

UTAH STATE BULLETIN

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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/>

The information in this *Bulletin* is summarized in the *Utah State Digest (Digest)*. The *Digest* is available by E-mail or over the Internet. Visit <http://www.rules.utah.gov/publicat/digest.htm> for additional information.

Division of Administrative Rules, Salt Lake City 84114

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SPECIAL NOTICES

Education Administration

Public Hearing on the Proposed Amendments to Rules R277-477 (DAR No. 32447) and R277-491 (DAR No. 32449) in the April 1, 2009, Bulletin

The Utah State Board of Education will conduct a public hearing on the proposed amendment to Rule R277-477, Distribution of Funds from the School Trust Lands Account and Implementation of the School LAND Trust Program, published in the April 1, 2009, issue of the Bulletin under DAR No. 32447 (2009-7, pg. 6); and the proposed amendment to Rule R277-491, School Community Councils, published in the April 1, 2009, issue of the Bulletin under DAR No. 32449 (2009-7, pg.13).

The hearing will take place on May 5, 2009, beginning at 10:00 a.m. in Room 156 at the Utah State Office of Education, 250 East 500 South, Salt Lake City, Utah. Written comments will be accepted by the Board at the hearing and until 5:00 p.m. on May 12, 2009. Comments postmarked or received after 5:00 p.m. on May 12, 2009 will not be considered.

Written comments should be mailed to the Utah State Board of Education, c/o Jean Hill, 250 East 500 South, P.O. Box 144200, Salt Lake City, Utah, 84114-4200; or email to jean.hill@schools.utah.gov

Commerce Administration

Public Hearing on Proposed Modified Fee Schedule for Services Provided and Costs Incurred by the Department of Commerce During Fiscal Year 2010

The Department of Commerce will hold a hearing on Wednesday, May 13, 2009, at 9:00 a.m. in the Heber M. Wells Building, 160 East 300 South, Room 210, Salt Lake City, Utah.

The purpose of the hearing is to obtain public comment on a proposed modified schedule for fees which could be assessed for services provided and costs which would be incurred for new programs created by the Legislature during the 2009 General Session. The proposed modified fee schedule supplements the Department's fee schedule approved by the Legislature during its 2009 General Session.

Section 63J-1-504 of the Budgetary Procedures Act provides an agency may establish and assess regulatory fees for new programs created by the Legislature if the new program's effective date is before the Legislature's next annual general session. That statute governs the process for the interim assessment of such fees prior to subsequent legislative approval.

Background: Various divisions of the Department assess fees for licensure, registration, or certification of individuals and businesses to engage in certain occupations and professions. Copies of the proposed modified fee schedule will be distributed at the May 13, 2009, hearing.

For further information, please contact Peter Anjewierden at 801-530-6293.

Governor's Executive Order 2009-0001: Wildland Fire Management

EXECUTIVE ORDER

Wildland Fire Management

WHEREAS, the danger from wildland fires is extremely high throughout the State of Utah;

SPECIAL NOTICES

WHEREAS, numerous wildland fires are burning and continue to burn in various areas statewide and present a serious threat to public safety, property, natural resources and the environment;

WHEREAS, some of the areas are extremely remote and inaccessible and the situation has the potential to greatly worsen if left unattended;

WHEREAS, immediate action is required to suppress the fires and mitigate post-burn flash floods to protect public safety, property, natural resources and the environment,

WHEREAS, these conditions do create a disaster emergency within the intent of the Disaster Response and Recovery Act of 1981;

NOW THEREFORE, I, Jon M. 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 of Utah, do hereby order that:

It is found, determined and declared that a "State of Emergency" exists statewide due to the threat to public safety, property, natural resources and the environment for thirty days, effective as of April 10, 2009 requiring aid, assistance and relief available pursuant to the provisions of state statutes, and the State Emergency Operations Plan, which is hereby activated.

IN WITNESS, WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah this 10th day of April 2009.

(State Seal)

Jon M. Huntsman, Jr.
Governor

ATTEST:

Gary R. Herbert
Lieutenant Governor

2009-0001

Governor's Executive Order 2009-0002: Extending Administrative Rules through May 12, 2009

EXECUTIVE ORDER

Extending Administrative Rules through May 12, 2009

WHEREAS, state agencies issue administrative rules pursuant to statutory authorization to implement or interpret statute and other law;

WHEREAS, statute provides that administrative rules expire on May 1 of each year unless the administrative rules are reauthorized by the Legislature;

WHEREAS, the Fifty-Eighth Legislature passed H.B. 197, Reauthorization of Administrative Rules, during the 2009 General Session;

WHEREAS, the Senate passed H.B. 197 by less than the two-thirds margin required for the bill to go into effect before May 12, 2009;

WHEREAS, having found that pursuant to Utah Code Ann. Subsection 63G-3-501(5)(d), the omnibus bill required by Utah Code Ann. Subsection 63G-3-501(3) failed to pass both houses of the Legislature and/or a technical legal defect exists preventing reauthorization of administrative rules intended to be reauthorized by the Legislature;

WHEREAS, Utah Code Ann. Subsection 63G-3-502(5)(d) authorizes the Governor to "declare all rules to be extended by publishing a single declaration in the Administrative Rules Bulletin on or before June 15"; and,

WHEREAS, having found that the necessity exists to continue enforcement of all state agency administrative rules until H.B. 197 goes into effect on May 12;

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 hereby declare all administrative rules are extended through May 12, 2009.

IN WITNESS, WHEREOF, I have hereunto set my hand and cause to be affixed the Great Seal of the State of Utah. Done at the State Capitol in Salt Lake City, Utah, this 21st day of April, 2009.

(State Seal)

Jon M. Huntsman, Jr.
Governor

Attest:

Gary R. Herbert
Lieutenant Governor

2009/0002

Governor's Proclamation: Calling the Fifty-Seventh Legislature into the Ninth Extraordinary Session

PROCLAMATION

WHEREAS, since the close of the 2008 General Session of the 57th 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 57th Legislature into the Ninth Extraordinary Session at the State Capitol in Salt Lake City, Utah, on the 21st day of May 2008, 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 2008 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 Utah State Capitol in Salt Lake City, Utah, this 20th day of May, 2008.

(State Seal)

Jon M. Huntsman, Jr.
Governor

Gary R. Herbert
Lieutenant Governor

Governor's Proclamation: Calling the Fifty-Seventh Legislature into the Tenth Extraordinary Session

PROCLAMATION

WHEREAS, since the close of the 2008 General Session of the 57th 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 57th Legislature into the Tenth Extraordinary Session at the State Capitol in Salt Lake City, Utah, on the 18th day of June 2008, 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 2008 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 Utah State Capitol in Salt Lake City, Utah, this 6th day of June, 2008.

(State Seal)

Jon M. Huntsman, Jr.
Governor

Gary R. Herbert
Lieutenant Governor

Governor's Proclamation: Calling the Fifty-Seventh Legislature into the Eleventh Extraordinary Session

PROCLAMATION

WHEREAS, since the close of the 2008 General Session of the 57th 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 57th Legislature into the Eleventh Extraordinary Session at the State Capitol in Salt Lake City, Utah, on the 20th day of August 2008, 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 2008 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 Utah State Capitol in Salt Lake City, Utah, this 18th day of August, 2008.

(State Seal)

Jon M. Huntsman, Jr.
Governor

Gary R. Herbert
Lieutenant Governor

Governor's Proclamation: Calling the Fifty-Seventh Legislature into the Twelfth Extraordinary Session

PROCLAMATION

WHEREAS, since the close of the 2008 General Session of the 57th 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 57th Legislature into the

SPECIAL NOTICES

Twelfth Extraordinary Session at the State Capitol in Salt Lake City, Utah, on the 15th day of October 2008, 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 2008 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 Utah State Capitol in Salt Lake City, Utah, this 14th day of October, 2008.

(State Seal)

Jon M. Huntsman, Jr.
Governor

Gary R. Herbert
Lieutenant Governor

Governor's Proclamation: Calling the Fifty-Seventh Legislature into the Thirteenth Extraordinary Session

PROCLAMATION

WHEREAS, since the close of the 2008 General Session of the 57th 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 57th Legislature into the Thirteenth Extraordinary Session at the State Capitol in Salt Lake City, Utah, on the 19th day of November 2008, 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 2008 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 Utah State Capitol in Salt Lake City, Utah, this 18th day of November, 2008.

(State Seal)

Jon M. Huntsman, Jr.
Governor

Gary R. Herbert
Lieutenant Governor

NOTICES OF PROPOSED RULES

A state agency may file a PROPOSED RULE when it determines the need for a new rule, a substantive change to an existing rule, or a repeal of an existing rule. Filings received between April 2, 2009, 12:00 a.m., and April 15, 2009, 11:59 p.m. are included in this, the May 1, 2009, 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 between paragraphs (.) indicates that unaffected text from within a section was removed to conserve space. Unaffected sections are not printed. 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 June 1, 2009. 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 63G-3-302 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 29, 2009, 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 seven calendar days after the close of the public comment period 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 Section 63G-3-301; and Rule R15-2, and Sections R15-4-3, R15-4-4, R15-4-5, R15-4-9, and R15-4-10.

The Proposed Rules Begin on the Following Page.

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

NOTICE OF PROPOSED RULE

(Amendment)
 DAR FILE NO.: 32523
 FILED: 04/14/2009, 08:32

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Legislation enacted by the 2009 General Session of the Utah State Legislature (H.B. 86) requires the Division of Real Estate and Real Estate Commission to set prelicense education hours at a minimum of 120. This rule filing sets the hours at 120 beginning on 01/01/2010. It also allows a transition time for those who begin their education before 01/01/2010. The rule filing also makes technical corrections. (DAR NOTE: H.B. 86 (2009) is found at Chapter 312, Laws of Utah 2009, and will be effective 05/12/2009.)

SUMMARY OF THE RULE OR CHANGE: This rule filing increases from 90 to 120 the number of required real estate sales agent prelicensing education hours. The rule filing also allows for a transition time for those who begin their education before 01/01/2010.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 61-2-6(1)(c)(i)(A)

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: The state budget will experience no cost or savings due to this rule filing because the Division's procedure for prelicensing education course approval will be identical to its current procedure.
- ❖ LOCAL GOVERNMENTS: Local governments will experience no cost or savings due to this rule filing because they are not required to license real estate agents.
- ❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: Small businesses should experience no cost or savings due to this rule filing since they hire individuals after the individuals have already paid for the cost of prelicensing education.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Prelicense education providers and individual applicants for licensure will be required to cover the cost of the increased education. A typical 90-hour course costs approximately \$400. The exact amount charged will be decided by the education provider.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule filing makes various technical amendments and also references the recent statutory amendment, which requires 120 hours of prelicensing education for real estate agents. The fiscal impact to businesses as a result of the additional hours of education was likely considered in passage of H.B. 86. No further fiscal impact is anticipated. Francine Giani, Executive Director

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

COMMERCE
 REAL ESTATE
 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:

Mark Steinagel at the above address, by phone at 801-530-6744, by FAX at 801-530-6749, or by Internet E-mail at msteinagel@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 06/01/2009.

THIS RULE MAY BECOME EFFECTIVE ON: 06/08/2009

AUTHORIZED BY: Mark Steinagel, Director

R162. Commerce, Real Estate.

R162-2. Exam and License Application Requirements.

R162-2-1. Qualifications for Licensure and Exam Application.

2.1.1 Minimum Age. All applicants shall be at least 18 years of age.

2.1.2 Formal Education Minimum. All applicants shall have at least a high school diploma, G.E.D., or equivalent as determined by the Commission.

2.1.3 Prelicensing Education. All applicants shall have completed any required prelicensing education before applying to sit for a licensing examination.

2.1.4 Exam application. All applicants who desire to sit for a licensing examination shall deliver an application to sit for the examination, together with the applicable examination fee, to the testing service designated by the Division. If the applicant fails to take the examination when scheduled, the fee ~~will~~ shall be forfeited.

2.1.4.1. Applicants previously licensed out-of-state.

(a) If an applicant is now and has been actively licensed for the preceding two years in another state which has substantially equivalent licensing requirements and is either a new resident or a non-resident of this state, the Division shall waive the national portion of the exam.

(b) If an applicant has been on an inactive status for any portion of the past two years ~~he~~ the applicant may be required to take both the national and Utah state portions of the exam.

R162-2-2. Licensing Procedure.

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

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

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

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

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

~~2.2.4.1. Candidates~~ (a) Until December 31, 2009, a candidate for the license of sales agent ~~will~~ shall successfully complete 90 classroom hours of approved study in principles and practices of real estate.

(b)(i) Beginning January 1, 2010, a candidate for the license of sales agent shall successfully complete 120 hours of approved study in principles and practices of real estate.

(ii) An applicant for licensure may complete 90 hours of prelicense education only if:

(A) the applicant began the prelicense education program prior to January 1, 2010; and

(B) the applicant submits the completed education prior to March 31, 2010.

(c) Experience ~~will~~ shall not satisfy the education requirement. Membership in the Utah State Bar ~~will~~ shall waive this requirement. The Division may waive all or part of the educational requirement by virtue of equivalent education taken while completing a college undergraduate or postgraduate degree program, regardless of the date of the degree, or by virtue of other equivalent real estate education if the other real estate education was taken within 12 months prior to application.

~~2.2.4.2.~~ (d) Candidates for the license of associate broker or principal broker ~~will~~ shall successfully complete 120 classroom hours of study curriculum approved by the Commission consisting of 45 hours of broker principles, 45 hours of broker practices, and 30 hours of Utah law and testing. Experience ~~will~~ shall not satisfy the education requirement. The Division may waive all or part of the educational requirement by virtue of equivalent education taken while completing a college undergraduate or postgraduate degree program, regardless of the date of the degree, or by virtue of other equivalent real estate education if the other real estate education was taken within 12 months prior to application.

2.2.5. The principal broker and associate broker applicant ~~will~~ shall submit the forms required by the Division documenting a minimum of three years licensed real estate experience and a total of at least 60 points accumulated within the five years prior to licensing. A minimum of two years (24 months) and at least 45 points ~~will~~ shall be accumulated from Tables I and/or II. The remaining 15 points may be accumulated from Tables I, II or III.

TABLE I - REAL ESTATE TRANSACTIONS

RESIDENTIAL - points can be accumulated from either the selling or the listing side of a real estate closing:	
(a) One unit dwelling	2.5 points
(b) Two- to four-unit dwellings	5 points
(c) Apartments, 5 units or over	10 points
(d) Improved lot	2 points
(e) Vacant land/subdivision	10 points
COMMERCIAL	
(f) Hotel or motel	10 points
(g) Industrial or warehouse	10 points
(h) Office building	10 points
(i) Retail building	10 points
(j) Leasing of commercial space	5 points

TABLE II - PROPERTY MANAGEMENT

RESIDENTIAL	
(a) Each unit managed	.25 pt/month
COMMERCIAL - hotel/motel, industrial/warehouse, office, or retail building	
(b) Each contract OR each separate property address or location for which licensee has direct responsibility	1 pt/month

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

TABLE III - OPTIONAL

Real Estate Attorney	1 pt/month
CPA-Certified Public Accountant	1 pt/month
Mortgage Loan Officer	1 pt/month
Licensed Escrow Officer	1 pt/month
Licensed Title Agent	1 pt/month
Designated Appraiser	1 pt/month
Licensed General Contractor	1 pt/month
Bank Officer in Real Estate Loans	1 pt/month
Certified Real Estate Prelicensing Instructor	.5 pt/month

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

2.2.8. An applicant previously licensed in another state ~~will~~ shall provide a written record of ~~his~~ the applicant's license history from that state and documentation of disciplinary action, if any, against ~~his~~ the applicant's license.

2.2.9. Qualifications of License Applicants. An applicant for a new license may not:

(a) have been convicted of, entered a plea in abeyance to, or completed any sentence of confinement on account of, any felony within five years preceding the application; or

(b) have been convicted of, entered a plea in abeyance to, or completed any sentence of confinement on account of, any misdemeanor involving fraud, misrepresentation, theft, or dishonesty within three years preceding the application.

2.2.10 Qualifications for Renewal. An applicant for license renewal, or for reinstatement of an expired license, may not have:

(a) been convicted of or entered a plea in abeyance to a felony during the term of the last license or during the period between license expiration and application to reinstate an expired license; or

(b) a finding of fraud, misrepresentation or deceit entered against the applicant, related to activities requiring a real estate license, by any court of competent jurisdiction or any government agency, unless the finding was explicitly considered by the Division in approving the applicant's initial license or previous license renewals.

2.2.11 Determining fitness for licensure. In determining whether an applicant who has not been disqualified by Subsections 2.2.9 or 2.2.10 meet the requirements of honesty, integrity, truthfulness, reputation and competency required for a new or a renewed license, the Commission and the Division will consider information they consider necessary to make this determination, including the following:

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

2.2.11.2. Whether an applicant has been guilty of conduct or practices which would have been grounds for revocation or suspension of license under Utah law had the applicant then been licensed;

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

2.2.11.4. Whether a civil judgment has been entered against the applicant based on fraud, misrepresentation or deceit, and whether the judgment has been fully satisfied.

2.2.11.5. Whether an applicant has ever been convicted of, or entered a plea in abeyance to, any criminal offense, or whether any criminal charges against the applicant have ever been resolved by a diversion agreement or similar disposition;

2.2.11.6. Whether restitution ordered by a court in a criminal case has been fully satisfied;

2.2.11.7. Whether the parole or probation in a criminal case or the probation in a licensing action has been completed and fully served; and

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

R162-2-3. Company Registration.

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

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

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

2.3.2. Registration of Entities Operating a Principal Brokerage.

2.3.2.1. A corporation, partnership, Limited Liability Company, association or other entity which operates a principal brokerage shall comply with R162-2.3 and the following conditions:

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

2.3.2.2.1. If the outgoing principal broker is not available to properly execute the form required to effect the change of principal brokers, the change may still be made provided a letter advising of the change is mailed by the entity by certified mail to the last known

address of the outgoing principal broker. A verified copy of the letter and proof of mailing by certified mail shall be attached to the form when it is submitted to the Division.

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

R162-2-4. Licensing of Non-Residents.

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

2.4.1. If the applicant is an associate broker or sales agent, the principal broker with whom ~~he~~the applicant will be affiliated shall hold an active license in Utah.

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

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

2.4.4. The applicant shall provide a written record of ~~his~~the applicant's license history, if any, and documentation of disciplinary action, if any, against ~~his~~the applicant's license.

KEY: real estate business

Date of Enactment or Last Substantive Amendment: [January 8], 2009

Notice of Continuation: April 18, 2007

Authorizing, and Implemented or Interpreted Law: 61-2-5.5



Commerce, Real Estate **R162-202** Initial Application

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 32517

FILED: 04/08/2009, 17:45

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The 2008 Legislature amended the Utah Code to permit the Division and Residential Mortgage Regulatory Commission to set the number of prelicensing education hours by rule, rather than by statute. The Division and Commission believe now is the time to increase the education requirements for mortgage officers.

SUMMARY OF THE RULE OR CHANGE: This rule filing sets the number of prelicensing education hours at 60, beginning 01/01/2010.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 61-2c-202(4)(a)(iii)(B)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The state budget will experience no cost or savings due to this rule filing because the Division's procedure for course approval will be identical to its current format.

❖ LOCAL GOVERNMENTS: Local governments will experience no cost or savings due to this rule filing because they are not required to license mortgage brokers.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: Small businesses should experience no cost or savings due to this rule filing since they hire individuals after the individuals have already paid for the cost of prelicensing education.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Prelicense education providers and individual applicants for licensure will be required to cover the cost of the increased education.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Pursuant to recent statutory amendments giving the Division and the Commission authority to establish the number of prelicensing education hours required for licensure of a mortgage officer, the Division and the Commission require an additional 40 hours of prelicensing education in order to protect the public from applicants who are not properly educated. As indicated in the rule summary, there will be a cost impact to new licensees who must obtain this additional education, but it is expected that the benefit to the public will outweigh the cost to license applicants. Francine Giani, Executive Director

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

COMMERCE
REAL ESTATE
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:

Mark Steinagel at the above address, by phone at 801-530-6744, by FAX at 801-530-6749, or by Internet E-mail at msteinagel@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 06/01/2009.

THIS RULE MAY BECOME EFFECTIVE ON: 06/08/2009

AUTHORIZED BY: Mark Steinagel, Director

R162. Commerce, Real Estate.

R162-202. Initial Application.

R162-202-2. Form of Application.

202.2 All applications must be made in the form required by the division and shall include the following information:

202.2.1 Any name under which the individual will transact business in this state;

202.2.2 The address of the principal business location of the applicant;

202.2.3 The home street address and home telephone number of any individual applicant;

202.2.4 A mailing address for the applicant;

202.2.5 The date of birth and social security number of any individual applicant;

202.2.6 Answers to a "Licensing Questionnaire" supplying information about present or past mortgage licensure in other jurisdictions, past license sanctions or surrenders, pending disciplinary actions, pending investigations, past criminal convictions or pleas, and/or civil judgments based on fraud, misrepresentation, or deceit;

202.2.7 A "Letter of Waiver" authorizing the division to obtain the fingerprints of the applicant, review past and present employment and education records, and to conduct a criminal history background check;

202.2.8 If an individual applicant or a director, executive officer, manager, or a managing partner of an entity applicant, or anyone who occupies a position or performs functions similar to a director, executive officer, manager or managing partner of an entity that has applied for a license, has been convicted of any felonies or misdemeanors involving moral turpitude within the ten years preceding application, the charging document, the judgment and sentencing document, and the case docket on each such conviction must be provided with the application; and

202.2.9 If an individual or entity applicant or a director, executive officer, manager, or a managing partner of an entity applicant, or anyone who occupies a position or performs functions similar to a director, executive officer, manager or managing partner of an entity that has applied for a license, has had a license or registration suspended, revoked, surrendered, canceled or denied in the five years preceding application based on misconduct in a professional capacity that relates to good moral character or the competency to transact the business of residential mortgage loans, the documents stating the sanction taken against the license or registration and the reasons therefore must be provided with the application.

202.2.10 Applicants for a mortgage officer license shall submit proof in the form required by the Division of successful completion of the [20]hours of approved prelicensing education required by Section 61-2c-202(4)(a)[(4)(C)](iii)(B) and R162-202-10 taken within one year prior to application; or

202.2.11 [~~Except as provided in Section 61-2c-206(2)(b), applicants~~]An applicant for a principal lending manager license shall submit proof in the form required by the Division of successful completion of the 40 hours of approved prelicensing education required by Section 61-2c-206(1)(c) taken within one year prior to application.

R162-202-10. Prelicensing Education Requirements.

202.10.1 Beginning January 1, 2010, an applicant for a mortgage officer license shall submit proof of completing 60 hours of prelicensing education that complies with the course content outline adopted by the Residential Mortgage Regulatory Commission and the Division.

KEY: residential mortgage loan origination**Date of Enactment or Last Substantive Amendment:** ~~May 1, 2007~~ 2009**Notice of Continuation:** December 13, 2006**Authorizing, and Implemented or Interpreted Law:** 61-2c-103(3)

Education, Administration

R277-601**Standards for Utah School Buses and Operations****NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 32510

FILED: 04/07/2009, 13:26

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended to provide for use of electronic and telecommunication devices on school buses, and to remove antiquated language from the rule that is no longer applicable. The STANDARDS FOR UTAH SCHOOL BUSES AND OPERATIONS, 1999 Manual is in the process of revision. The revised manual and this rule will be consistent.

SUMMARY OF THE RULE OR CHANGE: The amended rule adds a definition, adds specific language regarding the limited use of electronic and telecommunication devices on school buses, and removes Section R277-601-4 of the rule.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsections 53A-1-402(1)(d) and 53A-1-401(3)

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: There are no anticipated costs or savings to the state budget resulting from this amended rule. Providing standards for limited use of electronic and telecommunication devices and removing antiquated language does not require or save funds.
- ❖ LOCAL GOVERNMENTS: There are no anticipated costs or savings to local government. Providing standards for limited use of electronic and telecommunication devices and removing antiquated language does not require or save funds for school districts.
- ❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: There are no anticipated costs or savings to small businesses AND persons other than businesses. This rule and amendment apply to public school districts and do not involve small businesses and persons other than businesses.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. It will not cost bus drivers any money to comply with new standards for the use of electronic and telecommunication devices.

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 06/01/2009.

THIS RULE MAY BECOME EFFECTIVE ON: 06/08/2009

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

R277. Education, Administration.**R277-601. Standards for Utah School Buses and Operations.****R277-601-1. Definitions.**

- A. "Board" means the Utah State Board of Education.
- B. "Local board" means the local school board of education.

R277-601-2. Authority and Purpose.

A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of the public education in the Board, Section 53A-1-402(1)(~~e~~d) which directs the Board to adopt rules for state reimbursed bus routes, bus safety and operational requirements, and other transportation needs 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 standards for state student transportation funds, school buses, and school bus drivers utilized by school districts.

R277-601-3. Standards.

A. The ~~Board~~ local board and school district personnel shall act consistent with the manual entitled [~~"Standards for Utah School Buses and Operations," 1987~~]STANDARDS FOR UTAH SCHOOL BUSES AND OPERATIONS, 1999, which include~~d~~s ~~input~~ information received from Utah school districts, the Utah Transportation Commission, and the Utah Department of Public Safety and is available at each department or agency.

B. STANDARDS FOR UTAH SCHOOL BUSES AND OPERATIONS, 1999, shall include:

- (1) Electronic and telecommunications devices

(a) A school bus operator's primary responsibility, consistent with training and policy, is the safety of passengers and the safety of the public at all times.

