

UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT
Filed February 16, 2002, 12:00 a.m. through March 1, 2002, 11:59 p.m.

Number 2002-6
March 15, 2002

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

The *Utah State Bulletin (Bulletin)* is the official noticing publication of the executive branch of Utah State Government. The Department of Administrative Services, Division of Administrative Rules produces the *Bulletin* under authority of Section 63-46a-10, *Utah Code Annotated* 1953.

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

The *Bulletin* is printed and distributed semi-monthly by Legislative Printing. The annual subscription rate (24 issues) is \$174. Inquiries concerning subscription, billing, or changes of address should be addressed to:

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

ISSN 0882-4738

Division of Administrative Rules, Salt Lake City 84114

All materials in this publication are in the public domain and may be reproduced, Reprinted, and/or redistributed as desired. Citation to the source is requested.

Printed in the United States of America

Library of Congress Cataloging-in-Publication Data

Utah state bulletin.

Semimonthly.

1. Delegated legislation--Utah--Periodicals. 2. Administrative procedure--Utah--Periodicals.
- I. Utah. Office of Administrative Rules.

KFU440.A73S7

348.792'025--DDC

85-643197

TABLE OF CONTENTS

1. EDITOR'S NOTES

| | |
|---|---|
| Legislation Which May Affect the Rulemaking Process | 1 |
|---|---|

2. SPECIAL NOTICES

| | |
|---|---|
| Community and Economic Development, Community Development, Library: Public Notice of Available Utah State Publications..... | 3 |
|---|---|

3. NOTICES OF PROPOSED RULES

Agriculture and Food

Marketing and Conservation

| | |
|---|---|
| No. 24515 (Amendment): R65-7-11. General Conduct..... | 6 |
|---|---|

Corrections

Administration

| | |
|---|---|
| No. 24498 (Amendment): R251-107. Executions | 7 |
|---|---|

Education

Administration

| | |
|--|----|
| No. 24520 (Amendment): R277-469. Instructional Materials Commission Operating Procedures | 13 |
|--|----|

| | |
|---|----|
| No. 24522 (Repeal and Reenact): R277-503. An Alternative Preparation for Teaching Program | 16 |
|---|----|

| | |
|---|----|
| No. 24523 (Amendment): R277-911. Secondary Applied Technology Education | 20 |
|---|----|

| | |
|--|----|
| No. 24524 (Amendment): R277-916. Technology, Life, and Careers, and Work-Based Learning Programs | 25 |
|--|----|

Human Services

Administration, Administrative Services, Licensing

| | |
|--|----|
| No. 24519 (Amendment): R501-12-8. Safety | 27 |
|--|----|

Services for People with Disabilities

| | |
|--|----|
| No. 24510 (Amendment): R539-3. Service Coordination..... | 28 |
|--|----|

| | |
|---|----|
| No. 24511 (Amendment): R539-8-3. Supported Employment | 35 |
|---|----|

Insurance

Administration

| | |
|--|----|
| No. 24514 (Amendment): R590-182. Risk Based Capital Instructions | 37 |
|--|----|

Judicial Conduct Commission

Administration

| | |
|---|----|
| No. 24517 (Amendment): R595-1. Rules of Procedure | 38 |
|---|----|

Labor Commission

Safety

| | |
|--|----|
| No. 24529 (Amendment): R616-2-3. Safety Codes and Rules for Boilers and Pressure Vessels | 42 |
|--|----|

TABLE OF CONTENTS

Natural Resources

Wildlife Resources

No. 24532 (Amendment): R657-20. Falconry..... 43

No. 24534 (New Rule): R657-50. Error Remedy Rule..... 51

Regents (Board Of)

University of Utah, Parking and Transportation Services

No. 24505 (Amendment): R810-2. Parking Meters 54

Tax Commission

Auditing

No. 24518 (Amendment): R865-91-37. Enterprise Zone Individual Income Tax Credits Pursuant to Utah Code Ann Sections 9-2-401 through 9-2-414..... 55

4. NOTICES OF CHANGES IN PROPOSED RULES

Insurance

Administration

No. 24237: R590-148. Long-Term Care Insurance Rule..... 58

Natural Resources

Wildlife Resources

No. 24394: R657-3. Collection, Importation, Transportation, and Possession of Zoological Animals 73

5. FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Corrections

Administration

No. 24499: R251-107. Executions..... 77

Education

Administration

No. 24521: R277-915. Work-based Learning Programs for Interns 77

Insurance

Administration

No. 24500: R590-70. Insurance Holding Companies 78

No. 24512: R590-78. Exchange-Traded Options 78

No. 24506: R590-95. Rule to Permit the Same Minimum Nonforfeiture Standards for Men and Women Insureds Under the 1980 CSO and 1980 CET Mortality Tables..... 79

No. 24513: R590-99. Delay or Failure to Record Documents and the Insuring of Properties with the False Appearance of Unmarketability as Unfair Title Insurance Practices 79

No. 24504: R590-102. Insurance Department Fee Payment Deadlines..... 80

No. 24501: R590-114. Letters of Credit..... 80

No. 24508: R590-123. Additions and Deletions of Designees by Organizations..... 81

No. 24507: R590-142. Continuing Education Rule..... 81

| | |
|---|-----------|
| No. 24497: R590-143. Life And Health Reinsurance Agreements..... | 82 |
| No. 24502: R590-147. Annual Statement Instructions..... | 82 |
| No. 24503: R590-150. Commissioner's Acceptance of Examination Reports | 83 |
| <u>Natural Resources</u> | |
| Wildlife Resources | |
| No. 24531: R657-20. Falconry..... | 83 |
| No. 24535: R657-43. Landowner Permits..... | 84 |
| <u>Regents (Board Of)</u> | |
| University of Utah, Parking and Transportation Services | |
| No. 24516: R810-2. Parking Meters | 84 |
| No. 24530: R810-6. Permit Prices and Refunds..... | 85 |
| No. 24533: R810-9. Contractors and Their Employees | 85 |
| No. 24536: R810-10. Enforcement System | 86 |
| No. 24537: R810-11. Appeals System..... | 86 |
| 6. NOTICES OF RULE EFFECTIVE DATES | 89 |
| 7. RULES INDEX..... | 91 |

EDITOR'S NOTES

LEGISLATION WHICH MAY AFFECT THE RULEMAKING PROCESS

The Legislature's 2002 General Session ended on Wednesday, March 6, 2002. During the session, one bill and two resolutions passed that affect administrative rules in general.

S.B. 170 "Reauthorization of Administrative Rules" by Sen. Howard Stephenson (R)

This is the Administrative Rules Review Committee's annual bill which is required by Section 63-46a-11.5. The long title of S.B. 170 indicates that the bill "reauthorizes all state agency administrative rules except those enumerated." In the version of the bill that passed on March 5, 2002, only a portion of one rule from the administrative code--Subsection R501-12-6(B)(2)(d), from Human Services, Administration, Administrative Services, Licensing under the title "Foster Parent Requirements," which deals with the number of children in a foster home--was not reauthorized.

In a significant departure from years past, this bill also proposes to not reauthorize *policies* from Dixie State College, Snow College, Southern Utah University, the University of Utah, Utah State University, Utah Valley State College, and Weber State University that deal with the issue of weapons on campus.

S.B. 170 passed the Senate 23 to 0 (6 abstaining) and the House 68 to 3 (4 abstaining). The bill provides for an effective date of May 1, 2002, and will go into effect that day pending the Governor's action.

H.C.R. 4 "Resolution Supporting Businesses" by Rep. Greg Curtis (R)

With this resolution, "the Legislature of the state of Utah recognizes the importance of considering the potential negative impact on the Utah business community in its passage of laws and through state agency rulemaking."

H.C.R. 4 passed on March 5, 2002.

H.J.R. 26 "Resolution Promoting Cooperative Regulatory Environment and Economic Development in Utah" by Rep. Chad Bennion (R)

This resolution "urges the state's regulatory agencies and the Utah business community to work together to develop regulatory strategies that enhance the balance between the need for regulatory protections and the economic needs and challenges faced by the business community."

H.J.R. 26 passed the House on March 1, 2002.

Additional Information

Up-to-date information about legislation related to rulemaking is available on the Internet at <http://www.rules.utah.gov/law/legis.htm>. Additional information about the 2002 General Session and specific legislation is available from the Legislature's Office of Legislative Research and General Counsel at <http://www.le.state.ut.us/~2002/2002.htm>. The Legislature's home page can be found at <http://www.le.state.ut.us/>.

Questions about this legislation may be directed to Ken Hansen, Director, Division of Administrative Rules, PO Box 141007, Salt Lake City, UT 84114-1007, phone: (801) 538-3777, FAX: (801) 538-1773, or Internet E-mail: khansen@utah.gov

End of the Editor's Notes Section

SPECIAL NOTICES

COMMUNITY AND ECONOMIC DEVELOPMENT COMMUNITY DEVELOPMENT, LIBRARY

PUBLIC NOTICE OF AVAILABLE UTAH STATE PUBLICATIONS

The Utah State Library Division has made available Utah State Publications List No. 02-04, dated February 15, 2002 (<http://library.utah.gov/02-04.html>); and List No. 02-05, dated March 1, 2002 (<http://library.utah.gov/02-05.html>). For copies of the complete lists, contact the Utah State Library Division at: 1950 West 250 North, Suite A, Salt Lake City, UT 84116-7901; phone: (801) 715-6777; or the Division of Administrative Rules, PO Box 141007, Salt Lake City, UT 84114-1007; phone: (801) 538-3218; FAX: (801) 538-1773; or view them on the World Wide Web at the addresses above.

End of the Special Notices Section

NOTICES OF PROPOSED RULES

A state agency may file a PROPOSED RULE when it determines the need for a new rule, a substantive change to an existing rule, or a repeal of an existing rule. Filings received between February 16, 2002, 12:00 a.m., and March 1, 2002, 11:59 p.m. are included in this, the March 15, 2002, issue of the *Utah State Bulletin*.

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

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

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

From the end of the public comment period through July 13, 2002, the agency may notify the Division of Administrative Rules that it wants to make the PROPOSED RULE effective. The agency sets the effective date. The date may be no fewer than 31 days nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file a CHANGE IN PROPOSED RULE in response to comments received. If the Division of Administrative Rules does not receive a NOTICE OF EFFECTIVE DATE or a CHANGE IN PROPOSED RULE, the PROPOSED RULE filing lapses and the agency must start the process over.

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

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

The Proposed Rules Begin on the Following Page.

Agriculture and Food, Marketing and
Conservation
R65-7-11
General Conduct

NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE NO.: 24515
FILED: 02/27/2002, 09:36

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of the change is to meet current state law regarding the rights of persons to carry concealed weapons into horse racing facilities.

SUMMARY OF THE RULE OR CHANGE: Include in the rule the current state law regarding rights to carry concealed weapons, Title 53, Chapter 5, Part 7; and Title 76, Chapter 10, Part 5.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 53, Chapter 5, Part 7; and Title 76, Chapter 10, Part 5

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** There is no cost to the State budget. The change being made is to meet the request of the Legislative Administrative Rules Review Committee regarding the rights of persons to carry concealed weapons into horse racing facilities.

❖ **LOCAL GOVERNMENTS:** There is no cost to Local budget. The change being made is to meet the request of the Legislative Administrative Rules Review Committee regarding the rights of persons to carry concealed weapons into horse racing facilities.

❖ **OTHER PERSONS:** The cost would be the purchase of a concealed weapons permit as stated in Title 53, Chapter 5, Part 707.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The penalties are established in Title 76, Chapter 10, Part 504. A person without a valid concealed firearm permit who carries a concealed weapon which does not contain ammunition is guilty of a Class B misdemeanor, but if the firearm contains ammunition the person is guilty of a Class A misdemeanor.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no cost associated with this rule. The change being made is to meet the request of the Legislative Administrative Rules Review Committee regarding the rights of persons to carry concealed weapons into horse racing facilities.

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

AGRICULTURE AND FOOD
MARKETING AND CONSERVATION
350 N REDWOOD RD
SALT LAKE CITY UT 84116-3087, or

at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Randy Parker or Marolyn Leetham at the above address, by phone at 801-538-7108 or 801-538-7114, by FAX at 801-538-7126 or 801-538-7126, or by Internet E-mail at agmain.rparker@state.ut.us or agmain.mleetham@state.ut.us

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 04/15/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 04/16/2002

AUTHORIZED BY: Cary Peterson, Commissioner

R65. Agriculture and Food, Marketing and Conservation.

R65-7. Horse Racing.

R65-7-11. General Conduct.

1. **Conditions Of Meeting Binding Upon Licensees.** The Commission, recognizing the necessity for an organization to comply with the requirements of its license and to fulfill its obligation to the public and the State of Utah with the best possible uninterrupted services in the comparatively short licensed period, herein provides that all organizations, officials, horsemen, owners, trainers, jockeys, grooms, farriers, organization employees, and all licensees who have accepted directly or indirectly, with reasonable advance notice, the conditions defined by these rules under which said organization engages and plans to conduct such race meeting, shall be bound thereby.

2. **Trainer Responsibility.** The trainer is presumed to know the "Rules of Racing" and is responsible for the condition, soundness, and eligibility of the horses he enters in a race. Should the chemical analysis, urine or otherwise, taken from a horse under his supervision show the presence of any drug or medication of any kind or substance, whether drug or otherwise, regardless of the time it may have been administered, it shall be taken as prima facie evidence that the same was administered by or with the knowledge of the trainer or person or persons under his supervision having care or custody of such horse. At the discretion of the stewards or Commission, the trainer and all other persons shown to have had care or custody of such horse may be fined or suspended or both. Under the provisions of this rule, the trainer is also responsible for any puncture mark on any horse he enters in a race, found by the stewards upon recommendation of the official veterinarian to evidence injection by syringe. If the trainer cannot be present on race day, he shall designate an assistant trainer. Such designation shall be made prior to time of entry, unless otherwise approved by the stewards. Failure to fully disclose the actual trainer of a horse participating in an approved race shall be grounds to disqualify the horse, and subject the actual trainer to possible disciplinary action by the stewards or the Commission. Designation of an assistant trainer shall not relieve the trainer's absolute responsibility for the conditions and eligibility of the horse, but shall place the assistant trainer under such absolute responsibility also. Willful failure on the part of the trainer to be present at, or refusal to allow the taking of any specimen, or any act or threat to prevent or otherwise interfere therewith shall be cause for disqualification of the horse involved; and the matter shall be referred to the stewards for further action.

3. **Altering Sex Of Horse.** Any alteration to the sex of a horse from the sex as recorded on the Certificate of Foal Registration or other official registration Certificate of such horse shall be immediately reported by the trainer to the racing secretary and the official horse identifier if such horse is registered to race at any race meeting.

4. **Official Workouts And Schooling Races.** No trainer shall permit a horse in his charge to be taken on to the track for training or a workout except during hours designated by the organization. A trainer desiring to engage a horse in a workout or schooling race shall, prior to such workout or race, identify the horse by registered name and tattoo number when requested to do so by the stewards or their authorized representative.

5. **Intoxication.** No licensee, employee of the organization or its concessionaires, shall be under the influence of intoxicating liquor, the combined influence of intoxicating liquor and any controlled dangerous substance, or under the influence of any narcotic or other drug while within the enclosure. No person shall in any manner or at any time disturb the peace or make themselves obnoxious on the enclosure of an organization.

6. **Firearms.** No person shall possess any firearm within the enclosure unless he is a fully qualified peace officer as defined in the laws of the State of Utah, or is acting in accordance with Title 53, Chapter 5, Part 7, Concealed Weapons Act and Title 76, chapter 10, Part 5, Utah Code. A person carrying a concealed weapon may be asked to show a valid, current concealed weapons permit before being allowed to enter the facility.

7. **Financial Responsibility.** No licensee shall willfully and deliberately fail or refuse to pay any monies when due for any service, supplies or fees connected with his operations as a licensee; nor shall he falsely deny any such amount due or the validity of the complaint thereof with the purpose of hindering or delaying or defrauding the person to whom such indebtedness is due. A commission authorized license may be suspended pending settlement of the financial obligation. Any financial responsibility complaint against a licensee shall be in writing, signed by the complainant, and accompanied by documentation of the services, supplies or fees alleged to be due, or by a judgment from a court.

8. **Checks.** No licensee shall write, issue, make or present a bad check in payment for any license fee, fine, nomination or entry fee or other fees, or for any service or supplies. The fact that such check is returned to the payee by the bank as refused is a ground for suspension pending satisfactory redemption of the returned check.

9. **Gratuity To Starter Or Assistant Starter.** No person shall offer or give money or other gratuity to any starter or assistant starter, nor shall any starter or assistant starter receive money or other compensation, gratuity or reward, in connection with the running of any race or races except compensation received from an organization for official duties.

10. **Possession Of Contraband.** No person other than a veterinarian or an animal technician licensed by the Commission shall have in his possession within the enclosure during sanctioned meetings any prohibited substance, or any hypodermic syringe or hypodermic needle or similar instrument which may be used for injection except as provided in Subsection R65-7-8(1). No person shall have in his or her possession within the enclosure during any recognized meeting any device other than the ordinary whip which can be used for the purpose of stimulating or depressing the horse or affecting its speed at any time. The stewards may permit the possession of drugs or appliances by a licensee for personal medical needs under such conditions as the stewards may impose.

11. **Bribes.** No person shall give, or offer or promise to give, or attempt to give or offer any money, bribe or thing of value to any owner, trainer, jockey, agent, or any other person participating in the conduct of a race meeting in any capacity, with the intention, understanding or agreement that such owner, trainer, jockey, agent or other person shall not use his best efforts to win a race or so conduct himself in such race that any other participant in such race shall be assisted or enabled to win such race; nor shall any trainer, jockey, owner, agent or other person participating at any race meeting accept, offer to accept, or agree to accept any money, bribe or thing of value with the intention, understanding or agreement that he will not use his best efforts to win a race or to so conduct himself that any other horse or horses entered in such race shall thereby be assisted or enabled to win such race.

12. **Trainer's Duty To Ensure Licensed Participation.** No trainer shall have in his custody within the enclosure of any race meeting any horse owned in whole or in part by any person who is not licensed as a horse owner by the Commission unless such owner has filed an application for license as a horse owner with the Commission and the same is pending before the Commission; nor shall any trainer have in his employ within the enclosure any groom, stable employee, stable agent, or other person required to be licensed, unless such person has a valid license. All changes of commissioned licensed personnel shall be reported immediately to the Commission.

13. **Conduct Detrimental To Horse Racing.** No licensee shall engage in any conduct prohibited by law and by the rules of the Commission, nor shall any licensee engage in any conduct which by its nature is unsportsmanlike or detrimental to the best interest of horse racing.

14. **Denial Of Access To Private Property.** Nothing contained in these rules shall be deemed, expressly or implicitly, to prevent an organization from exercising the right to deny access to or to remove any person from the organization's premises or property for just cause.

15. **Tricks/Schemes.** No person shall falsify, conceal, or cover up by trick, scheme, or device a material fact; or make any false, fictitious, or fraudulent statements or representations; or make or use any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry regarding the prior racing record, pedigree, identity, or ownership of a registered animal in any matter related to the breeding, buying selling, or racing of such animal.

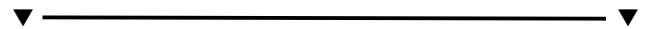
16. **Prearranging The Outcome Of A Race.** No licensed or unlicensed person may attempt or conspire to prearrange the outcome of a race.

KEY: horses

[~~March 18, 1997~~2002

Notice of Continuation October 19, 2001

4-38-4



**Corrections, Administration
R251-107
Executions**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 24498

FILED: 02/20/2002, 10:38

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being revised to reflect changes in employee position titles, changes in state statutes, and changes to more general terminology regarding locations, duties, and time frames.

SUMMARY OF THE RULE OR CHANGE: Three executioners, including one alternate shall be selected. The Division of Institutional Operations Director and the Department Deputy Director have been given more responsibilities in the administrative duties during an execution. Because the time of an execution may vary, we have changed the "1700 hours" start time to "the designated start time in the authorized security plan." Public gathering place and demonstration area has been changed to Minuteman Drive at or near the Fred House Academy. Rather than direct other agencies to supervise specific locations, the Department will use officers from the Department and allied agencies for traffic and parking enforcement. Require designated witnesses to execute an agreement setting forth their willingness to conduct themselves according to Department standards. Select media members on a rotating basis. Include the statutory revision that eliminates the requirement of nine media members being selected. The Department no longer requires the media to show the original letter granting permission to attend the execution. The Department requires news media members to remain in the briefing room and not to leave nor communicate with persons outside the briefing room until the briefing is over.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 77-19-10 and 11-19-11

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: None--The amendments to this rule do not create significant savings or cost to the Department.
- ❖ LOCAL GOVERNMENTS: None--This amendment does not create any direct cost or savings impact to local governments because they are not directly affected by this rule.
- ❖ OTHER PERSONS: None--The amendments do not impose any additional requirements on other persons, nor generate a cost or savings impact to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no additional compliance costs associated with this rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The changes in this rule will have no fiscal impact on businesses.

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

CORRECTIONS
ADMINISTRATION
14717 S MINUTEMAN DR
DRAPER UT 84020-9549, or

at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Ginny L Duncan at the above address, by phone at 801-545-5722, by FAX at 801-545-5523, or by Internet E-mail at gduncan@udc.state.ut.us

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 04/15/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 04/16/2002

AUTHORIZED BY: Michael P. Chabries, Executive Director

R251. Corrections, Administration.**R251-107. Executions.****R251-107-1. Authority and Purpose.**

(1) This rule is authorized by Section 77-19-10,11, in which the Department shall adopt and enforce rules governing procedures for the execution of judgments of death and attendance of persons at the execution.

(2) The purpose of this rule is to address public safety and security within prison facilities prior to, during and immediately following an execution.

R251-107-2. Definitions.

(1) "broadcast news media" means reference to a radio and television news media.

(2) "Department" means Utah Department of Corrections.

(3) "DIO" means Division of Institutional Operations.

~~(3)~~(4) "news magazines" means magazines having a general circulation being distributed or sold to the general public by newsstands, by mail circulation, or both.

~~(4)~~(5) "news media" includes persons engaged in news gathering for newspapers, news magazines, radio, television or other news services.

~~(5)~~(6) "news media members" means persons over the age of eighteen who are primarily employed in the business of gathering or reporting news for newspapers, news magazines, national or international news services, radio or television stations licensed by the Federal Communications Commission or other recognized news services.

~~(6)~~(7) "newspaper" means a publication that circulates among the general public, and contains information of general interest to the public regarding political, commercial, religious or social affairs.

~~(7)~~(8) "press" means the print media, news media, or both.

~~(8)~~(9) "Timpanogos Facility" means the inmate housing unit at North Point formerly called the Young Adult Correctional Facility.

~~(9)~~(10) "USP" means Utah State Prison.

R251-107-3. Crowd Control.

(1) Persons arriving at or driving past the USP shall be routed and controlled in a manner which does not compromise or inhibit:

- (a) security;
- (b) official escort or movement;
- (c) the functions necessary to carry out the execution; or

- (d) safety.
- (2) Persons controlled/handled through this process shall:
- (a) be handled in a manner with no more restriction than is necessary to carry out the legitimate interests of the Department; and
- (b) be dealt with in a courteous manner.
- (3) Procedures for crowd control shall be consistent with federal, state and local laws.
- (4) Only persons specifically authorized by security list or Department identification shall be permitted on USP property, except those persons congregating at the designated demonstration/public area.
- (5) Persons entering USP property without authorization shall be ordered to leave and may be arrested if:
- (a) the trespass was intentional;
- (b) the individual failed to immediately leave the USP property following a warning;
- (c) the trespass jeopardized safety or security (or) interfered with the lawful business of the Department or its staff or agents; or
- (d) it involves entry onto areas clearly posted with signs prohibiting access or trespass.

R251-107-4. Selection of Executioners.

- (1) The Executive Director/designee shall ensure that the method of judgment of death specified in the warrant is carried out at a secure correctional facility operated by the Department in accordance with Section 77-19-10.
- (2) If the judgment of death is to be carried out by lethal injection, at least ~~four~~ three persons, including ~~two~~ one alternate[s] who are trained to administer intravenous injections, shall be selected.
- (a) Two shall be selected to administer a continuous intravenous injection; one of which shall be a lethal quantity of sodium thiopental or other equally or more effective substance sufficient to cause death.
- (b) ~~Two~~ One additional executioner[s] who shall be an alternate[s], shall be selected to provide back-up for the primary team.
- (c) The Executive Director, DIO Director, and Warden shall be responsible for selecting the executioners.
- (i) Executioners may be selected from within or outside of the state of Utah.
- (ii) Selection to the teams shall require knowledge and training in the accepted medical practices to administer intravenous injections.
- (d) The Warden, DIO Director, and Executive Director shall review the qualifications and other relevant information concerning applicants who claim appropriate training and skills in administering intravenous injections.
- (e) Following the examination and evaluation of candidates, the Warden, with the concurrence of the Executive Director and DIO Director, shall select the executioners.
- (f) The ~~Executive~~ Deputy Director/designee shall contact those chosen for the primary and back-up execution teams to notify them of their selection and to verify their willingness and availability to perform the duties of execution by injection.
- (g) If any person rescinds his original offer to participate, the Warden, DIO Director, and Executive Director ~~and Deputy Warden~~] will select a replacement.
- (3) If the judgment of death is to be carried out by shooting, the Executive Director/designee shall select a five-person firing squad of peace officers.

- (a) A five-person execution team, plus one alternate and a team leader, shall be chosen for the firing squad.
- (b) The alternate shall be selected to replace any member of the firing squad who is unable to discharge his required functions.
- (c) Persons selected for the firing squad shall be POST certified peace officers.
- (d) The Executive Director and Warden shall be responsible for the selection process.
- (e) The final choice of firing squad members shall be the responsibility of the Warden with the concurrence of the Executive Director/designee.
- (f) The ~~Executive~~ Deputy Director/designee shall contact those chosen for the firing squad, alternates and team leader to notify them of their selection and to verify their willingness and availability to perform the execution duties.
- (g) If any person rescinds his original offer to participate, the selection team shall select a replacement.

R251-107-5. Demonstration and Public Access.

- (1) Parking or standing during the execution event from the designated start time in the authorized security plan ~~[1700 hours]~~ until two hours after the execution is prohibited:
- (a) on Pony Express Road between 13800 South and 14600 South;
- (b) on Minuteman Drive between 14400 South and 14600 South;
- (c) on 14600 South from the Utah Roses to Minuteman Drive;
- (d) on the I-15 freeway or its ramps;
- (e) on 13800 South from Pony Express Road to the railroad tracks; and
- (f) in any other location posted for "no parking" or restricted parking.
- (2) Parking on Pony Express Road between 13800 South and 14600 South is posted and prohibited 24 hours a day.
- (3) The Executive Director/designee may permit limited access to a designated portion of prison property on ~~[the East Frontage Road south of the East Bench road block]~~ Minuteman Drive at or near the Fred House Academy for the public to gather to observe the prison or demonstrate during an execution event.
- (4) The demonstration/public staging area located north of the 14800 South road block on East Frontage Road shall be the location for demonstrators and the general public.
- (5) If more people gather at the demonstration/public staging area than can be accommodated, an overflow area shall be made available in the park-and-ride parking area west of the south-bound on-ramp on the Bluffdale interchange.
- (6) Access shall be limited to ~~[1700 hours]~~ the designated start time in the authorized security plan the day prior to the scheduled execution date and last up to six hours following the execution or any stay, unless permission is earlier withdrawn.
- (7) Security shall be provided at the public area to try to prevent physical confrontations between observers/demonstrators with differing points of view.
- (8) To avoid the possibility of any group raising First Amendment issues based on the Department favoring one group over another, demonstrators shall not be separated according to their views regarding capital punishment.
- (9) Motor vehicles are not permitted at the designated location. Persons at the location or en route to or from the site are subject to all applicable state and federal laws, rules and regulations and local

ordinances including, without limitations, those relating to traffic control, pedestrian traffic, parking, noise, and parade permits.

(10) No person may block, obstruct, or interfere with prison traffic or communication.

(11) No person may damage, destroy or take public property, nor may any person build or erect any structure nor leave behind any object, substance or material.

(12) No person may violate the intent of clearly marked signs, fences, doors or other indicant relative to prohibitions against entering any prison property or facility for which permission to enter may not be marked.

~~[(13) The Salt Lake City Police Department will provide officers for control at public assembly locations. Their duties include restraining, searching and transporting arrested persons to the Salt Lake County Jail.]~~

[(14)](13) The Department neither recognizes, nor is bound by, the policies, allowances or arrangements which may have occurred at prior executions, events or on prior occasions, and by this rule any arrangement provided for public access at previous executions or demonstrations is invalidated.

[(15)](14) The Executive Director may at any time withdraw permission without notice in the event of riot, disturbance, or other factors that in the opinion of the Warden/designee or Executive Director/designee jeopardizes the security, peace, order or any function of the prison.

R251-107-6. Visitor Parking.

(1) Parking shall be prohibited:

(a) on Pony Express Road, which is the West Frontage Road, from 13800 South, which is the Timpanogos Facility road, to 14600 South;

(b) on Minuteman Drive, which is the East Frontage Road, from Road Block #8 at 13800 South to the 14600 South;

(c) on 14600 South between Minuteman Drive and the west end of USP property;

(d) on 13800 South from Pony Express Road west to the USP property line; and

(e) anywhere on the I-15 freeway or its ramps between 13800 South and 14600 South.

(2) Parking instructions shall be given by officers at roadblocks to drivers entering controlled areas. Vehicles parked in violation of R251-107(1)(a-e) shall be impounded.

(3) Drivers disobeying traffic or parking instructions of peace officers shall be subject to arrest.

(4) Pedestrians entering or attempting to enter controlled or restricted areas shall be warned to leave and shall be subject to arrest if they fail to comply.

