

# UTAH STATE BULLETIN

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

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

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Division of Administrative Rules, Salt Lake City 84114

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## EDITOR'S NOTES

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### LEGISLATION WHICH AFFECTS RULEMAKING

During the 2006 General Session, the Legislature passed the following bills affecting administrative rules.

#### **S.B. 26. "Administrative Rules Reauthorization" (Sen. H. Stephenson)**

The Reauthorization bill is the Administrative Rules Review Committee's annual bill required by Section 63-46a-11.5. S.B. 26 reauthorized all rules. The Governor signed S.B. 26 on 03/10/2006. S.B. 26 (Chapter 25, Laws of Utah 2006) goes into effect on 05/01/2006. More information about S.B. 26 is available at:  
<http://www.le.state.ut.us/~2006/htmdoc/sbillhtm/sb0026.htm>.

#### **H.B. 316 "Administrative Rules Procedure Amendments" (Rep. D. Ure)**

This bill, an Administrative Rules Review Committee bill, makes changes to rulemaking procedure. It: 1) imposes an affirmative requirement on agencies to "review and evaluate all public comments submitted in writing or presented at public hearings conducted by the agency," 2) requires a seven calendar day consideration period following the public comment period before an agency may make a rule effective, 3) defines the phrase "initiate rulemaking proceedings" to mean filing a rule with the Division of Administrative Rules, 4) increases the number of days to consider a petition for rulemaking from 30 to 60 days for agencies, and from 30 to 80 days for boards with an extra requirement that a board place a petition on its agenda within 45 days, and 5) provides that "the petitioner may seek a writ of mandamus in state district court" if the agency fails to respond as provided. The Governor signed H.B. 316 on 03/13/2006. H.B. 316 (Chapter 141, Laws of Utah 2006) goes into effect on 05/01/2006. More information about H.B. 316 is available at:  
<http://www.le.state.ut.us/~2006/htmdoc/hbillhtm/HB0316.htm>.

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

**End of the Editor's Notes Section**

# SPECIAL NOTICES

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## Administrative Services Administrative Rules

### 120-Day (Emergency) Rule Implementing H.B. 316

H.B. 316, "Administrative Rules Procedure Amendments," provided no implementation guidance. After discussing the issue with counsel, the Division of Administrative Rules (DAR) has decided to file an emergency rule to clarify how the bill will affect proposed rules filed for publication, and to bring Rule R15-4 into compliance with the bill's provisions.

In summary, the 120-day (emergency) rule (under DAR No. 28586 in this issue), temporarily amends Sections R15-4-4 and R15-4-5 making them consistent with Subsection 63-64a-4(10) as amended by H.B. 316. The emergency rule clarifies that administrative rules filed prior to 05/01/2006 are subject to the existing law, and rules filed on 05/01/2006 or later are subject to the law as amended by H.B. 316. H.B. 316 goes into effect on 05/01/2006. Nothing in the statute or rule prevents an agency from waiting the seven days before making a rule effective that was filed prior to 05/01/2006. A regular proposed rule will be filed within the next several months.

A PDF version of the emergency rule is temporarily available at:  
<http://www.rules.utah.gov/publicat/bulletin/2006/20060415/28586.pdf>.

The emergency rule was filed on 03/31/2006, with a designated effective date of 04/15/2006.

*Questions regarding the emergency rule may be directed to Ken Hansen, Director, Division of Administrative Rules, 4120 State Office Building, Salt Lake City, UT 84114-1201, phone: 801-538-3777, FAX: 801-538-1773, or Internet E-mail: [khansen@utah.gov](mailto:khansen@utah.gov)*

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## Governor's Executive Order 2006-0001: Creating the Utah Developmental Disabilities Council

### EXECUTIVE ORDER

#### Creating the Utah Developmental Disabilities Council

**WHEREAS**, Congress has stated its desire to assure that individuals with developmental disabilities and their families participate in the design of and have access to needed community services, individualized supports, and other forms of assistance that promote self-determination, independence, productivity, and integration and inclusion in all facets of community life;

**WHEREAS**, Public Law 106-402 (2000), the Developmental Disabilities Assistance and Bill of Rights Act, requires the Governor to designate a state council on services and facilities for individuals with developmental disabilities and requires representation on this Council from certain classifications of individuals, specifying responsibilities for this Council;

**NOW, THEREFORE, I**, Jon Huntsman, Jr., Governor of the State of Utah, by virtue of the power vested in me by the Constitution and the Laws of the State, hereby constitute a Council to be known as the Utah Developmental Disabilities Council, and hereby appoint the following persons to that Council:

(1)(a) the Director of Special Education, representing the State Office of Education or their designee;

(b) the Director of the Division of Health Care Financing within the Department of Health, representing the Title XIX agency under the Social Security Act or their designee;

(c) the Director of Community and Family Health Services within the Department of Health, representing the Title V agency under the Social Security Act or their designee;

(d) the Director of the University Center for Excellence in Developmental Disabilities or their designee;



(e) the Director of the State Office of Rehabilitation, representing Vocational Rehabilitation or their designee;

(f) the Director of the Division of Services for People with Disabilities within the Department of Human Services, representing the State Developmental Disabilities Program or their designee;

(g) the Director of the Division of Aging and Adult Services within the Department of Human Services, representing the Older Americans Act Program or their designee;

(h) the Director of the Protection and Advocacy System or their designee;

(2) Members specified in Section (1) serving on the Council shall serve so long as they occupy the indicated position in state government. If their employment in state government in the indicated capacity is terminated, their membership on the Council shall automatically be terminated.

(3) Additional citizen members shall be appointed by the Governor in accordance with Public Law 106-402. These members shall be constituted as follows:

(a) At least sixty percent of the entire Council shall consist of individuals with developmental disabilities, parents or guardians of children with developmental disabilities, or immediate relatives or guardians of adults with mentally impairing developmental disabilities.

(b) Of the sixty percent indicated in Subsection (3)(a), at least one-third shall be individuals with developmental disabilities, at least one-third shall be parents or guardians or immediate relatives of children or adults with mentally impairing developmental disabilities, at least one-third shall be a combination of individuals described in Subsection (3)(a) and at least one shall be an immediate relative or guardian of an institutionalized or previously institutionalized individual with a developmental disability.

(c) Two members may be invited to be members of the Council from the Utah State Legislature, one from each House appointed respectively by the Speaker of the House and the President of the Senate.

(4) The citizen members of the Council shall be appointed for a presumptive term of three years, and may be reappointed for one succeeding three year term.

(5) The Council members shall appoint the Chairperson of the Council from among its members. All members of the council are eligible for appointment as chairperson. The Council may provide for the election of a vice-chair.

(6) The Council may recommend to the Governor names of candidates to fill vacancies on the Council. Appointments will at all times assure that the membership meets the requirements specified above.

**IT IS FURTHER ORDERED** that the primary functions of the Council, as outlined in Public Law 106-402, shall be as follows:

(1) To advocate for the collective needs of people with developmental disabilities, especially for those with the most significant developmental disabilities.

(2) To facilitate the coordination of services and to plan for people with developmental disabilities.

(3) To identify deficiencies in the statewide service network for people with developmental disabilities and establish and implement initiatives for improving that network.

(4) To monitor the range, scope, and size of state agency programs and evaluate their effectiveness in meeting the needs of people with developmental disabilities, and to make recommendations for changes to better meet the needs of people with developmental disabilities.

(5) To assess the needs of and recommend programs for people with developmental disabilities to the State Office of Rehabilitation, the State Office of Education, the state Department of Human Services, the state Department of Health, and other departments of state government.

(6) To develop and implement the Developmental Disabilities State Plan with input from people with disabilities and their families throughout the state of Utah.

SPECIAL NOTICES

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(7) To educate and inform the Governor and the Legislature regarding matters of policy or budget which may require executive or legislative action in order to promote the quality of life and guarantee the rights and dignity of people with developmental disabilities.

(8) To issue reports to the governor, the Legislature, agencies of state government, and the Secretary of Health and Human Services, as appropriate.

(9) To meet at least quarterly; additional meetings may be held based on the call of the chairperson or by request by a majority of the members of the council. The Council shall adopt procedures not inconsistent with this executive order or federal or state law or regulation to govern its activities. The Council may recommend for the Governor's consideration a redefinition of the Council functions as they become apparent through Council deliberation.

**IT IS FURTHER ORDERED** that as a "public body" as defined in UCA 52-4-2(3), the Council shall comply with the state Open and Public Meetings Act; as a "governmental entity" as defined in UCA 63-2-103(10), the Council shall comply with the Government Records Access and Management Act; and as a "state agency" as defined in UCA 63-56-105 (29) responsible for the expenditure of public funds, the Council shall comply with the Utah Procurement Code.

**IT IS FURTHER ORDERED** that staff support for the Council shall be provided from funds made available to the state from the Developmental Disabilities Assistance and Bill of Rights Act, together with other state funds as appropriated.

**IT IS FURTHER ORDERED** that the Executive Order issued on April 3, 2001, is hereby superseded.

**IN WITNESS, WHEREOF**, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah. Done in Salt Lake City, Utah this 5th day of April, 2006.

(State Seal)

**Jon M. Huntsman, Jr.**  
**Governor**

ATTEST:

**Gary R. Herbert**  
**Lieutenant Governor**

2006-0001

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**Governor's Proclamation: Calling the Fifty-Sixth Legislature into an Eighth Extraordinary Session**

**PROCLAMATION**

**WHEREAS**, since the close of the 2006 General Session of the 56th Legislature of the State of Utah, certain matters have arisen which require immediate legislative attention; and

**WHEREAS**, Article VII, Section 6 of the Constitution of the State of Utah provides that the Governor may, by proclamation, convene the Legislature in Extraordinary Session;

**NOW, THEREFORE, I, JON M. HUNTSMAN, JR.**, Governor of the State of Utah, by virtue of the authority vested in me by the Constitution and Laws of the State of Utah, do by this Proclamation call the Senate only of the 56th Legislature into an Eighth Extraordinary Session at the State Capitol in Salt Lake City, Utah, on the 19th day of April, 2006, at 12:00 noon, for the following purpose:

For the Senate to consent to appointments made by the Governor to positions within state government of the State of Utah since the close of the 2006 General Session of the Legislature of the State of Utah.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah. Done at the Salt Lake Capitol Complex in Salt Lake City, Utah, this 4th day of April, 2006.

(State Seal)

**Jon M. Huntsman, Jr.**  
**Governor**

**Gary R. Herbert**  
**Lieutenant Governor**

**End of the Special Notices Section**

## NOTICES OF PROPOSED RULES

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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 March 16, 2006, 12:00 a.m., and March 31, 2006, 11:59 p.m. are included in this, the April 15, 2006, 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 May 15, 2006. 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 August 13, 2006, 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.

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**The Proposed Rules Begin on the Following Page.**

**Commerce, Consumer Protection**  
**R152-1**  
**Utah Division of Consumer Protection:**  
**"Buyer Beware List"**

**NOTICE OF PROPOSED RULE**

(Amendment)  
 DAR FILE NO.: 28574  
 FILED: 03/24/2006, 13:21

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** These changes make technical corrections and make the rule more consistent with statute.

**SUMMARY OF THE RULE OR CHANGE:** The lists of the statutes enforced by the Division of Consumer Protection are deleted and replaced with cross-references to Section 13-2-1, so changes to that statute automatically will be reflected in the rule. A clarification is made to provide that an individual or business may be placed on the Buyer Beware List as a result of a Final Order by Default or an Order of Adjudication. Section R152-1-5 is deleted because those provisions already exist in statute and are redundant when re-stated in rule. Other redundant language is deleted or modified.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 13-2-5; Subsections 13-11-8(2) and 13-15-3(1); and Section 13-16-12

**ANTICIPATED COST OR SAVINGS TO:**

- ❖ **THE STATE BUDGET:** None--These are primarily technical clarifications, and will not affect the function of state government.
- ❖ **LOCAL GOVERNMENTS:** None--Local government does not play any role in the administration or enforcement of this rule.
- ❖ **OTHER PERSONS:** None--The substantive requirements for placement on the Buyer Beware List are unchanged.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** None--The substantive requirements for placement on the Buyer Beware List are unchanged.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** No fiscal impact to businesses is anticipated as a result of this rule filing, which contains technical corrections and clarifications. Francine A. Giani, Executive Director

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

COMMERCE  
 CONSUMER PROTECTION  
 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:**

Thad LeVar at the above address, by phone at 801-530-6929, by FAX at 801-530-6001, or by Internet E-mail at tlevar@utah.gov

**INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 05/15/2006.**

**THIS RULE MAY BECOME EFFECTIVE ON: 05/16/2006**

**AUTHORIZED BY: Thad LeVar, Director**

**R152. Commerce, Consumer Protection.**

**R152-1. Utah Division of Consumer Protection: "Buyer Beware List".**

**R152-1-1. Purposes, Policies and Rules of Construction.**

A. These rules are promulgated pursuant to Subsection 13-2-5(1) [for the purposes of assisting in] to assist the orderly administration of [those chapters of Title 13, Utah Code Annotated, 1953, as amended, which the Division is charged with administering and enforcing and or assisting other state and federal agencies in administering and enforcing, namely:

- (1) Title 13, Chapter 5, Unfair Practices Act;
- (2) Title 13, Chapter 10a, Music Licensing Practices Act;
- (3) Title 13, Chapter 11, Consumer Sales Practices Act;
- (4) Title 13, Chapter 15, Business Opportunity Disclosure Act;
- (5) Title 13, Chapter 20, New Motor Vehicle Warranties Act;
- (6) Title 13, Chapter 21, Credit Services Organizations Act;
- (7) Title 13, Chapter 22, Charitable Solicitations Act;
- (8) Title 13, Chapter 23, Health Spa Services Protection Act;
- (9) Title 13, Chapter 25a, Telephone and Facsimile Solicitation Act;
- (10) Title 13, Chapter 26, Telephone Fraud Prevention Act;
- (11) Title 13, Chapter 28, Prize Notices Regulation Act; and
- (12) Title 13, Chapter 30, Utah Personal Introduction Services Protection Act, [the statutes listed in Utah Code Section 13-2-1.

B. (1) These substantive rules are adopted by the Director of the Division of Consumer Protection pursuant to general authority of Utah Code Section 13-2-5 [5 of Chapter 2 of Title 13, Utah Code Annotated, 1953, as amended], and specific authority of the following statutory sections [namely Subsections]:

- (a) Utah Code Subsection 13-11-8(2) [and];
- (b) Utah Code Subsection 13-15-3(1) []; and
- (c) Utah Code Section Section 13-16-12 [Utah Code Annotated, 1953, as amended].

(2) Without limiting the scope of any [section of any chapter therein or any other] statute or rule, this rule shall be liberally construed and applied to promote its stated purposes and policies. The purposes and policies of this rule are to:

[(+)](a) protect consumers from individuals and businesses who have engaged in and committed deceptive acts or practices, or have engaged in and committed unconscionable acts or practices.

[(2)](b) supply consumers with pertinent information on the nature of those individuals or businesses who may be engaging in and committing deceptive acts or practices, or may be engaging in and committing unconscionable acts or practices, so as to aid consumers in their decision making.

~~(3)~~(c) encourage the development of fair consumer sales practices and wise decision making by consumers in all their consumer purchase decisions.

#### R152-1-2. Definitions.

A. ~~[Definitions:—]~~For the purposes of this rule~~—, the following definitions shall apply and be used in construing this rule~~:

(1) "Buyer Beware List" means ~~a written and compiled~~the list of ~~those~~individuals or business compiled by the Division in accordance with this rule ~~and based on the criterion for placement on and removal from said list set forth herein. Such list, for purposes of classification under the Utah Government Records Management Act ("GRAMA") Section 63-2-101, et seq., Utah Code Annotated, 1953 as amended, is classified as a "public" record or document~~.

(2) "Department" means the Utah Department of Commerce.

(3) "Director" means the director of the Utah Department of Commerce, Division of Consumer Protection.

(4) "Division" means the Utah Department of Commerce, Division of Consumer Protection.

(5) "Emergency" means facts known or presented to the Utah Department of Commerce, Division of Consumer Protection that show:

~~(a) [that]an immediate and significant danger to the public health, safety, or welfare exists [as regards the administration of those chapters or one of those chapters of Title 13, Utah Code Annotated, 1953, as amended, which the Division is charged with administering and enforcing]with respect to the statutes listed in Utah Code Section 13-2-1; and~~

~~(b) the threat requires immediate action by the Division.~~

(6) "Executive Director" means the executive director of the Utah Department of Commerce.

(7) "Order~~[of Adjudication]~~" means an order of adjudication or a final order by default issued by the Utah Department of Commerce, Division of Consumer Protection after proper notice and hearing, as applicable, in accordance with [the]Utah Code Title 63, Section 46b, [Utah]Administrative Procedures Act~~[, Section 63-46b-1, et seq., Utah Code Annotated, 1953, as amended]~~.

#### R152-1-3. Placement on "Buyer Beware List".

A.(1) The Division shall place the name of an individual or business on the "Buyer Beware List" ~~[for the following reason:~~

~~(1) Conduct which constitutes a violation of any of the chapters of Title 13, Utah Code Annotated, 1953, as amended, which the Division is charged with administering and enforcing, and which has been reduced to an Order of Adjudication of the Division, namely:~~

- ~~(a) Title 13, Chapter 5, Unfair Practices Act;~~
- ~~(b) Title 13, Chapter 10a, Music Licensing Practices Act;~~
- ~~(c) Title 13, Chapter 11, Consumer Sales Practices Act;~~
- ~~(d) Title 13, Chapter 15, Business Opportunity Disclosure Act;~~
- ~~(e) Title 13, Chapter 20, New Motor Vehicle Warranties Act;~~
- ~~(f) Title 13, Chapter 21, Credit Services Organizations Act;~~
- ~~(g) Title 13, Chapter 22, Charitable Solicitations Act;~~
- ~~(h) Title 13, Chapter 23, Health Spa Services Protection Act;~~
- ~~(i) Title 13, Chapter 25a, Telephone and Facsimile Solicitation Act;~~
- ~~(j) Title 13, Chapter 26, Telephone Fraud Prevention Act;~~
- ~~(k) Title 13, Chapter 28, Prize Notices Regulation Act; and~~
- ~~(l) Title 13, Chapter 30, Utah Personal Introduction Service Protection Act]~~if the Division concludes through issuance of an order that the individual or business has violated any of the statutes listed in Utah Code Section 13-2-1.

(2) The Division shall provide fifteen (15) business days written notice by certified mail prior to placing an individual or business on the Buyer Beware List unless notice has otherwise been given by a previously issued Division subpoena or written inquiry ~~properly addressed]or unless the Director finds that an emergency [is deemed to exist]exists~~. All individuals and businesses placed on the Buyer Beware List shall be notified in writing of the reasons for the proposed inclusion on the list. They will also be advised of what actions, if any, they can take to remove their name from the list.

B. (1) When the ~~[Division of Consumer Protection believes]Director finds~~ the public interest would be served, the Division may place the name of an individual or business on the "Buyer Beware List" for ~~either of the following reasons~~:

~~(4)(a) [Failure]failure~~ or refusal to respond to an administrative subpoena of the Division; or

~~(2)(b) [Failure]failure~~ or refusal to respond to a consumer complaint on file with the Division alleging violation of one or more of the acts administered by the Division after the business or individual has received notification from the Division and had an opportunity to respond to the Division and address the complaint.

(2) Unclaimed, returned or refused certified mail properly addressed to the individual or business ~~[which]that~~ is received back by the Division shall constitute proof of ~~[such]failure~~ or refusal to respond.

C.(1) Prior to placement on the Buyer Beware List for ~~either of the reasons [any reason set forth [at]in R152-1-3B(1) and (2) above] the Division shall[-].~~

~~(1) In accordance with Division policy and procedure] upon receipt of a consumer complaint, make reasonable efforts to communicate with an individual or business [complained against which shall include at a minimum efforts of]identified in the complaint including:~~

~~(a) [At]at least one (1) initial written notice by certified mail or facsimile transmission;~~

~~(b) [At]at least one (1) initial telephone call; and~~

~~(c) [If]if the individual or business [complained against]identified in the complaint is a Utah resident at least one initial (1) face to face contact by a Division representative either at the Division's offices or at the individual's or business' Utah address.~~

(2)(a) If the initial efforts set forth at R152-1-3C(1) have proven unsuccessful the Division shall provide fifteen (15) business days written notice by certified mail prior to placing an individual or business on the Buyer Beware List unless:

(i) notice has otherwise been given by a previously issued Division subpoena or written inquiry properly addressed; or~~[unless]~~

(ii) the Director finds that an emergency ~~[is deemed to exist]exists~~.

(b) All individuals and businesses placed on the Buyer Beware List shall be notified in writing of the reasons for the proposed inclusion on the list. They will also be advised of what actions, if any, they can take to remove their name from the list.

D. Each listing on the Buyer Beware List shall contain a listing of the individual's or ~~[business']businesses~~:

(1) name(s), including "doing businesses as";

(2) address(es);

(3) phone number(s); and

(4) a detailed basis for the individual or business being placed on the list, including whether:

(a) an administrative fine has been assessed and if so what amount; and ~~[or whether]~~

(b) a cease and desist order has been issued in accordance with Utah Code Section 13-2-6(1) [~~Utah Code Annotated, 1953, as amended, has been issued~~].

E. The Buyer Beware List is a public document under Utah Code Title 63, Chapter 2, Government Records Access and Management Act.

**R152-1-4. Removal from "Buyer Beware List".**

A. The Division of Consumer Protection shall remove the name of the business or individual from the Buyer Beware List ~~[as follows]~~ if:

(1) ~~[Pursuant to R152-1-3A(1), after]~~ the individual or business; (a) has had no other complaints with respect to a statute listed in Utah Code Section 13-2-1 for a period of 90 consecutive days after being placed on the list; and

(b) otherwise complies with all aspects of the [Order of Adjudication] order entered against the individual or business, including the payment of [all] any administrative fines assessed[-, if any];

(2) ~~[Pursuant]~~ pursuant to R152-1-3B(1)(a), when a sufficient response is provided to an outstanding Division subpoena; or

(3) ~~[Pursuant]~~ pursuant to R152-1-3B(2)(1)(b), when a satisfactory response is made to outstanding Division inquiries to which the individual or business previously failed or refused to [be responded to] respond.

~~**R152-1-5. Enforcement.**~~

~~A. The Division may be entitled to recover costs, including investigative costs and processing costs incurred in administration of this rule when such are reduced to an Order of Adjudication or otherwise agreed to by the Division and the individual or business.~~

~~B. Any payment made to the Division shall be approved by the Executive Director of the Department of Commerce and placed in the Division Consumer Education and Training Fund for the specific purpose of publishing and disseminating the Buyer Beware List.~~

**KEY: consumer protection**

**Date of Enactment or Last Substantive Amendment: ~~July 30, 2004~~ 2006**

**Notice of Continuation: October 4, 2005**

**Authorizing, and Implemented or Interpreted Law: 13-2-5(1); 13-11-8(2); 13-15-3(1); 13-16-12**



Commerce, Consumer Protection  
**R152-22-3**  
 Application for Charitable Organization  
 Permit

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 28573

FILED: 03/24/2006, 13:06

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule change accommodates the steady increase each year in the number of charitable solicitation registration and renewal applications.

SUMMARY OF THE RULE OR CHANGE: This change modifies from 10 business days to 20 business days the processing time for the Division of Consumer Protection to review a charitable solicitation registration or renewal application.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 13-2-5, 13-22-6, 13-22-8, 13-22-9, and 13-22-10

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: None--These changes do not modify the substantive review performed by the Division of Consumer Protection.

❖ LOCAL GOVERNMENTS: None--Local government does not play any role in the administration or enforcement of this rule.

❖ OTHER PERSONS: None--This change does not modify the substantive requirements of the rule or its compliance costs.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--This change does not modify the substantive requirements of the rule or its compliance costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: An increase of ten business days to process registration applications in order to accommodate the rise in applications is not expected to result in a fiscal impact to businesses. Francine A. Gianì, Executive Director

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

COMMERCE  
 CONSUMER PROTECTION  
 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:

Thad LeVar at the above address, by phone at 801-530-6929, by FAX at 801-530-6001, or by Internet E-mail at tlevar@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 05/15/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 05/16/2006

AUTHORIZED BY: Thad LeVar, Director

**R152. Commerce, Consumer Protection.**

**R152-22. Charitable Solicitations Act.**

**R152-22-3. Application for Charitable Organization Permit.**

(1) Any application for registration as a charitable organization shall be executed on the form authorized by the Division.

(2) A statement of collections and expenditures shall be executed on the form authorized by the division.

(3) Applicants or registrants shall submit to the division, on request:

- (a) an updated copy of a financial statement prepared by an independent certified public accountant;
- (b) a copy of any written contracts, agreements or other documents showing to whom the applicant or registrant disbursed the funds or a portion of the funds contributed to it;
- (c) a copy of the applicant's or registrant's articles of incorporation or other organizational documentation showing current legal status;
- (d) a copy of the applicant's or registrant's current by-laws or other policies and procedures governing day to day operations;
- (e) a setting forth of the applicant's or registrant's registered agent within the State of Utah for purposes of service of process, including his, her or its name, street address, telephone and facsimile numbers;
- (f) a copy of the applicant's or registrant's IRS Section 501(c)(e) tax exemption letter, if applicable; ~~and~~
- (g) either the social security number or driver's license number of each of the applicant's or registrant's board of directors and officers, if a corporation, or partners or the individual applicant or registrant, for the purposes of background checks[-]; and
- (h) a copy of the applicant's IRS Form 990, 990EZ or 990PF.

(4) All initial applications and renewals of registration in accordance with Section 13-22-12(5) shall be processed within ~~[+0]~~twenty (20) business days ~~[o]f~~after their receipt by the division.

**KEY: charity, consumer protection, solicitations**  
**Date of Enactment or Last Substantive Amendment: ~~[July 30, 2004]~~2006**  
**Notice of Continuation: October 30, 2002**  
**Authorizing, and Implemented or Interpreted Law: 13-2-5; 13-22-6; 13-22-8; 13-22-9; 13-22-10**

◆ ————— ◆  
**Education, Administration**  
**R277-503**  
**Licensing Routes**

**NOTICE OF PROPOSED RULE**  
 (Amendment)  
 DAR FILE NO.: 28590  
 FILED: 03/31/2006, 14:11

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This rule is amended to provide for the requirement that licensing applicants have passing scores on Board-designated licensing tests. When the rule was originally written, passing scores had not yet been established. The amendment also adds a provision for applicants to have a three-year period to earn a passing score on the designated test.

**SUMMARY OF THE RULE OR CHANGE:** The amendments require passing scores for licensing applicants on Board-designated content tests. They also allow applicants a three-year period to earn passing scores on required tests.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Subsection 53A-1-402(1)(a)

**ANTICIPATED COST OR SAVINGS TO:**

- ❖ **THE STATE BUDGET:** There are not any costs related to the amendments that would be borne by the licensing applicants or their employers (school districts or charter schools).
- ❖ **LOCAL GOVERNMENTS:** Licensing applicants have been required to take content tests previously. Costs are negotiated between employers and licensing applicants. There are no new costs due to these amendments.
- ❖ **OTHER PERSONS:** Licensing applicants have been required to take content tests previously. Costs are negotiated between employers and licensing applicants. There are no new costs for licensing applicants due to these amendments.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There are no compliance costs for affected persons due to these amendments. Licensing applicants have been required to take content tests previously. Costs are negotiated between employers and licensing applicants.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** I have reviewed this rule and I see no fiscal impact on businesses. Patti Harrington, State Superintendent of Public Instruction

**THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:**  
 EDUCATION  
 ADMINISTRATION  
 250 E 500 S  
 SALT LAKE CITY UT 84111-3272, or  
 at the Division of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**  
 Carol Lear at the above address, by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at carol.lear@schools.utah.gov

**INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 05/15/2006.**

**THIS RULE MAY BECOME EFFECTIVE ON: 05/16/2006**

**AUTHORIZED BY:** Carol Lear, Director, School Law and Legislation

—————  
**R277. Education, Administration.**  
**R277-503. Licensing Routes.**  
**R277-503-3. USOE Licensing Eligibility.**

- A. Traditional college/university license - A license applicant shall have completed an approved college/university teacher preparation program, been recommended for licensing, and shall have satisfied all other requirements for educator licensing required by law; or
- B. Alternative Licensing Route
  - (1) A license applicant shall have a bachelors degree or higher from an accredited higher education institution in an area related to the position he seeks; and



(2) A license applicant shall have skills, talents or abilities, as evaluated by the employing entity, making the applicant appropriate for a licensed teaching position and eligible to participate in an ARL program.

(3) While beginning an alternative licensing program, an applicant shall be approved for employment under a letter of authorization for a maximum of one school year and may be employed under an ARL license for an additional two years. An ARL program may not exceed three school years. ARL candidates who receive ARL licensure status may be designated highly qualified under R277-520-1G.

C. All ~~[Level 1]~~ license applicants seeking a Utah educator license or endorsement after July 1, 200~~5~~<sup>6</sup> shall ~~[take]~~ submit passing score(s) on a [USOE]rigorous Board-designated content test prior to the issuance of a license or endorsement.

(1) Early childhood (K-3) and elementary majors (1-8) are required to ~~[take the appropriate]~~ submit a passing score from a rigorous Board-designated content test.

(2) Secondary teachers are required to ~~[take an appropriate]~~ submit passing scores on a rigorous Board-designated content test(s), ~~[as designated by USOE]~~ where test(s) are available, for each endorsement area to be posted on the license.

(3) An applicant shall ~~[qualify for a Level 2 license by earning a]~~ submit electronic or original documentation of USOE-designated passing score(s).

D. For any educator who submits a score below the final Utah state score on the test designated in R277-503-3C, a nonrenewable conditional Level 1 license shall be issued. If the educator fails to submit a passing score on a rigorous Board-designated content test during the three-year duration of the conditional Level 1 license, the educator's license or endorsement shall lapse on the educator's renewal date.

~~[D]E.~~ The credentials and documentation of experience of applicants for Level 2 and 3 professional educator licenses shall be evaluated by the USOE to determine the appropriate license level.

#### **R277-503-4. Licensing Routes.**

Applicants who seek Utah licenses shall successfully complete accredited programs or legislatively mandated programs consistent with this rule.

A. Institution of higher education teacher preparation programs shall be:

(1) Nationally accredited by:

(a) NCATE; or

(b) TEAC; or

(2) Regionally accredited competency-based teacher preparation programs as provided under R277-503-1N.

B. USOE Alternative Routes to Licensure (ARL)

(1) To be eligible to begin the ARL program, an applicant for an elementary or early childhood school position shall have a bachelors degree and at least 27 semester hours of applicable content courses distributed among elementary curriculum areas. Elementary curriculum areas are provided under R277-700-4. To proceed from temporary license status, an ARL applicant shall submit a score on the ETS Praxis II Elementary Education Content Knowledge Examination (0014) to be used as a diagnostic tool and as part of the development of a professional plan and the issuance of the ARL license.

(2) To be eligible to begin the ARL program, applicants for secondary school positions shall hold a degree major or major equivalent directly related to the assignment. To proceed from

temporary license status an ARL license applicant shall submit a score on the ETS Praxis II Applicable Content Knowledge test(s) to be used as a diagnostic tool and as part of the development of a professional plan and the issuance of the ARL license.

(3) Licensing by Agreement

(a) An individual employed by a school district shall satisfy the minimum requirements of R277-503-3 as a teacher with appropriate skills, training or ability for an identified licensed teaching position in the district.

(b) An applicant shall obtain an ARL application for licensing from the USOE or USOE web site.

(c) After evaluation of candidate transcript(s), and ~~[USOE]rigorous Board-designated~~ content test score, the USOE ARL advisors and the candidate shall determine the specific content knowledge and pedagogical knowledge required of the license applicant to satisfy the requirements for licensing.

(d) The USOE ARL advisors may identify institution of higher education courses, district inservice classes, Board-approved training, or Board-approved competency tests to prepare or indicate content, content-specific, and developmentally-appropriate pedagogical knowledge required for licensing.

(e) The employing school district shall assign a trained mentor to work with the applicant for licensing by agreement.

(f) The school district shall supervise and assess the license applicant's classroom performance during a minimum one school year full-time employment experience. The district may request assistance from a institution of higher education or the USOE in the monitoring and assessment.

(g) The school district shall assess the license applicant's disposition as a teacher following a minimum one school year full-time teaching experience. The district may request assistance in this assessment; and

(h) The USOE ARL advisors shall annually review and evaluate the license applicant following training, assessments or course work, and the full-time teaching experience and evaluation by the school district.

(i) Consistent with evidence and documentation received, the USOE ARL advisor may recommend the license applicant to the Board for a Level 1 educator license.

(4) USOE Licensing by Competency

(a) A school district employs an individual as a teacher with appropriate skills, training or ability for an identified licensed teaching position in the district who satisfies the minimum requirements of R277-503-3.

(b) An employing school district, in consultation with the applicant and the USOE, shall identify Board-approved content knowledge and pedagogical knowledge examinations. The applicant shall pass designated examinations demonstrating the applicant's adequate preparation and readiness for licensing.

(c) The employing school district shall assign a trained mentor to work with the applicant for licensing by competency.

(d) The school district shall monitor and assess the license applicant's classroom performance during a minimum one-year full-time teaching experience.

(e) The school district shall assess the license applicant's disposition for teaching following a minimum one-year full-time teaching experience.

(f) The school district may request assistance in the monitoring or assessment of a license applicant's classroom performance or disposition for teaching.

(g) Following the one-year training period, the school district and USOE shall verify all aspects of preparation (content knowledge, pedagogical knowledge, classroom performance skills, and disposition for teaching) to the USOE.

(h) If all evidence/documentation is complete, the USOE shall recommend the applicant for a Level 1 educator license.

(5) USOE ARL candidates under R277-503-4B(3) and (4) may teach under a letter of authorization for a maximum of one year. The letter of authorization shall expire after the first year on June 30 when the ARL candidate submits documentation of progress in the program, and the candidate shall be issued an ARL license.

(6) The ARL license may be extended annually for two subsequent school years with documentation of progress in the ARL program.

(7) Documentation shall include, specifically, a copy of the supervisor's successful end-of-year evaluation, copies of transcripts and test results or both showing completion of required coursework, verification of working with a trained mentor, and satisfaction of the full-time full year experience.

C. School district/charter school specific competency-based licenses:

(1) A local board/charter school board may apply to the Board for a letter of authorization to fill a position in the district.

(2) The employing school district/charter school shall request a letter of authorization no later than 60 days after the date of the individual's first day of employment.

(3) The application for the letter of authorization from the local board/charter school board for an individual to teach one or more core academic subjects shall provide documentation of:

(a) the individual's bachelors degree; and

(b) for a K-6 grade teacher, the satisfactory results of the rigorous state test including subject knowledge and teaching skills in the required core academic subjects under Section 53A-6-104.5(3)(ii) as approved by the Board; or

(c) for the teacher in grades 7-12, demonstration of a high level of competency in each of the core academic subjects in which the teacher teaches by completion of an academic major, a graduate degree, course work equivalent to an undergraduate academic major, advanced certification or credentialing, results or scores of a rigorous state core academic subject test, similar to the test required under R277-503-3E, in each of the core academic subjects in which the teacher teaches.

(4) The application for the letter of authorization from the local board/charter school board for non-core teachers in grades K-12 shall provide documentation of:

(a) a bachelors degree, associates degree or skill certification; and

(b) skills, talents or abilities specific to the teaching assignment, as determined by the local board/charter school board.

(5) Following receipt of documentation and consistent with Section 53A-6-104.5(2), the USOE shall approve a district/charter school specific competency-based license.

(6) If an individual with a district/charter school specific competency-based license leaves the district before the end of the employment period, the district shall notify the USOE Licensing Section regarding the end-of-employment date.

(7) The individual's district/charter school specific competency-based license shall be valid only in the district/charter school that originally requested the letter of authorization and for the individual originally employed under the letter of authorization or district/charter school specific competency-based license.

(8) The written copy of the district/charter school specific competency-based license shall prominently state the name of the school district/charter school followed by DISTRICT/CHARTER SCHOOL SPECIFIC COMPETENCY-BASED LICENSE.

(9) A school district/charter school may change the assignment of a school district/charter school specific competency-based license holder but notice to USOE shall be required and additional competency-based documentation may be required for the teacher to remain qualified or highly qualified.

(10) School district/charter school specific competency-based license holders are at-will employees consistent with Section 53A-8-106(5).

**KEY: teachers, alternative licensing**

**Date of Enactment or Last Substantive Amendment:** ~~August 17, 2004~~ **2006**

**Notice of Continuation:** April 15, 2002

**Authorizing, and Implemented or Interpreted Law:** Art X Sec 3; 53A-1-402(1)(a); 53A-1-401(3)



## Education, Administration R277-709

### Education Programs Serving Youth in Custody

#### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 28591

FILED: 03/31/2006, 14:11

#### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This rule is amended to provide the Utah Coordinating Council for Youth in Custody and the Utah State Office of Education the ability to reserve funds from Youth in Custody appropriations for statewide coordination of professional development, electronic educational services, data collection, site visits, and semi-annual comprehensive program review.

**SUMMARY OF THE RULE OR CHANGE:** The changes establish a limit of funds that may be used for program administration and establish the specific purposes of the administrative funds.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Subsection 53A-1-401(3)

**ANTICIPATED COST OR SAVINGS TO:**

❖ **THE STATE BUDGET:** There are no anticipated cost or savings to state budget. No additional state funds will be appropriated for purposes of these amendments.

❖ **LOCAL GOVERNMENTS:** School districts/schools may save costs for professional development, data collection, and electronic services that can now be funded from the amount reserved for administrative costs.

❖ **OTHER PERSONS:** There are no anticipated cost or savings to other persons. Youth in Custody employees or participants have no out-of-pocket expenses for the program.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. Youth in Custody employees or participants have no out-of-pocket expenses for the program.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this rule and I see no fiscal impact on businesses. Patti Harrington, State Superintendent of Public Instruction

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

EDUCATION  
ADMINISTRATION  
250 E 500 S  
SALT LAKE CITY UT 84111-3272, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Carol Lear at the above address, by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at carol.lear@schools.utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 05/15/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 05/16/2006

AUTHORIZED BY: Carol Lear, Director, School Law and Legislation

## **R277. Education, Administration.**

### **R277-709. Education Programs Serving Youth in Custody.**

#### **R277-709-1. Definitions.**

A. "Board" means the Utah State Board of Education.

[C]B. "Custody" means the status of being legally subject to the control of another person or a public agency.

C. "USOE" means the Utah State Office of Education.

[B]D. "Youth in Custody" means a person defined under Section 53A-1-403(1) who does not have a high school diploma or a GED certificate.

#### **R277-709-2. Authority and Purpose.**

A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of public education in the Board, Section 53A-1-403(1) which makes the Board directly responsible for the education of youth in custody, and Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities.

B. The purpose of this rule is to specify operation standards[ and], procedures, and distribution of funds for youth in custody programs.

#### **R277-709-4. Operation Procedures.**

A(1) the Board shall contract with school districts to provide educational services for youth in custody. The respective

responsibilities of the Board, the school district, and other local service providers for education shall be established in the contract. A school district may subcontract with local non-district educational service providers for the provision of educational services;

(2) the Board may contract with entities other than school districts only if the Board determines that the school district is unable to provide adequate education services.

B. Youth in custody receiving education services by or through a school district are students of that district.

C. State funds appropriated for youth in custody are allocated on the basis of annual applications made by school districts.

D. The share of funds distributed to a district is based upon criteria which include the number of youth in custody served in the district, the type of program required for the youth, the setting for providing services, and the length of the program.

E. Funds approved for youth in custody projects may be expended solely for the purposes described in the respective funding application. Unexpended funds may not be carried over from one fiscal year to the next, except following specific approval of the Board or a designee.

F. The USOE may retain no more than five percent of the annual youth in custody appropriation for program administration. No more than one percent of the appropriation may be directed to the following specific purposes and services:

(1) educator professional development;

(2) electronic educational services specific to a student's or school's needs;

(3) youth in custody data collection at the school district and state level;

(4) site visits to youth in custody schools by youth in custody personnel; and

(5) program evaluation at the state level.

G. Four percent of administrative funds may be withheld by the USOE to be directed to students attending youth in custody programs for short periods of time or to new or beginning youth in custody programs.

[D]H. Federal funds are available under the Elementary and Secondary Education Act, 34 C.F.R., Chapter II, Part 200, Title I, Subpart D, for the education of youth who are neglected, delinquent, or at risk of dropping out.

[E]I. The youth in custody program is separate from and not conducted under the state's education program for students with disabilities. Custodial status alone does not qualify a student as a student with a disability under laws regulating education for students with disabilities.

[F]J. The Board, or its designee, shall adopt uniform pupil and fiscal accounting procedures, forms, and deadlines for the youth in custody program.

[G]K. Education staff assigned to youth in custody shall be qualified and appropriate for their assignments. The teaching license and endorsement held by a teacher shall be important in evaluating the appropriateness of a teacher's assignment but not controlling. Elementary teachers may teach secondary-age students who are functioning at an elementary level in the subjects in question. Teachers shall not be required to hold special education licenses, although such licenses are encouraged.

**KEY: students, education, juvenile courts**

**Date of Enactment or Last Substantive Amendment: [June 5, 2004]2006**

**Notice of Continuation January 14, 2003**

**Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-403(1); 53A-1-401(3)**

◆ ————— ◆

## Environmental Quality, Water Quality

# R317-4

## Onsite Wastewater Systems

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 28596

FILED: 03/31/2006, 15:31

### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The proposed amendments are being made to allow the installation of alternative onsite wastewater treatment systems in areas which may have been unsuitable for traditional wastewater disposal systems because of conditions such as slow percolating or shallow soils. The proposed amendments provide a procedure which may be used by applicants that are unable to comply with the current rule, but have no other option for wastewater disposal.

**SUMMARY OF THE RULE OR CHANGE:** The proposed amendment deletes the existing Section R317-4-11 (Alternate Onsite Wastewater Systems) in its entirety and adds a new Section R317-4-11 (Alternative Systems) in its place. The new section outlines technical requirements for alternative systems and adds the use of packed bed media systems for producing a secondary quality effluent from septic tanks. Language was added to Section R317-4-2 which clarifies the scope of the rule and specifies the administrative process used by local health departments under the rule. Five definitions are added to Section R317-4-1. An additional change defines a process and criteria for evaluating approval of a variance for installation of onsite wastewater systems in areas with physical constraints such as sloping ground or proximity to a gully, gulch, and dry wash.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 19-5-104

**ANTICIPATED COST OR SAVINGS TO:**

❖ **THE STATE BUDGET:** No impact to state budget is anticipated. The rule applies to systems under the jurisdiction of local health departments.