(b) A school bus operator shall not use a cell phone, wireless electronic device, or any headset, earpiece, earphones or other equipment that might distract a driver from his responsibilities, whether hand held or not, while the school bus is in motion and not appropriately parked or secured. This prohibition does not apply to the safe and appropriate use of two-way radios. All school districts and public schools that regularly transport students shall maintain documentation of training for bus drivers and employees in the safe and appropriate use of two-way radios.

(c) Once the bus is stopped and safely parked, a school bus operator may use an electronic device for emergencies, to assist special needs students, for behavior management, for appropriate assistance for field/activity trips or for other business-related issues.

(d) A school bus operator may use an electronic device for personal use once a school bus is safely parked, appropriately secured and all passengers are safely off and at a safe distance from the bus, consistent with school district policy.

(e) Any violation of these provisions for emergency or compelling reasons may require documentation and will be addressed by the employing education entity.

(f) Violations of these provisions may result in personnel action(s) against the school bus operator consistent with school district/employer policies.

(g) Private contractors employed by school districts for student transportation shall also adhere strictly to these provisions in addition to the policies of the employer.

(2) End of bus route inspection

(a) At the end of a student delivery, both during the day and after the final route of the day, a school bus operator shall complete the delivery, stop and park the bus, and insure that all students are off the bus.

(b) Where possible, this inspection shall be completed at each school site when delivering students to school.

(c) Following each from-school route of the day, the bus operator shall complete the same type of inspection at a safe location a short distance from where the final student(s) left the bus. If children are found on the bus, they shall be immediately returned to their assigned bus stop location or to an alternate location, consistent with district policy, with express permission from the parents(s).

[R277-601-4- Amendments.

The following sections of Standards for Utah School Buses and Operations are changed as follows:

A. Part I, 100. SCHOOL BUS OPERATIONS—GENERAL REQUIREMENTS

100.02 Standards Statement

Paragraph One, First sentence: In transporting eligible students, expenditures for regular, special education, and contract bus routes established by the district and approved by the State Office of Education are termed "A" category while other costs of transportation are classified in the "B" category.

Paragraph Four, First sentence: When school districts contract or lease for the pupil transportation program, costs are termed "A" category costs.

Paragraph Five, Add this sentence to the end of the paragraph: Districts receiving the incentive funding may expend the monies at the discretion of the local school board.

~~—Add as a new Paragraph: The state appropriation for transporting qualified pre school three and four year old handicapped students to and from schools is awarded on the basis of a proposed budget submitted for approval to the Finance and Statistical Section of the Utah State Office of Education. Each district's initial share of the appropriation is based on the prorated proportion that the number of eligible students in the district bears to the total of such students in the state, provided the money is required by the district for its budget. Unused balances from districts not operating the program or not needing the full prorated portion are reallocated to districts which have requested more than their initial share. The reallocation is distributed on the same basis as the initial allocation. Reallocated funds may be used on unfulfilled budget requests. Allocations are sent to districts on the basis of actual approved expenditures not to exceed the appropriated amount. The program is cost accounted under program number 5343.~~

~~B. TRANSPORTATION TO AND FROM SCHOOL FORMULA~~

~~—Part I. EXAMPLE: 1988-89.~~

~~—Part II. "B" Money Based on Standards for Utah School Buses and Operations, 1987.~~

~~—Total the following: (Handbook II Account Numbers)~~

~~—1. 514 + 516 Account: Parent (Student allowance)-subsistence and Auto Mileage payment.~~

~~—2. Legislative Appropriation to: Extended Year Program for Severely Handicapped, Alternate to Building Construction, and Pre-School 3 and 4 Years of Age Special Education.~~

~~]~~

KEY: school, buses, school transportation

Date of Enactment or Last Substantive Amendment: [1988]2009

Notice of Continuation: February 13, 2009

Authorizing, and Implemented or Interpreted Law: 53A-1-402(1)([e]d); 53A-1-401(3)



Education, Administration
R277-702
 Procedures for the Utah General
 Educational Development Certificate

NOTICE OF PROPOSED RULE
 (Amendment)

DAR FILE NO.: 32511
 FILED: 04/07/2009, 13:26

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended to provide parameters associated with youth (16 years of age or older) who may choose to exit a K-12 public program of instruction and seek admission to take the GED Tests; upon successfully passing the GED Tests, students would receive a Utah High School Completion Diploma. The amendments to this rule make the rule consistent with recently amended Rule R277-733, Adult Education Programs. (DAR NOTE: The proposed amendment to Rule R277-733 was published in the February 1, 2009, Bulletin under DAR No. 32315, and was effective 03/10/2009.)

SUMMARY OF THE RULE OR CHANGE: The amendments provide new and changed definitions, provide new and specific language for eligibility for GED testing, provide new and specific language for adult high school outcomes, and update terminology.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsections 53A-1-402(1)(b) and 53A-1-401(3)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There are no anticipated costs or savings to the state budget. The changes provide for new standards and procedures consistent with the federal regulations for the GED program and do not require additional personnel or resources to implement.

❖ LOCAL GOVERNMENTS: There are no anticipated costs or savings to local government. If youth (16 years of age or older) choose to exit a K-12 public program of instruction and seek admission to take the GED Tests, school districts/charter schools will no longer provide services in the traditional K-12 program.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: There are no anticipated costs or savings to small businesses AND persons other than businesses. The amendments provide for changes that are related to public education students.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. The new standards and procedures provide more flexibility to youth (16 years of age or older) who may choose to exit a K-12 public program of instruction and seek admission to take the GED Tests.

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 06/01/2009.

THIS RULE MAY BECOME EFFECTIVE ON: 06/08/2009

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

R277. Education, Administration.

R277-702. Procedures for the Utah [General Educational Development Certificate]High School Completion Diploma (Effective on July 1, 2009).

R277-702-1. Definitions.

- A. "Board" means the Utah State Board of Education.
- B. "GED Test" means the General Educational Development Test developed by the American Council on Education.
- C. "Out-of-school youth" means an individual 16 to 19 years of age whose high school class has not graduated and who is no longer enrolled in a K-12 program of instruction.
- ~~___[C]D. ["Utah General Educational Development Certificate"]~~ "Utah High School Completion Diploma" means a [certificate]completion diploma issued by the Board [acknowledging competency on the part of the certificate holder in the GED test areas]and distributed by a GED Testing Center as an agent of the Board, to an individual who has passed all five subject areas of the GED Test at a Utah GED Testing Center based on Utah passing standards; measuring the major and lasting outcomes and concepts associated with a traditional four-year high school experience. This definition becomes effective on July 1, 2009.

R277-702-2. 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-1-402(1)(b) which directs the Board to adopt rules regarding access to programs, competency levels and graduation requirements, 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 describe the standards and procedures for obtaining a Utah ~~[General Educational Development Certificate]~~ High School Completion Diploma.

R277-702-[4]3. Administrative Procedures and Standards for Testing and Certification.

A. The Board contracts with the General Educational Testing Service of the American Council on Education to administer the GED ~~[t]Testing [p]Program~~ in the state. The Board may contract with educational institutions within the state to administer the tests and provide related testing services. The number and location of the institutions designated as testing centers is determined in a manner that ensures that the test is reasonably accessible to potential applicants. Testing centers shall meet the GED Testing Service requirements in the GED Examiner's Manual, available at all Board-approved GED Testing Centers and from the USOE.

B. ~~[Persons]~~ Individuals desiring to take a GED Test shall complete an application available from any official GED ~~[t]Testing [e]Center [of]~~ approved by the Board and be eligible to take the GED Test under ~~[Subsection-]R277-702-[3]4.~~

C. ~~[Persons]~~ Individuals desiring to obtain a Utah ~~[General Educational Development Certificate]~~ High School Completion Diploma shall obtain a standard score of at least 410 on each of the five test components of the GED Test and obtain an overall average standard score of 450 on the five tests combined.

R277-702-[3]4. Eligibility for GED Testing.

A. GED Testing is open to all individuals regardless of race, color, national origin, gender or disabilities and is open to all individuals regardless of Utah residency.

~~___[A]B.~~ Admission to a GED Test requires the following (effective on July 1, 2009):

(1) that the applicant be at least ~~[18]~~16 years of age and ~~[the applicant's graduating class has graduated]~~is not enrolled in any Utah K-12 school that issues high school credits or diplomas or both;~~[-or]~~

~~___(2) if the applicant is age 16, the GED Testing Center requires the following from the applicant:~~

~~___(a) a state of Utah GED Testing Application for 16-18 Year Old Non-Graduates available from public schools, from accredited providers of public school credits, and from GED Testing Centers:~~

~~___(i) completed by the school district, charter school, or special purpose school not associated with a school district, stating that the applicant is not enrolled in a school, and the applicant understands and accepts the consequences and educational choices associated with the withdrawal from a K-12 program of instruction, including the prohibition from returning to a K-12 program anywhere in Utah upon successful passing of all five sections of the GED Test; and~~

~~___(ii) signed by representatives from a Utah state-sponsored Adult Education Program stating that the applicant demonstrates academic competencies to meet with success in passing the GED Tests; and~~

~~___(iii) signed by the applicant's parent/guardian specifically stating that the applicant and parent/guardian understand and accept the consequences and educational choices associated with the applicant's decision to withdraw from a K-12 program of instruction, and authorizing the GED Tests; or~~

~~___(iv) a marriage certificate in lieu of the parent/guardian signature if the applicant is married.~~

~~(2)~~~~[3] [that]~~-if the applicant is 17 or 18 years of age and the applicant's graduating class has not graduated, the GED ~~[e]Testing [e]Center~~ requires ~~[the following]~~:

~~___(a) a letter from]a state of Utah GED Testing Application for 16-18 Year Old Non-Graduates:~~

~~___(a) completed by the school district [within which the applicant resides], charter school, or special purpose school not associated with a school district, [indicating]stating the applicant is not [regularly] enrolled in school; and~~

~~___(b) a letter from](b) signed by the applicant's parent[-or] /guardian authorizing the test; or~~

~~___(c) a marriage certificate [from the applicant if the applicant is married]in lieu of the parent/guardian signature if the applicant is married.~~

~~C. An out-of-school youth of school age who has not successfully passed all five GED Tests shall be allowed to return to a school district, charter school, or special purpose school not associated with a school district prior to the time his class graduates with the understanding and expectation that all necessary requirements for the traditional K-12 diploma shall be completed for a regular high school diploma.~~

~~D. An out-of-school youth of school age who has successfully passed all five GED Tests and received a Utah High School Completion Diploma shall be reported as a graduate for K-12 graduation Annual Yearly Progress outcomes.~~

~~E. Individuals, as required by an employer or higher education to provide academic competency, who can not offer proof of high school completion may, upon approval of the USOE GED administrator, take the GED Tests.~~

~~F. Individuals who have previously passed GED Tests but seeking higher GED Test scores for specific post-secondary~~

~~institution admission may seek permission to retake the GED Tests from the USOE Administrator of GED Testing.~~

R277-702-5. Fees.

A. The Board, or its designee, shall adopt uniform fees for the General Educational Development Certificate and uniform forms, deadlines, and accounting procedures to administer this program.

B. A GED ~~[e]Testing [e]Center~~, after consultation with the Board or its designee, shall adopt fees and forms for~~[-its]~~ GED ~~[e]Testing~~.

R277-702-6. Official Transcripts.

Test scores shall be accepted by the Board when original scores are reported by:

A. Board-approved GED ~~[e]Testing [e]Centers~~;

B. Transcript service of the Defense Activity for Non-Traditional Educational Support (DANTES);

C. Veterans Administration hospitals and centers; or

D. GED Testing Service or authorized agents.

R277-702-7. Adult High School ~~[Credit]Outcomes (Effective Upon Board Approval).~~

~~A. A local board of education may adopt standards and procedures for awarding up to five (5) units of credit on the basis of test results which may be applied toward an adult high school diploma only if the student was enrolled in an Adult Education Program prior to July 1, 2009 and the GED was transcribed prior to July 1, 2009.~~

~~B. Individuals enrolled in an adult education program any time during the 2008-2009 program year may apply credits for successfully passing the GED Tests toward an Adult Education Secondary Diploma.~~

~~C. Individuals who have taken and passed the GED Tests prior to January 1, 2002 may enroll in an adult education program now and in the future to obtain an Adult Education Secondary Diploma upon completion of graduation requirements as defined in Rule 277-733 - Adult Education Programs but may not apply for a previously issued GED Tests Certificate to be converted to a Utah High School Completion Diploma.~~

~~D. Individuals who have taken and passed the GED Tests in the state of Utah between the dates of January 1, 2002 and June 30, 2009 may apply after July 1, 2009 for a Utah High School Completion Diploma to replace the originally issued GED Test Certificate from the Board or they may enroll in an adult education program to complete the necessary requirements for an Adult Education Secondary Diploma.~~

R277-702-8. GED Testing Security.

A. Access to GED ~~[e]Tests~~ shall be limited to the ~~[State]USOE~~ Administrator of GED Testing; state authorized GED Examiners; and during actual testing, those examinees without high school diplomas or GED. Any other access to GED ~~[e]Tests~~ ~~[must]shall~~ be cleared in writing through the ~~[State]USOE~~ Administrator of GED Testing.

B. All test administrators shall conduct GED ~~[e]Test~~ administration in strict accordance with the procedures and guidelines specified in the GED ~~[e]Test~~ administration manual, school district rules and policies, and Board rules.

C. Teachers, administrators, and school personnel shall not:

(1) provide students directly or indirectly with specific questions [and] or answers [or the subject matter of any specific item] from any official GED [t]Test;

(2) allow students access to any testing material, in any form, prior to test administration with the exception of GED demographic sheets; [and] or

(3) knowingly and intentionally do anything that would inappropriately affect the security, validity, or reliability of GED [t]Test scores of any individual student or group taking the GED [t]Test.

D. Violation of any of these rules may subject licensed educators to [possible] disciplinary action under Section 53A-8-104 or [Rules of Professional Practices and Conduct for Utah Educators, R686-103-6(4)] R277-515, Utah Educator Standards, or both.

KEY: adult education, educational testing, student competency
Date of Enactment or Last Substantive Amendment: [May 17, 2002]2009

Notice of Continuation: January 8, 2008

Authorizing, and Implemented or Interpreted Law: 53A-1-402(1)(b); 53A-1-401(3)



Health, Health Systems Improvement, Emergency Medical Services **R426-5** Statewide Trauma System Standards

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 32499

FILED: 04/07/2009, 08:05

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule satisfies the requirement of Section 26-8a-254 that directs the Department of Health to establish by rule model state guidelines for triage, treatment, transport, and transfer of trauma patients to the most appropriate health care facility.

SUMMARY OF THE RULE OR CHANGE: The Department adopts the 2009 Resources and Guidelines for the Triage and Transfer of Trauma Patients as model guidelines for triage, transfer, and transport of trauma patients to the most appropriate health care facility. The new guidelines encourage transport to a trauma center more appropriate for the injury without having to first transport the patient to the closest community hospital.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-8a-252

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** Savings: \$75,000 per year to the Medicaid program by avoiding emergency medical services (EMS) transports to multiple health care facilities prior to patients' receiving definitive care for injuries sustained due to trauma.

❖ **LOCAL GOVERNMENTS:** Savings: \$25,000 per year to local EMS agencies by eliminating multiple stops to health care facilities not providing definitive care to trauma patients.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** Savings: \$250,000 per year in Emergency Department charges to private and third party payers by avoiding duplicate admissions of trauma patients to health care facilities prior to transfer to a trauma center offering definitive care.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No compliance costs are identified. Adoption of the rule will help reduce costs through the elimination of admissions of trauma patients to multiple health care facilities prior to transport to definitive care for sustained injuries.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Adoption of the rule will reduce costs for care and treatment of trauma patients by avoiding duplicate admissions to health care facilities not providing definitive care for sustained injuries. David Sundwall, MD, Executive Director

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

HEALTH
HEALTH SYSTEMS IMPROVEMENT,
EMERGENCY MEDICAL SERVICES
3760 S HIGHLAND DR
SALT LAKE CITY UT 84106, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Guy Dansie at the above address, by phone at 801-273-6671, by FAX at 801-273-4165, or by Internet E-mail at gdansie@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 06/01/2009.

THIS RULE MAY BECOME EFFECTIVE ON: 06/08/2009

AUTHORIZED BY: David N. Sundwall, Executive Director

R426. Health, Health Systems Improvement, Emergency Medical Services.

R426-5. Statewide Trauma System Standards.

R426-5-9. Trauma Triage and Transfer Guidelines.

The Department adopts by reference the 2009 Resources and Guidelines for the Triage and Transfer of Trauma Patients published by the Utah Department of Health as model guidelines for triage, transfer, and transport of trauma patients. The guidelines do not mandate the transfer of any patient contrary to the judgment of the attending physician. They are a resource for pre-hospital and hospital providers to assist in the triage, transfer and transport of trauma patients to designated trauma centers or acute care hospitals which are appropriate to adequately receive trauma patients.

R426-5-[9]10. Noncompliance to Standards.

(1) The Department may warn, reduce, deny, suspend, revoke, or place on probation a facility designation, if the Department finds evidence that the facility has not been or will not be operated in compliance to standards adopted under R426-5.

(2) A hospital, clinic, health care provider, or health care delivery system may not profess or advertise to be designated as a trauma center if the Department has not designated it as such pursuant to this rule.

R426-5-[10]11. Statutory Penalties.

A person who violates this rule is subject to the provisions of Title 26, Chapter 23, which provides for a civil money penalty of up to \$~~5,000 per violation or a Class B misdemeanor on the first offense and a Class A misdemeanor on a subsequent offense~~ 10,000 for each violation.

KEY: emergency medical services, trauma, reporting
Date of Enactment or Last Substantive Amendment: [~~February 24,~~]2009
Notice of Continuation: July 18, 2007
Authorizing, and Implemented or Interpreted Law: 26-8a-252



Human Services, Recovery Services

R527-40

Retained Support

NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE NO.: 32497
 FILED: 04/06/2009, 13:39

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This change is to add the department and office authority for creating, amending, and enforcing administrative rules.

SUMMARY OF THE RULE OR CHANGE: The change is to add an authority and purpose section to the existing rule. Sections 62A-1-111 and 62A-11-107 authorize the Department of Human Services and the Office of Recovery Services (ORS) to adopt, amend, and enforce rules as necessary. A purpose section was added to this rule to provide specific retained support information as to why the rule was created.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 62A-1-111, 62A-44-107, 62A-11-304.1, 62A-11-307.1, and 62A-11-307.2

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** The propose changes to the rule are for clarification purposes only and do not affect the current procedures. There is no anticipated change in cost or savings due to this amendment.

❖ **LOCAL GOVERNMENTS:** There is no anticipated change in cost or savings due to this amendment since administrative rules of the Office of Recovery Services/Child Support Services (ORS/CSS) do not apply to local government.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** There will be no financial impact for small businesses due to the amendment of this rule since the basic requirements of the current rule will not change. There will be no financial impact to other persons due to the amendment of this rule since the basic requirements of the rule will not change.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be no change in compliance costs since the procedures are not changing with the amendment of the current rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Businesses are not affected by this rule, and there will be no fiscal impact on businesses due to this rule amendment. Lisa-Michele Church, Executive Director

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
 Shancie Lawton at the above address, by phone at 801-536-8191, by FAX at 801-536-8833, or by Internet E-mail at shancelawton@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 06/01/2009.

THIS RULE MAY BECOME EFFECTIVE ON: 06/08/2009

AUTHORIZED BY: Mark Brasher, Director

R527. Human Services, Recovery Services.
R527-40. Retained Support.
R527-40-1. Authority and Purpose.

1. The Department of Human Services is authorized to create rules necessary for the provision of social services by Section 62A-1-111. The Office of Recovery Services is authorized to adopt, amend, and enforce rules as necessary by Section 62A-11-107.

2. The purpose of this rule is to define "retained support" in regards to a child support case, and to provide details as to how the amount owed is calculated once a retained support case has been opened for an obligee who has retained payments that were assigned to the state.

R527-40-2. Retained Support.

1. The term Retained Support refers to a situation in which an obligee who has assigned support rights to the state has received child support but failed to forward the payment(s) to ORS.

2. The agent will refer the case to the appropriate child support team with the evidence to support the referral.

3. In computing the amount owed, the obligee will be given credit for the \$50 pass-through payment for any months prior to March, 1997,

in which support was retained by the client. For example, if the obligee received and kept a support payment of \$200 in February, 1997, the referral will be made as a \$150 debt. For support payments retained on or after March 1, 1997, no credit shall be given because there will be no pass-through payments for support payments made after February 28, 1997.

KEY: child support

Date of Enactment or Last Substantive Amendment: ~~[March 14, 2005]~~2009

Notice of Continuation: January 6, 2005

Authorizing, and Implemented or Interpreted Law: 62A-1-111; 62A-11-107; 62A-11-304.1; 62A-11-307.1(3); 62A-11-307.2(3)



Human Services, Recovery Services R527-201 Medical Support Services

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 32492

FILED: 04/02/2009, 09:01

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to add the authority and purpose, a couple of new definitions, and delete the references to the Office of Recovery Services/Child Support Services (ORS/CSS) not enforcing an obligated parent to pay a medical debt or expenses, even if there is a medical support provision in the order, if the obligated parent is or has been on Medicaid. This change will allow ORS to collect court-ordered cash medical support.

SUMMARY OF THE RULE OR CHANGE: This amendment adds the purpose and authority sections and rennumbers subsequent sections, adds definitions to Section R527-203-3, adds supporting language to Sections R527-201-6 and R527-201-9 to support cash medical support, and deletes the current Subsection R527-201-9(1).

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 63G-4-102 et seq., 62A-11-326.1, 62A-11-326.2, 62A-11-326.3, and 78-45-7.15, and Subsections 62A-11-406(9) and 35A-7-105(2)

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** There may be a small savings to the state budget when/if the office collects court-ordered cash medical support from an obligated parent and those funds can be used to avoid state Medicaid expenses for the obligated parent's child. There will also be costs associated with enforcing these debts via the generation and mailing of the Notice to Withhold Income to the obligated parent's employer, as well as the state employee's time to monitor these debts.
- ❖ **LOCAL GOVERNMENTS:** Administrative rules of the ORS/CSS do not apply to local government; therefore, there are no

anticipated costs or savings for any local businesses due to this amendment.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** There are not anticipated costs for small business because the changes affect the internal procedures of the ORS/CSS and provide clarification to the child support staff. There will now be costs to the obligated parent who receives Medicaid if that parent has a court-ordered cash medical support obligation. The costs will vary depending on the medical support amount identified in the court order.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will now be costs associated with the obligated parent who receives Medicaid and has a court-ordered cash medical support obligation. The costs will vary depending on the medical support amount identified in the court order.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The impact to businesses as a result of these changes to this rule should be minimal, because many of the obligated parents meeting this criteria work for employers that have procedures in place to accommodate a Notice to Withhold Income for Child Support received from the office. Some of the cases meeting the criteria will already have a Notice to Withhold Income for Child Support currently in place with the employer. Because the employer has already implemented withholding procedures for the obligated parent, there should be minimal cost associated with an updated Notice to Withhold Income for Child Support to include an amount for the medical support debt. Most of the other cases will have a Notice to Withhold Income for Child Support sent to the employer anyway, once a child support obligation has been established. The office only needs to include an additional amount for the medical support debt in that withholding order. If the case is a Medicaid-only case, the office currently sends the National Medical Support Notice to employers to enroll the obligated parent's child(ren) in health insurance. If the obligated parent has a monthly medical support debt, the office will send a Notice to Withhold Income for Child Support to include collection of the monthly medical support debt. The cost to the employer should still be minimal, because the employer already processes the National Medical Support Notice to enroll the obligated parent's child(ren) in health insurance. In addition to enrolling the child(ren) in health insurance, the employer will now need to include a deduction for the monthly medical support debt.
Lisa Michelle Church, Executive Director

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

LeAnn Wilber at the above address, by phone at 801-536-8950, by FAX at 801-536-8833, or by Internet E-mail at lwilber@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 06/01/2009.

THIS RULE MAY BECOME EFFECTIVE ON: 06/08/2009

AUTHORIZED BY: Mark Brasher, Director

R527. Human Services, Recovery Services.

R527-201. Medical Support Services.

R527-201-1. Authority and Purpose.

1. The Department of Human Services is authorized to create rules necessary for the provision of social services by Section 62A-1-111 and 62A-11-107.

2. The purpose of this rule is to specify the responsibilities and procedures for the Office of Recovery Services/Child Support Services for providing medical support services.

R527-201-2. Federal Requirements.

The Office of Recovery Services/Child Support Services, (ORS/CSS), adopts the federal regulations as published in 45 CFR 303.30, ~~and 303.31, and 303.32 ((2000)2008)~~, ~~and 45 CFR 303.32~~ which are incorporated by reference in this rule.

R527-201-~~2~~3. Definitions.

1. Accessibility: Insurance is considered accessible to the child if non-emergency services covered by the health plan are available to the child within 90 minutes or 90 miles of the child's primary residence.

~~1~~2. ~~The~~ National Medical Support Notice (NMSN) is the federally approved form that ORS/CSS shall use, when appropriate, to notify an employer to enroll dependent children in an employment-related group health insurance plan in accordance with a child support order.

3. Cash Medical Support: An obligation to equally share all reasonable and necessary medical and dental expenses of children.

R527-201-~~3~~4. Limitation of Services.

ORS/CSS shall not:

1. pursue establishment of specific amounts for ongoing medical support,
2. initiate an action to obtain a judgment for uninsured medical expenses, or
3. collect and disburse premium payments to insurance companies.

R527-201-~~4~~5. Conditions Under Which Non-IV-A Medicaid Recipients May Decline Support Services.