(5) ~~Peace~~Department officers and/or officers from requested allied agencies shall ~~be~~have the primary responsibility ~~responsible~~for ~~most of the~~traffic and parking enforcement.

~~[(6) In general, the individual enforcement responsibility should include:~~

~~(a) I-15, Utah Highway Patrol;~~

~~(b) West Frontage Road, Salt Lake County Sheriff's Department;~~

~~(c) East Frontage Road, Draper City Police Department; and~~

~~(d) spectator/demonstrator staging area, Salt Lake City Police Department.~~

~~(7) The Utah Highway Patrol shall arrange to have two wreckers available, if needed.~~

~~[(8) Department South Point Security and Enforcement Unit shall assist when needed and appropriate.]~~

R251-107-7. Witnesses.

(1) The Department will implement the standards and procedures for inmate witnesses outlined in Section 77-19-11.

(2) As a condition to attending the execution, each designated witness ~~may~~shall be required by the Department to execute an agreement setting forth their willingness to conduct themselves while on prison property in a manner consistent with the legitimate penological, security and safety concerns as delineated by the Department.

(3) Witnesses wishing to have interviews with the news media may do so before arriving at the staging area or after the execution.

R251-107-8. Personal Searches.

(1) News media representatives and inmate-invited witnesses shall be searched at the ~~Training Center~~staging area prior to being allowed into the escort vehicles.

(a) The search shall include a search by metal detector and rub search.

(b) News media representatives and witnesses shall be asked to ~~empty pockets into evidence bags and surrender purses, briefcases, and other items in their possession, for safekeeping until they return from the execution.~~remove all personal items from their clothing and persons.

(i) Unauthorized items shall be taken by the witness to his/her vehicle or left at the staging area until the witness returns from the execution.

(ii) Witnesses shall be responsible for locking their vehicle.

(2) Government officials, the physician, and the State Medical Examiner shall be searched by metal detector, but shall not be rub searched unless there is suspicion that an official is carrying contraband.

(3) Strip search of witnesses shall be permitted only if there is a reasonable suspicion that the witness is concealing contraband or anything which would jeopardize safety or security or violate Section 77-19-11, and may only be authorized by the Executive Director, DIO Director, or the Warden.

(4) Cameras and recording devices shall not be allowed at the execution site except for two pool cameras, which may be carried to the execution site waiting room, to be used after the execution has taken place.

(5) Department members may be searched upon a reasonable suspicion that a member is carrying contraband.

R251-107-9. News Media.

(1) The Department shall permit press access to the execution and information concerning the execution consistent with the requirements of the constitutions and laws of the United States and State of Utah.

(2) The Department and the Utah Code recognize the need for the public to be informed concerning executions.

(a) The Department will participate and cooperate with the news media to inform the public concerning the execution; and

(b) information should be provided in a timely manner.

(3) If the condemned person is willing, the Department may allow an opportunity for the condemned to speak with the news media.

(4) The Executive Director shall be responsible for selecting ~~[nine]~~the members of the ~~[press and broadcast]~~news media who will be permitted to witness the execution.

(a) After the court sets a date for the execution of the death penalty, news ~~[media members]~~directors may request permission for a member of their organization to witness the execution by directing the request, in writing, to the attention of the Executive Director at least 21 days prior to the execution.

(b) When administrative convenience or fairness to the news media dictates, the Department, in its discretion, may extend the request deadline.

(c) Requests for consideration may be granted by the Executive Director provided they contain the following:

(i) a statement setting forth facts showing that the requesting individual falls within the definition of member of the "press" and "broadcast news media" as set forth in this rule;

(ii) an agreement to act as a pool representative for other news gathering agencies desiring information on the execution;

(iii) an agreement that the media member will abide by all of the ~~[Division of Institutional Operations']~~ conditions, rules and ~~[policies]~~regulations while in attendance at the execution; and

(iv) agreement that they will conduct themselves consistent with existing ~~[Department]~~press standards.

(d) Upon receipt of media member's request for permission to attend the execution, the Executive Director may take the steps necessary to verify the statements made in the request. After verifying the information in the request, selection of witnesses shall be made by the Executive Director.

(e) The Executive Director shall ~~[name nine]~~identify the media members who ~~[meet the requirements set forth in this rule and in Section 77-19-11 and may select them]~~have been selected to witness the execution. Media members shall be selected on a rotating basis from the following organizations:

(i) ~~[two]~~Salt Lake City daily newspapers;

(ii) ~~[three]~~television stations licensed and broadcasting daily in the State of Utah;

(iii) one newspaper of general circulation in the county in which the crime ~~[for which the condemned is to be executed was committed]~~occurred;

(iv) one radio station licensed and broadcasting in the State of Utah; and

(v) ~~[two]~~the remainder from a pool of broadcast, print, and wire services news media organizations ~~[either broadcast, print or wire services]~~operating in Utah.

(f) In the event that the Executive Director is unable to name a media member from each of the above-described organizations, he shall name other qualifying media members to attend~~[until a total of nine media members have been named]~~.

(g) No media members other than the nine named to attend the execution as described in this rule shall be permitted to witness the execution.

(h) Additional members of the press and broadcast news media who request and receive permission from the Executive Director shall be permitted on prison property during the execution at a location designated by the Executive Director.

(i) The Department shall arrange for pre-execution briefings, distribution of media briefing packages, briefings throughout the execution event, and post-execution briefings by the news media who witnessed the execution.

(j) No special access nor briefings will be provided to members of the press who are not selected as witnesses nor selected for the alternate site.

(k) Two photographers shall be appointed as pool photographers to film the execution site following clean up.

(l) One photographer shall provide for the needs of the electronic media and the other shall take photos for the print media.

(m) The pool photographers should be selected from agencies other than those represented among the nine witnessing the execution.

(n) If any attempt is made to photograph in any area or at any time other than that specifically authorized, the photographer shall be expelled, film confiscated and criminal charges, if appropriate, filed.

(5) The Warden shall permit the ~~[nine]~~members of the press and broadcast news media, selected by the Executive Director, to witness the execution.

(6) Each media member attending the execution shall be carefully searched prior to admittance to the execution chamber.

(a) No strip search of any media member shall be conducted unless and until the Warden has reasonable suspicion to believe the media member is concealing weapons, drugs, audio or visual recording devices, or any other item not expressly ~~[permitted on prison property or at the execution]~~authorized.

(i) Electronic or mechanical recording devices include still, moving picture or videotape cameras, tape recorders or similar devices, broadcasting devices, or artistic paraphernalia, including notebooks, and drawing pencils or pens.

(ii) Only a small notebook and a pen or pencil issued by the Department shall be permitted.

(b) In the event of a strip search, the search shall be conducted in private, away from the execution area.

(i) If the media members are found not to be concealing any of the items described, they will be permitted to return to the execution site and attend the execution.

(ii) Any media member found to possess prohibited items shall be escorted from the execution area, from prison property and shall be subject to criminal charges, if appropriate.

(c) Persons representing the news media witnessing the execution shall be required to sign a statement or release absolving the institution or any of its staff from any legal recourse resulting from the exercise of search requirements or other provisions of the witness agreement.

(d) The Warden shall not exclude any media member duly selected from attendance at the execution except as described in these policies, nor may the Warden cause a selected media member to be removed from the execution chamber unless the media member:

(i) refuses to submit to a reasonable search as permitted in these policies;

(ii) faints, becomes ill or requests to be allowed to leave during the execution;

(iii) causes a disturbance within the execution chamber that disrupts the conduct of the execution; or

(iv) refuses or fails to abide by the conditions and policies set forth by the Department.

(e) The execution chamber shall be arranged so as to provide space for the attending media members and the space arranged shall have a view of the execution site, with the exception of:

(i) a view of the members of the firing squad, if employed; or

(ii) if lethal injection is chosen, those directly administering the method of execution, who shall be concealed from the view of the media members so that their identities will remain unknown.

(f) The selected media members shall be transported as a group to the execution location prior to the execution and shall be allowed to remain there throughout the proceeding.

(g) The Department shall designate a representative or representatives to remain with the media members throughout the execution proceedings for the purpose of supervising and answering questions related to the execution.

(h) Media members shall be admitted to the execution area on the date set for the execution only after:

(i) ~~the original letter granting permission to attend along with~~ proof of identification ~~have~~ has been presented to the Public Affairs Director/designee at the staging area;

(ii) being issued special identification credentials;

(iii) receiving an orientation by the ~~Executive~~ Public Affairs Director/designee; and

(iv) signing an agreement to abide by conditions required of media witnesses to the execution.

(i) After the execution has been completed and the site has been restored to an orderly condition, news media members may be permitted to return to the execution chamber for purposes of filming, photographing and recording the site.

(i) Re-entry to the site shall be permitted only after the site has been restored to an orderly condition, including:

(A) removal of the body of the condemned;

(B) evacuation of those involved in administering the execution; and

(C) clean up of the execution site.

(ii) Restoring the site to an "orderly condition" prior to the filming opportunity shall not unnecessarily disturb the physical arrangements for the execution.

(iii) Media members permitted to return to the execution chamber for the filming and recording of the site shall include:

(A) the news media members who were selected to witness the execution;

(B) one pool television photographer; and

(C) one pool newsprint photographer.

(iv) The film/videotape shall not be used in any news or other broadcast until made available to all agencies participating in the pool. All agencies receiving the film/videotape will be permitted to use them in news coverage and to retain the film/videotape for file footage.

(j) News media representatives shall, after being returned from the execution to the ~~Training Center~~ staging area, act as pool representatives for other media representatives covering the event.

(i) The pool representatives shall meet at the designated media center and provide an account of the execution and shall freely answer all questions put to them by other media members and shall not be permitted to report their coverage of the execution back to their respective news organizations until after the non-attending media members have had the benefit of the pool representatives' account of the execution.

(A) News media members attending the post-execution briefing shall agree to remain in the briefing room and not leave nor communicate with persons outside the briefing room until the briefing is over.

(B) The briefing shall end when the attending news media members are through asking questions or after 90 minutes, whichever comes first.

(ii) The media witnesses shall be transported as a group between the staging area and the execution chamber in Department transportation. Media members arriving late and missing the shuttle shall not be permitted to attend the execution.

(k) The Department may alter these policies to impose additional conditions, restrictions and limitations on media coverage of the execution when requirements become necessary for the preservation of prison security, personal safety or other legitimate interests which may be in jeopardy.

(l) ~~Should~~ If extraordinary circumstances develop, additional conditions and restrictions shall be no more restrictive than required to meet the exigent circumstances.

R251-107-10. Security Zones.

(1) During the execution operation, the USP property and certain other areas shall be divided into four security zones, including:

(a) the inner-perimeter zone ~~which includes the area inside the double fence at the USP Draper site facilities and inside the fenced area of the Youth Corrections Center~~;

(b) the controlled-perimeter zone ~~which includes all USP property at the USP Draper site on both sides of I-15~~;

(c) the restricted zone ~~which includes a buffer area bordering the controlled zone on USP property which will be designated by roadblocks~~; and

(d) the extended zone ~~which includes I-15 between 12300 South and 14600 South; the interchanges at 12300 South, which is Draper Crossroads; and 14600 South and the Department offices at 6100 South Fashion Blvd~~.

(2) The extent of ~~required~~ implementation of security zone[s] requirements may be tailored to meet the security needs of the particular execution.

(3) Trespass or unauthorized entry into the controlled perimeter zone may be prosecuted.

(4) Only those controlled areas specifically identified as accessible to the public-at-large or specified individuals may be entered.

(5) Access to the inner-perimeter, controlled, and restricted security zones shall be permitted only for persons whose names are on the security list or who have the proper Department ID.

(6) A request to restrict air space over USP property 500 feet above ground level shall be made to the Federal Aviation Administration for the duration of the execution ~~and shall be patrolled by an allied agency~~.

(7) Extended security zones, though accessible to the public, shall be patrolled and observed for:

(a) criminal violations;

(b) traffic violations;

(c) parking violations; and

(d) threatening or disruptive behavior.

(8) Persons engaged in unauthorized entry onto property west of I-15 may be prosecuted for trespass.

(9) Persons attempting to breach the inner-security perimeter shall not only be prosecuted, but if the threat to prison security and/or public safety are great enough, may risk exposure to use of force, even deadly force, to prevent the defeat of inner perimeter security; ~~be immediately arrested, and, if armed, may subject themselves to the use of whatever force is necessary to effect arrest, up to and including deadly force.~~

(10) Controlled areas east of I-15 shall be accessible to the general public to the extent specifically authorized by the Department.

R251-107-11. Regular Inmate Visiting.

All regular inmate visiting shall be suspended 24 hours prior to an execution and shall be resumed at the next scheduled visiting time after the execution.

R251-107-12. Authority of Executive Director.

The Executive Director/designee shall be authorized to make changes in policies and procedures that are necessary to ensure the interest of security, safety, and professionalism is maintained during the planning, training, and administering of the execution order.

KEY: corrections, executions^[E], prisons
~~January 15, 1998~~2002
Notice of Continuation October 21, 1997
 77-19-10
 77-19-11



Education, Administration
R277-469
 Instructional Materials Commission
 Operating Procedures

NOTICE OF PROPOSED RULE
 (Amendment)

DAR FILE NO.: 24520
 FILED: 02/28/2002, 18:41

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule is amended to update terminology; to reflect changes in 2001 legislation (S.B. 75); to provide an appeal procedure for instructional materials reviewed but not approved by the Instructional Materials Commission; and to change an outdated requirement for designated textbook depositories. (DAR NOTE: S.B. 75 is found at 2001 Utah Laws 105 and was effective 04/30/2001.)

SUMMARY OF THE RULE OR CHANGE: This rule adds a definition of instructional materials; adds a process for the use of unapproved materials by local boards of education; and provides appeals procedures for materials reviewed but not approved by the Instructional Materials Commission.

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

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** There are no anticipated costs or savings to state budget. Instructional materials are purchased by school districts.

❖ **LOCAL GOVERNMENTS:** There are speculative costs to school districts due to these amendments because usually materials are more expensive purchased in small amounts than they are

when purchased by the state in bulk. We have no idea which texts might be selected by local boards so we have no estimate of potential costs.

❖ **OTHER PERSONS:** There are no anticipated costs or savings to other persons. All materials are purchased at the state or local level. The previous rule required publishers to maintain at least one depository in Utah.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no new compliance costs for affected persons. The previous rule required publishers to maintain at least one depository in Utah.

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. Steven O. Laing

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 clear@usoe.k12.ut.us

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 04/15/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 04/16/2002

AUTHORIZED BY: Carol Lear, Coordinator School Law and Legislation

R277. Education, Administration.
R277-469. Instructional Materials Commission Operating Procedures.

R277-469-1. Definitions.

[E]A. "Advanced placement materials" means materials used for the College Board Advanced Placement Program and classes. The program policies are determined by representatives of member institutions. Its operational services are provided by the Educational Testing Service. The program provides practical descriptions of college-level courses to interested schools and student test results based on these courses to colleges of the student's choice. Participating colleges grant credit or appropriate placement, or both, to students whose test results meet standards prescribed by the college.

[K]B. "ASCII" means American Standard Code for Information Interchange from which Braille versions of all or part of the instructional materials can be produced.

[E]C. "Board" means the Utah State Board of Education.

[G]D. "Commission" means the Instructional Materials Commission.

[C]E. "Instructional materials" means ~~systematically arranged text, textbooks or materials, in harmony used as or in place of textbooks, and which shall be used within the [State] Core Curriculum framework [and] for courses of study, which may be used~~ by students ~~[as principal sources of study and which cover any portion of the course] in the public schools.~~ These materials:

- (1) shall be designed for student use;
- (2) may ~~be accompanied]~~ include textbooks, workbooks, computer software, laserdiscs or videodiscs, and multiple forms of communications media, and may ~~[by or]~~ contain teaching guides and study helps;
- (3) shall appear on the list of state-adopted instructional materials or be approved for pilot use by the Instructional Materials Commission; or be approved consistent with the state law and this rule.

[F]E. "Integrated instructional program" means any combination of textbooks, workbooks, software, videos, transparencies, or similar resources used for classroom instruction of students.

[I]G. "International Baccalaureate" means college level work limited in subject areas balancing humanities and sciences in an interdisciplinary, global academic program that is both philosophical and practical. This multi-cultural experience emphasizes analytical and conceptual skills and aesthetic understanding for advanced students.

[B]H. "Pilot approval" means approval authorized under Section R277-469-10 using the form developed and provided by the USOE.

[A]I. "Pilot program" or "pilot use" means the use by a school or schools on a limited basis of previously unreviewed instructional materials and materials not yet submitted to the Instructional Materials Commission for formal review, consistent with Section R277-469-9.

[H]J. "Previously unreviewed materials" means instructional materials that have neither been approved by the Instructional Materials Advisory Commission through the formal approval process nor approved as pilot materials under Section R277-469-9.

[D]K. "State Core Curriculum (Core Curriculum)" means ~~minimum academic standards provided through courses as established by the Board which shall be completed by all students K-12 as a requisite for graduation from Utah's secondary schools]~~ those standards of learning that are essential for all Utah students, as well as the ideas, concepts, and skills that provide a foundation on which subsequent learning may be built, as established by the Board in R277-700.

L. "Unapproved materials" means instructional materials which have been reviewed by the Commission but not adopted or approved under R277-469-9 for pilot use.

[F]M. "USOE" means the Utah State Office of Education.

R277-469-2. Authority and Purpose.

A. This rule is authorized under Utah Constitutional Article X, Section 3 which vests general control and supervision over public education in the Board, by Section 53A-14-101 through 53A-14-106 which directs the Board to appoint a Instructional Materials Commission and directs the Commission to recommend instructional materials for adoption by the Board, and by Subsection 53A-1-401(3) which allows the Board to make rules in accordance with its responsibilities.

B. The purpose of this rule is to provide definitions, operating procedures and provisions for final, pilot, and limited approvals of instructional materials.

R277-469-3. Use of State Funds for Instructional Materials.

- A. Districts may use funds designated for state instructional materials only:
- (1) for materials on the approved instructional materials list;
 - (2) for materials approved under Section R277-469-10 for pilot use; ~~[or]~~
 - (3) for advanced placement, International Baccalaureate, concurrent enrollment, and college-level course materials. Use of these materials may require parental permission consistent with R277-474[-]; or
 - (4) for unapproved materials provided at least three local boards of education have given notice pursuant to Section 53A-14-102 of intent to use the materials.

B. Schools or school districts that use any funding source to purchase materials that have not been approved through the formal Commission process or consistent with this rule, may have funds withheld to the extent of the actual costs of those materials pursuant to Subsection 53A-1-401(3).

C. Free instructional materials:

- (1) may be used as student instructional materials only consistent with the law and this rule; and
- (2) shall be reviewed and approved by school districts prior to use.

R277-469-4. Instructional Materials Commission Members Terms of Service.

A. Members shall be appointed from categories designated in Subsection 53A-14-102(1).

B. Members shall serve four year staggered terms beginning with the 1998 appointments with the option, jointly expressed by the Commission member and the Commission, for reappointment for one additional term.

C. The Commission may establish subcommittees as needed.

R277-469-5. Commission Review of Materials.

A. All materials used in Utah schools shall be reviewed by the Commission consistent with this rule or qualify under the exceptions to review categories of Section R277-469-6.

B. The Commission may review materials in the following subject areas on timelines as determined by the Commission based upon district needs and requests and using forms and procedures provided by the USOE:

- (1) Bilingual education/English as a second language (elementary and secondary),
- (2) Character education (elementary and secondary),
- (3) Driver education (secondary),
- (4) Early childhood education,
- (5) Fine arts (elementary and secondary),
- (6) Foreign language (elementary and secondary),
- (7) Health education and fitness (elementary and secondary),
- (8) Information educational technology (elementary and secondary),
- (9) Language arts (elementary and secondary),
- (10) Mathematics (elementary and secondary),
- (11) Science (elementary and secondary),

- (12) Social studies (elementary and secondary),
- (13) Applied technology/vocational subjects,
- (14) Technology education,
- (15) Technology and industrial arts, and
- (16) Special education/resource materials ~~[-and].~~

~~[(17) Human sexuality instructional materials.]~~
] C. The Commission's determination of a materials category for review purposes is final.

D. Unless materials meet the exceptions of this rule, or are reviewed consistent with this rule by the Commission, they may not be purchased with state or federal funds.

E. Commission review of material is available in April and October of each year.

R277-469-6. Review and Adoption Categories.

A. Materials may be considered for review and designated under the following categories. They may be purchased with state funds and used as follows:

(1) Adopted: Instructional materials that may be used or purchased and are in alignment with content, philosophy and instructional strategies of the [State]Core Curriculum which may be used by students as principle sources of study and provide comprehensive coverage of course content.

(2) Limited: Instructional materials that may be used or purchased and are in limited alignment with the [State]Core Curriculum or are narrow or restricted in their scope and sequence. []

(a) Use of these materials [should]shall be supplemented with additional materials to assure [State]Core Curriculum coverage.

(b) If school districts or schools select and purchase materials approved under this category, they shall also have a plan for using appropriate supplementary materials assuring coverage of Core Curriculum requirements.

(3) Teacher Resource: These materials may be used or purchased for or by teachers for use as resource material only.

(4) Reviewed, but not Adopted: Instructional materials may not be used or purchased that are not in alignment with the [State]Core Curriculum, inaccurate in content, include misleading connotations, contain undesirable presentation, are in conflict with existing law and rules, or are unsuitable for use by students.

(5) A school district or a publisher may appeal a Commission designation to the Board as follows:

(a) Appeals are submitted to the State Superintendent of Public Instruction in writing for transmission to the Board.

(b) Appeals include the name of the school district, are signed by the district superintendent, and provide documentation verifying that the materials satisfy the requirements of R277-469-7.

(c) Appeals shall be made within 15 days of the Commission designation.

(d) Appeals shall be reviewed by the Board within 60 days from the date materials are received by the State Superintendent of Public Instruction.

~~[(5)6] [4]7~~The following materials are not reviewed, but may be purchased consistent with the law and this rule and are subject to district review:

- (a) advanced placement materials,
- (b) International Baccalaureate materials,
- (c) concurrent enrollment materials,
- (d) library or trade books,
- (e) reference materials,

(f) teachers' professional materials which are not components of an integrated instructional program.

~~[(6)7]~~ Galley proofs or unfinished copies shall not be reviewed.

B. When an integrated instructional program, as determined by the Commission, is submitted for review, the program shall be reviewed and evaluated collectively. Review shall take place once all parts of the program are submitted.

R277-469-7. Criteria for Selection of Instructional Materials.

A. Instructional materials shall:

(1) be consistent with [State]Core Curriculum.

(2) provide an objective and balanced viewpoint on issues.

(3) include enrichment and extension possibilities.

(4) be appropriate to varying levels of learning.

(5) be accurate, factual and research-based.

(6) be arranged chronologically or systematically, or both.

(7) reflect the pluralistic character and culture of the American people.

(8) be free from sexual, ethnic, age, gender or disability stereotyping.

(9) provide accurate representation of diverse ethnic groups.

(10) be of acceptable technical quality.

B. Upon request by the district, a publisher of instructional materials shall furnish computer diskettes of materials for literary subjects in the American Standard Code for Information Interchange (ASCII).

C. USOE monitoring:

(1) The USOE may require a district to provide a report of instructional materials purchased by the district in the previous ~~[four]~~five years.

(2) The USOE may initiate a formal or informal audit of instructional materials purchased.

R277-469-8. Directives and Procedures for Publishing Companies Seeking to Sell Instructional Materials to School Districts.

~~[(A) The Commission shall not designate any individual, corporation or business as an official instructional materials depository.]~~

~~[(B) Publishers desiring to sell adopted materials to Utah schools or districts shall have adopted materials on deposit at an instructional materials distributor in the business of selling instructional materials to schools or districts in Utah.]~~ The Board shall require a publisher to maintain at least one depository within Utah designated by the Board where the publisher's instructional materials are available for purchase and distribution.

~~[(C) Depository agreements may be made between publishers of materials and [local vendors]one or more depository.]~~

C. The provisions of R277-469-8 shall not preclude publishers from selling instructional materials to schools or districts in Utah directly or through means other than the designated depository.

D. Revised adopted materials:

(1) If a revised edition of adopted materials retains the original title and authorship, the publisher may request its substitution for the edition currently adopted providing that:

(a) the original contract price and contract date do not change and the original contract price applies for the substituted materials;

(b) the revised edition is compatible with the earlier edition, permitting use of either or both in the same classroom;

(c) a sample copy of the revised edition is provided to the USOE Instructional Materials Specialist for examination purposes.

(2) If Subsection R277-469-8[~~D~~]C is not satisfied, a new edition shall be submitted for adoption as new materials.

(3) The Commission shall make the final determination about the substitution of a new edition for an adopted edition with assistance from the state subject area specialist.

E. Publishers' Increase in Contract Prices

~~(1) Publishers may request one increase in contract prices to be effective during either the third or fourth year of the contract for instructional materials adopted by the Commission.~~

~~(2) Price increases shall be limited to the consumer price index (CPI) for the last fiscal year unless good cause is demonstrated consistent with designated deadlines and forms provided by the Commission.]The contract price applies for five years from the contract date.~~

R277-469-9. Pilot Use of Instructional Materials.

A. Pilot approval for previously unreviewed instructional materials shall be given for no more than:

(1) ten percent of the districts in the state; and

(2) ten percent of the schools in a single district with the grade levels (elementary, junior high/middle or high school) for which the materials are designated;

B. Publishers shall present a completed pilot application form when applying to the USOE for pilot approval.

C. Publishers shall present proof of pilot approval from the USOE to the school or district prior to distribution of materials.

D. The Commission shall not review materials submitted by a publisher who has acted in violation of this rule for a two year period beginning January 1 of the year following the year in which the violation occurred.

E. Samples (defined as one copy or one set of an instructional program) may be given to a school or district upon request by administrators or teachers for preview purposes only.

F. Publishers, in cooperation with districts using the materials, ~~may~~shall be required to provide an evaluation to the USOE completed by the district of pilot materials based on criteria and forms provided by the USOE.

G. Pilot materials may only be used for one school year anywhere in the state under pilot approval prior to seeking final approval through the formal Commission process. Publishers shall submit the evaluation of pilot materials required under R277-469-9F with a request for approval of continuing use of pilot materials.

H. The USOE may require a report of pilot program materials used in district schools in the past year.

I. Districts or schools or both shall assume any costs of pilot materials not approved for further use by the Commission.

J. All materials used in pilot programs that are not approved through the Commission process for continued use shall be collected by the district at the end of the pilot period and disposed of.

R277-469-10. Use of Unapproved Materials.

A. Unapproved materials may be used as follows:

(1) Three or more districts provide written notice to the Board of each district's intent to use unapproved materials.

(2) The notice shall:

(a) include the name of the district;

(b) identify the materials;

(c) provide documentation verifying that the materials meet the requirements of Section R277-469-7 to the satisfaction of the local board;

(d) be signed by the district superintendent.

(3) If, for any reason, fewer than three districts use the materials, no state or federal funds may be used to purchase the unapproved materials.

(4) Unapproved materials for use in courses dealing with human sexuality shall be selected in accordance with State Board of Education rule R277-474, School Instruction and Human Sexuality.

R277-469-1[0]1. Request for Reconsideration.

A. A request for reconsideration is a single additional opportunity provided to a publisher for each submission and review of instructional materials with which the publisher disagrees.

B. The request for reconsideration procedure is as follows:

(1) A request for reconsideration shall be received by the USOE only from a publisher.

(2) The publisher shall receive the evaluations and recommendations from the USOE of the initial review.

(3) The publisher shall have 30 days to respond to the evaluation and request to have materials reviewed again during the next adoption cycle.

(4) During the period of the reconsideration request, materials shall be marked as tentative and shall not be given official status. These materials shall not be posted to the Internet site until approved through the official Commission process.

(5) A publisher may be asked to send a second set of sample materials to the USOE.

(6) Any written information provided by the publisher shall be available to the advisory committees during the second review.

(7) After the second review by the subject area advisory committee, the publisher shall be notified of the completion of the appeals process and the decision after the scheduled Board meeting.

(8) Materials shall be voted on by the Commission during the next scheduled meeting. A revised status of instructional materials shall be made after Board approval the following month.

(9) The publisher shall receive a second letter stating that recommendations are official and a copy of the new evaluation. Evaluations may now appear on the Internet if materials are adopted.

C. Publishers shall be given only one opportunity to request that materials be reconsidered.

KEY: instructional materials

[March 6, 2001]2002

Art X, Sec 3

53A-14-101 through 53A-14-106

53A-1-401(3)



Education, Administration

R277-503

An Alternative Preparation for Teaching Program

NOTICE OF PROPOSED RULE

(Repeal and Reenact)
DAR FILE No.: 24522
FILED: 02/28/2002, 18:41

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The reenacted rule provides for alternative licensing routes in addition to the traditional licensing route through a higher education institution.

SUMMARY OF THE RULE OR CHANGE: The repealed rule provided for a single and limited alternative licensing process. By contrast, the reenacted rule provides for licensing by agreement and licensing by competency in addition to licensing through the traditional process. The reenacted rule also provides for various endorsement routes.

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

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: There are no anticipated costs or savings to state budget because licensing or endorsement routes will be handled by the school districts.
- ❖ LOCAL GOVERNMENTS: School districts can handle the alternative licensing options at no additional cost. Also, these additional routes give school districts more options and flexibility in hiring and may result in savings.
- ❖ OTHER PERSONS: Individuals could save money through alternative licensing. School districts may provide licensing processes that do not require higher education courses, thus saving licensing candidates money.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no additional costs for affected persons, though, as noted under "Other Persons", there may be savings for licensing candidates which are only speculative at this time.

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. Steven O. Laing

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 clear@usoe.k12.ut.us

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 04/15/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 04/16/2002

AUTHORIZED BY: Carol Lear, Coordinator School Law and Legislation

R277. Education, Administration.

