001 | 2001-8/65 |
| | 23765 | R590-155 | AMD | 08/20/2001 | 2001-11/106 |
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| | 23369 | R590-175 | CPR (First) | see CPR (Second) | 2001-9/35 |
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| | 23817 | R647-4-113 | AMD | see CPR | 2001-12/61 |
| | 23817 | R647-4-113 | CPR | 10/01/2001 | 2001-16/43 |
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| | 23545 | R65-4 | 5YR | 03/06/2001 | 2001-7/46 |
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| | 23992 | R884-24P-27 | NSC | 09/01/2001 | Not Printed |
| | 23994 | R884-24P-33 | AMD | 10/16/2001 | 2001-17/22 |
| | 24120 | R884-24P-33 | AMD | 12/11/2001 | 2001-21/86 |
| | 23475 | R884-24P-49 | AMD | 04/11/2001 | 2001-4/42 |
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| | 23519 | R223-2 | NSC | 02/23/2001 | Not Printed |
| | 23694 | R223-2 | AMD | 09/07/2001 | 2001-10/14 |
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| | 23556 | R865-6F-15 | NSC | 04/01/2001 | Not Printed |
| | 23989 | R865-6F-27 | NSC | 09/01/2001 | Not Printed |
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| | 23573 | R909-1 | NSC | 04/01/2001 | Not Printed |
| | 23590 | R909-1 | NSC | 05/01/2001 | Not Printed |
| | 24055 | R909-1 | AMD | 12/03/2001 | 2001-19/33 |
| | 23565 | R909-4 | NSC | 04/01/2001 | Not Printed |
| | 24116 | R909-16 | NEW | 12/04/2001 | 2001-21/97 |
| | 23993 | R909-19 | NEW | 10/02/2001 | 2001-17/30 |
| | 24119 | R909-19 | AMD | 12/04/2001 | 2001-21/100 |
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| | 23700 | R414-309 | EMR | 05/01/2001 | 2001-10/82 |
| | 23702 | R414-309 | AMD | 06/25/2001 | 2001-10/15 |
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| | 23701 | R420-1 | EMR | 05/01/2001 | 2001-10/85 |
| | 23703 | R420-1 | AMD | 06/25/2001 | 2001-10/19 |
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| Public Safety, Law Enforcement and Technical Services, Regulatory Licensing (Changed to Public Safety, Criminal Investigations and Technical Services, Criminal Identification) | 23447 | R724-7 (Changed to R722-320) | NSC | 02/01/2001 | Not Printed |
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| | 23162 | R317-7 | CPR | 01/23/2001 | 2000-24/75 |
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| | 23725 | R986-603 | REP | 07/01/2001 | 2001-10/75 |

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| | 23745 | R994-308 | 5YR | 05/11/2001 | 2001-11/120 |
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| | 23825 | R994-404-103 | AMD | 10/29/2001 | 2001-13/79 |
| | 23525 | R994-406-304 | AMD | 04/05/2001 | 2001-5/28 |
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| | 23886 | R746-360-4 | AMD | 09/01/2001 | 2001-15/28 |
| | 23916 | R746-360-9 | AMD | 10/15/2001 | 2001-15/29 |
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| | 23875 | R315-312-4 | NSC | 07/30/2001 | Not Printed |
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| | 23876 | R315-320-7 | NSC | 07/30/2001 | Not Printed |
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| | 23808 | R657-37 | AMD | 07/18/2001 | 2001-12/67 |
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