ORS/CSS shall provide child and spousal support services; however, a Non-IV-A Medicaid recipient may decline child and spousal support services if paternity is not an issue and there is an order for the non-custodial parent to provide medical support.

R527-201-~~5~~6. Securing a Medical Support Provision in the Support Order.

1. Notice to potentially obligated parents: The notice to potentially obligated parents shall include a provision that an administrative or judicial proceeding will occur to: ~~determine whether~~

~~a. order either parent [should be ordered] to purchase and maintain appropriate medical insurance for the children, and~~
~~b. order both parents to pay cash medical support.~~

This notification shall be provided when either of the following conditions is met:

- a. the state initiates an action to establish a final support order or to adjust an existing child support order; or
- b. the state joins a divorce or modification action initiated by either the custodial or the non-custodial parent.

2. If a judicial support order does not include a medical support provision, ORS/CSS shall commence judicial action to modify the order to include a medical support provision.

R527-201-~~6~~7. Reasonable Cost of Insurance Premiums.

Employment-related or other group coverage that does not exceed 5% of the obligated parent's monthly gross income is generally considered reasonable in cost. However, an employer may not withhold more than the lesser of the amount allowed under the Consumer Credit Protection Act, the amount allowed by the state of the employee's principal place of employment, or the amount allowed for health insurance premiums by the child support order. If the combined child support and medical support obligations exceed the allowable deduction amount, the employer shall withhold according to the law, if any, of the state of the employee's principal place of employment requiring prioritization between child support and medical support. If the employee's principal place of employment is in Utah, the employer shall deduct current child support before deducting amounts for health insurance coverage. If the amount necessary to cover the health insurance premiums cannot be deducted due to prioritization or limitations on withholding, the employer shall notify ORS/CSS.

R527-201-~~7~~8. Credit for Premium Payments and Effect of Changes to the Premium Amount Subsequent to the Order.

1. If the order or underlying worksheet gives credit of a specific amount for the children's portion of the premium and the amount of the premium decreases, ORS/CSS may reduce the amount of the credit without seeking a modification of the order.

2. If the order or underlying worksheet does not mention a specific credit for insurance premiums, ORS/CSS shall give credit for the child(ren)'s portion of the insurance premium when the obligated parent provides the necessary verification coverage.

3. ORS/CSS shall notify both parents in writing whenever the credit is changed.

R527-201-~~8~~9. Enforcement of Obligation to Maintain Medical and Dental Insurance.

1. In Non-IV-A cases and in IV-A Medicaid cases, appropriate steps shall be taken to ensure compliance with orders which require the obligated parent to maintain insurance. Obligated parents shall demonstrate compliance by providing ORS/CSS with policy numbers and the insurance provider name for the dependent children for whom the medical support is ordered.

2. In Non-IV-A cases and in IV-A Medicaid cases, if an obligated parent has been ordered to maintain ~~employer-based medical~~ insurance and insurance is accessible and available at a reasonable cost ~~[according to R527-201-7 through an employment-related group health plan]~~, ORS/CSS shall use the NMSN to transfer notice of the insurance provision to the obligated parent's employer unless ORS/CSS is notified pursuant to Section 62A-11-326.1 that the children are already enrolled in an insurance plan in accordance with the order.

3. When appropriate, ORS/CSS shall send the NMSN to the obligated parent's employer within two business days after the name of the obligated parent has been entered into the registry of the State Directory of New Hires, matched with ORS/CSS records, and reported to ORS/CSS in accordance with Subsection 35A-7-105(2).

4. The employer shall transfer the NMSN to the appropriate group health plan for which the children are eligible within twenty business days of the date of the NMSN if all of the following criteria are met:

- a. the obligated parent is still employed by the employer;
- b. the employer maintains or contributes to plans providing dependent or family health coverage;
- c. the obligated parent is eligible for the coverage available through the employer; and
- d. state or federal withholding limitations, prioritization, or both, do not prevent withholding the amount required to obtain coverage.

5. If more than one coverage option is available under a group insurance plan and the obligated parent is not already enrolled, ORS/CSS in consultation with the custodial parent may select the least expensive option if the option complies with the child support order and benefits the children. The insurer shall enroll the children in the plan's default option or least expensive option in accordance with Subsection 62A-11-326.2(1)(b) unless another option is specified by ORS/CSS.

6. The employer shall determine if the necessary employee contributions for the insurance coverage are available. If the amounts necessary are available, the employer shall begin withholding when appropriate and remit directly to the plan.

7. In accordance with Subsections 62A-11-326.1(2) and (3), the obligated parent may contest withholding insurance premiums based on a mistake of fact. The employer shall continue withholding under the NMSN until notified by ORS/CSS to terminate withholding insurance premiums.

8. If a parent successfully contests the action to enroll the children in a group health plan based on a mistake of fact, ORS/CSS shall notify the employer to discontinue enrollment and withholding insurance premiums for the children.

9. In accordance with Subsection 62A-11-406(9), the employer shall promptly notify ORS/CSS when the obligated parent's employment is terminated.

10. ORS/CSS shall promptly notify the employer when a current order for medical support is no longer in effect for which ORS/CSS is responsible.

R527-201-[9]10. Obligated Parent Receiving Medicaid.

~~[1. If an obligated parent is receiving Medicaid or was receiving Medicaid at the time the medical debt was incurred, ORS/CSS shall not enforce payment of the medical debt regardless of medical support provisions in the order.~~

~~—2.]In an unestablished paternity case, if the father's income was taken into consideration when determining the household's eligibility for Medicaid, ORS/CSS shall not enforce payment of medical expenses regardless of the medical support provisions in the order, but shall enforce the health insurance provision.~~

KEY: child support, health insurance, Medicaid

Date of Enactment or Last Substantive Amendment: [November 17, 2005]2009

Notice of Continuation: January 16, 2007

Authorizing, and Implemented or Interpreted Law: 62A-1-111; 62A-11-103(2); 62A-11-107; 62A-11-326; 63G-4-102 et seq.; 162A-11-326.1; 62A-11-326.2; 62A-11-326.3; 62A-11-406(9); 63G-4-102 et seq.; 78B-12-102(6); 78B-12-212; 35A-7-105(2); 45 CFR 303.30; 45 CFR 303.31; 45 CFR 303.32



Human Services, Recovery Services **R527-275** Passport Denial

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE No.: 32494

FILED: 04/02/2009, 10:04

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this new rule is to establish and clarify procedures for the Office of Recovery Services/Child Support Services (ORS/CSS) to deny an individual's passport for failure to pay child support pursuant to 18 U.S.C 1073, 42 U.S.C 652(k) and federal regulation at 22 CFR 51.60, 51.70, 51.71(1), 51.72, 51.73, and 51.74.

SUMMARY OF THE RULE OR CHANGE: Section R527-275-1 contains two subsections. The first one states the legal authority that has been granted to ORS/CSS to create rules. The second one contains a statement describing the purpose of this specific rule. Section R527-275-2 includes the incorporation of federal regulation. Section R527-275-3 provides the criteria for an obligor to get his passport released after it has been denied by ORS/CSS for failure to pay child support.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: 18 U.S.C. 1073, 42 U.S.C. 652(k), 22 CFR 51.60, 51.70, 51.71(1), and 51.72, and Section 62A-11-107

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** There are no anticipated costs or savings to the state because the new rule only provides added clarification for ORS/CSS to release an obligor's passport when it has been suspended for failure to pay child support. The office has been and is still required to provide the same services pursuant to federal regulations and state law.

❖ **LOCAL GOVERNMENTS:** There are no anticipated costs to the local government because administrative rules of ORS/CSS do not apply to local government.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** There are not anticipated costs for small business because the changes affect the internal procedures of the ORS/CSS and provide clarification to the child support staff. Obligated parents who qualify for passport suspension may incur some costs as a result of this rule and its underlying statutes. However, ORS/CSS cannot provide firm figures because

there is no way to predict how many obligors will pay back a child support arrearage due to having their passports denied for failure to pay child support. It is anticipated that obligee parents and their children will experience a fiscal benefit in those cases where the procedures outline in this rule cause an obligor to make regular child support payments; however, those benefits will vary based on the individual child support orders and the associated dollar amount of the arrears that are owed, which makes this benefit impossible to estimate.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Obligated parents who qualify for passport suspension may incur some costs as a result of this rule and its underlying statutes. However, ORS/CSS cannot provide firm figures because there is no way to predict how many obligors will pay back a child support arrearage due to having their passports suspended for failure to pay child support.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Businesses are not addressed in the proposed rule, and it is not anticipated this rule will create any fiscal impact on them. Lisa Michele Church, Executive Director

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

LeAnn Wilber at the above address, by phone at 801-536-8950, by FAX at 801-536-8833, or by Internet E-mail at lwilber@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 06/01/2009.

THIS RULE MAY BECOME EFFECTIVE ON: 06/08/2009

AUTHORIZED BY: Mark Brasher, Director

R527. Human Services, Recovery Services.

R527-275. Passport Release.

R527-275-1. Purpose and Authority.

1. The Office of Recovery Services is authorized to create rules necessary for the provision of social services by Section 62A-11-107.

2. The purpose of this rule is to specify the procedures for the office to release an obligor's passport after it has been denied for failure to pay child support.

R527-275-2. Federal Requirements.

The Office of Recovery Services/Child Support Services (ORS/CSS) adopts the federal regulations as published in 22 CFR 51.60, 51.70, 51.71(1), 51.72, 51.73, and 51.74 April 1, 2008 ed., which are incorporated by reference in this rule.

R527-275-3. Passport Release Criteria.

1. If the obligor applies for a new passport or to have a previously-issued passport renewed and is notified that the application has been denied for failure to pay child support, the obligor must contact ORS/CSS to get the passport released. The passport will be released if the obligor pays all past-due child support owing to the state IV-D Agency and/or obligee.

2. If the obligor's employment requires a valid passport or there are other extenuating circumstances that require the obligor to maintain a valid passport, an exception may be granted if:

a. the case is IV-A - if the ORS or CSS Director approves an exception to the payment-in-full requirement.

b. the case is non-IV-A:

i. if the ORS or CSS Director approves an exception to the payment-in-full requirement; and

ii. if the child support is owed to the obligee, ORS/CSS is able to obtain written approval from the obligee to release the passport.

KEY: child support, passport

Date of Enactment or Last Substantive Amendment: 2009

Authorizing, and Implemented or Interpreted Law: 18 U.S.C. 1073; 22 CFR 51.60; 51.70; 51.71(1); 51.72; 51.73; 51.74; 62A-11-107



Human Services, Recovery Services **R527-601** Establishing or Modifying an Administrative Award for Child Support

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 32496

FILED: 04/06/2009, 12:55

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This change is to add the department and office authority for creating, amending, and enforcing administrative rules.

SUMMARY OF THE RULE OR CHANGE: The change is to add an authority and purpose section to the existing rule. Section 62A-11-107 authorizes the Office of Recovery Services (ORS) to adopt, amend, and enforce rules as necessary. A purpose section was added to provide an indication of what information can be found in the rule in regards to best evidence available when establishing or modifying an administrative order.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 62A-1-111, 62A-11-107, 78B-12-201, and 78B-12-203

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The proposed changes to the rule are for clarification purposes only and do not affect the current procedures. There is no anticipated change in cost or savings due to this amendment.

❖ LOCAL GOVERNMENTS: There is no anticipated change in cost of savings due to this amendment since administrative rules of the Office of Recovery Services/ Child Support Services (ORS/CSS) do not apply to local government.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: There will be no financial impact for small businesses due to the amendment of this rule since the basic requirements of the current rule will not change. There will be no financial impact to other persons due to the amendment of this rule since the basic requirements of the current rule will not change.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be no change in compliance costs due to this amendment since the procedures are not changing with the amendment of the current rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Businesses are not addressed in the proposed changes, and it is not anticipated that the changes will create any fiscal impact on them. Lisa-Michele Church, Executive Director

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Shancie Lawton at the above address, by phone at 801-536-8191, by FAX at 801-536-8833, or by Internet E-mail at shancelawton@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 06/01/2009.

THIS RULE MAY BECOME EFFECTIVE ON: 06/08/2009

AUTHORIZED BY: Mark Brasher, Director

**R527. Human Services, Recovery Services.
R527-601. Establishing or Modifying an Administrative Award for Child Support.**

R527-601-1. Authority and Purpose.

1. The Department of Human Services is authorized to create rules necessary for the provision of social services by section 62A-1-111. The Office of Recovery Services (ORS) is authorized to adopt, amend, and enforce rules as necessary by Section 62A-11-107.

2. The purpose of this rule is to provide information as to when ORS will use best available income, what is considered best evidence available, and the procedures that must be taken for best evidence available to be used when establishing or modifying an administrative order.

R527-601-2. Documentation of Income.

When complete documentation of current income as required by Section 78B-12-203 is not available for both parents in an administrative default, participation, or stipulation proceeding, the office shall use the best evidence available to determine the appropriate child support award, in accordance with Section 78B-12-201.

R527-601-[2]3. Definition.

Best evidence available shall include the following: an affidavit from a cooperating parent concerning the income of a parent who is not cooperating in providing documentation of his/her income; historical records including old tax returns, pay stubs, employer statements, or Department of Workforce Services records; market rate earned by persons with the same occupation as reported by the Department of Workforce Services; or the federal minimum wage.

R527-601-[3]4. Procedures.

Prior to using the best evidence available to establish or modify an administrative order, the office shall mail a copy of an affidavit describing the evidence to the last known address of the uncooperative parent against whom the evidence is being used.

KEY: child support

Date of Enactment or Last Substantive Amendment: [~~October 16, 1997~~2009

Notice of Continuation: September 7, 2007

Authorizing, and Implemented or Interpreted Law: 62A-1-111; 62A-11-107; 78B-12-201; 78B-12-203



**Human Services, Services for People
with Disabilities**

R539-5

Self-Administered Services

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 32521

FILED: 04/13/2009, 15:16

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule limits Self-Administered Services for each Person to no more than \$50,000 for a State Fiscal year.

SUMMARY OF THE RULE OR CHANGE: The amount allowed for direct services is limited to no more than \$50,000 for each fiscal year. If a Self-Administered Services program exceeds this amount, the method of service delivery must change to either a contracted provider service delivery method or a combination of Self-Administered Services and provider service delivery method. If it is determined by the Division that a provider method is not possible, the Division Director may grant a waiver to the cost limit for a Self-Administered method of service delivery.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsections 62A-5-102(3) and (6)

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: Savings to the state budget will be approximately \$50,000. This change will allow more services to be provided within the existing budget.
- ❖ LOCAL GOVERNMENTS: There is no cost or savings to local governments because local governments do not provide these services and there are no contracts with local governments to provide these services.
- ❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: There is some potential that small businesses who are contracted by the Division to provide services may receive additional requests to support persons who exceed the \$50,000 limitation.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons because this rule does not affect the services provided, it only affects who provides the service.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Small businesses who contract with the Department may be asked to provide more services to eligible persons. Lisa-Michele Church, Executive Director

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

HUMAN SERVICES
SERVICES FOR PEOPLE WITH DISABILITIES
Room 411
120 N 200 W
SALT LAKE CITY UT 84103-1500, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Steven Bradford at the above address, by phone at 801-538-4197, by FAX at 801-538-4279, or by Internet E-mail at sbradford@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 06/15/2009.

THIS RULE MAY BECOME EFFECTIVE ON: 06/22/2009

AUTHORIZED BY: Georgia Baddley, Acting Director

R539. Human Services, Services for People with Disabilities.

R539-5. Self-Administered Services.

R539-5-3. Definitions.

(1) Terms used in this rule are defined in Section 62A-5-101 and R539-1-2.

(2) In addition:

(a) "Direct Services" means services delivered by an employee in the physical presence of the Person.

____([a]b) "Employee" means any individual hired to provide services to a Person receiving Self-Administered Services.

([b]c) "Fiscal Agent" means an individual or entity contracted by the Division to perform fiscal, legal, and management duties.

([e]d) "Grant" means a budget allocated by the Division to the Person through which Self-Administered Services are purchased.

([d]e) "Grant Agreement" means a written agreement between the Person and the Division that outlines requirements the Person must follow while receiving Self-Administered Services.

([e]f) "Self-Administered Services" means a structure for a Person or Representative to administer Division paid services. This program allows the Person to hire, train, and supervise employees who will provide direct services from selected services as outlined in the current State of Utah Home and Community Based Services Waivers (Medicaid 1915C). Once the Person is allocated a budget, a Grant is issued for the purpose of purchasing specific services. Grant funds are only disbursed to pay for actual services rendered. All payments are made through a Fiscal Agent under contract with the Division. Payments are not issued to the Person, but to and in the name of the Employee.

R539-5-5. Employee Requirements.

(1) All Employees hired by the Person must be 16 years of age or older. Employees under age 18 must have the Employee Agreement co-signed by their parent/Guardian.

(2) Parents, Guardians, or step-parents shall not be paid to provide services to the Person, nor shall an individual be paid to provide services to a spouse with the exception that spouses who were approved by the Division to provide reimbursed support for a Person in a non-Medicaid funded program prior to May 17, 2005 may continue to be reimbursed. This exception is only valid for support of the current spouse receiving Division services and shall not be allowed by the Division in the event that the spouses divorce or if one spouse dies. A spouse who is approved by the Division to provide support under this provision is limited to a maximum of \$15,000 during the State Fiscal year, which begins on July 1st and ends the following year on June 30th.

(3) Employees must complete the following prior to working with the Person and receiving payment from the Fiscal Agent:

- (a) Complete and sign Form W-4;
- (b) Complete and sign Form I-9 (including supporting documentation);
- (c) Complete and sign the Employee Agreement Form;
- (d) Read and sign the Department and Division Code of Conduct (Department Policy 05-03 and Division Directive 1.20); and
- (e) Review the approved and prohibited Behavior Supports as identified in R539-3-10, the Support Book, and other best practice sources recommended by the Division, if applicable. Behavior Supports shall not violate R495-876, R512-202, [UCA]Sections 62A-3-301 ~~thru~~ through 62A-3-321, and Sections 62A-4a-402 ~~thru~~ through 62A-4-412 prohibiting abuse.
- (f) Review the Person's Support Book.
- (g) Complete any screenings and trainings necessary to provide for the health and safety of the Person (i.e., training for any specialized medical needs of the Person).
- (h) If applicable, be trained on the Person's Behavior Support Plan.
- (i) Complete and sign the Application for Certification Form.

R539-5-6. Incident Reports.

(1) The Person or Representative shall notify the Division by phone, email, or fax of any reportable incident that occurs while the

Person is in the care of an Employee, within 24 hours of the occurrence.

(2) Within five business days of the occurrence of an incident, the Person or Representative shall complete a Form 1-8, Incident Report, and file it with the Division.

(3) The following incidents require the filing of a report:

(a) Actual and suspected incidents of abuse, neglect, exploitation, or maltreatment per the DHS/DSPD Code of Conduct and ~~[Utah Code Annotated]~~ Sections 62-A-3-301 through 321 for adults and ~~[Utah Code Annotated]~~ Sections 62-4a-401 through 412 for children;

(b) Drug or alcohol abuse;

(c) Medication overdoses or errors reasonably requiring medical intervention;

(d) Missing Person;

(e) Evidence of seizure in a Person with no seizure diagnosis;

(f) Significant property destruction (Damage totaling \$500.00 or more is considered significant);

(g) Physical injury reasonably requiring a medical intervention;

(h) Law enforcement involvement;

(i) Use of mechanical restraints, time-out rooms or highly noxious stimuli that is not outlined in the Behavior Support Plan, as defined in R539-4; or

(j) Any other instances the Person or Representative determines should be reported.

(4) After receiving an incident report, the Support Coordinator shall review the report and determine if further review is warranted.

R539-5-8. Limitation.

(1) The amount allowed for direct services (all self-administered services are allowed other than Fiscal Management) is limited to no more than \$50,000 for each fiscal year. If a Self-Administered Services program exceeds this amount the method of service delivery must change to either a contracted provider service delivery method or a combination of Self-Administered Services and contracted provider service delivery method. If it is determined by the Division that a contracted provider service delivery method is not possible, the Division Director can grant a waiver to the cost limit for a Self-Administered method of service delivery.

KEY: disabilities, self-administered services

Date of Enactment or Last Substantive Amendment: ~~[May 11, 2007]~~2009

Authorizing, and Implemented or Interpreted Law: 62A-5-102; 62A-5-103



Insurance, Administration **R590-253** Utah Mini-COBRA Notification Rule

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 32528

FILED: 04/15/2009, 08:48

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to continue in effect the requirements of

the 120-day (emergency) rule filed 04/02/2009 as DAR No. 32495. This rule ensures that all persons that are eligible for health insurance continuation coverage under the American Recovery and Reinvestment Act of 2009, ARRA, Section 3001(a)(7), receive the necessary information and forms that will assist them in making a decision to elect continuation coverage of their health insurance coverage under Utah's mini-COBRA law.

SUMMARY OF THE RULE OR CHANGE: This rule ensures that all persons that are eligible for health insurance continuation coverage under the American Recovery and Reinvestment Act of 2009, ARRA, Section 3001(a)(7), receive the necessary information and forms that will assist them in making a decision to elect continuation coverage of their health insurance coverage under Utah's mini-COBRA law. (DAR NOTE: A corresponding 120-day (emergency) rule is under DAR No. 32495 in this issue, May 1, 2009, of the Bulletin, and is effective as of 04/02/2009.)

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

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** The work load and revenues of the department will not be affected by this rule. No additional filings will need to be made to the department and fees and revenues to the department will not be affected.

❖ **LOCAL GOVERNMENTS:** Local governments should not be affected by this rule since it deals solely with the relationship between the department and their licensed health insurers.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** This rule standardizes the min-COBRA notification required by Sections 31A-22-716 and 31A-22-722. Employers will have to change the current form they are using but will not have to file them with the department. Most small businesses only have a small number of these forms on hand that will need to be replaced. The cost to replace these forms will be minimal.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Insurers will be required to provide notification to all terminated employees of employer groups with less than 20 employees, or insurers may provide the notification to the employer groups for distribution. Costs to insurers will vary according to the number of small employer groups they insure.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Insurers and employers are already providing notification to terminated employees regarding Utah mini-COBRA. The cost to them will involve the cost for printing and paper to replace old forms. 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 06/01/2009.

THIS RULE MAY BECOME EFFECTIVE ON: 06/08/2009

AUTHORIZED BY: Jilene Whitby, Information Specialist

R590. Insurance, Administration.**R590-253. Utah Mini-COBRA Notification Rule.****R590-253-1. Authority.**

(1) This rule is promulgated pursuant to Subsection 31A-2-201 wherein the commissioner may make rules to implement the provisions of Title 31A.

R590-253-2. Purpose and Scope.

(1) The purpose of this rule is to ensure that all persons who are eligible for health insurance continuation coverage under the American Recovery and Reinvestment Act of 2009, ARRA, Section 3001(a)(7) receive the necessary information and forms that will assist them in making a decision to elect continuation coverage of their health insurance coverage under Utah's mini-COBRA law.

(2) This rule applies to all accident and health insurers doing business in Utah that are required to provide continuation coverage pursuant to Sections 31A-22-722 and 722.5.

R590-253-3. General Instructions.

(1) An accident and health insurer shall provide the Utah mini-COBRA Continuation Coverage Election Notice for individuals eligible for Utah mini-COBRA. The notice can be downloaded from the Department's website at www.insurance.utah.gov.

(2) For individuals eligible for Utah mini-COBRA from February 17, 2009 through December 31, 2009, an accident and health insurer shall:

(a) mail the notices required by R590-253-3(1) to an individual:
(i) within seven days after being contacted by an individual or the individual's employer on or after April 6, 2009; or

(ii) no later than April 10, 2009 for an insured whose employer or the individual contacted the insurer prior to April 1, 2009; or

(b) mail the notices required by R590-253-3(1) to all employers whose coverage is subject to 31A-22-722:

(i) no later than April 10, 2009;

(ii) on the plan's anniversary renewal; and

(iii) shall include a statement of the employer's obligation on the monthly notice of premium payments.

(c) An accident and health insurer who elects to provide notification under R590-253-3(2)(b) is responsible to assure the employer has provided notification to its employees who are eligible as provided by Section 31A-22-722 and the American Recovery and Reinvestment Act of 2009, Pub. S. 111-5.

(3)(a) For individuals eligible for Utah mini-COBRA from September 1, 2008 through February 16, 2009, the notices in R590-253-3(1) shall be mailed after being contacted by an individual or the individual's employer that the individual wants to take advantage of the

second election period to extend the health insurance coverage provided by the employer Section 31A-22-722.5.

(b) The notice shall be mailed:

(i) within one business day after being contacted by an individual or the individual's employer on or after April 6, 2009; or

(ii) no later than April 9, 2009 for an insured whose employer or the individual contacted the insurer prior to April 6, 2009.

R590-253-4. Penalties.

A person found, after a hearing or other regulatory process, to be in violation of this rule shall be subject to penalties as provided under 31A-2-308.

R590-253-5. Severability.

If any provision of this rule or its application to any person or circumstance is, for any reason, held to be invalid, the remainder of this rule and its application to other persons and circumstances are not affected.

KEY: mini-COBRA insurance

Date of Enactment or Last Substantive Amendment: 2009

Authorizing, and Implemented or Interpreted Law: 31A-2-201



Insurance, Title and Escrow
Commission
R592-7
Title Insurance Continuing Education
Program

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 32525

FILED: 04/14/2009, 14:07

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this new rule is to delegate authority from the Title and Escrow Commission to the Insurance Commissioner to provisionally approve continuing education programs related to title insurance and to establish procedures for the Commission to approve continuing education programs related to title insurance provisionally approved by the commissioner.