~~[R277-503. An Alternative Preparation for Teaching Program.~~

~~R277-503-1. Definitions.~~

~~— A. "APT" means an Alternative Preparation for Teaching Program.~~

~~— B. "APT Certificate" means a certificate issued by the USOE to an APT candidate following the approval of an APT plan authorizing the candidate to teach under the supervision of a mentor teacher the subject(s) listed on the specific certificate for a two year period.~~

~~— C. "Board" means the Utah State Board of Education.~~

~~— D. "Consortium" means a committee comprised of a mentor teacher, a school district representative and a College of Education representative who will act jointly to adapt a certification program to the needs of an APT candidate, supervise the candidate as he completes the program, evaluate the candidate's performance and recommend the candidate for final certification.~~

~~— E. "Mentor teacher" means a certificated teacher trained as a mentor in the participating school district.~~

~~— F. "Standard Certificate" means a certificate issued by the Board after a holder has demonstrated competence under the Basic Certificate, explained in detail in R277-504-3.~~

~~— G. "USOE" means the Utah State Office of Education.~~

~~— H. "Full time work experience" means at least 40 hours work per week at a minimum of at least the federal minimum wage.~~

~~— I. "Full time volunteer work experience" means 40 hours work per week.~~

~~R277-503-2. Authority and Purpose.~~

~~— A. This rule is authorized by Utah Constitution Article X, Section 3 which vests the general control and supervision of public schools in the Board, by Section 53A-1-402(1)(a) which directs the Board to make rules regarding the certification of educators, by Section 53A-6-103(1) which directs the Board to establish the required scholarship, training, and experience for certificate applicants, and by Section 53A-6-103(3) which allows the Board to qualify applicants for certificates by examination or otherwise.~~

~~— B. The purpose of this rule is to provide an access to teacher certification for individuals who have special talents and abilities to bring to teaching, to provide additional flexibility to local school districts in addressing difficult geographical or subject matter needs, and to enhance the ability of present teachers to change certification specialties.~~

~~R277-503-3. APT Program Consortium.~~

~~— A. Each APT candidate shall be assigned a Consortium to supervise the candidate's program.~~

~~— B. The Consortium shall:~~

~~— (1) design or recommend for USOE approval an APT program for an individual candidate which includes:~~

~~— (a) adapting a certification program to the needs of the individual candidate;~~

~~— (b) supervising the activities and course work of the candidate;~~

~~— (c) evaluating the candidate; and~~

~~— (d) recommending the candidate for final certification.~~

~~—(2) consider the candidate's experience, previous college course work and expertise in designing the APT program.~~

~~—C. The APT program shall receive final approval from the USOE.~~

~~R277-503-4. Candidate Identification and Eligibility.~~

~~—A. A candidate or a school district may initiate the APT process.~~

~~—B. The school district shall coordinate Consortium members and call the first meeting.~~

~~—C. Eligibility for the APT program shall be determined by:~~

~~—(1) a candidate's special talents and abilities related to a subject area;~~

~~—(2) availability of a teaching position in a district;~~

~~—(3) a candidate having received a baccalaureate or higher degree from an accredited college or university with a major or minor in a subject taught at the secondary level;~~

~~—(4) a candidate providing original transcripts showing completion of degree(s);~~

~~—(5) a candidate's satisfactory compliance with all non-academic certification requirements of the USOE; and~~

~~—(6) a candidate having at least five years of documented full-time work/full-time volunteer work experience related to the proposed teaching area.~~

~~—D. Exceptions to the general eligibility requirements may be recommended by the Consortium as part of an APT program.~~

~~—E. APT program exit requirements:~~

~~—(1) The candidate shall successfully complete the Consortium directed APT program; and~~

~~—(2) The candidate shall have course work or demonstrated competency comparable with requirements for secondary certification.~~

~~R277-503-5. Authorization and Supervision.~~

~~—A. Following evaluation of an APT candidate, the Consortium shall submit the candidate's written program plan, with timelines, within 60 days of employment for USOE approval.~~

~~—B. Upon approval, the USOE shall issue a Provisional Secondary (APT only) Teaching Certificate.~~

~~—C. This certificate authorizes the candidate to teach under the supervision of a mentor teacher for a period of no longer than two years the subject(s) listed on the certificate.~~

~~—D. Mentor teacher supervision:~~

~~—(1) School principals shall ensure that an APT candidate is supervised by a trained mentor teacher and receives assistance, if needed, from other school or district personnel.~~

~~—(2) Assistance shall include supervision, feedback, and periodic evaluation.~~

~~R277-503-6. Suspension or Dismissal.~~

~~—A. An APT candidate may be suspended or dismissed from the program and its teaching component in accordance with the Orderly Schools Termination Act, Sections 53A-8-101 through 53A-8-107 district policy, or for lack of satisfactory progress in the approved APT program as determined by the Consortium.~~

~~—B. Final dismissal of an APT candidate must be made by the employing school district.~~

~~R277-503-7. Recommendations for Certification.~~

~~—To receive a Consortium recommendation for a Standard certificate, an APT candidate shall:~~

~~—A. complete two years of full-time supervised teaching and any other preparation requirements of the Consortium;~~

~~—B. have course work or demonstrated competency comparable with requirements for secondary teaching certification as determined by the USOE;~~

~~—C. complete an evaluation; and~~

~~—D. have a recommendation signed by all members of the Consortium.~~

~~R277-503-8. Program Funding.~~

~~—A. During the two-year APT supervised teaching experience, the candidate's salary and benefits shall be established by the school district in which the candidate teaches.~~

~~—B. Districts shall guarantee the necessary time for mentor teachers to observe and provide regular feedback to the APT candidate.~~

~~—C. Course, registration, certification, and other fees or expenses associated with the APT program shall be borne by the candidate.~~

~~R277-503-9. Program Evaluation.~~

~~—A. The State Board of Education State Board of Regents Joint Liaison Committee, with assistance from local school districts, schools and colleges of education, shall evaluate the APT program after the first two years of program operation and again two years later.~~

~~—B. The evaluation shall be presented to the State Board of Education and the State Board of Regents, appropriate legislative committees, and the Governor.~~

~~—C. The evaluation shall be the basis for determining the future of the program.~~

~~KEY: teacher certification~~

~~June 3, 1999~~

~~Notice of Continuation April 15, 1997~~

~~Art X-See 3~~

~~53A-1-402(1)~~

~~53A-6-103(1)~~

~~53A-6-103(3)]~~

~~R277-503. Alternative Licensing Routes.~~

~~R277-503-1. Definitions.~~

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

~~—B. "Consortium" means a committee comprised of a USOE staff member, a school district representative and an institution of higher education representative who shall act jointly to adapt a licensing program to the needs of a licensing applicant, supervise the applicant as the applicant completes the program, evaluate the applicant's performance and, if appropriate, recommend the applicant for final licensing.~~

~~—C. "Endorsement" means a qualification based on content area mastery obtained through a higher education major or minor or through a state-approved endorsement program.~~

~~—D. "Letter of authorization" means a temporary license or approval issued to a district for an individual, such as a student teacher or a person hired to perform professional services, who has not completed the requirements for a Level 1 license, but is working toward licensing. Letters of authorization are valid for periods consistent with Section 53A-6-104(3)(a).~~

~~—E. "Level 1 license" means a Utah professional license issued upon completion of an approved preparation program or an alternative preparation program, or pursuant to an agreement under~~

the NASDTEC Interstate Contract, to applicants who have also met all ancillary requirements established by law or rule.

F. "NCATE or NCATE partnership" means a working relationship between the National Council for Accreditation of Teacher Education (NCATE) and the USOE to conduct concurrent reviews of educator preparation programs. Members of the NCATE team and the USOE team may conduct program reviews simultaneously to minimize program disruption.

G. "Pedagogical knowledge" means practices and strategies of teaching, classroom management, preparation and planning that go beyond an educator's content knowledge of an academic discipline.

H. "State-approved Endorsement Plan (SAEP)" means a plan in place developed between the USOE and a licensed educator to direct the completion of endorsement requirements by the educator.

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

R277-503-2. Authority and Purpose.

A. This rule is authorized by Article X, Section 3 of the Utah Constitution, which places general control and supervision of the public schools under the Board, Section 53A-1-402(1)(a) which directs the Board to establish rules and minimum standards for the qualification and licensing of educators and ancillary personnel who provide direct student services, 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 increase the numbers of eligible, qualified and prepared teachers by providing alternate routes to professional educator licensing in addition to traditional college/university training and to increase the number of teachers adequately prepared in subject-specific endorsement areas by providing alternate routes.

R277-503-3. Licensing Eligibility.

A. A license applicant shall have completed an approved college/university teacher preparation program, been recommended for licensing, and shall have satisfied all other requirements for educator licensing required by law; or

B. A license applicant shall have a bachelors degree or higher from an accredited higher education institution in an area related to the position he seeks; and

C. A license applicant shall have skills, talents or abilities, as evaluated by the employing entity, making the applicant suited for a teaching position.

D. While completing an alternative licensing route, an applicant shall be approved for employment under a letter of authorization for a maximum of four school years consistent with Section 53A-6-104(3)(a).

R277-503-4. Licensing Routes.

A. Traditional university/college licensing route, under R277-503-3A.

B. Licensing by Agreement

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

(2) An applicant shall obtain a USOE-approved application for licensing by agreement from the employing school district.

(3) The license applicant, with assistance from the school district, shall identify a consortium, defined under R277-503-1B, to supervise the Agreement process.

(4) The consortium shall identify the specific content knowledge and pedagogical knowledge required of the license applicant to satisfy the requirements for licensing.

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

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

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

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

(9) The USOE shall review and evaluate the consortium's assessment and recommendation of the license applicant following training, assessments or course work assigned by the consortium, and the full-time teaching experience and evaluation by the school district.

(10) Consistent with evidence and documentation received from the consortium, the USOE may recommend the license applicant to the Board for a Level I educator license.

C. Licensing by Competency

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

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

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

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

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

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

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

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

R277-503-5. Endorsement Routes.

A. An applicant shall complete one of the following for endorsement:

(1) a USOE-approved institution of higher education educator preparation program with endorsement(s); or

(2) successful assessment, approval and recommendation by a designated and subject-appropriate USOE specialist under a SAEP. The USOE shall be responsible for final recommendation and approval; or

(3) successful completion of USOE-approved examinations assessing content knowledge and content-specific pedagogical knowledge. The USOE is responsible for final review and approval; or

(4) successful completion of a USOE-approved Utah institution of higher education or Utah school district-sponsored endorsement program which includes content knowledge and content-specific pedagogical knowledge approved by NCATE/USOE. The university or school district shall be responsible for final review and recommendation. The USOE shall be responsible for final approval.

B. All provisions that directly affect the health and safety of students required for endorsements, such as prerequisites for drivers education teachers or coaches, shall apply to applicants seeking endorsements under this rule.

C. Prior to an applicant taking courses, exams or seeking a recommendation, the applicant shall have school district and USOE authorization.

R277-503-6. Additional Provisions.

A. All programs or assessments used in applicant preparation shall meet professional NCATE applicant performance standards.

B. All educators licensed under this rule shall also:

(1) complete the background check required under Section 53a-6-101;

(2) satisfy the professional development requirements of R277-502; and

(3) be subject to all Utah licensing requirements and professional standards.

C. All costs of testing, evaluation, and course work shall be borne by the applicant unless other arrangements are agreed to in advance by the employing school district.

D. An applicant may satisfy the student teaching requirement for licensing through successful completion of either the licensing by agreement or by competency route.

KEY: teachers, alternative licensing

2002

Notice of Continuation April 15, 1997

Art X Sec 3

53A-1-402(1)(a)

53A-1-401(3)



Education, Administration **R277-911** Secondary Applied Technology Education

NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 24523
FILED: 02/28/2002, 18:41

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule was amended to reflect changes in the law made in H.B. 1003, 2001 1st Special Session. (DAR NOTE: H.B. 1003 is found at 2001 Utah Laws 5 (1st Spec. Sess.) and was effective 09/01/2001.)

SUMMARY OF THE RULE OR CHANGE: This rule makes changes consistent with Section 53A-15-202 that remove references to Applied Technology Centers, limits applied technology education to secondary schools, limits applied technology education funding to school districts, and updates terminology.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53A-15-202

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There are no anticipated costs or savings to the state budget. Legislation transfers responsibility for applied technology education programs from public education to higher education.

❖ LOCAL GOVERNMENTS: There are no anticipated costs or savings to local government. School districts will continue to receive funding for applied technology education programs for public education secondary school students.

❖ OTHER PERSONS: There are no anticipated costs or savings to other persons. Costs for public education students taking applied technology education courses in the public schools will be same.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected person. Costs for public education students taking applied technology education courses in the public schools will be the same.

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. Steven O. Laing

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 clear@usoe.k12.ut.us

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 04/15/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 04/16/2002

AUTHORIZED BY: Carol Lear, Coordinator School Law and Legislation

R277. Education, Administration.**R277-911. Secondary Applied Technology Education.****R277-911-1. Definitions.**

A. "ADM" means average daily membership.

B. "Applied technology education[~~(ATE)~~]" means organized educational programs [~~or competencies~~] which directly or indirectly prepare [~~persons~~] individuals for employment, or for additional preparation leading to employment, in occupations where [~~other than a baccalaureate or advanced degree is required for~~] entry requirements generally do not require a baccalaureate or advanced degree. These programs provide all students an undisrupted education system, driven by a student education occupation plan (SEOP), through competency-based instruction, culminating in essential life skills, certified occupational skills, and meaningful employment. [~~These e~~] Occupational categories include agriculture; business; family and consumer sciences; health science and technology; information technology; marketing; trade[-] and technical [and industrial] education; and technology education. [~~This definition includes integrated and applied academic programs or competencies.~~]

C. "Approved program" means a program approved by the Board that meets or exceeds the state program standards or outcomes for [~~ATE~~] applied technology education programs.

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

E. "Bureau of Apprenticeship and Training" means a branch office for apprenticeship administered by the United States Department of Labor and located in Salt Lake City.

F. "CIP code" means the Classification of Instructional Programs, a federal curriculum listing.

G. "Comprehensive counseling and guidance program" means the organization of resources to meet the priority needs of students through four delivery system components as outlined in R277-462.

H. "Course" means an individual applied technology education class [~~that outlines competencies and~~] structured by state-approved standards and CIP code. An approved course may require one or two periods for up to one year. Courses may be completed by demonstrated competencies or by course completion.

[~~I. "Employment and further training verification" means a verification of the district job placements or further training claimed for additional compensation. The date used to verify the placement shall be a minimum of thirty (30) days after placement and may occur up to April 1 of the year following graduation.~~]

] [~~J~~] "Entry-level" means a set of tasks identified and validated by workers and employers in an occupation as those of a beginner in the field. [~~In most occupations, e~~] Entry-level skills are a limited subset of the total set of tasks performed by an experienced worker in the occupation. Competent performance of entry-level tasks enhances employability and initial productivity.

[~~K~~] "Extended year program" means [~~ATE~~] applied technology education programs no longer than 12 weeks in duration, offered during the summer recess, and supported by extended-year or other [~~ATE~~] applied technology education funds.

[~~L. "Placement" means a student who completes the ATE program and is employed as a direct result of training, is employed in a position which requires competencies gained in the program, or is placed in continued and related training that is directly related to the occupational title associated with the federal Classification of Instructional Programs (CIP). In all cases, the placement shall be directed by a Student Educational/Occupational Plan (SEOP).~~]

] [~~M~~] "Program" means a combination of applied technology education courses that provides the competencies for specific job placement or continued related training and is outlined in the SEOP using all available and appropriate high school courses [~~appropriately available~~].

[~~N~~] "Program completion" means the student completion of a sequence of approved courses, work-based learning experiences, and/or other prescribed learning experiences as determined by the [~~student's S~~] student [~~E~~] education [~~at~~] [~~O~~] occupation [~~at~~] [~~P~~] plan (SEOP).

[~~O~~] "Regional Consortium" means the school districts, applied technology [~~centers~~] colleges, colleges and universities within the [~~nine~~] regions that approve [~~ATE~~] applied technology education programs.

[~~P~~] "Registered Apprenticeship" means a training program that includes on-the-job training in a specific occupation combined with related classroom training and has approval of the Bureau of Apprenticeship and Training.

[~~Q~~] "Related training" means a course or program directly related to an occupation that is compatible with apprenticeship training and is taught in a classroom and approved by the Bureau of Apprenticeship and Training.

[~~R~~] "Scope and Sequence" means the organization of all applied technology education courses and related academic courses into programs within the high school curriculum that lead to specific skill certification, job placement, continued education or training.

[~~S~~] "SEOP" means student education [~~at~~] occupation [~~at~~] plan.

[~~T~~] "Skill[s] Certification" means a verification of competent task performance. Verification of the skills standard is provided by an approved state or national program certification process.

[~~U~~] "Tech Prep" means a planned applied technology education/academic continuum of courses within an applied technology education field beginning in the 9th grade and continuing with post secondary training which culminates in an associate degree, apprenticeship, [~~or~~] certificate of completion, or baccalaureate degree.

[~~V~~] "USOE" means the Utah State Office of Education.

[~~W~~] "WPU" means weighted pupil unit. The basic unit used to calculate the amount of state funds for which a school district is eligible.

[~~X~~] "Work-based Learning" means a program in which a student is trained by employment or other activity at a work site, either at place of business, a home, or a farm, supplemented by needed classroom instruction or teacher assistance.

R277-911-2. 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 system in the Board, by Section 53A-15-202 which allows the Board to establish minimum standards for applied technology education programs in the public education system, and Sections 53A-17a-113 and 114 which direct the Board to distribute specific amounts and percentages for specific applied technology education programs and facilitate administration of various programs.

B. This rule establishes standards and procedures for [~~entities~~] school districts seeking to qualify for funds administered by the Board for applied technology education programs in the public education system.

R277-911-3. [ATE]Applied Technology Education Program Approval.

A. Program Planning: [ATE]applied technology education [P]programs are based on verified training needs of the area and provide students with the competencies necessary to progress in occupations for which an occupational potential exists. Programs are supported by a data base, including:

- (1) local, regional, state, and federal manpower projections;
- (2) student occupational/interest surveys;
- (3) regional job profile;
- (4) advisory committee input; and
- (5) follow-up evaluation and reports.

B. Program Administration: School [D]district applied technology education directors shall meet the requirements specified in Subsections 9(A), (B) and (C).

C. Learning Resources: Within available resources, instructional materials, including textbooks, reference materials, and media, shall reflect current technology, processes, and information for the [ATE]applied technology education programs being taught.

D. Student Services:

(1) Applied technology education guidance, counseling, and Board approved testing shall be provided for students enrolled in [ATE]applied technology education programs.

(2) A written plan for placement services shall be developed with the assistance of local advisory committees, business and industry and [Job Service]the Department of Workforce Services.

(3) An SEOP shall be developed for all students. The plan shall include:

- (a) a student's education[and] occupation[and] plans (grades 7-12) including job placement when appropriate;
- (b) all Board graduation requirements;
- (c) evidence of parent, student, and school representative involvement annually;
- (d) attainment of approved workplace skill competencies;
- (e) identification of an [ATE]applied technology education post-secondary goal and an approved sequence of academic and [ATE]applied technology education courses.

E. Instruction: Curricula and instruction shall be directly related to business and industry validated competencies. Successful completion of competencies shall be verified by a valid skill[s] certification process. Instruction in proper and safe use of any equipment required for skill[s] certification shall be provided within the approved program.

F. Equipment and Facilities: Equipment and facilities, consistent with the validated competencies identified in the instruction standard, shall be provided and maintained in a manner that meets safety requirements and applicable state and federal laws.

G. Instructional Staff: Counselors and instructional staff shall hold valid Utah teaching [certificates]licenses with endorsements appropriate for the programs they teach. These may be obtained through an institutional recommendation or through occupational and educational experience verified by the USOE [certification]licensure process as outlined in R277-502. [ATE]Applied technology education program instructors shall keep technical and professional skills current through business/industry involvements in order to ensure that students are provided accurate state-of-the-art information.

H. Equal Educational Opportunity: [ATE]Applied technology education programs are conducted in agreement with the Board policies and state and federal laws and regulations on access that

prohibit discrimination on the basis of race, creed, color, national origin, religion, age, sex, and disability.

I.(1) Applied technology education advisory council: An active advisory council shall be established to review all [ATE]applied technology education programs annually. The council may serve several school districts or a region. The council reviews the program offerings, quality of programs, and equipment needs.

(2) Program advisory committee: Each state funded approved occupational [ATE]applied technology education program shall be supported at the school district/regional level by a program advisory committee made up of individuals who are working in the occupational area. Basic exploratory programs are to have an advisory committee.

J. Applied technology education student leadership organizations: School [D]districts are encouraged to make this training available through nationally-chartered applied technology education student leadership organizations in each program area.

K. Program and instruction evaluation: Each school district, with oversight by local program advisory committee members, shall make an annual evaluation of its [own ATE]applied technology education programs[using Board standards].

R277-911-4. Disbursement and Expenditure of Applied Technology Education Funds--General Standards.

A. To be eligible for state [ATE]applied technology education program funds, a school district shall first expend for [ATE]applied technology education programs an amount equivalent to the regular WPU for students in approved [ATE]applied technology education programs, grades [nine]seven through twelve, based on prior year ADM, times the current year WPU value, less an amount for indirect costs as computed by the State School Finance Unit.

B. State [ATE]applied technology education program funds may thereafter be [used]expended only for approved [ATE]applied technology education programs. [~~When applied technology courses are integrated with other courses, the state applied technology program specialist and the state curriculum program specialist shall perform an analysis of the proposed course. Added cost funding will be generated based on the proportion of approved applied technology content within the integrated course as recommended by the applied technology specialist.~~

~~C. A district is only eligible for added cost, extended year, placement, program completion and skills certification compensation, and state applied technology set aside funds if the district is operating a Board approved ATE program or a strategic plan program approved by the Board.~~

R277-911-5. Disbursement of Funds--Added Cost Funds.

A. Weighted pupil units are allocated for the added instructional costs of approved [ATE]applied technology education programs operated or contracted by school districts. Programs and courses provided through applied technology [centers]colleges, and higher education institutions do not qualify for added cost funds [as outlined in R277-904]except for specific contractual arrangements approved by the Board.

B. All approved [ATE]applied technology education programs shall receive funds determined by prior year hours of membership for [each]approved programs[except as provided by R277-462 and R277-916].

C. Allocations are computed using grades nine through twelve ADM in approved programs for the previous year with a growth factor applied to school districts experiencing growth of one percent

or greater in grades nine through twelve except as provided by R277-462 and R277-916.

D. Added cost funds shall be used to cover the added ~~[ATE]applied technology education~~ program instructional costs of ~~school district programs~~ and to obtain training for students whose ATE goals can be better achieved in programs outside the regular high school program. A district may contract with applied technology centers, skills centers, applied technology schools, or other agencies and organizations for such services. Contracts shall be approved by the Board to be eligible for funding.

E. An approved ATE program in a secondary school shall be eligible for added cost funds if:

(1) enrollment is proportionate to employment opportunities in the occupation as determined by local and state job and employment statistics;

(2) enrollment demand exceeds an accessible applied technology center capacity;

(3) a cost-benefit analysis indicates that the cost of equipping and conducting the program is no greater than that of the accessible applied technology center; and

(4) special approval is obtained for ATE programs requiring high cost, state of the art equipment. Approval is predicated on Subsection R277-911-5E(3) and the ATE Regional Plan].

R277-911-6. Disbursement of Funds--Equipment Set Aside Funds.

A. Equipment [S]set aside funds are used to pay for applied technology education program equipment needs [costs needed to initiate new programs and for high priority programs as determined by labor market information].

B. ~~[Only school districts are eligible for these funds.]~~ Each school district is eligible for a minimum amount of ~~[these]~~ equipment set aside funds.

C. Applicants for funds may submit proposals as individual school districts or as regional groups. All proposals shall show evidence of coordination within a service delivery area. A regional group shall include recommended priorities for funding in its proposal.

R277-911-7. Disbursement of Funds--[Placement, Program Completion, and]Skill Certification.

A. ~~School~~ [D]districts that ~~can~~ demonstrate approved student [placement, program completion, and] skill certification [or both] may receive additional compensation.

~~[A. Placement and Program Completion Compensation:~~

(1) ~~To be eligible for student placement or program completion compensation or both, a school district shall certify that an ATE student:~~

(a) ~~has a verified and recorded ATE goal and corresponding CIP code;~~

(b) ~~has a current SEOP on file; and~~

(c) ~~has been placed on a job, placed in further education, or has completed an approved occupational program directly related to the student's SEOP.]~~

~~B. [Skills Certification Compensation:~~

(1) ~~To be eligible for skill[s] certification compensation, a school district shall show its student completer has demonstrated mastery of standards, as established by the Board. An authorized test administrator shall verify student mastery of the skill standards.~~

(2) ~~C. Skill[s] certification compensation is available only if an approved skill[s] certification [process]assessment is developed for the program.~~

R277-911-8. Disbursement of Funds--Applied Technology Education [Student]Leadership Organization Funds.

A. Participating ~~[local educational agencies]~~ school districts sponsoring ~~[secondary]applied technology~~ [student]education leadership organizations are eligible for a portion of the funds set aside for this purpose. ~~[applied technology student leadership organizations. The funds are distributed on a prorated basis determined by the proportion of the local educational agency's membership in the organization to that of the state's total membership in the organization. Districts with no student organization membership do not receive an allocation.]~~

B. Qualifying applied technology education leadership organizations shall be nationally chartered and include: SkillsUSA/VICA (Vocational Industrial Clubs of America), DECA (Distributive Education Clubs of America), FFA (Future Farmers of America), HOSA (Health Occupations Students of America), FBLA (Future Business Leaders of America), [FHA/HERO (Future Homemakers of America/Home Economics Related Occupations)]FCCLA (Family, Career and Community Leaders of America), and ITEA/TSA (International Technology Education Association/Technology Students Association).

C. ~~[Districts shall pay prorated applied technology student leadership costs as follows:~~

(1) ~~the applied technology leadership organizations' coordinating council establishes a student organization budget by March 30 for the following fiscal year;~~

(2) ~~districts are advised of the percentage to be set aside up to one percent of the applied technology add on funds and the district assessment based on the previous year's membership data by May 30 of each year.]~~ Up to one percent of the state applied technology education appropriation for school districts shall be allocated to eligible school districts based on documented prior year student membership in approved applied technology education leadership organizations.

D. A portion of ~~[F]~~ funds allocated to school districts for applied technology education leadership organizations ~~[under these provisions]~~ shall be used ~~[first]~~ to pay the school district's portion of statewide administrative and national competition costs. The remaining amount[s] shall be available for ~~[training, competition, transportation and administrative costs]~~ school district applied technology education leadership organization expenses.

R277-911-9. Disbursement of Funds--School District WPU.

A. Twenty (20) WPUs are allocated to each school district; ~~or~~ ~~for costs associated with the administration of applied technology education. To encourage multidistrict applied technology education administrative services,~~ 25 WPUs may be allocated to each school district that consolidates applied technology education administrative services with one or more other school district[s] ~~conducting approved programs].~~

B. To qualify for ~~[the]~~ 20 or 25 WPUs per school district, the school district ~~[A]applied [F]technology [E]education [D]director shall:~~

(1) hold ~~[a current]~~ or be in the process of completing requirements for a current Utah Administrative/Supervisory ~~[Certification]~~ License specified in R277-505; and

(2)(a) have an endorsement in at least one applied technology area listed in R277-518, Vocational-Technical Certificates, and have four years of experience as a full-time applied technology educator; or

(b) complete a prescribed in-service program provided by the USOE within a period of two years following local board appointment as a school district [A]applied [F]technology [E]education [D]director.

B. To qualify for 25 WPUs [~~under multidistrict~~]for consolidated, multi-district administration, the participating school districts shall employ a full-time multi-district [ATE]applied technology education director.

C. In addition to [the]WPUs appropriated to school districts qualifying according to the above criteria, each approved high school [~~(those schools supported by the State Minimum School Funds as high schools)~~]may qualify for funding according to the following criteria:

(1) Ten (10) WPUs are allocated to each high school that:

(a) conducts approved programs in a minimum of two [ATE]applied technology education areas e.g. agriculture; business; family and consumer sciences; health science and technology; information technology; marketing; trade[;] and technical[~~and industrial~~] education; and technology education.

(b) conducts a minimum of six different state-approved CIP coded courses. Consolidated courses in small schools may count as more than one course as approved by the appropriate state applied technology education specialist(s);

(2) Fifteen (15) WPUs are allocated to each high school that:

(a) conducts approved programs in a minimum of three [ATE]applied technology education areas;

(b) conducts a minimum of nine different state-approved CIP coded courses. Consolidated courses in small schools may count as more than one course as approved by the appropriate state applied technology education specialist(s);

(c) has at least one approved [ATE]applied technology education student leadership organization;

(3) Twenty (20) WPUs are allocated to each high school that:

(a) conducts approved programs in a minimum of four [ATE]applied technology education areas,

(b) conducts a minimum of twelve different state-approved CIP coded courses. Consolidated courses in small schools may count more than one course as approved by the appropriate state applied technology education specialist(s),

(c) has at least two approved [ATE]applied technology education student leadership organizations;

(4) Twenty-five (25) WPUs are allocated to each high school that:

(a) conducts approved programs in a minimum of five [ATE]applied technology education areas,

(b) conducts a minimum of fifteen different state-approved CIP coded courses. Consolidated courses in small schools may count more than one course as approved by the appropriate state applied technology education specialist(s),

(c) has at least three approved [ATE]applied technology education student leadership organizations.

D. Also, a maximum of one approved alternative high school, as outlined in R277-730, per school district may qualify. School [D]districts sharing an alternative school share receive a prorated share.