❖ **LOCAL GOVERNMENTS:** Local health departments may incur additional costs of review and inspection for the new systems and for variance requests. Actual costs cannot be determined because the number of potential alternative systems or variance requests which may be proposed are unknown. Unit costs are difficult to estimate because of the wide range of approaches and personnel used by the local health

departments. Local Health Departments are aware of potential increased costs. Any increased costs will likely be recouped through fees and operating permits.

❖ **OTHER PERSONS:** Individuals who choose to install the alternative systems allowed under the proposed amendments could incur an additional cost of \$8,000 to \$10,000 per system over the cost of a standard onsite system. However, installation of an alternative wastewater system may allow the use of a lot which would otherwise be unbuildable using standard septic tank drainfield technology. Application for a variance under the proposed amendments is voluntary. An applicant seeking a variance will require the expertise of a professional engineer or geologist to prepare an application package that contains all the required information. The professional services and investigations may cost upwards of \$2,000 depending upon complexities of site, hydrology and hydrogeology. The proposed amendments provide a procedure which may be used by applicants that are unable to comply with the current rule, but have no other option for wastewater disposal. The ability to install an onsite wastewater system under a variance in an area where such a system was previously not approvable could significantly increase the value of such a property. Aggregate impacts are difficult to estimate as it is unknown how many individuals will seek a variance under this rule.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** Individuals who choose to install the alternative systems allowed under the proposed amendments could incur an additional cost of \$8,000 to \$10,000 per system over the cost of a standard onsite system. Local health departments may incur additional costs of review and inspection for the new systems. Any increased costs to local health departments will likely be recouped through fees and operating permits.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** The proposed amendments have been requested by local health departments and individuals to provide additional flexibility and allow the use of alternative technologies for individual wastewater treatment systems. Any increased costs will be offset by businesses being able to utilize previously unbuildable lots. Dianne R. Nielson, Executive Director

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

ENVIRONMENTAL QUALITY  
WATER QUALITY  
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:**

Dave Wham at the above address, by phone at 801-538-6052, by FAX at 801-538-6016, or by Internet E-mail at [dwham@utah.gov](mailto:dwham@utah.gov)

**INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 05/15/2006.**

THIS RULE MAY BECOME EFFECTIVE ON: 05/19/2006

AUTHORIZED BY: Walter Baker, Director

### **R317. Environmental Quality, Water Quality.**

#### **R317-4. Onsite Wastewater Systems.**

##### **R317-4-1. Definitions.**

1.1. "Absorption bed" means an absorption system consisting of a covered, gravel-filled bed into which septic tank effluent is discharged through specially designed distribution pipes for seepage into the soil.

1.2. "Absorption system" means a device constructed to receive and to distribute effluent in such a manner that the effluent is effectively filtered and retained below ground surface.

1.3. "Absorption trench" means standard trenches, shallow trenches with capping fill, and chambered trenches constructed to receive and to distribute effluent in such a manner that the effluent is effectively filtered and retained below ground surface.

1.4. "Alternative onsite wastewater system" means a system for treatment and disposal of domestic wastewater or wastes which consists of a building sewer, a septic tank or other sewage treatment or storage unit, and a disposal facility or method which is not a conventional system; but not including a surface discharge to the waters of the state.

1.5. "At-Grade" System means an alternative type of onsite wastewater system where the bottom of the absorption system is placed at or below the elevation of the existing site grade, and the top of the distribution pipe is above the elevation of existing site grade, and the absorption system is contained within a fill body that extends above that grade.

1.6. "Bedrock" means the rock, usually solid, that underlies soil or other unconsolidated, superficial material.

~~1.7.~~ "Bedroom" means any portion of a dwelling which is so designed as to furnish the minimum isolation necessary for use as a sleeping area. It may include, but is not limited to, a den, study, sewing room, sleeping loft, or enclosed porch. Unfinished basements shall be counted as a minimum of one additional bedroom.

~~1.8.~~ "Building sewer" means the pipe which carries wastewater from the building drain to a public sewer, an onsite wastewater system or other point of disposal. It is synonymous with "house sewer".

~~1.9.~~ "Chambered trench" means a type of absorption system where the media consists of an open bottom, chamber structure of an approved material and design, which may be used as a substitute for the gravel media with a perforated distribution pipe.

~~1.10.~~ "Condominium" means the ownership of a single unit in a multi-unit project together with an undivided interest in common, in the common areas and facilities of the property.

~~1.11.~~ "Conventional system" means an onsite wastewater system which consists of a building sewer, a septic tank, and an absorption system consisting of a standard trench, a shallow trench with capping fill, a chambered trench, a deep wall trench, a seepage pit, or an absorption bed.

~~1.12.~~ "Curtain drain" means any ground water interceptor or drainage system that is gravel backfilled and is intended to interrupt or divert the course of shallow ground water or surface water away from the onsite wastewater system.

~~1.13.~~ "Deep wall trench" means an absorption system consisting of deep trenches filled with clean, coarse filter material, with

a minimum sidewall absorption depth of 24 inches of suitable soil formation below the distribution pipe, into which septic tank effluent is discharged for seepage into the soil.

~~1.14.~~ "Division" means the Utah Division of Water Quality.

~~1.15.~~ "Disposal area" means the entire area used for the subsurface treatment and dispersion of septic tank effluent by an absorption system.

~~1.16.~~ "Distribution box" means a watertight structure which receives septic tank effluent and distributes it concurrently, in essentially equal portions, into two or more distribution pipes leading to an absorption system.

~~1.17.~~ "Distribution pipe" means approved perforated pipe used in the dispersion of septic tank effluent into an absorption system.

~~1.18.~~ "Domestic wastewater" means a combination of the liquid or water-carried wastes from residences, business buildings, institutions, and other establishments with installed plumbing facilities, together with those from industrial establishments, excluding non-domestic wastewater. It is synonymous with the term "sewage".

~~1.19.~~ "Domestic septage" means the semi-liquid material that is pumped out of septic tanks receiving domestic wastewater. It consists of the sludge, the liquid, and the scum layer of the septic tank.

~~1.20.~~ "Drainage system" means all the piping within public or private premises, which conveys sewage or other liquid wastes to a legal point of treatment and disposal, but does not include the mains of a public sewer system or a public sewage treatment or disposal plant.

~~1.21.~~ "Drop box" means a watertight structure which receives septic tank effluent and distributes it into one or more distribution pipes, and into an overflow leading to another drop box and absorption system located at a lower elevation.

1.22. "Dry Wash" means the dry bed of an intermittent stream that flows only after heavy rains and is often found at the bottom of a canyon.

~~1.23.~~ "Dwelling" means any structure, building, or any portion thereof which is used, intended, or designed to be occupied for human living purposes including, but not limited to, houses, mobile homes, hotels, motels, apartments, business, and industrial establishments.

~~1.24.~~ "Earth fill" means an excavated or otherwise disturbed suitable soil which is imported and placed over the native soil. It is characterized by having no distinct horizons or color patterns, as found in naturally developed undisturbed soils.

~~1.25.~~ "Effluent lift pump" means a pump used to lift septic tank effluent to a disposal area at a higher elevation than the septic tank.

~~1.26.~~ "Ejector pump" means a device to elevate or pump untreated sewage to a septic tank, public sewer, or other means of disposal.

~~1.27.~~ "Experimental onsite wastewater system" means an onsite wastewater treatment and disposal system which is still in experimental use and requires further testing in order to provide sufficient information to determine its acceptance.

~~1.28.~~ "Final local health department approval" means, for the purposes of the grandfather provisions in R317-4-~~2~~4 (Table 1, footnote a) and R317-4-3, the approval given by a local health department which would allow construction and installation of subdivision improvements. Note: Even though final local health department approval may have been given for a subdivision, individual lot approval would still be required for issuance of a building permit on each lot.

~~1.29.~~ "Ground water" means that portion of subsurface water that is in the zone of soil saturation.

~~[1-28]~~1.30. "Ground water table" means the surface of a body of unconfined ground water in which the pressure is equal to that of the atmosphere.

~~[1-29]~~1.31. "Ground water table, perched" means unconfined ground water separated from an underlying body of ground water by an unsaturated zone. Its water table is a perched water table. It is underlain by a restrictive strata or impervious layer. Perched ground water may be either permanent, where recharge is frequent enough to maintain a saturated zone above the perching bed, or temporary, where intermittent recharge is not great or frequent enough to prevent the perched water from disappearing from time to time as a result of drainage over the edge of or through the perching bed.

1.32. "Gulch" is a small rocky ravine or a narrow gorge, especially one with a stream running through it.

1.33. "Gully" is a channel or small valley, especially one carved out by persistent heavy rainfall or one holding water for brief periods of time after a rain storm or snow melt.

~~[1-30]~~1.34. "Impervious strata" means a layer which prevents water or root penetration. In addition, it shall be defined as having a percolation rate greater than 60 minutes per inch.

~~[1-31]~~1.35. "Invert" is the lowest portion of the internal cross section of a pipe or fitting.

~~[1-32]~~1.36. "Liquid waste operation" means any business activity or solicitation by which liquid wastes are collected, transported, stored, or disposed of by a collection vehicle. This shall include, but not be limited to, the cleaning out of septic tanks, sewage holding tanks, chemical toilets, and vault privies.

~~[1-33]~~1.37. "Liquid waste pumper" means any person who conducts a liquid waste operation business.

~~[1-34]~~1.38. "Local health department" means a city-county or multi-county local health department established under Title 26A.

~~[1-35]~~1.39. "Lot" means a portion of a subdivision, or any other parcel of land intended as a unit for transfer of ownership or for development or both and shall not include any part of the right-of-way of a street or road.

~~[1-36]~~1.40. "Malfunctioning or failing system" means an onsite wastewater system which is not functioning in compliance with the requirements of this regulation and includes, but is not limited to, the following:

A. Absorption systems which seep or flow to the surface of the ground or into waters of the state.

B. Systems which have overflow from any of their components.

C. Systems which, due to failure to operate in accordance with their designed operation, cause backflow into any portion of a building plumbing system.

D. Systems discharging effluent which does not comply with applicable effluent discharge standards.

E. Leaking septic tanks.

~~[1-37]~~1.41. "Maximum ground water table" means the highest elevation that the top of the "ground water table" or "ground water table, perched" is expected to reach for any reason over the full operating life of the onsite wastewater system at that site.

~~[1-38]~~1.42. "Mound System" means an alternative onsite wastewater system where the bottom of the absorption system is placed above the elevation of the existing site grade, and the absorption system is contained in a mounded fill body above that grade.

~~[1-39]~~1.43. "Non-domestic wastewater" means process wastewater originating from the manufacture of specific products. Such wastewater is usually more concentrated, more variable in content and rate, and requires more extensive or different treatment than domestic wastewater.

~~[1-40]~~1.44. "Non-public water source" means a culinary water source that is not defined as a public water source.

~~[1-41]~~1.45. "Onsite Wastewater System" means an underground wastewater disposal system for domestic wastewater which is designed for a capacity of 5,000 gallons per day or less, and is not designed to serve multiple dwelling units which are owned by separate owners except condominiums. It usually consists of a building sewer, a septic tank and an absorption system.

~~[1-42]~~1.46. "Percolation rate" means the time expressed in minutes per inch required for water to seep into saturated soil at a constant rate during a percolation test.

~~[1-43]~~1.47. "Percolation test" means the method used to measure the percolation rate of water into soil as described in these rules.

~~[1-44]~~1.48. "Permeability" means the rate at which a soil transmits water when saturated.

~~[1-45]~~1.49. "Person" means an individual, trust, firm, estate, company, corporation, partnership, association, state, state or federal agency or entity, municipality, commission, or political subdivision of a state (Section 19-1-103).

~~[1-46]~~1.50. "Pollution" means any man-made or man-induced alteration of the chemical, physical, biological, or radiological integrity of any waters of the state, unless the alteration is necessary for public health and safety (Section 19-5-102).

~~[1-47]~~1.51. "Public health hazard" means, for the purpose of this rule, a condition whereby there are sufficient types and amounts of biological, chemical, or physical agents relating to water or sewage which are likely to cause human illness, disorders or disability. These include, but are not limited to, pathogenic viruses and bacteria, parasites, toxic chemicals and radioactive isotopes. A malfunctioning onsite wastewater system constitutes a public health hazard.

~~[1-48]~~1.52. "Public water source" means a culinary water source, either publicly or privately owned, providing water for human consumption and other domestic uses, as defined in R309.

~~[1-49]~~1.53. "Regulatory Authority" means either the Utah Division of Water Quality or the local health department having jurisdiction.

~~[1-50]~~1.54. "Replacement area" means sufficient land with suitable soil, excluding streets, roads, and permanent structures, which complies with the setback requirements of these rules, and is intended for the 100 percent replacement of absorption systems.

~~[1-51]~~1.55. "Restrictive layer" means a layer in the soil that because of its structure or low permeability does not allow water entering from above to pass through as rapidly as it accumulates. During some part of every year, a restrictive layer is likely to have temporarily perched ground water table accumulated above it.

1.56. "Rotary tilling" means a tillage operation - working land by plowing, harrowing and manuring in order to make land ready for cultivation - employing power driven rotary motion of the tillage tool to loosen, shatter and mix soil.

1.57. Scarification - loosening and breaking up of soil.

~~[1-52]~~1.58. "Scum" means a mass of sewage solids floating on the surface of wastes in a septic tank which is buoyed up by entrained gas, grease, or other substances.

~~[1-53]~~1.59. "Seepage pit" means an absorption system consisting of a covered pit into which septic tank effluent is discharged.

~~[1-54]~~1.60. "Septic tank" means a watertight receptacle which receives the discharge of a drainage system or part thereof, designed and constructed so as to retain solids, digest organic matter through a period of detention and allow the liquids to discharge into the soil outside of the tank through an absorption system meeting the requirements of these rules.

~~[4-55]~~ 1.61. "Septic tank effluent" means partially treated sewage which is discharged from a septic tank.

~~[4-56]~~ 1.62. "Sewage holding tank" means a watertight receptacle which receives water-carried wastes from the discharge of a drainage system and retains such wastes until removal and subsequent disposal at an approved site or treatment facility.

~~[4-57]~~ 1.63. "Shall" means a mandatory requirement except when modified by action of the Department on the basis of justifying facts submitted as part of plans and specifications for a specific installation.

~~[4-58]~~ 1.64. "Shallow trenches with capping fill" means an absorption trench which meets all of the requirements of standard trenches except for the elevation of the installed trench. The minimum depth of installation is 10 inches from the natural existing grade to the trench bottom. The gravel and soil fill required above the pipe are placed as a "cap" to the trenches, installed above the natural existing grade.

~~[4-59]~~ 1.65. "Should" means recommended or preferred and is intended to mean a desirable standard.

~~[4-60]~~ 1.66. "Single-family dwelling" means a building designed to be used as a home by the owner or lessee of such building, and shall be the only dwelling located on a lot with the usual accessory buildings.

~~[4-61]~~ 1.67. "Sludge" means the accumulation of solids which have settled in a septic tank or a sewage holding tank.

~~[4-62]~~ 1.68. "Soil exploration pit" means an open pit dug to permit examination of the soil to evaluate its suitability for absorption systems.

~~[4-63]~~ 1.69. "Standard Trench" means an absorption system consisting of a series of covered, gravel-filled trenches into which septic tank effluent is discharged through specially designed distribution pipes for seepage into the soil.

~~[4-64]~~ 1.70. "Waste" or "Pollutant" means dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into water (Section 19-5-102).

~~[4-65]~~ 1.71. "Wastewater" means sewage, industrial waste or other liquid substances which might cause pollution of waters of the state. Intercepted ground water which is uncontaminated by wastes is not included.

~~[4-66]~~ 1.72. "Waters of the state" means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and underground, natural or artificial, public or private, which are contained within, flow through, or border upon this state or any portion thereof, except those bodies of water confined to and retained within the limits of private property, and which do not develop into or constitute a nuisance, or a public health hazard, or a menace to fish and wildlife, are not "waters of the state" (Section 19-5-102).

### **R317-4.2. Onsite Wastewater Systems - Administrative Requirements.**

2.1. Scope. This rule shall apply to onsite wastewater systems. Nothing contained in this rule shall be construed to prevent the permitting local health department from:

- A. adopting stricter requirements than those contained herein;
- B. issuing a renewable operating permit at a frequency not exceeding once every five years with an inspection showing a satisfactory performance of the permitted system by the department's staff before renewal;
- C. taking necessary steps for ground water quality protection through adoption of a ground water quality protection management

policy based on a ground water management study, or an onsite systems management planning policy and land use planning through the county's agency;

D. prohibiting any alternative system within the department's jurisdiction;

E. assessing fees for administration of alternative systems

F. requiring the conventional and alternative system in its jurisdiction, be placed under an umbrella of:

1. a responsible management entity overseen by the local health department; or,

2. a contract service provider overseen by the local health department; or

3. a management district, body politic, created by the county for the purpose of operation, maintenance, repairs and monitoring of alternative or all onsite systems.

2.2 The local health department having jurisdiction must obtain approval from the Utah Division of Water Quality to administer alternative systems program, as outlined in this section, before permitting alternative systems.

A. The local health department request for approval must include:

1. A description of its plan to properly manage these systems to protect public health. This plan must include:

a. A description of review, inspection and monitoring procedures of these systems;

b. Resolutions of the Local Board of Health and the County Commission supporting this request;

c. A description of the technical capability and training plans of the staff, and availability of resources to adequately manage the increased work load;

d. A statement from the county attorney of the county's legal authority to implement and enforce correction of malfunctioning systems and its commitment to exercise this authority; and,

e. A summary of a ground water quality protection management policy based on a ground water management study, or polices for both onsite systems management and land use planning determined by the county's agency, including steps taken or planned to be taken for implementation of the policy.

2. An agreement to:

a. advise the owner of the system of the type of system, and information concerning risk of failure, level of maintenance required, financial liability for repair, modification or replacement of a failed system and periodic monitoring requirements;

b. ensure the existence of the alternative system is recorded on the deed of ownership for that property;

c. provide oversight of installed systems;

d. inspect all installed systems at frequency specified in this rule, through:

i. the department's staff, or,

ii. a contracted service provider, or,

iii. a responsible management entity, or,

iv. a management district body politic created by the county for the purpose of managing onsite systems;

v. maintenance of records of all installed systems, failures, modifications, repairs and all inspections recording the condition of the system at the time of inspection such as, but not limited to, overflow, surfacing, ponding and nuisance;

e. Submit an annual report on or before September 1 of the calendar year, to the Utah Division of Water Quality showing:

i. type and number of systems approved, installed, modified, repaired, failed, inspected;

ii. a summary of enforcement actions taken, pending and resolved;

iii. a summary of performance of water quality data collected;

iv. a summary of the performance of contractors, responsible management entities, or management districts operating, maintaining and monitoring alternative systems; and,

v. management options followed in the reporting year and planned to be followed in the period after the reporting period.

f. Description of Management options to be followed:

i. Using the health department staff for all inspections and monitoring of permitted alternative systems; or,

ii. Contracting with a responsible management entity employing qualified service providers for operating, maintaining and monitoring alternative systems, certified in accordance with R317-11; or,

iii. Using a management district, body politic created by the county for the purpose of managing onsite systems with an annual performance review; or,

iv. An appropriate combination of contract providers or a District, body politic.

B. All alternative systems will be inspected as follows:

1. All at-grade and earth fill systems shall be monitored at a period of six months after initial use, and annually thereafter for a total of five years

2. All mound and packed bed media systems shall be monitored once every six months for the life of that system by:

a. the local health department staff, or,

b. a contract service provider overseen by the local health department, or,

c. a responsible management entity overseen by the local health department, or,

d. a management district, body politic created by the county for the purpose of managing onsite systems.

[2-2]2.3. Failure to Comply With Rules. Any person failing to comply with This rule will be subject to action as specified in Section 19-5-115 and 26A-1-123.

[2-3]2.4. Onsite Wastewater System Required. The drainage system of each dwelling, building or premises covered herein shall receive all wastewater (including but not limited to bathroom, kitchen, and laundry wastes) and shall have a connection to a public sewer except when such sewer is not available or practicable for use, in which case connection shall be made as follows:

A. To an onsite wastewater system found to be adequate and constructed in accordance with requirements stated herein.

B. To any other type of wastewater system acceptable under R317-1, R317-3, R317-5, or R317-560.

[2-4]2.5. Flows Prohibited From Entering Onsite Wastewater Systems. No ground water drainage, drainage from roofs, roads, yards, or other similar sources shall discharge into any portion of an onsite wastewater system, but shall be disposed of so they will in no way affect the system. Non domestic wastes such as chemicals, paints, or other substances which are detrimental to the proper functioning of an onsite wastewater system shall not be disposed of in such systems.

[2-5]2.6. No Discharge to Surface Waters or Ground Surface. Effluent from any onsite wastewater system shall not be discharged to surface waters or upon the surface of the ground. Sewage shall not be discharged into any abandoned or unused well, or into any crevice, sinkhole, or similar opening, either natural or artificial.

[2-6]2.7. Repair of a Failing or Unapproved System. Whenever an onsite wastewater system is found by the regulatory authority to create or contribute to any dangerous or ~~[i]~~unsanitary condition which

may involve a public health hazard, a malfunctioning system, or deviates from the plans and specifications approved by such health authorities, the regulatory authority may order the owner to take the necessary action to cause the condition to be corrected, eliminated or otherwise come into compliance.

[2-7]2.8. Procedure for Wastewater System Abandonment.

A. When a dwelling served by an onsite wastewater system is connected to a public sewer, the septic tank shall be abandoned and shall be disconnected from and bypassed with the building sewer unless otherwise approved by the regulatory authority.

B. Whenever the use of an onsite wastewater system has been abandoned or discontinued, the owner of the real property on which such wastewater system is located shall render it safe by having the septic tank wastes pumped out or otherwise disposed of in an approved manner, and the septic tank filled completely with earth, sand, or gravel within 30 days. The septic tank may also be removed within 30 days, at the owners discretion. The contents of a septic tank or other treatment device shall be disposed of only in a manner approved by the regulatory authority.

### **R317-4-3. Onsite Wastewater Systems General Requirements.**

3.1. Units Required in an Onsite Wastewater System. The onsite wastewater system shall consist of the following components:

A. A building sewer.

B. A septic tank.

C. An absorption system. This may be a standard trench, a shallow trench with capping fill, a chambered trench, a deep wall trench, a seepage pit or pits, an absorption bed, or alternative or experimental systems as specified in this rule, depending on location, topography, soil conditions and ground water table.

3.2. Multiple Dwelling Units. Multiple dwelling units under individual ownership, except condominiums, shall not be served by a single onsite wastewater system except where that system is under the sponsorship of a body politic. Plans and specifications for such systems shall be submitted to and approved by the Utah ~~[Water Quality]Division of Water Quality[Board]~~. Issuance of a construction permit by the Board shall constitute approval of plans and authorization for construction.

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3.5. Final On-Site Inspection.

A. After an onsite wastewater system has been installed and before it is backfilled or used, the entire system shall be inspected by the appropriate regulatory authority to determine compliance with these rules. For deep wall trenches and seepage pits, the regulatory authority should make at least two inspections, with the first inspection being made following the excavation and the second inspection after the trench or pit has been filled with stone or constructed, but before any backfilling has occurred.

B. Each septic tank shall be tested for water tightness. Testing may be performed ~~[before backfilling]~~ in accordance with the requirements and procedure outlined in the American Society for Testing Materials' Standard ASTM C-1227, or concrete tanks ~~shall~~ shall be filled 24 hours before the inspection to allow stabilization of the water level. During the inspection there shall be no change in the water level for 30 minutes. Nor shall moving water, into or out of the tank ~~[-]~~, be visible. The regulatory authority may allow two piece tanks, with the joint below the water level, to be backfilled up to three inches below the joint to provide adequate support to the seam of the tank. Testing shall be supervised by the regulatory authority. Tanks



exhibiting obvious defects or leaks shall not be approved unless such deficiencies are repaired to the satisfaction of the regulatory authority.

#### **R317-4-4. Onsite Wastewater Systems Design Requirements.**

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##### 4.5. Installation in Sloping Ground.

A. Construction of absorption systems on slopes in excess of 15 percent but not greater than 25 percent may be allowed providing that subsoil profiles indicate no restrictive layers of soil and appropriate engineering design is provided. Absorption systems placed in sloping ground shall be so constructed that there is a minimum of 10 feet of undisturbed earth measured horizontally from the bottom of the distribution line to the ground surface. Where the addition of fluids is judged to create an unstable slope, absorption systems will be prohibited.

B. Absorption systems shall be so located and constructed that there is a minimum of 50 feet from downhill slopes that exceed 35 percent.

C. Alternative systems shall be subject to the site slope limits specified in R317-4-11 for earth fill, "at-grade" systems and in mound systems.

4.6. Replacement Area for Absorption System. Adequate and suitable land shall be reserved and kept free of permanent structures, traffic, or adverse soil modification for 100 percent replacement of each absorption system. If approved by the regulatory authority, the area between standard trenches or deep wall trenches may be regarded as replacement area.

##### 4.7. Variance to Design Requirements

###### 1. Requirements for which a variance may be approved.

An applicant may request a variance from onsite system design requirements, as specified in this section R317-4-4.7, in the following circumstances:

A. When site conditions do not allow a property owner to construct an onsite system so that the absorption bed or trench are separated from a dry wash, gully or gulch by a minimum distance of 50 feet as required under R317-4-4.3, Table 2; or,

B. When site conditions do not allow a property owner to construct an onsite system that complies with the slope and distance from slope requirements of R317-4-4.5.

###### 2. Standards

A variance will not be approved unless the applicant demonstrates that all of the following conditions are met:

A. A wastewater system consistent with R317-4 and local health department requirements cannot be constructed and a connection to a public or community-based sewerage system is not available. This determination will be made in consultation with the local health department.

B. Wastewater from the proposed system will not contaminate ground water or surface water, and will not surface or move off site before it is adequately treated to protect public health and the environment.

C. No slope will fail, and there will be no other landslide or structural failure if the system is constructed and operated as proposed, even if all properties in the vicinity are developed with onsite wastewater systems.

D. Adjacent properties, including the current and reasonably anticipated uses of adjacent properties, will not be jeopardized if the proposed system is constructed and operated.

###### 3. Procedure for requesting variance

A. A variance request shall be submitted to the Executive Secretary and to the local health department.

B. A variance request shall include the information and documentation described in R317-4-4.7.4.

C. The Executive Secretary may, with the approval of the Board, appoint an advisory committee to consider variance requests and make recommendations to the Executive Secretary. Any such advisory committee shall include at least one representative from a local health department. The Executive Secretary may refer any variance request to the variance advisory committee.

D. An applicant may request an advance determination about eligibility for a variance under R317-4-4.7.2(A) before the applicant submits a request that addresses the remaining requirements.

E. The Executive Secretary shall make a determination to approve or deny a variance request within 180 days of the receipt of a complete and technically adequate request. That determination may be reviewed by the Board as provided in Section 19-5-112, Utah Code Ann., and R317-9-3, Utah Administrative Code.

F. A local health department may not issue an approval or an operating permit for an onsite system that does not comply with all pertinent design requirements unless a variance has been approved; however a local health department is not required to issue an approval or operating permit based on the Executive Secretary's or Board's approval of a variance.

G. If approval of a variance is conditioned upon an applicant's commitment to record limiting conditions on the deed, the local health department may not issue an approval or operating permit for a system for which a variance has been approved until it confirms this condition has been fulfilled.

H. If approval of a variance is conditioned upon the local health department's oversight of the applicant's continuing compliance with specified conditions, the local health department may not issue an approval or operating permit for a system for which a variance has been approved until the applicant and the local health department have executed a written agreement regarding reimbursement of costs or any fees associated with that oversight.

I. All of the information required under R317-4-4.7.4, except the information required by R317-4-4.7.4(G) and (H), shall be submitted in a report by a professional engineer or a professional geologist that is certified at the appropriate level to perform onsite system design. An engineer or geologist who submits a report shall be licensed to practice in Utah and shall have sufficient experience and expertise to make the determinations in the report. Any such report shall include the engineer's or geologist's name and registration number, and a summary of qualifications. The report shall be imprinted with the engineer's or geologist's registration seal and signature.

###### 4. Application requirements

The variance application shall include all information and documentation necessary to ensure that the standards in R317-4-4.7.2 will be met, including, as appropriate:

A. Information demonstrating that connection to a public or community-based sewerage system is not available, there is no other option for sewage disposal, and site conditions prevent construction or use of an onsite system that is in compliance with applicable legal requirements.

B. A detailed description of the proposed system, including engineering and reliability information, and information about its proposed location and a proposed replacement absorption bed or trench location, if necessary, to meet the requirements of R317-4-4.6.

C. A detailed characterization of current hydrological and hydrogeological conditions at the proposed site, and characterization of

hydrological and hydrogeological conditions predicted for the site after the proposed system is in operation. The report shall include the following information with all supporting information, field investigations and explorations, as applicable:

- 1. A description of the tributary area;
  - 2. Predictions, and supporting information, of ground water transport from the proposed system and of expected areas of ground water mounding if the system is operated as proposed in the application, including those in the tributary area;
  - 3. Predictions, and supporting information, of the impact of runoff on disposal of wastewater;
  - 4. Information about the rate of runoff for a 100-year storm and the time of concentration for a given tributary area;
  - 5. Water surface profile throughout the area;
  - 6. Analysis, for nitrate, chloride, and coliform group bacteria, of samples from the closest groundwater downgradient from any existing absorption system.
- D. A stability analysis if the request is for a variance from slope requirements. The analysis shall include information about the geology of the site and surrounding area, soil exploration and testing.
- E. An operation, maintenance and troubleshooting plan to keep the installed system operating as described in the application.
- F. A contingency plan describing how a system that cannot meet the requirements of R317-4-4.7.2 will be replaced.
- G. A signed statement from the applicant acknowledging that he or she will, after a 30 day period for correction, be required to cease use and occupancy of buildings associated with an onsite wastewater system that fails to meet the standards in R317-4-4.7.2, and that use and occupancy will be allowed again only after standards are met.
- H. A proposal to record on the deed for the subject property a notice describing the system and an environmental easement, under the Environmental Institutional Control Act (Utah Code Ann. Sections 19-10-101 through -108), mandating any pertinent maintenance requirements or limiting conditions.
- I. Documentation provided by the local health authority that the adjoining land owners have been notified and provided opportunity for comment of the proposed variance.
- 5. No violation of standards
- No facility constructed pursuant to a variance shall violate the standards in R317-4-4.7.2.

**R317-4-7. Septic Tanks.**

7.1. General Requirements.

A. Septic tanks shall be constructed of sound, durable, watertight materials that are not subject to excessive corrosion, frost damage, or decay. They shall be designed to be watertight, and to withstand all expected physical forces, to provide settling of solids, accumulation of sludge and scum, and be accessible for inspection and cleaning as specified in the following paragraphs:

B. Illustrations of typical absorption system components such as septic tanks, distribution boxes, and absorption systems are contained in an addendum to these rules, available through the Division of Water Quality.

7.2. Overall Construction and Design Features.

A. Septic tanks may be constructed of the following:

- 1. Precast reinforced concrete
- 2. Fiberglass
- 3. Polyethylene
- 4. Poured-in-place concrete
- 5. Material approved by the Division

B. Septic tanks may have single or multiple compartments and may be oval, circular, rectangular, or square in plan, provided the distance between the inlet and outlet of the tank is at least equal to the liquid depth of the tank. In general, the tank length should be at least two to three times the tank width.

C. All septic tanks may have an effluent filter installed at the outlet of the tank. The filter shall prevent the passage of solid particles larger than a nominal 1/8 inch diameter sphere. The filter should be easily removed for routine servicing through watertight access from the ground surface, or be bypassed with a piping arrangement.

7.3. Plans for Tanks Required.

A. Plans for all septic tanks shall be submitted to the regulatory authority for approval. Such plans shall show all dimensions, capacities, reinforcing, and such other pertinent data as may be required. All septic tanks shall conform to the design drawings and all building shall be done under strict controlled supervision by the manufacturer.

B. Commercial septic tank manufacturers shall submit design plans for each tank model manufactured to the Division for review and approval. The manufacturer shall certify in writing to the Division that the septic tanks to be distributed for use in the State of Utah will comply with this regulation. It is recommended that such plans also be evaluated by a registered engineer as to surcharge, impact load, and deadload. Any changes in the design of commercially manufactured septic tanks shall be submitted to the Division for approval.

7.4. Tank Capacity for Single-Family Dwellings. The minimum liquid capacity of septic tanks serving single-family dwellings shall be based on the number of bedrooms in each dwelling, in accordance with Table 6.

TABLE 6  
Minimum Capacities for Septic Tanks(a)

| Number of Bedrooms(b)            | Minimum Liquid Capacity(c)(d) (Gallons) |
|----------------------------------|---|
| 1                                | 750                                     |
| 2 or 3                           | 1000                                    |
| 4                                | 1250                                    |
| For each additional bedroom, add | 250                                     |

FOOTNOTES

(a) Tanks larger than the minimum required capacity are generally more economical since they do not have to be cleaned as often.

(b) Based on the number of bedrooms in use or that can be reasonably anticipated in the dwelling served, including the unfinished space available for conversion as additional bedrooms. Unfinished basements shall be counted as a minimum of one additional bedroom.

(c) The liquid capacity is calculated on the depth from the invert of the outlet pipe to the inside bottom of the tank. A variance of three percent in the required volume may be allowed.

(d) Table 6 provides for the normal household appliances, including automatic sequence washers, mechanical garbage grinders, and dishwashers.

7.5. Tank Capacity for Commercial, Institutional, and Recreational Facilities, and Multiple Dwellings.

A. The minimum liquid capacity of septic tanks serving commercial, institutional, and recreational facilities, and multiple dwellings shall be determined on the following basis:

- 1. For wastewater flows up to 500 gallons per day, the liquid capacity of the tank shall be at least ~~750~~1,000 gallons.

2. For wastewater flows between 500 and 1,500 gallons per day, the liquid capacity of the tank shall be at least 1.5 times the 24-hour estimated sewage flow (see Table 3).

3. For wastewater flows between 1,500 and 5,000 gallons per day, the liquid capacity of the tank shall equal at least 1,125 gallons plus 75 percent of the daily wastewater flow ( $V = 1,125 + 0.75Q$  where  $V$  = liquid volume of the tank in gallons, and  $Q$  = wastewater discharge in gallons per day).

B. In cases where dwellings or facilities are subject to high peak sewage flows, the liquid capacity of the onsite wastewater system shall be increased as required by the regulatory authority.

#### 7.6. Precast Reinforced Concrete Septic Tanks.

A. The walls and base of precast tanks shall be securely bonded together and the walls shall be of monolithic or keyed construction. The sidewalls and bottom of such tanks shall be at least 3 inches in thickness. The top shall have a minimum thickness of four inches. Such tanks shall have reinforcing of at least six inch x six inch No. 6, welded wire fabric, or equivalent. Exceptions to this reinforcing requirement may be considered by the Division based on an evaluation of acceptable structural engineering data submitted by the manufacturer. All concrete used in precast tanks shall be Class A, at least 4,000 pounds per square inch, and shall be vibrated or well-rodged to minimize honeycombing and to assure reasonable watertightness. Precast sections shall be set evenly in a full bed of sealant. If grout is used it shall consist of two parts plaster sand to one part cement with sufficient water added to make the grout flow under its own weight. Excessively mortared joints should be trimmed flush. The inside and outside of each mortar joint shall be sealed with a waterproof bituminous sealing compound.

B. For the purpose of early reuse of forms, the concrete may be steam cured. Other curing by means of water spraying or a membrane curing compound may be used and shall comply to best acceptable methods as outlined in "Curing Concrete, ACI308-71," by American Concrete Institute, P.O. Box 19150, Detroit, Michigan 48219.

#### 7.7. Fiberglass Septic Tanks.

A. Fiberglass septic tanks shall comply with the criteria for acceptance established in the "Interim Guide Criteria For Glass-Fiber-Reinforced Polyester Septic Tanks", International Association of Plumbing and Mechanical Officials, 5032 Alhambra Avenue, Los Angeles, California 90032. The identifying seal of the International Association of Plumbing and Mechanical Officials must be permanently embossed in the fiberglass as evidence of compliance. The design requirements in R317-4-7 shall also be met. Other required identity marks must also comply with this rule.

B. Inlet and outlet tees shall be attached to the tank by a rubber or synthetic rubber ring seal and compression plate, or in some other manner approved by the Division.

C. The tank shall be installed in accordance with the manufacturer's recommendations. If no such recommendations are provided, the following installation procedures shall apply:

1. During installation, careful handling of the tank is necessary to prevent damage. Tanks shall not be installed under areas subject to vehicular traffic or heavy equipment.

2. There shall be a minimum of twelve inches of approved, compacted backfill material under the tank as a resting bed. The resting bed must be smooth and level.

3. The hole that the tank is to be installed in shall be large enough to allow a minimum of twelve inches from the ends and sides of the tank to the hole wall.

4. Approved backfill material shall be a naturally-rounded aggregate, clean and free flowing, with a particle size of 3/8-inch or less

in diameter. Crushed stone or gravel of the same particle size may be used if naturally-rounded aggregate is not available, but should be washed and free flowing.

5. Backfilling shall be accomplished to the top of the tank in twelve -inch lifts with each layer being well compacted. Sharp tools should not be used near the septic tank. With the manhole cover(s) in place, water should be added to the tank during backfilling. The water level in the tank should coincide approximately with the backfill depth.

With the tank full of water, the excavation should be brought to grade with the same approved backfill materials. Depth of backfill over the top of the tank shall not exceed 2-1/2 feet.

#### 7.8. Polyethylene Septic Tanks.

A. Polyethylene septic tanks shall comply with the criteria for acceptance established in "Prefabricated Septic Tanks and Sewage Holding Tanks, Can3-B66-M79" by the Canadian Standards Association, 178 Rexdale Boulevard, Rexdale, Ontario, Canada M9W1R3. Required identifying marks shall comply with this rule.

B. Inlet and outlet tees shall be attached to the tank by a rubber or synthetic rubber ring seal and compression plate, or in some other manner approved by the Division.

C. The tank shall be installed in accordance with the manufacturer's recommendations. If no such recommendations are provided, the installation procedures in R317-4-7 shall apply.

7.9. Poured-In-Place Concrete Septic Tanks. The top of poured-in-place septic tanks with a liquid capacity of ~~750~~1,000 to 1,250 gallons shall be a minimum of four inches thick, and reinforced with one 3/8-inch reinforcing rod per foot of length, or equivalent. The top of tanks with a liquid capacity of greater than 1,250 gallons up to the maximum design capacity shall be a minimum of six inches thick, and reinforced with 3/8-inch reinforcing rods eight inches on centers both ways, or equivalent. The walls and floor shall be a minimum of six inches thick. The walls shall be reinforced with 3/8-inch reinforcing rods eight inches on centers both ways, or equivalent. Inspections by the regulatory authority may be required of the tank reinforcing steel before any concrete is poured. A six-inch water stop shall be used at the wall-floor juncture to insure watertightness. All concrete used in poured-in-place tanks shall be Class A, at least 4,000 pounds per square inch, and shall be vibrated or well-rodged to minimize honeycombing and to insure watertightness. Curing of concrete shall comply with the requirements in R317-4-7.

7.10. Identifying Marks. All prefabricated or precast septic tanks which are commercially manufactured shall be plainly, legibly, and permanently marked or stamped on the exterior at the outlet end and within six inches of the top of the wall, with the name and address or nationally registered trademark of the manufacturer and the liquid capacity of the tank in gallons. Both the inlet and outlet of all such tanks shall be plainly marked as IN or OUT, respectively.

7.11. Liquid Depth of Tanks. Liquid depth of septic tanks shall be at least 30 inches. Depth in excess of 72 inches shall not be considered in calculating liquid volume required in R317-4-7.

7.12. Tank Compartments. Septic tanks may be divided into compartments provided each meets applicable requirements stated herein as well as the following:

A. The volume of the first compartment must equal or exceed two thirds of the total required septic tank volume.

B. No compartment shall have an inside horizontal distance less than 24 inches.

C. Inlets and outlets shall be designed as specified for tanks, except that when a partition wall is used to form a multi-compartment tank, an opening in the partition may serve for flow between compartments provided the minimum dimension of the opening is four

inches, the cross-sectional area is not less than that of a six -inch diameter pipe (28.3 square inches), and the mid-point is below the liquid surface a distance approximately equal to 40 percent of the liquid depth of the tank.

D. No tank shall have an excess of three compartments.

7.13. Tanks in Series. Additional septic tank capacity over ~~750~~ 1,000 gallons may be obtained by joining uncompartmented tanks in series to obtain the required capacity providing the following are complied with:

A. No tank in the series shall be smaller than ~~750~~ 1,000 gallons.

B. The capacity of the first tank shall be at least two thirds of the required total septic tank volume.

C. The outlet of each successive tank shall be at least 2 inches lower than the outlet of the preceding tank, and shall be unrestricted except for the inlet to the first tank and the outlet for the last tank.

D. The number of tanks in series shall not exceed three.

7.14. Inlets and Outlets. Inlets and outlets of tanks or compartments thereof shall meet the material and minimum diameter requirements for building sewers and shall be tee-ed or baffled with the object of diverting incoming flow toward the tank bottom and minimizing as much as possible the discharge of sludge or scum in the effluent. Inlet or outlet devices shall also conform with the following:

A. Inlets and outlets should be located on opposite ends of the tank. The invert of flow line of the inlet shall be located at least two inches (and preferably three inches) above the invert of the outlet to allow for momentary rise in liquid level during discharge to the tank.

B. An inlet baffle or sanitary tee of wide sweep design shall be provided to divert the incoming sewage downward. This baffle or tee is to penetrate at least six inches below the liquid level, but the penetration is not to be greater than that allowed for the outlet device.

C. For tanks with vertical sides, outlet baffles or sanitary tees shall extend below the liquid surface a distance equal to approximately 40 percent of the liquid depth. For horizontal cylindrical tanks and tanks of other shapes, that distance shall be reduced to approximately 35 percent of the liquid depth.

D. All baffles shall be constructed from sidewall to sidewall or shall be designed as a conduit.

E. All inlet and outlet devices shall be permanently fastened in a vertical, rigid position. Inlet and outlet pipe connections to the septic tank shall be sealed with a bonding compound that will adhere to the tank and pipes to form watertight connections, or watertight sealing rings.