SUMMARY OF THE RULE OR CHANGE: This rule grants authority to the Insurance Commissioner to provisionally approve continuing education programs related to title insurance so these programs can be processed in the same manner as all other insurance-related continuing education programs. Without this rule, the commission would have to develop processes and procedures, hire staff, and create on-line systems to provide approval for title related continuing education courses. With this rule the commission is able to utilize the existing processes, procedures, and staff of the Insurance Department to provide a title-related continuing

education program. (DAR NOTE: A proposed repeal of the current Rule R592-7 is under DAR No. 32543 and will be published in the May 15, 2009, issue of the Bulletin.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsections 31A-2-404(2)(a) and (g)

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: No additional cost will be incurred by state government because the existing staff of the Insurance Department is currently handling the title-related continuing education program.
- ❖ LOCAL GOVERNMENTS: There is no cost to local government because local government is not affected by transactions between a state agency (the Insurance Department) and a subsidiary commission to that state agency (the Title and Escrow Commission).
- ❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: Small businesses (title insurance agencies) and individual title insurance producers currently incur costs to take title-related continuing education courses. This rule does not impact those costs because the rule does not change the current processes and procedures for the title-related continuing education program. The rule merely codifies the approval process between the Title and Escrow Commission and the Insurance Commissioner.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no costs for affected persons because the existing staff of the Insurance Department is currently handling the title-related continuing education program.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule has no fiscal impact on businesses. D. Kent Michie, Commissioner

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

INSURANCE
TITLE AND ESCROW COMMISSION
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 06/02/2009.

THIS RULE MAY BECOME EFFECTIVE ON: 06/09/2009

AUTHORIZED BY: Jilene Whitby, Information Specialist

R592. Insurance, Title and Escrow Commission.

R592-7. Title Insurance Continuing Education Program.

R592-7-1. Authority.

This rule is promulgated pursuant to Subsections 31A-2-404(2)(a) and (g), which direct the Title and Escrow Commission to make rules for the administration of the provisions in this title related to title insurance and the approval of continuing education programs related to title insurance.

R592-7-2. Purpose and Scope.

(1) The purposes of this rule are to:

(a) delegate authority from the Commission to the commissioner to provisionally approve continuing education programs related to title insurance; and

(b) establish procedures for the Commission to approve continuing education programs related to title insurance provisionally approved by the commissioner.

(2) This rule applies to all title licensees, applicants for a title insurance license, unlicensed persons doing business as a title licensee, and continuing education providers submitting continuing education programs related to title insurance for approval pursuant to 31A-2-404.

R592-7-3. Definitions.

"Title licensee" has the same meaning as found in Section 31A-2-402(3).

R592-7-4. Program Approval.

(1) The Commission hereby delegates to the commissioner provisional authority to approve continuing education programs related to title insurance including

(a) continuing education course providers; and

(b) continuing education courses.

(2) The commissioner will report to the Commission on all continuing education programs related to title insurance provisionally approved by the commissioner. This report will include approved:

(a) continuing education course providers; and

(b) continuing education courses added to the Department's list of approved continuing education courses.

(3) The Commission will review the report and

(a) concur with and thus approve the continuing education course providers and continuing education courses provisionally approved by the commissioner; or

(b) disapprove the provisionally approved continuing education course providers or continuing education courses.

(4) If the Commission disapproves a provisionally approved continuing education provider or continuing education course, the commissioner will:

(a) remove the provider or the course from the Department's approved provider or course list; and

(b) notify the provider of the disapproval.

R592-7-5. Program Submission.

(1) Title insurance related continuing education providers shall submit initial and renewal provider approval information to the commissioner in accordance with 31A-23a-202 and R590-142.

(2) Approved title insurance related continuing education providers shall submit requests for continuing education course approval to the commissioner in accordance with 31A-23a-202 and R590-142.

R592-7-6. Penalties.

A person found, after a hearing or other regulatory process, to be in violation of this rule shall be subject to penalties as provided under 31A-2-308.

R592-7-7. Enforcement Date.

The commissioner will begin enforcing this rule upon the rule's effective date.

R592-7-8. Severability.

If any section, term, or provision of this rule shall be adjudged invalid for any reason, such judgment shall not affect, impair or invalidate any other section, term, or provision of this rule and the remaining sections, terms, and provisions shall be and remain in full force.

KEY: title insurance continuing education

Date of Enactment or Last Substantive Amendment: 2009

Authorizing, and Implemented or Interpreted Law: 31A-2-308; 31A-2-402; 31A-2-404; 31A-23a-202



Insurance, Title and Escrow
Commission

R592-8

Application Process for an Attorney
Exemption for Title Agency Licensing

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 32526

FILED: 04/14/2009, 14:20

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purposes of this new rule are: 1) to delegate to the Insurance Commissioner preliminary approval or denial of a request for exemption; 2) to provide a description of the types of real estate experiences that could be used by an attorney seeking to qualify for the exemption; 3) to provide a process to apply for a request for exemption; and 4) to provide a process to appeal a denial of a request for exemption.

SUMMARY OF THE RULE OR CHANGE: This rule delegates authority to the Insurance Commissioner to do preliminary approval or denial of a request for exemption. The rule provides a description of real estate experience that may be used to qualify for the exemption and a process to request an exemption. The rule also provides for due process by providing a process to appeal a denial of a request for exemption. (DAR NOTE: A proposed repeal of the current Rule R592-8 is under DAR No. 32546 and will be published in the May 15, 2009, issue of the Bulletin.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 31A-2-404, 31A-23a-204, 31A-1-301, 31A-2-308, 31A-2-402, and 31A-23a-102

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: The anticipated workload is less than 20 requests for exemption per year. This minimal workload will be absorbed by the Insurance Commissioner's individual licensing staff without impacting the state budget.
- ❖ LOCAL GOVERNMENTS: There is no cost to local government because local government is not involved in the licensing of title insurance agencies.
- ❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: There is no cost to small business or individuals other than the minimal costs associated with requesting an exemption.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs to affected persons other than the minimal costs associated with requesting an exemption.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no fiscal impact on businesses. D. Kent Michie, Commissioner

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

INSURANCE
TITLE AND ESCROW COMMISSION
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 06/02/2009.

THIS RULE MAY BECOME EFFECTIVE ON: 06/09/2009

AUTHORIZED BY: Jilene Whitby, Information Specialist

R592. Insurance, Title and Escrow Commission.

R592-8. Application Process for an Attorney Exemption for Title Agency Licensing.

R592-8-1. Authority.

This rule is promulgated by the Title and Escrow Commission pursuant to Section 31A-2-404 which authorizes the Commission to make rules for the administration of the provisions in this title related to title insurance and Section 31A-23a-204 which authorizes the Commission to make a rule to exempt attorneys with real estate experience from the three year licensing requirement to license a title agency.

R592-8-2. Purpose and Scope.

- (1) The purposes of this rule are:
 - (a) to delegate to the Commissioner preliminary approval or denial of a request for exemption;

(b) to provide a description of the types of real estate experience that could be used by an attorney seeking to qualify for the exemption;

(c) to provide a process to apply for a request for exemption; and

(d) to provide a process to appeal a denial of a request for exemption.

(2) This rule applies to all attorneys seeking an exemption under the provisions of 31A-23a-204.

R592-8-3. Definitions.

In addition to the definitions of Sections 31A-1-301, 31A-2-402 and 31A-23a-102, the following definitions shall apply for the purposes of this rule:

(1) "Attorney" means a person licensed and in good standing with the Utah State Bar.

(2) "Real estate experience" includes:

(a) law firm transactional experience consisting of any or all of the following:

(i) real estate transactions, including drafting documents, reviewing and negotiating contracts of sale, including real estate purchase contracts (REPC), commercial transactions, residential transactions;

(ii) financing and securing construction and permanent financing;

(iii) title review, due diligence, consulting and negotiations with title companies, researching and drafting opinions of title, coordinating with title companies, pre-closing;

(iv) zoning, development, construction, homeowners associations, subdivisions, condominiums, planned unit developments;

(v) conducting closings; and

(vi) estate planning and probate-related transactions and conveyances.

(b) law firm litigation experience consisting of any or all of the following:

(i) foreclosures;

(A) judicial and non-judicial;

(B) homeowner association (HOA) lien foreclosure;

(ii) either side of homeowner vs HOA litigation;

(iii) state construction registry litigation - mechanics lien filing and litigation;

(iv) real estate disputes or litigation involving:

(A) a real estate contract;

(B) a boundary line;

(C) a rights of way and/or easement;

(D) a zoning issue;

(E) a property tax issue;

(F) a title issue or claim;

(G) a landlord/tenant issue; and

(F) an estate and/or probate litigation involving real property assets, claims, and disputes.

(c) non-law firm experience consisting of any or all of the following:

(i) real estate agent, broker, developer, investor;

(ii) mortgage broker;

(iii) general contractor;

(iv) professor or instructor teaching real estate licensing, real estate contracts, or real estate law;

(v) lender involved with any or all of the following real estate lending activities:

(A) lending;

(B) escrow; or

(C) foreclosure;

(vi) private lender;

(vii) in-house counsel involved in real estate transactions for bank, mortgage lender, credit union, title company, or title agency;

(viii) employment with or counsel to a government agency involved in regulation of real estate, such as HUD, FHA, zoning, tax assessor, county recorder, insurance department, and Federal or state legislatures;

(ix) escrow officer;

(x) title searcher; or

(xi) surveyor; and

(d) other experience with real estate not included in (a), (b), and (c) above.

R592-8-4. Delegation of Authority.

The Commission hereby grants its preliminary concurrence to the approval or denial of a request for exemption requested by an attorney pursuant to 31A-23a-204 to the Utah Insurance Commissioner.

R592-8-5. Request for Exemption Process.

(1) An individual title licensee, who is an attorney as defined in this rule desiring to obtain an agency license under the exemption provided in 31A-23a-204(1)(c), shall make a request for exemption to the Commissioner in accordance with the requirements of this subsection.

(2) The applicant will submit a letter addressed to the Commission:

(a) requesting exemption from the licensing time period requirements in 31A-23a-204(1)(a)(i); and

(b) providing the following information:

(i) the applicant's name, mailing address and email, telephone number, and title license number;

(ii) a description of the applicant's real estate experience; and

(iii) why the applicant feels that experience qualifies the applicant for the exemption.

(3) The Commissioner will review the request for exemption within five business days of its receipt and

(a) request additional information from the applicant;

(b) preliminarily approve the request for exemption; or

(c) preliminarily disapprove the request for exemption.

(4) The Commissioner will report monthly to the Commission all preliminarily approved or denied requests for exemption received and reviewed since the previous Commission meeting.

(5) The Commission will concur or non-concur with the Commissioner's preliminary approval or denial of a request for exemption.

(6) If the Commissioner's preliminary denial of a request for exemption is concurred with by the Commission, the Commissioner will:

(a) notify the applicant of the denial; and

(b) inform the applicant of his right to agency review pursuant to R590-160.

(7) If the Commissioner's preliminary approval of a request for exemption is concurred with by the Commission, the Commissioner will expeditiously notify the applicant to submit an electronic license application and pay the required fees and assessments.

R592-8-7. Penalties.

A person found, after a hearing or other regulatory process, to be in violation of this rule shall be subject to penalties as provided under Section 31A-2-308.

R592-8-8. Enforcement Date.

The Commission will begin enforcing this rule on the rule's effective date.

R592-8-9. 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 remaining provisions to other persons or circumstances shall not be affected.

KEY: attorney exemption application process

Date of Enactment or Last Substantive Amendment: 2009

Authorizing, and Implemented or Interpreted Law: 31A-1-301; 31A-2-308; 31A-2-402; 31A-2-404; 31A-23a-102; 31A-23a-204



Insurance, Title and Escrow
Commission
R592-9
Title Insurance Recovery, Education,
and Research Fund Assessment Rule

NOTICE OF PROPOSED RULE

(New Rule)
DAR FILE No.: 32527
FILED: 04/14/2009, 14:27

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purposes of this new rule are to: 1) establish the amounts for individual title insurance producer assessments; and 2) establish the amounts for title insurance agency assessments.

SUMMARY OF THE RULE OR CHANGE: The rule provides a process for the Title and Escrow Commission to set the individual producer and agency assessment amounts for the on-going funding of the Title Insurance Recovery, Education, and Research Fund. (DAR NOTE: A proposed repeal of the current Rule R592-9 is under DAR No. 32547 and will be published in the May 15, 2009, issue of the Bulletin.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 31A-41-202 and 31A-2-308

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: The costs to state government are one-time minimal costs to establish the Fund in the Insurance Department's accounting system and in the state's accounting system. The minimal costs associated with the day-to-day operation of the Fund will be absorbed by the existing staff of the Insurance Department.
- ❖ LOCAL GOVERNMENTS: There is no cost to local government since this rule deals only with the relationship between the department and their licensees.
- ❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: There should be minimal cost, if any, to small businesses (title agencies) because the annual assessment will be offset by

the deletion of the requirement to maintain a reserve account of 1% of the title agency's written title insurance premium.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The statute provides a maximum assessment ceiling and directs the Title and Escrow Commission to set the actual assessment each year. The statute repeals the current requirement for a title agency to set aside 1% of its written title insurance premium each year. In many cases, the annual assessment for a title agency for the Recovery Fund will be less than 1% of their written title insurance premium. Individual title insurance producers will pay their assessment of less than \$20 once every 2 years when they renew their license.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule should have a minimal impact on businesses (title insurance agencies) because the annual assessment will be offset by the deletion of the requirement to maintain a reserve account of 1% of the title agency's written title insurance premium. D. Kent Michie, Commissioner

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

INSURANCE
TITLE AND ESCROW COMMISSION
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 06/02/2009.

THIS RULE MAY BECOME EFFECTIVE ON: 06/09/2009

AUTHORIZED BY: Jilene Whitby, Information Specialist

R592. Insurance, Title and Escrow Commission.**R592-9. Title Insurance Recovery, Education, and Research Fund Assessment Rule.****R592-9-1. Authority.**

This rule is promulgated pursuant to Section 31A-41-202 which requires the Title and Escrow Commission to determine the amount of required assessments from individual title insurance producers and title insurance agencies to provide funding for the recovery, education, and research fund.

R592-9-2. Purpose and Scope.

- (1) The purpose of this rule is:
- (a) to establish the amounts for individual title insurance producer assessments; and

(b) to establish the amounts for title insurance agency assessments.

(2) This rule applies to all individual title insurance producer applicants and licensees and all title insurance agency license applicants and licensees and any unlicensed person doing the business of title insurance.

R592-9-3. Establishing Assessment Amounts.

(1) Prior to July 1 of each year, the Commission shall establish the assessment amounts for:

(a) an initial producer license for an individual title insurance producer applicant;

(b) a renewal license for a licensed individual title insurance producer;

(c) an initial agency license for a title insurance agency applicant; and

(d) an annual assessment for a licensed title insurance agency.

(2) Annual licensed title insurance agency assessment amounts shall be established for the following four premium bands of title insurance premiums:

(a) Band A: \$0 to \$1 million;

(b) Band B: more than \$1 million to \$10 million;

(c) Band C: more than \$10 million to \$20 million; and

(d) Band D: more than \$20 million.

(3) The individual producer and agency assessment amounts shall be adopted by motion of the Commission.

(4) The adopted assessment amounts shall be posted on the Insurance Department's web page.

R592-9-4. Individual Title Insurance Producer Assessment.

(1) Beginning July 1, 2009:

(a) A person applying for an initial individual title insurance producer license or a licensed individual title producer adding an additional title insurance line of authority shall pay an assessment not to exceed \$20.00 at the time of application; and

(b) a licensee renewing an individual title insurance producer license shall pay an assessment not to exceed \$20.00 at the time of application.

(2) An individual title insurance producer assessment will be paid in accordance with R590-102, Insurance Department Fee Payment Rule.

R592-9-5. Title Insurance Agency Assessment.

(1) Beginning July 1, 2008, a person applying for an initial title insurance agency license shall pay an assessment of \$1,000 at the time of application.

(2) Beginning January 1, 2009, a licensed title insurance agency shall pay an annual assessment.

(3) An agency's placement in one of the four assessment bands will be determined by an agency's title insurance written premium volume for the preceding calendar year as of December 31 of that calendar year.

(4) An agency's annual assessment will be paid in accordance with R590-102, Insurance Department Fee Payment Rule.

R592-9-6. Penalties.

A person found, after a hearing or other regulatory process, to be in violation of this rule shall be subject to penalties as provided under Section 31A-2-308.

R592-9-7. Enforcement Date.

The commissioner will begin enforcing this rule upon the rule's effective date.

R592-9-8. Severability.

If any provision or clause of this rule or its application to any person or situation is held invalid, such invalidity may not affect any other provision or application of this rule which can be given effect without the invalid provision or application, and to this end the provisions of this rule are declared to be severable.

KEY: title insurance recovery assessment

Date of Enactment or Last Substantive Amendment: 2009

Authorizing, and Implemented or Interpreted Law: 31A-2-308; 31A-41-202

◆ ————— ◆
Public Safety, Fire Marshal
R710-6
Liquefied Petroleum Gas Rules

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 32538

FILED: 04/15/2009, 17:21

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: On 03/06/2009, the Utah Liquefied Petroleum Gas Board met in a regularly scheduled Board meeting and voted, after several Board meetings and notification to all involved, to add the requirement that those that license in the Liquefied Petroleum (LP) Gas Safety Act will be required to carry minimum public liability insurance.

SUMMARY OF THE RULE OR CHANGE: In Subsection R710-6-3(3.2), the Board proposes to require that all those that license to engage in the business of Liquefied Petroleum (LP) Gas under the Liquefied Petroleum Gas Safety Act, will be required to provide proof of public liability insurance of at least \$100,000 for each incident and \$300,000 in total coverage.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53-7-305

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There would be no anticipated cost or savings to the state budget because this proposed liability insurance amendment does not affect the state budget.

❖ LOCAL GOVERNMENTS: There would be no anticipated cost or savings to local government because this proposed liability insurance amendment does not affect local government.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: There would be an anticipated cost to small businesses of approximately \$2,400,000 for the enactment of this requirement to have public liability insurance. It is believed

that the vast majority of small businesses that distribute or dispense LP Gas already carry public liability insurance far beyond the \$300,000 of total coverage that will be required. The actual aggregate anticipated cost will be approximately \$150,000.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There would be a compliance cost for affected persons of approximately \$3,000 per year for each licensed concern to provide the public liability insurance.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The requirement for public liability insurance is for the health, safety, and welfare of the citizens of the State of Utah. There will be very few in the LP Gas industry that will not already have public liability insurance in amounts much greater than the minimum that will be required. D. Lance Davenport, 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 06/01/2009.

THIS RULE MAY BECOME EFFECTIVE ON: 06/08/2009

AUTHORIZED BY: Ron L. Morris, Utah State Fire Marshal

R710. Public Safety, Fire Marshal.
R710-6. Liquefied Petroleum Gas Rules.
R710-6-3. Licensing.

3.1 Type of license.

3.1.1 Class I: A licensed dealer who is engaged in the business of installing gas appliances or systems for the use of LPG and who sells, fills, refills, delivers, or is permitted to deliver any LPG.

3.1.2 Class II: A business engaged in the sale, transportation, and exchange of cylinders, but not transporting or transferring gas in liquid.

3.1.3 Class III: A business not engaged in the sale of LPG, but engaged in the sale and installation of gas appliances, or LPG systems.

3.1.4 Class IV: Those businesses listed below:

3.1.4.1 Dispensers

3.1.4.2 Sale of containers greater than 96 pounds water capacity.

3.1.4.3 Other LPG businesses not listed above.

3.2 The application for a license to engage in the business of LPG as required in 3.1 of these rules, shall be accompanied with proof of public liability insurance. The public liability insurance shall be issued

by a public liability insurance carrier showing coverage of at least \$100,000 for each incident, and \$300,000 in total coverage. The licensee shall notify the SFM within thirty days after the public liability insurance coverage required is no longer in effect for any reason.

3.[2]3 Signature on Application.

The application shall be signed by an authorized representative of the applicant. If the application is made by a partnership, it shall be signed by at least one partner. If the application is made by a corporation or association other than a partnership, it shall be signed by the principal officers, or authorized agents.

3.[3]4 Issuance.

Following receipt of the properly completed application, an inspection, completion of all inspection requirements, and compliance with the provision of the statute and these rules, the Division shall issue a license.

3.[4]5 Original, Valid Date.

Original licenses shall be valid for one year from the date of application. Thereafter, each license shall be renewed annually and renewals thereof shall be valid for one year from issuance.

3.[5]6 Renewal.

Application for renewal shall be made on forms provided by the SFM.

3.[6]7 Refusal to Renew.

The Board may refuse to renew any license in the same manner, and for any reason, that they are authorized, pursuant to Article 5 of these rules to deny a license. The applicant shall, upon such refusal, have the same rights as are granted by Article 5 of this article to an applicant for a license which has been denied by the Board.

3.[7]8 Change of Address.

Every licensee shall notify the Division, in writing, within thirty (30) days of any change of his address.

3.[8]9 Under Another Name.

No licensee shall conduct his licensed business under a name other than the name or names which appears on his license.

3.[9]10 List of Licensed Concerns.

3.[9]10.1 The Division shall make available, upon request and without cost, to the Enforcing Authority, the name, address, and license number of each concern that is licensed pursuant to these rules.

3.[9]10.2 Upon request, single copies of such list shall be furnished, without cost, to a licensed concern.

3.[40]11 Inspection.

The holder of any license shall submit such license for inspection upon request of the Division or the Enforcing Authority.

3.[41]12 Notification and LPG Certificate.

Every licensed concern shall, within twenty (20) days of employment, and within twenty (20) days of termination of any employee, report to the Division, the name, address, and LPG certificate number, if any, of every person performing any act requiring an LPG certificate for such licensed concern.

3.[42]13 Posting.

Every license issued pursuant to the provisions of these rules shall be posted in a conspicuous place on the premises of the licensed location.

3.[43]14 Duplicate License.

A duplicate license may be issued by the Division to replace any previously issued license, which has been lost or destroyed, upon the submission of a written statement from the licensee to the Division. Such statement shall attest to the fact that the license has been lost or destroyed. If the original license is found it shall be surrendered to Division within 15 days.

3.[44]15 Registration Number.

Every license shall be identified by a number, delineated as P-(number).

3.[45]16 Accidents, Reporting.

Any accident where a licensee and LPG are involved must be reported to the Board in writing by the affected licensee within 3 days upon receipt of information of the accident. The report must contain any pertinent information such as the location, names of persons involved, cause, contributing factors, and the type of accident. If death or serious injury of person(s), or property damage of \$5000.00 or more results from the accident, the report must be made immediately by telephone and followed by a written report.

3.[46]17 Board investigation of accidents.

At their discretion, the Board will investigate, or direct the Division to investigate, all serious accidents as defined in Subsection 3.15.

R710-6-4. LP Gas Certificates.

4.1 Application.

Application for an LPG certificate shall be made in writing to the Division. The application shall be signed by the applicant.

4.2 Examination.

Every person who performs any act or acts within the scope of a license issued under these rules, shall pass an initial examination in accordance with the provisions of this article.

4.3 Types of Initial Examinations:

4.3.1 Carburetion

4.3.2 Dispenser

4.3.3 HVAC/Plumber

4.3.4 Recreational Vehicle Service

4.3.5 Serviceman

4.3.6 Transportation and Delivery

4.4 Initial Examinations.

4.4.1 The initial examination shall include an open book written test of the applicant's knowledge of the work to be performed by the applicant. ~~The [written examination questions shall be taken from]~~ applicant is allowed to use the adopted statute, administrative rules, NFPA 54, and NFPA 58. Any other materials to include cellular telephones or related cellular equipment are prohibited in the examination room.

4.4.2 The initial examination ~~shall~~ may also include a practical or actual demonstration of some selected aspects of the job to be performed by the applicant if so warranted by the test administrator.

4.4.3 Each certification examination taken has a time limit of two hours to completion. Leaving the office or testing location before the completion of the examination voids the examination and will require the examination to be retaken by the applicant.

4.4.[3]4 To successfully complete the written and practical initial examinations, the applicant must obtain a minimum grade of seventy percent (70%) in each portion of the examination taken. Each portion of the examination will be graded separately. Failure of any one portion of the examination will not delete the entire test.

4.4.5 Completion of the certification examination will not be allowed if it appears to the test administrator that the applicant has not prepared to take the examination.

4.4.[4]6 Examinations may be given at various field locations as deemed necessary by the Division. Appointments for field examinations are required.

4.4.[5]7 As required in Sections 4.2 and 4.3 of these rules, those applicants that have successfully completed the requirements of the Certified Employee Training Program (CETP), as written by the

National Propane Gas Association, and that corresponds to the work to be performed by the applicant, shall have the requirement for initial examination waived, after appropriate documentation is provided to the Division by the applicant.

4.4.[6]8 As required in Sections 4.2 and 4.3.6 of these rules, those applicants that have successfully completed the requirements in Code of Federal Regulations (CFR) 49, Parts 172.700, 172.704, 177.800 and 177.816, that corresponds to the work to be performed by the applicant, shall have the requirement for initial examination waived, after appropriate documentation is provided to the Division by the applicant.

4.4.[7]9 As required in Sections 4.2 and 4.3.3 of these rules, those applicants that have successfully completed the Rocky Mountain Gas Association, Natural Gas Technician Certification Exam with a passing score, shall have the requirement for initial examination waived, after appropriate documentation is provided to the Division by the applicant.

4.4.[8]10 As required in Sections 4.2 and 4.3.3 of these rules, those applicants that are licensed journeyman plumbers as required in the Construction Trades Licensing Act Plumber Licensing Rules, R156-55c, shall have the requirement for initial examination waived, after appropriate documentation is provided to the Division by the applicant.