E. Programs and courses provided through school district technical centers[~~ATCs, and colleges~~] shall not receive funding under this section.

R277-911-10. Disbursement of Funds--School District Technical Centers.

A. A maximum of [F]forty WPUs may be computed for each school district operating an approved school district [applied technology]center. To qualify under the approved school district technical center provision, the school district shall:

(1) provide at least one facility other than an existing high school as a designated school district technical center;

(2) employ a full-time applied technology education administrator for the center[~~, as outlined in R277-911-9A~~];

(3) enroll a minimum of 400 students in the school district technical center;

(4) [eliminate]prevent unwarranted duplication by the school district technical center of courses offered in existing high schools, applied technology colleges and higher education institutions;

(5) centralize high-cost programs in the school district technical center;

(6) conduct approved programs in a minimum of five [ATE]applied technology education areas;

(7) conduct a minimum of fifteen different state-approved CIP coded courses.[~~(7) conduct a minimum of fifteen different state-approved CIP coded courses.~~

~~— B. Districts within an applied technology center region may only qualify for funds under this section if the Board, upon written request, finds that special circumstances exist and funding is warranted.~~

~~— C. Districts may cooperate with ATCs to operate approved applied technology programs at the district technical center. When this is the case, the district shall be reimbursed a prorated share of the (40) WPUs based on the ratio of ATC programs compared to the total ADM generated at the center.]~~

R277-911-11. Disbursement of Funds--Summer Applied Technology Education Agriculture Programs.

A. To receive state summer applied technology education agriculture program funds, a school district shall submit to the USOE, [~~on forms provided by the USOE,~~]an application for approval of the school district's program. Applications shall be received prior to the annual due date specified [by the USOE]each year. Notification of approval of the school district's program shall be made within ten calendar days of receiving the application.

B. A teacher of a summer applied technology education agriculture program shall:

(1) hold a valid Utah teaching [eertificate]license, with an endorsement in agriculture, as outlined in R277-911-3G;

(2) develop a calendar of activities which shall be approved by school district administration and reviewed by the state specialist for applied technology education agricultural education;

(3) work a minimum of eight hours a day in the summer applied technology education agriculture program. Exceptions shall be reflected in the calendar of activities and be approved by the school district administration;

(4) not engage in other employment, including self-employment, which conflicts with the teacher's performance in the summer applied technology education agriculture program;

(5) develop and file a weekly schedule and a monthly report outlining accomplishments related to the calendar of activities with

the school principal, school district applied technology education director, and the state specialist for agricultural education; and

(6) visit the participating students a minimum of two times during the summer program with a minimum average of four on-site visits to students.

C. College interns may be approved to conduct summer applied technology education agriculture programs [~~by application and receiving prior written~~] upon approval [~~from~~] by the state specialist for applied technology education agricultural education.

D. Students enrolled in the summer applied technology education agriculture program shall:

(1) have on file in the teacher's and school district office a student education[~~at~~]_{occupation[~~at~~]} plan (SEOP) goal related to agriculture;

(2) in conjunction with the student's parent or employer and the teacher, develop an individual plan of activities, including a supervised occupational experience program;

(3) have completed the eighth grade; and

(4) have not have graduated from high school.

E. The USOE applied technology education agricultural education specialist collects data from the program and staff of each school district to ensure compliance with approved standards. A final program report, on forms provided by the USOE, shall be submitted to the USOE Division of School Finance on the annual due date specified.

F. [~~A maximum of seven WPU are~~] Summer applied technology education agricultural funding is allocated to each school district conducting an approved program for a minimum of 35 students lasting nine weeks. A school district may receive [~~WPU credit~~] funding for no more than nine weeks or 35 students.

G. School [~~D~~] districts operating programs with fewer than 35 students per teacher or for fewer than nine weeks shall receive a prorated share of the [~~seven WPU allowed~~] summer applied technology education agricultural allocation.

R277-911-12. Disbursement of Funds - Comprehensive Guidance; Technology, Life, and Careers, and Work-Based Learning Programs.

A. The board shall distribute funds to school districts consistent with Section 53A-17a-113(2)(3)(4) and (6).

B. School [~~D~~] districts shall spend funds distributed for comprehensive guidance consistent with Section 53A-1a-106(2)(b) and R277-462 which explain the purpose and criteria for student education plans (SEP) and student education[~~at~~]_{occupation[~~at~~]} plans (SEOP).

C. School [~~D~~] districts may spend funds allocated under this section to fund work-based learning programs consistent with Section 53A-17a-113(1)(c), other criteria of the Section, [~~and~~] R277-915 and R277-916.

D. School [~~D~~] districts may spend funds allocated under this section to fund technology, life, and careers programs consistent with Section 53A-17a-113 and R277-916.

**KEY: technical education, applied technology education[~~at~~]
[December 5, 2001]2002
Notice of Continuation September 12, 1997
Art X Sec 3
53A-15-202
53A-17a-113 through 115**



Education, Administration **R277-916** Technology, Life, and Careers, and Work-Based Learning Programs

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 24524

FILED: 02/28/2002, 18:41

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended to update terminology and make simple wording changes, and to simplify the Work-Based Learning funding formula.

SUMMARY OF THE RULE OR CHANGE: The amendments add information technology in several places, change the Work-Based Learning (WBL) funding formula and make some changes regarding Technology, Life, and Careers (TLC) terminology.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53A-15-202

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** There are no anticipated costs or savings due to these amendments. Most of the changes are wording changes. The WBL funding change provides for the same amount of funding per school district as in the previous year.

❖ **LOCAL GOVERNMENTS:** There are no anticipated costs or savings to local government. School districts should receive the same WBL funding unless the school district discontinues WBL programs.

❖ **OTHER PERSONS:** There are no anticipated costs or savings to other persons. Funds are dispersed to school districts.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. Funds are distributed to school districts.

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. Steven O. Laing

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 clear@usoe.k12.ut.us

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 04/15/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 04/16/2002

AUTHORIZED BY: Carol Lear, Coordinator School Law and Legislation

R277. Education, Administration.

R277-916. Technology, Life, and Careers, and Work-Based Learning Programs.

R277-916-1. Definitions.

A. "Board" means the Utah State Board of Education~~[and the Utah State Board for Applied Technology Education].~~

B. "TLC" means Technology, Life, and Careers which is a middle/junior high school curriculum comprised of activities encouraging students to explore careers in Agriculture, Business, Family and Consumer Sciences, Health Science and Health Technology, Information Technology, Marketing, ~~[Personal]~~ Economics, and Technology Education. Career development activities are integrated throughout the TLC curriculum. The TLC course is coordinated with the Comprehensive Guidance program.

C. "New TLC" means an advanced curriculum from the TLC program with additional practical activities. These standards apply to funding support, inservice training, curriculum development and refinement associated with the new TLC curriculum.

D. "Cone" means a group of schools whose students feed a high school and schools and agencies which interact with the high school.

E. "Work-Based Learning" (WBL) means activities that involve actual work experience or connect classroom learning to work.

G. "Geographical Region" means one of the nine educational planning units: Bear River, Ogden/Weber, Davis/Morgan, Wasatch Front South, Mountainland, Uintah Basin, Central, Southeast, and Southwest.

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

I. "Weighted Pupil Unit (WPU)" means the unit of measure that is computed in accordance with the Minimum School Program Act for the purpose of determining the costs of a program on a uniform basis for each school district.

R277-916-2. 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 system in the Board, by ~~[Section 53A-15-201 which designates the Utah State Board of Education as the Board for Applied Technology Education.]~~ Section 53A-15-202 which allows the Board to establish minimum standards for applied technology education programs ~~[and perform duties required by law,]~~ in the public education system, and Section 53A-17a-~~[131,12]~~113 which directs the Board to distribute specific amounts of funds to school districts.

~~[B. TLC programs currently operating shall continue while each middle/junior high school makes a transition to new TLC activities which shall replace the TLC activities.]~~

~~—C.]~~ B. This rule establishes standards and procedures for school districts seeking to qualify for Technology, Life, and Careers, and WBL Programs funds administered by the Board.

R277-916-3. Disbursement of Funds -- Technology, Life, and Careers II Funds.

A. TLC funds shall be utilized to update the TLC curriculum, purchase and maintain needed equipment and supplies, field test new TLC program modifications, and provide ongoing inservice training for teachers, counselors, and administrators.

B. Schools shall meet all TLC ~~[and new TLC]~~ requirements in order to receive funding.

C. TLC funds shall be allocated to school districts for approved schools using a base of \$4,000 per school.

D. Funds remaining after funds are distributed for Section R277-916-3C, above, shall be distributed based on enrollment in grade 7 of the approved schools based on the October 1 enrollment report for the previous year.

E. ~~School [D]~~ districts ~~[shall recommend schools to be funded. Each school]~~ shall annually complete a funding application with assurances of each school meeting TLC standards.

F. Personnel from each of the selected schools shall participate in ~~[mandatory]~~ USOE training.

G. Schools shall receive continued USOE support and funding based on meeting established standards.

R277-916-4. Technology, Life, and Careers~~[II]~~ - Standards.

A. The Technology, Life, and Careers funds may be used to:

- (1) update the TLC curriculum;
- (2) purchase and maintain equipment and supplies, including consumables;
- (3) field test ~~[for]~~ and implement new TLC program modifications; and
- (4) provide regular inservice training for teachers, counselors, and administrators.

B. ~~School [D]~~ districts may qualify for Technology, Life, and Careers funds based on the following:

(1) TLC program funds shall not be used ~~[for]~~ to pay ~~ing~~ personnel costs ~~[during the period of the regular contract year];~~

(2) TLC schools shall teach 180 days of TLC core curriculum which includes the components and objectives of Agriculture, Business, Family and Consumer Sciences, Information Technology, Health Science and Health Technology, Marketing, ~~[Personal]~~ Economics, Technology Education, and Career Guidance and Development;

~~[(3) All TLC teachers and counselors and at least one administrator shall attend initial USOE inservice training as a school team;~~

~~]~~ ~~[(4)]~~ (4) All TLC teachers and counselors at the schools shall have appropriate licenses and endorsements;

~~[(5)]~~ (4) All TLC team members shall agree to assist in the development and implementation of new TLC activities and materials;

~~[(6)]~~ (5) Schools shall utilize the services of the WBL coordinator, where ~~[funded]~~ available, to integrate grade level appropriate work-based learning activities into TLC;

~~[(7)]~~ (6) Schools shall integrate grade level appropriate career development content into the TLC activities and use the services of the counselor in the program;

~~[(8)]~~ (7) The school district/school shall utilize the full allocation of funds as provided under R277-916-4. The school district/school

shall support inservice training activities necessary to the Core TLC content as adopted by the Board; and

(9) All TLC-related personnel in the school shall participate fully in evaluating the current program, recommending changes or modifications, [and] field testing and implementing new activities, materials, and resources.

R277-916-5. Work-Based Learning - Disbursement of Funds.

A. All public elementary, secondary, and postsecondary/adult schools shall be aligned by cone and grouped within the school district.

~~[B. Districts shall be eligible for funding according to the number of students in grades 10, 11, and 12. Funds shall be distributed to cones according to the following schedule based on the October 1 enrollment report for the previous year:~~

~~— (1) Districts with schools with a grade 10 through 12 enrollment of 75 or less shall receive a five WPUs.~~

~~— (2) Districts with schools with a grade 10 through 12 enrollment of 76 to 750 shall receive an allocation of nine WPUs.~~

~~— (3) Funds remaining after funds are disbursed for Section R277-916-5B(1) and (2), above, shall be distributed to approved schools with enrollment over 750 in grades 10 through 12.~~

~~— (4) All 10 through 12 grade students shall be counted in schools having a total enrollment of over 750 and the total statewide number shall be used to determine a per student WPU allocation from available funds.~~

~~— (5) A school's funding shall be calculated by using the per student share multiplied by the total number of 10 through 12 grade students.~~

~~[C]B. [Annual district allocations shall remain consistent. If funding for this program does not increase, district allocations] The proportion of total WBL funding allocated for each participating school district shall remain the same as the previous year unless the school district discontinues the program or school district proportions are adjusted by the Board.~~

~~[D]C. State appropriated WBL funds require an equal match of funds provided by participating school districts.~~

R277-916-6. Work-Based Learning - Standards.

A. WBL shall be integrated into all levels of the educational delivery system and shall be coordinated within the cones of the school district and [between] among regions.

B. To be eligible for WBL funds, school districts/schools shall, upon request:

(1) have the program approved by the local board.

(2) employ licensed WBL coordination personnel with salaries/benefits matched by the local recipient of funds.

(3) document that a WBL committee representing all schools within the cone has been created, is functioning effectively and regularly addresses WBL issues.

(4) complete a cone-wide student/parent/teacher WBL needs assessment.

(5) develop work-based preparation, participation, and evaluation activities for students and teachers involved in all WBL cone activities.

(6) maintain evidence that WBL components have been integrated and coordinated with elementary career awareness, secondary career exploration, integrated core curriculum activities, Technology, Life, and Careers, comprehensive guidance and skills certification.

(7) maintain evidence of WBL activities developed in coordination with IEP/SEP/SEOP/504 requirements in each cone.

(8) require the inclusion of all student groups within the cone in career development and preparation.

(9) demonstrate WBL coordination with employers and with other school/community development activities.

(10) verify sufficient budget for a WBL coordinator, facilities, materials, equipment, and support staff is available.

(11) participate in initial state-sponsored WBL Coordination Training and in periodic ongoing coordination and inservice activities.

(12) require that the WBL team utilize a statewide database system to be developed by the USOE.

KEY: public schools, work-based learning programs*

~~[August 1, 2000] 2002~~

Art X Sec 3

~~[53A-15-201]~~

53A-15-202

53A-17a-~~[131-12]~~113



Human Services, Administration, Administrative Services, Licensing **R501-12-8** Safety

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 24519

FILED: 02/27/2002, 14:30

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To clarify Subsection R501-12-8(E) that concealed weapon permit holders may be licensed foster parents.

SUMMARY OF THE RULE OR CHANGE: Language was added to clarify that rights of concealed weapon permit holders are not affected by this rule.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 62A-2-101 through 62A-2-121

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There is no anticipated cost to the State. Firearm safety was clarified.

❖ LOCAL GOVERNMENTS: There is no cost or savings to local government as this rule does not apply to local government.

❖ OTHER PERSONS: There should be no cost to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There should be no change in compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There would be no impact on businesses. This rule does not affect businesses.

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

HUMAN SERVICES
ADMINISTRATION, ADMINISTRATIVE SERVICES,
LICENSING
120 N 200 W
SALT LAKE CITY UT 84103-1500, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

April Demill at the above address, by phone at 801-538-4155, by FAX at 801-538-4553, or by Internet E-mail at ademill@hs.state.ut.us

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 04/15/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 04/16/2002

AUTHORIZED BY: Reta Oram, Director

R501. Human Services, Administration, Administrative Services, Licensing.

R501-12. Child Foster Care.

R501-12-8. Safety.

A. Foster families shall conduct and document fire drills at least quarterly.

B. Foster parents shall provide training to children regarding response to fire warnings and other instructions for life safety.

C. The foster home shall have a telephone. Telephone numbers for emergency assistance shall be posted next to the telephone.

D. The foster home shall have an adequately supplied first aid kit.

E. Foster parents who have firearms or ammunition shall assure that they are inaccessible to children at all times. Firearms and ammunition that are stored together shall be kept securely locked in security vaults or locked cases, not in glass fronted display cases. Firearms that are stored in display cases shall be rendered inoperable with trigger locks, bolts removed or other disabling methods. Ammunition for those firearms shall be kept securely locked in a separate location. This does not restrict constitutional or statutory rights regarding concealed weapons permits, pursuant to UCA 53-5-701 et seq.

F. No firearms shall be allowed in foster homes that contract with DYC.

G. Foster parents who have alcoholic beverages in their home shall assure that the beverages are kept inaccessible to children at all times.

H. There shall be locked storage for hazardous chemicals and materials.

KEY: licensing, human services, foster care
~~[October 19, 2001]~~ **April 16, 2002**
62A-2-101 et seq.



Human Services, Services for People with Disabilities **R539-3** Service Coordination

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 24510

FILED: 02/26/2002, 15:23

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To clarify and update policy and procedures related to waiting list prioritization, individual planning methodologies, and discharge from provider agencies and service system.

SUMMARY OF THE RULE OR CHANGE: The waiting list changes relate to simplification of the prioritization and use of a scored needs assessment to establish the order of entry to the service system. Planning methodology changes improve the flexibility and action planning components of personal planning for people eligible for supports. This planning methodology allows the person and family to take a more active role in the design and tailoring of supports to meet the person's identified areas of need. The changes enumerate the role of members of the planning team and responsibilities of the person related to planning activities. The changes also emphasize the importance of developing non-paid sources of support. The changes clarify the role of the contracted provider in terms of reporting timelines and content. In addition, changes to the planning methods updates problematic outdated terminology and processes. The changes to the section on discharge allow the person receiving services more flexibility and ease in making a change of provider agencies. Changes establish that the region director will be the final line of decision in terms of placement of person and incorporates Section R539-3-5 by outlining provider notice and the process to contest a placement decision. Finally, changes update terminology in the sections on targeted case management and family service planning.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 62A-5-101-102 and 62A-5-101-103

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The assessment of needs takes staff time in each region and includes completion and tallying of forms, as well as group discussion and consensus, ranking and data entry of scores into the Division's database system. It is estimated that the assessment, discussion, ranking and data entry on one person would take approximately one hour and may involve three state staff. However, a defensible and equitable system to establish priority is required by Medicaid and Risk Management. In all, the process of needs assessment adds little to the activities that were completed prior to the development of the needs assessment. No new staff will be hired to complete these assessments. Improvement of the data system has also improved and

reduced the time that was used in past to hand count, search consumer files, and try to run down information. The implementation of the changes may be cost neutral in this regard. The changes to the planning methodology with its focus on the family and person will result in cost savings due to the plans foundation upon maximizing family involvement, unity, and responsibility. This means that more activities are identified where families who are unpaid to provide support take responsibility instead of paid providers. The planning process does take more time initially to complete than the old process but the effectiveness of planning and the inclusion of non-paid natural supports improves and counter balances this time commitment. Overall the adoption of person-centered planning will provide a cost savings by keeping the family involved in the life of their son, daughter, or sibling with a disability and minimizing the supports that will need to be provided by paid help over the person's lifetime. Since staff responsibilities have been adjusted to allow for planning to take priority, there is no additional cost in terms of new employees. The changes to discharge help to reduce the length of time it takes a person to move to a new provider and limits the bureaucracy that a person must go through both save time and money. The changes to family service plan section allows those who just get family support to complete a very quick version of the person-centered plan that takes no more time than the plan required by Medicaid. In effect, only one plan needs to be completed for those who receive family support the type of support most prevalent and cost efficient of supports funded by the Division.

❖ LOCAL GOVERNMENTS: No local government funding is used in any of these activities, therefore, it is expected, that the cost to local governments is not applicable.

❖ OTHER PERSONS: Provider agency staff may record more of their time in planning activities, yet, the funding amount provided is not adjusted or increased due to this. These activities are considered part of the rate paid to providers. No reimbursement is made to other members of the planning team. No additional costs for other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: People in services under new planning requirements are invited to take more responsibility for the planning, since they are unpaid, there is no added cost but the additional time spent in planning could be considered a compliance cost to the person and provider agency.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Service providers may lose some time as parents, siblings, and other team members volunteer to provide more unpaid supports to consumers and as consumers opt to be more independent from provider agencies. No other fiscal impacts are identified beyond service providers under contract with the division.

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:

Paul Day at the above address, by phone at 801-538-4118, by FAX at 801-538-4279, or by Internet E-mail at pday@hs.state.ut.us

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 04/15/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 04/16/2002

AUTHORIZED BY: Robin Arnold-Williams, Executive Director

R539. Human Services, Services for People with Disabilities.

R539-3. Service Coordination.

R539-3-1. Waiting List.

A. Policy.

Following the determination of eligibility, the person's priority for support is determined. Each region uses the critical needs assessment to score and prioritize the person's level of need. Persons with the highest critical needs scores receive support first. The support coordinator shall assess with the person or representative the array of supports that may be needed. When funding is unavailable, the person will be placed on a list to wait for funding for supports from the division. If a support desired by the person or representative is unavailable, the person or representative may accept an available support while waiting for the selected support. Persons who have been determined eligible for the division's Medicaid waiver can choose to wait for division support services or seek services available through Medicaid in an Intermediate Care Facility for Persons with Mental Retardation (ICF/MR). [If no services are currently available, an applicant will be placed on a waiting list following the eligibility determination for Division of Services for People with Disabilities services. The case manager will determine the array of needed services with the individual applicant and legal representatives. If an appropriate service is not available and the person accepts a more restrictive placement, the person will be maintained on the waiting list for placement in a less restrictive and more appropriate setting of their choice. When services become available, the region shall inform the individual on the waiting list most in need of service. Individuals with disabilities residing out of state cannot be put on the waiting list for services in Utah. Applicants or their legal guardian must be a resident of the State.]

B. Procedures.

1. If the person requires and could use support services on the day of intake, the person has an immediate need; otherwise, the person has a future need.

2. A needs assessment shall be completed for all persons with an immediate need for support services. The needs assessment determines the needs score of each person by using the following criteria:

- a. severity of the disabling condition;
- b. needs of the Person and/or family;
- c. length of time on the waiting list;
- d. appropriate alternatives available; and
- e. other factors determined by the Region to reflect accurately on the Person's need.

3. The Region Needs Assessment Committee:
 - a. determines the person's needs score;
 - b. rank orders the needs scores within each region to determine the order in which each person receives funding; and
 - c. enters the person's name and score on the waiting list.
4. A person's ranking may change as needs assessments are completed for new applicants.
5. A child age 16 who is currently in a school district special education program and meets all eligibility requirements for division services is automatically determined to have a future need for supported employment or day support. No age limitations apply to a person placed on the waiting list for community living support or family support.~~[1. Region offices will develop and maintain prioritized waiting lists for services based on rational criteria. A prioritization of the individual's need for the identified service will be rated as having a (1) critical, (2) immediate, or (3) future level of need, according to the following criteria:

 - a. Severity of the disabling condition;
 - b. Critical needs of the individual and/or family;
 - c. Length of time on the waiting list;
 - d. Appropriate alternatives available; and
 - e. Other factors determined by the region to reflect accurately on individual need.~~
2. Persons who are 20 years of age and currently in a school district special education program may be placed on the waiting list for application to day training/supported work programs.]

R539-3-2. [The Individual Plan] Person-Centered Plan.

A. Policy.

A written person-centered plan that incorporates the principles of self-determination, informed choice, equality and open communication shall be completed for every person funded by the division. The person-centered plan develops tailored supports for outcomes defined by the person. Natural supports shall be used when possible to achieve outcomes desired by the person receiving services.~~[An Individual Plan will be developed for each recipient of Division residential and day services to ensure that the appropriate array of services and supports is designed to address the identified needs and desires of the individual. The plan must either follow a person-centered planning approach or the traditional behavioral approach. The traditional behavioral approach must be used for individuals receiving any type of residential service, level 5 or higher, or any type of day service, level 3 or higher. Integrated plans across providers are optimal and encouraged where feasible.]~~

B. Procedures.

1. Formal and informal assessments shall be used to identify personal preferences, choices, abilities, and needed supports. Assessment information shall be shared within confidentiality guidelines outlined in Title 63, Government Records Access and Management Act (GRAMA).
2. An initial person-centered plan, for persons just entering services, shall be facilitated by someone chosen by or assigned to the person who will be receiving supports prior to supports beginning, during a meeting with members of a person's team. The initial planning meeting generally does not include potential providers. For persons continuing in services, the support coordinator assures that the plan is written and that the provider(s) develop(s) supports.
3. The membership of the team is determined by the person receiving supports.
4. The team meets as often as the person or other members of the team determine necessary, or whenever the plan needs significant

change or has become irrelevant due to life changes. The plan is to be reviewed and, if necessary, updated at least annually.

5. In the event the person is not able to attend the planning or review meeting, the meeting shall be rescheduled within the month.
6. The person chooses who will:
 - a. facilitate the meeting; and
 - b. record the meeting.
7. Each member of the person's team helps to:
 - a. assure the person's preferences and needs are understood;
 - b. advocate and assist the person to express likes, strengths, barriers, hopes, dreams and goals for the future;
 - c. assure that all members of the team focus on the positive and share pertinent information in a respectful and confidential manner;
 - d. provide necessary supports and, whenever possible, develop natural supports to address issues;
 - e. assure that the outcomes reflect the person's preferences and needs and enhance the person's quality of life;
 - f. assure that assessments help members of the team understand the preferences and needs of the person; and
 - g. assure that supports are developed based upon knowledge of the person's psychological status and learning styles.
8. Plan outcomes shall be defined by the person.
 - a. The plan shall include a brief statement concerning the current status for each outcome.
 - b. When appropriate, habilitative objectives may be listed as supports to be provided to assist the person in reaching selected outcomes. Health and safety objectives may be listed as stand-alone supports. Stand-alone supports are supports that are not related to or necessary for the accomplishment of an outcome selected by the Person.
9. Support strategies shall include details on the supports that will be provided to help the person reach personal outcomes.
10. The provider has 30 calendar days from the date the planning meeting is held to design support strategies for persons continuing in services and 30 days from the first day of services for persons who have just begun receiving services.
11. Support strategies may include services, programs, relationships, mentoring and training believed necessary or beneficial to the accomplishment or maintenance of an outcome.
12. Supports must be listed and defined or outlined in the plan but may be developed more specifically in separate documents.
13. Providers are expected to use Natural Supports whenever applicable or make a plan to develop them if not available.
14. Support strategies should describe how the support is to be designed, delivered and documented by answering questions such as:
 - a. How will this support promote the Person's outcome?
 - b. Why is the support necessary?
 - c. Who will provide paid and nonpaid or natural supports?
 - d. What is the supporters relationship to the person?
 - e. What, exactly does the support entail?
 - f. When will the support be provided?
 - g. How will delivery of the support and progress towards intended outcomes be documented?
15. Providers develop, monitor and implement supports for which they are responsible as agreed upon and listed in the action plan section of the person-centered plan. The following information shall be included for each support:
 - a. the agency, group or name of the responsible provider staff;
 - b. the types of supports to be provided and timelines for accomplishment, if applicable;

~~c. the strategy for withdrawing or increasing supports as the person requires;~~

~~d. a recording system to track the person's current status in maintaining or reaching an outcome and show changes over time; and~~

~~e. explanation of how support strategies will be coordinated among multiple providers and natural supports.~~

~~16. Monthly summaries shall be written by each provider and received by the division no later than the 15th of the month following the month supports were provided. The support coordinator should specify in the person-centered plan, or individual service plan, the specific supports providers should track. In monthly summaries the person or provider staff shall summarize supports and evaluate what has happened.~~

~~17. If any interested party believes that the person-centered plan is not being implemented as outlined or receives a request from the person or representative, they should immediately contact the support coordinator to resolve the issue or request a hearing as outlined in R539-2-5 or R538-3-4.[1]. The initial Individual Plan will be developed within 30 calendar days of program admission during a meeting of the members of the planning team. Team members include:~~

~~a. the individual receiving services;~~

~~b. the family and/or legal representative;~~

~~c. the qualified region case manager and other Professionals whenever appropriate;~~

~~d. appropriate provider staff; and~~

~~e. anyone else the individual or legal representative invites.~~

~~2. It is the responsibility of the provider to schedule the meeting and provide written notification to all Individual Plan team members at least ten days in advance; however, if the individual or legal representative desires to schedule the meeting and/or send out invitations the provider shall assist them to do so as requested.~~

~~3. In the event the region case manager is not able to attend the planning meeting, the meeting will be rescheduled (the new meeting time should be on or before the due date).~~

~~4. In the event consensus is not reached by the members of the planning team, members should not sign the document and should instead follow R539-2-5, Notice and Hearings for Service Changes.~~

~~5. It is the responsibility of the provider to produce the Individual Plan document, implement services and supports they are responsible for as specified by the Individual Plan, evaluate the individual's progress, and revise the plan as needed with the planning team. The document shall:~~

~~a. be dated, including the month, day, and year of the plan. The plan shall be updated at least annually and dated within the same month as the original plan.~~

~~b. list the following demographic information:~~

~~(1) person's full name;~~

~~(2) date of birth, including month, day, and year; and~~

~~(3) date the person entered the program.~~

~~c. include the individual's services and supports needed and outcomes or goals as stated on the Individual Support Plan document which are relevant to the particular service.~~

~~d. identify individualized outcomes, or long term goals and short term objectives in major life areas which generally include, but are not limited to, self care, receptive language, mobility, self direction, capacity for independent living, and economic self sufficiency.~~

~~6. Prior to the planning meeting, the provider shall ensure that each person receiving Division services will have had an appropriate assessment which identifies the individual's preferences, choices, strengths, and needed supports; however, if the assessment occurs, as a~~

~~part of the person-centered planning process, at the time of the planning meeting, it does not have to be completed prior to the meeting.~~

~~a. Formal assessment documentation will be maintained in the individual record.~~

~~b. The assessment used must either be standardized or an agency prepared document which identifies the individual's preferences, strengths, and needed services and supports. Assessments shall include:~~

~~(1) a formal assessment instrument, or a well documented person-centered planning process such as Personal Futures Planning, etc.;~~

~~(2) input and observation from team members, including the individual receiving services and supports; and~~

~~(3) other pertinent information.~~

~~c. Assessments will be reviewed and updated annually prior to the planning meeting and findings will be shared with the team at the scheduled meeting; however, if the assessment review and update occur, as a part of the person-centered planning process, at the time of the planning meeting, they do not have to be completed prior to the meeting.~~

~~7. If using a person centered planning approach, specific outcomes shall be provided which relate to the individual's preferences and choices. If using the traditional behavioral approach, short term objectives in a specific skill area shall be established and prioritized in order to achieve long term goals. This traditional approach should also address the individual's preferences and choices as much as possible.~~

~~a. Outcomes shall be observable if using a person centered planning process (outcomes may not necessarily be written in measurable and behavioral terms). If using the traditional approach, objectives shall be measurable, observable, and written in behavioral terms. If the person has complex maladaptive behaviors, including all individuals receiving any type of residential service, level 5 or higher, or any type of day service, level 3 or higher, the Individual Plan must contain objectives to address these behaviors which are measurable, observable, and written in behavioral terms. The following information must be included as it relates to either outcomes or objectives:~~

~~(1) For each outcome, a statement of the conditions under which the person will receive specific supports or services. For each objective, a statement of where, when, and under what conditions the person shall be expected to perform a task.~~

~~(2) The person's name.~~

~~(3) For each outcome, the current status of the expected observable outcome. For each objective, the baseline data, which is the level of the person's current performance.~~

~~(4) For each outcome, an observable indicator of when the outcome has been achieved. For each objective, the level of performance that the individual must exhibit in order to complete the objective.~~

~~8. For each outcome, a specific outline of actions to be taken by staff or others in providing supports or services to the individual. For each objective, training methods will be identified which outline what the staff will do to assist or support the individual to reach the identified objective.~~

~~a. The following information must be included as it relates to either outcomes or objectives:~~

~~(1) For both outcomes and objectives, the name of the responsible staff or person and their relationship to the individual.~~

~~(2) For outcomes, an outline of staff actions to be taken in providing services or supports to achieve the outcome. For objectives, a task analysis or sequential outline of training steps.~~

~~(3) For both outcomes and objectives, the level and type of assistance or supports to be rendered by the staff.~~

— (4) For both outcomes and objectives, the method of withdrawing the level of assistance or supports (if applicable) as the person masters the objective or achieves the outcome.