F. Inlet and outlet devices shall not include any design features preventing free venting of gases generated in the tank or absorption system back through the roof vent in the building plumbing system. The top of the baffles or sanitary tees must extend at least six inches above the liquid level in order to provide scum storage, but no closer than one inch to the inside top of the tank.

G. Offset inlets may be approved by the regulatory authority where they are warranted by constraints on septic tank location.

H. Multiple outlets from septic tanks shall be prohibited.

I. A gas deflector may be added at the outlet of the tank to prevent solids from entering the outlet pipe of the tank.

7.15. Scum Storage. Scum storage volume shall consist of 15 percent or more of the required liquid capacity of the tank and shall be provided in the space between the liquid surface and the top of inlet and outlet devices.

7.16. Accessibility of Tank. Septic tanks shall be installed in a location so as to be accessible for servicing and cleaning, and shall have no structure or other obstruction placed over them so as to interfere with such operations. Tanks should be placed between the dwelling

and the street whenever possible to facilitate connection to the sanitary sewer at the time such a sewer is installed.

7.17. Access to Tank Interior. Adequate access to the tank shall be provided to facilitate inspection and cleaning and shall conform to the following requirements:

A. Access to each compartment of the tank shall be provided through properly placed manhole openings not less than 18 inches, preferably 22 inches, in minimum horizontal dimension or by means of an easily removable lid section.

B. Access to inlet and outlet devices shall be provided through properly spaced openings not less than twelve (12) inches in minimum horizontal dimension or by means of an easily removable lid section.

C. The top of the tank shall be at least six inches below finished grade.

D. All manholes required by R317-4-7[-] shall be extended to within at least ~~four~~ six inches of the finished grade. The manhole extensions shall be constructed of durable, structurally sound materials which are approved by the regulatory authority and designed to withstand expected physical loads and corrosive forces.

E. Access covers for manhole openings shall have adequate handles and shall be designed and constructed in such a manner that they cannot pass through the access openings, and when closed will be child-proof and prevent entrance of surface water, dirt, or other foreign material, and seal the odorous gases in the tank.

F. No septic tank shall be located under paving unless extensions to the access openings are extended up through the paving and the manholes are equipped with a locking-type cover.

7.18. Tank Cover. Septic tank covers shall be sufficiently strong to support whatever load may reasonably be expected to be imposed upon them and tight enough to prevent the entrance of surface water, dirt, or other foreign matter, and seal the odorous gases of digestion.

7.19. Tank Excavation and Backfill. The hole to receive the tank shall be large enough to permit the proper placement of the tank and backfill. Tanks shall be installed on a solid base that will not settle and shall be level. Where rock or other undesirable protruding obstructions are encountered, the bottom of the hole should be excavated an additional six inches and backfilled with sand, crushed stone, or gravel to the proper grade. Backfill around and over the septic tank shall be placed in such a manner as to prevent undue strain or damage to the tank or connected pipes.

7.20. Installation in Ground Water. If septic tanks are installed in ground water, the regulatory authority may require adequate ground anchoring devices to be installed to prevent the tank from floating when it is emptied during cleaning operations.

7.21. Maintenance Requirements. Maintenance Requirements - Adequate maintenance shall be provided for septic tanks to insure their proper function. Recommendations for the inspection and cleaning of septic tanks are provided in R317-4-13.

**R317-4-9. Absorption Systems.**

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9.5. Deep Wall Trenches.

A. Deep wall trenches may be constructed in lieu of other approved absorption systems or as a supplement to an absorption trench where soil conditions and the required separation from the maximum ground water table comply with Table 11 of this section. This absorption system consists of deep trenches filled with clean, coarse filter material which receive septic tank effluent and allow it to seep

through sidewalls into the adjacent porous subsurface soil. They shall conform to the following requirements:

1. The effective absorption areas shall be considered as the outside surface of the deep wall trench (vertical sidewall area) calculated below the inlet or distributing pipe, exclusive of any unsuitable soil or bedrock formations. The bottom area and any highly restrictive or impervious strata or bedrock formations shall not be considered in determining the effective sidewall absorption area. Each deep wall trench shall have a minimum sidewall absorption depth of 2 feet of suitable soil formation.

2. The minimum required sidewall absorption area shall be determined by either of the following 2 methods:

a. For the purpose of estimating the ~~percolation test~~ absorption rate of each deep wall trench system, a signed[-]" Deep Wall Trench Certificate" or equivalent shall be submitted as evidence that a proper ~~percolation test~~ soil evaluation has been performed under the supervision of a licensed environmental health scientist, registered engineer, or other qualified person certified by the regulatory authority. The deep wall trench certificate or equivalent must contain the following:

- i. the name and address of the individual constructing the deep wall trench;
- ii. the location of the property;
- iii. the dimensions of the trench;
- iv. total effective absorption depth;
- v. a description of the texture, character, and thickness of each stratum of soil encountered in the deep wall trench construction;
- vi. a signed statement certifying that the deep wall trench has been constructed in accordance with the requirements of this rule. The required absorption area shall then be determined in accordance with Table 10.

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**R317-4-11. Alternative ~~Onsite Wastewater~~ Systems.**

11.1. ~~Administrative~~General Requirements. ~~The local health department having jurisdiction must obtain approval from the division to administer an alternative onsite wastewater system program, as outlined in this section, prior to permitting alternative onsite wastewater systems. Alternative onsite wastewater systems are only to be installed where site limitations prevent the use of conventional onsite wastewater systems.]~~

A. The health department will review and approve sufficient design, installation and operating information to produce a successful, properly operating installation from a designer certified at Level 3 in accordance with the requirements of R317-11.

B. The designer must submit:

- 1. detailed basis of design of all components with necessary and relevant calculations; and,
- 2. operation and maintenance instructions for the system to the health department and to the owner which describe the activities necessary to properly operate and maintain and troubleshoot the system.

C. All requirements stated elsewhere in this rule for design, construction and installation details, performance, failures, repairs and abandonment shall apply unless stated differently for a given alternative system.

11.2. At-Grade Systems.

A. Design Requirements.

1. Absorption trenches and absorption bed type absorption systems may be placed in the at-grade position provided:

a. Top of effluent distribution pipe or the bottom of the absorption trench is placed at the native ground surface.

b. the elevation of the anticipated maximum ground water table shall be:

i. at least 24 inches below the bottom of the absorption system excavation; and,

ii. at least 48 inches below finished grade.

c. at least 48 inches of suitable soil percolating between:

i. one and 60 minutes per inch for absorption trench, or,

ii. one to 30 minutes per inch for absorption beds is available between bedrock or impervious strata and the bottom of the absorption system excavation.

d. The native ground surface does not slope more than four percent for installation of an at-grade system.

e. all other requirements of this rule for:

i. minimum horizontal distances from the stated feature to the toe of the finished at-grade system in Table 2,

ii. area requirements and construction details for absorption trenches in Tables 7, 8 and 9,

iii. area requirements and construction details for absorption beds in Tables 13 and 14, are met.

2. Minimum of two observation ports shall be provided within absorption area.

B. Construction Details.

1. The site shall be cleared of vegetation.

2. The soil at the surface shall be loosened and broken up to an approximate depth of six inches.

3. No tilling shall be permitted.

4. Any furrows resulting from the scarification shall be perpendicular to any slope on the site.

5. When fill is placed where finished contours are above the natural ground surface, it shall extend from the center of the wastewater system at the same general top elevation for a minimum of ten feet in all directions beyond the limits of the disposal area perimeter below, before the beginning of the side slope.

6. The site shall be graded such that surface water drains away from the onsite wastewater system and adjoining area.

7. The maximum side slope for above ground fill shall be four (horizontal) to one (vertical).

11.3 Earth fill systems.

A. Design Requirements.

1. Earth fill may be added to a site or naturally existing soil with a percolation rate less than one minute per inch or more than 60 minutes per inch may be removed and replaced with earth fill with an acceptable, in-place percolation rate, if:

2. the removal of the original soil does not cause other unacceptable site conditions, and, wastewater ponding will not occur below the bottom of the absorption system;

3. the elevation of the anticipated maximum ground water table shall be:

a. at least 12 inches below the natural ground surface, and,

b. at least 24 inches below the bottom of the absorption trench.

4. Minimum depth of suitable soil percolating between one and 60 minutes per inch available between bedrock or impervious strata and:

a. the native ground surface must not be less than 36 inches, or,

b. the bottom of the absorption system trench must not be less than 48 inches, which ever is greater.

5. all other requirements of this rule for:

a. minimum horizontal distances in Table 2,

b. area requirements and construction details for absorption trenches in Tables 7, 8 and 9, are met.

6. The fill area shall be sufficient to:

a. accommodate an absorption system for a home with a minimum of three bedrooms, and shall include all required clearances within, and outside of the fill and absorption system area.

b. install a system sized for greater of three bedrooms or the planned number of bedrooms in the home, using the percolation rate of 60 minutes per inch.

c. include the area required for a 100 percent replacement of the absorption system, with all required clearances.

7. The area between trenches shall not be used for replacement area.

8. The earth fill shall be considered to be acceptably stabilized if it is allowed to naturally settle for a minimum period of one year, sized to result in its minimum required dimensions after the settling period. Mechanical compaction shall not be allowed.

9. After the fill has settled for a minimum of one year, a minimum of two (2) percolation tests/soil exploration tests shall be conducted in the fill. One shall be conducted in the proposed absorption system area and one in the proposed replacement area of the fill. The suitably stabilized fill shall have an in-place percolation rate of between 15 and 45 minutes per inch.

10. The native ground surface does not slope more than four percent for installation of an earth fill system.

11. The fill depth below the bottom of the absorption system to the native ground surface shall not exceed six feet.

12. Minimum of two observation ports shall be provided within absorption area.

#### B. Construction Details.

1. The site shall be cleared of vegetation.

2. The surface soil shall be loosened and broken up to an approximate depth of six inches.

3. No rotary tilling shall be permitted.

4. Any furrows resulting from the scarification shall be perpendicular to any slope on the site.

5. The site shall be graded such that surface water drains away from the onsite wastewater system and adjoining area.

6. The maximum exposed side slope for fill surfaces shall be four horizontal to one vertical.

7. When fill is placed where finished contours are above the natural ground surface, it shall extend from the center of the wastewater system at the same general top elevation for a minimum of ten feet in all directions beyond the limits of the disposal area perimeter below, before the beginning of the side slope.

8. A suitable soil cap, which will support a vegetative cover, shall cover the entire fill body. The cap shall be provided with a vegetative cover. Access to the fill site shall be restricted to minimize erosion and other physical damage.

#### 11.4 Mound systems.

##### A. Design Requirements.

1. The design shall generally be based on the "Wisconsin Mound Soil Absorption System: Siting, Design and Construction Manual, January 2000" published by the University of Wisconsin-Madison Small-Scale Waste Management Project, with the following exceptions:

2. Mound system may be built over naturally existing soils with a percolation rates between one to 60 minutes per inch provided:

a. the minimum separation distance between the anticipated maximum ground water table and the natural ground surface shall be 12 inches.

b. a minimum of one foot of mound fill and one foot of natural soil percolating between one to 60 minutes per inch is available to form the minimum two feet of unsaturated soil below the bottom of the absorption system.

c. at least 36 inches of suitable soil percolating between one and 60 minutes per inch is available between bedrock or impervious strata and the native ground surface.

d. The native ground surface does not slope more than 25 percent for installation of a mound system.

3. all other requirements of this rule for minimum horizontal distances in Table 2, are met.

4. The effluent loading rate at the sand fill to native soil interface shall be as specified as shown in Table 15:

Table 15  
Effluent loading rates  
from sand fill to native soil interface  
(Based on Percolation Test Rates)

| Percolation Rate<br>(time in minutes required<br>for water to fall one inch) | gallons per day<br>per square foot |
|--|------------------------------------|
| 1-10   | 0.45                               |
| 11-15  | 0.40                               |
| 16-20  | 0.35                               |
| 21-30  | 0.30                               |
| 31-45  | 0.25                               |
| 46-60  | 0.20                               |

#### B. Construction Details.

1. The site shall be cleared of vegetation and scarified to an approximate depth of six inches. Any furrows resulting from the scarification shall be perpendicular to any slope on the site.

2. The surface soil shall be loosened and broken up to an approximate depth of six inches.

3. The site shall be graded such that surface water drains away from the onsite wastewater system and adjoining area.

4. The minimum thickness of aggregate media around the distribution pipes of the absorption system shall be the sum of six inches below the distribution pipe, the diameter of the distribution pipe and two inches above the distribution pipe or ten inches, whichever is larger.

5. The material for soil cap shall not be less than six inches in thickness and provide protection against erosion, frost, storm water infiltration and support vegetative growth and aeration of distribution cell.

6. Fill material must meet ASTM Specification C-33 for fine aggregate. Textural analysis of fill material in accordance with ASTM C-136 is required for determining suitability.

7. A minimum of two observation pipes shall be located at 1/5 to 1/10 of the length of the distribution cell from each end of the distribution cell along the center of distribution cell width.

8. An automatic visual or audible alarm indicating the failure of the pump shall be provided, and shall remain on until turned off manually.

#### 11.5. Packed Bed Media systems.

##### A. Design Requirements.

1. Packed bed media systems may be used provided:

a. the elevation of the anticipated maximum ground water table shall be at least 12 inches below the natural ground surface, or the bottom of absorption trench or bed or drip irrigation piping, whichever is greater.

b. acceptable percolation rate for packed bed media system effluent dispersal is up to 120 minutes per inch.

c. at least 36 inches of suitable soil below the bottom of the absorption trench, percolating between one and 120 minutes per inch is available for packed bed media system effluent dispersal, between bedrock or impervious strata and the native ground surface.

d. At least 18 inches of suitable soil below the bottom of the absorption trench percolating between one and 120 minutes per inch is available for packed bed media system effluent dispersal, between bedrock or impervious strata and the native ground surface based on an evaluation of infiltration rate and hydrogeology from a professional geologist or engineer that is certified at the appropriate level to perform onsite system design and having sufficient experience and expertise to practice in Utah with expertise in geotechnical engineering based on:

i. type, extent of fractures, presence of bedding planes, angle of dip.

ii. hydrogeology of surrounding area, and,

iii. cumulative effect of all existing and future systems within the area for any localized mounding or surfacing which may create a public health hazard or nuisance, description of methods used to determine infiltration rate and evaluation of surfacing or mounding conditions.

e. all other requirements of this rule for:

i. installation of absorption trenches in sloping ground, and,

ii. minimum horizontal distances in Table 2, except for watercourse, lake, pond, reservoir, non-culinary spring, foundation drain, curtain drain or grouted well which require a minimum of 50 feet of separation from absorption trench are met.

2. The design shall be based on:

a. a minimum of 300 gallons per day for two bedrooms and 100 gallons per day for each additional bedroom.

b. Intermittent Sand Filter System:

i. Media

(1). Depth - Minimum 24 inches of washed sand

(2). Effective size - 0.35 to 0.5 millimeter

(3). Uniformity Coefficient - less than 4.0

(4). Maximum Passing through #200 Sieve - one percent

ii. Maximum Application rate - 1.2 gallons per day per square foot of media surface area

iii. Maximum dose volume through any given orifice for each dosing is two gallons

c. Re-circulating Sand Filter System:

i. Media

(1). Depth - Minimum 24 inches of washed sand

(2). Effective size - 1.5 to 2.5 millimeter

(3). Uniformity Coefficient - 1.0 to 3.0

(4). Maximum Passing through #50 Sieve - one percent

ii. Maximum Application rate - 5.0 gallons per day per square foot of media surface area

iii. Maximum dose volume through any given orifice for each dosing is two gallons

d. Re-circulating Gravel Filter System:

i. Media

(1). Depth - Minimum 36 inches of washed gravel

(2). Effective size - 1.5 to 5.0 millimeter

(3). Uniformity Coefficient - less than 2.0

(4). Maximum Passing through #16 Sieve - one percent

ii. Maximum Application rate - 5.0 gallons per day per square foot of media surface area

iii. Maximum dose volume through any given orifice for each dosing is two gallons

e. Textile Filter System:

i. Media

(1). Geotextile, AdvanTex or approved equal

ii. Maximum Application rate - 30.0 gallons per day per square foot of media surface area

iii. Maximum dose volume through any given orifice for each dosing is two gallons

f. Peat Filter:

i. Media

(1). Depth - Minimum 24 inches of peat media

(2). Effective size - 0.25 to 2.0 millimeter

ii. Maximum Application rate - 5 gallons per day per square foot of media

iii. Maximum dose volume through any given orifice for each dosing is two gallons.

3. The filter bed must be pressure dosed. Orifices or nozzles shall be of such size that the difference in discharge between the first orifice or nozzle and the last orifice or nozzle in each lateral is less than ten percent. The lateral ends must be equipped with fittings and or enclosures to allow cleaning and servicing from the surface.

4. Recirculation Tank Design:

a. Recirculation tank capacity shall be equal to:

i. at least design flow for one day, or,

ii. other volume supported by the basis of design and operation.

b. design shall include dosing rate, operating, surge and reserve capacities.

c. The recirculation ratio should be adjusted, as necessary during operation and maintenance inspections based on recorded wastewater flow rates; ranging from 3:1 to 7:1.

d. Access to the tanks shall seal odorous gases, be watertight and extend to the finished grade.

5. Outlet of septic tanks upstream of packed bed media shall be fitted with effluent filter.

6. Pumping Equipment and Controls:

a. The system shall be equipped with a programmable control panel. The controls shall be capable of controlling all functions incorporated or required in the design of the system. All system control panels must be equipped with an automatic visual or audible alarm indicating the failure of the pump, and shall remain on until turned off manually.

b. The control panel must include a pump run-time hour meter and a pump event counter or other acceptable flow measurement method.

c. The control panel must be installed within sight of the access risers.

d. The control panel must be rated for exterior use. The enclosure must be rated for NEMA 4X or better.

e. The pumps shall be capable of delivering the design flow at the calculated total dynamic head for the proposed system. Supporting hydraulic calculations and pump curve analysis must be submitted to the health department with the design.

f. The pump selected must be rated for the number of cycles anticipated at peak flow conditions.

7. Packed bed system media effluent shall be distributed by gravity or under pressure in an absorption trench designed:

a. in accordance with Table 7 of this rule for soils percolating between one to 60 minutes per inch; or,

b. Using the equation:

i.  $q = 2.1687 \times t^{(-0.3806)}$  where t is the percolation rate in minutes per inch, and q is in gallons per day per square foot, for absorption trenches or,  $q = 1.0414 \times t^{(-0.3603)}$  where t is the percolation rate in minutes per inch up to 30 minutes per inch, and q is in gallons per day per square foot, for absorption beds or,

ii. Area in square feet per bedroom =  $69.16 \times t^{(0.3806)}$  where t is the percolation rate in minutes per inch for absorption trenches or, area in square feet per bedroom =  $144.04 \times t^{(0.3603)}$  where t is the percolation rate in minutes per inch up to 30 minutes per inch, for absorption beds.

c. Dispersal area may be reduced by multiplying the area reduction factor shown in Table 16:

Table 16  
Area Reduction Factors

| System                       | Factor |
|------------------------------|--------|
| Intermittent Sand Filter     | 0.85   |
| Re-circulating Sand Filter   | 0.80   |
| Re-circulating Gravel Filter | 0.80   |
| Textile Filters              | 0.75   |
| Peat Filters                 | 0.80   |

d. Drip irrigation system may be used for packed bed media system effluent disposal based on type of soil and drip irrigation manufacturer's recommendations.

e. Minimum of two observation ports shall be provided within absorption area.

8. Performance of Packed Bed Media Systems

a. Packed bed media system performance shall be monitored at an interval not exceeding six calendar months for surfacing in absorption trench area, odors around filter systems, equipment malfunction, and effluent quality of a grab sample, before discharge to absorption trench, bed or drip irrigation system, showing no more than 20 nephelometric turbidity units (NTU), or five-day total carbonaceous biochemical oxygen demand and total suspended solids concentration of no more than 25 milligrams per liter.

b. Effluent turbidity exceeding 20 NTU shall be followed up with two successive week testing within a 30-day period from the first exceedance. When two successive effluent testing shows results in excess of 20 NTU, the system shall be deemed to be non-compliant requiring further evaluation with five-day total carbonaceous biochemical oxygen demand and total suspended solids concentrations, and a corrective action plan.

c. Corrective action is required where the effluent quality does not meet the minimum standard for more than 30 days.

d. For non-complying systems, the health department shall require and order:

i. all necessary steps such as maintenance servicing, repairs, and/or replacement of system components to correct malfunctioning or non-compliant system;

ii. effluent quality testing for turbidity, five-day total or carbonaceous biochemical oxygen demand, and suspended solids shall continue every two weeks until three successive samples are found to be in compliance;

iii. payment of fees for additional inspections, reviews and testing;

iv. evaluation of the system design including non-approved changes to the system, and the wastewater flow volume, the biological and or chemical loading to the system;

v. investigation of household practices related to the discharge of chemicals into the system, such as photo-finishing chemicals,

laboratory chemicals, excessive amount of cleaners or detergents, etc.; and

vi. additional tests or samples to troubleshoot the system malfunction.

B. Construction Details

i. The site shall be graded such that surface water drains away from the onsite wastewater system and adjoining area. [A. The following alternative onsite wastewater systems may be considered for use upon the executive secretary's approval of a written request from the local health department to administer an alternative onsite wastewater system program.

TABLE 15

| System             | Rule Reference |
|--------------------|----------------|
| Earth fill Systems | R317 4 11.2    |
| "At-Grade" Systems | R317 4 11.3    |
| Mound Systems      | R317 4 11.4    |

The local health department request for approval must include a description of their plan to properly manage these systems to protect public health and water quality. This plan must include:

1. Documentation of the adequacy of staff resources to manage the increased work load.

2. Documentation of the technical capability to administer the new systems including any training plans which are needed.

3. A description of measures to be taken by the local health department to insure that designers and installers of these systems are qualified.

4. A description of the methods which will be used to determine the maximum anticipated high ground water table elevation.

5. Documentation that the Local Board of Health and County Commission support this request.

6. A description of how these systems will be managed, inspected and monitored.

7. A ground water management plan which identifies maximum septic system densities to be allowed in order to prevent unacceptable degradation of ground water, or a schedule for completing an acceptable plan within one year. This requirement may be waived or modified by the executive secretary where it can be shown that these systems would be relatively few in number and widely separated, thereby having negligible impact on ground water quality, or where the ground water aquifers vary greatly over relatively short distances making such a ground water study impractical.

8. Documentation of the county's legal authority to implement and enforce correction of malfunctioning systems and their commitment to exercise this authority.

B. All alternative onsite wastewater systems shall be designed, installed and operated under the following conditions:

1. The ground water requirements shall be determined as shown in R317 4 5.

2. The local health department must advise the owner of the system of the alternative status of that type of system. The advisory must contain information concerning risk of failure, level of maintenance required, financial liability for repair, modification or replacement of a failed system and periodic monitoring requirements which are all specific to the type of system to be installed.

3. The local health department and the homeowner shall be provided with sufficient design, installation and operating information to produce a successful, properly operating installation.

4. The local health department is responsible for provision of, or oversight of an approved installation, inspection and maintenance and monitoring program for the systems. Such programs shall include



approved procedures for complete periodic maintenance and monitoring of the systems.

— 5. The local health department may impose more stringent design, installation, operating and monitoring conditions than those required by the Division.

— 6. All failures, repairs or alterations shall be reported to the local health department. All repairs or alterations must be approved by the local health department.

— C. When an alternative onsite wastewater system exists on a property, notification of the existence of that system shall be recorded on the deed of ownership for that property.

— 11.2. Installation in Earth Fill.

— A. Installation of absorption systems in earth fill will be allowed only by the regulatory authority having jurisdiction in accordance with these rules. Installation of absorption systems in earth fill is an alternative disposal method. Conditions for use of alternative onsite wastewater systems are shown in R317.4.11.

— B. Absorption trenches and absorption bed type systems may be placed in earth fill. Absorption trench systems placed in earth fill can only be installed over natural soils with a percolation rate range between five and 60 minutes per inch; and absorption bed systems over soils with a percolation rate range of five to 30 minutes per inch.

— C. Naturally existing soil with an unacceptable percolation rate may be removed and replaced with earth fill with an acceptable, in-place percolation rate, if the removal of the original soil does not cause other unacceptable site conditions and if acceptable natural soil exists below the replacement. The site must conform to all other acceptability conditions.

— D. The maximum acceptable existing slope of a site upon which an "at grade" or "above grade" onsite system can be placed with the use of earth fill is four percent.

— E. The minimum area of fill to be placed shall be sufficient to install a system sized for the number of bedrooms in the home, using the percolation rate of 60 minutes per inch. The fill area shall be sized to accommodate an absorption system for a home with a minimum of three bedrooms, and shall include all required clearances within, and outside of the fill and absorption system area.

— F. The area of original fill placement shall include that area required for a 100 percent replacement of the drainfield, with all required clearances. The area between trenches shall not be used for replacement area.

— G. The fill depth below the bottom of the absorption system shall not exceed six feet.

— H. The minimum separation between the natural ground surface and the anticipated maximum ground water table or saturated soil shall be twelve (12) inches.

— I. The earth fill shall be considered to be acceptably stabilized if it is allowed to naturally settle for a minimum period of one year, sized to result in its minimum required dimensions after the settling period. Mechanical compaction shall not be allowed.

— J. All onsite wastewater systems placed in earth fill shall conform to all other applicable requirements of R317.4, "Onsite Wastewater Systems".

— K. The onsite wastewater system and local area surrounding them shall be graded to drain surface water away from the absorption system.

— L. After the fill has settled for a minimum of one year, a minimum of two (2) percolation tests/soil exploration tests shall be conducted in the fill. One shall be conducted in the proposed absorption system area and one in the proposed replacement area of the fill. The suitably stabilized fill shall have an in-place percolation rate of between 15 and 45 minutes per inch.

— M. The maximum exposed side slope for fill surfaces shall be four horizontal to one vertical. When fill is placed where finished contours are above the natural ground surface, it shall extend from the center of the wastewater system at the same general top elevation for a minimum of ten feet in all directions beyond the limits of the disposal area perimeter below, before the beginning of the side slope. A suitable soil cap, which will support a vegetative cover, shall cover the entire fill body. The cap shall be provided with a vegetative cover. Access to the fill site shall be restricted to minimize erosion and other physical damage.

— 11.3. "At Grade" Systems.

— A. Where site conditions may restrict the installation of a standard absorption system, an "at grade" system may be used. It shall be designed, installed, operated and monitored in accordance with these rules. An "at grade" system is considered to be an alternative disposal method. Conditions for use of alternative wastewater systems are shown in R317.4.11.

— B. Absorption trenches and absorption bed type absorption systems may be placed in the "at grade" position. Absorption systems placed "at grade" can only be installed over natural soils with a percolation rate range between five and 60 minutes per inch; and absorption bed systems over soils with a percolation rate range of five to 30 minutes per inch.

— C. The minimum distance from the top of finished grade to the high seasonal ground water table or perched ground water table shall be four feet.

— D. When fill is placed where finished contours are above the natural ground surface, it shall extend from the center of the wastewater system at the same general top elevation for a minimum of ten feet in all directions beyond the limits of the disposal area perimeter below, before the beginning of the side slope.

— E. The maximum side slope for above ground fill shall be four (horizontal) : one (Vertical).

— F. Maximum acceptable slope of original site surface for placement of an "at grade" system is four percent.

— G. The site shall be cleared of vegetation and scarified to an approximate depth of six inches. Any furrows resulting from the scarification shall be perpendicular to any slope on the site.

— 11.4. Mound Systems.

— A. Where site conditions may restrict the use of a standard absorption system, a mound system may be used. It shall be designed, installed, operated and monitored in accordance with these rules. A mound system is considered to be an alternative disposal method. Conditions for use of alternative wastewater systems are shown in R317.4.11.1.

— B. The minimum separation between the natural ground surface and the anticipated maximum ground water table or saturated soil shall be twelve (12) inches.

— C. The two foot minimum thick unsaturated soil treatment horizon below the bottom of the absorption system shall consist of a minimum of one foot of suitable natural soil.

— D. Mound systems shall not be located on sites where the original prevailing surface grade exceeds four percent.

— E. All mound type onsite systems shall utilize pressurized systems for distribution of effluent in the absorption system.

— F. The local health department in whose jurisdiction the mounds with pressurized systems are to be used, shall have an approved maintenance program in place.

— G. The design effluent loading rate through the absorption system bottom to sand fill interface shall be 0.8 gallons per day per square foot of absorption system bottom area.

~~— H. The effluent loading rate at the sand fill to native soil interface shall as specified in Table 16:~~

~~TABLE 16  
Effluent Loading Rate from Sand Fill to the Natural Soil Surface~~

| <del>PERCOLATION RATE OF NATURAL SOIL (Minutes per inch)</del> | <del>UNIT</del>                            | <del>LOADING RATE</del> |
|--|--|-------------------------|
| <del>1-10</del>  | <del>gallons per day per square foot</del> | <del>0.45</del>         |
| <del>11-15</del>   | <del>gallons per day per square foot</del> | <del>0.40</del>         |
| <del>16-20</del>   | <del>gallons per day per square foot</del> | <del>0.35</del>         |
| <del>21-30</del>   | <del>gallons per day per square foot</del> | <del>0.30</del>         |
| <del>31-45</del>   | <del>gallons per day per square foot</del> | <del>0.25</del>         |
| <del>46-60</del>   | <del>gallons per day per square foot</del> | <del>0.20</del>         |

~~— I. The minimum thickness of aggregate media around the distribution pipes of the absorption system shall be the sum of six inches below the distribution pipe, the diameter of the distribution pipe and two inches above the distribution pipe or ten inches, whichever is larger.~~

~~— J. Mound systems shall be designed in accordance with "Mound Soil Absorption System Siting, Design and Construction Guidance Manual, April 1, 1996", which is hereby incorporated by reference. A copy is available for public review from the Division of Water Quality, 288 North 1460 West, P.O. Box 144870, Salt Lake City, UT, 84114-4870.~~

~~— 11.5. Supplemental Requirements for Maintenance and Monitoring of "At-Grade" and Earth-Fill Alternative Onsite Wastewater Systems.~~

~~— A. These requirements are to be applied in addition to the requirements specified in R317-4-13 where applicable.~~

~~— B. These systems shall be monitored at a period of six months and one year after initial use of the system and annually thereafter for a total of five years. Repairs shall be made at any time to a malfunctioning system, as soon as possible after the malfunction is discovered.~~

~~— C. The local health department in whose jurisdiction the alternative system is installed shall be responsible for formulation of, administration and supervision of a maintenance and monitoring program that is approved by the Division.~~

~~— 11.6. Supplemental Requirements for Maintenance and Monitoring of Pressure-Distribution Alternative Onsite Wastewater Systems.~~

~~— A. These requirements are to be applied in addition to the requirements specified R317-4-13, where applicable.~~

~~— B. These systems shall be monitored every six months throughout the life of the system. Repairs shall be made at any time to a malfunctioning system, as soon as possible after the malfunction is discovered.~~

~~— C. The local health department in whose jurisdiction the pressurized system is installed shall be responsible for formulation of, administration and supervision of a maintenance and monitoring program that is approved by the Division.~~

~~— D. Additional requirements for maintenance of these systems are contained in "Mound Soil Absorption System Siting, Design and Construction Guidance Manual, April 1, 1996", which is hereby incorporated by reference. A copy is available for public review from~~

~~the Division of Water Quality, 288 North 1460 West, P.O. Box 144870, Salt Lake City, UT, 84114-4870.]~~

**R317-4-12. Design, Installation, and Maintenance of Sewage Holding Tanks.**

12.1. Sewage Holding Tanks - Administrative Requirements.

A. Sewage holding tanks are permitted only under the following conditions:

1. Where an absorption system for an existing dwelling has failed and installation of a replacement absorption system is not practicable[-]; or,

2. As a temporary (not to exceed one year) wastewater system for a new dwelling until a connection is made to an approved sewage collection system[-]; or,

3. For other essential and unusual situations where both the Division and the local health department having jurisdiction concur that the proposed holding tank will be designed, installed and maintained in a manner which provides long-term protection of the waters of the state. Requests for the use of sewage holding tanks in this instance must receive the written approval of both agencies prior to the installation of such devices.

[4]B. Requests for the use of sewage holding tanks [~~under subparagraphs A and B above~~] must receive the written approval of the local health department prior to the installation of such devices.

[B]C. Except on those lots recorded and approved for sewage holding tanks prior to May 21, 1984, sewage holding tanks are not permitted for use in new housing subdivisions, or commercial, institutional, and recreational developments except in those instances where these devices are part of a specific watershed protection program acceptable to the Division and the local health department having jurisdiction.]

~~— C. The design, installation, and maintenance of all sewage holding tanks, except those for recreational and liquid waste pumper vehicles, must comply with the following:]~~

12.2. General Requirements. The design, installation, and maintenance of all sewage holding tanks, except those for recreational and liquid waste pumper vehicles, must comply with the following:

A. No sewage holding tank shall be installed and used unless plans and specifications covering its design and construction have been submitted to and approved by the appropriate regulatory authority.

B. A statement must be submitted by the owner indicating that in the event his sewage holding tank is approved, he will enter into a contract with an acceptable liquid waste pumping company, or make other arrangements meeting the approval of the regulatory authority having jurisdiction, that the tank will be pumped periodically, at regular intervals or as needed, and that the wastewater contents will be disposed of in a manner and at a facility meeting approval of those regulatory authorities.

C. If authorization is necessary for disposal of sewage at certain facilities, evidence of such authorization must be submitted for review.

12.3. Basic Plan Information Required. Plan information for each sewage holding tank, except those in recreational and liquid waste pumper vehicles, shall comply with the following criteria:

A. Location or complete address of dwelling to be served by sewage holding tank and the name, current address, and telephone number of the person who will own the proposed sewage holding tank.

B. A plot or site plan showing:

1. direction of north,
2. number of bedrooms,
3. location and liquid capacity of sewage holding tank,
4. source and location of domestic water supply,

5. location of water service line and building sewer, and
6. location of streams, ditches, watercourses, ponds, etc., near property.

C. Plan detail of sewage holding tank and high sewage level warning device.

D. Relative elevations of:

1. building floor drain,
2. building sewer,
3. invert of inlet for tank,
4. lowest plumbing fixture or drain in building served, and
5. the maximum liquid level of the tank.

E. Statement indicating the present and maximum anticipated ground water table.

F. Liquid waste pumping arrangements for sewage holding tank.

#### 12.4. Construction.

A. The tank shall be constructed of sound and durable material not subject to excessive corrosion and decay and designed to withstand hydrostatic and external loads. All sewage holding tanks shall comply with the manufacturing materials and construction requirements specified for septic tanks.

B. Construction of the tank shall be such as to assure water tightness and to prevent the entrance of rainwater, surface drainage or ground water. All prefabricated or precast sewage holding tanks which are commercially manufactured shall be plainly, legibly, and permanently marked or stamped on the exterior at the inlet end and within six inches of the top of the wall, with the name and address or nationally registered trademark of the manufacturer and the liquid capacity of the tank in gallons.

C. Tanks shall be provided with a maintenance access manhole at the ground surface or above and of at least 18 inches in diameter. Access covers shall have adequate handles and shall be designed and constructed in such a manner that they cannot pass through the access opening, and when closed will be child-proof and prevent entrance of surface water, dirt, or other foreign material, and seal the odorous gases in the tank.

D. A high water warning device shall be installed on each tank to indicate when it is within 75 percent of being full. This device shall be either an audible or a visual alarm. If the latter, it shall be conspicuously mounted. All wiring and mechanical parts of such devices shall be corrosion resistant and all conduit passage ways through the tank top or walls shall be water and vapor tight.

E. No overflow, vent, or other opening shall be provided in the tank other than those described above.

F. The regulatory authority may require that sewage holding tanks be filled with water and allowed to stand overnight to check for leaks. Tanks exhibiting obvious defects or leaks shall not be approved unless such deficiencies are repaired to the satisfaction of the regulatory authority.

G. The slope of the building sewer shall comply with R317-4-6.

12.5. Capacity. Each tank shall be large enough to hold a minimum of seven days sewage flow or 1,000 gallons, whichever is larger. The liquid capacity of the sewage holding tank should be based on sewage flows for the type of dwelling or facility being served (Table 3) and on the desired time period between each pumping. The length of time between pumpings may be increased by careful water management, low volume plumbing fixtures, etc.

12.6. Location. Sewage holding tanks must be located:

A. In an area readily accessible to the pump truck in any type of weather that is likely to occur during the period of use.

B. In accordance with the requirements for septic tanks as specified in Table 2.

C. Where it will not tend to float out of the ground due to a high ground water table or a saturated soil condition, since it will be empty or only partially full most of the time. In areas where the ground water table may be high enough to float the tank out of the ground when empty or partially full, adequate ground anchoring procedures shall be provided.

#### 12.7. Operation and Maintenance.

A. Sewage holding tanks shall be pumped periodically, at regular intervals or as needed, and the wastewater contents shall be disposed of in a manner and at a facility meeting the approval of the appropriate regulatory authority.

B. Sewage holding tanks for seasonal dwellings should be pumped out before each winter season to prevent freezing and possible rupture of the tank.

C. A record of pumping dates, amounts pumped, and ultimate disposal sites should be maintained by the owner and made available to the appropriate regulatory authorities upon request.

D. Sewage holding tanks shall be checked at frequent intervals by the owner or occupant and if leakage is detected it shall be immediately reported to the local health authority. Repairs or replacements shall be conducted under the direction of the local health authority. Major increases in the time of pumpings without significant changes in water usage could indicate leakage of the tanks.

E. Improper location, construction, operation, or maintenance of a particular holding tank may result in appropriate legal action against the owner by the regulatory authority having jurisdiction.

**KEY: waste water, onsite wastewater systems, alternative onsite wastewater systems, septic tanks**

**Date of Enactment or Last Substantive Amendment: [~~January 30, 2003~~2006]**

**Notice of Continuation: February 10, 2005**

**Authorizing, and Implemented or Interpreted Law: 19-5-104**

◆ ————— ◆

## Health, Health Care Financing, Coverage and Reimbursement Policy **R414-1-5** State Plan

### NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 28575

FILED: 03/24/2006, 16:17

### RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Subsection 26-18-3(2)(b) requires the Medicaid Program use rulemaking to implement policy. Therefore, the Utah Medicaid Program regularly goes through rulemaking to incorporate the most current Medicaid State Plan by reference.

SUMMARY OF THE RULE OR CHANGE: Subsection R414-1-5(2) is changed to update the incorporation of the State Plan by reference to September 1, 2005.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 26, Chapter 18

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: Utah Medicaid State Plan, September 1, 2005

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There have been 18 State Plan Amendments approved since this rule was last amended. The following eight have no budget impact: 03-015-UT Mental Health Services by Community Mental Health Centers; 03-024-UT Targeted Case Management for the Chronically Mentally Ill Reimbursement Methodology; 04-008A-UT Long Term Acute Care Project; 04-008B-UT Long Term Acute Care Project; 04-008C-UT Long Term Acute Care Project; 04-015 Targeted Case Management for the Chronically Mentally Ill; 04-016 Limited Disenrollment; and 04-018 Personal Care Services in a Recipient's Home. 03-017 Aged and Disabled Spenddown Level had a federal cost of \$2,300,000 and a state cost of \$912,300 in FY 2004 and a federal cost of \$2,300,000 with a state cost of \$892,700 in FY 2005; 04-005 Nursing Facility Payments had a federal cost of \$26,000,000 matched by \$10,091,100 in the form of a nursing facility tax in FY 2005; 04-007-UT Dental Services had no impact in 2004 and a federal cost of \$2,543,249 and a state cost of \$1,033,251 for FY 2005; 04-009 Diabetes Self-Management Training cost \$720 federal and \$280 state money in FY 2004 and \$2,773 federal and \$72,167 state in FY 2005; 04-011-UT Home Health Services had a federal cost of \$91,186 and a state cost of \$35,670 in FY 2004, and a federal cost of \$179,966 and a state cost of \$69,844 in FY 2005; 04-012 Rural Hospital Augmented DSH had an annual federal cost of \$1,563,050 and a state cost of \$606,650 in FY 2005; 04-013 Physician Payment Enhancement had a federal cost of \$10,694,850 matched by University of Utah seed money totaling \$4,150,850 in FY 2005, and a federal cost of \$10,694,850 matched by University of Utah seed money totaling \$4,345,050 in FY 2006; 05-003 San Juan County Reimbursement Enhancement, has an estimated annual federal cost of \$112,820 and an annual state cost of \$44,980; 05-006-UT External Quality Review Organizations, has an estimated annual federal cost of \$731,030 and an annual state cost of \$290,670; 05-007 Dental Changes has an annual federal budget impact of \$9,306,521 and an annual state impact of \$3,780,979.

❖ LOCAL GOVERNMENTS: 04-005 Nursing Facility Payments through federal matching funds and nursing facility taxes saw local nursing facilities receive payments of approximately \$36,091,100; and 04-012 Rural Hospital Augmented DSH provided payments to local government hospitals in the amount of \$2,169,700 in FY 2005.

❖ OTHER PERSONS: 04-005 Nursing Facility Payments required local government nursing facilities to pay a tax of \$10,091,100 in FY 2005. All of that was returned plus federal matching funds totaling \$36,091,100.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Individual nursing facilities and their patients will likely not be affected by the local government nursing facility tax of \$10,091,100 in FY 2005 (04-005 Nursing Facility Payments) since the federal match will more than offset the tax. The total coming to nursing facilities will be \$36,091,100.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This is necessary to keep Medicaid rules consistent with the federally approved State Plan. David N. Sundwall, MD, Executive Director

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Ross Martin or Craig Devashrayee at the above address, by phone at 801-538-6592 or 801-538-6641, by FAX at 801-538-6099 or 801-538-6099, or by Internet E-mail at [rmartin@utah.gov](mailto:rmartin@utah.gov) or [cdevashrayee@utah.gov](mailto:cdevashrayee@utah.gov)

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 05/15/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 05/16/2006

AUTHORIZED BY: David N. Sundwall, Executive Director

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

**R414-1. Utah Medicaid Program.**

**R414-1-5. State Plan.**

(1) As a condition for receipt of federal funds under title XIX of the Act, the Utah Department of Health must submit a State Plan contract to the federal government for the medical assistance program, and agree to administer the program in accordance with the provisions of the State Plan, the requirements of Titles XI and XIX of the Act, and all applicable federal regulations and other official issuances of the United States Department of Health and Human Services. A copy of the State Plan is available for public inspection at the Division's offices during regular business hours.