4.5 Original and Renewal Date.

Original LPG certificates shall be valid for one year from the date of issuance. Thereafter, each LPG certificate shall be renewed annually and renewals thereof shall be valid from for one year from issuance.

4.6 Renewal Date.

Application for renewal shall be made on forms provided by the Division.

4.7 Re-examination.

Every holder of a valid LPG Certificate shall take a re-examination every five years from the date of original certificate issuance, to comply with the provisions of Section 4.3 of these rules as follows:

4.7.1 The re-examination to comply with the provisions of Section 4.3 of these rules shall consist of an open book examination, to be mailed to the certificate holder at least 60 days before the renewal date.

4.7.2 The open book re-examination will consist of questions that focus on changes in the last five years to NFPA 54, NFPA 58, the statute, or the adopted administrative rules. The re-examination may also consist of questions that focus on practices of concern as noted by the Board or Division.

4.7.3 The certificate holder is responsible to complete the re-examination and return it to the Division in sufficient time to renew.

4.7.4 The certificate holder is responsible to return to the Division with the re-examination the correct renewal fees to complete that certificate renewal.

4.7.5 As required in Section 4.7 of these rules, those applicants that have successfully completed the requirements in Code of Federal Regulations (CFR) 49, Parts 172.700, 172.704, 177.800 and 177.816, that corresponds to the work to be performed by the applicant, shall have the requirement for re-examination waived, after appropriate documentation is provided to the Division by the applicant.

4.7.6 As required in Section 4.7 of these rules, those applicants that provide the Division with written verification of the completion of 40 hours of continuing training over the previous five-year period shall have the requirement for re-examination waived.

4.8 Refusal to Renew.

The Division may refuse to renew any LPG certificate in the same manner and for any reason that is authorized pursuant to Section 5.2 of these rules.

4.9 Inspection.

The holder of a LPG certificate shall submit such certificate for inspection, upon request of the Division or the enforcing authority.

4.10 Type.

4.10.1 Every LPG certificate shall indicate the type of act or acts to be performed and for which the applicant has qualified.

4.10.2 Any person holding a valid LPG certificate shall not be authorized to perform any act unless he is a licensee or is employed by a licensed concern.

4.10.3 It is the responsibility of the LPG certificate holder to insure that the concern they are employed by is licensed under this act.

4.11 Change of Address.

Any change in home address of any holder of a valid LPG certificate shall be reported by the registered person to the Division within thirty (30) days of such change.

4.12 Duplicate.

A duplicate LPG certificate may be issued by the Division to replace any previously issued certificate which has been lost or destroyed upon the submission of a written statement to the Division from the certified person. Such statement shall attest to the certificate having been lost or destroyed. If the original is found, it shall be surrendered to the Division within 15 days.

4.13 Contents of Certificate of Registration.

Every LPG certificate issued shall contain the following information:

4.13.1 The name and address of the applicant.

4.13.2 The physical description of applicant.

4.13.3 The signature of the LP Gas Board Chairman.

4.13.4 The date of issuance.

4.13.5 The expiration date.

4.13.6 Type of service the person is qualified to perform.

4.13.7 Have printed on the card the following: "This certificate is for identification only, and shall not be used for recommendation or advertising".

4.14 Minimum Age.

No LPG certificate shall be issued to any person who is under sixteen (16) years of age.

4.15 Restrictive Use.

4.15.1 No LPG certificate shall constitute authorization for any person to enforce any provisions of these rules.

4.15.2 A LPG certificate may be used for identification purposes only as long as such certificate remains valid and while the holder is employed by a licensed concern.

4.15.3 Regardless of the acts for which the applicant has qualified, the performance of only those acts authorized under the licensed concern employing such applicant shall be permissible.

4.15.4 Regardless of the acts authorized to be performed by a licensed concern, only those acts for which the applicant for a LPG certificate has qualified shall be permissible by such applicant.

4.16 Right to Contest.

4.16.1 Every person who takes an examination for a LPG certificate shall have the right to contest the validity of individual questions of such examination.

4.16.2 Every contention as to the validity of individual questions of an examination that cannot be reasonably resolved, shall be made in writing to the Division within 48 hours after taking said examination. Contentions shall state the reason for the objection.

4.16.3 The decision as to the action to be taken on the submitted contention shall be by the Board, and such decision shall be final.

4.16.4 The decision made by the Board, and the action taken, shall be reflected in all future examinations, but shall not affect the grades established in any past examination.

4.17 Non-Transferable.

LPG Certificates shall not be transferable to another individual. Individual LPG certificates shall be carried by the person to whom issued.

4.18 New Employees.

New employees of a licensed concern may perform the various acts while under the direct supervision of persons holding a valid LPG certificate for a period not to exceed 45 days from the initial date of employment. By the end of such period, new employees shall have taken and passed the required examination. In the event the employee fails the examination, re-examination shall be taken within 30 days. The employee shall remain under the direct supervision of an employee holding a valid LPG certificate, until certified.

4.19 Certificate Identification.

Every LPG certificate shall be identified by a number, delineated as PE-(number). Such number shall not be transferred from one person to another.

KEY: liquefied petroleum gas

Date of Enactment or Last Substantive Amendment: [~~May 23, 2008~~ **June 8, 2009**]

Notice of Continuation: March 30, 2006

Authorizing, and Implemented or Interpreted Law: 53-7-305



Transportation, Operations, Traffic and Safety

R920-50

Ropeway Operations Safety Rules

NOTICE OF PROPOSED RULE

(Repeal and Reenact)

DAR FILE NO.: 32515

FILED: 04/08/2009, 12:22

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of the change is to consolidate the definitions into one section of the rule so the definitions will be consistent throughout the rule; several definitions were added to better reflect what is found in the Utah State Code. The rule also updates references to American National Standards Institute. The format was changed to be consistent with the format of the other rules.

SUMMARY OF THE RULE OR CHANGE: This rule is repealed in its entirety and reenacted. The rule has been updated to reflect the current American National Standards Institute. The rule was restructured to bring similar topics under the same headings. Definitions were added to the rule. The rule is changed to allow certifications to be submitted by a qualified engineer and not just a civil engineer. The rule also changes the procedure for a notice of intent to the committee when

construction of a new ropeway is to begin. Also included was the change to require a seven-day notice of the annual inspection. A requirement for a stop gate above the rope tow is introduced. Three requirements are reinstated for historical purposes concerning electronic speed regulated devices, friction type brakes, and fire detention.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 72-11-201 through 72-11-216, and 63G-4-102 et seq.

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: No costs or savings are anticipated with this rule change. No new requirements were created with this rule change that impact the state budget.
- ❖ LOCAL GOVERNMENTS: No costs or savings are anticipated for local governments with this rule change. No new requirements were created with this rule change that impact local governments.
- ❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: No costs or savings are anticipated for small businesses with this rule change. No new requirements were created with this rule change that impact small businesses.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Costs are anticipated to build an additional stop gate above the rope for a handle tow. No other costs or savings are anticipated for compliance of affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule should have minimal fiscal impact on businesses. John Njord, Executive Director

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

TRANSPORTATION
OPERATIONS, TRAFFIC AND SAFETY
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:

Maureen Short at the above address, by phone at 801-965-4026, by FAX at 801-965-4338, or by Internet E-mail at maureenshort@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 06/01/2009.

THIS RULE MAY BECOME EFFECTIVE ON: 06/08/2009

AUTHORIZED BY: John R. Njord, Executive Director

R920. Transportation, Operations, Traffic and Safety.

R920-50. Ropeway Operation Safety Rules.

[R920-50-1. Utah Ropeway Rules for Passenger Ropeways.

— A. Introduction

— These rules are issued pursuant to Utah Code Annotated, Section 72-11-210 to implement the Passenger Ropeway Safety Act, Utah Code Ann., Sections 72-11-201 et seq.

— B. Governing Standard

— 1. The governing standards in Utah are the standards entitled "ANSI B 77.1, 2006" and "ANSI B77.2, 2004" as modified by rule of the Committee. The standards are published by the American National Standards Institute, 1430 Broadway, New York, New York 10018. The ANSI B77.1 was approved by ANSI on April 17, 2006, and the ANSI B77.2 was approved by ANSI on December 31, 2003. Use of these standards are authorized by Section 72-11-201.

— 2. The Utah Passenger Ropeway Safety Committee reserves the right to modify, add, or delete provisions included in the Governing Standard.

— C. Classification of Ropeways and Applicable Standards

— 1. Section 1.2.4.1 of the Governing Standard is modified by the following requirements:

— a. Existing installations need not comply with the new or revised requirements of the Governing Standard and these rules, except as set forth in R920-50-1-D.1.b;

— b. Existing ropeways, when removed and reinstalled, shall be classified as new installations (see R920-50-1-C.2);

— c. Ropeway modifications shall meet the requirements of R920-50-2-F and R920-50-8.

— 2. Section 1.2.4.2 of the Governing Standard is modified by the following requirement: New installations and those with design review completed by the Committee after the effective date of the Governing Standard, shall comply with the new or revised requirements of the Governing Standard and with these rules.

— D. Inspections of Ropeways

— 1. The annual general inspection requirements stated in ANSI B77.1, 2.3.4.1, 3.3.4.1, 4.3.4.1, 5.3.4.1 and 6.3.4.1, are replaced by the following requirements:

— a. An annual general or pre-operational inspection of each passenger ropeway shall be made by a Ropeway Inspector prior to approval of any application for licensure. An operational inspection of each passenger ropeway may be made by a Ropeway Inspector at least once a year during the high use season. For each passenger ropeway inspected, items found either deficient or in noncompliance shall be noted. A report signed by the Ropeway Inspector listing items found either deficient or in noncompliance shall be filed with the owner. The owner shall correct all deficiencies and noncompliance items listed in the Ropeway Inspector's report or request an exception from the Governing Standard and applicable Utah Ropeway Operations Safety Rules. In addition to the annual general, pre-operational, and operational inspections, the Committee may order other inspections in accordance with Section 72-11-211;

— b. All installations shall comply with the new or revised requirements of the Governing Standard and these rules in the following areas, on or before the effective date of each paragraph, as set forth below:

— 1. Requirements for auxiliary drives, as set forth in ANSI B77.1, 2.1.2.1.1, 3.1.2.1.1, 4.1.2.1.1. These requirements shall be effective November 1, 1994;

— 2. Requirement for one device that senses the position of the rope shall be installed on each sheave unit, as set forth in ANSI B77.1, 3.1.3.3.2, paragraph 6. This requirement shall be effective November 1, 1994;

— 3. Requirements for audible warning devices, as specified by ANSI B77.1, 2.1.1.12, 3.1.1.12. These requirements shall be effective November 1, 2001;

— 4. Section 4.1.1.12 of the Governing Standard is modified by the following requirement: The aerial lift shall incorporate an audible warning device that signals an impending start of the ropeway. After the start button is pressed, the device shall sound an audible alarm for a minimum of two seconds before the ropeway begins to move. The audible device shall be heard inside and outside all terminals and machine rooms above the ambient noise level. These requirements shall be effective November 1, 2001;

— 5. "Qualified personnel" as used in X.1.1.11 means a qualified engineer approved by the Committee. A "aerial tramway specialist" as used in 2.3.4, "aerial lift specialist" as used in 3.3.4 and 4.3.4, "surface lift specialist" as used in 5.3.4, and a "tow specialist" as used in 6.3.4 means a ropeway inspector approved by the Committee.

— e. Grips, clips, hangers, chairs, carriages and cabins shall be tested according to ANSI B77.1, X.3.4.3, except as modified in this subsection e.

— 1. Testing personnel shall be qualified in accordance with ASNT Recommended Practice No. SNT-TC-1A-1992. Testing agency shall provide certification of qualification of personnel performing testing.

— 2. Testing agency inspector shall certify to the owner or area operator that the passenger ropeway components tested were non-destructively tested in accordance with current acceptance criteria established by the designer or manufacturer, or in case the designer or manufacturer is no longer in business, by a Qualified Engineer;

— 3. Sampling size and method of obtaining the sample shall comply with X.3.4.3 of the Governing Standard;

— 4. Rejection rate and retest procedures shall comply with current acceptance criteria established by the designer or manufacturer, or in case the designer or manufacturer is no longer in business, by a Qualified Engineer;

— 5. Types of inspections to be performed and the procedures to be used shall comply with current acceptance criteria established by the designer or manufacturer, or in case the designer or manufacturer is no longer in business, by a Qualified Engineer;

— 6. Criteria for acceptance/rejection of samples shall comply with current acceptance criteria established by the designer or manufacturer, or in case the designer or manufacturer is no longer in business, by a Qualified Engineer.

— d. Wire rope inspection shall be performed according to Annex A.4.1 of the Governing Standard and shall be performed by a competent inspector defined by the Governing Standard and who is approved by the Committee. The wire rope inspector shall certify to the owner or area operator whether the wire rope in its present condition meets requirements for continued operation.

— e. All installations shall comply with the Operation and Maintenance requirements of the Governing Standard. These requirements are stated in ANSI B77.1, 2.3, 3.3, 4.3, 5.3, 6.3, and 7.3.

— E. Conveyors Standards

— 1. Section 7 of the ANSI B77.1 2006 is modified by the following requirement:

— a. Loading and unloading areas requirements of 7.1.1.9 shall also accommodate the use of adaptive devices.

— b. "Qualified personnel" as used in 7.1.1.11 means a qualified engineer approved by the Committee. A "conveyor specialist" as used in 7.3.4 means a ropeway inspector approved by the Committee.

— c. Power units referred to in 7.1.2.1 may not have reverse capability.

— d. "Power supply cords" referred to in 7.2.1.5.6 shall be protected from snow grooming, skiers, and other equipment and shall be ground fault protected.

— e. The belt transition entry stop device referred to in 7.2.3.3 shall include redundant (double) sensors. Each sensor shall be part of an independent control circuit that can initiate an emergency shutdown of the conveyor. The device shall be so designed and maintained that no single point of failure can cause the entry stop device to malfunction. The device shall not be remotely resettable and shall require the operator to reset the device prior to restarting the conveyor.

— F. Dynamic Testing

— 1. Section X.3.3.1 is replaced with:

— Foundations and structural, mechanical and electrical components shall be inspected regularly and kept in a state of good repair. The maintenance requirements of the designer or a Qualified Engineer (see X.1.6.2) shall be followed. Maintenance and testing logs shall be kept (see X.3.5.3).

— 2. Section X.3.3.1.2 is replaced with:

— A written schedule for systematic dynamic testing shall be developed and followed. The schedule shall establish specific frequencies and conditions for periodic testing. The owner shall provide Experienced personnel to develop and conduct the dynamic test. The testing shall simulate or duplicate inertial loadings. The test load shall be equivalent to the design live load. Dynamic testing shall be performed at intervals not exceeding 7 years. The testing requirements shall include, but not be limited to the following:

- a) braking systems;
- b) auxiliary power units;
- c) tension systems; and
- d) electrical systems.

— G. Tows:

— Section 6.2.3.2.b) is replaced with:

— Terminal areas: Installed on the incoming side so that the distance from the stop gate to the first obstruction is more than 150% of the distance required to stop the empty tow operating at maximum speed. The stop device shall extend across the tow beneath the incoming and outgoing rope;

— H. Air Space Requirements

— ANSI B77.1 Section 2.1.1.3, 3.1.1.3, 4.1.1.3, 5.1.1.3, and 6.1.1.3 and ANSI B77.2 section 2.1.1.2 shall also include the following: No structure (temporary or permanent) shall be permitted to encroach into the air space of the ropeway. These requirements are effective for ropeways or structures built after November 1, 2006.

R920-50-2. Definition of Terms.

— A. "Aerial lift" means a ropeway on which passengers are transported in cabins or on chairs and that circulate in one direction between terminals without reversing the travel path.

— B. "Aerial tramway (reversible)" means a ropeway on which the passengers are transported in cable supported carriers are not in contact with the ground or snow surface, and in which the carrier(s) reciprocate between terminals.

— C. "Air Space" means the area bounded by vertical planes commencing at a point thirty five (35) feet from the intersection of the vertical planes of the ropes or cables and ground surface.

— D. "Annual general inspection" means an inspection of a passenger ropeway made by a Ropeway Inspector to verify preservation of original design integrity and to determine that components and systems of the passenger ropeway are in proper working order and in accordance with Committee rules.

— E. "Committee" means the Passenger Ropeway Safety Committee as outlined in Section 72-11-202.

— F. "Conveyor" means a device used to transport skiers uphill while standing on a flexible moving element which consists of multiple tread plates or belting.

— G. "Detachable grip lift" means a ropeway system on which carriers circulate around the system alternately attaching to and detaching from a moving haul rope(s). The ropeway system may be monocable or bicable.

— H. "Experienced personnel" means an individual who has acquired knowledge and skills through study, training, or experience in ropeway maintenance, operation, or testing.

— I. "Funicular" means a ropeway in which carrier(s) are supported and guided by a guideway and are propelled by means of a haul rope system and operates as a single reversible or as a double reversible.

— J. "Incident inspection" means an inspection of a passenger ropeway incident made by an approved Ropeway Inspector or a qualified engineer at the request of the Committee.

— K. "Modification" means any change as defined in the Governing Standard, ANSI B77.1 Standard 1.2.4.3 and the replacement of a ropeway component by one that alters the certified design or construction provided by the passenger ropeway manufacturer or designer.

— L. "Operational inspection" means an inspection of a passenger ropeway made by a Ropeway Inspector to determine compliance with the operation and maintenance requirements of the Governing Standard and with Committee rules.

— M. "Operating personnel" means persons employed by the operator for the purpose of supervising the operation, or engaged in servicing, checking, inspecting or maintaining the machinery or structures of a ropeway and when specifically on duty for such purpose on that ropeway.

— N. "Operator" means a person, including any political subdivision or instrumentality of the political subdivision, who owns, manages, or directs the operation of a passenger ropeway.

— O. "Passenger" means any person riding a ropeway, other than "operating personnel".

— P. "Passenger ropeway" means all devices that carry, pull, or push passengers along a level or inclined path (excluding elevators) by means of a haul rope or other flexible element that is driven by a power unit remaining essentially at a single location. Passenger ropeways include the following:

- (1) aerial tramway (reversible);
- (2) aerial lifts (detachable lifts, chair lifts and similar equipment);
- (3) conveyor;
- (4) funicular;
- (5) rope tow (wire rope and fiber rope tows); and
- (6) surface lifts (J bar, T bar, or platter pull and similar equipment).

— Q. "Passenger Ropeway Incident" means:

— 1. Any structural, mechanical, or electrical malfunction or failure of a passenger ropeway component that results in bodily injury to any person on, or inside the load or unload zone of, a passenger ropeway;

— 2. Any deropement regardless of whether or not the passenger ropeway is evacuated;

— 3. Any evacuation of the passenger ropeway other than by prime mover or auxiliary power unit, regardless of cause;

— 4. Any fire involving a passenger ropeway component or adjacent structure;

— 5. Any structural, mechanical, or electrical malfunction or failure of a passenger ropeway component that results in a loss of control of the passenger ropeway as defined in the Governing Standard, ANSI B77.1 Standard X.2.1.7.2;

— 6. Any wire rope damage which exceeds the requirement in the Governing Standard, ANSI B77.1 Standard 7.4.1.1; or

— 7. Any structural, mechanical, or electrical malfunction or failure of a passenger ropeway component or its primary connection that has the apparent potential for causing bodily injury to any person, including but not limited to, the following:

- a. Terminal Structure
- b. Bullwheel
- c. Brake System
- d. Tower Structure
- e. Sheave, Axle, or Sheave Assembly
- f. Carrier
- g. Grip.

— R. "Pre operational inspection" means an inspection made by a Ropeway Inspector prior to the operation of any new or modified passenger ropeway requiring an Acceptance Inspection and Test.

— S. "Qualified engineer" means, notwithstanding any different definition in the ANSI B77.1 Standard, any engineer who is licensed to practice engineering in the state of Utah and who has been approved by the Committee.

— T. "Responsible charge" means effective control and direction of projects of the type discussed in these rules.

— U. "Rope tow" means a ropeway wherein passengers grasp a circulating fiber hauling rope or a towing device attached to a circulating wire rope or fiber rope and are propelled uphill. Passenger riding on recreational devices are also propelled uphill.

— V. "Ropeway inspector" means an engineer licensed to practice engineering in the state of Utah, independent of the ropeway owner, and approved by the Committee to inspect passenger ropeways.

— W. "Structure" means any edifice, including residential and public buildings, or any other structure or equipment that could reasonably be expected to interfere with the safe operation of a ropeway. Ropeway components required for the operation of the ropeway are not included.

— X. "Surface lift" ("J bar," "T bar," or "platter pull," and similar equipment) means a ropeway wherein passengers or passengers on recreational devices are transported on the surface by means of towing devices propelled by a main overhead traveling wire rope supported by trestles or towers with one or more spans.

R920-50-3. Registration of Ropeways.

— A. General

— 1. Purpose — In order to ensure that all passenger Ropeways conform with the requirements set forth by the Passenger Ropeway Act and these rules, all passenger Ropeways operating in the state of Utah shall be registered annually with the committee, and no passenger Ropeway shall be operated for passengers without a valid certificate of registration.

— 2. Term — Passenger Ropeways shall be registered annually starting November 1st of each year, and each registration expires on October 31st next following date of issue.

— 3. New ropeways — Any passenger ropeway which shall be opened for the first time for passenger operation shall, during its first calendar year of operation, be construed to be a new ropeway for purposes stated in these rules.

— 4. Existing ropeways — Any passenger ropeway which shall have been operated for passengers in excess of one calendar year, shall be construed to be an existing ropeway for purposes stated in these rules.

— 5. Relocated ropeways — Any passenger ropeway moved to a new location shall be construed to be a new ropeway for purposes stipulated in these rules, with the exception that ropeways expressly designed to

be portable, operated without a permanent foundation, and that have a design range of maximum grade, shall not be considered new ropeways when moved to different locations but remaining under the jurisdiction of the same operator.

— 6. Identification number — For each ropeway, upon receipt of the first application for a certificate of registration, the committee shall assign an identification number to the ropeway, which shall remain as a permanent identification number for the life of the ropeway. All correspondence with the committee pertaining to any ropeway shall refer to the identification number assigned to that ropeway.

— 7. All ropeway operators shall be covered by a liability insurance of a minimum of \$300,000. The Utah Passenger Ropeway Safety Committee shall be notified of a lapse or termination of insurance coverage pursuant to the terms of the policy.

— 8. Submittal of application for registration of ropeways — All applications for registration of new or existing ropeways shall be submitted in accordance with requirements of these rules and shall be made in writing and addressed to:

— Utah Department of Transportation
 — Passenger Ropeway Safety Committee
 — Division of Safety
 — 4501 South 2700 West
 — Salt Lake City, Utah 84119-5998

— 9. "As Built" drawings for each passenger ropeway shall be submitted no later than 60 days after the project is completed and the Acceptance Test and Inspection is finished.

— B. Attachments

— In addition to supporting documents indicated in R920-50-4 or R920-50-7, each application is to include as attachments:

- 1. Certificate of insurance
- 2. Annual registration fee.

R920-50-4. Registration of New Ropeways.

— A. Application for Certification of Registration

— Prior to the operation of any new passenger ropeway, the operator shall apply to the Committee for a Certificate of Registration in such form as the Committee shall designate.

— B. The Application must include the name, address and telephone number of operator of the ropeway, and operator's designation of the ropeway. The application and certifications must be in accordance with R920-50-3.A and submitted as follows:

— 1. A Pre-Operational Inspection Report must be submitted by an approved Ropeway Inspector, and must include the name and address of the Inspector and date of his or her inspection.

— 2. Any Request for Exception from Standards for Passenger Ropeway shall be submitted in accordance with R920-50-10. Any known items that require a Request for Exception from Standards for Passenger Ropeways must be submitted to the Committee before work begins.

— 3. A Certification of Ropeway Design for New or Modified Passenger Ropeways, must be submitted. The Qualified Engineer in responsible charge of the design shall certify to the Committee on the top drawing of the design drawing packet that the design, plans and specifications conform to the Utah Passenger Ropeway Safety Act, the Governing Standard and the Utah Ropeway Operations Safety Rules. This Certification must be submitted prior to the performance of the Acceptance Inspection and Test and must state the following:

— "I hereby certify that the design for this ropeway or ropeway modification is in complete compliance with the Utah Passenger Ropeway Safety Act, Governing Standard and the Utah Ropeway Operations Safety Rules." This statement shall be placed on the top

drawing of the drawing packet and signed and sealed by the Qualified Engineer. Each additional sheet of this drawing packet shall be sealed by the Qualified Engineer. Any variation from the design drawings shall be noted in the drawings and approved by the Qualified Design Engineer. The drawings and specifications shall include the Quality Assurance methods used for the evaluation of the re-used components and shall be submitted for review a minimum of 30 days prior to installation. Any component on the Utah Passenger Ropeway Safety Committee Lift Data Form must be addressed.

— 4. A Certification of Compliance for Passenger Ropeway shall be made on the Application for Certificate of Registration for New or Modified Ropeway. This Certification shall include the following statement, signed and dated by the ropeway owner or area operator: "I certify that the reports, requests and certificates attached hereto were provided and signed by the persons required by law to provide them, and the deficiencies noted in the inspection report have been corrected with the exception of those listed in the Request for Exception from Standards for Passenger Ropeway."

— 5. A Certification of Manufacture for Passenger Ropeway must be submitted by a Qualified Engineer of the manufacturing concern or concerns directly responsible for the supply of equipment for this ropeway. This Certification must be submitted prior to the performance of the Acceptance Inspection and Test. This Certification must include the following information:

— a. Name, address and telephone number of operator of the ropeway, name of ropeway supervisor, operator's designation of the ropeway.