— (5) For outcomes, if applicable, the method of withdrawing or increasing supports as the person requires. For objectives, identification of the reinforcer(s) and any methodology to be used to withdraw the reinforcement when the objective is achieved.

— (6) For outcomes, system to be used to track the status of observable indicators. For objectives, data collection to be used to record the individual's performance.

— (7) For outcomes, a plan to maintain the desired observable outcome or transition the outcome to a system of natural supports, unless it is a one time achievement and does not require maintenance. For objectives, measures of maintenance and generalization of the desired skill.

— b. Supports or training should be provided in a functional context and in the natural routine of daily living to include:

— (1) Setting;

— (2) Time period;

— (3) Frequency; and

— (4) Other relevant factors.

— 9. Monthly progress notes will be written by the provider for each outcome or objective to document the progress or lack of progress made by the individual receiving services and supports, utilizing the following guidelines:

— a. For objectives, data reported will be substantiated with raw data collection sheets.

— b. For both outcomes and objectives, necessary Individual Plan modifications will be discussed in the progress notes.

— c. Progress notes must contain the responsible staff's signature, relationship to the individual, and date (day, month, year).

— 10. The planning team members will sign the document to indicate approval of outcomes, or goals and objectives identified for the upcoming year.

— a. The Individual Plan document is signed at the annual planning meeting within the same month of the effective date on the original or previous Individual Plan.

— b. Signatures will include the name, date, and relationship of the team members to the individual.

— 11. A formal written review of the Individual Plan will occur annually and dated within the same month as the original or previous Individual Plan effective date and shall be documented in the Individual Support Plan annual review. The provider shall maintain documentation of the Individual Plan review in the individual record.

— 12. The effective date of the Individual Plan may serve as the time line for annual reviews rather than the Individual Plan team signature date. The planning team meeting may occur up to 30 days prior to the effective date. The team may meet to review the Individual Plan as often as the team determines necessary, but the Plan shall be reviewed at least annually, due within the same month as the original or previous Plan effective date.

— 13. Should the region case manager determine that the Individual Plan is not being implemented as outlined, or receives a complaint from the individual or legal guardian, the case manager shall implement the following corrective action.

— a. Step 1: Hold a conference with the provider and the individual or legal guardian if appropriate to review the problem, outcomes or objectives, and methods for possible corrections.

— b. Step 2: If resolution cannot be reached in Step 1, the case manager will hold a conference with the region supervisor, the region director, if applicable, the individual and the legal representative, if any,

and the provider. The involved parties will attempt to resolve the problem.

— e. Step 3: If resolution is not reached, and following written notification to the provider, the case manager will inform the Division Contract Administrator and the Division will review the matter and take appropriate action.

— d. Step 4: If there is not resolution through the above process, or if the case manager is unable to negotiate a solution, the Department Hearing process will be followed (R539-2-5, Notice and Hearings for Service Changes).]

R539-3-3. Entry[Referral] to Services.

The division shall strive to assure that an appropriate choice of supports and providers exist for persons entering the support system. The division coordinates, approves and oversees all out-of-home placements.

B.[A.] Procedures.

1. Prior to the provision of community living supports, a person may be required to complete a medical examination, and if under the age of 18 provide a current Immunization record.

2. Each person is given a choice of provider by:

a. sending providers notice and invitation to submit offers to provide services ;

b. arranging meetings between the person and potential providers; and

c. assisting the person to make an informed choice of provider.

3. The provider agency may schedule and coordinate a service entry meeting that involves the person or representative, support coordinator and other invited guests. The meeting should be held at the prospective site of placement whenever possible. The prospective provider agency shall chair the meeting.

4. The prospective provider agency will accept or deny the person service within ten working days of the service entry meeting or receipt of referral packet if no service entry meeting is held.

5. If the provider agency denies the person service, the provider agency shall assure the referral information is returned to the support coordinator.

6. The physical move of the person will be the responsibility of the provider agency who is accepting the person.[4]. Referrals for services are made by the case manager to established providers of service in the following fashion:

a. The individual and legal representative select a service with the case manager.

b. A referral packet with current information is submitted to the identified service provider.

c. The Provider will schedule a placement meeting. The purchase of service provider will coordinate the placement meeting, which consists of the person with disabilities, legal representative (advocate), case manager(s), and other relevant members, including the Utah State Developmental Center staff, education representative for school age individuals, and Division staff. The meeting should be held at the prospective site of placement whenever possible. The prospective Provider shall chair the meeting.

2. The prospective Provider will submit an acceptance or denial letter within ten working days to the case manager(s), person with disabilities, and legal representative. The referral file contents of a person denied for services will be returned to the case manager.

a. An acceptance letter shall include a written description of the following:

(1) services to be provided.

(2) location of the service.

— (3) name and address of the primary care physician or other medical specialists, including, for example, neurologist or dentist.

— (4) a training and in-service schedule for the staff to meet with the admitted person.

— (5) proposed date of admission.

— b. A denial letter shall include a written description of the specific reason for the denial. The letter will be submitted with the returned file.

— c. A copy of the denial or acceptance letter will be submitted to the Director of Planning and Program Development and the Chairperson of the Community Based Committee.

— 3. Admission to Division programs from a Nursing Facility under OBRA 1987 will be coordinated by the OBRA specialist at the Division with the nursing facility social worker, the case manager, the prospective provider, and the person with disabilities.

— 4. The physical move to a receiving residential facility will be the responsibility of the Provider who submits the billing as the first day of service or last day as negotiated with the new Provider.]

R539-3-4. Discharge From Provider Agency, Fiscal Agent or Services.

A. Policy.

The division shall strive to assure that an appropriate choice of supports and providers exist for persons entering or moving within the support system. Any team member may initiate a request to change provider agency, fiscal agent or developmental center residence by asking the support coordinator or qualified mental retardation professional (QMRP) to arrange a meeting. [4. Any interested member of the interdisciplinary team who recommends that a recipient be discharged or may benefit from service change shall contact the individual's case manager.]

B. Procedures.

1. In the event that a request for a change of provider agency is received, the support coordinator shall arrange a discharge meeting that provides a 10 day written notice, or signed agreement to meet earlier from all team members. Team members include:

- a. the person or representative;
- b. the provider agency staff;
- c. the support coordinator; and
- d. the receiving provider agency, (as appropriate).

2. Topics in the discharge meeting shall include at a minimum:

- a. a detailed discussion of the person's progress and the person's current status; and
- b. specific reasons for the request for discharge outlined by the team member initiating the request.

3. The present provider agency may request the opportunity to make changes in the existing relationship to address the concerns that initiated the discharge meeting. If the person and the support coordinator agree to the present provider agency's request, the changes to be made and timeline for completing changes shall be outlined and signed by those entering into the agreement. The next course of action if the present provider agency fails to make changes shall also be discussed.

4. If consensus about the discharge is not possible, the region director shall make the final decision concerning the discharge. The decision shall be documented in the individual service plan and shall take into consideration the desires of the person or representative.

5. The provider agency may request an administrative review of the decision by sending a written request for review within 10 days of the discharge meeting or notice of decision to the support coordinator's supervisor or region director. Such a request will stop

the change unless the person objects or the supervisor determines that making no change would continue or create a state of emergency or endangerment. If the issue is not resolved to the provider agency satisfaction, or no action is taken by the supervisor or region director within 15 days of the meeting, the provider agency may send a written request for review to the division director. Requests received within 20 days of the meeting shall be reviewed by the division director. The division director's decision shall complete the administrative review. Provider agencies that do not agree with the division director's decision may pursue a formal hearing as outlined in Title 63, Chapter 46b, Utah Administrative Procedures Act.

6. The provider agency is required to complete a discharge summary prior to the actual date of the discharge. A discharge summary, written by provider agency staff shall include:

- a. the reason for termination;
- b. a summary of services provided;
- c. an evaluation of the person's strengths, interests and needs, achievement of goals and objectives; and
- d. the signature and title of the provider agency staff preparing the summary.

7. The written discharge summary shall be sent by the discharging provider agency to the receiving support coordinator, discharging support coordinator, and the new provider agency.

8. A discharging community living support provider shall send to the receiving community living support provider all of the following documentation and items:

- a. a cover letter written by the support coordinator for persons entering services, or a discharge summary prepared by the agency discharging the person;
- b. a copy of the person-centered plan;
- c. a copy of the persons budget worksheet showing annual allocation;
- d. all relevant court information;
- e. birth certificate and social security card;
- f. a photograph of the person taken within the past year;
- g. dental evaluation, including identification of special needs;
- h. comprehensive medical history and a physical examination/immunization record, form 902;
- i. letter of introduction to the primary care physician from the former primary care physician;
- j. medication for 14 days for a Medicaid card holder or 4 weeks for a person without a Medicaid card;
- k. written prescriptions for medication;
- l. personal needs account balance, less \$50.00 which will be used to pay any final bills, the balance to be submitted within 30 days from discharge;
- m. Medicaid/Medicare cards or third party insurance information; and
- n. inventory checklist of the person's personal belongings.

9. The discharging provider providing non community living supports sends to the receiving provider the following documentation or items:

- a. a discharge summary prepared by the agency discharging the person;
- b. a copy of the person-centered plan;
- c. a copy of the persons budget worksheet showing annual allocation;
- 10. The discharging provider forwards the persons documentation to the receiving provider agency no later than the day the person moves.

11. If the person is to be discharged from the service system the discharging provider forwards the person's documentation to the support coordinator.

8. A provider agency initiated request for discharge requires 90 days notice for a person receiving level 5 funding, and 30 day notice for all other persons.

9. The emergency services management committee shall ensure that Persons are placed in the least restrictive most appropriate living situation in accord with Section 62A-5-301 through Section 62A-5-312 (admission review and commitment to mental retardation facility), and Subsection 62A-5-402(2)(a) (children should reside in a family-like environment).

10. The emergency services management committee meetings shall be considered clinical meetings that are confidential and closed to all but those involved with the person

11. Admission to Division programs from a nursing facility will be coordinated by the Region Office with the Person/Representative, the nursing facility social worker, the Support Coordinator, and the prospective Provider Agency. [4. In the event that a request for discharge is received, the DSDP case manager shall arrange with the Provider for a discharge meeting. The following people shall be invited to attend:

- a. The individual with disabilities.
- b. Legal representative, as appropriate.
- c. DSDP case manager.
- d. Provider, teacher.
- e. Receiving agency, as appropriate.

2. Topics in the discharge meeting shall include at a minimum:

a. A detailed discussion of the recipient's progress and current status in the program.

b. Specific reasons for the request for discharge outlined by the individual initiating the request.

3. Consensus decision must be reached regarding discharge from a program (see R539-2-5, Notice and Hearings). The decision shall be documented in the Individual Program Plan.

4. If the decision is to discharge an individual, a discharge summary shall be completed prior to the actual date of such action. A discharge summary shall be written by the Provider to include:

- a. Reason for termination.
- b. Summary of services provided.
- c. Evaluation of strengths and needs; achievement of goals and objectives.
- d. Signature and title of Provider preparing the summary.

5. The written summary will be sent to the receiving case manager, client and legal representative, discharging case manager, and provider within ten days of the person's last day of service.

6. A Provider may not request discharge of a person who has been identified by the Division as "zero reject", that is an individual with severe challenges, without 90 days notice.

R539-3-5. Consumer Placement Review.

A. Policy.

It is the intent of the Division of Services for People with Disabilities that service providers shall offer programs that best meet the needs of individuals with disabilities, and promote a sufficient choice of service options for individuals and legal representatives to consider. An existing provider of services, therefore, will have the opportunity to proper notice and the opportunity to resolve concerns regarding services to a consumer.

B. Procedures.

1. The recipient of services or legal representative must be notified in writing of all actions taken pursuant to the above process, must be invited to all meetings to discuss individual services, and must receive notice of final resolution within 30 working days of the first meeting of the Individual Program Plan team to discuss the issue.

2. If a review is requested by the service provider, it must be made in writing to the appropriate Region Supervisor or Director within ten working days of the Individual Program Plan team meeting. Except in an emergency or unless requested by the individual or legal representative, services will continue unchanged during the review process. It is the responsibility of the Region Supervisor or Director to attempt to resolve the disagreement.

3. If the issue is not resolved to the services provider's satisfaction, a subsequent joint review by the Division Director and Region Director may be requested in writing by the service provider within 20 days of the date of the original Individual Program Plan meeting.

4. Providers may pursue their right to a formal hearing with the Department of Human Services via the Utah Administrative Procedures Act.]

R539-3-6. Targeted Case Management.

A. Policy

[The] Division staff [of Services for People with Disabilities] will provide [F]targeted [C]case [M]management for persons [people] with disabilities who are eligible in accordance with R414-33. [Targeted Case Management is available only to individuals eligible for Division services who are also eligible for Medicaid. Pending a change in the state Medicaid Plan, only] Only individuals under the age of 21 are eligible for [F]targeted [C]case [M]management. Persons [Individuals] receiving support coordination [ease management services] under the [Home and Community Based -] Waiver are not eligible. Eligible persons must exhibit one or more of the following:

a. a condition resulting in the need for multiple or specialized health care services;

b. a need for services spanning a variety of providers;

c. a need for assistance in developing and following a training program;

d. frequent crisis episodes resulting in the need for individualized supports;

e. a need for increased support systems to assist the person to obtain needed services.

[-] B. Procedures

Documentation of eligibility will include a form 19 (Eligibility for Services), an Inventory for Client and Agency Planning (documenting the need for targeted case management services), and verification the individual is eligible for Medicaid.

R539-3-7. [Individual-] Family Service [Support-] Plan.

A. Policy.

If the person receives family support, a family service plan form 1-15 may be developed. The family service plan shall outline what the family needs to support the family member with a disability, as well as the needs of the person with a disability. For persons receiving only family support services, the family service plan may be used in place of both the individual service plan and the person-centered plan. [An Individual Family Support Plan will be developed for all individuals receiving family support services funded by the Division. These services are provided to help support a family in keeping a relative with a disability at home.]

B. Procedures.

1. The ~~[Individual]~~~~[F]family~~ service ~~[Support]~~~~[P]plan~~ will be developed by the family, the support coordinator~~[region case manager]~~ and if applicable the provider(s) within 30 days following approval for service.

2. It is the responsibility of the agency provider to write the portion of the ~~[P]plan~~ document regarding the supports and services they will provide.

KEY: ~~[social]~~human services, disabled persons~~[*], disability services~~
~~[October 16, 1995]~~2002
 Notice of Continuation September 10, 1997
 62A-5-103



Human Services, Services for People with Disabilities **R539-8-3** Supported Employment

NOTICE OF PROPOSED RULE

(Amendment)
 DAR FILE No.: 24511
 FILED: 02/26/2002, 15:26

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To clarify and update federal and state policy and procedures changes related to supported employment services; to clarify and update existing rules; and to add requirements for new Medicaid Waivers.

SUMMARY OF THE RULE OR CHANGE: The change does away with the old requirement that a person must have been discharged from an intermediate care facility for people with mental retardation before being eligible for Medicaid funding through the home- and community-based waiver for supported employment services. Changes make the division policy, home- and community-based waiver definitions, and the rule congruent.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 62A-5-101 through 62A-5-103

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: Savings should be realized from having more people who receive supported employment enrolled in the home- and community-based waiver, thus drawing down more Medicaid match. Most savings will occur as people transition off the waiting list into services. In the past, most of the people in this group were not able to enter the waiver and had to be served with straight state funding. Since policy and practice was changed at the time that the federal policy was changed everyone in service who qualified and received supported employment services has been changed over to waiver services.

❖ LOCAL GOVERNMENTS: No local government funding is used in determining eligibility for these services; it is expected, therefore that the cost to local governments is not applicable

❖ OTHER PERSONS: People who are eligible for Waiver services but who chose not to participate may lose a portion of their support.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The only compliance cost may be for a very limited number of individuals who will need to spend down personal money to maintain eligibility for waiver funding. This policy could be exempted for some individuals with Division Director's approval.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Service providers may lose some consumers if those consumers opt not to receive federal funds and thereby reduce the services they may purchase to the amount state funds will support. This potential affect should be mitigated by the addition of new consumers who will be funded by the savings of general fund dollars. Service providers have expressed their support of this rule change.

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:

Paul Day at the above address, by phone at 801-538-4118, by FAX at 801-538-4279, or by Internet E-mail at pday@hs.state.ut.us

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 04/15/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 04/16/2002

AUTHORIZED BY: Robin Arnold-Williams, Executive Director

R539. Human Services, Services for People with Disabilities. R539-8. Community-Based Services. R539-8-3. Supported Employment.

A. Policy.

~~[4-]~~The Division of Services for People with Disabilities will assist eligible individuals who want to work to obtain opportunities for ~~[competitive]~~supported employment ~~[in an integrated setting with on-going support services. Supported Employment services are available for Division eligible individuals for whom:~~

- ~~— a. Competitive employment has not traditionally occurred or has been interrupted or is intermittent as a result of disabilities;~~
- ~~— b. Competitive employment at or above minimum wage would be unlikely;~~

~~— e. Because of their disability, need ongoing support to perform in a competitive work setting beyond the time limited period in which the Division of Rehabilitation Services can provide services; and~~
~~— d. Have the ability or potential to obtain and maintain employment with the provision of training and ongoing support.]~~

~~B. Procedures.~~

~~[1.— Individuals served shall be referred to the provider by the region case manager from the waiting list or existing day services programs:~~

~~— a. Individuals must be 22 years of age or older for Supported Employment services, unless waived by the Region Director.~~

~~— b. Depending upon the availability of funding, an individual may be placed on a waiting list in accordance with R539-3-1, Waiting List.~~

~~— c. If the individual receives this service funded through the Home and Community Based Waiver, then the individual shall have the following documentation in their individual file:~~

~~— (1) That this service is not otherwise available under a program funded under the Rehabilitation Act of 1973 or Public Law 94-142 (form 58 will satisfy this requirement); and~~

~~— (2) That the individual has been deinstitutionalized from a nursing facility or intermediate care facility, at some prior time.~~

~~— d. The individual shall be referred to the Supported Employment program of their choice and services will be coordinated and funded by the rehabilitation counselor for a predetermined amount of time (determined by the rehabilitation counselor according to Division of Rehabilitation Services Policy). Long term funding from the region or other community resource must be reasonably expected prior to the Division of Rehabilitation Services authorizing Supported Employment services.~~

~~— e. After the initial predetermined amount of time under the Division of Rehabilitation Services, the coordination and funding of supported employment services shall be the responsibility of the region.~~

~~— f. If an individual loses the supported employment job, the region is responsible to fund services to assist the individual to secure another job. Once the individual has secured another supported employment job, then additional funding for Supported Employment services may be available from the Division of Rehabilitation Services.~~

~~— g. If Division of Rehabilitation Services funding is not available, and regional funding is available, an individual may be served entirely through the Division system. There must still be a reasonable expectation for long term funding from the region.~~

~~2. The provider will comply with:~~

~~— a. The Home and Community Based Services Waiver (if applicable).~~

~~— b. Division policies and procedures which apply.~~

~~— c. Office of Licensing standards and Division certification.~~

~~— d. All services must be provided by staff that meet Division provider qualifications as specified in the contract.~~

~~— e. Individuals shall have assurance that ongoing support is available as needed to assist them in placement, training and job maintenance.~~

~~— f. The provider will have a policy for services during periods of unemployment (Refer to Vendor Guidelines for billable hours).~~

~~— g. All other standards which are identified by the contract.]]~~

Supported employment can be full or part time and is in a work setting where the person works with others without disabilities, not including staff or contracted co-workers paid to support the person. Supported employment may occur anytime during a 24 hour day. Supports assist the person to achieve competitive employment. Competitive employment is defined as work compensated at or above the minimum wage, but not less than the customary wage and

level of benefits paid by the employer for the same or similar work performed by employees who are not disabled. Persons in supported employment are supported and employed consistent with the strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the person as indicated in the person's individual service plan. A person may be supported one-on-one or in a group. When appropriate, the provider may contract with a co-worker to provide additional support, under the direction of a job coach, as a natural extension of the work day.

2. Payment will only be made for adaptations, supervision and training required by a person as a result of the person's disability and will not include payment for the supervisory activities rendered as a normal part of the business setting. Documentation must be maintained, for all persons whose supports are funded by the waiver, showing that supported employment services rendered are not available under a program funded by either the Rehabilitation Act of 1973 or the Individuals with Disabilities Education Act. Federal financial participation will not be claimed for incentive payments, subsidies, or unrelated vocational training expenses such as incentive payments made to an employer or beneficiaries to encourage or subsidize an employer's participation in a supported employment program, payments that are passed through to a beneficiary of supported employment programs, or for payments for vocational training that is not directly related to a beneficiary's supported employment program.

[3.— The provider provides program services that will meet the following minimum standards:

a. Individuals with disabilities shall be employed for a significant number of hours at a level which is optimal for them, in accordance with their capabilities and desires. This should be determined at the Individual Support Plan/Individual Plan meeting. The Division considers at least 20 hours per week the optimum minimum level for most individuals.

— b. Individuals shall be compensated at minimum wage or better. If minimum wage is not feasible, compensation shall be at a commensurate wage based on individual productivity. Individuals shall be provided benefits by the employer which are comparable to workers who are not disabled.

e. Supported Employment is conducted in a variety of settings, particularly work sites in which persons without disabilities are employed. Individuals shall be encouraged to participate in work and non work activities alongside individuals who are not disabled and who are not paid care givers.

— d. There shall be no more than eight individuals with disabilities in any one enclave.

— e. Satisfaction surveys shall be given to the individual, and if appropriate, family members and residential providers. Documentation is needed to show how the survey results are used to improve Supported Employment services.

— f. Work shall be performed to the satisfaction of employers. Assistive technology shall be used to enhance productivity when appropriate (referral through the Division of Rehabilitation Services/Division of Services for People with Disabilities).

— g. Jobs or contract employment shall be developed through the use of a written marketing plan.

h. An individual assessment of functional capacity shall be conducted within thirty (30) days of the referral to the program. To increase the individual performance on the job, program staff shall perform a systematic procedure to insure that the job is appropriate for the individual, that the individual has had input into the decision of employment, and that the most effective training and support

techniques are utilized. Techniques should foster the use of natural supports; example: family, friends, or co-workers.

~~i. Supported Employment direct service staff and their immediate supervisors shall be trained in the standards and implementation procedures required for each individual's particular supported employment placement or job.~~

~~j. Contractors shall have the support of their Board of Directors to build strong supported employment services and maintain accounting and management practices which assure accountability and effective services.]3. Provider agency standards:~~

~~a. Persons shall be employed for a significant number of hours, at a level optimal for the person and in accordance with the person's capabilities and desires. This should be determined at the person centered plan meeting. The hours worked by persons receiving supported employment should approximate the hours worked by other employees; the division, however, considers at least 20 hours per week the minimum level acceptable for most persons.~~

~~b. Persons shall be compensated at minimum wage or better. If minimum wage is not feasible, compensation shall be at a commensurate wage based on a person's productivity. Persons shall be provided benefits by the employer which are comparable to workers who are not disabled.~~

~~c. There shall be no more than eight persons in any one enclave.~~

~~d. Assistive technology shall be used to enhance productivity when appropriate in accordance with the Americans with Disabilities Act.~~

~~e. Jobs or contract employment shall be developed through the use of a written marketing plan.~~

~~f. An individual assessment of work interests shall be conducted within 30 days of the person's referral to the provider agency. To increase the persons performance on the job, provider staff ensure that the job is appropriate for the person, that the person has had input into the decision of employment, and that the most effective training and support techniques are used. Techniques should foster the use of natural supports such as family, friends, and co-workers.~~

~~g. Supported employment direct service staff and their immediate superiors shall be trained in the support strategies required for each person's particular supported employment placement or job.~~

KEY: disabled persons[±], [social]human services, disability services

[February 8, 1996]2002

Notice of Continuation December 18, 1997

62A-5-103



Insurance, Administration
R590-182
 Risk Based Capital Instructions

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 24514

FILED: 02/27/2002, 09:19

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being changed to implement statutory changes resulting in the passage of S.B. 100, Insurance Law Amendments, in the 2001 Legislative Session. One of the changes made by this bill was to bring health insurers under the risk based capital (RBC) requirements of Title 31A, Chapter 17. (DAR NOTE: S.B. 100 is found at 2001 Utah Laws 116, and was effective 04/30/2001.)

SUMMARY OF THE RULE OR CHANGE: The change to Section R590-182-1 corrects the code reference in which the commissioner has specific rulemaking authority. The changes to Section R590-182-2 deal with: 1) adding a code reference, Subsection 31A-17-601(4); 2) changing terminology from "disability insurers" to "health organizations;" 3) inclusion of health insurers under the RBC requirements with the addition of Subsection 31A-17-601(4). The change in Section R590-182-3 eliminates the reference to the 1999 NAIC life and Property and Casual RBC reports and instead references the insurance code requiring these same reports.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 31A-2-201 and 31A-17-601

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** These code changes will have no impact on the state's budget. Health insurers will now need to file RBC reports with the department but this will be handled by existing personnel and insurers will not be required to pay a filing fee.

❖ **LOCAL GOVERNMENTS:** Since local government have no regulatory authority over insurance companies regarding these changes, they will not be impacted by them.

❖ **OTHER PERSONS:** As a result of these changes, health insurers will be required to file an RBC report annually with the department. It is anticipated that the information for this report can be extrapolated from other reports already being prepared by the insurer without the need of hiring additional employees.

However, the insurer will need to purchase the software to run this report which will cost \$900. Currently, there are 600 health insurers licensed to do business in Utah that will need to purchase this software, if they have not already. The software is sold by independent vendors.

COMPLIANCE COSTS FOR AFFECTED PERSONS: As a result of these changes, health insurers will be required to file an RBC report annually with the department. It is anticipated that the information for this report can be extrapolated from other reports already being prepared by the insurer without the need of hiring additional employees. However, the insurer will need to purchase the software to run this report which will cost \$900. Currently, there are 600 health insurers licensed to do business in Utah that will need to purchase this software, if they have not already. The software is sold by independent vendors.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be a one time cost to the health insurer of \$900 for the software to run the RBC report required by this rule change. Of course, the vendors

selling this product will make money from their sales to health insurers.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
Jilene Whitby at the above address, by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at jwhitby@insurance.state.ut.us

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 04/15/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 04/16/2002

AUTHORIZED BY: Jilene Whitby, Information Specialist

R590. Insurance, Administration.

R590-182. Risk Based Capital Instructions.

R590-182-1. Authority.

This rule is promulgated pursuant to the general rulemaking authority granted the commissioner by Section 31A-2-201 and the specific authority granted by Subsection 31A-17-~~601(6)~~601(7).

R590-182-2. Scope.

This rule applies to all ~~life or disability insurers~~ health organizations, as defined in Subsection 31A-17-601(3), to all life or accident and health insurers, as defined in Subsection 31A-17-601(4), and to all property and casualty insurers, as defined in Subsection 31A-17-~~601(4)~~601(5) required by Subsections 31A-17-602(1) or 31A-17-610(1)(a) to file risk based capital reports (RBC).

R590-182-3. Rule.

A. The ~~"1999 NAIC Life Risk Based Capital Report Including Overview and Instructions for companies as of December 31, 1999," is incorporated by reference and~~ instructions contained in Subsection 31A-17-602(2) shall be used by life or ~~disability~~ accident and health insurers in preparing and filing RBC reports.

B. The ~~"1999 NAIC Property and Casualty Risk Based Capital Report Including Overview and Instructions for Companies as of December 31, 1999," is incorporated by reference and~~ instructions contained in Subsection 31A-17-602(3) shall be used by property and casualty insurers in preparing and filing RBC reports.

C. The instructions contained in Subsection 31A-17-602(4) shall be used by health organizations in preparing and filing RBC reports.

R590-182-4. 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 or circumstances are not affected.

KEY: insurance
~~[June 8, 2000]~~2002
31A-17-601(4)

Judicial Conduct Commission, Administration

R595-1

Rules of Procedure

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 24517

FILED: 02/27/2002, 13:06

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended to address constitutional and statutory issues identified by members of the Judicial Conduct Commission and members of the Administrative Rules Review Committee.