(2) The department adopts the Utah State Plan Under Title XIX of the Social Security Act Medical Assistance Program, in effect September 1, 200[4]5, which is incorporated by reference.

**KEY: Medicaid**

**Date of Enactment or Last Substantive Change:** ~~September 26, 2005~~ 2006

**Notice of Continuation:** April 30, 2002

**Authorizing, Implemented, or Interpreted Law:** 26-1-5; 26-18-1

◆ ————— ◆

**Health, Health Care Financing,  
Coverage and Reimbursement Policy  
R414-52  
Optometry Services**

**NOTICE OF PROPOSED RULE**

(Amendment)  
DAR FILE NO.: 28582  
FILED: 03/29/2006, 15:14

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rulemaking clarifies eligibility and service coverage for eyeglasses under the Optometry Program, in accordance with appropriations authorized by the 2006 General Session of the Utah Legislature.

SUMMARY OF THE RULE OR CHANGE: Section R414-52-3 clarifies that nonpregnant adult recipients ages 21 and older are no longer eligible for eyeglasses. This subsection also removes the reference to definitions of "categorically and medically needy." In Section R414-52-4, the words "and the provision of eyeglasses" are added to the list of optometry services, to clarify that eyeglasses are available to other categorically and medically needy individuals. In Section R414-52-2, the reference to the definition of the term "client" is removed. The title for Section R414-52-1 is changed to "Introduction and Authority." The change in this section also adds a state code citation and amends the federal citation previously listed.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-18-3 and 42 CFR 440.60 and 440.120(d)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There is no impact to the state budget because this rulemaking only clarifies eligibility and service coverage for eyeglasses under the Optometry Program. The companion filing for this rulemaking, Rule R414-53, details the state budget impact through the elimination of vision care services. (DAR NOTE: The proposed amendment to Rule R414-53 is under DAR No. 28583 in this issue.)

❖ LOCAL GOVERNMENTS: There is no budget impact to local governments because this rulemaking only clarifies eligibility and service coverage for eyeglasses under the Optometry Program, and there is no funding from local governments for vision care services.

❖ OTHER PERSONS: There is no budget impact to other persons because this rulemaking only clarifies eligibility and service coverage for eyeglasses under the Optometry Program. The companion filing for this rulemaking, Rule R414-53, details the budget impact to other persons through the elimination of vision care services.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs because this rulemaking only clarifies eligibility and service coverage for eyeglasses under the Optometry Program. The companion filing for this rulemaking, Rule R414-53, details the compliance costs for affected persons through the elimination of vision care services.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule will reduce the number of Medicaid recipients eligible to receive vision services and is necessary to stay within appropriations. David N. Sundwall, MD, Executive Director

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Craig Devashrayee or Don Hawley at the above address, by phone at 801-538-6641 or 801-538-6483, by FAX at 801-538-6099 or 801-538-6099, or by Internet E-mail at cdevashrayee@utah.gov or dhawley@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 05/15/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 05/16/2006

AUTHORIZED BY: David N. Sundwall, Executive Director

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

**R414-52. Optometry Services.**

**R414-52-1. Introduction and Authority[and Purpose].**

[Optometry services are authorized by 42 CFR, section 440.60, October 1992 edition, which addresses medical services provided by licensed practitioners.] The Optometry Program provides optometry services to meet the optometry needs of Medicaid clients. This rule is authorized under Utah Code 26-18-3 and governs the services allowed under 42 CFR 440.60.

**R414-52-2. Definitions.**

[(+) ]The definitions in the Utah Optometry Practice Act, Title 58, Chapter 16a, apply to this rule.[

— (2) For the purposes of this rule, "Client" has the same meaning as defined in R414-1-2.]

**R414-52-3. Client Eligibility Requirements.**

Optometry services are available to [C]categorically and [M]medically [N]needy individuals, except that non-pregnant adult recipients ages 21 and older do not receive eyeglasses under this rule. [Definitions of Categorically and Medically Needy individuals are found in R414-1-2.]

**R414-52-4. Service Coverage.**

(1) Optometry services include [the]examination, evaluation, diagnosis[;] and treatment of visual deficiency[;], removal of a foreign body[;], and the provision of eyeglasses.[and] In addition, Medicaid

medical services ~~[open to]~~ performed by physicians ~~[which]~~ may also be performed by optometrists under the Utah Optometry Practice Act.

(2) The optometrist must document in the patient record that the eye examination is medically necessary.

#### **R414-52-5. Reimbursement.**

(1) Fees for services for which the Department will pay optometrists are established from the physician's fees for CPT codes as described in the State Plan, Attachment 4.19-B, Section D Physicians. Fee schedules were initially established after consultation with provider representatives. Adjustments to the schedule are made in accordance with appropriations and to produce efficient and effective services.

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

**KEY: Medicaid, optometry**

**Date of Enactment or Last Substantive Amendment:** ~~January 1, 2004~~ 2006

**Notice of Continuation:** June 6, 2003

**Authorizing, and Implemented or Interpreted Law:** 26-1-5; 26-18-3



## Health, Health Care Financing, Coverage and Reimbursement Policy

### **R414-53**

#### **Eyeglasses Services**

#### **NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 28583

FILED: 03/29/2006, 15:24

#### **RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This rulemaking is necessary to keep expenditures for vision care services within appropriations authorized by the 2006 General Session of the Utah Legislature.

**SUMMARY OF THE RULE OR CHANGE:** In Section R414-53-3, the phrase "except for nonpregnant adult recipients ages 21 and older" is added to exclude that group from eyeglasses services. Also, the word "declares" is changed to "documents" throughout Section R414-53-4, to refer to a medically necessary determination made by a physician or optometrist.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 26-18-3 and 42 CFR 440.120(d)

**ANTICIPATED COST OR SAVINGS TO:**

❖ **THE STATE BUDGET:** There is an annual savings of \$780,900 to the state general fund and \$1,877,200 of federal funds.

❖ **LOCAL GOVERNMENTS:** There is no budget impact to local governments because there is no funding from local governments for vision care services.

❖ **OTHER PERSONS:** There is an aggregate cost of \$2,658,100 to eyeglasses providers and an aggregate cost of \$5,316,200 to Medicaid recipients who pay for eyeglasses at an out-of-pocket retail rate.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There is an average annual cost of \$4,567 to a single eyeglasses provider, based on the total number of 582 Medicaid eyeglasses providers and the estimate of one visit per year by a single client. There is also an estimated cost of \$225 to an individual Medicaid recipient who must pay for eyeglasses at an out-of-pocket retail rate.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** This rule will reduce the number of Medicaid recipients eligible to receive vision services and is necessary to stay within appropriations. David N. Sundwall, MD, Executive Director

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

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

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

Craig Devashrayee at the above address, by phone at 801-538-6641, by FAX at 801-538-6099, or by Internet E-mail at cdevashrayee@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 05/15/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 05/16/2006

AUTHORIZED BY: David N. Sundwall, Executive Director

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

##### **R414-53. Eyeglasses Services.**

##### **R414-53-1. Introduction and Authority.**

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

##### **R414-53-2. Definitions.**

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

**R414-53-3. Client Eligibility Requirements.**

Eyeglasses are available to [~~C~~]ategorically and [~~M~~]medically [~~N~~]eeded [~~clients~~] individuals except for non-pregnant adult recipients ages 21 and older.

**R414-53-4. Service Coverage.**

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

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

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

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

(5) The audiologist or hearing aid provider may provide frames that have hearing aids placed in the earpieces. The prescribing physician or optometrist must dispense the lenses for these frames.

(6) The following services may be provided if the prescribing physician or optometrist [~~declares them to be~~]documents that they are medically necessary:

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

**R414-53-5. Reimbursement.**

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

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

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

**KEY: Medicaid, eyeglasses**

**Date of Enactment or Last Substantive Amendment: ~~July 1, 2005~~ 2006**

**Notice of Continuation: June 6, 2003**

**Authorizing, and Implemented or Interpreted Law: 26-1-5; 26-18-3**

◆ ————— ◆

## Health, Health Systems Improvement, Child Care Licensing **R430-2** General Licensing Provisions, Child Care Facilities

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE No.: 28593

FILED: 03/31/2006, 14:31

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This change gives local health departments more time to prepare for kitchen inspections of licensed family providers

**SUMMARY OF THE RULE OR CHANGE:** The start date for the local health department to do kitchen inspections is July 1, 2006. The local health departments requested the July 1, 2006, start date.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Title 26, Chapter 39

**ANTICIPATED COST OR SAVINGS TO:**

❖ **THE STATE BUDGET:** There is no anticipated cost or savings to the state budget. This is only a change in the start date for kitchen inspections.

❖ **LOCAL GOVERNMENTS:** There is no anticipated cost or savings to local government. This is only a change in the start date for kitchen inspections.

❖ **OTHER PERSONS:** There is no anticipated cost or savings to other persons. This is only a change in the start date for kitchen inspections.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There are no compliance costs for other people associated with a change in the start date for kitchen inspections.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** This rule does not impose additional costs on businesses as the requirement for food safety inspections has been in the rule for some time. However, with the amendments and coordination with local health departments, there is an expectation that the inspection requirement will be more fully enforced. Local health departments indicate that the inspection fee will be about \$50 annually. As the inspection is required by statute and necessary for the protection of children under care, the costs are reasonable. David N. Sundwall, MD, Executive Director

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

HEALTH  
HEALTH SYSTEMS IMPROVEMENT,  
CHILD CARE LICENSING  
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:

Donna Thomas at the above address, by phone at 801-538-9294, by FAX at 801-538-6325, or by Internet E-mail at donnathomas@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 05/15/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 05/16/2006

AUTHORIZED BY: David N. Sundwall, Executive Director

#### **R430. Health, Health Systems Improvement, Child Care Licensing.**

##### **R430-2. General Licensing Provisions, Child Care Facilities.**

##### **R430-2-1. Authority and Purpose.**

This rule is adopted pursuant to Title 26, Chapter 39. It defines the standards that a person~~(s)~~ must follow to obtain a license for a child care facility.

##### **R430-2-3. Initial Application.**

(1) An applicant for a license shall submit to the Utah Department of Health a completed license application on a form furnished by the Department.

(2) Each applicant shall comply with all regulations, ordinances, and codes, zoning, fire, safety, sanitation, building and licensing laws of the city and county in which the facility is located. The applicant shall obtain the following clearances and submit them to the Department as part of the application:

(a) a certificate of fire clearance from the State Fire Marshal or designated local fire authority certifying compliance with local and state fire codes;

(b) beginning July 1, 2006, a satisfactory report by ~~a~~ the local health department for facilities providing food service; and

(c) a current local business license if required.

(3) The applicant shall:

(a) list all officers, members of the boards of directors, trustees, stockholders, partners, or other persons who have a greater than 25 percent interest in the facility;

(b) provide the name, address, percentage of stock, shares, partnership, or other equity interest of each person; and

(c) list, for all owners, all child care facilities in the state or other states in which they are officers, directors, trustees, stockholders, partners, or in which they hold any interest.

(4) The applicant shall provide the following written assurances on all individuals listed in R430-2-3(3):

(a) none of the persons has been convicted of a felony;

(b) none of the persons has been found in violation of any local, state, or federal law which arises from or is otherwise related to the individual's relationship to a child care facility;

(c) none of the persons within the five years prior to the date of application had an interest in a licensed child care facility that has been closed as a result of a settlement agreement resulting from a license revocation; and

(d) none of the persons has been convicted of child abuse, neglect, or exploitation.

(5) The applicant shall submit background clearance documents as required in R430-6.

(6) The applicant shall submit with the completed application a non-refundable license fee as established in accordance with Subsection 26-39-104(1)(c).

##### **R430-2-6. Expiration and Renewal.**

(1) Each license expires at midnight on the day designated on the license as the expiration date, unless previously revoked by the Department.

(2) ~~The~~ At least 30 days prior to the expiration of the current license, the licensee shall submit a completed license application, applicable fees and, beginning July 1, 2006 for facilities providing food service, a satisfactory report by a ~~the~~ local health department ~~for facilities providing food service to the Department 30 days before the current license expires~~.

(3) The Department shall not renew a license for a child care facility that discontinues child care services.

##### **KEY: child care facilities**

**Date of Enactment or Last Substantive Amendment:** ~~February 6,~~ **2006**

**Notice of Continuation:** **December 19, 2002**

**Authorizing, and Implementor Interpreted Law:** **26-39; 26-21-12; 26-21-13**



## Health, Health Systems Improvement, Child Care Licensing **R430-4** General Certificate Provisions

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 28594

FILED: 03/31/2006, 14:36

### RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Residential Certificate providers need to have a kitchen inspection from the local health departments when applying for a certificate and every other year at renewal of a certificate.

SUMMARY OF THE RULE OR CHANGE: The provisions requiring satisfactory reports from the local health department have been added to the rule.



STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 26, Chapter 39

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There is no anticipated cost or savings to the state budget. Having certified providers submit a copy of a kitchen inspection will not significantly increase the workload of state staff.

❖ LOCAL GOVERNMENTS: The local health departments will receive about \$61,850 every 2 years from certified providers for doing these inspections.

❖ OTHER PERSONS: All certified family providers will now be required to have a kitchen inspection with initial and bi-annual renewal applications. The local health departments have estimated the average cost at about \$50 an inspection, which will have an aggregate impact of \$30,925 annually.

COMPLIANCE COSTS FOR AFFECTED PERSONS: All certified family providers will now be required to have a kitchen inspection with initial and biennial renewal applications. The local health departments have estimated this cost to average about \$50 an inspection or \$25 per year.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: As the inspection is required by statute and necessary for the protection of children under care, the costs are reasonable and necessary. David N. Sundwall, MD, Executive Director

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

HEALTH  
HEALTH SYSTEMS IMPROVEMENT,  
CHILD CARE LICENSING  
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:

Donna Thomas at the above address, by phone at 801-538-9294, by FAX at 801-538-6325, or by Internet E-mail at donnathomas@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 05/15/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 05/16/2006

AUTHORIZED BY: David N. Sundwall, Executive Director

**R430. Health, Health Systems Improvement, Child Care Licensing.**

**R430-4. General Certificate Provisions.**

**R430-4-3. Definitions.**

(1) "Certificate Holder" means the legally responsible person who holds a valid Residential Certificate issued by the Department of Health.

(2) "Deficiency" means a violation of any rule provision.

(3) "Department" means the Department of Health.

(4) "Facility" means the building and adjacent property, equipment, and supplies devoted to the child care operation.

(5) "Fiscal Year" means the Department's financial year which starts the first of July and ends thirtieth of June.

~~(5)~~(6) "High Risk for Harm" means there is the potential for serious injury to a child.

~~(6)~~(7) "Inspection" means observation, measurement, review of documentation, and interview to determine compliance with rules.

~~(7)~~(8) "Investigation" means an in-depth inspection of specific alleged rule violations.

~~(8)~~(9) "Statement of Findings" means a statement of one or more specific rule violations which, if not corrected, will prompt the Department to take disciplinary action.

~~(9)~~(10) "Technical Assistance" means the noting of a rule violation and providing information on how to come into compliance.

**R430-4-4. Initial Application.**

(1) An applicant for a certificate shall submit to the Utah Department of Health a completed residential certificate application on a form furnished by the Department.

(2) Each applicant shall comply with all regulations, ordinances, and codes, zoning, fire, sanitation, building and licensing laws, of the city, county, municipality in which the home is located.

(3) The applicant shall submit the following documentation as part of the application:

(a) beginning July 1, 2006, a satisfactory report by the local health department for facilities providing food service;

~~(a)~~(b) five hours of Department-approved training in child care;

~~(b)~~(c) current CPR and First Aid certificates from a Department-approved source; and

~~(c)~~(d) background clearance documents as required in R430-6.

(4) The applicant shall submit with the application packet a non-refundable fee as established in accordance with 26-39-104(1)(c).

**R430-4-6. Expiration and Renewal of Certificate.**

(1) Each residential certificate expires at midnight on the day designated on the certificate, unless previously revoked by the Department.

~~(2) [The certificate holder shall submit a completed residential certificate application and applicable fees to the Department 30 days prior to the current certificate expiration.] To renew a certificate, the certificate holder must submit to the Department no less than 30 days prior to the current certificate expiration:~~

(a) a completed residential certificate application; and

(b) applicable fees.

(3) After June 30, 2006, for each renewal falling in a fiscal year that begins in an even-numbered calendar year, a certificate holder that provides food service must also submit with the application a satisfactory report from the local health department.

(4) A certificate holder that fails to renew its certificate by the certificate expiration date may have an additional 30 days to complete the renewal if the certificate holder pays a late fee.

~~(4)~~5 The Department shall not renew a residential certificate for a facility that is no longer providing child care.

**R430-4-10. Compliance Assurance.**

(1) The Department shall conduct an announced and unannounced inspection of each certified facility to:

- (a) determine compliance with rules;
- (b) verify compliance with conditions placed on a certificate in a conditional status; and
- (c) verify compliance with variance conditions.

(2) If allegations of child abuse, child neglect or serious health hazards in or around the provider's home [~~(see UCA 26-39-105.5(1)(d))~~] are reported to the Department, the Department shall conduct a complaint investigation.

(a) The Department shall not investigate complaints from an anonymous source.

(b) The Department shall inform complainants that they are guilty of a class B misdemeanor if they are giving false information to the Department with the purpose of inducing a change in a certification status.

**R430-4-15. Revocation.**

(1) The Department may revoke a certificate if the certificate holder:

- (a) fails to meet the conditions of a conditional status;
- (b) violates the Child Care Licensing Act;
- (c) provides false or misleading information to the Department;
- (d) refuses to submit or make available to the Department any written documentation required to do an inspection or investigation;
- (e) refuses to allow authorized representatives of the Department access to a facility to ascertain compliance to rules;
- (f) fails to provide, maintain, equip, and keep the facility in a safe and sanitary condition; or
- (g) has committed acts that would exclude a person from being licensed or certified under R430-6,

(2) The Department may set the effective date of the revocation such that parents are given 10 business days to find other care for children.

**R430-4-19. Variances.**

(1) If a certificate holder or applicant cannot comply with a rule but can meet the intent of the rule in another way, he may apply for a variance to that rule. The Department cannot issue a variance to the background screening requirements of Section 26-39-107 and R430-6.

(2) A certificate holder or applicant requesting a variance shall submit a completed variance request form to the Department. The requests must include:

- (a) the name and address of the facility;
- (b) the rule from which the variance is being sought;
- (c) the time period for which the variance is being sought;
- (d) a detailed explanation of why the rule cannot be met;
- (e) the alternative means for meeting the intent of the rule;
- (f) how the health and safety of the children will be ensured;

and

(g) other justification that the certificate holder or applicant desires to submit.

(3) The Department may require additional information before acting on the request.

(4) The Department shall act upon each request for a variance within 60 days of the receipt of the completed request and all additional information required by the Department.

(5) If the Department approves the request, the certificate holder shall keep a copy of the approved variance on file in the facility and make it publicly available.

(6) The Department may grant variances for up to 12 months.

(7) The Department may impose health and safety conditions upon granting a variance.

(8) The Department may revoke a variance if:

(a) the provider is not meeting the intent of the varied rule by the documented alternative means;

(b) the facility fails to comply with the conditions of the variance; or

(c) a change in statute, rule, or case law affects the justification for the variance.

**R430-4-20. Statutory Penalties.**

(1) A violation of any rule is punishable by administrative civil money penalty of up to \$5,000 per day as provided in Utah Code Section 26-39-108 or other civil penalty of up to \$5,000 per day or a class B misdemeanor on the first offense and a class A misdemeanor on the second offense as provided in Utah Code, Title 26, Chapter 23.

(2) The Department may impose an administrative civil money penalty of up to \$100 per day to a maximum of \$10,000 for unlicensed or uncertified child care.

(3) The Department may impose an administrative civil money penalty of up to \$100 per day to a maximum of \$10,000 for each violation of the Child Care Licensing Act or the rules promulgated pursuant to that act.

(4) Any person intentionally making false statements or reports to the Department may be fined \$100 for each violation to a maximum of \$10,000.

(5) Assessment of any civil money penalty does not preclude the Department from also taking action to deny, revoke, condition, or refuse to renew a license or certificate.

(6) Assessment of any administrative civil money penalty under this section does not preclude injunctive or other equitable remedies.

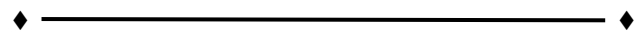
(7) Within 10 working days after receipt of a negative licensing action or imposition of a fine, each child care program must provide the Department with the names and mailing addresses of parents or legal guardians of each child cared for at the facility so the Department can notify the parents and guardians of the negative licensing action.

**KEY: child care facilities**

**Date of Enactment or Last Substantive Amendment:** ~~February 6, 2006~~

**Notice of Continuation:** July 7, 2003

**Authorizing and Implemented or Interpreted Law:** 26-39



Human Resource Management,  
Administration  
**R477-7**  
Leave

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 28570

FILED: 03/23/2006, 16:07

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This amendment will implement the provisions of H.B. 213, Unused Sick Leave at Retirement Amendments, passed in the general session of the 2005 General Session of the Utah Legislature, and clarify provisions governing an employees return to work. (DAR NOTE: H.B. 213 (2005) is found at Chapter 15, Laws of Utah 2005, and was effective 01/01/2006.)

SUMMARY OF THE RULE OR CHANGE: H.B. 213 created two categories of sick leave and converted sick leave; leave earned prior to December 31, 2005, is Program I sick leave and converted sick leave, and leave earned after January 1, 2006, is Program II sick leave and converted sick leave. The benefits earned with Program I differs from the benefits earned with Program II. Amendments to Section R477-7-5 provide that 25% of converted sick leave will be placed in the employees 401(k) account upon retirement. The remainder will be used to purchase health care premiums if it is Program I converted sick leave or will be placed in the Public Employees Health Program (PEHP) health reimbursement program if it is Program II converted sick leave. Amendments to Subsection R477-7-6(1) require the gradual elimination of the number of years the state will pay for health insurance prior to age 65 from 5 years in 2006 to zero years in 2011; the placement of 25% of the value of the employee's sick leave into a 401(k) account at retirement; and the gradual elimination of the mandatory deduction from the employee's sick balance from 480 hours in 2006 to 0 hours in 2011. Remaining amendments to this subsection make it mandatory that sick leave hours remaining after the 401(k) contribution and the deduction shall be used to purchase health insurance premiums and move existing language for clarity. Subsection R477-7-6(2) is a new subsection providing for the disposition of leave hours in Program II. Twenty five percent of the value of those hours shall be contributed into a 401(k) account with the remainder placed into the PEHP health reimbursement program. Amendments to Sections R477-7-13, R477-7-16 and R477-7-17 simply require agencies to comply with appropriate state and federal laws when an employee returns to work from leave of absence without pay, workers' compensation or long term disability. Provisions are found throughout the Department of Human Resource Management (DHRM) rules for dealing with the Family Medical Leave Act, the Americans with Disabilities act, the Uniformed Services Employment and Reemployment Rights Act and other human resource laws. (DAR NOTE: A corresponding 120-day (emergency) rule to Rule R477-7 is under DAR No. 28571 in this issue, and was effective 04/01/2006.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 67-19-6 and Subsection 67-19-14(2)

## ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The fiscal note to H.B. 213 estimates a cost to the state budget of \$200,000 in fiscal year 2006 and \$50,000 in fiscal year 2007 because of anticipated early retirements by employees wishing to avoid the discontinuance of some of the benefits prescribed by the bill. After that the state should realize substantial savings over time as more and more employee sick leave is shifted into the health care reimbursement program from the purchase of more expensive health insurance premiums.

❖ LOCAL GOVERNMENTS: This rule only affects the executive branch of state government and will have no impact on local governments.

❖ OTHER PERSONS: This rule only affects the executive branch of state government and will have no impact on other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The cost identified above will affect the Utah Retirement System and have little impact on state agencies.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Rules published by DHRM have no direct effect on businesses or any entity outside state government. DHRM has authority to write rules only to the extent allowed by various provisions of the Utah Personnel Management Act, Title 67, Chapter 19. These provisions limit the provision of career service and these rules to employees of the executive branch of state government. The only possible impact may be a very slight, indirect effect of an agency passes costs or saving on to business through fees. However, it is anticipated that the minimal costs associated with these changes will be absorbed by agency budgets and will have no effect on business. Jeff Herring, Executive Director

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:

Linda Cooper at the above address, by phone at 801-538-3208, by FAX at 801-538-3081, or by Internet E-mail at LKCOOPER@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 05/15/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 05/16/2006

AUTHORIZED BY: Jeff Herring, Executive Director

**R477. Human Resource Management, Administration.****R477-7. Leave.****R477-7-5. Converted Sick Leave.**

~~As an incentive to reduce sick leave abuse, an~~ An employee may convert sick leave hours to converted sick leave after the end of the last pay period of the calendar year in which the employee is eligible.

~~(1)(a) Converted sick leave hours accrued prior to January 1, 2006 shall be program I converted sick leave hours.~~

~~(b) Converted sick leave hours accrued after January 1, 2006 shall be program II converted sick leave hours.~~

~~(1)2~~ To be eligible, an ~~employee's sick leave account~~ employee must have accrued a ~~minimum~~ total of 144 hours or more of sick leave in program I and program II combined at the beginning of the first pay period of the calendar year.

(a) At the end of the last pay period of a calendar year in which an employee is eligible, all unused sick leave hours accrued that year in excess of 64 shall be converted to program II converted sick leave. ~~In the event the employee has the maximum accrued in converted sick, these hours will be added to the annual leave account balance. An employee who does not wish to have the sick leave converted shall notify agency management no later than the end of February. The converted sick leave hours will then be returned to the sick leave account.~~

~~(b) The maximum hours of converted sick leave an employee may accrue in program I and program II combined is 320.~~

~~(c) If the employee has the maximum accrued in converted sick leave, these hours will be added to the annual leave account balance.~~

~~(d) In order to prevent or reverse the conversion, an employee shall:~~

~~(i) notify agency management no later than the last day of the last pay period of the calendar year in order to prevent the conversion; or~~

~~(ii) notify agency management no later than the end of February in order to reverse the conversion.~~

~~(b)1~~ Upon separation, an eligible employee may convert any unused sick leave hours accrued in the current calendar leave year in excess of 64 to converted sick leave hours in program II.

~~(c) The maximum hours of converted sick leave an employee may accrue is 320.~~

~~(2)3~~ ~~Converted~~ An employee may use converted sick leave ~~may be used~~ as annual leave ~~or as~~ regular sick leave ~~or as paid health and life insurance at the time of retirement for employees under age 65. If an employee is 65 years of age or older at the time of retirement, converted sick leave may be used to purchase a Medicare supplement.~~

~~(a) Payment for health and life insurance is the responsibility of the employing agency.~~

~~(b) The purchase rate shall be eight hours of converted sick leave for the state paid portion of the premium for one month's coverage for health and life insurance.~~

~~(c) The retiree shall pay the same percentage of the premium as a current employee on the same plan.~~

(4) Upon retirement, 25 percent of the value of the unused converted sick leave, but not to exceed Internal Revenue Service limitations, shall be placed in the employee's 401 (k) account as an employer contribution.

(a) Converted sick leave hours from program II shall be placed in the 401 (k) account before hours from program I.

(b) The remainder shall be used for:

(i) the purchase of health care insurance and life insurance as provided in R477-7-6(3)(c) if the converted sick leave was accrued in program I; or

~~(ii) a contribution into the employees PEHP health reimbursement account as provided in R477-7-6(4)(b) if the converted sick leave was accrued in program II.~~

**R477-7-6. Sick Leave Retirement Benefit.**

Upon retirement from active employment, an employee ~~may be offered a~~ shall receive an unused sick leave retirement benefit ~~program, according to Section 67-19-14(2)]~~ under the provisions of Section 67-19-14.2 and Section 67-19-14.4.

~~(1)(a) Sick leave hours accrued prior to January 1, 2006 shall be program I sick leave hours.~~

~~(b) Sick leave hours accrued after January 1, 2006 shall be program II sick leave hours.~~

~~(1)2~~ ~~This program is optional for each agency.~~ An agency may offer the Unused Sick Leave Retirement Option Program I to an employee who is eligible to receive retirement benefits. However, any decision whether or not to participate in this program shall be agency wide and shall be consistent through an entire fiscal year.

(a) If an agency decides to withdraw for the next fiscal year after initially deciding to participate, the agency must notify all employees at least 60 days before the new fiscal year begins.

(3) An employee in a participating agency shall receive the following benefit provided by the Unused Sick Leave Retirement Options Program I.

(a) Continuing health and life insurance.

~~(b)1~~ The employing agency shall provide the same health and life insurance benefits as provided to current employees ~~for five years or~~ until the employee reaches the age eligible for Medicare or up to the following number of years, whichever comes first.

~~(A) five years if the employee retires during calendar year 2006;~~

~~(B) four years if the employee retires during calendar year 2007;~~

~~(C) three years if the employee retires during calendar year 2008;~~

~~(D) two years if the employee retires during calendar year 2009;~~

~~(E) one year if the employee retires during calendar year 2010; or~~

~~(F) zero years if the employee retires after calendar year 2010.~~

~~(b)2~~ Health insurance provided shall be the same coverage carried by the employee at the time of retirement; i.e., family, two-party, or single. If the employee has no health coverage in place upon retirement, none shall be offered or provided.

~~(b)3~~ Life insurance provided shall be the minimum authorized coverage provided for all state employees at the time the employee retires.

~~(b)4~~ The retiree shall pay the same percentage of the premium as a current employee on the same plan.

(2) Employee participation in any part of this incentive program shall be voluntary, but the decision to participate shall be made at retirement.

(3) An employee may elect to receive a cash payment, or transfer to an approved 401(k) or 457 account, up to 25 percent of his accrued unused sick leave at his current rate of pay. ~~(b) Twenty five percent of the value of the unused sick leave, but not to exceed Internal Revenue Service limitations, shall be placed in the employees 401(k) account as an employer contribution.~~

(i) Sick leave hours from program II shall be placed in the 401(k) account before hours from program I.

~~(4)2~~ After the ~~election for cash out~~ 401(k) contribution is made, ~~480 hours~~ an additional amount shall be deducted from the employees remaining sick leave balance as follows.

~~(A) 480 hours if the employee retires during calendar year 2006;~~

~~(B) 384 hours if the employee retires during calendar year 2007;~~

~~(C) 288 hours if the employee retires during calendar year 2008;~~  
~~(D) 192 hours if the employee retires during calendar year 2009;~~  
~~(E) 96 hours if the employee retires during calendar year 2010; or~~  
~~(F) zero hours if the employee retires after calendar year 2010.~~

~~(S)(c) The [employee may use] remaining sick leave hours [to participate in the following incentive program] and converted sick leave hours from R477-7-5(4)(b)(i) shall be used to provide the following benefit.~~

~~(a)(i) The [retiree may] purchase of PEHP health insurance, or a state approved program, and life insurance coverage for [himself] the employee until he reaches the age eligible for Medicare.~~

~~(i)(A) Health insurance shall be the same coverage carried by the employee at the time of retirement; i.e., family, two-party, or single.~~

~~(ii) Life insurance provided shall be the minimum authorized coverage provided for state employees at the time the employee retires.~~

~~(iii)(B) The purchase rate shall be eight hours of sick leave or converted sick leave for the state paid portion of one month's premium.~~

~~(iv)(C) The employee shall pay the same percentage of the premium as a current employee on the same plan.~~

~~(D) Life insurance provided shall be the minimum authorized coverage provided for state employees at the time the employee retires.~~

~~(ii) When the employee reaches the age eligible for Medicare, he may purchase a Medicare supplement policy provided by PEHP for himself at the rate of eight hours of sick leave or converted sick leave for one month's premium.~~

~~(b)(iii) After the employee reaches the age eligible for Medicare, he may purchase PEHP [Preferred Care] health insurance, or a state approved [cost equivalent] program for a spouse until the spouse reaches the age eligible for Medicare.~~

~~(i)(A) The purchase rate shall be eight hours of sick leave or converted sick leave for one month's premium.~~

~~(B) The employee shall pay the same percentage of the premium as a current employee on the same plan.~~

~~(c) When the employee reaches the age eligible for Medicare, he may purchase a high option Medicare supplement policy for himself at the rate of eight hours of sick leave or converted sick leave for one month's premium.~~

~~(d)(iv) When the spouse reaches the age eligible for Medicare, the employee may purchase a [high option] Medicare supplement policy provided by PEHP for the spouse at the rate of eight hours of sick leave or converted sick leave for one month's premium.~~

~~(e)(v) In the event an employee is killed in the line of duty, the employee's spouse shall be eligible to use the employee's available sick leave hours for the purchase of health and dental insurance as provided in [R477-7-6]Section 67-19-14.3.~~

~~(4) An employee shall receive the following benefit provided by the Unused Sick Leave Retirement Option Program II.~~

~~(a) Twenty five percent of the value of the unused sick leave, but not to exceed Internal Revenue Service limitations, shall be placed in the employee's 401(k) account as an employer contribution.~~

~~(b) After the 401(k) contribution the remaining sick leave hours and the converted sick leave hours from R477-7-5(4)(b)(ii) shall be deposited in the employees PEHP health reimbursement account at the greater of:~~

~~(i) the employees rate of pay at retirement, or~~

~~(ii) the average rate of pay of state employees who retired in the same retirement system in the previous calendar year.~~

#### **R477-7-13. Leave of Absence Without Pay.**

(1) An employee shall apply in writing to agency management for approval of a leave of absence without pay. Approval may be granted for continuous leave for up to 12 months from the last day worked.

(a) The employee shall be entitled to previously accrued annual and sick leave.

(b) If unable to return to work within the time period granted, the employee shall be separated from state employment unless prohibited by state or federal law to include but not limited to the Americans with Disabilities Act.

~~(c) If an employee returns to work on or before the expiration of leave without pay and is unable to perform the essential functions of the position because of a permanent disability that qualifies as a disability under the ADA, the agency shall offer the employee a reassignment to one or more immediately available vacant positions, for which the employee qualifies, and whose essential functions the employee is able to perform without a reasonable accommodation. If no position is immediately available the employee shall be separated from state employment.~~

#### (2) Nonmedical Reasons

(a) Leave without pay may be granted only when there is an expectation that the employee will return to work. This section does not apply for military leave.

(b) Agency management may approve leave without pay for an employee even though annual or sick leave balances exist. An employee may take up to ten consecutive working days of leave without pay without affecting the leave accrual rate.

(c) An employee who receives no compensation for a complete pay period shall be responsible for payment of the full premium of state provided benefits.

(d) An employee who returns to work on or before the expiration of leave without pay shall be placed in a position with comparable pay and seniority to the previously held position.

#### (3) Medical Reasons

(a) An employee who is ineligible for FMLA, Workers Compensation, or Long Term Disability may be granted leave without pay for medical reasons.

(b) Medical leave without pay may be granted for no more than 12 months. Medical leave may be approved if a registered health practitioner certifies that an employee is temporarily disabled.

(c) An employee who is granted this leave shall provide a monthly status update to the employee's supervisor.

#### **R477-7-16. Workers Compensation Leave.**

(1) An employee may use accrued leave benefits to supplement the workers compensation benefit.

(a) The combination of leave benefit and workers compensation benefit shall not exceed the employee's gross salary. Leave benefits shall only be used in increments of one hour in making up any difference.

(b) The use of accrued leave to supplement the worker compensation benefit shall be terminated if:

(i) the employee is declared medically stable by licensed medical authority;

(ii) the workers compensation fund terminates the benefit;

(iii) the employee has been absent from work for one year;

(iv) the employee refuses to accept appropriate employment offered by the state; or

(v) the employee receives Long Term Disability or Social Security Disability benefits.

(c) The employee shall refund to the state any accrued leave paid which exceeds the employee's gross salary for the period for which the benefit was received.

(2) An employee will continue to accrue state paid benefits and leave benefits while receiving a workers compensation time loss benefit for up to one year.

(3) Health insurance benefits shall continue for an employee on leave without pay while receiving workers compensation benefits. The employee is responsible for the payment of the employee share of the premium.

(4) If the employee is able to return to work within one year of the last day worked, the agency shall place the employee in the previously held position or a similar position at a comparable salary range.

(5) If the employee is unable to return to work within 12 months, the employee shall be separated from state employment unless prohibited by state or federal law to include but not limited to the Americans with Disabilities Act.

(6) An employee who files a fraudulent workers compensation claim shall be disciplined according to the provisions of R477-11.

#### **R477-7-17. Long Term Disability Leave.**

(1) An employee who is determined eligible for the Long Term Disability Program (LTD) shall be granted up to one year of medical leave, if warranted by a medical condition.

(a) The medical leave begins on the last day the employee worked. LTD requires a three month waiting period before benefit payments begin. During this period, an employee may use available sick and converted sick leave. When those balances are exhausted, an employee may use other leave balances available.

(b) An employee determined eligible for Long Term Disability benefits shall be eligible for health insurance benefits the day after the last day worked. The employee is responsible for 10% of the health insurance premium during the first year of disability, 20% during the second year of disability, and 30% thereafter until the employee is no longer covered by the long term disability program.

Upon approval of the LTD claim:

(i) Biweekly salary payments that the employee may be receiving shall cease. If the employee received any salary payments after the three month waiting period, the LTD benefit shall be offset by the amount received.

(ii) The employee shall be paid for remaining balances of annual leave, compensatory hours and excess hours in a lump sum payment. This payment shall be made at the time LTD is approved unless the employee requests in writing to receive it upon separation from state employment. No reduction of the LTD payment shall be made to offset this payment. If the employee returns to work prior to one year after the last day worked, the employee has the option of buying back annual leave at the current hourly rate.

(iii) An employee with a converted sick leave balance at the time of LTD eligibility shall have the option to receive a lump sum payout of all or part of the balance or to keep the balance intact to pay for health and life insurance upon retirement. The payout shall be at the rate at the time of LTD eligibility.

(iv) An employee who retires from state government directly from LTD may be eligible for up to five years health and life insurance as provided in Subsection 67-19-14(2)(b)(ii).

(v) Unused sick leave balance shall remain intact until the employee retires. At retirement, the employee shall be eligible for the

cash payout and the purchase of health and life insurance as provided in Subsection 67-19-14(2)(c)(i).

(2) An employee shall continue to accrue service credit for retirement purposes while receiving long term disability benefits.

(3) Conditions for return from leave without pay shall include:

(a) If an employee is able to return to work within one year of the last day worked, the agency shall place the employee in the previously held position or similar position in a comparable salary range provided the employee is able to perform the essential functions of the job with or without a reasonable accommodation. ]

~~—(b) If an employee is unable to perform the essential functions of the position because of a permanent disability that qualifies as a disability under the ADA, the agency shall offer the employee a reassignment to one or more immediately available vacant positions, for which the employee qualifies, and whose essential functions the employee is able to perform without a reasonable accommodation.]~~

(e]b) If an employee is unable to return to work within one year after the last day worked, the employee shall be separated from state employment unless prohibited by state or federal law to include but not limited to the Americans with Disabilities Act.

(4) An employee who files a fraudulent long term disability claim shall be disciplined according to the provisions of R477-11.

**KEY: holidays, leave benefits, vacations**

**Date of Enactment or Last Substantive Amendment:** ~~July 2, 2005~~ **2006**

**Authorizing, and Implemented or Interpreted Law:** 49-9-203; 63-13-2; 67-19-6; 67-19-12.9; ~~67-19-14.5;~~ 67-19-14; 67-19-14.2; 67-19-14.4



## Insurance, Administration **R590-235** Medicare Prescription Drug Plan

### NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 28585

FILED: 03/30/2006, 14:49

### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this rule is to establish licensing and regulatory requirements in the State of Utah for a stand-alone prescription drug plan (PDP).

**SUMMARY OF THE RULE OR CHANGE:** The rule establishes licensing and regulatory requirements for a stand-alone PDP.

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

**ANTICIPATED COST OR SAVINGS TO:**

❖ **THE STATE BUDGET:** Stand-alone PDPs are already required to be licensed. This rule simply sets the standards and the process of licensure. As a result, it will have very little affect on the workload of department employees and will not affect incoming fees at all.

❖ LOCAL GOVERNMENTS: This rule will have no fiscal impact on local governments since it applies only to the relationship between licensed insurers and the department.

❖ OTHER PERSONS: Stand-alone PDPs are already required to be licensed. This rule clarifies the process for and standards of licensure. No additional costs are anticipated.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Stand-alone PDPs are already required to be licensed. This rule clarifies the process for and standards of licensure. No additional costs are anticipated.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule will have no fiscal impact on stand-alone prescription drug plans in Utah. D. Kent Michie, Commissioner

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jilene Whitby at the above address, by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at [jwhitby@utah.gov](mailto:jwhitby@utah.gov)

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 05/15/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 05/23/2006

AUTHORIZED BY: Jilene Whitby, Information Specialist

**R590. Insurance, Administration.**

**R590-235. Medicare Prescription Drug Plan.**

**R590-235-1. Authority.**

This rule is promulgated pursuant to Subsection 31A-2-201 (3), wherein the Commissioner is empowered to administer and enforce Title 31A, and to make administrative rules to implement the provisions of Title 31A.

**R590-235-2. Purpose and Scope.**

(1) The purpose of this rule is to establish licensing and regulatory requirements in the State of Utah for a stand-alone prescription drug plan (PDP).

(a) Title I of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, commonly referred to as the Medicare Modernization Act (MMA), created requirements for a new type of organization called a Prescription Drug Plan (PDP) to provide Medicare Part D benefits.

(b) Base requirements for contracts with PDP sponsors include state licensure as a risk bearing entity in the jurisdiction where the entity proposes to serve Medicare Part D beneficiaries.

(2) This rule applies to all entities that offer a stand alone PDP in the State of Utah.

**R590-235-3. Definitions.**

In addition to the definitions of Section 31A-1-301, the following definitions shall apply for the purpose of this rule:

(1) "Medicare" means the "Health Insurance for the Aged Act," Title XVIII of the Social Security Amendments of 1965, as then constituted or later amended.

(2) "Stand-Alone Medicare Prescription Drug Plan (PDP)" means a prescription drug plan, offered by insurers and other private companies to provide Medicare Part D benefits under the Medicare Modernization Act.

(a) Stand-Alone Medicare Prescription Drug Plan does not include a Medicare prescription drug plan included in the benefit package offered by a Medicare Advantage company.

(3) "Medicare Advantage Company" means a company selling a Medicare authorized product replacing Medicare Part A and Part B benefits.