— b. Name and address of manufacturing concern, and name, seal and Utah license number of the qualified engineer making certification.

— c. A certifying statement signed by the Qualified Engineer, to read as follows: "I hereby certify that the newly manufactured parts used in this ropeway, or ropeway modification, conform with the Utah Passenger Ropeway Safety Act, Governing Standard, the Utah Ropeway Operations Safety Rules and the drawings and specifications issued for this ropeway or ropeway modification by the Qualified Design Engineer."

— 6. A Certification of Construction for Passenger Ropeways must be submitted by a Qualified Engineer directly responsible for the construction for the ropeway. This Certification must be submitted prior to the performance of the Acceptance Inspection and Test. This Certification shall include the following information:

— a. Name, address and telephone number of operator of the ropeway name of ropeway supervisor, operator's designation of the ropeway identification number, as assigned by the committee for the ropeway;

— b. Name, Utah license number and seal of the Qualified Engineer making the certification.

— c. A certifying statement signed by the Qualified Engineer, to read as follows: "I hereby certify that the construction and installation has been completed in accordance with the drawings and specifications issued for this ropeway or ropeway modification by the Qualified Design Engineer."

— 7. A final Acceptance Test report must be submitted to the Committee. A copy of the acceptance test procedure proposed and submitted by the designer or manufacturer must be provided to the Committee for review at least fourteen (14) days before acceptance testing begins. Acceptance inspection and tests will be scheduled by the Committee or Committee's representative as the acceptance test procedures are received. The owner or area operator shall notify the Committee in writing before the scheduled date that the passenger

ropeway has been operated in accordance with the Governing Standard, section X.1.1.11.2.

— 8. A Certification of "As Built" Profile for Passenger Ropeway must be submitted by a Land Surveyor or Civil Engineer licensed in the state of Utah. This Certification must be submitted prior to the performance of the Acceptance Inspection and Test, and shall be signed by the Civil Engineer or Land Surveyor, and shall read as follows: "I hereby certify that the attached "as built" profile of the herein identified ropeway is as represented on the attached profile drawing and that the completed ropeway conforms to the profile as identified in the plans and specifications prepared by the Qualified Design Engineer."

— 9. A Utah Passenger Ropeway Safety Committee Lift Data Form must be submitted along with other requested supporting documents. This form must be submitted prior to the performance of the Acceptance Inspection and Test.

R920-50-5. Certificate of Registration.

— If the application for certificate of registration and supporting documentation attest that the ropeway complies with the Governing Standard and these rules, the Committee, if satisfied with the facts stated in the application, shall issue a certificate of registration to the operator.

R920-50-6. Registration of Existing Ropeways.

— A. Before November 1st, of each year, every operator of an Existing Passenger Ropeway who intends to operate the ropeway during the ensuing 12 month period shall apply to the Committee, in such form as the Committee shall designate, for a Certificate of Registration. In the event a new operator is assigned, the operator shall notify the Committee of such action and shall apply for a Certificate of Registration.

— B. The Application shall include the following:

— 1. An Annual General Inspection Report by an approved Ropeway Inspector, including the name and address of the Inspector and date of inspection;

— 2. Approved Request for Exception from Standards for Passenger Ropeways which meets the requirements of R920-50-10, if applicable.

— 3. A Certification of Compliance for Passenger Ropeway shall be made on the Application for Certificate of Registration for Existing Ropeway. This Certification shall include the following statement, dated and signed by the ropeway owner or area operator: "I certify that the reports, requests and certificates attached hereto were provided and signed by the persons required by law to provide them, and the deficiencies noted in the inspection report have been corrected with the exception of those listed in the Request for Exception from Standards for Passenger Ropeway."

— 4. The Annual Registration Fee in accordance with R920-50-11.A.

R920-50-7. Modifications.

— If a modification, as defined in R920-50-2(E) has been made to an existing ropeway, the data as required by R920-50-7 shall also be accompanied by a design certification, fabrication and materials certification, and a construction certification, and also a survey profile certification if applicable, submitted by a qualified engineer to cover the modification. Depending on the nature and extent of the modification, the Committee, or the Committee's appointed representative, may require an Acceptance Inspection and Test.

R920-50-8. Certificate of Registration.

— If the application for certificate of registration and documentation required by R920-50-7 and R920-50-8, if applicable, attest that the existing ropeway complies with the governing standard and these rules, the committee, if satisfied with facts stated in the application, shall issue a certificate of registration to the owner.

R920-50-9. Exception.

— A. In the event that the ropeway does not conform with the requirements set forth in R920-50-1-C, the Committee may issue a certificate of registration with an exception. Two types of exceptions may be granted after a Request for Exception from Standards is submitted. The first type is an Annual Exception. It continues indefinitely, but this type of exception must be reviewed annually by the Committee. This type of exception is subject to cancellation at any time pursuant to a determination by the committee that a change is necessary. The second type of exception is a Limited Exception. This type of exception is granted only for a fixed time period to be determined by the Committee. The nature of the exception shall be stated in the Request for Exception from Standards. The Committee shall, as expeditiously as possible, and within thirty (30) days of receipt of a Request for Exception from Standards, notify the owner or area operator in writing of its action on the Request.

— B. The Request for Exception from Standards shall include the following information:

— 1. Reasons for requesting an exception from requirements set forth in R920-50-1-C.

— 2. Specification of the ways in which the ropeway does not conform to requirements set forth in R920-50-1-C.

— 3. Procedures, with estimated time and cost, which would be required to bring the ropeway into conformance with the requirements set forth in R920-50-1-C.

— C. Except as required in R920-50-10-F, the Committee shall issue a certification of registration with an exception if the operator satisfies the requirements stated in R920-50-10-B and also supplies the following for new or existing ropeways:

— New Ropeways—A design certification by a qualified engineer attesting that the ropeway is so designed and equipped that its devices or methods provide features that are comparable in performance and safety to those that meet requirements set forth in R920-50-1-C;

— Existing Ropeways—A design certification by a qualified engineer attesting that the ropeway is so designed and equipped that its devices or methods provide features that are comparable in performance and safety to those that meet requirements set forth in R920-50-1-C and a statement of the operator certifying that the ropeway has been operated safely and without any passenger ropeway incident, as defined in R920-50-2-J-1 or 7, related to the feature for which the exception is requested, for any period of time the ropeway has been operated up to 2 years prior to the date of the Request for Exception from Standards.

— D. In exceptional circumstances, the Committee may issue a certificate of registration with an exception even if the operator does not satisfy the requirements defined in R920-50-10-C if the Committee determines that the ropeway is so designed and equipped that its devices or methods provide features that are comparable in performance and safety to those that meet requirements set forth in R920-50-1-C.

— E. The issuance of a certificate of registration with an annual exception shall not bind the committee to issue such a certificate for the ropeway involved in subsequent years, nor to issue such a certificate for another ropeway of same or similar design.

~~— F. In special cases where doubt exists as to the safety of a ropeway, the committee may require a special inspection to ascertain that the ropeway is so designed and equipped that its devices or methods provide features that are comparable in performance and safety to those that meet requirements set forth in R920-50-1-C.~~

R920-50-10. Violations.

~~— The terms in this rule are outlined in Sections 72-11-212 and 72-11-213.~~

R920-50-11. Operation of Ropeways.

~~— A. Operation and maintenance~~

~~— Operators shall comply with the Governing Standard.~~

~~— B. Reporting of Incidents~~

~~— 1. Every passenger ropeway incident, as defined in R920-50-2J shall be verbally reported to the Committee, or the Committee's appointed representative, as soon as reasonably possible, but no later than twenty four (24) hours after the time of the incident. A written report shall be delivered to the Committee within five (5) days of the incident.~~

~~— 2. Every passenger ropeway incident shall be reported to the Committee regardless of the time of year in which it occurs and regardless of whether or not the ropeway was open to the public at the time of the incident.~~

~~— 3. The reports required by this section are to be maintained for administrative enforcement, licensing and certification purposes only. The reports are "protected" records under the Government Records Management Act, Utah Code Annotated, Section 63-2-304 and are also governed by the provisions of Utah Code Annotated, Section 63-2-207.~~

~~— 4. When a passenger ropeway incident, as defined in R920-50-2J(1) or (7), occurs, the owner or area operator of the ropeway shall suspend operation of the ropeway and shall notify the Committee through the Committee's appointed representative. The owner or area operator of the ropeway, with the Committee or the Committee's appointed representative, shall perform a joint incident inspection of the ropeway. The inspection shall precede any authorization to resume public operation of the passenger ropeway.~~

~~— C. Revocation of certificate of registration—Section 72-11-213.~~

R920-50-12. Ropeway Inspector and Qualified Engineer.

~~— A. General~~

~~— 1. In order to promulgate the uniformity and reliability of the inspections required by law and these rules, and of ropeway designs, any person performing inspection services must be a "ropeway inspector" as required by these rules, and any person performing design services must be a "qualified engineer", as required by these rules.~~

~~— 2. The committee shall maintain up to date lists of qualified engineers and ropeway inspectors, which lists shall be open to inspection by the public.~~

~~— 3. Any person desiring to be approved by the committee as a ropeway inspector or qualified engineer shall submit a written request to the committee enumerating his or her professional experience and attesting as far as possible to meeting the requirements stated in R920-50-14(B).~~

~~— B. Requirements~~

~~— 1. Applicant shall satisfy the Ropeway committee that by his or her education, training and experience gained by participation in Ropeway inspections or designs as a principal or an assistant to a recognized Ropeway inspector or Ropeway designer, he or she is qualified to be, respectively, an approved inspector or Ropeway designer or both.~~

~~— 2. Applicant shall satisfy the committee that he has a working familiarity and understanding of drawings and design data such as are furnished to design, construct, test, and inspect passenger ropeways, and that he or she has an understanding and working knowledge of the governing standard and these rules.~~

~~— 3. The committee may approve qualifications based on experience gained by an applicant through work under direct supervision of a qualified ropeway inspector or qualified ropeway designer.~~

~~— 4. The committee may approve employees of the state or individuals retained by the state as qualified ropeway inspectors. Such engineers may be given certain assignments where time is of the essence or a private engineer is not available or willing to undertake the inspection or investigation. It shall be the policy of the committee to use the services and talents of qualified private engineers wherever possible.~~

~~— C. Revocation or suspension of approval as ropeway inspector or qualified engineer.~~

~~— The committee may revoke or suspend the approval of any qualified engineer or ropeway inspector who is found by the committee to have:~~

~~— 1. Practiced any fraud, misrepresentation, or deceit in applying for approval; or;~~

~~— 2. Caused damage to another by gross negligence in the practice of passenger ropeway designing, construction, or inspection; or~~

~~— 3. Been engaged in acts of unlawful or unprofessional conduct.~~

R920-50-13. Inspection Requirements.

~~— 1. The ropeway inspector shall verify that the intent of the design and operational requirements imposed by the Governing Standard and these rules are met.~~

~~— 2. Ropeway inspectors may inspect ropeways at any time during the operation of the ropeway (spot check). All reports, logs, etc. shall be made available to them upon request.~~

R920-50-14. Administrative Procedures.

~~— Appeals from orders issued pursuant to any provision of R920-50 shall be handled pursuant to R907-1.]~~

R920-50-1. Purpose.

~~— This rule establishes regulations, requirements, and provides standards for the design, construction, and operation of a passenger ropeway and establishes the procedures necessary to implement the powers and duties of the Utah Passenger Ropeway Safety Committee (Committee). Previously the Committee was known as the Utah Passenger Tramway Safety Committee. The Committee has also been referred to as the Tramway Board.~~

R920-50-2. Authority.

~~— These rules are issued pursuant to Utah Code Annotated, Section 72-11-210 to implement the Passenger Ropeway Safety Act, Utah Code Ann., Sections 72-11-201 et seq.~~

R920-50-3. Definitions.

~~— In addition to terms defined at Section 72-11-102, the following terms are defined:~~

~~(1) "Aerial lift specialist" as used in American National Standards Institute (ANSI) B77.1 sections 3.3.4 and 4.3.4, means a Ropeway Inspector.~~

~~(2) "Aerial tramway specialist" as used in ANSI B77.1 section 2.3.4 means a Ropeway Inspector.~~

(3) "Air Space" means the area bounded by vertical planes commencing at a point thirty-five (35) feet from the intersection of the vertical planes of the ropes or cables and ground surface.

(4) "Annual general inspection" means an inspection of a passenger ropeway made by a Ropeway Inspector to verify preservation of original design integrity and to determine that components and systems of the passenger ropeway are in proper working order and in accordance with Committee rules.

(5) "Audible warning devices" means an audible warning device that signals an impending start of the aerial lift.

(6) "Conveyor specialist" as used in ANSI B77.1 section 7.3.4 means a Ropeway Inspector.

(7) "Dynamic Testing Logs" means a record of the data collected during the dynamic test.

(8) "Experienced personnel" means an individual who has acquired knowledge and skills through study, training, or experience in ropeway maintenance, operation, or testing.

(9) "Existing ropeway" means any passenger ropeway that shall have been operated for passengers in excess of one calendar year.

(10) "Incident inspection" means an inspection of a passenger ropeway incident made by an approved Ropeway Inspector or a qualified engineer at the request of the Committee.

(11) "Land surveyor" means an individual licensed under Utah Code Annotated 58-22-102 as a professional land surveyor.

(12) "Modification" means any change as defined in ANSI B77.1 Section 1.2.4.4, ANSI B77.2 Section 1.2.4.4, and the replacement of a ropeway component by one that alters the certified design or construction provided by the passenger ropeway manufacturer or designer.

(13) "New ropeway" means any passenger ropeway that is registered for the first time for passenger operation during its first calendar year of operation.

(14) "Operational inspection" means an inspection of a passenger ropeway made by a Ropeway Inspector to determine compliance with the operation and maintenance requirements of the Governing Standard and with Committee rules.

(15) "Operating personnel" means persons employed by the operator for the purpose of supervising the operation, or engaged in servicing, checking, inspecting or maintaining the machinery or structures of a ropeway and when specifically on duty for such purpose on that ropeway.

(16) "Passenger" means any person riding a ropeway, other than "operating personnel."

(17) "Passenger Ropeway Incident" means:

(a) Any structural, mechanical, or electrical malfunction or failure of a passenger ropeway component that results in bodily injury to any person on, or inside the load or unload zone of, a passenger ropeway;

(b) Any deropement regardless of whether or not the passenger ropeway is evacuated;

(c) Any evacuation of the passenger ropeway other than by prime mover or auxiliary power unit, regardless of cause;

(d) Any fire involving a passenger ropeway component or adjacent structure;

(e) Any structural, mechanical, or electrical malfunction or failure of a passenger ropeway component that results in a loss of control of the passenger ropeway as defined in ANSI B77.1 Section X.2.3.1 or ANSI B77.2 Section 2.2.1.7.2;

(f) Any wire rope damage which exceeds the requirement in ANSI B77.1 Section A.4.1.3 or ANSI B77.2 Section 3.4.1.1;

(g) Any structural, mechanical, or electrical malfunction or failure of a passenger ropeway component or its primary connection that has the apparent potential for causing bodily injury to any person, including but not limited to, the following:

(i) Terminal Structure

(ii) Bullwheel

(iii) Brake System

(iv) Tower Structure

(v) Sheave, Axle, or Sheave Assembly

(vi) Carrier

(vii) Grip

(18) "Portable Ropeway" means a ropeway expressly designed to be portable, operated without a permanent foundation, and that has a design range of maximum grade.

(19) "Pre-operational inspection" means an inspection made by a Ropeway Inspector prior to the operation of any new or modified passenger ropeway requiring an Acceptance Inspection and Test.

(20) "Qualified engineer" means any engineer who is licensed to practice engineering in the state of Utah and who has been approved by the Committee.

(21) "Qualified personnel" as used in ANSI B77.1 sections 2.1.1.11, 3.1.1.11, 4.1.1.11, 5.1.1.11, 6.1.1.11, and 7.1.1.11 means a qualified engineer.

(22) "Relocated ropeway" means any passenger ropeway moved to a new location.

(23) "Responsible charge" means effective control and direction of the installation or modification of a passenger ropeway.

(24) "Ropeway Inspector" means an engineer licensed to practice engineering in the state of Utah, independent of the ropeway owner, and approved by the Committee to inspect passenger ropeways.

(25) "Structure" means any edifice, including residential and public buildings, or any other structure or equipment that could reasonably be expected to interfere with the safe operation of a ropeway. Ropeway components required for the operation of the ropeway are not structures.

(26) "Surface lift specialist" as used in ANSI B77.1 section 5.3.4, means a Ropeway Inspector.

(27) "Tow specialist" as used in ANSI B77.1 section 6.3.4 means a Ropeway Inspector.

R920-50-4. General Requirements for all Passenger Ropeways.

(1) All passenger Ropeways operating in the State of Utah shall be registered annually with the committee, and no passenger Ropeway shall be operated for passengers without a valid certificate of registration.

(2) All ropeways require a qualified engineer to certify the design, manufacturing, and construction of the ropeway. A Qualified Engineer or Land Surveyor is required to complete the "as-built" profile and certification.

(3) Existing ropeways, when removed and reinstalled, shall be classified as new installations.

(4) All ropeway operators shall be covered by a liability insurance of a minimum of \$300,000. The Utah Passenger Ropeway Safety Committee shall be notified of a lapse or termination of insurance coverage pursuant to the terms of the policy.

R920-50-5. Application to Register a Passenger Ropeways.

(1) Each year prior to operating a passenger ropeway the ropeway operator shall apply to the Committee, for a Certificate of Registration. In the event a new operator is assigned, the operator

shall notify the Committee of such action and shall apply for a Certificate of Registration.

(2) Term - Passenger Ropeways shall be registered annually starting November 1st of each year, and each registration expires on October 31st next following date of issue.

(3) Application for Certificate of Registration for existing ropeways shall include the following:

- (a) Annual General Inspection Report.
- (b) Annual registration fee.
- (c) Approved request for exception, if applicable.
- (d) Certification of Compliance.
- (e) Certificate of insurance.

(4) Application for Certificate of Registration for new ropeways shall include the following:

- (a) Annual registration fee.
- (b) Approved request for exception, if applicable.
- (c) Certification of Compliance.
- (d) Certificate of insurance.
- (e) Certifications required in R920-50-6.
- (f) Documents required in R920-50-7.
- (g) Preoperational Inspection Report.

(5) Submittal of application for registration of ropeways - All applications for registration of new or existing ropeways shall be submitted in such form as the Committee shall designate and in accordance with requirements of these rules. Applications shall be made in writing and addressed to:

Utah Department of Transportation
Passenger Ropeway Safety Committee
Traffic and Safety Division
4501 South 2700 West
Salt Lake City, Utah 84119

R920-50-6. Certifications Required for Ropeways.

(1) The Certifications must include the following information:

(a) Name, address and telephone number of operator of the ropeway, name of ropeway supervisor, operator's designation of the ropeway.

(b) Designated certifying statement.

(c) A certification of design, manufacture and construction must also include the Name, address, seal, and Utah license of the qualified engineer making the certification.

(d) A certification of "as-built" profile must also include the Name, address, seal, and Utah license of the qualified engineer or land surveyor making the certification.

(2) A Certification of Compliance for Passenger Ropeway shall be made on the Application for Certificate of Registration for the Ropeway.

(a) The certification shall be signed and dated by the ropeway owner or area operator.

(b) The certification shall include the following statement: "I certify that the reports, requests and certificates attached hereto were provided and signed by the persons required by law to provide them, and the deficiencies noted in the inspection report have been corrected with the exception of those listed in the Request for Exception from Standards for Passenger Ropeway."

(3) A Certification of Ropeway Design for New or Modified Passenger Ropeways, must be submitted.

(a) The Qualified Engineer in responsible charge of the design shall certify to the Committee that the design, plans and specifications conform to the Utah Passenger Ropeway Safety Act,

the Governing Standard and the Utah Ropeway Operations Safety Rules.

(b) The Certification must be submitted prior to the performance of the Acceptance Inspection and Test.

(c) The certification must state the following:

"I hereby certify that the design for this ropeway or ropeway modification is in complete compliance with the Utah Passenger Ropeway Safety Act, Governing Standard and the Utah Ropeway Operations Safety Rules."

(d) This statement shall be placed on the top of the drawing packet and signed and sealed by the qualified engineer. Each additional sheet of this drawing packet shall be sealed by the qualified engineer.

(e) The drawings and specifications shall include the Quality Assurance methods used for the evaluation of the re-used components and shall be submitted for review a minimum of 30 days prior to installation. Any component on the Utah Passenger Ropeway Safety Committee Lift Data Form must be addressed.

(4) A Certification of Manufacture for a passenger ropeway must be submitted by a Qualified Engineer of the manufacturing concern or concerns directly responsible for the supply of equipment for this ropeway.

(a) The Certification must be submitted prior to the performance of the Acceptance Inspection and Test.

(b) The certification must state the following:

"I hereby certify that the newly manufactured parts used in this ropeway, or ropeway modification, conform with the Utah Passenger Ropeway Safety Act, Governing Standard, the Utah Ropeway Operations Safety Rules and the drawings and specifications issued for this ropeway or ropeway modification by the Qualified Design Engineer."

(5) A Certification of Construction for Passenger Ropeways must be submitted by a Qualified Engineer directly responsible for the construction for the ropeway.

(a) The Certification must be submitted prior to the performance of the Acceptance Inspection and Test.

(b) The certification must state the following:

"I hereby certify that the construction and installation has been completed in accordance with the drawings and specifications issued for this ropeway or ropeway modification by the Qualified Design Engineer."

(6) A Certification of "as-built" profile for the Passenger Ropeway must be submitted by a Qualified Engineer or Land Surveyor licensed in the State of Utah.

(a) The "as-built" profile must be submitted prior to the performance of the Acceptance Inspection and Test.

(b) The certification must state the following:

"I hereby certify that the attached "as-built" profile of the herein-identified ropeway is as represented on the attached profile drawing and that the completed ropeway conforms to the profile as identified in the plans and specifications prepared by the Qualified Design Engineer."

R920-50-7. Documents Required for Ropeways.

(1) A Utah Passenger Ropeway Safety Committee Lift Data Form must be submitted along with other requested supporting documents. This form must be submitted prior to the performance of the Acceptance Test.

(2) A copy of the acceptance test procedure proposed and submitted by the designer or manufacturer must be provided to the

Committee for review at least fourteen (14) days before acceptance testing begins. The qualified engineer determines the acceptance test requirements.

(3) The owner or area operator shall notify the Committee in writing before the acceptance test that the continuous operation requirements of ANSI B77.1 section X.1.1.11 or ANSI B77.2 section 2.1.1.11.2 have been completed.

(4) A final acceptance test report must be submitted to the Committee prior to opening the lift to the public. The qualified engineer shall approve any changes to the acceptance test procedure.

(5) "As-built" drawings for each passenger ropeway shall be submitted no later than 60 days after the project is completed and the Acceptance Test is finished. Any variation from the design drawings shall be noted in the as-built drawings and approved by the Qualified Design Engineer.

(6) The area operator shall send a "letter of intent" to the Committee at least 45 days prior to beginning the construction of a new lift. The letter of intent must include the name of the qualified engineer, the design standard, the anticipated dates to begin and complete construction, and the available lift manufacturing data.

R920-50-8. Certificate of Registration.

(1) If the application for certificate of registration and supporting documentation attest that the ropeway complies with the Governing Standard and these rules, the Committee, if satisfied with the facts stated in the application, shall issue a certificate of registration to the operator.

(2) Identification number - For each ropeway, upon receipt of the first application for a certificate of registration, the committee shall assign an identification number to the ropeway, which shall remain as a permanent identification number for the life of the ropeway. All correspondence with the committee pertaining to any ropeway shall refer to the identification number assigned to that ropeway.

R920-50-9. Governing Standards.

(1) The governing standards in Utah include "ANSI B-77.1, 2006" and "ANSI B77.2, 2004" as modified by rule of the Committee. Use of these standards is authorized by Utah Code Annotated Section 72-11-201.

(2) The Utah Passenger Ropeway Safety Committee reserves the right to modify, add, or delete provisions included in the Governing Standard.

(3) Existing installations need not comply with the new or revised requirements of the Governing Standard and these rules except as set forth in R920-50-11 "Applicable provisions".

R920-50-10. Revised and Additional Provisions.

The revised and additional provisions of this section shall only apply when referenced in R920-50-11 "Applicable provisions".

(1) "New installations and relocated installations" ANSI B77.1 Section 1.2.4.3 is modified by the following requirement: New ropeways and relocated ropeways shall comply with the new or revised requirements of the Governing Standard and with these rules at the time of the acceptance test.

(2) "Auxiliary drives" Installations shall meet the requirements for auxiliary drives, as set forth in ANSI B77.1-1992, 2.1.2.1.1, 3.1.2.1.1, 4.1.2.1.1.

(3) "Electronic speed-regulated drives" Installations shall meet the requirements for electronic speed-regulated drives as set forth in ANSI B77.1-1992, 2.2.1.8.2, 3.2.1.8.2, 4.2.1.8.2, 5.2.1.8.2, 6.2.1.8.2,

(4) "Rope position monitoring" Installations shall meet the requirements for rope position monitoring, as set forth in ANSI B77.1-1992, 3.1.3.3.2, paragraph 6.

(5) "Friction type brakes" Installations shall meet the requirements for friction type brakes, as set forth in ANSI B77.1-1992, 2.1.2.5, 3.1.2.5, 4.1.2.5, 5.1.2.5, 6.1.2.5.