SUMMARY OF THE RULE OR CHANGE: At Section R595-1-1: removed definitions that duplicated statutory language, or were inconsistent with statute. At Section R595-1-3: clarified the duties of the executive director. At Section R595-1-4: referred to applicable case law (In re Worthen) in the manner of establishing charges of misconduct. At Section R595-1-7: corrected a reference to the Utah Code. At Section R595-1-9: cited statutory authority for the administration of oaths by members of the Commission, and clarified when the Commission may issue subpoenas. At Section R595-1-11: clarified that reviews and investigations, while conducted by the executive director, are under the direction of the Commission. At Section R595-1-14: clarified the inapplicability of the Utah Rules of Civil Procedure to judicial conduct proceedings. At Section R595-1-15: removed language dealing with the withdrawal of an admission in the event of a Supreme Court rejection of the agreement; added a reference to "In re Worthen" dealing with confidentiality of records. At Section R595-1-16: removed language allowing the examiner to call a respondent as a witness, removed language requiring the chair of the hearing panel to be an active member of the Bar, added a reference to "In re Worthen" dealing with record contents. At Sections R595-1-18 and R595-1-19: added references to underlying statutory authority.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 78-8-102 and 78-8-107

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: There are no costs or savings to the state budget associated with this rulemaking. The amendments simply addresses constitutional and statutory concerns with the rule's language.
- ❖ LOCAL GOVERNMENTS: There are no costs or savings to local government associated with this rulemaking. The amendments simply addresses constitutional and statutory concerns with the rule's language.
- ❖ OTHER PERSONS: There are no costs or savings to other persons associated with this rulemaking. The amendments simply addresses constitutional and statutory concerns with the rule's language.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons associated with this rulemaking. The amendments simply addresses constitutional and statutory concerns with the rule's language.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Businesses are not subject to rules of the Judicial Conduct Commission.

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

JUDICIAL CONDUCT COMMISSION
ADMINISTRATION
Room 104
645 S 200 E
SALT LAKE CITY UT 84111-3837, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Steven Stewart at the above address, by phone at 801-533-3200, by FAX at 801-533-3208, or by Internet E-mail at steves@utahbar.org

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 04/15/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 04/16/2002

AUTHORIZED BY: Steven Stewart, Director

R595. Judicial Conduct Commission, Administration.**R595-1. Rules of Procedure.****R595-1-1. Definitions.**

~~[In these rules, unless the context or subject matter otherwise requires:]~~ In addition to terms defined in Section 78-8-101 et seq. of the Utah Code:

A. "Chair" means the chair of the Judicial Conduct Commission and includes the vice chair or acting chair.

~~— B. "Commission" means the Judicial Conduct Commission.~~

~~— C. "Complaint" means reliable information in any form from any source received by the Commission that alleges or from which a reasonable inference can be drawn that a judge committed misconduct or is disabled. If there is no written complaint from~~

~~another person, the executive director's written statement of the allegations constitutes the complaint.~~

] B[~~D~~]. "Examiner" means the lawyer designated by the Commission to gather and present evidence before the masters or hearing panel on formal charges against a judge.

~~C[~~E~~]. "Formal Charges" means the document that formally charges the judge with misconduct or disability. [Formal charges are prepared by the examiner after the Commission finds reasonable cause that a judge committed misconduct or is disabled.]~~

D[~~F~~]. "Hearing" means the proceeding at which the issues of law and fact raised by the formal charges and answer are tried.

~~E[~~G~~]. "Hearing Panel" means a panel of at least a quorum of the Commission designated to conduct a hearing on formal charges.~~

~~— H. "Informal Order of Reprimand" means a reprimand imposed on a judge by the Commission with the prior written consent of the judge.~~

] F[~~I~~]. "Investigation" means an inquiry into allegations of misconduct, including a search for and examination of evidence concerning the allegations, divided into two stages: (1) a preliminary investigation conducted by the executive director after the receipt of a complaint; and (2) a full investigation in which the judge is asked to respond to specific allegations.

~~— J. "Judge" means a justice, judge, justice court judge, or judge pro tempore of any court of the state, including part time, full time, and senior active judges, but not including court commissioners or administrative law judges.~~

] G[~~K~~]. "Masters" means the special masters appointed by the Commission to conduct a hearing on formal charges.

H[~~L~~]. "Misconduct" means a violation of the Utah Code of Judicial Conduct and Section 78-8-103(a), (b), (c), or (e) of the Utah Code. Disability is not misconduct.

I[~~M~~]. "Presiding Master" means the special master designated to preside over a hearing conducted by masters.

J[~~N~~]. "Proceeding" means all steps in the Commission's discipline and disability process.

K[~~O~~]. "Reasonable Cause" means a reasonable ground for belief in the existence of facts that support a finding of judicial misconduct or disability.

~~L[~~P~~]. "Record" means all documents [filed in the case beginning with the complaint or statement of allegations and includes a transcript of the hearing on the formal charges.] required to be submitted to the Utah Supreme Court under In re Richard Worthen, 926 P.2d 853 (Utah 1996).~~

M[~~Q~~]. "Respondent" means a judge or former judge against whom formal charges have been filed.

~~— R. "Screening" means examination of a complaint or other information coming to the attention of the executive director to determine whether the Commission has jurisdiction.~~

] N[~~S~~]. "Supreme Court" means the Utah Supreme Court.

R595-1-2. Jurisdiction.

A. Judges. Pursuant to Section 78-8-101 et seq. of the Utah Code, the Commission has jurisdiction over judges in evaluating allegations that misconduct occurred before or during service as a judge and in evaluating allegations of disability during service as a judge.

B. Former judges. Pursuant to Section 78-8-101 et seq. of the Utah Code, the Commission has continuing jurisdiction over former judges regarding allegations that misconduct occurred before or during service as a judge if a complaint is made before the judge left office.

R595-1-3. Executive Director.

Powers and Duties. The executive director shall have the authority and duty to:

1. Receive and ~~screen~~ review complaints, refer complaints to ~~other agencies when appropriate,~~ the Chief Justice of the Utah Supreme Court in accordance with Section 78-8-104 of the Utah Code, the Utah State Bar pursuant to Section 78-8-105 of the Utah Code, and the local prosecuting attorney having jurisdiction as provided by Subsections 78-8-107(1)(b) and (2) of the Utah Code, conduct preliminary investigations, recommend full investigations, notify complainants about the status and disposition of their complaints, make recommendations to the Commission on the disposition of complaints after investigation, file formal charges when directed to do so by the Commission, and act as examiner in prosecuting formal charges;
2. Maintain permanent records of the operations of Commission's office, including receipt of complaints, screening, investigation, and filing of formal charges in judicial discipline and disability matters, subject to the requirements of Rule 16;
3. Compile statistics to aid in the administration of the system, including a log of all complaints received, investigative files, and statistical summaries of docket processing and case dispositions;
4. Prepare the Commission's budget for submission to the Commission and legislature, and administer the funds;
5. ~~Employ and s~~ Supervise other members of the Commission's staff;
6. With the Commission's approval, engage experts in connection with proceedings; and
7. Perform other duties at the direction of the Commission.

R595-1-4. Proof.

Pursuant to In re Worthen, 926 P.2d 853 (Utah 1996), ~~C~~ charges of misconduct and disability shall be established by a preponderance of the evidence.

R595-1-7. Confidentiality.

A. All papers filed with, and proceedings before the Commission or before the masters appointed by the Commission, shall not be disclosed except in accordance with ~~Section 78-8-107~~ Subsections 78-8-107(9)(c)(iii) and (d), U.C.A.

B. Information.

1. All information relating to a complaint that has not been dismissed shall be held confidential by the Commission and its staff, except that the Commission may disclose information:
 - a. When the Commission has determined that there is a need to notify a government agency in order to protect the public or the administration of justice; or
 - b. Upon waiver in writing by the judge.
2. All information relating to a complaint that has been dismissed without formal charges being filed shall be held confidential by the Commission and its staff.
3. The examiner's work product and records of the Commission's deliberations shall not be disclosed.

R595-1-8. Service.

Service of formal charges in any disciplinary or disability proceeding shall be made by personal service upon the judge or judge's counsel or by registered or certified mail. Delivery of all other papers or notices shall be made by regular mail with the envelope marked "confidential."

R595-1-9. Subpoena Power.

A. Oaths. In accordance with the provisions of Section 78-8-1(2) of the Utah Code, o~~aths [and affirmations]~~ may be administered by any member of the Commission, the executive director in matters under investigation, or any other person authorized by law.

B. Subpoenas for Investigation. ~~After a full investigation is authorized, t~~ The Commission may compel by subpoena the attendance of the judge or witnesses and the production of pertinent books, papers, and documents for purposes of investigation.

C. Enforcement of Subpoenas. A subpoena issued by the Commission shall have the same authority as an order of the district court.

D. Issuance of Subpoenas. Commission subpoenas shall be issued and served in the same manner and form prescribed for subpoenas by the Utah Rules of Civil Procedure.

E. Quashing Subpoena. Any attack on the validity of a subpoena shall be heard and determined by the district court in which enforcement of the subpoena is being sought. Any resulting order is not appealable prior to entry of a final order in the proceeding.

F. Witnesses and Fees. Subpoena fees and costs shall be the same as those provided for in the Utah Rules of Civil Procedure.

R595-1-11. ~~Screening~~ Review and Investigation.

A. ~~Screening~~ Review. The executive director shall evaluate all information coming to the Commission's attention alleging judicial misconduct or disability by complaint. Regardless of whether the information would constitute misconduct or disability if true, the executive director shall conduct a preliminary investigation.

B. Preliminary Investigation.

1. As directed by the Commission, t~~F~~ he executive director and the Commission's investigators may conduct interviews and examine evidence to determine whether grounds exist to believe the allegations of complaints, ~~provided that no subpoena shall issue to obtain testimony or evidence until a full investigation has been authorized.]~~

2. When there is credible evidence supporting the allegations against a judge, the executive director shall recommend a full investigation. The executive director may recommend a full investigation when there are grounds to believe that evidence supporting the allegations could be obtained by subpoena or further investigation. In all other cases, the executive director shall recommend that the matter be dismissed.

C. Full Investigation.

1. Within ten (10) days after a full investigation is authorized, the executive director shall give the following notice to the judge:

- a. A specific statement of the allegations being investigated and the canons of the Code of Judicial Conduct allegedly violated, with the provision that the investigation can be expanded if appropriate;
- b. The judge's opportunity to respond; and
- c. The name of the complainant, unless the Commission determines there is good cause to withhold the name.

2. The executive director shall request that the judge file a written response within fifteen (15) days after service of the notice.

3. The chair of the Commission is authorized to issue subpoenas once a full investigation has been approved.

4. The executive director shall direct all investigations. If the executive director enters a disqualification, or if other circumstances arise justifying the executive director's disqualification, the

Commission shall appoint another person to direct an investigation as provided by with Section 78-8-102(8) of the Utah Code.

D. Disposition After Full Investigation.

1. Upon the conclusion of a full investigation, the executive director ~~[may]~~shall recommend to the Commission one or more of the following:

- a. Dismissal;
- b. Informal order of reprimand;
- c. The filing of formal charges for misconduct or disability;

~~[—d. Referral of information indicating possible criminal conduct by a judge to the Supreme Court pursuant to 78-8-104(1)(a), U.C.A.;~~

~~—e. Referral of information indicating possible criminal conduct by a judge to a local prosecutor pursuant to 78-8-107(b)(1) and (2), U.C.A.;~~

~~—f. Referral of information indicating possible attorney misconduct to the Utah State Bar under 78-8-107, U.C.A.~~

] 2. The Commission ~~[may]~~shall adopt, reject, or modify the recommendations of the executive director.~~—[If the Commission finds reasonable cause to believe the judge committed misconduct,]~~If the Commission finds reasonable cause to believe the judge committed misconduct, it shall take such action as is authorized by statute.

~~[—a. It may direct the executive director to file formal charges;~~

~~b. It may propose an informal order of reprimand to the respondent and if the respondent consents, it shall submit the informal order of reprimand to the Supreme Court for review.~~

]

R595-1-14. Pre-Hearing Procedures.

A. Answer. Within 15 days after service, the respondent may file an answer to the formal charges.

B. Witnesses and Exhibits. Before the hearing commences, the Commission and the respondent shall enter into a stipulation identifying uncontroverted facts, contested issues of fact, contested issues of law, witnesses, and exhibits. Not later than 15 days before the hearing, the examiner and respondent shall exchange all documents identified as proposed exhibits.

C. Exculpatory Evidence. The examiner shall provide respondent with exculpatory evidence relevant to the formal charges.

D. Duty of Supplementation. Both parties have a continuing duty to supplement information required to be exchanged under this rule.

E. Failure to Disclose. The hearing panel may preclude either party from calling a witness at the hearing if the party has not provided the opposing party with the witness's name and address, any statements taken from the witness, or summaries of any interviews with the witness.

F. Civil Rules Not Applicable. ~~[Proceedings under these rules are not subject to the Utah Rules of Civil Procedure, except for the issuance and enforcement of subpoenas pursuant to 78-8-108, U.C.A.]~~Except for the issuance and service of subpoenas as prescribed by Section 78-8-108 of the Utah Code, the Utah Rules of Civil Procedure do not apply to judicial-conduct proceedings.

R595-1-15. Discipline by Consent.

A. At any time after the filing of formal charges and before final disposition, the respondent may agree with the examiner that the respondent shall admit to any or all of the formal charges in exchange for a stated sanction. The agreement shall be submitted to the Commission, which shall either:

1. Reject the agreement; or
2. Submit the agreement to the Supreme Court for approval.

~~[—B. Rejection by Supreme Court. If the Supreme Court rejects the agreement, the admission shall be withdrawn and cannot be used against the respondent in any proceedings.~~

] ~~B[C]. Order of Discipline. Pursuant to In re Richard Worthen, 926 P.2d 853 (Utah 1996), t[F]he Commission shall file the proposed agreement, findings of fact, conclusions of law, other pertinent documents, and order of sanction with the Supreme Court.~~

~~[The record]~~These documents shall remain confidential until the Supreme Court has entered its final order except:

1. Upon order of the Supreme Court; or
2. Upon the request of the respondent.

R595-1-16. Hearing.

A. Scheduling. Upon receipt of the respondent's answer or upon expiration of the time to answer, the hearing panel of the Commission or masters shall schedule a hearing and notify respondent of the date, time, and place of the hearing.

B. Hearing Body. The hearing shall be conducted by a hearing panel or three special masters.

C. Conduct of Hearing.

1. All testimony shall be under oath.
2. The examiner shall present evidence supporting the formal charges.

~~[—3. The examiner may call the respondent as a witness.~~

] ~~3[4]. Both parties shall be permitted to present evidence and produce and cross-examine witnesses.~~

~~4[5]. The hearing shall be recorded by a certified court reporter.~~

~~5[6]. When the hearing is before a hearing panel, not fewer than a quorum of the Commission shall be present when the evidence is presented. [—The chair of the hearing panel shall be an active member of the Utah State Bar.]~~

~~6[7]. Immediately following the conclusion of the hearing, the hearing panel or special masters shall deliberate and make a preliminary decision.~~

~~7[8]. A letter setting forth the preliminary decision, signed by the hearing panel chair or presiding master, shall be served on the respondent and examiner as soon as possible after the conclusion of the hearing.~~

~~8[9]. As soon as possible after the preliminary decision has been served on the respondent and examiner, the hearing panel chair or presiding master shall prepare a memorandum decision to be signed by all the panel members or masters.~~

~~9[10]. The memorandum decision shall be served on the respondent and examiner, and the examiner shall prepare findings of fact, conclusions of law, and an order consistent with the memorandum decision.~~

~~10[11]. The findings of fact, conclusions of law, and order shall be reviewed by a quorum of the Commission and approved by a majority of a quorum of the Commission.~~

~~11[12]. Upon approval, the findings of fact, conclusions of law, and order shall be signed by the Commission chair and served on the respondent.~~

~~12[13]. After the findings of fact, conclusions of law, and order have been signed by the Commission chair and served on the respondent, the record shall be submitted to the Supreme Court for review. The record shall include all documents required by In re Richard Worthen, 926 P.2d 853 (Utah 1996). A copy of the record shall be provided to the respondent without cost.~~

D. Dismissal or Recommendation for Sanction. The hearing panel or masters shall either dismiss the formal charges or

recommend a sanction to the Supreme Court. The hearing panel or masters shall decide a matter only upon the concurrence of a majority of all members.

R595-1-18. Objection to Findings of Fact, Conclusions of Law, and Order.

Within 15 days after service of the Commission's findings of fact, conclusions of law, and order, the respondent may file objections. Pursuant to Section 78-8-107(4) of the Utah Code, and upon request of the respondent or examiner, the Commission shall may schedule oral argument on the objections.

R595-1-19. Extension of Time.

The chair of the Commission may, for good cause shown, re-schedule or extend for [periods not to exceed 30 days] a single period not to exceed 60 days in the aggregate the time for filing an answer to formal charges, for the commencement of a hearing, or for filing objections to the findings of fact, conclusions of law, and order. The presiding master may similarly re-schedule or extend the time for the commencement of a hearing.

KEY: judges, judicial ethics, proceedings, sanctions
[December 18, 2000]2002
78-8-102
78-8-107



Labor Commission, Safety

R616-2-3

Safety Codes and Rules for Boilers and Pressure Vessels

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 24529

FILED: 03/01/2002, 12:14

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of the proposed rule change is to adopt the most current edition (2001) and addenda (2001) of the National Board Inspection Code (NBIC) and also the 2001 addenda for the American Society of Mechanical Engineers (ASME) CSD-1b (1998) and the most current edition of the ASME B31-1 code (2001).

SUMMARY OF THE RULE OR CHANGE: The proposed rule amendments incorporate by reference the most recent editions, which incorporate all prior addenda incorporated by reference, and addenda of the NBIC, ASME CSD-1, and ASME B31.1 codes.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 34A-7-101 et seq.

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: NBIC, 2001 edition, issued August 2001; NBIC (2001) addenda, issued December 31, 2001; ASME-

CSD-1b (2001) addenda, issued November 30, 2001; and ASME-B31-1 (2001) edition, issued December 10, 2001

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The Labor Commission has expended a total of \$1,106 to purchase sufficient copies of the referenced codes for use by its boiler inspectors and to file one complete set with the Division of Administrative Rules. The Commission does not anticipate any other costs to the state budget.

❖ LOCAL GOVERNMENTS: Local government entities are not required to purchase the referenced codes. If a local government entity chooses to do so, each set will cost approximately \$300. The Commission does not anticipate any other costs to local government entities.

❖ OTHER PERSONS: Other person are not required to purchase the referenced codes. If they chose to do so, each set will cost approximately \$300. The Commission does not anticipate any other costs to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Although the proposed amendment adopts the updated versions of the NBIC, the ASME CSD-1b code, and the ASME B31-1 code, the modifications contained therein have, for the most part, already been implemented by affected persons. Furthermore, the costs attributable to such modifications are not expected to result in any appreciable additional compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: By maintaining consistency between Utah's boiler standards and applicable national standards, businesses will find it easier and less expensive to obtain and maintain conforming boiler equipment. This should reduce the fiscal impact businesses will experience in complying with boiler standards. The Commission does not anticipate the proposed amendments to existing standards will impose any increased costs on businesses.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
Larry Patrick at the above address, by phone at 801-530-6872, by FAX at 801-530-6390, or by Internet E-mail at icmain.lpatrick@state.ut.us

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 04/15/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 04/16/2002

AUTHORIZED BY: R Lee Ellertson, Commissioner

R616. Labor Commission, Safety.**R616-2. Boiler and Pressure Vessel Rules.****R616-2-3. Safety Codes and Rules for Boilers and Pressure Vessels.**

The following safety codes and rules shall apply to all boilers and pressure vessels in Utah, except those exempted pursuant to Section 34A-7-101, and are incorporated herein by this reference in this rule.

A. ASME Boiler and Pressure Vessel Code (2001).

1. Section I Rules for Construction of Power Boilers published July 1, 2001.

2. Section IV Rules for Construction of Heating Boilers published July 1, 2001.

3. Section VIII Rules for Construction of Pressure Vessels published July 1, 2001.

B. Power Piping ASME B31.1 (2001), issued December 10, 2001, [~~1998~~] and the ASME B31.1b 2000 Addenda, issued ~~September 15, 2000~~.

C. Controls and Safety Devices for Automatically Fired Boilers ASME CSD-1-1998 [~~and~~]; the ASME CSD-1a-1999 addenda, issued March 10, 2000; and the ASME CSD-1b (2001) addenda, issued November 30, 2001.

D. National Board Inspection Code ANSI/NB-23 (2001) issued August 2001; and the (2001) addenda, issued December 31, 2001 [~~1998~~]; the 1999 NBIC Addendum, published December 31, 1999, and the 2000 Addendum, published January 8, 2001.

E. Standard for the Prevention of Furnace Explosions/Implosions in Single Burner Boilers, NFPA 8501 (1997).

F. Standard for the Prevention of Furnace Explosions/Implosions in Multiple Burner Boilers, NFPA 8502 (1995).

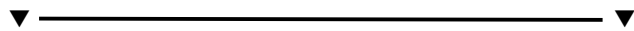
G. Recommended Administrative Boiler and Pressure Vessel Safety Rules and Regulations NB-132 Rev. 4.

H. Pressure Vessel Inspection Code: Maintenance Inspection, Rating, Repair and Alteration API 510 (1997); the 1998 Addenda, published December 1998, and Addendum 2, published December 2000.

KEY: boilers^[§], certification, safety

[~~June 2, 2000~~]**2002**

Notice of Continuation February 5, 1997
34A-7-101 et seq.



Natural Resources, Wildlife Resources

R657-20

Falconry

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 24532

FILED: 03/01/2002, 14:01

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended pursuant to Wildlife Board meetings conducted for taking public input and reviewing the division's falconry program, updating federal requirements, and as a

result of the Administrative Rules Review Committee's discussion regarding concealed weapons in accordance with Utah Code Ann. Section 53-5-7.

SUMMARY OF THE RULE OR CHANGE: This rule was previously filed and published in the February 1, 2002, "Utah State Bulletin" under DAR No. 24395. Due to multiple changes since publication and to best follow the intent of the Wildlife Board, the previous filing of R657-20, DAR No. 24395, will be allowed to lapse and will not be made effective. This amendment replaces the previous filing with additional changes. Section R657-20-38 is being amended to add that a person licensed to carry a concealed weapon in accordance with Title 53, Chapter 5, Part 7 of the Utah Code may do so, provided the person is not utilizing the concealed weapon to hunt or take wildlife. Definitions of "Bird Banding Laboratory band," "Form 3-186A," "Quarry," "State Forms," and "Trial" are being added. Provisions of the rule associated with federal requirements are being updated. Clarification is being made to provisions for apprentice class falconers, general class falconers, and master class falconers. Season dates are being amended for eyes and passage bird take. Names of birds are being capitalized consistent with the American Ornithologist Union. Section R657-20-33, which requires a valid health certificate for raptors brought into the state, which is governed by Section R58-1-4 is being deleted. Remaining sections are being renumbered accordingly. Provisions are being added to Section R657-20-33 to clarify the requirements for meets and trials. Provisions are being added to provide application and drawing procedures for the capture of Peregrine Falcons, sensitive raptors, and nonresident legal birds. Other changes are made for consistency and clarity.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 23-17-7

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 50 CFR 21, 2000 ed.

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: This amendment clarifies existing requirements, and adds requirements as a result of the Administrative Rules Review Committee's discussion regarding concealed weapons in accordance with Utah Code Ann. Section 53-5-7. The Division of Wildlife Resources (DWR) has determined that these amendments do not create a cost or savings impact to the DWR's budget or the state budget.

❖ LOCAL GOVERNMENTS: None--This filing does not create any direct cost or savings impact to local governments because they are not directly affected by the amendment. Nor are local governments indirectly impacted because the amendment does not create a situation requiring services from local governments.

❖ OTHER PERSONS: None--The amendments are for clarification and add requirements pursuant to federal regulations and concealed weapons. The amendments do not impose any additional requirements on other persons, nor generate a cost or savings impact to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--The amendments clarify existing requirements and adds requirements pursuant to federal regulations and concealed weapons. There are not any additional compliance costs associated with these amendments.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The amendments to this rule do not create an impact on businesses.

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

NATURAL RESOURCES
WILDLIFE RESOURCES
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Debbie Sundell at the above address, by phone at 801-538-4707, by FAX at 801-538-4745, or by Internet E-mail at dsundell.nrdwr@state.ut.us

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 04/15/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 04/16/2002

AUTHORIZED BY: Kevin Conway, Assistant Director

R657. Natural Resources, Wildlife Resources.

R657-20. Falconry.

R657-20-1. Purpose and Authority.

Under authority of Section 23-17-7 and in accordance with 50 CFR 21, 2000 ed., which is incorporated by reference, this rule provides the requirements and procedures for possessing and using raptors for falconry.

R657-20-2. Possession of Raptors.

(1) Possession of any raptor, raptor egg, shell fragment, semen, or any raptor part without a federal falconry permit and a valid ~~[certificate of registration, and form is prima facie]~~ Falconry Certificate of Registration, license or Form 3-186A is prima facie evidence that the raptor, raptor egg, shell fragment, semen, or raptor part was illegally taken and is illegally held in possession.

(2) The only species of raptor that may be possessed, transported, or used for falconry are:

- (a) raptors of the subfamily Accipitrinae, other than the ~~[bald eagle]~~ Bald Eagle, Haliaeetus leucocephalus;
- (b) raptors of the subfamily Falconinae; and
- (c) ~~[great horned owl, Bubo virginianus,]~~ Great Horned Owl, Bubo virginianus and captive-bred Eurasian Eagle-owl, Bubo bubo of the family Strigidae.

R657-20-3. Definitions.

(1) Terms used in this rule are defined in Section 23-13-2 and Rule R657-6.

(2) In addition:

(a) ~~["Eyas" means a nestling, fledgling, or pre-fledgling raptor.]~~ "Bird Banding Laboratory band" means a permanent, numbered, silver, aluminum band.

(b) "Eyas" means a young raptor not yet capable of sustained flight such as a nestling or fledgling.

~~(c)~~ "Falconry" means the sport of taking quarry by means of a trained raptor.

~~(d)~~ "Form 3-186A" means the Migratory Bird Acquisition and Disposition Report form.

~~(e)~~ ~~(e)~~ "Imping" means to graft [new] feathers [onto the wing of a bird] to repair damage or to increase flying capacity.

~~(f)~~ ~~(f)~~ "Marker or band" means a numbered band issued by the Service which, when affixed to a raptor's leg, identifies an individual raptor.

~~(g)~~ ~~(g)~~ "Passage bird" means a [flighted raptor of the year.] first-year raptor capable of sustained flight.

~~(h)~~ ~~(h)~~ "Quarry" means any live animal.

~~(i)~~ "Raptor" means a bird of the families [~~Cathartidae,~~ Accipitridae, Falconidae, Tytonidae, ~~and~~ or Strigidae.

~~(j)~~ ~~(j)~~ "Service" means the U.S. Fish and Wildlife Service.

~~(k)~~ "State Forms" means annual reports and completed Raptor Capture permits.

~~(l)~~ "Trial" means an organized falconry event where only nonprotected wildlife, European Starlings (*Sturnella neglecta*), House Sparrows (*Passer domesticus*), or Rock Doves/feral pigeons (*Columba livia*) may be taken.

R657-20-4. Federal Requirements.

(1) A federal falconry permit is required before any person may take, possess, transport, sell, purchase, barter, or offer to sell, purchase, or barter raptors for falconry purposes.

(2) Any person engaging in falconry must complete a federal application form in accordance with 50 CFR 21.28.

(3) Applications may be obtained from, and submitted to the U.S. Fish and Wildlife Service, Migratory Bird Permit Office, P.O. Box 25486, Denver Federal Center (60154), Denver, CO. 80225-0486.

~~(4)~~ ~~(4)~~ ~~(a)~~ A federal falconry permit issued or renewed under 50 CFR 21.28 expires on the date designated on the face of the permit unless amended or revoked, but the term of permit shall not exceed three years from the date of issuance or renewal.

~~(b)~~ Applicants for renewal of a permit must submit a written application at least 30 days prior to the expiration date of the permit.

R657-20-5. Resident Certificate of Registration Application.

(1) A resident applying for or renewing a ~~[falconry certificate of registration]~~ Falconry Certificate of Registration shall:

(a) submit a completed falconry application to the division; and

(b) include the certificate of registration fee.

(2) At the time of renewal, the ~~[previous falconry certificate of registration and the federal]~~ current Falconry Certificate of Registration and a federal falconry permit number must be submitted on the falconry application.

R657-20-6. Apprentice Class Falconer.

(1) An apprentice class falconer shall be:

(a) 14 years of age or older; and

(b) sponsored by a general or master class falconer for the first two years of apprenticeship.

(2) An apprentice obtaining their first ~~[falconry certificate of registration]~~Falconry Certificate of Registration must answer correctly at least 80 percent of the questions on a supervised examination provided and administered by the division, relating to basic biology, care and handling of raptors, literature, laws, rules, regulations, and other appropriate subject matter.

(3) If necessary, the examination may be taken again after a ~~[five]~~14 calendar-day waiting period.

(4) A person may not take the falconry exam earlier than two months before that person's 14th birthday.

(5) The sponsor shall provide advice for facilities and equipment construction, trapping the first season, training the raptor, and all other activities that will promote adequate care and good health for the raptor and safety for the apprentice. A sponsor may not have more than three apprentices at one time.

(6) In the event sponsorship is terminated, the holder of an apprentice ~~[falconry certificate of registration]~~Falconry Certificate of Registration must obtain a new sponsor within 30 calendar days of termination.