**R590-235-4. Licensure and Regulatory Requirements.**

A PDP may be licensed and regulated as either a Utah domiciled health maintenance organization (HMO), a limited health plan (LHP), or an indemnity insurer, either Utah domiciled or foreign.

(1) Regulatory requirements for a Utah domiciled PDP organized as:

(a) an HMO or LHP are established by Title 31A, Chapter 8;

(b) an indemnity insurer are established by Title 31A, Chapter 5.

(2) Regulatory requirements for a foreign indemnity insurer are established by Title 31A, Chapter 14.

(3) A PDP is required to file Quarterly and Annual Statement Blanks in accordance with the instructions provided by the National Association of Insurance Commissioners (NAIC) and in accordance with Statutory Accounting Principles (SAP).

(4) A PDP applicant must apply for licensure using the NAIC Uniform Certificate of Authority Application forms:

(a) Primary Application Form for a domestic insurer PDP; or

(b) Expansion Application Form for a foreign indemnity insurer PDP.

**R590-235-5. Minimum Capital and Surplus Requirements.**

(1) The minimum capital or permanent surplus requirement is:

(a) \$400,000 for indemnity insurers, whether domestic or foreign;

(b) \$100,000 for an HMO; and

(c) for an LHP:

(i) may not be less than \$10,000 or exceed \$100,000.

(ii) the actual amount is to be set by the commissioner after a hearing and consideration of various factors.

(2) Risk-Based Capital (RBC) requirements, as outlined in Section 31A-17-602, are applicable regardless of the license type.

**R590-235-6. Enforcement Date.**

The commissioner will begin enforcing the provisions of this rule 45 days after adoption.

**R590-235-7. Severability.**

If any provision of this rule or the application of it to any person or circumstance is for any reason held to be invalid, the

remainder of the rule and the application of the provision to other persons or circumstances may not be affected by it.

**KEY: prescription drug plans**

**Date of Enactment or Last Substantive Amendment: 2006**

**Authorizing, and Implemented or Interpreted Law: 31A-2-201**



**Labor Commission, Safety**  
**R616-2-3**  
**Safety Codes and Rules for Boilers and**  
**Pressure Vessels**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 28564

FILED: 03/20/2006, 14:17

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of the rule change is to adopt the most current addendum (2005) of the National Board Inspection Code ANSI/NB-23 2004 Edition.

**SUMMARY OF THE RULE OR CHANGE:** This amendment incorporates by reference the December 31, 2005, addendum to the National Board Inspection Code ANSI/NB-23 edition. This addendum contains the following changes: 1) administrative clarifications and interpretations; 2) documentation of the repair forms; and 3) in-service inspection and repair of DOT (Department of Transportation) pressure vessels.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 34A-7-101 et seq.

**THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL:** National Board Inspection Code ANSI/NB-23 2005 addenda issued December 31, 2005

**ANTICIPATED COST OR SAVINGS TO:**

❖ **THE STATE BUDGET:** There will be no cost or savings to the state budget. The cost of the addendum itself was included in the original purchase price of the National Board Inspection Code. The addendum's requirements for in-service inspections pertain to federally-inspected boilers and pressure vessels and are not a part of state inspection requirements. The addendum's administrative changes are technical in nature and will not increase or decrease the Boiler and Elevator Safety Division's enforcement burden. Likewise, these technical changes will not increase or decrease the burden on the state in its capacity as a boiler and pressure vessel owner or operator.

❖ **LOCAL GOVERNMENTS:** There will be no cost or savings to local governments. The addendum's requirements for in-service inspections apply to federally-inspected boilers and

pressure vessels and are not a part of state inspection requirements. The administrative changes required by the addendum are technical in nature and will not impose any additional requirements on local government in their capacities as boiler or pressure vessel owners or operators.

❖ **OTHER PERSONS:** There will be no cost or savings to other persons. The addendum's requirements for in-service inspections apply to federally-inspected boilers and pressure vessels and are not a part of state inspection requirements. The administrative changes required by the addendum are technical in nature and will not impose any additional requirements on other persons in their capacities as boiler or pressure vessel owners or operators.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** While boiler and pressure vessel owners and operators will be subject to the addendum's administrative changes, those changes are technical in nature and do not require additional compliance effort or expense.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** Of the various provisions contained in the addendum incorporated by reference in this rule amendment, it is only the administrative changes that apply to boilers and pressure vessels under the jurisdiction of the Labor Commission's Boiler and Elevator Safety Division. Those administrative changes are essentially house cleaning items and will have no fiscal impact on business. The addendum's other provisions, pertaining to in-service inspections of federally-inspected boilers and pressure vessels, are outside the Labor Commission's jurisdiction. The Commission does not know whether the federal inspection authorities will adopt such provisions, or what the fiscal impact of such provisions may be. R. Lee Ellertson, Commissioner

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

**LABOR COMMISSION**  
**SAFETY**  
**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:**

Pete Hackford at the above address, by phone at 801-530-7605, by FAX at 801-530-6390, or by Internet E-mail at phackford@utah.gov

**INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 05/15/2006.**

**THIS RULE MAY BECOME EFFECTIVE ON: 05/16/2006**

**AUTHORIZED BY: R Lee Ellertson, Commissioner**



**R616. Labor Commission, Safety.**

**R616-2. Boiler and Pressure Vessel Rules.**

**R616-2-3. Safety Codes and Rules for Boilers and Pressure Vessels.**

The following safety codes and rules shall apply to all boilers and pressure vessels in Utah, except those exempted pursuant to Section 34A-7-101, and are incorporated herein by this reference in this rule.

A. ASME Boiler and Pressure Vessel Code (2004).

1. Section I Rules for Construction of Power Boilers published July 1, 2004, and the 2005 Addenda published July 1, 2005.

2. Section IV Rules for Construction of Heating Boilers published July 1, 2004, and the 2005 Addenda published July 1, 2005.

3. Section VIII Rules for Construction of Pressure Vessels published July 1, 2004, and the 2005 Addenda published July 1, 2005.

B. Power Piping ASME B31.1 (2004), issued August 16, 2004.

C. Controls and Safety Devices for Automatically Fired Boilers ASME CSD-1-1998; the ASME CSD-1a-1999 addenda, issued March 10, 2000; and the ASME CSD-1b (2001) addenda, issued November 30, 2001.

D. National Board Inspection Code ANSI/NB-23 (2004) issued December 31, 2004, and the 2005 Addendum issued December 31, 2005.

E. NFPA 85 Boiler and Combustion Systems Hazard Code 2004 Edition.

F. Recommended Administrative Boiler and Pressure Vessel Safety Rules and Regulations NB-132 Rev. 4.

G. Pressure Vessel Inspection Code: Maintenance Inspection, Rating, Repair and Alteration API 510 (1997); the 1998 Addenda, published December 1998, and Addendum 2, published December 2000.

**KEY: boilers, certification, safety**

**Date of Enactment or Last Substantive Amendment: ~~January 1,~~ 2006**

**Notice of Continuation: January 10, 2002**

**Authorizing, and Implemented or Interpreted Law: 34A-7-101 et seq.**



**Public Safety, Fire Marshal**  
**R710-3-3**  
**Amendments and Additions**

**NOTICE OF PROPOSED RULE**  
(Amendment)

DAR FILE NO.: 28578  
FILED: 03/29/2006, 08:33

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Utah Fire Prevention Board met on January 10, 2006, in a regularly scheduled Board meeting and proposed to amend Subsection R710-3-3(3.1.4), by adding an exception that allowed Group

R-4 occupancies with an approved fire alarm system to not be required to install an automatic fire sprinkler system under certain conditions.

SUMMARY OF THE RULE OR CHANGE: A summary of the proposed amendment to Subsection R710-3-3(3.1.4) is as follows: Group R-4 occupancies that do not exceed 4,500 gross square feet in size and do not have more than 16 residents are not required to install an automatic fire sprinkler system if the facility has an approved interconnected fire alarm system throughout. This exception has been in Rule R710-9 for several years and the Board felt it also needed to be installed in the rule it specifically impacts.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53-7-204

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There is no aggregate anticipated cost or savings to the state budget because this proposed amendment does not affect the state budget. The proposed change has been in use for a number of years and this is a clarification by adding the existing rule to the rule it specifically impacts.

❖ LOCAL GOVERNMENTS: There is no aggregate anticipated cost or savings to local government because this proposed amendment does not affect local government. The proposed change has been in effect for a number of years and this is a clarification by adding the existing rule to the rule it specifically impacts.

❖ OTHER PERSONS: There is no aggregate anticipated cost or savings to other persons because this proposed amendment does not affect other persons. This proposed amendment has been in effect for several years in the general Rule R710-9 and the Board wished to have it placed in this rule to make sure it wouldn't be missed if the specific rule was only used by the Assisted Living Facility owner.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no compliance cost for affected persons with the enactment of this rule amendment. Those affected by this rule amendment are associated with the Department of Human Services and have been using this rule amendment allowance for several years.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no fiscal impact on businesses for the enactment of this rule amendment. Robert L. Flowers, Commissioner

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

PUBLIC SAFETY  
FIRE MARSHAL  
Room 302  
5272 S COLLEGE DR  
MURRAY UT 84123-2611, or  
at the Division of Administrative Rules.

## DIRECT QUESTIONS REGARDING THIS RULE TO:

Brent Halladay at the above address, by phone at 801-284-6352, by FAX at 801-284-6351, or by Internet E-mail at bhallada@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 05/15/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 05/16/2006

AUTHORIZED BY: Ron L. Morris, Utah State Fire Marshal

**R710. Public Safety, Fire Marshal.****R710-3. Assisted Living Facilities.****R710-3-3. Amendments and Additions.**

## 3.1 General Requirements

3.1.1 All facilities shall be inspected annually and obtain a certificate of fire clearance signed by the AHJ.

3.1.2 All facility administrators shall develop emergency plans and preparedness as required in IFC, Chapter 4.

3.1.3 IFC, Chapter 9, Sections 907.3.1.2 and 907.3.1.8 is deleted.

3.1.4 IFC, Chapter 9, Section 903.2.7 is amended to add the following: Exception: Group R-4 fire areas not more than 4500 gross square feet and not containing more than 16 residents, provided the building is equipped throughout with an approved fire alarm system that is interconnected and receives its primary power from the building wiring and a commercial power system. This Exception does not apply to Type II Limited Capacity Assisted Living Facilities.

## 3.2 Type I Assisted Living Facilities

3.2.1 Type I Limited Capacity Assisted Living Facilities shall be constructed in accordance with IBC, Residential Group R-3, and maintained in accordance with the IBC and IFC.

3.2.2 Type I Limited Capacity Assisted Living Facility required exits shall not be secured with dead bolts, chains, or hasps. Deadbolts that are interconnected with the latch, and provide simultaneous retraction of both the deadbolt and the latch, by the turning of the latch, is permitted.

3.2.3 Residents in Type I Limited Capacity Assisted Living Facilities shall be housed on the first story only, unless an approved outside exit leading to the ground level is provided from any upper or lower level. Split entry/split level type homes in which stairs to the lower and upper level are equal or nearly equal, may have residents housed on both levels when approved by the AHJ.

3.2.4 In Type I Limited Capacity Assisted Living Facilities, resident rooms on the ground level, shall have escape or rescue windows as required in IFC, Chapter 10, Section 1025.

3.2.5 In Type I Limited Capacity Assisted Living Facilities an approved independent smoke detector shall be installed and maintained by location as required in IFC, Chapter 9, Section 907.2.10.1.2.

3.2.6 Type I Small Assisted Living Facilities shall be constructed in accordance with IBC, Residential Group R-4, and maintained in accordance with the IBC and IFC.

3.2.7 Type I Small Assisted Living Facility required exits shall not be secured with dead bolts, chains, or hasps. Deadbolts that are

interconnected with the latch, and provide simultaneous retraction of both the deadbolt and the latch, by the turning of the latch, is permitted.

3.2.8 Type I Large Assisted Living Facilities shall be constructed in accordance with IBC, Institutional Group I-1, and maintained in accordance with the IBC and IFC.

3.2.8.1 An automatic fire sprinkler system shall be provided throughout buildings classified as Group I. Listed quick response or residential sprinkler heads shall be installed in patient or resident sleeping areas.

3.2.9 In a Type I Assisted Living Facility, non-ambulatory persons are permitted after receiving approval for a variance from the Utah Department of Health as allowed in Utah Administrative Code, R432-2-18.

## 3.3 Type II Assisted Living Facilities

3.3.1 Type II Limited Capacity Assisted Living Facilities shall be constructed in accordance with IBC, Residential Group R-4, and maintained in accordance with the IBC and IFC.

3.3.2 Type II Limited Capacity Assisted Living Facilities shall have an approved automatic fire extinguishing system installed in compliance with the IBC and IFC, or provide a staff to a resident ratio of one to one on a 24 hour basis.

3.3.3 Type II Small Assisted Living Facilities shall be constructed in accordance with IBC, Institutional Group I-1, and maintained in accordance with the IBC and IFC.

3.3.3.1 An automatic fire sprinkler system shall be provided throughout buildings classified as Group I. Listed quick response or residential sprinkler heads shall be installed in patient or resident sleeping areas.

3.3.4 Type II Small Assisted Living Facilities shall have a minimum corridor width of six feet.

3.3.4.1 Type II Small Assisted Living Facilities licensed before November 16, 2004, shall have a minimum corridor width of six feet or a path of egress that is acceptable to the AHJ.

3.3.5 Type II Large Assisted Living Facilities shall be constructed in accordance with IBC, Institutional Group I-2, and maintained in accordance with the IBC and IFC.

3.3.5.1 An automatic fire sprinkler system shall be provided throughout buildings classified as Group I. Listed quick response or residential sprinkler heads shall be installed in patient or resident sleeping areas.

3.3.6 In Type II Assisted Living Facilities, where the clinical needs of the patients require specialized security, approved access controlled egress doors may be installed when all of the following are met:

3.3.6.1 The controlled egress doors shall unlock upon activation of the automatic fire sprinkler system or the automatic fire detection system.

3.3.6.2 The facility staff can unlock the controlled egress doors by either sensor or keypad.

3.3.6.3 The controlled egress doors shall unlock upon loss of power.

3.3.7 In Type II Assisted Living Facilities, where the clinical needs of the patients require approved, listed delayed egress locks, they shall be installed on doors as allowed in IBC, Section 1008.1.8.6. Section 1008.1.8.6(3) is deleted.

3.3.8 In a Type II Assisted Living Facility, non-ambulatory persons are permitted after receiving approval for a variance from the Utah Department of Health as allowed in Utah Administrative Code, R432-2-18.

3.4 Residential Treatment Assisted Living Facilities

3.4.1 Residential Treatment Limited Capacity Assisted Living Facility shall be constructed in accordance with IBC, Residential Group R-3, and maintained in accordance with the IBC and IFC.

3.4.2 Residential Treatment Limited Capacity Assisted Living Facility required exits shall not be secured with dead bolts, chains, or hasps. Deadbolts that are interconnected with the latch, and provide simultaneous retraction of both the deadbolt and the latch, by the turning of the latch, is permitted.

3.4.3 Residents in Residential Treatment Limited Capacity Assisted Living Facilities shall be housed on the first story only, unless an approved outside exit leading to the ground level is provided from any upper or lower level. Split entry/split level type homes in which stairs to the lower and upper level are equal or nearly equal, may have residents housed on both levels when approved by the AHJ.

3.4.4 In Residential Treatment Limited Capacity Assisted Living Facilities, resident rooms on the ground level, shall have escape or rescue windows as required in IBC, Chapter 10, Section 1025.

3.4.5 In Residential Treatment Limited Capacity Assisted Living Facilities an approved independent smoke detector shall be installed and maintained by location as required in IFC, Chapter 9, Section 907.2.10.1.2.

3.4.6 Residential Treatment Small Assisted Living Facilities shall be constructed in accordance with IBC, Residential Group R-4, and maintained in accordance with the IBC and IFC.

3.4.7 Residential Treatment Small Assisted Living Facility required exits shall not be secured with dead bolts, chains, or hasps. Deadbolts that are interconnected with the latch, and provide simultaneous retraction of both the deadbolt and the latch, by the turning of the latch, is permitted.

3.4.8 Residential Treatment Large Assisted Living Facilities shall be constructed in accordance with IBC, Institutional Group I-1, and maintained in accordance with the IBC and IFC.

3.4.8.1 An automatic fire sprinkler system shall be provided throughout buildings classified as Group I. Listed quick response or residential sprinkler heads shall be installed in patient or resident sleeping areas.

3.4.9 In a Residential Treatment Assisted Living Facility, non-ambulatory persons are permitted after meeting the requirements listed in Utah Administrative Code, R501-2-11, and receiving approval from the Office of Licensing, Utah Department of Human Services.

**KEY: assisted living facilities**

**Date of Enactment or Last Substantive Amendment:** ~~March 4, 2005~~ **May 16, 2006**

**Notice of Continuation:** June 19, 2002

**Authorizing, and Implemented or Interpreted Law:** 53-7-204



**Public Safety, Fire Marshal**  
**R710-4**  
**Buildings Under the Jurisdiction of the**  
**State Fire Prevention Board**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 28579

FILED: 03/29/2006, 13:27

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The Utah Fire Prevention Board met on March 14, 2006, in a regularly scheduled Board meeting and voted by motion to amend Rule R710-4 by updating an incorporated reference, making a grammatical correction, and amending the requirements of Time Out and Seclusion rooms.

**SUMMARY OF THE RULE OR CHANGE:** The proposed amendments to Rule R710-4 are as follows: 1) in Subsection R710-4-1(1.1), the Board proposes to update an incorporated reference by adopting the 2006 edition of NFPA 101, Life Safety Code, and no longer use the 2003 edition; 2) in Subsection R710-4-3(3.3.1), the Board proposes to correct the language used to designate the time period of fire alarms in schools to be consistent with the adopted state fire code; and 3) in Subsection R710-4-3(3.12), the Board proposes to amend the requirements for Time Out and Seclusion Rooms to be consistent with the adopted standards of the Utah Department of Education, State Risk Management, and the Department of Human Services.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 53-7-204

**THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL:** National Fire Protection Association (NFPA), Standard 101, Life Safety Code, 2006 edition

**ANTICIPATED COST OR SAVINGS TO:**

- ❖ **THE STATE BUDGET:** The aggregate anticipated cost to the state budget would be approximately \$650 to purchase the 2006 edition of NFPA 101, Life Safety Code.
- ❖ **LOCAL GOVERNMENTS:** There is no aggregate anticipated cost to local government because the proposed amendments to Rule R710-3 would only reference local government if they were enforcing this set of rules. There would be no cost or savings for the regulatory enforcement of the code.
- ❖ **OTHER PERSONS:** There could be an aggregate anticipated cost to other persons who would wish to purchase NFPA 101 at approximately \$66 each and there could be a cost at approximately \$500 for schools that would need to change the locking system on Time Out and Seclusion rooms already in existence. The amount of NFPA 101 codes purchased is totally unknown and the number of lock systems that need to be changed is also unknown. It therefore, is impossible to set an aggregate cost to these due to the unknown number of books purchased or the unknown number of locks changed.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There would be an approximate charge of \$66 per volume to purchase the 2006 edition of NFPA 101, Life Safety Code. There would be an approximate cost of \$500 to any school district that would need to update their locking systems on existing Time Out and Seclusion rooms.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There would be a cost of approximately \$66 each to receive a copy of NFPA 101, Life Safety Code. There would be an approximate cost of \$500 to update any locking systems on the Time Out and Seclusion rooms already in existence. These fiscal impacts are for increased fire and life safety and are reasonable additions to be expected. Robert L. Flowers, Commissioner

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

PUBLIC SAFETY  
FIRE MARSHAL  
Room 302  
5272 S COLLEGE DR  
MURRAY UT 84123-2611, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Brent Halladay at the above address, by phone at 801-284-6352, by FAX at 801-284-6351, or by Internet E-mail at bhallada@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 05/15/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 05/16/2006

AUTHORIZED BY: Ron L. Morris, Utah State Fire Marshal

## **R710. Public Safety, Fire Marshal.**

### **R710-4. Buildings Under the Jurisdiction of the State Fire Prevention Board.**

#### **R710-4-1. Adoption of Fire Codes.**

Pursuant to Title 53, Chapter 7, Section 204, of the Utah Code Annotated 1953, the Utah Fire Prevention Board adopts minimum rules for the prevention of fire and for the protection of life and property against fire and panic in any publicly owned building, including all public and private schools, colleges, and university buildings, and in any building or structure used or intended for use, as an asylum, hospital, mental hospital, sanitarium, home for the aged, assisted living facility, children's home or day care center, or any similar institutional type occupancy of any capacity; and in any place of assemblage where fifty (50) or more persons may gather together in a building, structure, tent, or room, for the purpose of amusement, entertainment, instruction, or education.

There is further adopted as part of these rules the following codes which are incorporated by reference:

1.1 National Fire Protection Association (NFPA), Standard 101, Life Safety Code (LSC), [~~2003~~2006] edition, except as amended by provisions listed in R710-4-3, et seq. The following chapters from NFPA, Standard 101 are the only chapters adopted: Chapter 18 - New Health Care Occupancies; Chapter 19 - Existing Health Care Occupancies; Chapter 20 - New Ambulatory Health Care Occupancies; Chapter 21 - Existing Ambulatory Health Care Occupancies; Chapter 22 - New Detention and Correctional Occupancies; Chapter 23 - Existing Detention and Correctional Occupancies; and other sections referenced within and pertaining to

these chapters only. Wherever there is a section, figure or table in NFPA 101 that references "NFPA 5000 - Building Construction and Safety Code", that reference shall be replaced with the "International Building Code".

1.2 National Fire Protection Association (NFPA), Standard 13, Installation of Sprinkler Systems, 2002 edition, except as amended by provisions listed in R710-4-3, et seq.

1.3 National Fire Protection Association (NFPA), Standard 13R, Installation of Sprinkler Systems - Residential Occupancies up to and Including Four Stories in Height, 2002 edition, except as amended by provisions listed in R710-4-3, et seq.

1.4 National Fire Protection Association (NFPA), Standard 72, National Fire Alarm Code, 2002 edition, except as amended by provisions listed in R710-4-3, et seq.

1.5 National Fire Protection Association (NFPA), Standard 70, National Electric Code (NEC), 2002 edition, as adopted by the Uniform Building Standards Act, Title 58, Chapter 56, Section 4, Utah Code Annotated 1953. Wherever there are sections or tables in the International Fire Code (IFC) that reference "ICC Electrical Standard", the reference to "ICC Electrical Standard" shall be replaced with "National Electric Code".

1.6 International Building Code (IBC), 2003 edition, as published by the International Code Council, Inc. (ICC), and as adopted under the authority of the Uniform Building Standards Act, Title 58, Chapter 56, Section 4, Utah Code Annotated 1953 and the Utah Administrative Code, R156-56-701.

1.7 International Fire Code (IFC), 2003 edition, as published by the International Code Council, Inc. (ICC), except as amended by provisions listed in R710-4-3, et seq.

1.8 International Mechanical Code (IMC), 2003 edition, as published by the International Code Council, Inc., and as adopted under the authority of the Uniform Building Standards Act, Title 58, Chapter 56, Section 4, Utah Code Annotated 1953 and the Utah Administrative Code, R156-56-701.

1.9 International Fuel Gas Code (IFGC), 2003 edition, as published by the International Code Council, and as adopted under the authority of the Uniform Building Standards Act, Title 58, Chapter 56, Section 4, Utah Code Annotated 1953 and the Utah Administrative Code, R156-56-701.

1.10 International Plumbing Code (IPC), 2003 edition, as published by the International Code Council, Inc., and as adopted under the authority of the Uniform Building Standards Act, Title 58, Chapter 56, Section 4, Utah Code Annotated 1953 and the Utah Administrative Code, R156-56-701.

1.11 Copies of the above codes are on file in the Office of Administrative Rules and the State Fire Marshal.

#### **R710-4-3. Amendments and Additions.**

##### **3.1 Administration**

3.1.1 IFC, Chapter 1, Section 102.3 is deleted and rewritten and follows: No change shall be made in the use or occupancy of any structure that would place the structure in a different division of the same group or occupancy or in a different group of occupancies, unless such structure maintains a reasonable level of fire and life safety and the change to use or occupancy does not create a distinct hazard to life or property as determined by the AHJ.

3.1.2 IFC, Chapter 1, Section 102.4 is deleted and rewritten as follows: The design and construction of new structures shall comply with the International Building Code. Repairs, alterations and additions to existing structures are allowed when such structure maintains a reasonable level of fire and life safety and the change

does not create a distinct hazard to life or property as determined by the AHJ.

3.1.3 IFC, Chapter 1, Section 102.5 is deleted and rewritten as follows: The construction, alteration, repair, enlargement, restoration, relocation or movement of existing buildings or structures that are designated as historic buildings are allowed when such historic structures maintains a reasonable level of fire and life safety and the change does not create a distinct hazard to life or property as determined by the AHJ.

### 3.2 Definitions

3.2.1 IFC, Chapter 2, Section 202, Educational Group E, Day care is amended as follows: On line three delete the word "five" and replace it with the word "four".

3.2.2 IFC, Chapter 2, Section 202, Institutional Group I-1 is amended to add the following:  
On line nine add "type 1" in front of the words "assisted living facilities".

3.2.3 IFC, Chapter 2, Section 202, Institutional Group I-2 is amended as follows: On line three delete the word "five" and replace it with the word "three". On line eight after the words "detoxification facilities" delete the rest of the paragraph, and add the following: "ambulatory surgical centers with two or more operating rooms where care is less than 24 hours and type 2 assisted living facilities. Type 2 assisted living facilities with five or fewer persons shall be classified as a Group R-4. Type 2 assisted living facilities with at least six and not more than 16 residents shall be classified as a Group I-1 facility.

3.2.4 IFC, Chapter 2, Section 202, Institutional Group I-2, Child care facility is amended as follows: On line two delete the word "five" and replace it with the word "four".

3.2.5 IFC, Chapter 2, Section 202, Institutional Group I-4 day care facilities, Child care facility is amended as follows: On line three delete the word "five" and replace it with the word "four". Also on line two of the Exception delete the word "five" and replace it with the word "four".

### 3.3 Fire Drills

3.3.1 IFC, Chapter 4, Section 405.2, Table 405.2, is amended to add the following footnotes:

c. Secondary schools in Group E occupancies shall have a fire drill conducted at least every two months, to a total of four fire drills during the nine-month school year. The first fire drill shall be conducted within ~~[the first two weeks of the school year]~~ 10 days of the beginning of classes.

d. A-3 occupancies in academic buildings of institutions of higher learning are required to have one fire drill per year, provided the following conditions are met:

1. The building has a fire alarm system in accordance with Section 907.2.
2. The rooms classified as assembly, shall have fire safety floor plans as required in Section 404.3.2(4) posted.
3. The building is not classified a high-rise building.
4. The building does not contain hazardous materials over the allowable quantities by code.

### 3.4 Door Closures

3.4.1 IFC, Chapter 7, Section 703.2. Add the following Exception. In Group E Occupancies, where the corridor serves an occupant load greater than 30 and the building does not have an automatic fire sprinkler system installed, the door closures may be of the friction hold-open type on classrooms doors with a rating of 20 minutes or less only.

## 3.5 Automatic Fire Sprinkler Systems and Commercial Cooking Operations

### 3.5.1 Inspection and Testing of Automatic Fire Sprinkler Systems

The owner or administrator of each building shall insure the inspection and testing of water based fire protection systems as required in IFC, Chapter 9, Section 901.6.

3.5.2 IFC, Chapter 9, Section 903.2.9 is amended to add the following: Exception: Group R-4 fire areas not more than 4500 gross square feet and not containing more than 16 residents, provided the building is equipped throughout with an approved fire alarm system that is interconnected and receives its primary power from the building wiring and a commercial power system.

3.5.3 IFC, Chapter 9, Section 903.6 is amended to add the following subsection: 903.6.2 Commercial cooking operation suppression. Automatic fire sprinkler systems protecting commercial kitchen exhaust hood and duct systems with appliances that generate appreciable depth of cooking oils shall be replaced with a UL300 listed system by May 1, 2004.

### 3.5.4 Water Supply Analysis

3.5.4.1 For proposed construction in both sprinklered and unsprinklered occupancies, the owner or architect shall provide an engineer's water supply analysis evaluating the available water supply.

3.5.4.2 The owner or architect shall provide the water supply analysis during the preliminary design phase of the proposed construction.

3.5.4.3 The water analysis shall be representative of the supply that may be available at the time of a fire as required in NFPA, Standard 13, Appendix A-9-2.1.

## 3.6 Alternative Automatic Fire-Extinguishing Systems

3.6.1 IFC, Chapter 9, Section 903.6 is amended to add the following subsection: 903.6.3 Dry chemical hood system suppression. Existing automatic fire-extinguishing systems using dry chemical that protect commercial kitchen exhaust hood and duct systems shall be removed and replaced with a UL300 listed system by January 1, 2006 or before that date when any of the following occurs: 1) Six year internal maintenance service; 2) Recharge; 3) Hydrostatic test date as indicated on the manufacturers date of the cylinders; or 4) Reconfiguring of the system piping.

3.6.2 IFC, Chapter 9, Section 903.6 is amended to add the following subsection: 903.6.4 Wet chemical hood system suppression. Existing wet chemical fire-extinguishing systems not UL300 listed and protecting commercial kitchen exhaust hood and duct systems shall be removed, replaced or upgraded to a UL300 listed system by January 1, 2006 or before that date when any of the following occurs: 1) Six year internal maintenance service; 2) Recharge; 3) Hydrostatic test date as indicated on the manufacturers date of the cylinder; or 4) Reconfiguration of the system piping.

### 3.7 Fire Alarm Systems

#### 3.7.1 Required Installations

3.7.1.1 All state-owned buildings, college and university buildings, other than institutional, with an occupant load of 300 or more, all schools with an occupant load of 50 or more, shall have an approved fire alarm system with the following features:

3.7.1.1.1 Smoke detectors shall be installed throughout all corridors and spaces open to the corridor at the maximum prescribed spacing of thirty feet on center and no more than fifteen feet from the walls or smoke detectors shall be installed as required in NFPA, Standard 72, Section 5.3.

3.7.1.1.2 In non or partially fire sprinklered buildings, automatic detectors shall be installed in each enclosed space, other than corridors, at maximum prescribed spacing as specified in Section 3.7.1.1.2 for smoke detectors or by the manufacturer's listing for heat detectors.

3.7.1.1.3 Manual fire alarm boxes shall be provided as required. In public and private elementary and secondary schools, manual fire alarm boxes shall be provided in the boiler room, kitchen, and main administrative office of each building, and any other areas as determined by the AHJ.

### 3.7.2 Main Panel

3.7.2.1 An approved key plan drawing and operating instructions shall be posted at the main fire alarm panel which displays the location of all alarm zones and if applicable, device addresses.

3.7.2.2 The main panel shall be located in a normally attended area such as the main office or lobby. Location of the Main Panel other than as stated above, shall require the review and authorization of the SFM. Where location as required above is not possible, an electronically supervised remote annunciator from the main panel shall be located in a supervised area of the building. The remote annunciator shall visually indicate system power status, alarms for each zone, and give both a visual and audible indication of trouble conditions in the system. All indicators on both the main panel and remote annunciator shall be adequately labeled.

### 3.7.3 System Wiring, Class and Style

3.7.3.1 Fire alarm system wiring shall be designated and installed as a Class A circuit in accordance with the following style classifications:

3.7.3.1.1 The initiating device circuits shall be designated and installed Style D as defined in NFPA, Standard 72.

3.7.3.1.2 The notification appliance circuits shall be designated and installed Style Z as defined in NFPA, Standard 72.

3.7.3.1.3 Signaling line circuits shall be designated and installed Style 6 or 7 as defined in NFPA, Standard 72.

### 3.7.4 Fan Shut Down

3.7.4.1 The fan shut down relay(s) in the air handling equipment shall be normally energized, and connected through and controlled by a normally closed contact in the fire alarm panel, or a normally closed contact of a remote relay under supervision by the main panel. The relays will transfer on alarm, and shall not restore until the panel is reset.

3.7.4.2 Duct detectors required by the IMC, shall be interconnected, and compatible with the fire alarm system.

### 3.7.5 Nuisance Alarms

3.7.5.1 IFC, Chapter 9, Section 907.20.5 is amended to add the following sentences: Increases in nuisance alarms shall require the fire alarm system to be tested for sensitivity. Fire alarm systems that continue after sensitivity testing with unwarranted nuisance alarms shall be replaced as directed by the AHJ.

### 3.8 Retroactive Installation of Automatic Fire Alarm Systems

3.8.1 IFC, Chapter 9, Sections 907.3.1.1, 907.3.1.2, 907.3.1.3, 907.3.1.4 and 907.3.1.9 are deleted.

### 3.9 Fireworks

3.9.1 IFC, Chapter 33, Section 3301.1.3, Exception 4 is amended to add the following sentence: Fireworks are permitted as allowed in UCA 53-7-220 and UCA 11-3-1.

### 3.10 Flammable and Combustible Liquids

3.10.1 IFC, Chapter 34, Section 3406.1 is amended to add the following special operation: 8. Sites approved by the AHJ.

3.10.2 IFC, Chapter 34, Section 3406.2 is amended to add the following: On line two after the word "sites" add the words "and sites approved by the AHJ". On line five after the words "borrow pits" add the words "and sites approved by the AHJ".

### 3.11 Health Care Facilities

3.11.1 LSC Chapters 18, 19, 20 and 21, Sections 18.1.2.4, 19.1.2.4, 20.1.2.2 and 21.1.2.2 (Exiting Through Adjoining Occupancies) exception is deleted.

3.11.2 LSC Chapter 19, Section 19.3.6.1, (Rooms Allowed open to Corridor) exceptions No. 1, No. 5, No. 6, and No. 8 are deleted.

3.11.3 IFC, Chapter 10, Section 1008.1.8.3 is amended to add the following: 5. Doors in Group I-1 and I-2 occupancies, where the clinical needs of the patients require specialized security measures for their safety, approved access controlled egress may be installed when all the following are met: 5.1 The controlled egress doors shall unlock upon activation of the automatic fire sprinkler system or the automatic fire detection system. 5.2 The facility staff can unlock the controlled egress doors by either sensor or keypad. 5.3 The controlled egress doors shall unlock upon loss of power. 6. Doors in Group I-1 and I-2 occupancies, where the clinical needs of the patients require approved, listed delayed egress locks, they shall be installed on doors as allowed in IFC, Section 1008.1.8.6.

### 3.12 Time Out and Seclusion Rooms

3.12.1 Time Out and Seclusion Rooms are allowed in occupancies ~~[fully]~~ protected by an automatic ~~[fire sprinkler system and]~~ fire alarm system.

3.12.2 A vision panel shall be provided in the room door for observation purposes.

3.12.3 Time Out and Seclusion Room doors may not be fitted with a lock ~~[which is not releasable from the inside provided the lock automatically releases by the operation of the fire alarm system or power outage]~~ unless it is a self-releasing latch that releases automatically if not physically held in the locked position by an individual on the outside of the door.

3.12.4 Time Out and Seclusion Rooms shall be located where a responsible adult can maintain visual monitoring of the person and room.

### KEY: fire prevention, public buildings

Date of Enactment or Last Substantive Amendment: ~~[July 19, 2005]~~ May 16, 2006

Notice of Continuation June 12, 2002

Authorizing, and Implemented or Interpreted Law: 53-7-204



## School and Institutional Trust Lands, Administration **R850-4-300** Fee Waivers

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 28562

FILED: 03/20/2006, 07:57

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Currently, there is no rule-based authorization for either the director or Board to waive fees for any reason. The purpose of this rule amendment is to allow the director to use his discretion in waiving fees when appropriate and in the best interests of the beneficiaries.

SUMMARY OF THE RULE OR CHANGE: The proposed amendment will allow the director to waive fees when appropriate and in the best interests of the beneficiaries. It also provides that the director will submit a report to the Board of Trustees, on a semi-annual basis, of any fees waived and the reasons for the waiver.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 53C-1-302(1)(a)(ii)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The agency anticipates that there will be a loss of less than \$700 per instance to the state budget as a result of the waived fee. However, the instances wherein the fees are waived will typically result in a non-monetary benefit to the agency such as an analysis or report, survey results, or to facilitate an agency-driven action.

❖ LOCAL GOVERNMENTS: It is not anticipated that there will be any cost or savings to local government except in the instance where the local government is the applicant, lessee, or permittee. In that case, the savings to local government would be the amount of the waived fee; being less than \$700.

❖ OTHER PERSONS: Other persons could anticipate a small savings if they are the applicant, lessee, or permittee and the director approved a waiver of fees. The amount of savings realized would be less than \$700, depending on the amount of the fee that would have been charged.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are not any compliance costs for affected persons as a result of allowing the director to waive fees when appropriate beyond what is already in place by rule or statute.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: In those instances where the imposition of a fee would be unfair to the business involved, and if waiving the fee would not violate the agency's fiduciary duty, an unnecessary fee could be waived. This rule amendment will serve as a benefit to business in every instance of its application. Kevin S. Carter, Director

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 801-538-5101, by FAX at 801-538-5118, or by Internet E-mail at kevincarter@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 05/15/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 05/16/2006

AUTHORIZED BY: Kevin S. Carter, Director

**R850. School and Institutional Trust Lands, Administration.**

**R850-4. Application Fees and Assessments.**

**R850-4-300. Fee Waivers.**

1. The director may waive any fees when appropriate and when doing so would not be adverse to the interests of the beneficiaries.

2. The director shall provide a semi-annual report to the Board of Trustees of any fees waived and the reasons for waiving the fees.

**KEY: administrative procedures, filing fees, rates**

**Date of Enactment or Last Substantive Amendment: [~~September 4, 1995~~ May 16, 2006]**

**Notice of Continuation: June 27, 2002**

**Authorizing, and Implemented or Interpreted Law: 53C-1-302(1)(a)(ii)**

◆ ————— ◆

School and Institutional Trust Lands,  
Administration  
**R850-5-200**  
Payments

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE No.: 28563

FILED: 03/20/2006, 08:00

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule amendment will allow the director to exercise the authority granted under the currently proposed amendment to Section R850-4-300 in waiving fees when appropriate and in the best interests of the beneficiaries. (DAR NOTE: The proposed amendment to Section R850-4-300 is under DAR No. 28562 in this issue.)

SUMMARY OF THE RULE OR CHANGE: Currently, Subsection R850-5-200(9) requires that rental payments received after the due date, which don't include a late fee, be returned to the lessee. The amendment of this rule will allow the director to exercise his discretion in whether or not the late fee can be waived and the late rental payment accepted.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 53C-1-302(1)(a)(ii)

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: It is anticipated that there could potentially be a cost to the agency budget due to the loss of fees in certain circumstances. However, because the fee waiver will only occur under circumstances where the waiver is in the best interests of the beneficiaries or there is a non-monetary benefit to the agency which compensates for the lost revenue, the amount of the loss will be very minimal.
- ❖ LOCAL GOVERNMENTS: The only savings that might be realized by local government is if the local government were the applicant, lessee, or permittee in the instance where the director granted a fee waiver. Were that to be the case, the savings to local government would be less than \$700, depending on the amount of the fee being waived.
- ❖ OTHER PERSONS: Other persons have the potential of saving the amount of the required fee if the director were to grant a waiver. The savings, based on the amount of the fee being waived, would be less than \$700.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no additional compliance costs for affected persons beyond what already exists in rule and statute.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: In those instances where the imposition of a fee would be unfair to the business involved, and if waiving the fee would not violate the agency's fiduciary duty, an unnecessary fee could be waived. This rule amendment will serve as a benefit to business in every instance of its application. Kevin S. Carter, Director

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 801-538-5101, by FAX at 801-538-5118, or by Internet E-mail at kevincarter@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 05/15/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 05/16/2006

AUTHORIZED BY: Kevin S. Carter, Director

**R850. School and Institutional Trust Lands, Administration.**

**R850-5. Payments, Royalties, Audits, and Reinstatements.**

**R850-5-200. Payments.**

Payments include rentals, royalties or any other financial obligation owed under the terms of a lease, permit or any other agreement.

1. As a matter of convenience, the agency allows parties other than the obligee to remit payments on the obligee's behalf; however, this practice in no way relieves the obligee of any statutory or contractual obligations concerning the proper and timely payments or the proper and timely filing of reports. For practical reasons, the agency often makes direct requests for reports and other records from parties other than the obligees. Payors should be aware that their actions subject leases to cancellation or subject delinquent royalties to interest charges. It is, therefore, in the best interest of all parties to cooperate in responsibly discharging their obligations to each other and to the Trust Lands Administration.

2. The obligee bears final responsibility for payments. In order to meet payment obligations of a lease, permit, or other financial contract with the agency, payments must be received as defined in subsection 4 of this rule by the appropriate due dates and must be accompanied by the appropriate report.

3. When a change of payor(s) on a property is to occur, the most recent payor of record shall notify the agency by letter prior to the change. This shall not be construed, however, to relieve the obligee of the ultimate responsibility.

4. Payments will be considered received if it is either delivered to the agency, or if the postmark stamped on the envelope or other appropriate wrapper containing it, is dated on or before the due date. If the post office cancellation mark is illegible, erroneous, or omitted, the payment will be considered timely if the sender can establish by competent evidence that the payment was deposited in the United States mail on or before the date for filing or paying. If the due date or cancellation date falls upon a Saturday, Sunday, or legal holiday, the payment shall be considered timely if received as defined herein by the next business day.

5. Payments will be enforced even though an agency order is incomplete or because of other irregularities.

6. A 6% penalty and \$15 return check charge will be assessed on all checks returned by the bank. The check must be replaced by cash, certified funds, or immediately available funds. The Director may require future payments with certified funds when notified in writing.

7. Any financial obligation not received by its contractual due date will initiate a written cancellation notice by certified mail, return receipt requested. The cancellation date for any lease/permit or other contractual agreement unless otherwise specified in this rule, is defined as 30 days after the postmark date stamped on Post Office Form 3800, Receipt for Certified Mail. In the event payment is not received by the agency on or before the cancellation date, the lease, permit or other contractual agreement will be subject to cancellation, forfeiture or termination without further notice.

A default in the payment of any installment of principal or interest due under the terms of any land purchase agreement not received by the agency more than 30 days after the due date shall initiate a certified billing, return receipt requested. If all sums then due and payable are not received within 30 days after the mailing of the certified notice on Post Office Form 3800, the agency may elect any of the remedies as outlined in R850-80-700(8). If the cancellation date falls on a weekend or holiday, payment will be accepted the next business day until 5 p.m.