(6) "Fire Detection" All machine rooms that are in an enclosed structure located adjacent to the rope of the tramway (vaulted) shall have a fire detection system installed in accordance with the National Fire Alarm Code. This system shall initiate a visual and audible alarm monitored at the drive terminal operator station.

(7) "Grips, clips, and carrier testing" Testing shall be completed according to section ANSI B77.1 sections 2.3.4.3, 3.3.4.3, 4.3.4.3, and ANSI B77.2 section 2.3.4.4 except as modified in this subsection 1.

(a) Testing personnel shall be qualified in accordance with American Society for Nondestructive Testing (ASNT) Recommended Practice No. SNT-TC-1A-1992. Testing agency shall provide certification of qualification of personnel performing testing.

(b) Testing agency inspector shall certify to the owner or area operator that the passenger ropeway components tested were non-destructively tested in accordance with current acceptance criteria established by the designer or manufacturer, or in case the designer or manufacturer is no longer in business, by a Qualified Engineer;

(c) Sampling size and method of obtaining the sample shall comply with the Governing Standard or the manufacturer's requirement, whichever is more stringent;

(d) Rejection rate and retest procedures shall comply with current acceptance criteria established by the designer or manufacturer, or in case the designer or manufacturer is no longer in business, by a Qualified Engineer;

(e) Types of inspections to be performed and the procedures to be used shall comply with current acceptance criteria established by the designer or manufacturer, or in case the designer or manufacturer is no longer in business, by a Qualified Engineer;

(f) Criteria for acceptance/rejection of samples shall comply with current acceptance criteria established by the designer or manufacturer, or in case the designer or manufacturer is no longer in business, by a Qualified Engineer.

(8) "Wire rope inspection" Inspections shall be performed according to ANSI B77.1 Annex A.4.1 and ANSI B77.2 3.4.1 and shall be performed by a competent inspector defined by the Governing Standard and who is approved by the Committee. The wire rope inspector shall certify to the owner or area operator whether the wire rope in its present condition meets requirements for continued operation.

(9) "Operation and maintenance" All installations shall comply with the Operation and Maintenance requirements of the Governing Standard. These requirements are stated in ANSI B77.1, 2.3, 3.3, 4.3, 5.3, 6.3, 7.3, and ANSI B77.2 2.3.

(10) "Audible warning devices" Requirements for audible warning devices.

(a) Installations shall meet the requirements for audible warning devices as specified by ANSI B77.1, 2.2.10, 3.2.10.

(b) ANSI B77.1 Section 4.2.10 is modified by the following requirement: The aerial lift shall incorporate an audible warning device that signals an impending start of the aerial lift. After the start button is pressed, the device shall sound an audible alarm for a minimum of two seconds before the aerial lift begins to move. The

audible device shall be heard inside and outside all terminals and machine rooms above the ambient noise level.

(11) "Conveyor Standards"

(a) Loading and unloading area requirements of ANSI B77.1 section 7.1.1.9 shall also accommodate the use of adaptive devices.

(b) Power units referred to in ANSI B77.1 section 7.1.2.1 may not have reverse capability.

(c) "Power supply cords" referred to in ANSI B77.1 section 7.2.1.5.6 shall be protected from snow grooming, skiers, and other equipment and shall be ground fault protected.

(d) The belt transition entry stop device referred to in ANSI B77.1 section 7.2.3.3 shall include redundant (double) sensors. Each sensor shall be part of an independent control circuit that can initiate an emergency shutdown of the conveyor. The device shall be so designed and maintained that no single point of failure can cause the entry stop device to malfunction. The device shall not be remotely resettable and shall require the operator to reset the device prior to restarting the conveyor.

(12) "Dynamic Testing Logs" Maintenance logs shall include documentation of the dynamic testing.

(13) "Air Space Requirements" ANSI B77.1-2006, 2.1.1.3, 3.1.1.3, 4.1.1.3, 5.1.1.3, and 6.1.1.3 and ANSI B77.2 section 2.1.1.2 shall also include the following: No structure (temporary or permanent) shall be permitted to encroach into the air space of the ropeway.

(14) "Portable Ropeways" Portable ropeways shall not be considered new ropeways when moved to different locations but remaining under the jurisdiction of the same operator.

(15) "Tows Requirements"

(a) The requirements of ANSI B77.1 section 6.2.3.2.b shall also require the stop gate to extend across the incoming and outgoing rope.

(b) Handle Tows shall have stop gates above and below the rope.

R920-50-11. Applicable Provisions.

Installations shall comply with the "Revised and additional provisions" of R920-50-10 in the following areas, on or before the effective date, when specified. These provisions establish the minimum requirement.

(1) The following apply to all ropeways.

(a) New installations and relocated installations R920-50-10(1).

(b) Fire detection R920-50-10(6); effective November 1, 1995.

(c) Wire rope inspection R920-50-10(8).

(d) Operation and maintenance R920-50-10(9).

(2) The following provisions apply to an Aerial Tramway.

(a) Auxiliary drives R920-50-10(2); effective November 1, 1994.

(b) Electronic speed-regulated drives R920-50-10(3); effective November 1, 1994.

(c) Friction type brakes R920-50-10(5); effective November 1, 1995.

(d) Grips, clips, and carrier testing R920-50-10(7).

(e) Audible warning devices R920-50-10(10); effective November 1, 2001.

(f) Dynamic testing logs R920-50-10(12).

(g) Air space requirements R920-50-10(13); effective November 1, 2006.

(3) The following provisions apply to a Detachable Grip Aerial Lift.

(a) Auxiliary drives R920-50-10(2); effective November 1, 1994.

(b) Electronic speed-regulated drives R920-50-10(3); effective November 1, 1994.

(c) Rope position monitoring R920-50-10(4); effective November 1, 1994.

(d) Friction type brakes R920-50-10(5); effective November 1, 1995.

(e) Grips, clips, and carrier testing R920-50-10(7).

(f) Audible warning devices R920-50-10(10).

(g) Dynamic testing logs R920-50-10(12).

(h) Air space requirements R920-50-10(13); effective November 1, 2006.

(4) The following provisions apply to a Fixed Grip Aerial Lift.

(a) Auxiliary Drives R920-50-10(2); effective November 1, 1994.

(b) Electronic speed-regulated drives R920-50-10(3); effective November 1, 1994.

(c) Friction type brakes R920-50-10(5); effective November 1, 1995.

(d) Grips, clips, and carrier testing R920-50-10(7).

(e) Audible warning devices R920-50-10(10).

(f) Dynamic testing logs R920-50-10(12).

(g) Air space requirements R920-50-10(13); effective November 1, 2006.

(5) The following provisions apply to a Surface Lift.

(a) Electronic speed-regulated drives R920-50-10(3); effective November 1, 1994.

(b) Friction type brakes R920-50-10(5); effective November 1, 1995.

(c) Air space requirements R920-50-10(13); effective November 1, 2006.

(6) The following provisions apply to a Rope Tow.

(a) Electronic speed-regulated drives R920-50-10(3); effective November 1, 1994.

(b) Friction type brakes R920-50-10(5); effective November 1, 1995.

(c) Air space requirements R920-50-10(13); effective November 1, 2006.

(d) Tow requirements R920-50-10(15).

(e) Portable Ropeways R920-50-10(14).

(7) The following provisions apply to a Conveyor.

(a) Conveyor standards R920-50-10(11).

(b) Portable Ropeways R920-50-10(14).

R920-50-12. Exceptions to Standards.

(1) In the event that the ropeway does not conform with the governing standards and the Ropeway Operation Safety Rules, the Committee may issue a certificate of registration with an exception. Two types of exceptions may be granted after a Request for Exception from Standards is submitted.

(a) Annual Exception - This type of exception must be reviewed annually by the Committee. This type of exception is subject to cancellation at any time pursuant to a determination by the committee that a change is necessary.

(b) Limited Exception - This type of exception is granted only for a fixed time period to be determined by the Committee.

(2) The nature of the exception shall be stated in the Request for Exception from Standards.

(3) The Committee shall, as expeditiously as possible, and within thirty (30) days of receipt of a Request for Exception from Standards, notify the operator in writing of its action on the Request.

(4) The Request for Exception from Standards shall include the following information:

(a) Reasons for requesting an exception.

(b) Identify the ways that the ropeway does not conform to the governing standards or these rules.

(c) Procedures, with estimated time and cost, which would be required to bring the ropeway into conformance.

(5) Except as required in R920-50-12(7), the Committee shall issue a certification of registration with an exception if the operator satisfies the requirements stated in R920-50-12(4) and also supplies the following for new or existing ropeways:

(a) New Ropeways B

(i) A design certification by a qualified engineer attesting that the ropeway is so designed and equipped that its devices or methods provide features that are comparable in performance and safety to those that meet requirements set forth in the Governing Standard and the Ropeway Operation Safety Rules.

(ii) Any known items that require a Request for Exception from Standards for Passenger Ropeways must be submitted to the Committee before work begins.

(b) Existing Ropeways B

(i) A design certification by a qualified engineer attesting that the ropeway is so designed and equipped that its devices or methods provide features that are comparable in performance and safety to the requirements of the Governing Standard and the Ropeway operation Safety Rules.

(ii) A statement by the operator certifying that the ropeway feature for which the exception is requested has been operated safely and without any passenger ropeway incident, as defined in R920-50-3(15) item (a) or (g), for at least 2 years prior to the date of the Request for Exception from Standards.

(6) In exceptional circumstances, the Committee may issue a certificate of registration with an exception even if the operator does not satisfy the requirements defined in the Governing Standard or the Ropeway Operation Safety Rules if the Committee determines that the ropeway is so designed and equipped that its devices or methods provide features that are comparable in performance and safety.

(7) Where doubt exists as to the safety of a ropeway, the committee may require an inspection to ascertain that the ropeway is so designed and equipped that its devices or methods provide features that are comparable in performance and safety to those of the governing standards and the Ropeway operation Safety Rules.

(8) The issuance of a certificate of registration with an annual exception shall not bind the committee to issue such a certificate for the ropeway involved in subsequent years, nor to issue such a certificate for another ropeway of same or similar design.

R920-50-13. Operation of Ropeways.

(1) Every passenger ropeway incident shall be reported to the Committee regardless of the time of year in which it occurs and regardless of whether or not the ropeway was open to the public at the time of the incident. The operator shall meet the requirements stated in R920-50-14.

(2) When a ropeway is modified the ropeway operator shall notify the Committee, or its appointed representative. The operator shall meet the requirements stated in R920-50-15.

R920-50-14. Incidents.

(1) Reporting of Incidents

(a) Every passenger ropeway incident, as defined in R920-50-3(18) shall be verbally reported to the Committee, or the Committee's appointed representative, as soon as reasonably possible, but no later than twenty-four (24) hours after the time of the incident. A written report shall be delivered to the Committee within five (5) days of the incident.

(b) The reports required by this section are to be maintained for administrative enforcement, licensing and certification purposes only. The reports are "protected" records under the Government Records Management Act, Utah Code Annotated, Section 63G-2-304 and are also governed by the provisions of Utah Code Annotated, Section 63G-2-207.

(c) When a passenger ropeway incident, as defined in R920-50-3(18) (a) or (g), occurs, the owner or area operator of the ropeway shall suspend operation of the ropeway and shall notify the Committee through the Committee's appointed representative. The owner or area operator of the ropeway, with the Committee or the Committee's appointed representative, shall perform a joint incident inspection of the ropeway. The inspection shall precede any authorization to resume public operation of the passenger ropeway.

R920-50-15. Modification of a Ropeway.

(1) The Committee, or its appointed representative shall determine the certifications that will be required.

(2) Depending on the nature and extent of the modification the Committee, or its appointed representative may require an Acceptance Inspection and Test.

(3) The following certifications may be required: design; manufacture; construction, and As-Built profile.

(4) The certifications must be submitted by a qualified engineer and attached to the cover of the modification documents. The modification documents shall include the drawings, descriptions, or specifications pertaining to the affected systems and their connections with existing systems.

(5) A revised lift data form shall be submitted.

(6) The ropeway shall not resume operating until authorized by the Committee, or its appointed representative.

R920-50-16. Inspections and Testing.

Inspections shall verify that the intent of the design and operational requirements imposed by the Governing Standard and these rules are met.

The Committee may order other inspections in accordance with Utah Code Annotated Section 72-11-211.

Ropeway inspectors may inspect ropeways at any time during the operation of the ropeway (spot check). All reports, logs, etc. shall be made available to them upon request.

(1) Acceptance Inspection and Test

(a) The Committee, or its appointed representative, will schedule acceptance inspection and test as the procedures are received.

(2) Annual General Inspection

All existing ropeway shall have an annual general inspection.

(a) A ropeway inspector shall make the inspection.

(b) The inspection shall occur prior to approval of any registration application.

(c) A report signed by the Ropeway Inspector listing items found either deficient or in noncompliance shall be filed with the owner.

(d) The report shall include the name and address of the inspector and the date of the inspection.

(e) The area operator shall notify the Committee, or its appointed representative of the annual general inspection. The area operator should give 7 days notice of the inspection.

(f) The owner shall correct all deficiencies and noncompliance items listed in the Ropeway Inspector's report.

(3) Incident inspection

Incident inspections shall occur as required in R920-50-14.

(4) Operational Inspection

An Operational inspections may be made periodically during each season of use.

(a) A ropeway inspector shall make the inspection.

(b) A report signed by the Ropeway Inspector listing items found either deficient or in noncompliance shall be filed with the owner.

(c) The report shall include the name and address of the inspector and the date of the inspection.

(d) The owner shall correct all deficiencies and noncompliance items listed in the Ropeway Inspector's report.

(5) Pre-operational inspection

A pre-operational inspection is required for new and modified lifts.

(a) A ropeway inspector shall make the inspection.

(b) The inspection shall occur prior to approval of any registration application.

(c) A report signed by the Ropeway Inspector listing items found either deficient or in noncompliance shall be filed with the owner.

(d) The report shall include the name and address of the inspector and the date of the inspection.

(e) If the inspection does not take place at the acceptance inspection and testing the area operator shall notify the Committee, or its appointed representative of the inspection. The area operator should give 7 days notice of the inspection.

(f) The owner shall correct all deficiencies and noncompliance items listed in the Ropeway Inspector's report.

R920-50-17. Ropeway Inspector and Qualified Engineer.

(1) General

(a) Any person performing inspection services must be a "ropeway inspector" as required by these rules, and any person performing design services must be a "qualified engineer", as required by these rules.

(b) The committee shall maintain up-to-date lists of qualified engineers and ropeway inspectors, which lists shall be open to inspection by the public.

(c) Any person desiring to be approved by the committee as a ropeway inspector or qualified engineer shall submit a written request to the committee enumerating his or her professional experience and attesting as far as possible to meeting the requirements stated in R920-50-17(2).

(2) Requirements

(a) Applicant shall satisfy the Ropeway committee that by his or her education, training and experience gained by participation in Ropeway inspections or designs as a principal or an assistant to a recognized Ropeway inspector or Ropeway designer, he or she is qualified to be, respectively, an approved inspector or Ropeway designer or both.

(b) Applicant shall satisfy the committee that he has a working familiarity and understanding of drawings and design data such as are furnished to design, construct, test, and inspect passenger ropeways, and that he or she has an understanding and working knowledge of the governing standard and these rules.

(c) The committee may approve qualifications based on experience gained by an applicant through work under direct supervision of a qualified ropeway inspector or qualified ropeway designer.

(d) The committee may approve employees of the state or individuals retained by the state as qualified ropeway inspectors. Such engineers may be given certain assignments where time is of the essence or a private engineer is not available or willing to undertake the inspection or investigation. It shall be the policy of the committee to use the services and talents of qualified private engineers wherever possible.

(3) Revocation or suspension of approval as ropeway inspector or qualified engineer.

The committee may revoke or suspend the approval of any qualified engineer or ropeway inspector who is found by the committee to have:

(a) Practiced any fraud, misrepresentation, or deceit in applying for approval; or

(b) Caused damage to another by gross negligence in the practice of passenger ropeway designing, construction, or inspection; or

(c) Been engaged in acts of unlawful or unprofessional conduct.

R920-50-18. Violations.

Revocation of certificate of registration - Utah Code Annotated Section 72-11-213.

The terms in this rule are outlined in Utah Code Annotated Sections 72-11-212 and 72-11-213.

R920-50-19. Administrative Procedures.

Appeals from orders issued pursuant to any provision of R920-50 shall be governed by R907-1.

KEY: transportation safety, tramways, ropeways, tramway permits

Date of Enactment or Last Substantive Amendment: [~~February 13, 2007~~]2009

Notice of Continuation: August 13, 2007

Authorizing, and Implemented or Interpreted Law: 72-11-201 through 72-11-216; [~~63-46b-4~~]63G-4-102 et seq.

◆ ————— ◆

**Workforce Services, Unemployment
Insurance
R994-202
Employing Units**

**NOTICE OF PROPOSED RULE
(Amendment)**

DAR FILE NO.: 32535
FILED: 04/15/2009, 11:49

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: These basically nonsubstantive changes are being made to reflect legislative changes.

SUMMARY OF THE RULE OR CHANGE: H.B. 159 from the 2008 General Session changed the provisions regarding Professional Employer Organizations (PEO). These proposed amendments are being made to reflect those legislative changes. The previous PEO Act required PEOs to register with the state; now a PEO is required to be licensed. This proposed amendment changes the word "registered" to "licensed". H.B. 159 also changed the code numbering from Chapter 58 to Chapter 31A. This proposed amendment changes the numbering as well. Some definitions were changed to more closely match the PEO Licensing Act. The Department also clarified how a client company will be treated if the PEO fails to obtain licensing or pay contributions to the Department. The Department previously filed similar changes to this rule. Based on comments received, the Department let that filing lapse and made some minor changes in response to those comments to clarify the rule. (DAR NOTE: H.B. 159 is found at Chapter 318, Laws of Utah 2008, and was effective 05/05/2008.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 35A-1-104 and Subsections 35A-1-104(4) and 35A-4-502(1)(b)

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: This is a federally-funded program and there will be no costs or savings to the state budget. There are no changes in this proposed amendment except those that reflect the legislation.
- ❖ LOCAL GOVERNMENTS: This is a federally-funded program and there will be no costs or savings to any local government. There are no changes in this proposed amendment except those that reflect the legislation.
- ❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: This is a federally-funded program and there will be no costs or savings to any small business or other persons. There are no changes in this proposed amendment except those that reflect the legislation.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This is a federally-funded program and there will be no compliance costs associated with this change. There are no changes in this proposed amendment except those that reflect the legislation.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no compliance costs associated with this change. There are no fees associated with this change. There will be no cost to anyone to comply with these changes. There will be no fiscal impact on any business. These changes will have no impact on any employer's contribution tax rate. Kristen Cox, Executive Director

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Suzan Pixton at the above address, by phone at 801-526-9645, by FAX at 801-526-9211, or by Internet E-mail at spixton@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 06/01/2009.

THIS RULE MAY BECOME EFFECTIVE ON: 06/08/2009

AUTHORIZED BY: Kristen Cox, Executive Director

R994. Workforce Services, Unemployment Insurance.**R994-202. Employing Units.****R994-202-102. Temporary Help Company.**

(1) "Temporary help services" means services consisting of an organization:

- (a) recruiting and hiring its own employees;
- (b) finding other organizations that need the services of those employees;
- (c) assigning those employees to perform work at or services for the other organizations to support or supplement the other organizations' workforces;
- (d) providing assistance in special work situations such as employee absences, skill shortages, seasonal workloads, or to perform special assignments or projects with a definite ending date; and
- (e) customarily attempting to reassign the employees to other organizations when they finish each assignment by a definite ending date.

(2) A company that provides all or substantially all of the client company's regular workers with no restrictions or limitation on the duration of employment, is not the employing unit for those workers and, therefore, the client company is considered the employing unit subject to all of the provisions of the Employment Security Act as an employer, unless the company is ~~registered~~ licensed as a Professional Employer Organization (PEO) pursuant to the provisions of Section ~~[58-59-104]~~ 31A-40-101 et seq.

(3) Individuals and services exempt under the Act based on the nature of service or due to a specific exemption continue to be exempt if the individual is an employee of the temporary help services company or the services are rendered by an employee of the temporary help services company.

R994-202-106. Professional Employer Organizations (PEO).

- (1) Definitions.
 - (a) "Agent" means an individual or organization authorized to act on behalf of an employer.

(b) "Client" or "client company" means a person or entity that enters into a professional employer agreement with a PEO.

(c) ~~["Employment agreement" means a written contract between the PEO and each individual hired to provide services to a client.]~~ "Co-employment relationship" means a relationship that is intended to be ongoing rather than temporary or project specific and whose rights, obligations and responsibilities of an employer are allocated pursuant to the professional employer agreement or Chapter 40 of the PEO Licensing Act.

~~(d) "Organization" means any individual, partnership, corporation, limited liability company, association, or any other form of legally recognized entity.~~

~~(e)~~ (d) "Professional employer agreement" means a written contract by and between a client and a PEO that provides for the co-employment of a covered employee as defined in Section 31A-40-102.

(f) "Professional employer organization" or "PEO" means any organization engaged in the business of providing professional employer services. "Employee leasing company" and "Employee staffing company" are ~~is a~~ terms also used to describe a PEO.

(g) "Professional employer services" means the service of entering into a co-employment relationship under which all or a majority of the employees who provide a service to a client, or division or work unit of a client, are considered employees with a client as defined in the PEO ~~Registration~~ Licensing Act, Section ~~[58-59-104]~~ 31A-40-101 et seq.

(g) "Covered employee" means an individual is a covered employee of a PEO if the individual is co-employed pursuant to a professional employer agreement subject to Section 31A-40-203.

(2) Before the employer is considered to be a PEO, it must comply with the requirements of ~~[Sections 58-59-104]~~ the PEO Licensing Act, Sections 31A-40-101 through ~~[58-59-503]~~ 31A-40-402 of the Utah Code. In the absence of such compliance, the Department may choose to hold each "client company" as the employing unit.

(3) A PEO that fails to qualify as an employer under Sections ~~[58-59-104]~~ 31A-40-101 through ~~[58-59-504]~~ 31A-40-402 of the PEO ~~Registration~~ Licensing Act and as an employing unit under 35A-4-202(1), is considered to be the agent of the client company. The client's workers are not the employees of the agent. The client company remains the employer of its workers for all purposes of the Employment Security Act. An employee not covered by a professional employment agreement ~~[or employment agreement]~~ remains the employee of the client company.

(4) Individuals and services exempt under the Employment Security Act based on the nature of service or due to a specific exemption continue to be exempt if the individual is an employee of a PEO or the services are rendered by an employee of a PEO. The exemptions for domestic and agricultural services contained in

Section 35A-4-205 are taken into consideration for the PEO's clients in the aggregate, and not on an individual client basis.

(5) A PEO cannot elect reimbursable coverage even if the client company could independently qualify as a reimbursable employer.

(6) Reporting Requirements.

(a) Any entity conducting business as a PEO must register with the Department and complete all forms and reports required by the Department. ~~[Licensing penalties for f]~~ Failure to file reports or pay contributions timely will result in the Department treating the client as a new employer without experience rating, unless the client is otherwise eligible for experience rating, beginning on the day the PEO failure occurred. ~~[are]~~ as outlined in Section ~~[58-59-504]~~ 31A-40-210 ~~[et. seq.]~~ of the PEO ~~Registration~~ Licensing Act:

(b) Within 30 days of the effective date of a contract with a client, a PEO must submit to the Department the following information:

(i) the effective date of the contract;

(ii) the client's name and address;

(iii) the client's Federal Employer Identification Number (FEIN) if registered with the IRS, and the client's Employer's Utah Registration Number if previously registered with this Department; and

(iv) the client's principal business activity.

(c) Within 30 days of the termination of a contract with a client, a PEO must submit to the Department the following information:

(i) the effective date of contract termination;

(ii) the client's name and address; and

(iii) the client's FEIN if registered with the IRS, and the client's Employer's Utah Registration Number if previously registered with this Department.

(7) The Department may directly contact a PEO or its clients in order to conduct investigations, audits and otherwise obtain information necessary for the administration of the Employment Security Act as permitted by Section 35A-4-312.

(8) The rules pertaining to "payrolling" in R994-202-104 do not apply to a PEO that is in compliance with the PEO ~~Registration~~ Licensing Act, Sections ~~[58-59-104]~~ 31A-40-101 through ~~[58-59-504]~~ 31A-40-402.

KEY: unemployment compensation, employment

Date of Enactment or Last Substantive Amendment: ~~[July 1, 2007]~~ 2009

Notice of Continuation: May 20, 2008

Authorizing, and Implemented or Interpreted Law: 35A-4-202(1)

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End of the Notices of Proposed Rules Section

NOTICES OF 120-DAY (EMERGENCY) RULES

An agency may file a 120-DAY (EMERGENCY) RULE when it finds that the regular rulemaking procedures would:

- (a) cause an imminent peril to the public health, safety, or welfare;
- (b) cause an imminent budget reduction because of budget restraints or federal requirements; or
- (c) place the agency in violation of federal or state law (Subsection 63G-3-304(1)).

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 Section 63G-3-304; and Section R15-4-8.

Insurance, Administration **R590-253**

Utah Mini-COBRA Notification Rule

NOTICE OF 120-DAY (EMERGENCY) RULE

DAR FILE No.: 32495
FILED: 04/02/2009, 17:23

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to ensure that all persons that are eligible for health insurance continuation coverage under the American Recovery and Reinvestment Act (ARRA) of 2009 Section 3001(a)(7), receive the necessary information and forms that will assist them in making a decision to elect continuation of their health insurance coverage under Utah's mini-COBRA law.