(7) The division must be notified in writing concerning the change in sponsor. The sponsor's name, state ~~[certificate of registration]~~, Falconry Certificate of Registration and federal falconry permit number ~~[shall]~~must be included in the notification.

~~(8)(a) Applications for Utah falconry certificates of registration must be submitted to a division office.~~

~~(b) Applications for the required federal permit must be made to the Service.~~

~~(9)~~ An apprentice may not:

~~(a)~~ possess more than one raptor for falconry; and
~~(b)~~ obtain more than one raptor for replacement during any 12-month period from the date of the first capture.

~~(10)~~(9) An apprentice may possess only an American ~~[kestrel]~~Kestrel or a ~~[red]~~Red-tailed ~~[hawk]~~Hawk, which must be taken from the wild as a passage bird by the apprentice during the passage season.

~~(11)~~(11) Re-examination and facilities inspection will be required of any applicant who has not held a ~~[falconry certificate of registration]~~Falconry Certificate of Registration or license for two consecutive years.

(11)(a) Requests for class upgrades must be submitted to the division in writing.

(b) Failure to comply with the rules and regulations of the Wildlife Board may result in the denial of an upgrade.

R657-20-7. General Class Falconer.

(1) A general class falconer shall:

(a) be 18 years of age or older;

(b) ~~[have]~~show proof of having a valid Falconry Certificate of Registration for at least 24 months; and

~~(c) have at least two years of sponsor-verified experience caring for, training, [and] or hunting with raptors at the apprentice level or its equivalent; [and]~~

~~(e) show proof of having a valid falconry certificate of registration for at least 24 months. (i) For purposes of this section, "two years of experience" means at least four months caring for, training, or hunting with raptors in each of two different 12-month periods.~~

(2) Evidence that the applicant has had a valid raptor license or permit in another state for at least 24 consecutive months may be substituted for the apprentice ~~[certificate of registration]~~Falconry Certificate of Registration requirement.

(3)(a) Verification of the ~~[24-month]~~two-year experience requires a letter from the sponsor that details the applicant's progress in falconry and qualifications for upgrade; and

(b) the appropriate federal Form 3-186A and state forms indicating experience caring for raptors.

(4) A general class falconer may not:

(a) possess more than two raptors for falconry; and

~~(b)~~ obtain more than two raptors taken from the wild for replacement birds during any 12-month period from the date of first capture; or

~~(c)~~ take, transport, or possess a ~~[golden eagle]~~Golden Eagle (Aquila chrysaetos) or any species listed as threatened or endangered in 50 CFR 17.

(5)(a) Facilities inspection will be required of any applicant who has not held a Falconry Certificate of Registration or license for two consecutive years.

(b) Re-examination will be required of any applicant who has not held a Falconry Certificate of Registration or license for five consecutive years.

(6)(a) Requests for class upgrades must be submitted to the division in writing.

(b) Failure to comply with the rules and regulations of the Wildlife Board may result in the denial of an upgrade.

R657-20-8. Master Class Falconer.

(1) A master class falconer shall:

(a) ~~[have at least 60 months experience in the practice of falconry at the general class level or its equivalent; and~~

~~(b) show proof of having a valid general class [certificate of registration]~~Falconry Certificate of Registration for at least 60 months; ~~and [-]~~

~~(2)~~(b) have at least five years experience caring for, training, or hunting with raptors at the general class level or its equivalent.

(i) For purposes of this section, "five years of experience" means at least four months caring for, training, or hunting with raptors in each of five different 12-month periods.

(2) Verification of the five-year experience requires the appropriate federal Form 3-186A and state forms indicating experience caring for raptors.

(3) A master class falconer may not:

(a) possess more than three raptors for falconry;

(b) obtain more than two raptors taken from the wild for replacement birds during any 12-month period from the date of first capture; or

(c) take from the wild:

(i) more than one raptor listed as threatened in 50 CFR 17, in any 12-month period, as part of the three bird limitation, and then only in accordance with 50 CFR 17; or

(ii) any species listed as endangered in 50 CFR 17, but may transport or possess such species in accordance with 50 CFR 17.

~~(3)~~(4) A master class falconer may not take from the wild, transport, or possess a ~~[golden eagle]~~Golden Eagle for falconry purposes unless authorized in writing under 50 CFR 22.24.

~~(4) Only a (5) A master class falconer may possess one [golden eagle] Golden Eagle, Aquila chrysaetos, for falconry purposes pursuant to 50 CFR 22.24, [Migratory Bird Permits, and the following guidelines:] Eagle Permits, and as provided in Subsections (i) through (ii).~~

(a) A master class registrant shall be sponsored for the first 12 months to use a golden eagle for falconry;

~~—(b) The registrant shall maintain an ongoing dialogue with the sponsor;~~

~~—(c) The sponsor shall be a master class falconer who has handled a golden eagle for a minimum of 24 months;~~

~~—(d) A sponsor may not, at any time, sponsor more than one registrant;~~

~~—(e)(i) The registrant may not obtain or possess more than one [golden eagle]Golden Eagle during a 12-month period; and~~

~~[(+)-A](ii) the golden eagle held by the registrant [is]shall be included in the three-bird limitation of the master class falconer in accordance with 50 CFR 17.~~

R657-20-9. Facilities and Equipment.

(1) Before a person may obtain a ~~[falconry certificate of registration]~~Falconry Certificate of Registration, the raptor housing facilities and equipment shall be inspected by a division representative and must be certified as meeting the requirements of this section.

(2)(a) The primary consideration for raptor housing facilities whether indoor mews or outdoor weathering ~~[areas]area~~ is protection from the environment, predators, and undue disturbance.

(b) A person may not possess a raptor without either an indoor facility or an outdoor facility as provided in ~~[this rule]Section R657-20-10 and R657-20-11.~~

R657-20-10. Indoor Facilities.

(1) An indoor facility or ~~[mew]mews~~ must be large enough to allow easy access for caring for the raptor housed in the facility.

(2) If more than one raptor is to be kept in the ~~[mew]mews~~, the raptors must be tethered or separated by partitions and the area for each raptor must be large enough to allow the raptor to fully extend its wings.

(3) There must be at least one window, protected on the inside by vertical bars, spaced narrower than the width of the raptor's body, and a secure door that can be easily closed.

(4) The floor of the ~~[mew]mews~~ must ~~[permit]allow for~~ easy cleaning and be well drained.

(5) Adequate perches must be provided to ensure the health, safety and protection of the raptor.

R657-20-11. Outdoor Facilities.

(1) Outdoor facilities or weathering areas must be fenced and covered with netting or wire, or roofed to protect the raptor from disturbance and attack by predators.

(2) The enclosed area must be large enough to ensure the raptor cannot strike the fence when flying from the perch.

(3) Protection from excessive sun, wind, and inclement weather must be provided for each raptor.

(4) Adequate perches must be provided to ensure the health, safety and protection of the raptor.

R657-20-12. Equipment.

The following items shall be in the possession of the applicant before a federal falconry permit or ~~[certificate of registration can]~~Falconry Certificate of Registration may be obtained:

(1)(a) At least one pair of Alymeri jesses or similar type constructed of pliable, high quality leather or suitable synthetic material to be used when any raptor is flown free.

(b) Traditional one-piece jesses may be used on raptors when not being flown.

(2) At least one flexible, weather-resistant leash and one strong swivel of acceptable falconry design.

(3) At least one suitable container, two to six inches deep and wider than the length of the raptor, for drinking and bathing for each raptor.

(4) At least one weathering area perch of an acceptable design for each raptor.

(5) A reliable scale or balance suitable for weighing the raptor held and graduated to increments of not more than one-half ounce.

R657-20-13. Federal Form 3-186A.

A falconer may not take, purchase, receive, or otherwise acquire, sell, barter, transfer, or otherwise dispose of any raptor unless the falconer completes a federal ~~[form]Form~~ 3-186A and submits the blue copy to the division and the remaining copies to the Service within five calendar days of the transaction.

R657-20-14. ~~[Transfer of Care or]Temporary [Loan]Possession For Care.~~

(1)(a) A raptor possessed under authority of a ~~[falconry certificate of registration]~~Falconry Certificate of Registration may be temporarily held by a person other than the possessor of record for maintenance and care for a period not to exceed 30 calendar days.

(b) The raptor must be accompanied at all times by a copy of the properly completed federal ~~[form]Form~~ 3-186A or copy designating the falconer as the possessor of record and by a signed, dated statement from the falconer authorizing temporary possession.

(c) The temporary possessor must hold a valid ~~[falconry certificate of registration]~~Falconry Certificate of Registration in the appropriate class designation and have adequate facilities.

R657-20-15. Permanent Transfer.

A falconer may permanently transfer a raptor to:

(1) another falconer of appropriate class designation with a valid ~~[falconry certificate of registration]~~Falconry Certificate of Registration and adequate facilities; or

(2) a raptor propagator or special purpose possession permittee who has the appropriate certificates, licenses, permits and ~~[forms]Form~~ 3-186A.

R657-20-16. Purchase or Sale of Captive-Bred Raptors.

(1) Only general and master class falconers may purchase or sell captive-bred raptors.

(2) Before a captive-bred raptor is purchased or sold, bartered or gifted it shall be properly banded.

R657-20-17. Importation Requirements for Residents and Nonresidents.

(1)(a) A person is not required to obtain an importation certificate of registration to possess a raptor brought into Utah from another state when the raptor is to be used for falconry purposes.

(b) A raptor used for any purpose other than falconry is governed by Rule R657-3.

(2) ~~[A copy of a valid health certificate and band number, where applicable,]If any raptor is brought into the state on a permanent basis, the band number~~ must be presented to the division within five business days of the arrival of the raptor into the state.

(3) A ~~[health certificate is required from the state of origin regardless of the time period the raptor will be in the state.]raptor~~ brought into the state for any purpose is governed by Rule R58-1-4.

R657-20-18. Importation Requirements for Nonresidents. R657-20-18. Nonresidents Establishing Residency.

(1) A falconer may not claim residency in more than one state or possess a resident falconry license or ~~[certificate of registration]~~ Falconry Certificate of Registration from more than one state.

(2) A nonresident falconer entering the state to establish residency may possess legally obtained raptors during the six-month domicile period while establishing residency.

(3) A copy of the previous state's valid falconry license, a current federal falconry permit number, a valid health certificate and the band number of the raptor held in possession must be presented to the division upon entering the state.

(4) The falconer must have the proper facilities and equipment. A facilities inspection is required.

(5) If the raptor is to be flown or exercised during the six-month domicile period, a valid falconry license from the previous state and a current federal falconry permit are required.

(6) If the raptor is to be used for falconry during the six-month domicile period, a valid falconry license from the previous state, a current federal falconry permit number and the appropriate nonresident game license are required.

(7) Upon completion of the residency requirement, a new resident applying for a Falconry Certificate of Registration must submit to the division:

- (a) a completed falconry application;
- (b) the certificate of registration fee;
- (c) a copy of a valid falconry license from the former state of residency indicating class designation; and
- (d) their valid federal falconry permit number.

R657-20-19. Facilities for Raptors in Transit.

To ensure the health, safety and protection of any raptor being transported or held, temporary facilities must be provided with an adequate perch and protected from extreme temperatures and excessive disturbance, for a period not to exceed 30 calendar days.

R657-20-20. Change of Address.

Any falconer who possesses a raptor and moves or changes the address of where the raptor is being held must ~~[first]~~ notify the division in writing of the change of address within five business days. An inspection of facilities may be required at the new location.

R657-20-21. Release to the Wild.

Prior to releasing any raptor to the wild:

- (1) the raptor band shall be removed by a division representative; and
- (2) a Bird Banding Laboratory band shall be attached to the raptor by a division representative. Banding is by appointment only.

R657-20-22. Escape or Death.

(1) The division ~~[shall]~~ must be notified upon escape or death of a raptor.

(2) Within five ~~[working]~~ business days of the escape or death of any raptor, the ~~[blue copy]~~ appropriate copies of the federal ~~[form]~~ Form 3-186A ~~[shall]~~ must be provided to the division and the Service.

(3) Within five ~~[working]~~ business days, ~~[raptors]~~ the band from a raptor that ~~[die shall]~~ dies must be presented to a division

representative ~~[to have the band removed. The blue copy of the federal form 3-186A shall be provided to the division.]~~ with the corresponding federal Form 3-186A.

R657-20-23. Feathers.

Feathers that are molted or feathers from raptors held in captivity that die may be retained and exchanged for imping purposes by falconers with a valid ~~[certificate of registration]~~ Falconry Certificate of Registration.

R657-20-24. Certificate of Registration Renewal ~~[Form]~~ and Annual Report Forms.

(1) Resident falconers wishing to renew a valid ~~[certificate of registration]~~ Falconry Certificate of Registration must submit a completed ~~[certificate of registration]~~ Falconry Certificate of Registration renewal form to the division upon or before the expiration date specified on the ~~[certificate of registration]~~ Falconry Certificate of Registration.

(2) Resident falconers holding a valid ~~[certificate of registration]~~ Falconry Certificate of Registration must submit a completed falconry annual report form to the division ~~[upon or before the date specified on the certificate of registration.]~~ by January 31 of each year.

(3) Residents who do not hold a valid ~~[certificate of registration]~~ Falconry Certificate of Registration or do not submit a certificate of registration renewal form by the date specified on the certificate of registration and maintain raptors in possession are in violation of unlawful captivity of protected wildlife under Section 23-13-4.

(4) Any raptor not listed on the falconry annual report or ~~[certificate of registration renewal form]~~ federal Form 3-186A may be seized.

(5) Failure to submit the appropriate records and reports may result in revocation, suspension or denial of a ~~[certificate of registration]~~ Falconry Certificate of Registration or upgrade.

R657-20-25. Inspection of Raptors, Facilities, Certificates of Registration, and Documents.

As a condition of obtaining a ~~[falconry certificate of registration]~~ Falconry Certificate of Registration, the falconer agrees to reasonable administrative inspections of raptors, facilities equipment, appropriate permits, licenses, certificates of registration and forms.

R657-20-26. Taking Raptors from the Wild.

(1) A person may not take any raptor from the wild without first obtaining a ~~[raptor capture permit]~~ Raptor Capture Permit from the division.

(2)(a) A raptor may be taken by traps or nets that are humane in their operation and use.

(b) ~~[Acceptable]~~ Examples of acceptable devices are the bal-chatri, dho-gazza, harness-type, phi trap, and bow net traps.

(c) Trapping devices must be constantly attended while in use.

(d) Protected wildlife may not be used to capture raptors.

R657-20-27. Capture Permits.

(1)~~(a)~~ A person must possess a valid Falconry Certificate of Registration and federal falconry permit prior to obtaining a Raptor Capture Permit.

(2)(a) Prior to capturing or attempting to capture any raptor a falconer must obtain a ~~[falconry certificate of registration, raptor~~

~~capture permit and corresponding federal band]Raptor Capture Permit from a division office.~~

(b) ~~The [raptor capture permit, falconry certificate of registration, and corresponding federal band]Raptor Capture Permit, federal falconry permit and Falconry Certificate of Registration must be in possession while pursuing, capturing or attempting to capture a raptor.~~

~~[(2) Raptor capture permits and federal bands are valid for a single raptor of a species allowed in the falconer's class.](3) An apprentice class Raptor Capture Permit is valid for the passage season capture of:~~

~~[(3) Raptor capture permits may be obtained from division offices.](a) one American Kestrel; or~~

~~[(4) Raptor capture permits and corresponding federal bands](b) one passage Red-tailed Hawk.~~

~~(4) A general or master class Raptor Capture Permit is valid for one eyas or one passage raptor listed in Subsection (10) or (11), respectively in accordance with the restrictions and limitations of this rule.~~

~~(5) Raptor Capture permits are non-transferable and [nonassignable]non-assignable and can only be used by the person specified on the permit. Raptor [capture]Capture permits [and corresponding federal bands]are valid only for the season specified on the permit.~~

~~[(5)(6)(a) Nonresidents wishing to purchase a Raptor Capture Permit and not participating in the sport of falconry in the state are not required to purchase a Utah [falconry certificate of registration or license prior to the purchase of a raptor capture permit.]Falconry Certificate of Registration or license.~~

~~[(6)(b) However, nonresidents must show proof of a valid federal falconry permit and falconry license issued by their state of residency.~~

~~(7) Falconers shall not retain and transport more than one captured raptor per capture permit.~~

~~[(7) Any person who does not capture a raptor must return the unused capture permit to the division within five working days of the season closure.~~

~~[(8) Any person who captures a raptor must have it banded in accordance with Section R657-20-31.~~

~~(9) Capture of eyas raptors is [permitted]allowed only for the following species:~~

- ~~(a) [northern harrier]Northern Harrier, Circus cyaneus;~~
- ~~(b) [sharp-shinned hawk]Sharp-shinned [hawk]Hawk, Accipiter striatus;~~
- ~~(c) Cooper's [hawk]Hawk, Accipiter cooperi;~~
- ~~(d) [northern goshawk]Northern Goshawk, Accipiter gentilis;~~
- ~~(e) Swainson's [hawk]Hawk, Buteo swainsoni;~~
- ~~(f) [red-tailed hawk]Red-tailed [hawk]Hawk, Buteo jamaicensis;~~
- ~~(g) [ferruginous hawk]Ferruginous Hawk, Buteo regalis;~~
- ~~(h) [golden eagle]Golden Eagle, Aquila chrysaetos~~
- ~~(i) American [kestrel]Kestrel, Falco sparverius;~~
- ~~(j) [peregrine falcon]Peregrine Falcon, Falco peregrinus;~~
- ~~(k) [prairie falcon]Prairie Falcon, Falco mexicanus; and~~
- ~~(l) [great horned owl]Great Horned Owl, Bubo virginianus;~~
- ~~(10) Capture of passage raptors is [permitted]allowed only for the following species:~~

- ~~(a) [northern harrier]Northern Harrier, Circus cyaneus;~~
- ~~(b) [sharp-shinned hawk]Sharp-shinned [hawk]Hawk, Accipiter striatus;~~
- ~~(c) Cooper's [hawk]Hawk, Accipiter cooperi;~~
- ~~(d) [northern goshawk]Northern Goshawk, Accipiter gentilis;~~
- ~~(e) Harris's [hawk]Hawk, Parabuteo unicinctus;~~
- ~~(f) Swainson's [hawk]Hawk, Buteo swainsoni;~~

- ~~(g) [red-tailed hawk]Red-tailed [hawk]Hawk, Buteo jamaicensis;~~
- ~~(h) [ferruginous hawk]Ferruginous Hawk, Buteo regalis;~~
- ~~(i) [rough-legged hawk]Rough-legged [hawk]Hawk, Buteo lagopus;~~
- ~~(j) [golden eagle]Golden Eagle, Aquila chrysaetos~~
- ~~(k) American [kestrel]Kestrel, Falco sparverius;~~
- ~~(l) [merlin]Merlin, Falco columbarius;~~
- ~~(m) [gyrfalcon]Gyr Falcon, Falco rusticolus;~~
- ~~(n) [prairie falcon]Prairie Falcon, Falco mexicanus; and~~
- ~~(o) [great horned owl]Great Horned Owl, Bubo virginianus.~~

R657-20-28. Legal Birds.

~~(1)(a) Eyasses may be taken from the wild only by general and master class falconers [from May 13 through July 21, unless the opening day]as provided in Subsections (a) through (d).~~

~~(b) Eyasses, except Great Horned Owls and Peregrine Falcons, may be taken from May 13, unless May 13 is a Sunday, in which case the season [will]shall begin the following day[-] through July 15 and during the third weekend in July.~~

~~(c) Great Horned Owl eyasses may be taken from the wild during the first two Saturdays of April and from May 13, unless May 13 is a Sunday, in which case the season shall begin the following day through July 15 and during the third weekend in July.~~

~~(d) Peregrine Falcon eyasses may be taken in accordance with R657-20-29(4).~~

~~(e) No more than two eyasses may be taken by the same falconer.~~

~~(2) Passage raptors may be taken from the wild only from:~~

~~(a) September 1 through October 31 on weekends and legal holidays, unless September 1 [is and~~

~~(b) November 1 through January 31, unless the opening day] is a Sunday, in which case the season [will]shall begin the following [day-]weekend or legal holiday; and~~

~~[(3) Only American kestrels and great horned owls](b) November 1, unless November 1 is a Sunday, in which case the season shall begin the following day through January 31.~~

~~(3) Only American Kestrels and Great Horned Owls may be taken when over one year of age.~~

~~(4) An eyas may not be taken from a nest containing only a single eyas.~~

~~(5) One or more eyasses [shall]must be left in a nest from which any eyas has been removed.~~

~~(6) The date of capture, sex of raptor, and the location of the capture must be recorded precisely, to within 100 meters, on the Raptor Capture Permit. Precise nest locations will be held for use by the division and not made available to the public.~~

~~(7)(a) The division falconry coordinator shall determine on an annual basis the number of capture permits issued for the taking of eyas raptors listed on Utah's current sensitive species list.~~

~~[(b) The list will be available on February 1 of each year.](b) Notice of any limitations on the number of eyas capture permits for sensitive raptors shall be made by February 7 of each year.~~

~~[(7) Locations of nests from which an eyas is removed must be recorded precisely on the Raptor Capture Permit. Such information will be held strictly for use by the division and not made available to the public.](c) Application procedures for taking sensitive raptor species limited by the falconry coordinator are provided in Section R657-20-41.~~

R657-20-29. Resident - Legal Birds by Class Designation.

~~(1)(a) An apprentice class falconer may [take from the wild and-]possess only one American [kestrel or one red-tailed~~

~~hawk.]Kestrel or one Red-tailed Hawk in accordance with Section R657-20-6, Apprentice Class Falconer.~~

(b) Only first-year ~~[red-]Red-tailed [hawks]Hawks~~ may be taken, while ~~[American kestrels that are one year of age or older]~~ first-year or older American Kestrels may be taken.

(c) Eyasses may not be taken.

(2) A general class falconer may not possess more than two raptors and may not obtain more than two raptors taken from the wild for replacement birds during a 12-month period.

(3) A master class falconer may not possess more than three raptors and may not obtain more than ~~[three]two~~ raptors taken from the wild for replacement birds during a 12-month period, except ~~[golden eagles.]Golden Eagles.~~

~~[(4) If necessary, a drawing will be held for taking eyas birds listed as Utah's sensitive species that have more applicants than available permits.](4) A resident general or master class falconer may apply each year to take one eyas Peregrine Falcon, Falco peregrinus, from the wild on the first two Saturdays of May and from May 13, unless May 13 is a Sunday, in which case the season will begin the following day through June 30.~~

~~(5)(a) Any resident general or master class falconer may apply each year to take one passage Peregrine Falcon from the wild from:~~

~~(i) September 1 through October 31 on weekends and legal holidays, unless September 1 is a Sunday, in which case the season shall begin the following weekend or legal holiday; and~~

~~(ii) November 1, unless November 1 is a Sunday, in which case the season will begin the following day through November 30.~~

~~(b) Any captured Peregrine Falcon banded with a Bird Banding Laboratory band (numbered aluminum) must be released immediately.~~

~~(c) The band number, date of trapping, and precise location, within 100 meters, of the banded falcon must be reported to the falconry coordinator as soon as possible.~~

~~(d) Passage take of Peregrine Falcons will not be allowed unless approved by the Service.~~

~~(e) Application procedures for taking eyas or passage Peregrine Falcons are provided in Section R657-20-41.~~

~~(6)(a) The number of resident permits issued annually for the taking of eyas Peregrine Falcons may not exceed 10; and~~

~~(b) take is limited to Beaver, Iron, Washington, Piute, Wayne, Garfield, Kane, and San Juan counties and the area south of Interstate 70 in Grand, Emery and Sevier counties.~~

~~(c) In addition to following the requirements provided in Section R657-20-28(4) through R657-20-28(6), a falconer taking or attempting to take an eyas Peregrine Falcon must abide by the following:~~

~~(i) an eyas may not be removed from its nests prior to 10 days of age;~~

~~(ii) nests may not be entered when young are 28 days or more of age;~~

~~(iii) recently fledged young may be trapped within 100 meters of the nest;~~

~~(iv) three plucked breast feathers from any captured eyas must be presented to the division within five business days of capture.~~

~~(7) The number of resident and nonresident permits issued annually for the take of passage Peregrine Falcons may not exceed that number set by the Service.~~

R657-20-30. Nonresident- Legal Birds by Class Designation.

(1)(a) A nonresident general or master class falconer may apply each year to take [-

~~(a)]one eyas from the wild [from May 13 through July 21, unless the opening day is a Sunday, in which case the season will begin the following day; or]pursuant to R657-20-28.~~

~~[(b)](b) Any nonresident general or master class falconer may apply each year to take one passage bird from the wild [from:]pursuant to R657-20-28.~~

~~[(i) September 1 through October 31 on weekends and legal holidays; and~~

~~(ii) November 1 through January 31, unless the opening day is a Sunday, in which case the season will begin the following day.~~

~~(2) Application forms are provided by the division and must include:~~

~~(a) a copy of a valid falconry license issued by the state of residency indicating the falconry class designation; and~~

~~(b) a cashier's check or money order for the appropriate fees.~~

~~(3)(a) Applications for taking an eyas must be received through the mail by 5:00 p.m. on the last Friday of February.~~

~~(b) If necessary, a drawing will be held for those species that have more applicants than available permits.~~

~~(c) Remaining permits will be available to nonresident falconers on a first come first served basis after the drawing.](2) Application procedures for taking an eyas are provided in Section R657-20-41.~~

(4) The number of nonresident permits issued annually may not exceed the following:

(a) ~~[sharp-]Sharp-shinned [hawk]Hawk~~, Accipiter striatus 10;

(b) Cooper's ~~[hawk]Hawk~~, Accipiter cooperi 20;

(c) ~~[northern goshawk]Northern Goshawk~~, Accipiter gentilis 5;

(d) ~~[red-]Red-tailed [hawk]Hawk~~, Buteo jamaicensis 20;

(e) American ~~[kestrel]Kestrel~~, Falco sparverius 20;

(f) ~~[merlin]Merlin~~, Falco columbarius 10, passage take only;

(g) ~~[gyrfalcon]Gyrfalcon~~, Falco rusticolus 5, passage take only;

(h) ~~[prairie falcon]Prairie Falcon~~, Falco mexicanus 20; and

(i) ~~[great horned owl]Great Horned Owl~~, Bubo virginianus 20;

~~(j) Peregrine Falcon, Falco peregrinus 1, eyas only, in accordance with restrictions set forth in R657-20-29(4), R657-20-29(8)(b) and R657-20-29(8)(c).~~

(5) Nonresidents may not take any other species.

R657-20-31. Banding Raptors.

(1)(a) ~~[Any]A falconer who [removes]has captured a raptor from the wild [for falconry purposes must, upon arriving at the falconer's facilities, attach the federal band to the raptor's leg.]must notify the division by telephone within two business days to receive a federal falconry band.~~

~~[(b) Within five working days of the date of capture,](b) Upon notification, the division shall issue a federal falconry band number to the falconer and mail the federal falconry band to the falconer.~~

(2) Upon receiving the federal falconry band, the falconer must attach the band to the raptor's leg.

(3) Within five business days of notifying the division of the capture, the falconer must submit:

(a) a completed Raptor Capture permit ~~[and]~~, with the precise location of capture within 100 meters; and

(b) the blue copy of the federal ~~[3-186A form must be submitted to the division.]Form 3-186A.~~

~~[(2)](4) A falconer may remove the rear tab on a band and may smooth any imperfect surface, provided the integrity of the band and numbering are not affected.~~

~~[(3)(a)](5)(a)~~ A person may not remove, transfer, alter, counterfeit, or deface a raptor band, except a—
~~(b) A~~ band that is causing damage to a raptor may be removed only if the band is affecting the health or safety of the raptor.

~~(e)(b)~~ The raptor must be presented to a division representative and a replacement band placed on the raptor's other leg. Banding is by appointment only.

~~(d)(c)~~ The detached band must be surrendered to the division at the time of ~~marking~~ re-banding.

~~(4)(6)~~ The division must be notified of any raptor acquired or brought into the state on a permanent basis without a band. The raptor must be presented to a division representative for banding.

~~(5) A permanent Bird Banding Laboratory band shall be placed on any raptor by a division representative prior to release.~~

R657-20-32. Recovery and Capture of Banded Raptors.

(1) ~~A banded raptor.~~ An escaped raptor banded with a federal falconry band may be recovered at any time.

(2) Notification of recovery must be made to a division representative followed with a written notice within five ~~working~~ business days.

(3) The division requires notification of the capture date and precise location, within 100 meters, of any raptor marked with a Bird Banding Laboratory band.

~~R657-20-33. Organized Events.~~

~~Any raptor brought into the state must be accompanied by a valid health certificate from the state of origin.~~

~~R657-20-34~~R657-20-33. Meets or Trials.

(1) A nonresident entering Utah to participate in the sport of falconry at an organized meet ~~or trial~~ must first obtain a nonresident falconry meet license.

~~(a)~~ A falconry meet license may be obtained by completing an application and submitting the application and appropriate fees to the division ~~it to the division.~~

~~(b) The application must include:~~

~~(i) a valid health certificate from the state of origin; and~~

~~(ii) the appropriate fees.~~

(3) The falconry meet license is valid only for nonresidents and only for five consecutive days as designated on the license.

(4) The holder of a nonresident falconry meet license may engage in the sport of falconry on protected wildlife during the specified five-day period in accordance with the applicable proclamations of the Wildlife Board.

(5) A nonresident participating in an organized meet for more than five consecutive days must obtain appropriate licenses, permits, tags, and stamps as provided in the proclamations of the Wildlife Board if protected wildlife is pursued.

~~(a)~~ A falconry meet license is not required for participation in a falconry trial.

~~(a)~~ An organizer of a falconry meet ~~or trial~~ must obtain prior approval from the Wildlife Board to conduct the falconry meet ~~or trial~~.