8. A late penalty of 6% or \$10, whichever is greater, shall be charged after failure to pay any financial obligation, excluding royalties as provided in R850-5-300(2), within the time limit under which such payment is due.

9. ~~[Rental]~~Subject to R850-4-300, rental payments received after the due date which do not include a late fee will be returned to the lessee by certified mail, return receipt requested. Payment will only be accepted for the full amount due.

**KEY: administrative procedures**

**Date of Enactment or Last Substantive Amendment:** ~~[August 1, 1995]~~ **May 16, 2006**

**Notice of Continuation:** June 27, 2002

**Authorizing, and Implemented or Interpreted Law:** 53C-1-302(1)(a)(ii)



Transportation, Operations,  
Construction  
**R916-1-7**  
Execution of Contracts

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 28559

FILED: 03/16/2006, 13:53

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The reason for the change is to allow for the reduction of bond amounts in certain nondesign build contracts.

**SUMMARY OF THE RULE OR CHANGE:** This amendment fulfills the requirement in Section 63-56-504 that an agency must establish rules if it wants to reduce or waive payment or performance bonds. Pursuant to that statute, this rule allows the department to reduce or waive the bond when it believes the normal bond amount is unnecessary in order to protect the State.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 63-56-504

**ANTICIPATED COST OR SAVINGS TO:**

- ❖ **THE STATE BUDGET:** This amendment should not have any impact on the state budget as it does not require any expenditure of funds nor cut back on any funds.
- ❖ **LOCAL GOVERNMENTS:** Local governments are not contractors that would be affected by rule amendment; therefore, there should be no costs to them.
- ❖ **OTHER PERSONS:** Contractors on projects that qualify for the reduced or waived bond will see a savings in their costs, but there should be no increase in costs from this bill.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There are no compliance costs from this rule because it does not require any person to take any action or receive any licensure.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This amendment would only have a positive fiscal impact on contractors that work on projects qualifying for reduction or waiver. John R. Njord, Executive Director

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

James Beadles at the above address, by phone at 801-965-4168, by FAX at 801-965-4796, or by Internet E-mail at jbeadles@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 05/15/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 05/16/2006

AUTHORIZED BY: John R. Njord, Executive Director

**R916. Transportation, Operations, Construction.**  
**R916-1. Advertising and Awarding Construction Contracts.**  
**R916-1-7. Execution of Contracts.**

(1) Unless the bonds are waived pursuant to Subparagraph (6), when the contract is executed, [At the time of execution of the contract, the successful bidder shall furnish a performance bond and a payment bond, each in a sum equal to the full amount of the contract. Each bond shall be on the form provided by the department and shall be executed by a surety company or companies licensed by the state of Utah. These companies must be listed on the current United States Department of the Treasury Circular 570 as acceptable sureties on Federal bonds. The department shall make available to the public this Circular at the following locations: Construction Division, UDOT Library, and Internet.

(2) The contract shall be signed by the successful bidder and returned together with the fully executed contract bonds within 15 days after the contract has been awarded.

(3) Failure to execute a contract and file acceptable bonds within 15 days after the contract has been awarded shall be just cause for the cancellation of the award and the forfeiture of the proposal guaranty.

(4) If the contract is not executed by the Department[Commission] within 30 days after receiving signed contracts and bonds, the bidder shall have the right to withdraw their bid without penalty.

(5) No contract shall be considered effective until it has been fully executed by all the parties thereto.

(6) In accordance with Utah Code Ann. Section 63-56-504, the Executive Director or designee may reduce or waive the amount of the payment and performance bonds below the 100% normally required, if he or she determines that the circumstances are such that the normal bonding requirement is unnecessary to protect the State.

**KEY:** bids, advertising, contracts, bonding requirements  
**Date of Enactment or Last Substantive Amendment:** [~~April 1, 1997~~]2006  
**Notice of Continuation:** January 18, 2002

**Authorizing, and Implemented or Interpreted Law:** 27-12-7; 27-12-108; 63-49-4; 63-56-38; 63-56-13



**End of the Notices of Proposed Rules Section**

## NOTICES OF CHANGES IN PROPOSED RULES

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After an agency has published a PROPOSED RULE in the *Utah State Bulletin*, it may receive public comment that requires the PROPOSED RULE to be altered before it goes into effect. A CHANGE IN PROPOSED RULE allows an agency to respond to comments it receives.

As with a PROPOSED RULE, a CHANGE IN PROPOSED RULE is preceded by a RULE ANALYSIS. This analysis provides summary information about the CHANGE IN PROPOSED RULE including the name of a contact person, anticipated cost impact of the rule, and legal cross-references.

Following the RULE ANALYSIS, the text of the CHANGE IN PROPOSED RULE is usually printed. The text shows only those changes made since the PROPOSED RULE was published in an earlier edition of the *Utah State Bulletin*. Additions made to the rule appear underlined (e.g., example). Deletions made to the rule appear struck out with brackets surrounding them (e.g., [example]). A row of dots in the text (. . . . .) indicates that unaffected text was removed to conserve space. If a CHANGE IN PROPOSED RULE is too long to print, the Division of Administrative Rules will include only the RULE ANALYSIS. A copy of rules that are too long to print is available from the agency or from the Division of Administrative Rules.

While a CHANGE IN PROPOSED RULE does not have a formal comment period, there is a 30-day waiting period during which interested parties may submit comments. The 30-day waiting period for CHANGES IN PROPOSED RULES published in this issue of the *Utah State Bulletin* ends May 15, 2006. At its option, the agency may hold public hearings.

From the end of the waiting period through August 13, 2006, the agency may notify the Division of Administrative Rules that it wants to make the CHANGE IN PROPOSED RULE effective. When an agency submits a NOTICE OF EFFECTIVE DATE for a CHANGE IN PROPOSED RULE, the PROPOSED RULE as amended by the CHANGE IN PROPOSED RULE becomes the effective rule. The agency sets the effective date. The date may be no fewer than 30 days nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file another CHANGE IN PROPOSED RULE in response to additional comments received. If the Division of Administrative Rules does not receive a NOTICE OF EFFECTIVE DATE or another CHANGE IN PROPOSED RULE, the CHANGE IN PROPOSED RULE filing, along with its associated PROPOSED RULE, lapses and the agency must start the process over.

CHANGES IN PROPOSED RULES are governed by *Utah Code* Section 63-46a-6 (2001); and *Utah Administrative Code* Rule R15-2, and Sections R15-4-3, R15-4-5, R15-4-7, and R15-4-9.

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**The Changes in Proposed Rules Begin on the Following Page.**

Insurance, Administration
R590-226
Submission of Life Insurance Filings

NOTICE OF CHANGE IN PROPOSED RULE
DAR File No.: 28488
Filed: 03/24/2006, 09:59

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The additional changes to this are to conform with other department filing rules.

SUMMARY OF THE RULE OR CHANGE: In Section R590-226-5, changes are being made to clarify procedures insurers can follow to correct policy forms they have filed with the department. (DAR NOTE: This change in proposed rule has been filed to make additional changes to a proposed amendment that was published in the February 15, 2006, issue of the Utah State Bulletin, on page 5. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the change in proposed rule and the proposed amendment together to understand all of the changes that will be enforceable should the agency make this rule effective.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 31A-2-201, 31A-2-201.1, and 31A-2-202

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: The amendments to this rule will create no change in the work done by department employees, nor will it change fees or revenues to the department and general fund.
❖ LOCAL GOVERNMENTS: This rule does not affect local governments since it only applies to the relationship between the department and the licensed insurer.
❖ OTHER PERSONS: Insurers are already making corrections. These changes clarify the procedures for doing so. The changes will have no fiscal impact on insurers or their insureds.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Insurers are already making corrections. These changes clarify the procedures for doing so. The changes will have no fiscal impact on insurers or their insureds.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule will have no fiscal impact on Utah businesses. D. Kent Michie, Commissioner

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
INSURANCE
ADMINISTRATION
Room 3110 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY UT 84114-1201, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Jilene Whitby at the above address, by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at jwhitby@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 05/15/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 05/16/2006

AUTHORIZED BY: Jilene Whitby, Information Specialist

R590. Insurance, Administration.
R590-226. Submission of Life Insurance Filings.

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R590-226-5. General Filing Information.

- (1) Each filing document submitted within the filing must be accurate, consistent, and complete. Each filing must contain all required documents in order for the filing to be processed in a timely and efficient manner. The commissioner may request any additional information deemed necessary.
(2) Insurers and filers are responsible for assuring compliance with Utah laws and rules. Filings not in compliance with Utah laws and rules are subject to regulatory action under Section 31A-2-308.
(3) Filing that do not comply with this rule will be rejected and returned to the filer. Rejected filings are not considered filed with the department.
(4) Prior filings will not be researched to determine the purpose of the current filing.
(5) The department does not review or proofread every filing.
(a) Filings may be reviewed:
(i) when submitted;
(ii) as a result of a complaint;
(iii) during a regulatory examination or investigation; or
(iv) at any other time the department deems necessary.
(b) If a filing is reviewed and is found to be not in compliance with Utah laws and rules, an ORDER TO PROHIBIT USE will be issued to the filer. The commissioner may require the filer to disclose deficiencies in forms or rating practices to affected policyholders.

(6) Filing correction:

(a) No filing transmittal is required when making corrections to misspelled words and punctuation in a filing. The filing will be considered an informational filing.

(b) No transmittal is required when clerical corrections are made to a previous filing if submitted within 30 days of the date filed with the department. The filer ~~will need to~~ must reference the original filing or include a copy of the original cover letter.

(c) A new filing is required if the clerical corrections are made more than 30 days after the date filed with the department. The filer must reference the original filing or include a copy of the original cover letter.

(7) Revised forms. A form that is revised from a previously filed form is considered a new form and must be filed ~~for use~~. The filer will need to reference the original filing and explain the changes to the form.

(8) Filing withdrawal. A filer must notify the department when withdrawing a previously filed form, rate, or supplementary information.

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**KEY: life insurance filings**

**Date of Enactment or Last Substantive Amendment: 2006  
Authorizing, and Implemented or Interpreted Law: 31A-2-201;  
31A-2-201.1; 31A-2-202**



**Insurance, Administration  
R590-227  
Submission of Annuity Filings**

**NOTICE OF CHANGE IN PROPOSED RULE**  
DAR File No.: 28487  
Filed: 03/24/2006, 12:08

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The additional changes to this rule are being made to conform with the wording in other department filing rules.

SUMMARY OF THE RULE OR CHANGE: Changes are being made in Section R590-227-5 to clarify procedures insurers should follow to correct forms they have filed with the department. (DAR NOTE: This change in proposed rule has been filed to make additional changes to a proposed amendment that was published in the February 15, 2006, issue of the Utah State Bulletin, on page 8. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the change in proposed rule and the proposed amendment together to understand all of the changes that will be enforceable should the agency make this rule effective.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 31A-2-201, 31A-2-201.1, and 31A-2-202

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The amendments to this rule will create no change in the work done by department employees, nor will it change fees or revenues to the department and general fund.

❖ LOCAL GOVERNMENTS: This rule does not affect local governments since it only applies to the relationship between the department and the licensed insurer.

❖ OTHER PERSONS: Insurers are already making corrections in their filed forms. These changes clarify the procedures for doing so. The changes will have no fiscal impact on insurers or their insureds.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Insurers are already making corrections in their filed forms. These changes clarify the procedures for doing so. The changes will have no fiscal impact on insurers or their insureds.

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

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:  
Jilene Whitby at the above address, by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at [jwhitby@utah.gov](mailto:jwhitby@utah.gov)

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 05/15/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 05/16/2006

AUTHORIZED BY: Jilene Whitby, Information Specialist



**R590. Insurance, Administration.  
R590-227. Submission of Annuity Filings.**

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**R590-227-5. General Filing Information.**

(1) Each filing document submitted within the filing must be accurate, consistent, and complete. Each filing must contain all required documents in order for the filing to be processed in a timely and efficient manner. The commissioner may request any additional information deemed necessary.

(2) Insurers and filers are responsible for assuring compliance with Utah laws and rules. A filing not in compliance with Utah laws and rules is subject to regulatory action under Section 31A-2-308.

(3) A filing that does not comply with this rule may be rejected and returned to the filer. A rejected filing is not considered filed with the department.

(4) A prior filing will not be researched to determine the purpose of the current filing.

(5) The department does not review or proofread every filing.

(a) Filings may be reviewed:

(i) when submitted;

(ii) as a result of a complaint;

(iii) during a regulatory examination or investigation; or

(iv) at any other time the department deems necessary.

(b) If a filing is reviewed and is found to be not in compliance with Utah laws and rules, an ORDER TO PROHIBIT USE will be issued to the filer. The commissioner may require the filer to disclose deficiencies in forms or rating practices to affected contract holders.

(6) Filing Correction.

(a) No filing transmittal is required when making corrections to misspelled words and punctuation in a filing. The filing will be considered an informational filing. ~~The filer will need to reference the original filing.~~

(b) ~~A new filing is required if a clerical or typographical correction is made more than 30 days after the filed date of the original filing.~~ No transmittal is required when clerical corrections

are made to a previous filing if submitted within 30 days of the date filed with the department. The filer [will need to] must reference the original filing or include a copy of the original cover letter.

(c) A new filing is required if the clerical corrections are made more than 30 days after the date filed with the department. The filer must reference the original filing or include a copy of the original cover letter.

(7) Revised forms. A form that is revised from a previously filed form is considered a new form and must be filed ~~for use~~. The filer will need to reference the original filing and explain the changes to the form.

(8) Filing withdrawal. A filer must notify the department when withdrawing a previously filed form, rate, or supplementary information.

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**KEY: annuity insurance filings**

**Date of Enactment or Last Substantive Amendment: 2006  
Authorizing, and Implemented or Interpreted Law: 31A-2-201;  
31A-2-201.1; 31A-2-202**



**End of the Notices of Changes in Proposed Rules Section**

## NOTICES OF 120-DAY (EMERGENCY) RULES

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An agency may file a 120-DAY (EMERGENCY) RULE when it finds that the regular rulemaking procedures would:

- (a) cause an imminent peril to the public health, safety, or welfare;
- (b) cause an imminent budget reduction because of budget restraints or federal requirements; or
- (c) place the agency in violation of federal or state law (*Utah Code* Subsection 63-46a-7(1) (2001)).

As with a PROPOSED RULE, a 120-DAY RULE is preceded by a RULE ANALYSIS. This analysis provides summary information about the 120-DAY RULE including the name of a contact person, justification for filing a 120-DAY RULE, anticipated cost impact of the rule, and legal cross-references. A row of dots in the text (· · · · ·) indicates that unaffected text was removed to conserve space.

A 120-DAY RULE is effective at the moment the Division of Administrative Rules receives the filing, or on a later date designated by the agency. A 120-DAY RULE is effective for 120 days or until it is superseded by a permanent rule.

Because 120-DAY RULES are effective immediately, the law does not require a public comment period. However, when an agency files a 120-DAY RULE, it usually files a PROPOSED RULE at the same time, to make the requirements permanent. Comment may be made on the proposed rule. Emergency or 120-DAY RULES are governed by *Utah Code* Section 63-46a-7 (2001); and *Utah Administrative Code* Section R15-4-8.

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### Administrative Services, Administrative Rules **R15-4** Administrative Rulemaking Procedures

#### NOTICE OF 120-DAY (EMERGENCY) RULE

DAR FILE NO.: 28586  
FILED: 03/31/2006, 09:41

#### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** During the 2006 General Session, the Legislature passed H.B. 316. Among other things, H.B. 316 added a requirement that an agency must wait seven days after the close of the public comment period before it may make a proposed rule effective. This emergency rule makes the Division's existing rules consistent with H.B. 316. (DAR NOTE: H.B. 316 is found at Chapter 141, Laws of Utah 2006, and will be effective 05/01/2006.)

**SUMMARY OF THE RULE OR CHANGE:** This emergency rule, effective 04/15/2006, temporarily amends Sections R15-4-4 and R15-4-5 making them consistent with Subsection 63-46a-4(10) as amended by H.B. 316. The emergency rule clarifies that administrative rules filed for publication prior to 05/01/2006 are subject to the existing law, and rules filed for publication on 05/01/2006 or later are subject to the law as amended by H.B. 316. H.B. 316 goes into effect on 05/01/2006. Nothing in the statute or this rule prevents an agency from waiting the seven days before making a rule effective that was filed prior to 05/01/2006.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Sections 63-46a-4 and 63-46a-10

#### ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** This rule imposes no impact to the state budget. This emergency rule only makes the division's rule consistent with H.B. 316. Any cost or savings impact related to this change was taken into account by the fiscal note to H.B. 316.
- ❖ **LOCAL GOVERNMENTS:** The division does not regulate local government. Therefore, there is no impact to local government.
- ❖ **OTHER PERSONS:** This rule imposes no impact to other persons. This emergency rule only makes the division's rule consistent with H.B. 316. Any cost or savings impact related to this change was taken into account by the fiscal note to H.B. 316.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** The division does not regulate persons. Therefore, there is no impact to persons as a result of this emergency rule.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** This emergency rule brings the division's existing rules into compliance with Subsection 63-46a-4(10) as amended by H.B. 316. It does not have any fiscal impact on business. D'Arcy Dixon Pignanelli, Executive Director

**EMERGENCY RULE REASON AND JUSTIFICATION:** REGULAR RULEMAKING PROCEDURES WOULD place the agency in violation of federal or state law.

The Legislature changed provisions of the rulemaking act that go into effect on 05/01/2006. The division's existing rule is not consistent with the new law. The division is unable to use regular rulemaking to have a rule in effect by 05/01/2006.

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

ADMINISTRATIVE SERVICES  
ADMINISTRATIVE RULES  
Room 4120 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 A. Hansen at the above address, by phone at 801-538-3777, by FAX at 801-538-1773, or by Internet E-mail at khansen@utah.gov

THIS RULE IS EFFECTIVE ON: 04/15/2006

AUTHORIZED BY: Kenneth A. Hansen, Director

#### R15. Administrative Services, Administrative Rules.

##### R15-4. Administrative Rulemaking Procedures.

##### R15-4-4. Thirty-day Comment Period for a Proposed Rule.

(1) For the purposes of [~~Subsections 63-46a-4(6) and 63-46a-4(7)~~]Section 63-46a-4, [~~and in conformity with Utah Rules of Civil Procedures, Rule 6(a),~~] "30 days" shall be computed by:

(a) counting the day after publication of the rule as the first day; and

(b) counting the thirtieth consecutive day after the day of publication as the thirtieth day, unless

(c) the thirtieth consecutive day is a Saturday, Sunday, or holiday, in which event the comment period runs until 5 p.m. the next regular business day. [

~~—(2) A rule may be made effective on the day after the comment period expires.]~~

##### R15-4-5. Notice of the Effective Date ~~[of a]~~ for a Proposed Rule.

(1)(a) Upon expiration of the comment period designated on the rule analysis and filed with the rule, and before expiration of 120 days after publication of a proposed rule, the agency proposing the rule shall notify the division of the date the rule is to become effective and enforceable.

(b) The agency shall notify the division after determining that the proposed rule, in the form published, shall be the final form of the rule, and after informing the division of any nonsubstantive changes in the rule as provided for in Section R15-4-6.

(2)(a) The agency shall notify the division by filing with the division a form designated for that purpose indicating the effective date.

(b) If the form designated is unavailable to the agency, the agency may notify the division by any other form of written communication clearly identifying the proposed rule, stating the date the rule was filed with the division or published in the bulletin, and stating its effective date.

(3)(a) The date designated as the effective date shall be after the comment period specified on the rule analysis.

(b) As provided by Subsection 63-46a-4(10):

(i) for a proposed rule filed through April 30, 2006, the agency may designate the effective date as early as the day after the comment period expires; or

(ii) for a proposed rule filed on or after May 1, 2006, the agency may not designate an effective date that is earlier than the eighth day

after the comment period expires.

(4) The division shall publish the effective date in the next issue of the bulletin [~~and digest~~]. There is no publication deadline for a notice of effective date, nor requirement that it be published prior to the effective date.

**KEY: administrative law**

**Date of Enactment or Last Substantive Amendment: April 15, 2006**

**Notice of Continuation: September 29, 2005**

**Authorizing, and Implemented or Interpreted Law: 63-46a-10, 63-46a-4**



## Health, Health Care Financing, Coverage and Reimbursement Policy **R414-305** Resources

### NOTICE OF 120-DAY (EMERGENCY) RULE

DAR FILE No.: 28595

FILED: 03/31/2006, 14:56

#### RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule puts into effect the provisions from Pub. L. No. 109-171 that affect several eligibility criteria for the receipt of Medicaid for nursing home and long-term care services provided under a home and community based waiver program. These provisions became effective on the enactment date of the law and will affect the state's federal financial participation beginning 04/01/2006.

SUMMARY OF THE RULE OR CHANGE: This rulemaking incorporates sections of Pub. L. No. 109-171 that affect the treatment of transfers of assets for less than fair market value.

It changes the length of the look back period for transfers of assets. It changes the date the sanction period begins when an individual or the spouse has transferred assets for less than fair market value. It also requires the state to assess sanctions for transfers that are equal to less than the one month average private pay rate for nursing home services. Pub. L. No. 109-171 also establishes new requirements for annuities for which an institutionalized individual or the individual's spouse has an interest. Annuities will have to name the Utah Medicaid Program as the remainder beneficiary. It sets a limit to the amount of equity an institutionalized individual can have in the individual's principal residence at \$500,000 or less and still qualify for Medicaid for long-term care services. In conjunction with these changes, this rulemaking redefines when an individual's home or life estate can be excluded.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 26, Chapter 18

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: Pub. L. No. 109-171, Sections 6011,



6012, 6013, 6014, 6015, and 6016

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** There could be some increased administrative costs because of additional staff work in gathering and evaluating information relating to these new eligibility requirements. We do not have any data about any savings that may be realized by the state, but the expectation of Congress is that these changes could save Medicaid dollars because some individuals will not qualify for long-term care services.

❖ **LOCAL GOVERNMENTS:** This rulemaking action does not impact local governments because determining Medicaid eligibility is not a local government function so there are no costs or savings.

❖ **OTHER PERSONS:** Individuals who are seeking long-term care services from Medicaid may face increased costs if they are determined ineligible for long-term care services as a result of these new provisions. However, we do not have data as to the aggregate costs or number of individuals who may be affected.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** Individuals who seek Medicaid to pay for nursing home or other long-term care services may face increased costs because they may be ineligible under these new provisions of the law. However, we do not have data as to the individual costs or number of individuals who may be affected.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** This rule amendment will have no fiscal impact on businesses. It applies only to individuals who have transferred away their assets as a means to qualify Medicaid eligibility for long-term care. David N. Sundwall, MD, Executive Director

**EMERGENCY RULE REASON AND JUSTIFICATION:** REGULAR RULEMAKING PROCEDURES WOULD place the agency in violation of federal or state law.

Pub. L. No. 109-171 was enacted 02/08/2006. It has several amendments affecting Medicaid eligibility for nursing home and long-term care services under home- and community-based Medicaid waivers that became effective on the date of enactment. Emergency rulemaking is needed to comply with these new requirements.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Ross Martin at the above address, by phone at 801-538-6592, by FAX at 801-538-6099, or by Internet E-mail at [rmartin@utah.gov](mailto:rmartin@utah.gov)

THIS RULE IS EFFECTIVE ON: 04/01/2006

AUTHORIZED BY: David N. Sundwall, Executive Director

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

**R414-305. Resources.**

**R414-305-1. A, B and D Medicaid and A, B and D Institutional Medicaid Resource Provisions.**

(1) This section establishes the standards for the treatment of resources to determine eligibility for aged, blind and disabled Medicaid and aged, blind and disabled institutional Medicaid.

(1)2) To determine eligibility of the aged, blind or disabled, the Department adopts 42 CFR 435.725 and 435.726, 435.840 through 435.845, [2004]2005 ed., and 20 CFR 416.1201 through 416.1202 and 416.1204 through 416.1266, [2002]2005 ed., which are incorporated by reference. The Department adopts Subsection 1902(k) of the Compilation of the Social Security Laws, 1993 ed., which is incorporated by reference. The Department adopts 1917(d) and (e), 404(h)(4) and 1613(a)(13) of the Compilation of the Social Security Laws in effect January 1, 1999, which are incorporated by reference. The Department adopts sections 6012, 6014 and 6015(b) of Pub. L. 109-171 which are incorporated by reference. The Department shall not count as an available resource any assets that are prohibited under other federal laws from being counted as a resource to determine eligibility for federally-funded medical assistance programs. Insofar as any provision of this rule is inconsistent with applicable federal law, the applicable federal law governs over the inconsistent rule provision.

(2)3) The definitions in R414-1 and R414-301 apply to this rule, in addition:

(a) "Burial plot" means a burial space and any item related to repositories customarily used for the remains of any deceased member of the household. This includes caskets, concrete vaults, urns, crypts, grave markers and the cost of opening and closing a grave site.

(b) "Sanction" means a period of time during which a person is not eligible for Medicaid services for institutional care or services provided under a Home and Community Based waiver due to a transfer of assets for less than fair market value.

(c) "Transfer" in regard to assets means a person has disposed of assets for less than fair market value.

(3)4) A resource is available when the client owns it or has the legal right to sell or dispose of the resource for the client's own benefit.

(4)5) Except for the Medicaid Work Incentive Program, the resource limit for aged, blind or disabled Medicaid is \$2,000 for a one[-]person household[-] and \$3,000 for a two-member household [and \$25 for each additional household member].

(5)6) For an individual who meets the criteria for the Medicaid Work Incentive Program, the resource limit is \$15,000. This limit applies whether the household size is one or more than one.

(6)7) The Department bases non-institutional and institutional Medicaid eligibility on all available resources owned by the client, or deemed available to the client from a spouse or parent. Eligibility cannot be granted based upon the client's intent to or action of disposing of non-liquid resources as described in 20 CFR 416.1240, 2005 ed.

([7]8) Any resource or the interest from a resource held within the rules of the Uniform Transfers to Minors Act is not countable. Any money from the resource that is given to the child as unearned income is countable.

([8]9) The resources of a ward that are controlled by a legal guardian are counted as the ward's resources.

([9]10) Lump sum payments received on a sales contract for the sale of an exempt home are not counted if the entire proceeds are committed to replacement of the property sold within 30 days and the purchase is completed within 90 days. The individual shall receive one extension of 90 days[;] if more than 90 days is needed to complete the actual purchase. Proceeds is defined as all payments made on the principal of the contract. Proceeds does not include interest earned on the principal.

([10]11) If a resource is potentially available, but a legal impediment to making it available exists, it is not a countable resource until it can be made available. The applicant or recipient must take appropriate steps to make the resource available unless one of the following conditions as determined by a person with established expertise relevant to the resources exists:

(a) Reasonable action would not be successful in making the resource available.

(b) The probable cost of making the resource available exceeds its value.

([11]12) Water rights attached to the home and the lot on which the home sits are exempt providing it is the client's principal place of residence.

([12]13) For an institutionalized individual, a home or life estate is not considered an exempt resource. ~~[Therefore, a home transferred to a trust becomes a countable resource or constitutes a transfer of a resource. A home or life estate so transferred could continue to be excluded under the provisions of Section 1924 of the Compilation of the Social Security Laws, in effect January 1, 1999.]~~

(14) The Department excludes an institutionalized individual's principal home or life estate from countable resources if the individual's equity in the home or life estate does not exceed the equity limit established in Section 6014 of Pub. L. 109-171, and one of the following conditions is met:

- (i) the individual intends to return to the home;
- (ii) the individual's spouse resides in the home;
- (iii) the individual's child who is under age 21, or who is blind or disabled resides in the home; or
- (iv) a reliant relative of the individual resides in the home.

([13]15) For A, B and D Medicaid, the Department shall not count up to \$6,000 of equity value of non-business property used to produce goods or services essential to home use daily activities.

~~[—(14) For A, B and D Institutional Medicaid where the resources are determined to exceed the limits for Medicaid, eligibility shall not be given conditioned upon disposition of resources as described in 20 CFR 416.1240, 2002 ed.]~~

([15]16) A previously unreported resource may be retroactively designated for burial and thereby exempted effective the first day of the month in which it was designated for burial or intended for burial. However, it cannot be exempted retroactively prior to November 1982 or earlier than 2 years prior to the date of application. Such resources shall be treated as funds set aside for burial and the amount exempted cannot exceed the limit established for the SSI program.

([16]17) One vehicle is exempt if it is used at least four times per calendar year to obtain necessary medical treatment.

([17]18) The Department allows SSI recipients[;] who have a plan for achieving self support approved by the Social Security Administration[;] to set aside resources that allow them to purchase work-related equipment or meet self support goals. These resources are excluded.

([18]19) An irrevocable burial trust is not counted as a resource. However, if the owner is institutionalized or on home and community based waiver Medicaid, the value of the trust, which exceeds \$7,000, is considered a transferred resource.

([19]20) Business resources required for employment or self-employment are not counted.

~~[—(20) The Department shall exclude as a resource the contributions made by an individual into and the interest accrued on an Individual Development Account as defined in Sections 404-416 of Pub. L. No. 105-285 effective October 27, 1998.]~~

(21) For the Medicaid Work Incentive Program, the Department ~~[shall]~~excludes the following additional resources of the eligible individual:

(a) Retirement funds held in an employer or union pension plan, retirement plan or account, including 401(k) plans, or an Individual Retirement Account, even if such funds are available to the individual.

(b) A second vehicle when it is used by a spouse or child of the eligible individual living in the household to get to work.

(22) After qualifying for the Medicaid Work Incentive Program, these resources described in R414-305-1(21) will continue to be excluded throughout the lifetime of the individual to qualify for A, B or D Medicaid programs other than the Medicaid Work Incentive, even if the individual ceases to have earned income or no longer meets the criteria for the Work Incentive Program.

(23) Assets shall be deemed from an alien's sponsor, and the sponsor's spouse, if any, when the sponsor has signed an Affidavit of Support pursuant to Section 213A of the Immigration and Nationality Act on or after December 19, 1997. Sponsor deeming will end when the alien becomes a naturalized U.S. citizen, or has worked 40 qualifying quarters as defined under Title II of the Social Security Act or can be credited with 40 qualifying work quarters. Beginning after December 31, 1996, a creditable qualifying work quarter is one during which the alien did not receive any federal means-tested public benefit.

(24) Sponsor deeming does not apply to applicants who are eligible for Medicaid for emergency services only.

(25) Life estates.

(a) For non-institutional Medicaid, life estates shall be counted as resources only when a market exists for the sale of the life estate as established by knowledgeable sources.

(b) For Institutional Medicaid, life estates are countable resources even if no market exists for the sale of the life estate, unless the life estate can be excluded as defined in paragraph 14 of this section.

(c) The client may dispute the value of the life estate by verifying the property value to be less than the established value or by submitting proof based on the age and life expectancy of the life estate owner that the value of the life estate is lower. The value of a life estate shall be based upon the age of the client and the current market value of the property.

(d) The following table lists the life estate figure corresponding to the client's age. This figure is used to establish the value of a life estate:

TABLE

| Age | Life Estate Figure |
|-----|--------------------|
| 0   | .97188             |
| 1   | .98988             |
| 2   | .99017             |
| 3   | .99008             |
| 4   | .98981             |
| 5   | .98938             |
| 6   | .98884             |
| 7   | .98822             |
| 8   | .98748             |
| 9   | .98663             |
| 10  | .98565             |
| 11  | .98453             |
| 12  | .98329             |
| 13  | .98198             |
| 14  | .98066             |
| 15  | .97937             |
| 16  | .97815             |
| 17  | .97700             |
| 18  | .97590             |
| 19  | .97480             |
| 20  | .97365             |
| 21  | .97245             |
| 22  | .97120             |
| 23  | .96986             |
| 24  | .96841             |
| 25  | .96678             |
| 26  | .96495             |
| 27  | .96290             |
| 28  | .96062             |
| 29  | .95813             |
| 30  | .95543             |
| 31  | .95254             |
| 32  | .94942             |
| 33  | .94608             |
| 34  | .94250             |
| 35  | .93868             |
| 36  | .93460             |
| 37  | .93026             |
| 38  | .92567             |
| 39  | .92083             |
| 40  | .91571             |
| 41  | .91030             |
| 42  | .90457             |
| 43  | .89855             |
| 44  | .89221             |
| 45  | .88558             |
| 46  | .87863             |
| 47  | .87137             |
| 48  | .86374             |
| 49  | .85578             |
| 50  | .84743             |
| 51  | .83674             |
| 52  | .82969             |
| 53  | .82028             |
| 54  | .81054             |
| 55  | .80046             |
| 56  | .79006             |
| 57  | .77931             |
| 58  | .76822             |
| 59  | .75675             |
| 60  | .74491             |
| 61  | .73267             |
| 62  | .72002             |
| 63  | .70696             |
| 64  | .69352             |
| 65  | .67970             |
| 66  | .66551             |
| 67  | .65098             |
| 68  | .63610             |
| 69  | .62086             |
| 70  | .60522             |

|     |        |
|-----|--------|
| 71  | .58914 |
| 72  | .57261 |
| 73  | .55571 |
| 74  | .53862 |
| 75  | .52149 |
| 76  | .50441 |
| 77  | .48742 |
| 78  | .47049 |
| 79  | .45357 |
| 80  | .43659 |
| 81  | .41967 |
| 82  | .40295 |
| 83  | .38642 |
| 84  | .36998 |
| 85  | .35359 |
| 86  | .33764 |
| 87  | .32262 |
| 88  | .30859 |
| 89  | .29526 |
| 90  | .28221 |
| 91  | .26955 |
| 92  | .25771 |
| 93  | .24692 |
| 94  | .23728 |
| 95  | .22887 |
| 96  | .22181 |
| 97  | .21550 |
| 98  | .21000 |
| 99  | .20486 |
| 100 | .19975 |
| 101 | .19532 |
| 102 | .19054 |
| 103 | .18437 |
| 104 | .17856 |
| 105 | .16962 |
| 106 | .15488 |
| 107 | .13409 |
| 108 | .10068 |
| 109 | .04545 |

**R414-305-2. Family Medicaid and Family Institutional Medicaid Resource Provisions.**

(1) This section establishes the ~~rules~~standards for ~~the~~treatment of resources to determine eligibility for Family Medicaid and Family Institutional Medicaid programs.

(2) The Department adopts 45 CFR 233.20(a)(3)(i)(B)(1), (2), (3), (4) and (6), and 233.20(a)(3)(vi)(A), 2004 ed., which are incorporated by reference. The Department adopts Subsection 1902(k) of the Compilation of the Social Security Laws, 1993 ed., which is incorporated by reference. The Department adopts 1917(d) and (e), Subsection 404(h) and 1613(a)(13) of the Compilation of the Social Security Laws in effect January 1, 2003, which are incorporated by reference. The Department adopts sections 6012, 6014 and 6015(b) of Pub. L. 109-171 which are incorporated by reference. The Department does not count as an available resource retained funds from sources that federal laws specifically prohibit from being counted as a resource to determine eligibility for federally-funded medical assistance programs. Insofar as any provision of this rule is inconsistent with applicable federal law, the applicable federal law governs over the inconsistent rule provision.

(3) A resource is available when the client owns it or has the legal right to sell or dispose of the resource for the client's own benefit.

(4) Except for pregnant women who meet the criteria under Sections 1902(a)(10)(A)(i)(IV) and 1902(a)(10)(A)(ii)(IX) of the Social Security Act in effect January 1, 2003, the resource limit is \$2,000 for a one person household, \$3,000 for a two person household and \$25 for each additional household member. For

pregnant women defined above, the resource limit is defined in R414-303-11.

(5) Except for the exclusion for a vehicle, the agency uses the same methodology for treatment of resources for all medically needy and categorically needy individuals.

(6) To determine countable resources for Medicaid eligibility, the agency considers all available resources owned by the client. The agency does not consider a resource unavailable based upon the client's intent to or action of disposing of non-liquid resources.

(7) The agency counts resources of a ~~sanctioned~~ household member who has been disqualified from Medicaid for failure to cooperate with third party liability or duty of support requirements.

(8) If a legal guardian, conservator, authorized representative, or other responsible person controls any resources of an applicant or recipient, the agency counts the resources as the applicant's or recipient's. The arrangement may be formal or informal.

(9) If a resource is potentially available, but a legal impediment to making it available exists, the agency does not count the resource until it can be made available. Before an applicant can be made eligible, or to continue eligibility for a recipient, the applicant or recipient must take appropriate steps to make the resource available unless one of the following conditions exist:

(a) Reasonable action would not be successful in making the resource available.

(b) The probable cost of making the resource available exceeds its value.

(10) Except for determining countable resources for 1931 Family Medicaid, the agency excludes a maximum of \$1,500 in equity value of one vehicle.

(11) The agency does not count as resources the value of household goods and personal belongings that are essential for day-to-day living. Any single household good or personal belonging with a value that exceeds \$1000 must be counted toward the resource limit. The agency does not count as a resource the value of any item that a household member needs because of the household member's medical or physical condition.

(12) The agency does not count the value of one wedding ring and one engagement ring as a resource.

(13) For a non-institutionalized individual, the~~The~~ agency does not count the value of a life estate as an available resource if the life estate is the applicant's or recipient's principal residence. If the life estate is not the principal residence, the rule in Subsection R414-305-1(25) applies.

(14) The agency does not count the resources of a child who is not counted in the household size to determine eligibility of other household members.

(15) For a non-institutionalized individual, the~~The~~ agency does not count as a resource, the value of the lot on which the excluded home stands if the lot does not exceed the average size of residential lots for the community in which it is located. The agency counts as a resource the value of the property in excess of an average size lot. If the individual is institutionalized, the provisions of R414-305-1(13), (14) and (25) apply to the individual's home or life estate. In addition, the provisions of section 6014 of Pub. L. 109-171 apply.

(16) The agency does not count as a resource the value of water rights attached to an excluded home and lot.

(17) The agency does not count any resource, or interest from a resource held within the rules of the Uniform Transfers to Minors Act. The agency counts as a resource any money from such a resource that is given to the child as unearned income and retained beyond the month received.

(18) Lump sum payments received on a sales contract for the sale of an exempt home are not counted if the entire proceeds are committed to replacement of the property sold within 30 days and the purchase is completed within 90 days. The individual shall receive one extension of 90 days, if more than 90 days is needed to complete the actual purchase. Proceeds are defined as all payments made on the principal of the contract. Proceeds do not include interest earned on the principal.

(19) Retroactive benefits received from the Social Security Administration and the Railroad Retirement Board are not counted as a resource for the first 9 months after receipt.

(20) The agency excludes from resources, a burial and funeral fund or funeral arrangement up to \$1500 for each household member who is counted in the household size. Burial and funeral agreements include burial trusts, funeral plans, and funds set aside expressly for the purposes of burial. All such funds must be separated from non-burial funds and clearly designated as burial funds. Interest earned on exempt burial funds and left to accumulate does not count as a resource. If exempt burial funds are used for some other purpose, remaining funds will be counted as an available resource as of the date funds are withdrawn.

(21) Assets shall be deemed from an alien's sponsor, and the sponsor's spouse, if any, when the sponsor has signed an Affidavit of Support pursuant to Section 213A of the Immigration and Nationality Act on or after December 19, 1997. Sponsor deeming will end when the alien becomes a naturalized U.S. citizen, or has worked 40 qualifying quarters as defined under Title II of the Social Security Act or can be credited with 40 qualifying work quarters. Beginning after December 31, 1996, a creditable qualifying work quarter is one during which the alien did not receive any federal means-tested public benefit.

(22) Sponsor deeming does not apply to applicants who are eligible for Medicaid for emergency services only.

(23) Business resources required for employment or self employment are not counted.

(24) For 1931 Family Medicaid households, the agency will not count as a resource either the equity value of one vehicle that meets the definition of a "passenger vehicle" as defined in 26-18-2(6), or \$1,500 of the equity of one vehicle, whichever provides the greatest disregard for the household.

(25) For eligibility under Family-related Medicaid programs, the agency will not count as a resource retirement funds held in an employer or union pension plan, retirement plan or account including 401(k) plans and Individual Retirement Accounts of a disabled parent or disabled spouse who is not included in the coverage.

~~—(26) The agency will not count as a resource the contributions made by an individual and the interest accrued on funds held in an Individual Development account as defined in Sections 404-416 of Pub. L. No. 105-285, effective October 27, 1998.~~

~~(27)~~(26) The agency will not count as a resource, funds received from the Child Tax credit or the Earned Income Tax credit for nine months following the month received. Any remaining funds will count as a resource in the 10th month after being received.

**R414-305-3. Spousal Impoverishment Resource Rules for Married Institutionalized Individuals.**

(1) This section establishes the standards for the treatment of resources for married couples when one spouse is institutionalized and the other spouse is not institutionalized.

~~(1)2~~ To determine the countable resources of an institutionalized individual who has a community spouse, ~~the~~<sup>[The]</sup> Department adopts Section 1924(a), (c) and (f) of the Compilation of the Social Security Laws, in effect January 1, 1999, which is incorporated by reference. The Department adopts section 6013 of Pub. L. 109-171 which is incorporated by reference. Insofar as any provision of this rule is inconsistent with applicable federal law, the applicable federal law governs over the inconsistent rule provision.

~~(2)3~~ The resource limit for an institutionalized individual is \$2,000.

~~—(3) The Department shall determine the joint owned resources of married couples as available to each other. One half of the joint owned resources shall count towards the institutional client's resource eligibility determination.~~

(4) ~~When~~<sup>[When]</sup> If a client is otherwise eligible for institutional Medicaid, but is unable to comply with spousal impoverishment rules and claims undue hardship because of an uncooperative spouse or because the spouse cannot be located, ~~assignment of~~<sup>[assignment of]</sup> the client may obtain institutional Medicaid by assigning support rights to the State of Utah ~~shall be done by signing the Form 048~~.

(5) "Undue hardship" in regard to counting a spouse's resources as available to the institutionalized client means:

(a) The client ~~completes the Form 048~~<sup>[completes the Form 048]</sup> assigns support rights to the State.

(b) The client will not be able to get the medical care needed without Medicaid.

(c) The client is at risk of death or permanent disability without institutional care.

(6) The agency will determine the client's ~~may be eligible~~<sup>[eligibility]</sup> eligibility for institutional Medicaid without regard to the spouse's resources if both of the following conditions are met:

(a) The spouse cannot be located or will not provide information needed to determine eligibility.

(b) The client meets the undue hardship criteria including assigning support rights to the State ~~signs the Form 048~~.