SUMMARY OF THE RULE OR CHANGE: This rule ensures that all persons who are eligible for premium assistance with their health insurance continuation coverage under the ARRA Section 3001(a)(7) receive the necessary information and forms to assist them in selecting Utah's mini-COBRA. (DAR NOTE: A corresponding proposed new Rule R590-253 is under DAR No. 32528 in this issue, May 1, 2009, of the Bulletin.)

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

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** The workload and revenues of the department will not be affected by this rule. No additional filings will need to be made to the department and fees and revenues to the department will not be affected.

❖ **LOCAL GOVERNMENTS:** Local governments should not be affected by this rule since it deals solely with the relationship between the department and its health insurers and their insureds.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** This rule standardizes the mini-COBRA notification required by Sections 31A-22-716 and 31A-22-722. Employers will have to change the current form they are using but will not have to file them with the department. Most small businesses only have a small number of these forms on hand that will need to be replaced with the new ones. Costs to replace these forms will be negligible.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Insurers will be required to provide notification to all terminated employees of employer groups with less than 20 employees, or insurers may provide the notification to the employer groups for distribution. Costs to insurers will vary according to the number of small employer groups they insure.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Insurers and employers are already providing notification to terminated employees regarding Utah mini-COBRA. The cost to them will involve the cost for printing and paper to replace old forms. D. Kent Michie, Commissioner

EMERGENCY RULE REASON AND JUSTIFICATION: REGULAR RULEMAKING PROCEDURES WOULD place the agency in violation of federal or state law.

The ARRA of 2009 was signed and went into effect on 02/17/2009. The ARRA requires the notification created by the Department of Labor be adapted for use in each state. The notification must be provided through 12/31/2009. The notification informs all terminated employees of employer groups with less than 20 employees, the availability of a federal subsidy for their mini-COBRA premiums.

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

THIS RULE IS EFFECTIVE ON: 04/02/2009

AUTHORIZED BY: Jilene Whitby, Information Specialist

R590. Insurance, Administration.

R590-253. Utah Mini-COBRA Notification Rule.

R590-253-1. Authority.

(1) This rule is promulgated pursuant to Subsection 31A-2-201 wherein the commissioner may make rules to implement the provisions of Title 31A.

R590-253-2. Purpose and Scope.

(1) The purpose of this rule is to ensure that all persons who are eligible for health insurance continuation coverage under the American Recovery and Reinvestment Act of 2009, ARRA, Section 3001(a)(7) receive the necessary information and forms that will assist them in making a decision to elect continuation coverage of their health insurance coverage under Utah's mini-COBRA law.

(2) This rule applies to all accident and health insurers doing business in Utah that are required to provide continuation coverage pursuant to Sections 31A-22-722 and 722.5.

R590-253-3. General Instructions.

(1) An accident and health insurer shall provide the Utah mini-COBRA Continuation Coverage Election Notice for individuals eligible for Utah mini-COBRA. The notice can be downloaded from the Department's website at www.insurance.utah.gov.

(2) For individuals eligible for Utah mini-COBRA from February 17, 2009 through December 31, 2009, an accident and health insurer shall:

(a) mail the notices required by R590-253-3(1) to an individual:

(i) within seven days after being contacted by an individual or the individual's employer on or after April 6, 2009; or

(ii) no later than April 10, 2009 for an insured whose employer or the individual contacted the insurer prior to April 1, 2009; or

(b) mail the notices required by R590-253-3(1) to all employers whose coverage is subject to 31A-22-722:

(i) no later than April 10, 2009;

(ii) on the plan's anniversary renewal; and

(iii) shall include a statement of the employer's obligation on the monthly notice of premium payments.

(c) An accident and health insurer who elects to provide notification under R590-253-3(2)(b) is responsible to assure the employer has provided notification to its employees who are eligible as provided by Section 31A-22-722 and the American Recovery and Reinvestment Act of 2009, Pub. S. 111-5.

(3)(a) For individuals eligible for Utah mini-COBRA from September 1, 2008 through February 16, 2009, the notices in R590-253-3(1) shall be mailed after being contacted by an individual or the individual's employer that the individual wants to take advantage of the second election period to extend the health insurance coverage provided by the employer Section 31A-22-722.5.

(b) The notice shall be mailed:

(i) within one business day after being contacted by an individual or the individual's employer on or after April 6, 2009; or

(ii) no later than April 9, 2009 for an insured whose employer or the individual contacted the insurer prior to April 6, 2009.

R590-253-4. Enforcement Date.

The commissioner will begin enforcing this rule April 2, 2009.

R590-253-5. Penalties.

A person found, after a hearing or other regulatory process, to be in violation of this rule shall be subject to penalties as provided under 31A-2-308.

R590-253-6. Severability.

If any provision of this rule or its application to any person or circumstance is, for any reason, held to be invalid, the remainder of this rule and its application to other persons and circumstances are not affected.

KEY: mini-COBRA insurance

Date of Enactment or Last Substantive Amendment: April 2, 2009
Authorizing, and Implemented or Interpreted Law: 31A-2-201

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End of the Notices of 120-Day (Emergency) Rules Section

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

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

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

NOTICES are not followed by the rule text. The rule text that is being continued may be found in the most recent edition of the *Utah Administrative Code*. The rule text may also be inspected at the agency or the Division of Administrative Rules. NOTICES are effective when filed. NOTICES are governed by Section 63G-3-305.

Education, Administration **R277-725** Electronic High School

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 32509
FILED: 04/07/2009, 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: Subsection 53A-1-401(3) authorizes the Utah State Board of Education to adopt rules in accordance with its responsibilities. Section 53A-17a-131.15 directs the Utah State Board of Education to have a rule for distribution of funds for the electronic high school.

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: Utah state law continues to require that the Utah State Board of Education have a rule in place for distribution of funds for the electronic high school program. This rule provides the required information. Therefore, this rule should be continued.

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

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

EFFECTIVE: 04/07/2009



Insurance, Administration **R590-93**

Replacement of Life Insurance and Annuities

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 32531
FILED: 04/15/2009, 09:16

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-2-201 authorizes the commissioner to write rules to implement the provisions of Title 31A. Subsection 31A-23a-402(8) allows the commissioner to define methods of competition and acts and practices found to be unfair or deceptive. This rule protects the interests of life insurance and annuity purchasers by establishing minimum standards of conduct to be observed in replacement or financed purchase transactions.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: During a comment period held in 2005, the department received four written comments.

All were of a nonsubstantive nature and were corrected in two subsequent nonsubstantive rule filings.

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 and sets minimum standards to be followed by producers and insurers during the replacement of life insurance policies and annuity contracts. It informs the

consumer who is contemplating replacing existing coverage, to think about the benefits that the old policy may provide over those in a new policy. 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

AUTHORIZED BY: Jilene Whitby, Information Specialist

EFFECTIVE: 04/15/2009



Insurance, Administration
R590-98
Unfair Practice in Payment of Life
Insurance and Annuity Policy Values

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

DAR FILE NO.: 32532
FILED: 04/15/2009, 09:17

**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-2-201 allows the commissioner to write rules to implement the provisions of Title 31A, the Insurance Code. Subsection 31A-23a-402(8) allows the commissioner to define methods of competition and acts and practices found to be unfair or deceptive. This rule requires prompt response by a life insurance and annuity company to a policyholder's request for policy values. It limits the exercise of the statutory deferral option to situations in which the financial stability of the insurer is at risk.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received in the past five years since the last review of this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is necessary to protect policyholders who request payment of life and annuity

policy values. Some insurers think they can delay payment up to six months. However, such a delay must first be approved by the commissioner. 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

AUTHORIZED BY: Jilene Whitby, Information Specialist

EFFECTIVE: 04/15/2009



Insurance, Administration
R590-166
Home Protection Service Contract Rule

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

DAR FILE NO.: 32529
FILED: 04/15/2009, 09:09

**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 authority for this rule comes from Subsection 31A-2-201(3) authorizing the commissioner to write rules to implement Title 31A. Also, Subsections 31A-6a-110(1) and (2) authorize the commissioner to write rules to implement the provisions in Chapter 6a, and provide exemptions or substitute requirements to protect the public regarding home service contracts. This rule establishes certain exemptions from the requirements in Title 31A, Chapter 6a, relating to home protection companies.

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 in the past five years regarding this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule was intended to be a temporary fix to a problem facing home warranty companies

having problems finding reimbursement insurance. The rule was intended to be a stop-gap measure to allow them to provide "alternative security" for the warranties they issue until the reimbursement insurance market could be developed. At this point, the department has received no indication that reimbursement insurance is easier to find and the rule is still necessary. 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

AUTHORIZED BY: Jilene Whitby, Information Specialist

EFFECTIVE: 04/15/2009



Insurance, Administration
R590-190
Unfair Property, Liability and Title
Claims Settlement Practices Rule

FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION

DAR FILE No.: 32530
FILED: 04/15/2009, 09:12

NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized specifically or generally by the following code references: Subsection 31A-2-201(1) and Subsection 31A-2-201(3) empowering the commissioner to enforce and write rules to implement the provisions of Title 31A. Subsection 31A-26-301(1) allows the commissioner to write rules to provide for the timely payment of claims. Subsection 31A-26-301(1) authorizes rules to provide for the timely payment of claims. Section 31A-26-301 and Subsection 31A-21-312(5) authorize rules dealing with proof and notice of loss time limitations under insurance policies. Subsection 31A-26-303(4) provides the authority to write rules defining unfair claims settlement practices or acts. Subsection 31A-2-202(4) authorizes rules requiring timely response to written inquiries from the commissioner.

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 regarding this rule have been received 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 is a critical guide for the insurance industry to use in claim settlement issues for automobile, homeowners, and title policies. These standards govern the insurance industry practices in settlement procedures and are used as a guide for complaint issues by the insurance industry. 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

AUTHORIZED BY: Jilene Whitby, Information Specialist

EFFECTIVE: 04/15/2009



Insurance, Administration
R590-191
Unfair Life Insurance Claims Settlement
Practices Rule

FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION

DAR FILE No.: 32533
FILED: 04/15/2009, 09:19

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: Subsection 31A-2-201(1) authorizes the commissioner to enforce Title 31A. Subsection 31A-2-201(3)(a) authorizes the commissioner to write rules to implement the provisions of Title 31A. Subsection 31A-26-301(1) authorizes the commissioner to write rules regarding the timely payment of claims. Section 31A-26-301 and Subsection 31A-21-312(5) authorize rules regarding notice of loss and proof of loss time limitations under insurance

policies. Subsection 31A-26-303(4) provide for rules defining unfair claims settlement practices or acts. Subsection 31A-2-202(4) authorizes rules regarding timely response by licensees to written inquiries from the commissioner. The rule itself sets forth minimum standards for the investigation and disposition of life insurance claims arising under policies or certificates issued to residents of Utah. The various provisions of this rule are intended to define procedures and practices which constitute unfair claim settlement practices.

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 regarding this rule have been received since the last five-year review of this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is a critical guide for the insurance industry in the settlement of claims issues for life insurance policies. These standards govern the industry in claims issues that occur frequently. 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

AUTHORIZED BY: Jilene Whitby, Information Specialist

EFFECTIVE: 04/15/2009

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Lieutenant Governor, Administration
R622-2
Use of the Great Seal of the State of
Utah

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

DAR FILE NO.: 32501
FILED: 04/07/2009, 10:55

**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 enacted under

Subsections 67-1a-2(1)(d) through (f) and Sections 67-1a-7 and 67-1a-8 to define how the state will manage the use and application of the Great Seal and to define criteria for its authorized application. The rule specifies criminal prosecution under Section 76-6-501 for forgeries of the Great Seal.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: A request was received from the Capitol Preservation Board to amend the rule so that articles sold in the Utah State Capitol gift shop may feature replicas of the Great Seal. The requested amendment became effective 11/21/2007.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule should continue so that state officials and agencies may understand their permitted uses of the Great Seal and so that the general public may understand the permitted and prohibited uses of the Great Seal.

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

LIEUTENANT GOVERNOR
ADMINISTRATION
Room 210 STATE CAPITOL
350 N STATE ST
SALT LAKE CITY UT 84114-1103, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Michael Cragun at the above address, by phone at 801-538-1041, by FAX at 801-538-1133, or by Internet E-mail at mcragun@utah.gov

AUTHORIZED BY: Michael Cragun, Director

EFFECTIVE: 04/07/2009

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Lieutenant Governor, Elections
R623-1
Lieutenant Governor's Procedure for
Regulation of Lobbyist Activities

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

DAR FILE NO.: 32508
FILED: 04/07/2009, 13:15

**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 36-11-404(1) explicitly requires this rule: "The lieutenant governor shall make rules that provide: (a) for the appointment of an

administrative law judge to adjudicate alleged violations of this section and to impose penalties under this section; (b) procedures for license applications, disapprovals, suspensions, revocations, and reinstatements that comply with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures 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: Statute requires this rule in order to provide procedures for issuing lobbyist licenses, disapproving lobbyist license applications, suspending and revoking lobbyist licenses, reinstating lobbyist licenses, and appointing administrative law judges. Therefore, this rule should be continued.

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

LIEUTENANT GOVERNOR
ELECTIONS
Room E325 EAST BUILDING
420 N STATE ST
SALT LAKE CITY UT 84114-2325, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO: Michael Cragun at the above address, by phone at 801-538-1041, by FAX at 801-538-1133, or by Internet E-mail at mcragun@utah.gov

AUTHORIZED BY: Michael Cragun, Director

EFFECTIVE: 04/07/2009



Lieutenant Governor, Elections
R623-2
Uniform Ballot Counting Standards

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 32512
FILED: 04/07/2009, 13:54

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 Help America Vote Act of 2002 requires each state to define what constitutes a vote (see 42 USC 15481(a)(6)). In response to this mandate, the chief election officer proposed this rule under the authority of

Utah Constitution Article VII, Sections 1, 5, and 14, and Subsection 67-1a-2(2).

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 should continue to ensure Utah's compliance with federal law.

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

LIEUTENANT GOVERNOR
ELECTIONS
Room E325 EAST BUILDING
420 N STATE ST
SALT LAKE CITY UT 84114-2325, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO: Michael Cragun at the above address, by phone at 801-538-1041, by FAX at 801-538-1133, or by Internet E-mail at mcragun@utah.gov

AUTHORIZED BY: Michael Cragun, Director

EFFECTIVE: 04/07/2009



Lieutenant Governor, Elections
R623-3
Utah State Plan on Election Reform

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 32513
FILED: 04/07/2009, 14:16

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 the Help America Vote Act of 2002, 42 USC 15404, which requires adoption of an election reform plan; 42 USC 15403(e) and Subsection 67-1a-2(2), which define the state's chief election official; and Utah Constitution Article VII, Sections 1, 5 and 14, which relate to executive branch functions.

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 should continue to ensure Utah's compliance with the Help America Vote Act of 2002.

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

LIEUTENANT GOVERNOR
ELECTIONS
Room E325 EAST BUILDING
420 N STATE ST
SALT LAKE CITY UT 84114-2325, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Michael Cragun at the above address, by phone at 801-538-1041, by FAX at 801-538-1133, or by Internet E-mail at mcragun@utah.gov

AUTHORIZED BY: Michael Cragun, Director

EFFECTIVE: 04/07/2009

Public Safety, Driver License
R708-10
Classified License System

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

DAR FILE No.: 32502
FILED: 04/07/2009, 12:30

**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 53-3-401 requires the Driver License Division to establish a Driver License classified system defining the various classes, endorsements, and restrictions.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Division needs to keep this rule because the rule defines what the various Utah Driver License classes are such as Class A Commercial Driver License, Class B Commercial Driver License, Class C Operator License, Class D Operator License, and what the requirements are to get them. The rule also defines each endorsement and restriction. 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:

Marge Dalton at the above address, by phone at 801-965-4456, by FAX at 801-957-8502, or by Internet E-mail at modalton@utah.gov

AUTHORIZED BY: Nannette Rolfe, Director

EFFECTIVE: 04/07/2009

Public Safety, Driver License
R708-22

Commercial Driver License
Administrative Proceedings

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

DAR FILE No.: 32503
FILED: 04/07/2009, 12:31

**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 53-3-221(5)(a)(i) states that a person has the right to have an opportunity for a hearing in the County they reside if their Driver License has been suspended. This rule ensures all drivers, including Commercial Driver License drivers, the right to a hearing.

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 needs to be there so administrative proceedings can be available to those who have Commercial Driver Licenses. 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:
Marge Dalton at the above address, by phone at 801-965-4456, by FAX at 801-957-8502, or by Internet E-mail at modalton@utah.gov

AUTHORIZED BY: Nannette Rolfe, Director

EFFECTIVE: 04/07/2009

Public Safety, Driver License
R708-24
Renewal of a Commercial Driver
License (CDL)

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

DAR FILE No.: 32504
FILED: 04/07/2009, 12:31

**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 53-3-413 requires Commercial Driver License operators to renew their CDL license. This rule defines what is needed for them to renew their licenses.

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 Commercial Driver Licenses can be renewed. 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:
Marge Dalton at the above address, by phone at 801-965-4456, by FAX at 801-957-8502, or by Internet E-mail at modalton@utah.gov

AUTHORIZED BY: Nannette Rolfe, Director

EFFECTIVE: 04/07/2009

Public Safety, Driver License
R708-26
Learner Permit Rule

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

DAR FILE No.: 32506
FILED: 04/07/2009, 12:33

**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: Subsection 53-3-104(1)(c) says the Division will make rules regarding restrictions to be imposed on a person driving a motor vehicle with a learner permit. This rule defines those restrictions.

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 needs to be there so the Division is in compliance with the statute in defining restrictions for a learner permit. 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:

Marge Dalton at the above address, by phone at 801-965-4456, by FAX at 801-957-8502, or by Internet E-mail at modalton@utah.gov

AUTHORIZED BY: Nannette Rolfe, Director

EFFECTIVE: 04/07/2009

Public Safety, Driver License
R708-31
Ignition Interlock Systems

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 32507
FILED: 04/07/2009, 12:33

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 41-6a-518 requires the Division to set standards for the certification of ignition interlock systems. This rule defines those standards.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No 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 be in compliance with the statute requesting that the Division make a rule establishing standards for the ignition interlock systems. 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:
Marge Dalton at the above address, by phone at 801-965-4456, by FAX at 801-957-8502, or by Internet E-mail at modalton@utah.gov

AUTHORIZED BY: Nannette Rolfe, Director

EFFECTIVE: 04/07/2009



Technology Services, Administration
R895-4
Sub-Domain Naming Conventions for
Executive Branch Agencies

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 32498
FILED: 04/06/2009, 17:06

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 made pursuant to Section 63F-1-206 which requires the Chief Information Officer to write rules setting standards for state agencies.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The "utah.gov" identifier is intended to provide the following features to the State of Utah and its agencies: 1) the ".gov" sub-domain identifier is controlled by the Federal.gov domain registrar, thereby protecting state interests; 2) the State of Utah, Chief Information Officer's (CIO) office is responsible for issuance of all "utah.gov" subdomains, further protecting the integrity of the identifier; 3) the "utah.gov" identifier offers immediate recognition to constituents for developing credibility and confidence through a consistent interface; and 4) the "utah.gov" subdomain simplifies constituent access to state agency services. Therefore, this rule should be continued.

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

TECHNOLOGY SERVICES
ADMINISTRATION
Room 6000 STATE OFFICE BUILDING
450 N STATE ST
SALT LAKE CITY UT 84114, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Russell Smith at the above address, by phone at 801-514-3125, by FAX at 801-538-3622, or by Internet E-mail at russellsmith@utah.gov

AUTHORIZED BY: J Stephen Fletcher, CIO and Executive Director

EFFECTIVE: 04/06/2009



NOTICES OF RULE EFFECTIVE DATES

These are the effective dates of PROPOSED RULES or CHANGES IN PROPOSED RULES published in earlier editions of the *Utah State Bulletin*. Statute permits an agency to make a rule effective "on any date specified by the agency that is no fewer than seven calendar days after the close of the public comment period . . . , nor more than 120 days after the publication date." Subsection 63G-3-301(9).

Abbreviations

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

Commerce

Occupational and Professional Licensing

No. 32364 (AMD): R156-22-102. Definitions.
Published: March 1, 2009
Effective: April 7, 2009

Environmental Quality

Water Quality

No. 32380 (AMD): R317-1. Definitions and General Requirements.
Published: March 1, 2009
Effective: April 7, 2009

No. 32341 (AMD): R317-1-9. Electronic Submissions and Electronic Signatures.
Published: February 15, 2009
Effective: April 7, 2009

No. 32342 (AMD): R317-3-1. Technical and Procedural Requirements.
Published: February 15, 2009
Effective: April 7, 2009

No. 32381 (AMD): R317-5-1. General.
Published: March 1, 2009
Effective: April 7, 2009

No. 32340 (AMD): R317-8. Utah Pollutant Discharge Elimination System.
Published: February 15, 2009
Effective: April 7, 2009

Natural Resources

Geological Survey

No. 32331 (AMD): R638-2. Renewable Energy Systems Tax Credits.
Published: February 15, 2009
Effective: April 6, 2009

No. 32330 (AMD): R638-3. Energy Efficiency Fund.
Published: February 15, 2009
Effective: April 6, 2009

Wildlife Resources

No. 32371 (AMD): R657-42-4. Surrenders.
Published: March 1, 2009
Effective: April 7, 2009

End of the Notices of Rule Effective Dates Section

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

The *Rules Index* is a cumulative index that reflects all effective changes to Utah's administrative rules. The current *Index* lists changes made effective from January 2, 2009, including notices of effective date received through April 15, 2009. 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/>).

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
Administrative Services					
<u>Administration</u>					
R13-3	Americans with Disabilities Act Grievance Procedures	32204	AMD	02/26/2009	2009-1/3
R13-3-8	Relationship to Other Laws	32431	NSC	03/26/2009	Not Printed
<u>Fleet Operations</u>					
R27-1-2	Definitions	32189	AMD	04/20/2009	2009-1/5
R27-7	Safety and Loss Prevention of State Vehicles	32292	AMD	04/20/2009	2009-3/2
R27-10	Identification Mark for State Motor Vehicles	32291	AMD	04/20/2009	2009-3/4
<u>Purchasing and General Services</u>					
R33-6	Modification and Termination of Contracts for Supplies and Services (5YR EXTENSION)	31983	NSC	01/29/2009	Not Printed
R33-6	Modification and Termination of Contracts for Supplies and Services	32344	5YR	01/29/2009	2009-4/55
R33-7	Cost Principles (5YR EXTENSION)	31984	NSC	01/29/2009	Not Printed
R33-7	Cost Principles	32345	5YR	01/29/2009	2009-4/55

RULES INDEX

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R33-9	Insurance Procurement (5YR EXTENSION)	31985	NSC	01/29/2009	Not Printed
R33-9	Insurance Procurement	32346	5YR	01/29/2009	2009-4/56
<u>Records Committee</u>					
R35-1-4	Committee Minutes	32355	NSC	02/26/2009	Not Printed
R35-2	Declining Appeal Hearings	32358	NSC	02/26/2009	Not Printed
R35-4	Compliance with State Records Committee Decisions and Orders	32359	NSC	02/26/2009	Not Printed
R35-5	Subpoenas Issued by the Records Committee	32360	NSC	02/26/2009	Not Printed
R35-6	Expedited Hearings	32361	NSC	02/26/2009	Not Printed
Agriculture and Food					
<u>Animal Industry</u>					
R58-17	Aquaculture and Aquatic Animal Health	32199	AMD	02/19/2009	2009-1/7
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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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	32558	R81-4A-10	EMR	05/01/2009	Not Printed
	32560	R81-4A-11	EMR	05/01/2009	Not Printed
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<u>armored car security officers</u> Commerce, Occupational and Professional Licensing	32474	R156-63b	NSC	04/14/2009	Not Printed
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	32342	R317-3-1	AMD	04/07/2009	2009-4/18
	32381	R317-5-1	AMD	04/07/2009	2009-5/16
	32340	R317-8	AMD	04/07/2009	2009-4/21
<u>water quality</u>					
Environmental Quality, Water Quality	32342	R317-3-1	AMD	04/07/2009	2009-4/18
<u>water quality standards</u>					
Environmental Quality, Water Quality	31650	R317-2	CPR	01/12/2009	2008-23/28
	31650	R317-2	AMD	01/12/2009	2008-14/30
<u>water rights</u>					
Natural Resources, Water Rights	32201	R655-14	AMD	02/10/2009	2009-1/35
<u>white-collar contests</u>					
Sports Authority (Utah), Pete Suazo Utah Athletic Commission	32188	R859-1-301	AMD	03/01/2009	2009-1/44
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	32462	R657-5-73	NSC	04/14/2009	Not Printed
	32129	R657-13	AMD	01/07/2009	2008-23/23
	32300	R657-17-4	AMD	03/10/2009	2009-3/61
	32319	R657-33-19	AMD	03/24/2009	2009-4/50
	32309	R657-38	AMD	03/10/2009	2009-3/62
	32371	R657-42-4	AMD	04/07/2009	2009-5/19
	32299	R657-44-3	AMD	03/10/2009	2009-3/69
	32297	R657-55-4	AMD	03/10/2009	2009-3/71
	32081	R657-60-2	AMD	01/07/2009	2008-22/28
	32298	R657-60-2	AMD	03/10/2009	2009-3/72
	32210	R657-61	AMD	02/09/2009	2009-1/40
	32420	R657-62	NEW	04/21/2009	2009-6/70
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Natural Resources, Wildlife Resources	32309	R657-38	AMD	03/10/2009	2009-3/62
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Natural Resources, Wildlife Resources	32129	R657-13	AMD	01/07/2009	2008-23/23
	32081	R657-60-2	AMD	01/07/2009	2008-22/28
	32298	R657-60-2	AMD	03/10/2009	2009-3/72
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