(7) The assessed spousal share of resources shall not be less than the minimum amount nor more than the maximum amount mandated by section 1924(f) of the Compilation of the Social Security Laws in effect January 1, 1999.

(8) Any resource owned by the community spouse in excess of the assessed spousal share is counted to determine the institutionalized client's initial Medicaid eligibility.

(9) A protected period, after eligibility is established, lasting until the time of the next regularly scheduled eligibility redetermination is allowed for an institutionalized client to transfer resources to the community spouse.

(10) After eligibility is established for the institutionalized client, those resources held in the name of the community spouse will not be considered available to the institutionalized client to determine the countable resources of the institutionalized client.

**R414-305-4. Medicaid Qualifying Trusts.**

The Department adopts Section 1902(k) of the Compilation of the Social Security Laws, 1993 ed., which is incorporated by reference.

**R414-305-5. Transfer of Resources for A, B and D Medicaid and Family Medicaid.**

There is no sanction for the transfer of resources.

**R414-305-6. Transfer of Resources for Institutional Medicaid.**

(1) This section establishes the standards for the treatment of transfers of assets for less than fair market value to determine eligibility for nursing home or other long-term care services under a home and community based services waiver.

~~(1)2~~ The Department adopts Subsection 1917(c) of the Compilation of the Social Security Laws, in effect January 1, 1999, which is incorporated by reference. The Department adopts sections 6011, 6012, and 6016 of Pub. L. 109-171 which are incorporated by reference. In so far as any provision of this rule is inconsistent with applicable federal law, the applicable federal law governs over the inconsistent rule provision.

(3) If an individual or the individual's spouse transfers the home or life estate, the transfer requirements of Section 1917(c) of the Compilation of the Social Security Act apply.

(4) If an individual or the individual's spouse transfers assets in more than one month on or after February 8, 2006, the uncompensated value of all transfers including fractional transfers are combined to determine the sanction period. The Department applies partial month sanctions for transferred amounts that are less than the monthly average private pay rate for nursing home services.

(5) If assets are transferred during any sanction period, the sanction period for those transfers will not begin until the previous sanction has expired.

(6) If a transfer occurs after an individual has been approved for Medicaid for nursing home or home and community based services, the sanction begins on the first day of the month after the month the asset is transferred.

~~(2)7~~ The average private-pay rate for nursing home care in Utah is ~~3,618~~<sup>[4,526]</sup> per month.

~~(3)8~~ To determine if a resource is transferred for the sole benefit of a spouse, disabled or blind child, or disabled individual, a binding written agreement must be in place which establishes that the resource transferred can only be used to benefit the spouse, disabled child, or disabled individual, and is actuarially sound. The written agreement must specify the payment amounts and schedule. Any provisions in such agreement that would benefit another person at any time nullifies the sole benefit provision except for exempt trusts established under section 1917(d) of the Compilation of the Social Security Laws, January 1, 1999 ed., that provide for repayment of the state Medicaid agency or provide for a pooled trust to retain a portion of the remainder.

~~(4)9~~ No sanction is imposed when the total value of a whole life insurance policy is irrevocably assigned to the state; and the recipient is the owner of and the insured in the policy; and no further premium payments are necessary for the policy to remain in effect. At the time of the client's death, the state shall distribute the benefits of the policy as follows:

(a) Up to \$7,000 can be distributed to cover burial and funeral expenses. The total value of this distribution plus the value of any irrevocable burial trusts and/or the burial and funeral funds for the client can not exceed \$7,000.

(b) An amount to the state that is not more than the total amount of previously unreimbursed medical assistance correctly paid on behalf of the client.

(c) Any amount remaining after payments are made as defined in a. and b. will be made to a beneficiary named by the client.

~~(10) If the agency determines that a sanction period applies for an otherwise eligible institutionalized person, the agency shall notify the individual that the individual is ineligible for nursing home or other long-term care services because of the sanction. The notice shall include when the sanction period begins and ends. The individual may request a waiver of the sanction period based on undue hardship. The individual must send a written request to the agency within 30 days after the mailing date of the sanction notice.~~

~~([5]11) Clients that claim an undue hardship as a result of a transfer of resources must meet both of the following conditions:~~

~~(a) The client or the person who transferred the resources has exhausted all reasonable [legal] means including legal remedies to regain possession of the transferred resource. It is considered unreasonable to require the client to take action if a knowledgeable source confirms that it is doubtful those efforts will succeed. It is unreasonable to require the client to take action more costly than the value of the resource[-], and~~

~~(b) Application of the sanction for a transfer of resources would deprive the client of medical care such that the client's life or health would be endangered, or would deprive the client of food, clothing, shelter or other necessities of life. [The client is at risk of death or permanent disability if not admitted to a medical institution or Waiver service.]~~

~~(12) The Department bases its [This] decision that undue hardship exists [will be based] upon the client's medical condition and the financial situation of the client. The Department will consider [H] income and resources of the client, client's spouse, and parents of an unemancipated client [shall be used-] to decide if the financial situation creates undue hardship. The agency shall send a written notice of its decision on the undue hardship request. The client has 90 days from the date of mailing of the decision concerning the request for an undue hardship waiver to request a fair hearing.~~

~~[—(6) After Institutional Medicaid eligibility is determined, the client's spouse, not living in the institution, may transfer any resource to any person without impacting the Medicaid eligibility of the institutionalized spouse.]~~

~~([7]13) The portion of an irrevocable burial trust that exceeds \$7,000 is considered a transfer of resources. The value of any fully paid burial plot, as defined in R414-305-1([2]3)(a), shall be deducted from such burial trust first before determining the amount transferred.~~

~~([8]14) If more than one transfer has occurred and the sanction periods would overlap, the sanctions will be applied consecutively[-] so that they do not overlap. If a resource was transferred before February 8, 2006, the [A] sanction begins on the first day of the month in which the resource was transferred unless a previous sanction is in effect, in which case the sanction begins on the first day of the month immediately following the month the previous sanction ends. [—If resources were transferred before August 11, 1993, applicable sanction periods for those transfers may overlap.]~~

#### **R414-305-7. Home and Community-Based Services Waiver Resource Provisions.**

(1) The resource limit is \$2,000.

(2) Following the initial month of eligibility, continued eligibility is determined by counting only the resources that belong to the client.

(3) For married clients, spousal impoverishment resource rules apply as defined in R414-305-3.

#### **R414-305-8. QMB, SLMB, and QI[-] Resource Provisions.**

(1) The Department adopts Subsection 1905(p) of the Compilation of the Social Security Laws, 1999 ed., which is incorporated by reference.

(2) The resource limit is the same for all medically needy individuals.

(3) The QMB, SLMB, and QI[-] resource limit is \$4,000 for an individual and \$6,000 for a couple.

#### **KEY: Medicaid, eligibility**

**Date of Enactment or Last Substantive Amendment: April 1, 2006**

**Notice of Continuation: January 31, 2003**

**Authorizing and Implemented or Interpreted Law: 26-18**

## Human Resource Management, Administration **R477-7** Leave

### NOTICE OF 120-DAY (EMERGENCY) RULE

DAR FILE NO.: 28571

FILED: 03/23/2006, 16:08

#### RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This amendment will implement the provisions of H.B. 213, Unused Sick Leave at Retirement Amendments, passed in the 2005 General Session of the Utah Legislature, and clarify provisions governing an employee's return to work. (DAR NOTE: H.B. 213 (2005) is found at Chapter 15, Laws of Utah 2005, and was effective 01/01/2006.)

SUMMARY OF THE RULE OR CHANGE: H.B. 213 created two categories of sick leave and converted sick leave; leave earned prior to December 31, 2005, is Program I sick leave and converted sick leave, and leave earned after January 1, 2006, is Program II sick leave and converted sick leave. The benefits earned with Program I differs from the benefits earned with Program II. Amendments to Section R477-7-5 provide that 25% of converted sick leave will be placed in the employees 401(k) account upon retirement. The remainder will be used to purchase health care premiums if it is Program I converted sick leave or will be placed in the Public Employees Health Program (PEHP) health reimbursement program if it is Program II converted sick leave. Amendments to Subsection R477-7-6(1) require the gradual elimination of the number of years the state will pay for health insurance prior to age 65 from 5 years in 2006 to 0 years in 2011; the placement of 25% of the value of the employees sick leave into a 401(k) account at retirement; and the gradual elimination of the mandatory deduction from the employees

sick balance from 480 hours in 2006 to 0 hours in 2011. Remaining amendments to this subsection make it mandatory that sick leave hours remaining after the 401(k) contribution and the deduction shall be used to purchase health insurance premiums and move existing language for clarity. Subsection R477-7-6(2) is a new subsection providing for the disposition of leave hours in Program II. Twenty five percent of the value of those hours shall be contributed into a 401(k) account with the remainder placed into the Public Employees Health Program (PEHP) health reimbursement program. Amendments to Sections R477-7-13, R477-7-16, and R477-7-17 simply require agencies to comply with appropriate state and federal laws when an employee returns to work from leave of absence without pay, workers' compensation, or long-term disability. Provisions are found throughout the Department of Human Resource Management (DHRM) rules for dealing with the Family Medical Leave Act, the Americans with Disabilities Act, the Uniformed Services Employment, and Reemployment Rights Act and other human resource laws. (DAR NOTE: The corresponding proposed amendment to Rule R477-7 is under DAR No. 28570 in this issue.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 67-19-6 and Subsection 67-19-14(2)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The fiscal note to H.B. 213 estimates a cost to the state budget of \$200,000 in fiscal year 2006 and \$50,000 in fiscal year 2007 because of anticipated early retirements by employees wishing to avoid the discontinuance of some of the benefits prescribed by the bill. After that the state should realize substantial savings over time as more and more employee sick leave is shifted into the health care reimbursement program from the purchase of more expensive health insurance premiums.

❖ LOCAL GOVERNMENTS: This rule only affects the executive branch of state government and will have no impact on local governments.

❖ OTHER PERSONS: This rule only affects the executive branch of state government and will have no impact on other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The cost identified above will affect the Utah Retirement System and have little impact on state agencies.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Rules published by DHRM have no direct effect on businesses or any entity outside state government. DHRM has authority to write rules only to the extent allowed by various provisions of the Utah Personnel Management Act, Title 67, Chapter 19. These provisions limit the provision of career service and these rules to employees of the executive branch of state government. The only possible impact may be a very slight, indirect effect of an agency passes costs or saving on to business through fees. However, it is anticipated that the minimal costs associated with these changes will be absorbed by agency budgets and will have no effect on business. Jeff Herring, Executive Director

EMERGENCY RULE REASON AND JUSTIFICATION: REGULAR RULEMAKING PROCEDURES WOULD place the agency in violation of federal or state law.

This filing supersedes the emergency (120-day) rule filed on December 30, 2005, under DAR No. 28443. The December filing was required because the Utah Supreme Court had issued an injunction against the implementation of the changes to the Unused Sick Leave Retirement Option Program I required by the passage of H.B. 213 in the 2005 General Session. The State was still obligated, however, to implement Program II which was not enjoined by the court requiring a separate rule. The Supreme Court has now resolved all legal issues surrounding the passage of H.B. 213 and the State is once again obligated to implement the entire Unused Sick Leave Retirement Option Programs I and II. The timelines for the lifting of the injunction does not provide sufficient time for regular rulemaking making this emergency rule necessary in order to comply with the effective date of H.B. 213. (DAR NOTE: The previous emergency rule was published in the January 15, 2006, issue of the Bulletin under DAR No. 28443, and was effective 01/01/2006.)

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:

Linda Cooper at the above address, by phone at 801-538-3208, by FAX at 801-538-3081, or by Internet E-mail at LKCOOPER@utah.gov

THIS RULE IS EFFECTIVE ON: 04/01/2006

AUTHORIZED BY: Jeff Herring, Executive Director

**R477. Human Resource Management, Administration.**

**R477-7. Leave.**

**R477-7-5. Converted Sick Leave.**

[As an incentive to reduce sick leave abuse, an] An employee may convert sick leave hours to converted sick leave after the end of the last pay period of the calendar year in which the employee is eligible.

(1)(a) Converted sick leave hours accrued prior to January 1, 2006 shall be program I converted sick leave hours.

(b) Converted sick leave hours accrued after January 1, 2006 shall be program II converted sick leave hours.

([+2] To be eligible, an [employee's sick leave account] employee must have accrued a [minimum] total of 144 hours or more of sick leave in program I and program II combined at the beginning of the first pay period of the calendar year.

(a) At the end of the last pay period of a calendar year in which an employee is eligible, all unused sick leave hours accrued that year in excess of 64 shall be converted to program II converted sick leave. ~~In the event the employee has the maximum accrued in converted sick, these hours will be added to the annual leave account balance. An~~

~~employee who does not wish to have the sick leave converted shall notify agency management no later than the end of February. The converted sick leave hours will then be returned to the sick leave account.]~~

~~(b) The maximum hours of converted sick leave an employee may accrue in program I and program II combined is 320.~~

~~(c) If the employee has the maximum accrued in converted sick leave, these hours will be added to the annual leave account balance.~~

~~(d) In order to prevent or reverse the conversion, an employee shall:~~

~~(i) notify agency management no later than the last day of the last pay period of the calendar year in order to prevent the conversion; or~~

~~(ii) notify agency management no later than the end of February in order to reverse the conversion.~~

~~(b)(c) Upon separation, an eligible employee may convert any unused sick leave hours accrued in the current calendar leave year in excess of 64 to converted sick leave hours in program II. [~~

~~(e) The maximum hours of converted sick leave an employee may accrue is 320.]~~

~~(2)(3) [Converted]An employee may use converted sick leave [may be used] as annual leave[,] or as regular sick leave, [or as paid health and life insurance at the time of retirement for employees under age 65. If an employee is 65 years of age or older at the time of retirement, converted sick leave may be used to purchase a Medicare supplement.~~

~~(a) Payment for health and life insurance is the responsibility of the employing agency.~~

~~(b) The purchase rate shall be eight hours of converted sick leave for the state paid portion of the premium for one month's coverage for health and life insurance.~~

~~(c) The retiree shall pay the same percentage of the premium as a current employee on the same plan.]~~

~~(4) Upon retirement, 25 percent of the value of the unused converted sick leave, but not to exceed Internal Revenue Service limitations, shall be placed in the employee's 401 (k) account as an employer contribution.~~

~~(a) Converted sick leave hours from program II shall be placed in the 401 (k) account before hours from program I.~~

~~(b) The remainder shall be used for:~~

~~(i) the purchase of health care insurance and life insurance as provided in R477-7-6(3)(c) if the converted sick leave was accrued in program I; or~~

~~(ii) a contribution into the employees PEHP health reimbursement account as provided in R477-7-6(4)(b) if the converted sick leave was accrued in program II.~~

#### **R477-7-6. Sick Leave Retirement Benefit.**

~~Upon retirement from active employment, an employee [may be offered a] shall receive an unused sick leave retirement benefit [program, according to Section 67-19-14(2)] under the provisions of Section 67-19-14.2 and Section 67-19-14.4.~~

~~(1)(a) Sick leave hours accrued prior to January 1, 2006 shall be program I sick leave hours.~~

~~(b) Sick leave hours accrued after January 1, 2006 shall be program II sick leave hours.~~

~~(1)(2) [This program is optional for each agency] An agency may offer the Unused Sick Leave Retirement Option Program I to an employee who is eligible to receive retirement benefits. However, any decision whether or not to participate in this program shall be agency wide and shall be consistent through an entire fiscal year.~~

~~(a) If an agency decides to withdraw for the next fiscal year after~~

initially deciding to participate, the agency must notify all employees at least 60 days before the new fiscal year begins.

~~(3) An employee in a participating agency shall receive the following benefit provided by the Unused Sick Leave Retirement Options Program I.~~

~~(a) Continuing health and life insurance.~~

~~(b)(i) The employing agency shall provide the same health and life insurance benefits as provided to current employees [for five years or until the employee reaches the age eligible for Medicare or up to the following number of years, whichever comes first.~~

~~(A) five years if the employee retires during calendar year 2006;~~

~~(B) four years if the employee retires during calendar year 2007;~~

~~(C) three years if the employee retires during calendar year 2008;~~

~~(D) two years if the employee retires during calendar year 2009;~~

~~(E) one year if the employee retires during calendar year 2010; or~~

~~(F) zero years if the employee retires after calendar year 2010.~~

~~(b)(ii) Health insurance provided shall be the same coverage carried by the employee at the time of retirement; i.e., family, two-party, or single. If the employee has no health coverage in place upon retirement, none shall be offered or provided.~~

~~(b)(iii) Life insurance provided shall be the minimum authorized coverage provided for all state employees at the time the employee retires.~~

~~(b)(iv) The retiree shall pay the same percentage of the premium as a current employee on the same plan.~~

~~(2) Employee participation in any part of this incentive program shall be voluntary, but the decision to participate shall be made at retirement.~~

~~(3) An employee may elect to receive a cash payment, or transfer to an approved 401(k) or 457 account, up to 25 percent of his accrued unused sick leave at his current rate of pay. (b) Twenty five percent of the value of the unused sick leave, but not to exceed Internal Revenue Service limitations, shall be placed in the employees 401(k) account as an employer contribution.~~

~~(i) Sick leave hours from program II shall be placed in the 401(k) account before hours from program I.~~

~~(4)(ii) After the [election for cash out] 401(k) contribution is made, [480 hours] an additional amount shall be deducted from the employees remaining sick leave balance as follows.~~

~~(A) 480 hours if the employee retires during calendar year 2006;~~

~~(B) 384 hours if the employee retires during calendar year 2007;~~

~~(C) 288 hours if the employee retires during calendar year 2008;~~

~~(D) 192 hours if the employee retires during calendar year 2009;~~

~~(E) 96 hours if the employee retires during calendar year 2010; or~~

~~(F) zero hours if the employee retires after calendar year 2010.~~

~~(5)(c) The [employee may use] remaining sick leave hours [to participate in the following incentive program] and converted sick leave hours from R477-7-5(4)(b)(i) shall be used to provide the following benefit.~~

~~(a)(i) The [retiree may] purchase of PEHP health insurance, or a state approved program, and life insurance coverage for [himself] the employee until he reaches the age eligible for Medicare.~~

~~(b)(A) Health insurance shall be the same coverage carried by the employee at the time of retirement; i.e., family, two-party, or single. [~~

~~(ii) Life insurance provided shall be the minimum authorized coverage provided for state employees at the time the employee retires.]~~

~~(b)(B) The purchase rate shall be eight hours of sick leave or converted sick leave for the state paid portion of one month's premium.~~

~~(b)(C) The employee shall pay the same percentage of the premium as a current employee on the same plan.~~



(D) Life insurance provided shall be the minimum authorized coverage provided for state employees at the time the employee retires.

(ii) When the employee reaches the age eligible for Medicare, he may purchase a Medicare supplement policy provided by PEHP for himself at the rate of eight hours of sick leave or converted sick leave for one month's premium.

(b)iii) After the employee reaches the age eligible for Medicare, he may purchase PEHP [Preferred Care] health insurance, or a state approved [cost equivalent] program for a spouse until the spouse reaches the age eligible for Medicare.

(i)A) The purchase rate shall be eight hours of sick leave or converted sick leave for one month's premium.

(B) The employee shall pay the same percentage of the premium as a current employee on the same plan.

(e) When the employee reaches the age eligible for Medicare, he may purchase a high option Medicare supplement policy for himself at the rate of eight hours of sick leave or converted sick leave for one month's premium.

(d)iv) When the spouse reaches the age eligible for Medicare, the employee may purchase a [high option] Medicare supplement policy provided by PEHP for the spouse at the rate of eight hours of sick leave or converted sick leave for one month's premium.

(e)y) In the event an employee is killed in the line of duty, the employee's spouse shall be eligible to use the employee's available sick leave hours for the purchase of health and dental insurance as provided in [R477-7-6.]Section 67-19-14.3.

(4) An employee shall receive the following benefit provided by the Unused Sick Leave Retirement Option Program II.

(a) Twenty five percent of the value of the unused sick leave, but not to exceed Internal Revenue Service limitations, shall be placed in the employee's 401(k) account as an employer contribution.

(b) After the 401(k) contribution the remaining sick leave hours and the converted sick leave hours from R477-7-5(4)(b)(ii) shall be deposited in the employees PEHP health reimbursement account at the greater of:

- (i) the employees rate of pay at retirement, or
- (ii) the average rate of pay of state employees who retired in the same retirement system in the previous calendar year.

#### **R477-7-13. Leave of Absence Without Pay.**

(1) An employee shall apply in writing to agency management for approval of a leave of absence without pay. Approval may be granted for continuous leave for up to 12 months from the last day worked.

(a) The employee shall be entitled to previously accrued annual and sick leave.

(b) If unable to return to work within the time period granted, the employee shall be separated from state employment unless prohibited by state or federal law to include but not limited to the Americans with Disabilities Act.

(c) If an employee returns to work on or before the expiration of leave without pay and is unable to perform the essential functions of the position because of a permanent disability that qualifies as a disability under the ADA, the agency shall offer the employee a reassignment to one or more immediately available vacant positions, for which the employee qualifies, and whose essential functions the employee is able to perform without a reasonable accommodation. If no position is immediately available the employee shall be separated from state employment.

(2) Nonmedical Reasons

(a) Leave without pay may be granted only when there is an expectation that the employee will return to work. This section does not apply for military leave.

(b) Agency management may approve leave without pay for an employee even though annual or sick leave balances exist. An employee may take up to ten consecutive working days of leave without pay without affecting the leave accrual rate.

(c) An employee who receives no compensation for a complete pay period shall be responsible for payment of the full premium of state provided benefits.

(d) An employee who returns to work on or before the expiration of leave without pay shall be placed in a position with comparable pay and seniority to the previously held position.

#### (3) Medical Reasons

(a) An employee who is ineligible for FMLA, Workers Compensation, or Long Term Disability may be granted leave without pay for medical reasons.

(b) Medical leave without pay may be granted for no more than 12 months. Medical leave may be approved if a registered health practitioner certifies that an employee is temporarily disabled.

(c) An employee who is granted this leave shall provide a monthly status update to the employee's supervisor.

#### **R477-7-16. Workers Compensation Leave.**

(1) An employee may use accrued leave benefits to supplement the workers compensation benefit.

(a) The combination of leave benefit and workers compensation benefit shall not exceed the employee's gross salary. Leave benefits shall only be used in increments of one hour in making up any difference.

(b) The use of accrued leave to supplement the worker compensation benefit shall be terminated if:

- (i) the employee is declared medically stable by licensed medical authority;
- (ii) the workers compensation fund terminates the benefit;
- (iii) the employee has been absent from work for one year;
- (iv) the employee refuses to accept appropriate employment offered by the state; or
- (v) the employee receives Long Term Disability or Social Security Disability benefits.

(c) The employee shall refund to the state any accrued leave paid which exceeds the employee's gross salary for the period for which the benefit was received.

(2) An employee will continue to accrue state paid benefits and leave benefits while receiving a workers compensation time loss benefit for up to one year.

(3) Health insurance benefits shall continue for an employee on leave without pay while receiving workers compensation benefits. The employee is responsible for the payment of the employee share of the premium.

(4) If the employee is able to return to work within one year of the last day worked, the agency shall place the employee in the previously held position or a similar position at a comparable salary range.

(5) If the employee is unable to return to work within 12 months, the employee shall be separated from state employment unless prohibited by state or federal law to include but not limited to the Americans with Disabilities Act.

(6) An employee who files a fraudulent workers compensation claim shall be disciplined according to the provisions of R477-11.

**R477-7-17. Long Term Disability Leave.**

(1) An employee who is determined eligible for the Long Term Disability Program (LTD) shall be granted up to one year of medical leave, if warranted by a medical condition.

(a) The medical leave begins on the last day the employee worked. LTD requires a three month waiting period before benefit payments begin. During this period, an employee may use available sick and converted sick leave. When those balances are exhausted, an employee may use other leave balances available.

(b) An employee determined eligible for Long Term Disability benefits shall be eligible for health insurance benefits the day after the last day worked. The employee is responsible for 10% of the health insurance premium during the first year of disability, 20% during the second year of disability, and 30% thereafter until the employee is no longer covered by the long term disability program.

Upon approval of the LTD claim:

(i) Biweekly salary payments that the employee may be receiving shall cease. If the employee received any salary payments after the three month waiting period, the LTD benefit shall be offset by the amount received.

(ii) The employee shall be paid for remaining balances of annual leave, compensatory hours and excess hours in a lump sum payment. This payment shall be made at the time LTD is approved unless the employee requests in writing to receive it upon separation from state employment. No reduction of the LTD payment shall be made to offset this payment. If the employee returns to work prior to one year after the last day worked, the employee has the option of buying back annual leave at the current hourly rate.

(iii) An employee with a converted sick leave balance at the time of LTD eligibility shall have the option to receive a lump sum payout of all or part of the balance or to keep the balance intact to pay for health and life insurance upon retirement. The payout shall be at the rate at the time of LTD eligibility.

(iv) An employee who retires from state government directly from LTD may be eligible for up to five years health and life insurance as provided in Subsection 67-19-14(2)(b)(ii).

(v) Unused sick leave balance shall remain intact until the employee retires. At retirement, the employee shall be eligible for the cash payout and the purchase of health and life insurance as provided in Subsection 67-19-14(2)(c)(i).

(2) An employee shall continue to accrue service credit for retirement purposes while receiving long term disability benefits.

(3) Conditions for return from leave without pay shall include:

(a) If an employee is able to return to work within one year of the last day worked, the agency shall place the employee in the previously held position or similar position in a comparable salary range provided the employee is able to perform the essential functions of the job with or without a reasonable accommodation. [

~~(b) If an employee is unable to perform the essential functions of the position because of a permanent disability that qualifies as a disability under the ADA, the agency shall offer the employee a reassignment to one or more immediately available vacant positions, for which the employee qualifies, and whose essential functions the employee is able to perform without a reasonable accommodation.]~~

(~~e~~b) If an employee is unable to return to work within one year after the last day worked, the employee shall be separated from state employment unless prohibited by state or federal law to include but not limited to the Americans with Disabilities Act.

(4) An employee who files a fraudulent long term disability claim shall be disciplined according to the provisions of R477-11.

**KEY: holidays, leave benefits, vacations**

**Date of Enactment or Last Substantive Amendment: April 1, 2006  
Authorizing, and Implemented or Interpreted Law: 49-9-203; 63-13-2; 67-19-6; 67-19-12.9; ~~67-19-14.5~~; ~~67-19-14~~; 67-19-14.2; 67-19-14.4**



**End of the Notices of 120-Day (Emergency) Rules Section**

# FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

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

Upon reviewing a rule, an agency may: repeal the rule by filing a PROPOSED RULE; continue the rule as it is by filing a NOTICE OF 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).

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## Agriculture and Food, Administration **R51-3** Government Records Access and Management Act

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

DAR FILE No.: 28552  
FILED: 03/16/2006, 12:18

### NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Sections 63-2-204 and 63-2-904 authorize governmental agencies to make rules specifying where and to whom requests for access to records 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 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: This rule provides procedures for access and denial of access to government records. Therefore, this rule should be continued.

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

AGRICULTURE AND FOOD  
ADMINISTRATION  
350 N REDWOOD RD  
SALT LAKE CITY UT 84116-3034, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Kyle Stephens or Renee Matsuura at the above address, by phone at 801-538-7102 or 801-538-7110, by FAX at 801-538-

7126 or 801-538-7126, or by Internet E-mail at  
kylestephens@utah.gov or rmatsuura@utah.gov

AUTHORIZED BY: Leonard M. Blackham, Commissioner

EFFECTIVE: 03/16/2006



## Agriculture and Food, Administration **R51-4** ADA Complaint Procedure

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

DAR FILE No.: 28553  
FILED: 03/16/2006, 12:35

### 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 63-46a-3(2) authorizes each agency to make rules when agency action: authorizes, requires, or prohibits an action or a material benefit; applies to a class of persons or another agency. The department adopts and defines complaint procedures to provide for prompt and equitable resolution of complaints filed in accordance with Title 11 of the Americans With Disabilities Act (ADA) pursuant to 28 CFR 35.107, July 1, 1992, edition.

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: This rule defines complaint procedures to provide for prompt and equitable resolution of complaints filed in accordance with the Americans With Disabilities Act. Therefore, this rule should be continued.

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

AGRICULTURE AND FOOD  
ADMINISTRATION  
350 N REDWOOD RD  
SALT LAKE CITY UT 84116-3034, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Renee Matsuura or Kyle Stephens at the above address, by phone at 801-538-7110 or 801-538-7102, by FAX at 801-538-7126 or 801-538-7126, or by Internet E-mail at [rmatsuura@utah.gov](mailto:rmatsuura@utah.gov) or [kylestephens@utah.gov](mailto:kylestephens@utah.gov)

AUTHORIZED BY: Leonard M. Blackham, Commissioner

EFFECTIVE: 03/16/2006

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

AGRICULTURE AND FOOD  
MARKETING AND DEVELOPMENT  
350 N REDWOOD RD  
SALT LAKE CITY UT 84116-3034, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Marolyn Leetham or Kyle Stephens at the above address, by phone at 801-538-7114 or 801-538-7102, by FAX at 801-538-7126 or 801-538-7126, or by Internet E-mail at [mleetham@utah.gov](mailto:mleetham@utah.gov) or [kylestephens@utah.gov](mailto:kylestephens@utah.gov)

AUTHORIZED BY: Leonard M. Blackham, Commissioner

EFFECTIVE: 03/16/2006

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**Agriculture and Food, Marketing and  
Development  
R65-8  
Management of the Junior Livestock  
Show Appropriation**

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

DAR FILE No.: 28558  
FILED: 03/16/2006, 13:46

**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 4-2-2(1)(j) authorizes the department to promulgate rules necessary for the effective administration of the agricultural laws of the state. Subsection 4-2-2(1)(n) authorizes the department to take charge of any agricultural exhibit within the state and award premiums at that exhibit.

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: It is the intent of these rules to regulate the following elements: establishment of a forum to carry out the intent of these rules; participation in the appropriation; establishment of official show dates and entry deadlines; and equitable distribution of the appropriation and maintenance of administrative control of the fund. Therefore, this rule should be continued.

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**Agriculture and Food, Plant Industry  
R68-7  
Utah Pesticide Control Act**

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

DAR FILE No.: 28554  
FILED: 03/16/2006, 13:00

**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 4-14-6 authorizes the department to make and enforce rules considered necessary to administer and enforce this chapter, including but not limited to, rules relating to the sale, distribution, use, and disposition of pesticides as deemed necessary to prevent damage and to protect the public health.

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: This rule establishes the procedures for the registration, labeling, and classification of pesticides. It also establishes the procedures for the classification of Pesticide applicators, certification procedures, and dealer licensing procedures. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 AGRICULTURE AND FOOD  
 PLANT INDUSTRY  
 350 N REDWOOD RD  
 SALT LAKE CITY UT 84116-3034, or  
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 Marolyn Leetham, Clark Burgess, or Clair Allen at the above address, by phone at 801-538-7114, 801-538-9929, or 801-538-7180, by FAX at 801-538-7126, 801-538-7126, or 801-538-7189, or by Internet E-mail at mleetham@utah.gov, cburgess@utah.gov, or ClairAllen@utah.gov

AUTHORIZED BY: Leonard M. Blackham, Commissioner

EFFECTIVE: 03/16/2006

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**Agriculture and Food, Regulatory  
 Services  
 R70-330  
 Raw Milk for Retail**

**FIVE YEAR NOTICE OF REVIEW AND  
 STATEMENT OF CONTINUATION**  
 DAR FILE No.: 28555  
 FILED: 03/16/2006, 13:20

**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 4-3-2 authorizes the department to make and enforce such rules as may in its judgment and discretion be necessary to carry out the purposes of the Utah Dairy 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: 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: This rule establishes the requirements for the production, distribution, and sale of raw milk for retail for the health and safety of the consumer. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 AGRICULTURE AND FOOD  
 REGULATORY SERVICES  
 350 N REDWOOD RD  
 SALT LAKE CITY UT 84116-3034, or  
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 Marolyn Leetham, Don McClellan, or Kyle Stephens at the above address, by phone at 801-538-7114, 801-538-7145, or 801-538-7102, by FAX at 801-538-7126, 801-538-7126, or 801-538-7126, or by Internet E-mail at mleetham@utah.gov, dmcclellan@utah.gov, or kylestephens@utah.gov

AUTHORIZED BY: Leonard M. Blackham, Commissioner

EFFECTIVE: 03/16/2006

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**Agriculture and Food, Regulatory  
 Services  
 R70-370  
 Butter**

**FIVE YEAR NOTICE OF REVIEW AND  
 STATEMENT OF CONTINUATION**  
 DAR FILE No.: 28556  
 FILED: 03/16/2006, 13:26

**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 4-3-2 authorizes the department to make and enforce such rules as may in its judgment and discretion be necessary to carry out the purposes of the Utah Dairy 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: 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: This rule establishes the standards for all butter sold, bought, processed, manufactured, or distributed within the State of Utah. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 AGRICULTURE AND FOOD  
 REGULATORY SERVICES  
 350 N REDWOOD RD  
 SALT LAKE CITY UT 84116-3034, or  
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 Kyle Stephens, Marolyn Leetham, or Don McClellan at the above address, by phone at 801-538-7102, 801-538-7114, or 801-538-7145, by FAX at 801-538-7126, 801-538-7126, or 801-538-7126, or by Internet E-mail at kylestephens@utah.gov, mleetham@utah.gov, or dmcclellan@utah.gov

AUTHORIZED BY: Leonard M. Blackham, Commissioner

EFFECTIVE: 03/16/2006

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**Agriculture and Food, Regulatory  
Services  
R70-380**

**Grade A Condensed and Dry Milk  
Products and Condensed and Dry  
Whey**

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

DAR FILE No.: 28557  
FILED: 03/16/2006, 13:33

**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 4-3-2 authorizes the department to make and enforce such rules as may in its judgment and discretion be necessary to carry out the purposes of the Utah Dairy 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: 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: This rule establishes the standards of all Grade A condensed milk products and condensed and dry whey sold, bought, processed, manufactured, or distributed within the State of Utah. Therefore, this rule should be continued.

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

AGRICULTURE AND FOOD  
REGULATORY SERVICES  
350 N REDWOOD RD  
SALT LAKE CITY UT 84116-3034, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
Marolyn Leetham, Don McClellan, or Kyle Stephens at the above address, by phone at 801-538-7114, 801-538-7145, or 801-538-7102, by FAX at 801-538-7126, 801-538-7126, or 801-538-7126, or by Internet E-mail at mleetham@utah.gov, dmcclellan@utah.gov, or kylestephens@utah.gov

AUTHORIZED BY: Leonard M. Blackham, Commissioner

EFFECTIVE: 03/16/2006

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**Corrections, Administration  
R251-104  
Declaratory Orders**

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

DAR FILE No.: 28576  
FILED: 03/28/2006, 07:59

**NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized by Section 63-46b-21, which requires agencies issue a rule that provides for filing a petition for a declaratory order.

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: This rule is needed because it provides the public with the requirements which govern the submission, review, and disposition of petitions for declaratory orders made to the Department. Therefore, this rule should be continued.

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:

Gary Ogilvie at the above address, by phone at 801-545-5514, by FAX at 801-545-5523, or by Internet E-mail at gogilvie@utah.gov

AUTHORIZED BY: Scott V. Carver, Executive Director

EFFECTIVE: 03/28/2006

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**Corrections, Administration  
R251-712  
Release**

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

DAR FILE No.: 28577  
FILED: 03/28/2006, 08:05

**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 64-13-7 and 64-13-10 authorize this rule and charge the Department to establish procedures for the appropriate assignment or transfer of public offenders to facilities or 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: 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: If this rule is not continued, it would jeopardize public safety by releasing offenders without a plan or procedures to make them accountable for their actions, while they are on Parole. Therefore, this rule should be continued.

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:  
Gary Ogilvie at the above address, by phone at 801-545-5514, by FAX at 801-545-5523, or by Internet E-mail at [gogilvie@utah.gov](mailto:gogilvie@utah.gov)

AUTHORIZED BY: Scott V. Carver, Executive Director

EFFECTIVE: 03/28/2006



Insurance, Administration  
**R590-177**  
Life Insurance Illustrations Rule

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

DAR FILE No.: 28587  
FILED: 03/31/2006, 11:14

**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 code references to 31a-23 in Sections R590-177-1 and R590-177-12 are being updated in a nonsubstantive rule change at this same time. The text of the section will not change. Subsection 31A-23-302(8) authorizes the commissioner to define by rule unfair methods of competition. This rule prescribes standards to be followed when illustrations are used and specifies the disclosures that are required in connection with illustrations. (DAR NOTE: The nonsubstantive change to Rule R590-177 is under DAR No. 28588 is available from the Division of Administrative Rules.)

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The department has received no written comments regarding this rule in the past five years.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule provides consumer protection by stating the requirements and restrictions on the values that can be shown in the projections contained in the illustrations. Unregulated illustrations have been found to provide values that are unrealistic and could entice a consumer into purchasing a product that will never perform as the company has illustrated. Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:  
Jilene Whitby at the above address, by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at [jwhitby@utah.gov](mailto:jwhitby@utah.gov)

AUTHORIZED BY: Jilene Whitby, Information Specialist

EFFECTIVE: 03/31/2006



Insurance, Administration  
**R590-200**  
Diabetes Treatment and Management

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

DAR FILE No.: 28589  
FILED: 03/31/2006, 12:46

**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 31A-2-201(1) refers to the duty the commission has to administer and enforce Title 31A. Subsection 31A-2-201(3)(a) authorizes the commissioner to make rules to implement the provisions of Title 31A. Section 31A-22-626 authorizes the commissioner to set minimum standards by rule for coverage of diabetes.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The department has not received any written comments regarding this rule in the past five years.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule goes into detail regarding the minimum standards that must be covered under health care insurance. It includes diabetes education when an individual develops Type 1 and/or Type 2 Diabetes. As new types of care are developed and as a person's health status changes, the rule allows for instruction on how to eat and exercise and handle the overall illness specific to the individual. Therefore, this rules should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 INSURANCE  
 ADMINISTRATION  
 Room 3110 STATE OFFICE BLDG  
 450 N MAIN ST  
 SALT LAKE CITY UT 84114-1201, or  
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 Jilene Whitby at the above address, by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at [jwhitby@utah.gov](mailto:jwhitby@utah.gov)

AUTHORIZED BY: Jilene Whitby, Information Specialist

EFFECTIVE: 03/31/2006

◆ ————— ◆  
**Public Safety, Driver License  
 R708-6  
 Renewal By Mail**

**FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**  
 DAR FILE No.: 28569  
 FILED: 03/23/2006, 15:07

**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 53-3-214 allows the Driver License Division to issue a renewal driver license through the mail if the applicants meet certain requirements. This rule defines what those provisions are.

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: This rule is needed so the public can continue to apply for a renewal-by-mail driver license. Therefore, this rule should be continued.

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@utah.gov](mailto:vroos@utah.gov)

AUTHORIZED BY: Nannette Rolfe, Director

EFFECTIVE: 03/23/2006

◆ ————— ◆  
**Public Safety, Driver License  
 R708-16  
 Pedestrian Vehicle Rule**

**FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**  
 DAR FILE No.: 28568  
 FILED: 03/23/2006, 14:36

**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: A person cannot drive a pedestrian vehicle on public highways or sidewalks without receiving authorization from the state as per Section 41-6a-1011. This rule defines a pedestrian vehicle and outlines all the requirements.



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: This rule is needed so the agency can be in compliance with statute and allow individuals to get a pedestrian vehicle if they meet all the requirements. Therefore, this rule should be continued.

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@utah.gov

AUTHORIZED BY: Nannette Rolfe, Director

EFFECTIVE: 03/23/2006

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**Public Safety, Driver License**  
**R708-18**  
**Regulatory and Administrative Fees**

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

DAR File No.: 28565  
FILED: 03/20/2006, 17:36

**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: As per Section 53-3-109, the division shall classify all its records, with some exceptions, and make the records available to the public with certain conditions. The division may also make rules to determine what information can be used for a driving record; type of forms to be used; provide certified copies; and utilize electronic formats as needed. The division may also collect fees.

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: This rule is needed to provide, upon request, driver license information to the public as defined in statute. Therefore, this rule should be continued.

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@utah.gov

AUTHORIZED BY: Nannette Rolfe, Director

EFFECTIVE: 03/20/2006

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**Public Safety, Driver License**  
**R708-19**  
**Automobile No-Fault Self-Insurance**

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

DAR File No.: 28572  
FILED: 03/23/2006, 16:34

**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 41-12A-201 allows individuals, who have 25 or more vehicles to have Automobile No-Fault Self-Insurance without having to go through an insurance company. The purpose of this rule is to set forth the methods and general rules approved by the department for providing the security required by Sections 41-12A-301 and 41-12A-407.

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: This rule is needed so individuals can have the option of having no-fault self-insurance if they meet the requirements set forth in this rule. Therefore, this rule should be continued.

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@utah.gov

AUTHORIZED BY: Nannette Rolfe, Director

EFFECTIVE: 03/23/2006

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@utah.gov

AUTHORIZED BY: Nannette Rolfe, Director

EFFECTIVE: 03/21/2006

Public Safety, Driver License  
**R708-20**

Motor Vehicle Accident Prevention  
Course Standards

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

DAR FILE No.: 28567  
FILED: 03/21/2006, 09:46

**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 31A-19a-211 provides an opportunity for those who are 55 years of age or older to have a reduction in their motor vehicle insurance premium rates if they have successfully completed an approved motor vehicle accident prevention course as outlined in this rule.

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: This rule is needed so individuals over 55 can have an opportunity to lower their motor vehicle insurance premium rates by taking an approved motor vehicle accident prevention course based upon the criteria outlined in this rule. Therefore, this rule should be continued.

Public Safety, Driver License  
**R708-33**

Electric Assisted Bicycle Headgear

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

DAR FILE No.: 28560  
FILED: 03/17/2006, 13:01

**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 41-6a-1505 says a person under the age of 18 may not operate or ride on a motorcycle or motor-driven cycle on a highway unless the person is wearing protective headgear which complies with specifications as defined in this section. Electric-assisted bicycles fall under this category as per Section 41-6a-102.

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: This rule is needed so we can ensure those who ride electric assisted bicycles comply with the same requirements as for other similar type vehicles as defined in Section 41-6a-102. Therefore, this rule should be continued.

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@utah.gov

AUTHORIZED BY: Nannette Rolfe, Director

EFFECTIVE: 03/17/2006

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@utah.gov

AUTHORIZED BY: Nannette Rolfe, Director

EFFECTIVE: 03/20/2006

Public Safety, Driver License  
**R708-38**  
Anatomical Gift

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

DAR FILE No.: 28566  
FILED: 03/20/2006, 17:38

**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: As per Subsection 53-3-205 (16)(b)(i), the division may upon request, release to an organ donor procurement organization the names and addresses of persons who wish to donate an organ. This rule defines the process for authenticating an applicant's intent to make an anatomical gift (organ donation) when applying for a driver license or identification card excluding renewal by mail.

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: This rule is needed so individuals can express their desire to donate an organ when they apply for a Utah Driver License. Therefore, this rule should be continued.

Public Safety, Fire Marshal  
**R710-6**  
Liquefied Petroleum Gas Rules

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

DAR FILE No.: 28584  
FILED: 03/30/2006, 10:19

**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 Liquefied Petroleum Gas Act has been in effect since 1987. The completed legislation can be found in Sections 53-7-301 through 53-7-316. In Section 53-7-305, the Liquefied Petroleum Gas Board is authorized to make rules as reasonably necessary for the protection of the health, welfare, and safety of the public and persons using liquefied petroleum (LP) gas. The LP Gas Board is authorized in Section 53-7-305 to make rules setting minimum general standards covering the design, construction, location, installation, and operation of equipment for storing, handling, transporting by tank truck or tank trailer, or using LP Gas.

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 been two written comments received during the last five-year period that were made to the LP Gas Board. The first was with regard to the required tank inspections on LP gas transport and bobtail

vehicles. There was a request that there be a differentiation between the transport containers and bobtail containers. The second item was with regard to the required testing for certificates of registration to transport LP gas. The concern was all the testing that is required between the Federal Government and the Utah Liquefied Petroleum Gas Safety Act. It was requested that if possible there be a consolidation of the two testing requirements.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R710-6 is needed to ensure the continued implementation of the Liquefied Petroleum Gas Safety Act. This safety program has substantially lowered the incidents of LP gas accidents across the State of Utah since 1987. Therefore, this rule should be continued. The two written comments received and stated under the summary of written comments above were acted upon by the LP Gas Board. The second written comment is still in progress by the LP Gas Board and will be completed by the fall of 2006.

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

PUBLIC SAFETY  
FIRE MARSHAL  
Room 302  
5272 S COLLEGE DR  
MURRAY UT 84123-2611, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Brent Halladay at the above address, by phone at 801-284-6352, by FAX at 801-284-6351, or by Internet E-mail at [bhallada@utah.gov](mailto:bhallada@utah.gov)

AUTHORIZED BY: Ron L. Morris, Utah State Fire Marshal

EFFECTIVE: 03/30/2006



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

## NOTICES OF RULE EFFECTIVE DATES

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

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### Abbreviations

AMD = Amendment

CPR = Change in Proposed Rule

NEW = New Rule

R&R = Repeal and Reenact

REP = Repeal

### Administrative Services

#### Risk Management

No. 28413 (AMD): R37-1. Risk Management General Rules.

Published: January 1, 2006

Effective: March 31, 2006

### Agriculture and Food

#### Regulatory Services

No. 28485 (AMD): R70-410-1. Authority.

Published: February 15, 2006

Effective: March 20, 2006

### Insurance

#### Administration

No. 28486 (NEW): R590-234. Single Risk Limitation.

Published: February 15, 2006

Effective: March 22, 2006

### School and Institutional Trust Lands

No. 28482 (AMD): R850-21-900. Failure of Agency's Title.

Published: February 15, 2006

Effective: March 20, 2006

No. 28483 (AMD): R850-22-900. Failure of Agency's Title.

Published: February 15, 2006

Effective: March 20, 2006

No. 28484 (AMD): R850-24-300. Failure of Agency's Title.

Published: February 15, 2006

Effective: March 20, 2006

### Transportation

Preconstruction, Right-of-Way Acquisition

No. 28490 (AMD): R933-2-3. Definitions.

Published: February 15, 2006

Effective: March 31, 2006

**End of the Notices of Rule Effective Dates Section**

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

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The *Rules Index* is a cumulative index that reflects all effective changes to Utah's administrative rules. The current *Index* lists changes made effective from January 2, 2006, including notices of effective date received through March 31, 2006, the effective dates of which are no later than April 15, 2006. The *Rules Index* is published in the *Utah State Bulletin* and in the annual *Index of Changes*. Nonsubstantive changes, while not published in the *Bulletin*, do become part of the *Utah Administrative Code (Code)* and are included in this *Index*, as well as 120-Day (Emergency) rules that do not become part of the *Code*. The rules are indexed by Agency (Code Number) and Keyword (Subject).

DAR NOTE: The index may contain inaccurate page number references. Also the index is incomplete in the sense that index entries for Changes in Proposed Rules (CPRs) are not preceded by entries for their parent Proposed Rules. Bulletin issue information and effective date information presented in the index are, to the best of our knowledge, complete and accurate. If you have any questions regarding the index and the information it contains, please contact Nancy Lancaster (801 538-3218), Mike Broschinsky (801 538-3003), or Kenneth A. Hansen (801 538-3777).

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

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## 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                 | 5YR = Five-Year Review           |
| EXD = Expired                  |                                  |

| CODE REFERENCE                 | TITLE  | FILE NUMBER | ACTION | EFFECTIVE DATE | BULLETIN ISSUE/PAGE |
|--------------------------------|--|-------------|--------|----------------|---------------------|
| <b>Administrative Services</b> |  |             |        |                |                     |
| <u>Administrative Rules</u>    |  |             |        |                |                     |
| R15-4                          | Administrative Rulemaking Procedures         | 28586       | EMR    | 04/15/2006     | 2006-8/57           |
| <u>Finance</u>                 |  |             |        |                |                     |
| R25-5                          | Payment of Per Diem to Boards                | 28384       | AMD    | 01/25/2006     | 2005-24/2           |
| <u>Fleet Operations</u>        |  |             |        |                |                     |
| R27-1                          | Definitions                                  | 28474       | 5YR    | 01/30/2006     | 2006-4/33           |
| R27-1                          | Definitions (5YR EXTENSION)                  | 28279       | NSC    | 01/30/2006     | Not Printed         |
| R27-1-2                        | Definitions                                  | 28368       | NSC    | 01/01/2006     | Not Printed         |
| R27-2                          | Fleet Operations Adjudicative Proceedings    | 28475       | 5YR    | 01/30/2006     | 2006-4/33           |
| R27-3                          | Vehicle Use Standards                        | 28477       | 5YR    | 01/30/2006     | 2006-4/34           |
| R27-3                          | Vehicle Use Standards (5YR EXTENSION)        | 28280       | NSC    | 01/30/2006     | Not Printed         |
| R27-7                          | Safety and Loss Prevention of State Vehicles | 28469       | 5YR    | 01/20/2006     | 2006-4/34           |

| CODE REFERENCE                            | TITLE  | FILE NUMBER | ACTION | EFFECTIVE DATE | BULLETIN ISSUE/PAGE |
|---|--|-------------|--------|----------------|---------------------|
| <u>Fleet Operations, Surplus Property</u> |  |             |        |                |                     |
| R28-2                                     | Surplus Firearms   | 28496       | 5YR    | 02/07/2006     | 2006-5/47           |
| <u>Purchasing and General Services</u>    |  |             |        |                |                     |
| R33-1                                     | Utah State Procurement Rules Definitions   | 28436       | NSC    | 02/22/2006     | Not Printed         |
| R33-1-1                                   | Definitions  | 28445       | AMD    | 02/21/2006     | 2006-2/3            |
| R33-2-101                                 | Delegation of Authority of the Chief Procurement Officer   | 28437       | NSC    | 02/22/2006     | Not Printed         |
| R33-3                                     | Source Selection and Contract Formation  | 28447       | AMD    | 02/21/2006     | 2006-2/5            |
| R33-4                                     | Specifications   | 28438       | NSC    | 02/22/2006     | Not Printed         |
| R33-5                                     | Construction and Architect-Engineer Selection  | 28448       | NSC    | 02/22/2006     | Not Printed         |
| R33-7                                     | Cost Principles  | 28439       | NSC    | 02/22/2006     | Not Printed         |
| R33-8                                     | Property Management  | 28440       | NSC    | 02/22/2006     | Not Printed         |
| <u>Records Committee</u>                  |  |             |        |                |                     |
| R35-1                                     | State Records Committee Appeal Hearing Procedures  | 28462       | AMD    | 03/14/2006     | 2006-3/3            |
| <u>Risk Management</u>                    |  |             |        |                |                     |
| R37-1                                     | Risk Management General Rules  | 28413       | AMD    | 03/31/2006     | 2006-1/4            |
| <b>Agriculture and Food</b>               |  |             |        |                |                     |
| <u>Administration</u>                     |  |             |        |                |                     |
| R51-3                                     | Government Records Access and Management Act   | 28552       | 5YR    | 03/16/2006     | 2006-8/69           |
| R51-4                                     | ADA Complaint Procedure  | 28553       | 5YR    | 03/16/2006     | 2006-8/69           |
| <u>Animal Industry</u>                    |  |             |        |                |                     |
| R58-10                                    | Meat and Poultry Inspection  | 28506       | AMD    | 04/03/2006     | 2006-5/2            |
| <u>Marketing and Development</u>          |  |             |        |                |                     |
| R65-8                                     | Management of the Junior Livestock Show Appropriation  | 28558       | 5YR    | 03/16/2006     | 2006-8/70           |
| <u>Plant Industry</u>                     |  |             |        |                |                     |
| R68-4                                     | Standardization, Marketing, and Phytosanitary Inspection of Fresh Fruits, Vegetables, and Other Plant and Plant Products | 28504       | 5YR    | 02/10/2006     | 2006-5/47           |
| R68-7                                     | Utah Pesticide Control Act   | 28554       | 5YR    | 03/16/2006     | 2006-8/70           |
| R68-8                                     | Utah Seed Law  | 28452       | 5YR    | 01/09/2006     | 2006-3/38           |
| R68-18                                    | Quarantine Pertaining to Karnal Bunt   | 28505       | 5YR    | 02/10/2006     | 2006-5/48           |
| <u>Regulatory Services</u>                |  |             |        |                |                     |
| R70-101                                   | Bedding, Upholstered Furniture and Quilted Clothing  | 28503       | AMD    | 04/03/2006     | 2006-5/3            |
| R70-330                                   | Raw Milk for Retail  | 28555       | 5YR    | 03/16/2006     | 2006-8/71           |
| R70-370                                   | Butter   | 28556       | 5YR    | 03/16/2006     | 2006-8/71           |
| R70-380                                   | Grade A Condensed and Dry Milk Products and Condensed and Dry Whey   | 28557       | 5YR    | 03/16/2006     | 2006-8/72           |
| R70-410                                   | Grading and Inspection of Shell Eggs With Standard Grade and Weight Classes  | 28471       | 5YR    | 01/24/2006     | 2006-4/35           |
| R70-410-1                                 | Authority  | 28485       | AMD    | 03/20/2006     | 2006-4/4            |
| <b>Alcoholic Beverage Control</b>         |  |             |        |                |                     |
| <u>Administration</u>                     |  |             |        |                |                     |
| R81-10A-7                                 | Draft Beer Sales/Minors on Premises  | 28431       | NSC    | 01/01/2006     | Not Printed         |

RULES INDEX

| CODE REFERENCE                                 | TITLE  | FILE NUMBER | ACTION | EFFECTIVE DATE | BULLETIN ISSUE/PAGE |
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| <b>Commerce</b>                                |  |             |        |                |                     |
| <u>Occupational and Professional Licensing</u> |  |             |        |                |                     |
| R156-3a  | Architect Licensing Act Rules  | 28429       | AMD    | 04/03/2006     | 2006-2/15           |
| R156-3a  | Architect Licensing Act Rules  | 28429       | CPR    | 04/03/2006     | 2006-5/44           |
| R156-3a  | Architect Licensing Act Rules  | 28604       | 5YR    | 04/10/2006     | Not Printed         |
| R156-22  | Professional Engineers and Professional Land Surveyors Licensing Act Rules                       | 28444       | CPR    | 04/03/2006     | 2006-5/45           |
| R156-22  | Professional Engineers and Professional Land Surveyors Licensing Act Rules                       | 28444       | AMD    | 04/03/2006     | 2006-2/17           |
| R156-31b                                       | Nurse Practice Act Rules   | 28365       | AMD    | 01/23/2006     | 2005-24/3           |
| R156-37  | Utah Controlled Substances Act Rules   | 28310       | AMD    | 02/16/2006     | 2005-22/8           |
| R156-37  | Utah Controlled Substances Act Rules   | 28310       | CPR    | 02/16/2006     | 2006-2/35           |
| R156-44a                                       | Nurse Midwife Practice Act Rules   | 28352       | AMD    | 01/05/2006     | 2005-23/4           |
| R156-47b                                       | Massage Therapy Practice Act Rules   | 28478       | 5YR    | 01/31/2006     | 2006-4/35           |
| R156-50  | Private Probation Provider Licensing Act Rules   | 28550       | 5YR    | 03/13/2006     | 2006-7/33           |
| R156-56  | Utah Uniform Building Standard Act Rules   | 28286       | AMD    | 01/01/2006     | 2005-21/6           |
| R156-56-707                                    | Statewide Amendments to the IPC  | 28285       | AMD    | 01/01/2006     | 2005-21/25          |
| R156-56-711                                    | Statewide Amendments to the IRC  | 28427       | NSC    | 02/23/2006     | Not Printed         |
| R156-60d                                       | Substance Abuse Counselor Act Rules  | 28605       | 5YR    | 04/10/2006     | Not Printed         |
| R156-63-503                                    | Administrative Penalties   | 28345       | AMD    | 01/10/2006     | 2005-23/5           |
| R156-74  | Certified Shorthand Reporters Licensing Act Rules  | 28428       | AMD    | 02/16/2006     | 2006-2/24           |
| <u>Real Estate</u>                             |  |             |        |                |                     |
| R162-202-10                                    | Principal Lending Manager Experience Requirement   | 28499       | AMD    | 04/05/2006     | 2006-5/7            |
| R162-203                                       | Status Changes   | 28450       | AMD    | 03/09/2006     | 2006-3/4            |
| R162-204                                       | Residential Mortgage Record Keeping Requirements   | 28497       | AMD    | 04/05/2006     | 2006-5/8            |
| R162-205                                       | Residential Mortgage Unprofessional Conduct  | 28498       | AMD    | 04/05/2006     | 2006-5/9            |
| R162-207-3                                     | Renewal Process  | 28451       | AMD    | 03/09/2006     | 2006-3/5            |
| R162-209                                       | Administrative Proceedings   | 28476       | 5YR    | 01/30/2006     | 2006-4/36           |
| <b>Community and Culture</b>                   |  |             |        |                |                     |
| <u>Indian Affairs</u>                          |  |             |        |                |                     |
| R230-1   | Native American Grave Protection and Repatriation  | 28479       | 5YR    | 01/31/2006     | 2006-4/37           |
| <u>Olene Walker Housing Trust Fund</u>         |  |             |        |                |                     |
| R235-1   | Olene Walker Housing Loan Fund (OWHLF)   | 28492       | NSC    | 03/01/2006     | Not Printed         |
| R235-1   | Olene Walker Housing Loan Fund (OWHLF)   | 28402       | NEW    | 03/01/2006     | 2006-1/9            |
| <b>Community and Economic Development</b>      |  |             |        |                |                     |
| <u>Administration</u>                          |  |             |        |                |                     |
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| R861-1A-37   | Provisions Relating to Disclosure of Commercial Information Pursuant to Utah Code Ann. Section 59-1-404 | 28430       | AMD    | 03/06/2006     | 2006-2/29           |
| <u>Auditing</u>  |   |             |        |                |                     |
| R865-21U   | Use Tax   | 28540       | 5YR    | 03/07/2006     | 2006-7/34           |
| <u>Collections</u>   |   |             |        |                |                     |
| R867-2B  | Delinquent Tax Collection   | 28539       | 5YR    | 03/07/2006     | 2006-7/35           |
| <u>Property Tax</u>  |   |             |        |                |                     |
| R884-24P-19  | Appraiser Designation Program Pursuant to Utah Code Ann. Sections 59-2-701 and 59-2-702                 | 28432       | AMD    | 03/06/2006     | 2006-2/31           |

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| <b>Transportation</b>                            |   |             |        |                |                     |
| <u>Administration</u>                            |   |             |        |                |                     |
| R907-68  | Prioritization of New Transportation Capacity Projects  | 28358       | NEW    | 01/04/2006     | 2005-23/61          |
| <u>Motor Carrier, Ports of Entry</u>             |   |             |        |                |                     |
| R912-11  | Overweight and/or Oversize Permitted Vehicle Restrictions on Certain Highways Throughout the State of Utah  | 28415       | AMD    | 02/08/2006     | 2006-1/28           |
| <u>Operations, Traffic and Safety</u>            |   |             |        |                |                     |
| R920-50-1  | Utah Ropeway Rules for Passenger Ropeways   | 28524       | AMD    | 04/04/2006     | 2006-5/40           |
| <u>Preconstruction</u>                           |   |             |        |                |                     |
| R930-6   | Manual of Accommodation of Utility Facilities and the Control and Protection of State Highway Rights-of-Way | 28360       | AMD    | 01/27/2006     | 2005-24/31          |
| <u>Preconstruction, Right-of-Way Acquisition</u> |   |             |        |                |                     |
| R933-2-3   | Definitions   | 28490       | AMD    | 03/31/2006     | 2006-4/29           |
| <b>Workforce Services</b>                        |   |             |        |                |                     |
| <u>Employment Development</u>                    |   |             |        |                |                     |
| R986-300-305                                     | Failure to Comply with an Employment Plan   | 28425       | AMD    | 03/01/2006     | 2006-1/31           |
| R986-600-604                                     | Adults, Youth, and Dislocated Workers   | 28400       | NSC    | 01/01/2006     | Not Printed         |
| <u>Unemployment Insurance</u>                    |   |             |        |                |                     |
| R994-406-302                                     | Repayment and Collection of Fault Overpayments  | 28480       | NSC    | 02/22/2006     | Not Printed         |

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### ABBREVIATIONS

|                                |                                  |
|--------------------------------|----------------------------------|
| AMD = Amendment                | NSC = Nonsubstantive rule change |
| CPR = Change in proposed rule  | REP = Repeal                     |
| EMR = Emergency rule (120 day) | R&R = Repeal and reenact         |
| NEW = New rule                 | 5YR = Five-Year Review           |
| EXD = Expired                  |                                  |

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| <b><u>access</u></b>                      |             |                |        |                |                     |
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| <b><u>accident prevention</u></b>         |             |                |        |                |                     |
| Public Safety, Driver License             | 28567       | R708-20        | 5YR    | 03/21/2006     | 2006-8/76           |
| <b><u>accidents</u></b>                   |             |                |        |                |                     |
| Administrative Services, Fleet Operations | 28469       | R27-7          | 5YR    | 01/20/2006     | 2006-4/34           |
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| Money Management Council, Administration  | 28533       | R628-4-2       | NSC    | 03/07/2006     | Not Printed         |

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| <b><u>adjudicative procedures</u></b><br>Community and Economic Development,<br>Community Development, Library  | 28343                        | R223-1                | NSC           | 01/01/2006                      | Not Printed                          |
| <b><u>adjudicative proceedings</u></b><br>Community and Economic Development,<br>Community Development, History | 28404                        | R212-1                | NSC           | 01/01/2006                      | Not Printed                          |
| <b><u>administrative law</u></b><br>Administrative Services, Administrative<br>Rules                            | 28586                        | R15-4                 | EMR           | 04/15/2006                      | 2006-8/57                            |
| <b><u>administrative procedures</u></b><br>Administrative Services, Fleet Operations                            | 28475                        | R27-2                 | 5YR           | 01/30/2006                      | 2006-4/33                            |
| Community and Economic Development,<br>Community Development, History   | 28404                        | R212-1                | NSC           | 01/01/2006                      | Not Printed                          |
|   | 28406                        | R212-3                | NSC           | 01/01/2006                      | Not Printed                          |
|   | 28407                        | R212-4                | NSC           | 01/01/2006                      | Not Printed                          |
| Community and Economic Development,<br>Community Development, Library   | 28343                        | R223-1                | NSC           | 01/01/2006                      | Not Printed                          |
| Environmental Quality, Drinking Water   | 28417                        | R309-150-6            | AMD           | 03/08/2006                      | 2006-1/12                            |
|   | 28418                        | R309-405-4            | AMD           | 03/08/2006                      | 2006-1/14                            |
| School and Institutional Trust Lands,<br>Administration   | 28482                        | R850-21-900           | AMD           | 03/20/2006                      | 2006-4/14                            |
|   | 28483                        | R850-22-900           | AMD           | 03/20/2006                      | 2006-4/15                            |
| <b><u>admission guidelines</u></b><br>Human Services, Juvenile Justice Services                                 | 28378                        | R547-13               | AMD           | 01/18/2006                      | 2005-24/8                            |
| <b><u>affordable housing</u></b><br>Community and Culture, Olene Walker<br>Housing Trust Fund                   | 28492                        | R235-1                | NSC           | 03/01/2006                      | Not Printed                          |
|   | 28402                        | R235-1                | NEW           | 03/01/2006                      | 2006-1/9                             |
| <b><u>air pollution</u></b><br>Environmental Quality, Air Quality   | 28226                        | R307-170              | AMD           | 01/05/2006                      | 2005-19/6                            |
|   | 28549                        | R307-415-7d           | NSC           | 03/28/2006                      | Not Printed                          |
|   | 28468                        | R307-801-5            | NSC           | 02/22/2006                      | Not Printed                          |
| <b><u>air quality</u></b><br>Environmental Quality, Air Quality   | 28501                        | R307-204              | AMD           | 04/07/2006                      | 2006-5/18                            |
|   | 28602                        | R307-204              | 5YR           | 04/07/2006                      | Not Printed                          |
|   | 28459                        | R307-204              | NSC           | 04/07/2006                      | Not Printed                          |
| <b><u>alcohol</u></b><br>Public Safety, Highway Patrol  | 28342                        | R714-500              | AMD           | 01/05/2006                      | 2005-23/59                           |
| <b><u>alcoholic beverages</u></b><br>Alcoholic Beverage Control, Administration                                 | 28431                        | R81-10A-7             | NSC           | 01/01/2006                      | Not Printed                          |
| <b><u>alternative language services</u></b><br>Education, Administration  | 28522                        | R277-716              | NEW           | 04/03/2006                      | 2006-5/10                            |



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| <b><u>annuity replacement</u></b><br>Insurance, Administration  | 28527                        | R590-93-6             | NSC           | 03/06/2006                      | Not Printed                          |
| <b><u>antipoverty programs</u></b><br>Community and Economic Development,<br>Community Development, Community<br>Services | 28353                        | R202-100              | NSC           | 01/01/2006                      | Not Printed                          |
| <b><u>appellate procedures</u></b><br>Administrative Services, Fleet Operations   | 28475                        | R27-2                 | 5YR           | 01/30/2006                      | 2006-4/33                            |
| Corrections, Administration   | 28576                        | R251-104              | 5YR           | 03/28/2006                      | 2006-8/72                            |
| <b><u>appraisals</u></b><br>Tax Commission, Property Tax  | 28432                        | R884-24P-19           | AMD           | 03/06/2006                      | 2006-2/31                            |
| <b><u>ARC</u></b><br>Administrative Services, Fleet Operations  | 28469                        | R27-7                 | 5YR           | 01/20/2006                      | 2006-4/34                            |
| <b><u>archaeology</u></b><br>Community and Economic Development,<br>Community Development, History                        | 28407                        | R212-4                | NSC           | 01/01/2006                      | Not Printed                          |
| <b><u>architects</u></b><br>Commerce, Occupational and Professional<br>Licensing  | 28429                        | R156-3a               | AMD           | 04/03/2006                      | 2006-2/15                            |
|   | 28429                        | R156-3a               | CPR           | 04/03/2006                      | 2006-5/44                            |
|   | 28604                        | R156-3a               | 5YR           | 04/10/2006                      | Not Printed                          |
| <b><u>art donations</u></b><br>Community and Economic Development,<br>Community Development, Fine Arts                    | 28362                        | R207-2                | NSC           | 01/01/2006                      | Not Printed                          |
| <b><u>art financing</u></b><br>Community and Economic Development,<br>Community Development, Fine Arts                    | 28361                        | R207-1                | NSC           | 01/01/2006                      | Not Printed                          |
| <b><u>art in public places</u></b><br>Community and Economic Development,<br>Community Development, Fine Arts             | 28361                        | R207-1                | NSC           | 01/01/2006                      | Not Printed                          |
|   | 28362                        | R207-2                | NSC           | 01/01/2006                      | Not Printed                          |
| <b><u>art loans</u></b><br>Community and Economic Development,<br>Community Development, Fine Arts                        | 28362                        | R207-2                | NSC           | 01/01/2006                      | Not Printed                          |
| <b><u>art preservation</u></b><br>Community and Economic Development,<br>Community Development, Fine Arts                 | 28361                        | R207-1                | NSC           | 01/01/2006                      | Not Printed                          |
| <b><u>art work</u></b><br>Community and Economic Development,<br>Community Development, Fine Arts                         | 28362                        | R207-2                | NSC           | 01/01/2006                      | Not Printed                          |
| <b><u>asbestos</u></b><br>Environmental Quality, Air Quality  | 28468                        | R307-801-5            | NSC           | 02/22/2006                      | Not Printed                          |
| <b><u>asbestos hazard emergency response</u></b><br>Environmental Quality, Air Quality                                    | 28468                        | R307-801-5            | NSC           | 02/22/2006                      | Not Printed                          |

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| <b><u>benefits</u></b><br>Community and Economic Development,<br>Community Development, Community<br>Services | 28388                        | R202-205              | NSC           | 01/01/2006                      | Not Printed                          |
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| <b><u>big game seasons</u></b><br>Natural Resources, Wildlife Resources                                       | 28379                        | R657-5                | AMD           | 01/18/2006                      | 2005-24/11                           |
| <b><u>bituminous-asphaltic sands</u></b><br>School and Institutional Trust Lands,<br>Administration           | 28483                        | R850-22-900           | AMD           | 03/20/2006                      | 2006-4/15                            |
| <b><u>boards</u></b><br>Administrative Services, Finance  | 28384                        | R25-5                 | AMD           | 01/25/2006                      | 2005-24/2                            |
| <b><u>boating</u></b><br>Natural Resources, Parks and Recreation  | 28509                        | R651-206              | 5YR           | 02/13/2006                      | 2006-5/48                            |
|   | 28510                        | R651-215              | 5YR           | 02/13/2006                      | 2006-5/49                            |
|   | 28511                        | R651-222              | 5YR           | 02/13/2006                      | 2006-5/49                            |
|   | 28512                        | R651-224              | 5YR           | 02/13/2006                      | 2006-5/50                            |
| <b><u>boilers</u></b><br>Labor Commission, Safety   | 28515                        | R616-2                | NSC           | 02/27/2006                      | Not Printed                          |
|   | 28257                        | R616-2-3              | AMD           | 01/01/2006                      | 2005-20/43                           |
| <b><u>bonding requirements</u></b><br>Money Management Council,<br>Administration                             | 28533                        | R628-4-2              | NSC           | 03/07/2006                      | Not Printed                          |
| <b><u>breath testing</u></b><br>Public Safety, Highway Patrol   | 28342                        | R714-500              | AMD           | 01/05/2006                      | 2005-23/59                           |
| <b><u>building codes</u></b><br>Commerce, Occupational and Professional<br>Licensing                          | 28286                        | R156-56               | AMD           | 01/01/2006                      | 2005-21/6                            |
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|   | 28427                        | R156-56-711           | NSC           | 02/23/2006                      | Not Printed                          |
| <b><u>building inspection</u></b><br>Commerce, Occupational and Professional<br>Licensing                     | 28286                        | R156-56               | AMD           | 01/01/2006                      | 2005-21/6                            |
|   | 28285                        | R156-56-707           | AMD           | 01/01/2006                      | 2005-21/25                           |
|   | 28427                        | R156-56-711           | NSC           | 02/23/2006                      | Not Printed                          |
| <b><u>burial</u></b><br>Community and Economic Development,<br>Community Development, History                 | 28411                        | R212-12               | NSC           | 01/01/2006                      | Not Printed                          |
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|   | 28190                  | R510-401              | CPR           | 02/23/2006                | 2005-22/46                     |
| <b><u>caregiver</u></b>   |                        |                       |               |                           |                                |
| Human Services, Aging and Adult Services  | 28190                  | R510-401              | AMD           | 02/23/2006                | 2005-18/37                     |
|   | 28190                  | R510-401              | CPR           | 02/23/2006                | 2005-22/46                     |
| <b><u>cash management</u></b>   |                        |                       |               |                           |                                |
| Money Management Council,<br>Administration   | 28534                  | R628-16               | NSC           | 03/07/2006                | Not Printed                    |
| <b><u>cemetery</u></b>  |                        |                       |               |                           |                                |
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| Labor Commission, Safety  | 28515                  | R616-2                | NSC           | 02/27/2006                | Not Printed                    |
|   | 28257                  | R616-2-3              | AMD           | 01/01/2006                | 2005-20/43                     |
|   | 28256                  | R616-3-3              | AMD           | 02/08/2006                | 2005-20/44                     |
| <b><u>certified court reporter</u></b>  |                        |                       |               |                           |                                |
| Commerce, Occupational and Professional<br>Licensing                                | 28428                  | R156-74               | AMD           | 02/16/2006                | 2006-2/24                      |
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| Commerce, Occupational and Professional<br>Licensing                                | 28352                  | R156-44a              | AMD           | 01/05/2006                | 2005-23/4                      |
| <b><u>child care facilities</u></b>   |                        |                       |               |                           |                                |
| Health, Health Systems Improvement,<br>Child Care Licensing                         | 28245                  | R430-2                | AMD           | 02/06/2006                | 2005-20/14                     |
|   | 28245                  | R430-2                | CPR           | 02/06/2006                | 2005-24/33                     |
|   | 28246                  | R430-3                | AMD           | 02/06/2006                | 2005-20/18                     |
|   | 28246                  | R430-3                | CPR           | 02/06/2006                | 2005-24/35                     |
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|   | 28248                  | R430-4                | CPR           | 02/06/2006                | 2005-24/37                     |
|   | 28249                  | R430-6                | AMD           | 02/06/2006                | 2005-20/26                     |
|   | 28249                  | R430-6                | CPR           | 02/06/2006                | 2005-24/41                     |
| <b><u>child support</u></b>   |                        |                       |               |                           |                                |
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| <b><u>concealed firearm permit</u></b><br>Public Safety, Criminal Investigations and<br>Technical Services, Criminal Identification | 28250                        | R722-300              | AMD           | 01/09/2006                      | 2005-20/48                           |
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| <b><u>connections</u></b><br>Environmental Quality, Drinking Water  | 28422                        | R309-550-5            | AMD           | 03/08/2006                      | 2006-1/20                            |
| <b><u>continuous monitoring</u></b><br>Environmental Quality, Air Quality   | 28226                        | R307-170              | AMD           | 01/05/2006                      | 2005-19/6                            |
| <b><u>contractors</u></b><br>Commerce, Occupational and Professional<br>Licensing   | 28286                        | R156-56               | AMD           | 01/01/2006                      | 2005-21/6                            |
|   | 28285                        | R156-56-707           | AMD           | 01/01/2006                      | 2005-21/25                           |
|   | 28427                        | R156-56-711           | NSC           | 02/23/2006                      | Not Printed                          |
| <b><u>controlled substances</u></b><br>Commerce, Occupational and Professional<br>Licensing   | 28310                        | R156-37               | AMD           | 02/16/2006                      | 2005-22/8                            |
|   | 28310                        | R156-37               | CPR           | 02/16/2006                      | 2006-2/35                            |
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| <b><u>corrections</u></b><br>Corrections, Administration  | 28576                        | R251-104              | 5YR           | 03/28/2006                      | 2006-8/72                            |
|   | 28577                        | R251-712              | 5YR           | 03/28/2006                      | 2006-8/73                            |
| <b><u>court reporting</u></b><br>Commerce, Occupational and Professional<br>Licensing   | 28428                        | R156-74               | AMD           | 02/16/2006                      | 2006-2/24                            |
| <b><u>criminal background checks</u></b><br>Education, Rehabilitation   | 28521                        | R280-204              | NEW           | 04/03/2006                      | 2006-5/16                            |
| <b><u>cultural resources</u></b><br>Community and Economic Development,<br>Community Development, History                           | 28403                        | R212-7                | NSC           | 01/01/2006                      | Not Printed                          |
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| <b><u>damages</u></b><br>Natural Resources, Wildlife Resources  | 28455                        | R657-24               | AMD           | 03/06/2006                      | 2006-3/24                            |
| <b><u>DCFS</u></b><br>Human Services, Child Protection<br>Ombudsman (Office of)   | 28401                        | R515-1                | NEW           | 02/01/2006                      | 2006-1/26                            |

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|  | 28279                  | R27-1                 | NSC           | 01/30/2006                | Not Printed                    |
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| <b><u>depository</u></b>                         |                        |                       |               |                           |                                |
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| <b><u>developmentally disabled</u></b>           |                        |                       |               |                           |                                |
| Agriculture and Food, Administration             | 28553                  | R51-4                 | 5YR           | 03/16/2006                | 2006-8/69                      |
|  | 28430                  | R861-1A-37            | AMD           | 03/06/2006                | 2006-2/29                      |
| <b><u>disclosure requirements</u></b>            |                        |                       |               |                           |                                |
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| <b><u>discrimination</u></b>                     |                        |                       |               |                           |                                |
| Agriculture and Food, Administration             | 28553                  | R51-4                 | 5YR           | 03/16/2006                | 2006-8/69                      |
| <b><u>drinking water</u></b>                     |                        |                       |               |                           |                                |
| Environmental Quality, Drinking Water            | 28416                  | R309-105-9            | AMD           | 03/08/2006                | 2006-1/11                      |
|  | 28417                  | R309-150-6            | AMD           | 03/08/2006                | 2006-1/12                      |
|  | 28418                  | R309-405-4            | AMD           | 03/08/2006                | 2006-1/14                      |
|  | 28419                  | R309-510-9            | AMD           | 03/08/2006                | 2006-1/16                      |
|  | 28420                  | R309-540-6            | AMD           | 03/08/2006                | 2006-1/18                      |
|  | 28421                  | R309-545-7            | AMD           | 03/08/2006                | 2006-1/19                      |
|  | 28422                  | R309-550-5            | AMD           | 03/08/2006                | 2006-1/20                      |
|  | 28392                  | R309-600              | NSC           | 01/01/2006                | Not Printed                    |
|  | 28380                  | R309-605              | NSC           | 01/01/2006                | Not Printed                    |
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| Public Safety, Driver License                    | 28565                  | R708-18               | 5YR           | 03/20/2006                | 2006-8/75                      |
| <b><u>driver licenses</u></b>                    |                        |                       |               |                           |                                |
| Public Safety, Driver License                    | 28569                  | R708-6                | 5YR           | 03/23/2006                | 2006-8/74                      |
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| Tax Commission, Collections                      | 28539                  | R867-2B               | 5YR           | 03/07/2006                | 2006-7/35                      |
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| Education, Administration                        | 28466                  | R277-510              | NEW           | 03/06/2006                | 2006-3/15                      |
| <b><u>educator license renewal</u></b>           |                        |                       |               |                           |                                |
| Education, Administration                        | 28465                  | R277-501              | AMD           | 03/06/2006                | 2006-3/10                      |
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| <b><u>electric assisted bicycle headgear</u></b> |                        |                       |               |                           |                                |
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| <b><u>standards</u></b>   |                              |                       |               |                                 |                                      |
| Natural Resources, Wildlife Resources   | 28456                        | R657-40               | 5YR           | 01/10/2006                      | 2006-3/40                            |

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| Money Management Council,<br>Administration   | 28533                        | R628-4-2              | NSC           | 03/07/2006                      | Not Printed                          |
| <b><u>state employees</u></b>   |                              |                       |               |                                 |                                      |
| Administrative Services, Finance  | 28384                        | R25-5                 | AMD           | 01/25/2006                      | 2005-24/2                            |
| <b><u>state HEAT office records</u></b>   |                              |                       |               |                                 |                                      |
| Community and Economic Development,<br>Community Development, Community<br>Services | 28390                        | R202-207              | NSC           | 01/01/2006                      | Not Printed                          |
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| Community and Economic Development,<br>Indian Affairs                               | 28441                        | R230-1                | NSC           | 01/01/2006                      | Not Printed                          |
|   | 28479                        | R230-1                | 5YR           | 01/31/2006                      | 2006-4/37                            |
| <b><u>state records committee</u></b>   |                              |                       |               |                                 |                                      |
| Administrative Services, Records<br>Committee                                       | 28462                        | R35-1                 | AMD           | 03/14/2006                      | 2006-3/3                             |
| <b><u>state register</u></b>  |                              |                       |               |                                 |                                      |
| Community and Economic Development,<br>Community Development, History               | 28405                        | R212-6                | NSC           | 01/01/2006                      | Not Printed                          |
| <b><u>state vehicle use</u></b>   |                              |                       |               |                                 |                                      |
| Administrative Services, Fleet Operations   | 28477                        | R27-3                 | 5YR           | 01/30/2006                      | 2006-4/34                            |
|   | 28280                        | R27-3                 | NSC           | 01/30/2006                      | Not Printed                          |
| <b><u>stock brokers</u></b>   |                              |                       |               |                                 |                                      |
| Money Management Council,<br>Administration   | 28534                        | R628-16               | NSC           | 03/07/2006                      | Not Printed                          |
| <b><u>storage tanks</u></b>   |                              |                       |               |                                 |                                      |
| Environmental Quality, Drinking Water   | 28421                        | R309-545-7            | AMD           | 03/08/2006                      | 2006-1/19                            |
| <b><u>substance abuse counselors</u></b>  |                              |                       |               |                                 |                                      |
| Commerce, Occupational and Professional<br>Licensing                                | 28605                        | R156-60d              | 5YR           | 04/10/2006                      | Not Printed                          |
| <b><u>surveyors</u></b>   |                              |                       |               |                                 |                                      |
| Commerce, Occupational and Professional<br>Licensing                                | 28444                        | R156-22               | CPR           | 04/03/2006                      | 2006-5/45                            |
|   | 28444                        | R156-22               | AMD           | 04/03/2006                      | 2006-2/17                            |
| <b><u>tax credit</u></b>  |                              |                       |               |                                 |                                      |
| Community and Economic Development,<br>Community Development, History               | 28410                        | R212-11               | NSC           | 01/01/2006                      | Not Printed                          |
| <b><u>taxation</u></b>  |                              |                       |               |                                 |                                      |
| Tax Commission, Administration  | 28430                        | R861-1A-37            | AMD           | 03/06/2006                      | 2006-2/29                            |
| Tax Commission, Auditing  | 28540                        | R865-21U              | 5YR           | 03/07/2006                      | 2006-7/34                            |
| Tax Commission, Collections   | 28539                        | R867-2B               | 5YR           | 03/07/2006                      | 2006-7/35                            |
| Tax Commission, Property Tax  | 28432                        | R884-24P-19           | AMD           | 03/06/2006                      | 2006-2/31                            |
| <b><u>telecommunications</u></b>  |                              |                       |               |                                 |                                      |
| Public Service Commission, Administration   | 28139                        | R746-345              | AMD           | 02/08/2006                      | 2005-17/31                           |
|   | 28139                        | R746-345              | CPR           | 02/08/2006                      | 2005-24/47                           |

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|   | 28139                        | R746-345              | CPR           | 02/08/2006                      | 2005-24/47                           |
| <b><u>terms of office</u></b>                                     |                              |                       |               |                                 |                                      |
| Natural Resources, Wildlife Resources                             | 28453                        | R657-39               | 5YR           | 01/09/2006                      | 2006-3/39                            |
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| Administrative Services, Fleet Operations                         | 28469                        | R27-7                 | 5YR           | 01/20/2006                      | 2006-4/34                            |
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| Insurance, Title and Escrow Commission                            | 28529                        | R592-2-5              | NSC           | 03/06/2006                      | Not Printed                          |
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| Public Safety, Driver License                                     | 28568                        | R708-16               | 5YR           | 03/23/2006                      | 2006-8/75                            |
| <b><u>tramway permits</u></b>                                     |                              |                       |               |                                 |                                      |
| Transportation, Operations, Traffic and Safety                    | 28524                        | R920-50-1             | AMD           | 04/04/2006                      | 2006-5/40                            |
| <b><u>tramways</u></b>  |                              |                       |               |                                 |                                      |
| Transportation, Operations, Traffic and Safety                    | 28524                        | R920-50-1             | AMD           | 04/04/2006                      | 2006-5/40                            |
| <b><u>transmission and distribution pipelines</u></b>             |                              |                       |               |                                 |                                      |
| Environmental Quality, Drinking Water                             | 28422                        | R309-550-5            | AMD           | 03/08/2006                      | 2006-1/20                            |
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| Transportation, Administration                                    | 28358                        | R907-68               | NEW           | 01/04/2006                      | 2005-23/61                           |
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| Transportation, Administration                                    | 28358                        | R907-68               | NEW           | 01/04/2006                      | 2005-23/61                           |
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| Transportation, Operations, Traffic and Safety                    | 28524                        | R920-50-1             | AMD           | 04/04/2006                      | 2006-5/40                            |
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| Transportation, Motor Carrier, Ports of Entry                     | 28415                        | R912-11               | AMD           | 02/08/2006                      | 2006-1/28                            |
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| Education, Administration   | 28464                        | R277-477              | AMD           | 03/06/2006                      | 2006-3/8                             |
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| Tax Commission, Auditing  | 28540                        | R865-21U              | 5YR           | 03/07/2006                      | 2006-7/34                            |
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| Crime Victim Reparations, Administration                             | 28355                        | R270-1                | AMD           | 01/04/2006                      | 2005-23/6                            |
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| <b><u>victims of crime</u></b>                                       |                              |                       |               |                                 |                                      |
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| Environmental Quality, Drinking Water                                | 28422                        | R309-550-5            | AMD           | 03/08/2006                      | 2006-1/20                            |
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| <b><u>watershed management</u></b>                                   |                              |                       |               |                                 |                                      |
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|  | 28454                        | R657-19               | AMD           | 03/06/2006                      | 2006-3/22                            |
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|  | 28371                        | R657-38               | AMD           | 01/18/2006                      | 2005-24/22                           |
|  | 28456                        | R657-40               | 5YR           | 01/10/2006                      | 2006-3/40                            |
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