~~(b)~~ An organizer of a falconry trial must obtain landowner permission and prior approval from the division to conduct the falconry trial.

~~(c)~~ A falconry meet or trial may not be held on state waterfowl and wildlife management areas from April 1 through August 15, except in those areas approved by the division.

R657-20-~~35~~34. Use of Propagated Game Birds for Meets and Trials.

~~(4)~~ A person may hold a meet or trial or may train a raptor using legally propagated and acquired game birds under the following provisions:

~~(a)~~ (1) The promoter of a meet or trial or a person training a raptor must have an invoice in his possession showing lawful possession of the game birds.

~~(b)~~ (2) Each game bird must be marked before release with a band purchased from the division. A band must remain attached to each game bird until the game bird is consumed. A person may not use the same band on more than one game bird.

~~(c)~~ (3) Once a released game bird escapes the raptor it is considered wild and may not again be pursued, except during the open season for that species as specified in the applicable proclamations of the Wildlife Board.

~~(d)~~ (4) A person may not possess a live game bird for more than 60 calendar days without first obtaining an ~~aviculture certificate of registration~~ Aviculture Certificate of Registration.

R657-20-~~36~~35. Certificates of Registration, Licenses, Permits, and Stamps.

(1) A person must possess a valid federal permit and a valid ~~state falconry certificate of registration~~ Falconry Certificate of Registration or license from ~~their~~ that person's state of residency while engaging in falconry.

(2) The ~~falconry certificate of registration~~ Falconry Certificate of Registration or license allows the person to use a raptor to take coyote, field mouse, gopher, ground squirrel, jackrabbit, muskrat, raccoon, European ~~starling, house sparrow~~ Starling, House Sparrow, and rock dove/feral pigeon.

(3) A falconer releasing a raptor on protected wildlife, not held in private ownership, ~~shall~~ must obtain the appropriate licenses, permits, tags, certificates of registration and stamps as provided in the applicable rules and proclamations of the Wildlife Board.

(4) A federal waterfowl stamp is required of a person 16 years of age or older to hunt migratory waterfowl.

R657-20-~~37~~36. Seasons and Bag and Possession Limits.

(1) The hunting of:

(a) upland game shall be done in accordance with the rule and proclamation of the Wildlife Board for taking upland game species.

(b) waterfowl, Wilson's snipe, and coot shall be done in accordance with the rule and proclamation of the Wildlife Board for taking those species.

(c) ~~mourning dove~~ Mourning Dove and ~~band~~ Band-tailed ~~pigeon~~ Pigeon shall be done in accordance with the rules and proclamations of the Wildlife Board for those species.

(2) Bag and possession limits do not apply to coyote, field mouse, gopher, ground squirrel, jackrabbit, muskrat, raccoon, European ~~starling, house sparrow~~ Starling, House Sparrow, and rock dove/feral pigeon.

(3) Nothing in this rule shall be construed to allow the intentional taking of protected wildlife in violation of federal or state laws, rules, regulations, or proclamations.

R657-20-~~38~~37. Training.

Raptor training is not allowed on state waterfowl and wildlife management areas from April 1 through August 15, unless otherwise authorized.

R657-20-~~39~~38. Firearms.

A person may not possess a firearm while pursuing any quarry with a raptor, unless the person is licensed to carry a concealed weapon in accordance with Title 53, Chapter 5, Part 7 of the Utah Code and is not utilizing the concealed weapon to hunt or take wildlife.

~~R657-20-40~~R657-20-39. Other Uses of Raptors.

(1)~~]-A person~~(a) A general or master class falconer who possesses a raptor for falconry purposes is not required to obtain ~~[a]an education~~ certificate of registration to use the raptor for educational purposes provided money or consideration is not involved.

(2)(a) An apprentice falconer who possesses a raptor for falconry purposes is required to obtain an education certificate of registration to use the raptor for educational purposes.

(b) The division will provide the education certificate of registration at no cost provided money or consideration is not involved.

~~(2)~~(3) A person who possesses a raptor for any purpose other than falconry, including raptor propagation, educational uses, and rehabilitation, shall obtain the appropriate authorization from the division as provided in Rule R657-3 and the appropriate authorization from the Service.

R657-20-40. Application Procedures and Drawings for Capture of Peregrine Falcons, Sensitive Raptors, and Nonresident Legal Birds.

(1) Applications for Raptor Capture Permits must be made for:

- (a) Peregrine Falcons;
- (b) sensitive raptor species limited by the falconry coordinator pursuant to Section R657-20-28(7), and;
- (c) nonresident legal birds.

(2) Application forms are provided by the division.

(3) An applicant must submit a complete and accurate application with:

(a) a copy of their valid Falconry Certificate of Registration or valid license from their state of residency, indicating the falconry class designation;

(b) a copy of their valid federal permit, indicating the falconry class designation; and

(c) the application handling fee.

(4)(a) Applications for taking an eyas raptor must be received through the mail by 5 p.m. on the last Friday of February.

(b) Applications for taking a passage raptor must be received through the mail by 5 p.m. on the last Friday of June.

(5)(a) If necessary, a drawing will be held for those species that have more applicants than available permits.

(b) Remaining permits will be available to falconers of the appropriate class and residency on a first-come first-served basis after the drawing.

KEY: wildlife, birds, falconry*

~~November 1, 2001~~2002

Notice of Continuation June 16, 1997

23-17-7

50 CFR 21



Natural Resources, Wildlife Resources

R657-50

Error Remedy Rule

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE No.: 24534

FILED: 03/01/2002, 14:02

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule replaces the Division of Wildlife Resources (DWR) policy, W4FM-8, Error Policy. This error policy authorized certain actions to be taken, that may provide a material benefit to a class of persons, which is authorized by statute. Therefore, this rule is being filed to provide guidelines for identifying and resolving errors resulting in the: (a) rejection of a license, permit, tag, or Certificate of Registration (COR) application; (b) denial of a license, permit, tag, or COR; or (c) incorrect issuance of a license, permit, tag, or COR. This rule also provides the standards and procedures in the identification and resolution of division errors, third-party errors, and petitioner errors.

SUMMARY OF THE RULE OR CHANGE: DWR receives hundreds of thousands of applications and issues tens of thousands of wildlife documents each year through a variety of distribution methods, including drawings, over-the-counter sales, license agent sales, etc. The application procedures and eligibility requirements for wildlife documents are set forth in Utah Code, Title 23, and Utah Administrative Code R657. The public is required to comply with these procedures and requirements in obtaining wildlife documents. DWR recognizes, however, that errors will be made by DWR and others in processing and issuing wildlife documents; therefore, this rule is needed for evaluation, identification, and resolution of errors. First, this rule provides provisions for DWR to notify applicants of rejection status for wildlife document applications completed incorrectly as provided under the applicable application correction procedures set forth in the respective statutes and rules. In addition, DWR may use the data on file to correct rejection status applications. Ultimately, however, it is the responsibility of the applicant to provide all necessary information as required on the application. Second, this rule provides that DWR may mitigate DWR and third-party errors in issuing wildlife documents by extending a deadline, issuing a fee refund, issuing the correct wildlife document, or authorizing an incorrectly issued wildlife document. All mitigation efforts shall be subject to DWR's determination that the petitioner will not receive an unfair benefit from the mitigation. DWR may not mitigate errors caused in whole or part by the petitioner's knowing violation of statute or rule. The rule applies only to those errors adversely affecting a petitioner that cannot be remedied through compliance with existing processes and procedures set in statute or rule. Last, this rule provides that DWR may refund any fee collected in error in accordance with Section 23-19-38.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 23-14-18, 23-19-1, and 23-19-38

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: This rule provides guidelines for identifying and resolving errors resulting in the: (a) rejection of a license, permit, tag, or COR application; (b) denial of a license, permit, tag, or COR; or (c) incorrect issuance of a license, permit, tag, or COR. This rule also provides the standards and procedures in the identification and resolution of division errors, third-party errors, and petitioner errors. This rule also provides the standards and procedures for DWR to issue a refund for any fee collected in error, which creates a cost impact to DWR. DWR has estimated an average cost to the DWR based on past refunds issued for fees collected in error. That cost is an average of \$4,000 per year.

❖ LOCAL GOVERNMENTS: None--This rule does not create any direct cost or savings impact to local governments because they are not directly affected by the rule. Nor are local governments indirectly impacted because the rule does not create a situation requiring services from local governments.

❖ OTHER PERSONS: This rule provides guidelines for identifying and resolving errors resulting in the: (a) rejection of a license, permit, tag, or COR application; (b) denial of a license, permit, tag, or COR; or (c) incorrect issuance of a license, permit, tag, or COR. This rule also provides the standards and procedures in the identification and resolution of division errors, third-party errors, and petitioner errors. The rule does not impose any additional requirements on other persons, nor generate a cost or savings impact to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule provides guidelines for identifying and resolving errors resulting in the: (a) rejection of a license, permit, tag, or COR application; (b) denial of a license, permit, tag, or COR; or (c) incorrect issuance of a license, permit, tag, or COR. This rule also provides the standards and procedures in the identification and resolution of division errors, third-party errors, and petitioner errors. There may be a minimal cost to the petitioner to provide documentation to DWR on third-party, or petitioner errors. However, the actual cost is unknown and may vary for each petitioner. DWR determines that there are no additional compliance costs associated with this rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule does not create an impact on businesses.

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

NATURAL RESOURCES
WILDLIFE RESOURCES
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Debbie Sundell at the above address, by phone at 801-538-4707, by FAX at 801-538-4745, or by Internet E-mail at dsundell.nrdwr@state.ut.us

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 04/15/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 04/16/2002

AUTHORIZED BY: Kevin Conway, Assistant Director

R657. Natural Resources, Wildlife Resources.

R657-50. Error Remedy Rule.

R657-50-1. Purpose and Authority.

(1) Under the authority of Sections 23-14-19, 23-19-1, and 23-19-38 this rule is established to provide guidelines for identifying and resolving errors resulting in the:

(a) rejection of a license, permit, tag, or Certificate of Registration (COR) application;

(b) denial of a license, permit, tag, or COR; or

(c) incorrect issuance of a license, permit, tag or COR.

(2) This rule provides standards and procedures in the identification and resolution of division errors, third party errors and petitioner errors.

R657-50-2. Policy.

(1)(a) The Division receives hundreds of thousands of applications and issues tens of thousands of wildlife documents each year through a variety of distribution methods, including:

(i) drawings;

(ii) over-the-counter sales;

(iii) license agent sales; and

(iv) online sales.

(b) The application procedures and eligibility requirements for wildlife documents are set forth in Utah Code, Title 23, and Utah Administrative Code Rules, Title R657.

(c) The public must comply with the procedures and requirements set forth in the statutes and rules identified in Subsection (1)(b).

(d) The Division recognizes, however, that errors may be made by the Division in processing and issuing wildlife documents. Therefore, procedures are needed for evaluation, identification and resolution of errors.

(2)(a) The Division may notify petitioners of rejection status for wildlife document applications completed incorrectly as provided under the applicable application correction procedures set forth in the respective statutes and rules identified in Subsection (1)(b).

(b) The Division may use the data on file to correct rejection status applications. Ultimately, however, it is the responsibility of the petitioner to provide all necessary information as required on the application.

(3)(a) The Division may mitigate division and third party errors when issuing wildlife documents by:

(i) extending a deadline;

(ii) issuing a refund on an erroneously collected fee;

(iii) issuing the correct wildlife document; or

(iv) authorizing an incorrectly issued wildlife document.

(b) Any mitigation efforts shall be subject to the Division's determination that the petitioner shall not receive an unfair benefit from the mitigation.

(c) The Division may not mitigate errors caused in whole or part by the petitioner's knowing violation of statute, rule or proclamation.

(d) This rule applies only to errors adversely affecting a petitioner that cannot be remedied through compliance with existing processes and procedures set in statute, rule or proclamation.

(e) The Division may refund any fee collected in error.

R657-50-3. Definitions.

(1) Terms used in this rule are defined in Section 23-13-2, and the applicable rules as provided in Section R657-50-1(b).

(2) In addition:

(a)(i) "Division error" means the Division or one of its license agents erroneously:

(A) provides information to the petitioner, which the petitioner relied upon to their detriment in obtaining, or attempting to obtain a wildlife document;

(B) rejects a properly completed and accurate wildlife document application;

(C) incorrectly issues a wildlife document; or

(D) incorrectly denies issuing a wildlife document.

(ii) "Division error" does not include any error made by the Division or its agents acting in reliance upon inaccurate information provided by the petitioner or any other individual acting in the petitioner's behalf.

(b) "Error Committee" means a committee established by the Director consisting of the Wildlife Chief, Public Services Chief, and Licensing Coordinator, or their designees, to:

(i) review complaints of errors on applications, permits, and fees;

(ii) determine facts;

(iii) apply the provisions of this rule; and

(iv) recommend resolutions to the Director's Office or Wildlife Board.

(c) "Petitioner" means the person directly impacted by an error adversely affecting the opportunity to obtain or use a wildlife document.

(d) "Petitioner error" means the petitioner did not comply with the procedures and requirements to apply for or obtain a wildlife document. Petitioner error includes errors made by a person acting on the petitioner's behalf.

(e) "Rejection status" means the application will not be considered for a wildlife document due to:

(i) a petitioner error on the application;

(ii) the application lacking required information; or

(iii) the petitioner does not meet a specific requirement.

(f) "Third party error" means the petitioner has satisfied the procedures and requirements for obtaining a wildlife document, but the opportunity is lost due to an error by mail carrier services or financial institutions.

(g) "Wildlife document" means any license, permit, tag, or certificate of registration issued by the Division.

R657-50-4. Division Error Procedures.

(1) A Division error, which results in the rejection or incorrect processing of an application to obtain a wildlife document through a drawing, may be handled as provided in Subsections (a) through (d).

(a) If the drawing has not been held, the Division may extend the application deadline and evaluate the application as though filed timely.

(b) If the drawing is over and the wildlife document applied for is available, the Division may issue the wildlife document.

(c) If the drawing is over and the wildlife document applied for is not available, the Division must follow the procedures set forth in Subsection (6).

(d) If an application is for one or more persons applying as a group, the Division may treat the remaining members of the group the same as the petitioner.

(2) A Division error, which results in an application denial for wildlife documents other than those issued through a drawing, may be resolved by extending the application deadline and evaluating the application as though filed timely.

(3) A Division error, which results in an impermissible surrender or exchange of a wildlife document may be resolved by extending the deadline necessary to validate the surrender or exchange, provided:

(a) the petitioner has not participated in the activity authorized by the surrendered wildlife document; and

(b) the petitioner shall be substantially prejudiced if relief under this section is not granted.

(4) A Division error, which results in the improper denial of a wildlife document, may be resolved as provided in Subsections (a) through (b).

(a) If the wildlife document erroneously denied is available, the Division may issue the wildlife document.

(b) If the wildlife document erroneously denied is not available, the Division must follow the procedures set forth in Subsection (6).

(5) A Division error, which results in the erroneous issuance of a wildlife document may be resolved as provided in Subsections (a) through (b).

(a) If the wildlife document requested by the petitioner prior to or at the time of the error is currently available, the Division may issue the wildlife document.

(b) If the wildlife document requested by the petitioner prior to or at the time of the error is currently not available, the Division must follow the procedures set forth in Subsection (6).

(6) Procedures for issuing wildlife documents otherwise unavailable for distribution are as follows:

(a) If the petitioner would have received a wildlife document absent an error, or if the petitioner received a wildlife document because of an error, the Division shall determine if an additional wildlife document beyond the applicable quota may be issued without detriment to the particular wildlife species in a specific hunt area.

(i) If issuing the additional wildlife document is not detrimental to the species in the hunt area, the Division may issue the wildlife document, except as provided in Subsection (A).

(A) Only the Wildlife Board may approve issuing an additional permit for a once-in-a-lifetime hunt.

(B) Additional Cooperative Wildlife Management Unit permits may not be issued.

(ii) If a wildlife document cannot be issued, the petitioner may be placed at the top of the alternate drawing list.

(iii) If a wildlife document is not issued under Subsection (i) or (ii), the Division may issue a bonus point or preference point, whichever is applicable.

(iv) If a bonus point or preference point does not apply, the Division may issue a refund of the wildlife document and handling fee.

(b) If the petitioner would not have received a wildlife document in a drawing, absent an error, the Division may issue a bonus point or preference point, where applicable.

(c) If the wildlife document was applied for through a Division drawing and the hunting season for that wildlife document is over, the Division may:

(i) issue a bonus point or preference point for which the application was submitted, where applicable; or

(ii) issue a refund of the wildlife document and handling fee where bonus points or preference points do not apply.

R657-50-5. Third Party Errors.

(1) The Division shall not be held responsible for third party errors, including those of a financial institution or postal service, however, the Division may mitigate a third party error as provided under this section.

(2)(a) The petitioner must:

(i) provide proof to the satisfaction of the Division that the error was due to a third party; and

(ii) provide written documentation from the third party verifying the error.

(b) If the petitioner cannot prove to the satisfaction of the Division that the error was due to a third party, no mitigating action will be taken.

(3) Third party errors which result in the rejection or incorrect processing of an application to obtain a wildlife document through a drawing shall be handled as provided in Subsections (a) through (c).

(a) If the error is found prior to the drawing and there is sufficient time to complete the processing of the application before the drawing for which the application was submitted, the application shall be included in the drawing as though filed timely.

(b) If the error is found after the drawing and the petitioner's application is rejected because of the error, or the petitioner otherwise fails to obtain the wildlife document applied for, the Division may issue a bonus point or preference point for the hunt applied for, where applicable.

(c) A refund of handling fees shall not be made for third party errors.

(4) A third party error, which results in a rejected application for a wildlife document issued outside of a drawing process, may be handled by extending the application deadline and evaluating the application as though filed timely.

(5) If an application is for one or more persons applying as a group, the Division may treat the remaining members of the group the same as the petitioner.

R657-50-6. Petitioner Errors.

A petitioner error will not be corrected, except as provided in the applicable proclamations and rules under the Utah Administrative Code, Title R657.

R657-50-7. Limitations.

An error may be reviewed at any time, but a wildlife document may not be issued or exchanged after the season closure for the activity authorized by the particular wildlife document.

R657-50-8. Error Committee.

Any relief granted and decisions made pursuant to this rule shall be reviewed and approved by the Error Committee and is subject to review by the Division Director.

KEY: wildlife, permits

2002

23-14-19

23-19-1

23-19-38



Regents (Board Of), University of Utah,
Parking and Transportation Services

R810-2

Parking Meters

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 24505

FILED: 02/25/2002, 10:30

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To indicate an exception for some parking meter enforcement hours.

SUMMARY OF THE RULE OR CHANGE: Indicates that some meters are enforced from 9:00 a.m. to 10:00 p.m. Monday through Friday (9 meters) versus 8:00 a.m. to 6:00 p.m. Monday through Friday on most of the campus.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 53B-3-103 and 53B-3-107

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: None--This department is an auxiliary service of the University of Utah and is self-funded. The revenue for FY01 was \$309,916.

❖ LOCAL GOVERNMENTS: None--This department is an auxiliary service of the University of Utah and does not effect local government.

❖ OTHER PERSONS: Meter fees are \$0.75/hour with meters providing either 35 minutes, 1 hour, or 2 hours. Load zone meters are free for the first 20 minutes. An additional 10 minutes may be purchased for \$0.25.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Meter fees are \$0.75/hour with meters providing either 35 minutes, 1 hour, or 2 hours. Load zone meters are free for the first 20 minutes. An additional 10 minutes may be purchased for \$0.25.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No effect on business.

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

REGENTS (BOARD OF)
UNIVERSITY OF UTAH,
PARKING AND TRANSPORTATION SERVICES
Room 101
1910 E RESEARCH RD
SALT LAKE CITY UT 84112-0436, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

John Crawford at the above address, by phone at 801-585-6941, by FAX at 801-581-4056, or by Internet E-mail at john@parking.utah.edu

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 04/15/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 04/16/2002

AUTHORIZED BY: John Crawford, Office Operations Manager

R810. Regents (Board of), University of Utah, Parking and Transportation Services.

R810-2. Parking Meters.

R810-2-1. Parking Meters.

Payment for the use of meters is required whether or not the vehicle displays a current University permit.

Parking at a broken meter is restricted to the time shown on the meter. Violators will be ticketed. Enforcement hours for University parking meters are 8 a.m. to 6 p.m. Monday through Friday, or from 9:00 a.m. to 10:00 p.m. Monday through Friday where posted.

KEY: parking facilities

~~1992~~2002

Notice of Continuation March 6, 1997

53B-3-103

53B-3-107



Tax Commission, Auditing

R865-9I-37

Enterprise Zone Individual Income Tax Credits Pursuant to Utah Code Ann Sections 9-2-401 through 9-2-414

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 24518

FILED: 02/27/2002, 14:17

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Sections 9-2-401 through 9-2-414 provide various tax credits for business firms that operate in a designated enterprise zone and meet specific conditions.

SUMMARY OF THE RULE OR CHANGE: Proposed amendment deletes all reference to "unitary group" since that concept has no application to individual income tax.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 9-2-401 through 9-2-414

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: None--Proposed amendment deletes language that has no relevance to individual income tax.
- ❖ LOCAL GOVERNMENTS: None--Proposed amendment deletes language that has no relevance to individual income tax.
- ❖ OTHER PERSONS: None--Proposed amendment deletes language that has no relevance to individual income tax.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--Deleted language has no relevance to individual income tax.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be no fiscal impact on businesses as a result of this rule change.

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

TAX COMMISSION

AUDITING

210 N 1950 W

SALT LAKE CITY UT 84134, or

at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Cheryl Lee at the above address, by phone at 801-297-3900, by FAX at 801-297-3919, or by Internet E-mail at clee@tax.state.ut.us

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 04/15/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 04/16/2002

AUTHORIZED BY: Pam Hendrickson, Commissioner

R865. Tax Commission, Auditing.

R865-9I. Income Tax.

R865-9I-37. Enterprise Zone Individual Income Tax Credits Pursuant to Utah Code Ann. Sections 9-2-401 through 9-2-414.

A. Definitions:

1. "Business engaged in retail trade" means a business that makes a retail sale as defined in Section 59-12-102.

2. "Construction work" does not include facility maintenance or repair work.

3. "Employee" means a person who qualifies as an employee under Internal Revenue Service Regulation 26 CFR 31.3401(c)(1).

4. "Public utilities business" means a public utility under Section 54-2-1.

~~[5. "Qualifying investment" does not include an investment made by a member of a unitary group in plant, equipment, or other depreciable property of another member of that unitary group.~~

—6.]5. "Transfer" pursuant to Section 9-2-411, means the relocation of assets and operations of a business, including personnel, plant, property, and equipment.

~~[7. "Unitary group" is as defined in Section 59-7-101.~~

] B. For purposes of the investment tax credit, an investment is a qualifying investment if:

1. The plant, equipment, or other depreciable property for which the credit is taken is located within the boundaries of the enterprise zone.

2. The plant, equipment, or other depreciable property for which the investment tax credit is taken is in a business that is operational within the enterprise zone.

C. The calculation of the number of full-time positions for purposes of the credits allowed under Section 9-2-413(1)(a) through (d) shall be based on the average number of employees reported to the Department of Workforce Services for the four quarters prior to the area's designation as an enterprise zone.

D. To determine whether at least 51 percent of the business firm's employees reside in the county in which the enterprise zone is located, the business firm shall consider every employee reported to the Department of Workforce Services for the tax year for which an enterprise zone credit is sought.

E. A business firm that conducts non-retail operations and is engaged in retail trade qualifies for the credits under Section 9-2-413 if the retail trade operations constitute a de minimis portion of the business firm's total operations.

F. An employee whose duties include both non-construction work and construction work does not perform a construction job if the construction work performed by the employee constitutes a de minimis portion of the employee's total duties.

G. Records and supporting documentation shall be maintained for three years after the date any returns are filed to support the credits taken. For example: If credits are originally taken in 1988 and unused portions are carried forward to 1992, records to support the original credits taken in 1988 must be maintained for three years after the date the 1992 return is filed.

H. If an enterprise zone designation is revoked prior to the expiration of the period for which it was designated, only tax credits earned prior to the loss of that designation will be allowed.

**KEY: historic preservation, income tax, tax returns, enterprise zones
2002**

**Notice of Continuation May 22, 1997
9-2-401 through 9-2-414**



End of the Notices of Proposed Rules Section

NOTICES OF CHANGES IN PROPOSED RULES

After an agency has published a PROPOSED RULE in the *Utah State Bulletin*, it may receive public comment that requires the PROPOSED RULE to be altered before it goes into effect. A CHANGE IN PROPOSED RULE allows an agency to respond to comments it receives.

As with a PROPOSED RULE, a CHANGE IN PROPOSED RULE is preceded by a RULE ANALYSIS. This analysis provides summary information about the CHANGE IN PROPOSED RULE including the name of a contact person, anticipated cost impact of the rule, and legal cross-references.

Following the RULE ANALYSIS, the text of the CHANGE IN PROPOSED RULE is usually printed. The text shows only those changes made since the PROPOSED RULE was published in an earlier edition of the *Utah State Bulletin*. Additions made to the rule appear underlined (e.g., example). Deletions made to the rule appear struck out with brackets surrounding them (e.g., [example]). A row of dots in the text (.) indicates that unaffected text was removed to conserve space. If a CHANGE IN PROPOSED RULE is too long to print, the Division of Administrative Rules will include only the RULE ANALYSIS. A copy of rules that are too long to print is available from the agency or from the Division of Administrative Rules.

While a CHANGE IN PROPOSED RULE does not have a formal comment period, there is a 30-day waiting period during which interested parties may submit comments. The 30-day waiting period for CHANGES IN PROPOSED RULES published in this issue of the *Utah State Bulletin* ends April 15, 2002. At its option, the agency may hold public hearings.

From the end of the waiting period through July 13, 2002, the agency may notify the Division of Administrative Rules that it wants to make the CHANGE IN PROPOSED RULE effective. When an agency submits a NOTICE OF EFFECTIVE DATE for a CHANGE IN PROPOSED RULE, the PROPOSED RULE as amended by the CHANGE IN PROPOSED RULE becomes the effective rule. The agency sets the effective date. The date may be no fewer than 30 days nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file another CHANGE IN PROPOSED RULE in response to additional comments received. If the Division of Administrative Rules does not receive a NOTICE OF EFFECTIVE DATE or another CHANGE IN PROPOSED RULE, the CHANGE IN PROPOSED RULE filing, along with its associated PROPOSED RULE, lapses and the agency must start the process over.

CHANGES IN PROPOSED RULES are governed by *Utah Code* Section 63-46a-6 (2001); and *Utah Administrative Code* Rule R15-2, and Sections R15-4-3, R15-4-5, R15-4-7, and R15-4-9.

The Changes in Proposed Rules Begin on the Following Page.

Insurance, Administration
R590-148
Long-Term Care Insurance Rule

NOTICE OF CHANGE IN PROPOSED RULE

DAR File No.: 24237
 Filed: 02/28/2002, 13:47

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being updated as a result of comments received during the last comment period.

SUMMARY OF THE RULE OR CHANGE: Changes to the rule include: delayed the effective date of the rule from January 1, 2002, to July 1, 2002; moved three sections; removed the requirement to file advertising, except in the case of a request from the commissioner; added actuarial disclosure of averages from the National Association of Insurance Commissioners'(NAIC) model regulation language; and added a reporting form from the NAIC model dealing with a report already required by the rule. (DAR NOTE: This change in proposed rule has been filed to make additional changes to a proposed repeal and reenact that was published in the December 1, 2001, issue of the Utah State Bulletin, on page 60. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the change in proposed rule and the proposed repeal and reenact together to understand all of the changes that will be enforceable should the agency make this rule effective.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 31A-2-201 and 31A-22-1404

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: Table I, Notice to Applicant Regarding Replacement of Individual Accident and Sickness or Long-Term Care Insurance; Table II, Notice to Applicant Regarding Replacement of Accident and Sickness or Long-Term Care Insurance; Table III, Triggers for a Substantial Premium Increase; Table IV, Long-Term Care Insurance Outline of Coverage; Appendix A, Rescission Reporting Form; Appendix B, Long-Term Care Insurance Personal Worksheet; Appendix C, Things You Should Know Before You Buy Long-Term Care Insurance; Appendix D, Long-Term Care Insurance Suitability Letter; Appendix E, Claims Denial Reporting Form Long-Term Care Insurance; Appendix F, Worksheet Potential Rate Increase Disclosure Form; and Appendix G, Replacement and Lapse Reporting Form

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: These code changes will reduce the number of filings by one for those companies marketing long-term care coverage. A filing cost \$20 per form. Currently there are 54 companies offering long-term care coverage.
- ❖ LOCAL GOVERNMENTS: Since local government has no

regulatory authority over insurance companies regarding these changes, they will not be impacted by them.

❖ OTHER PERSONS: The 54 insurers offering long-term care will experience a savings of \$20 due to reduced number of filings required by the department.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The 54 insurers offering long-term care will experience a savings of \$20 due to reduced number of filings required by the department.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The impact will be insignificant with just the elimination of the filings for advertising.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 04/15/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 04/16/2002

AUTHORIZED BY: Jilene Whitby, Information Specialist

R590. Insurance, Administration.
R590-148. Long-Term Care Insurance Rule.
R590-148-1. Authority.

This rule is issued pursuant to the authority vested in the commissioner under Sections 31A-2-201 and 31A-22-1404.

R590-148-2. Purpose.

The purpose of this rule is to implement standards for full and fair disclosure of the manner, content, and required disclosures for long-term care insurance to promote the public interest, to promote the availability of long-term care insurance coverage, to protect applicants for long-term care insurance, as defined, from unfair or deceptive sales enrollment practices, to facilitate public understanding and comparison of long-term care insurance coverages, and to facilitate flexibility and innovation in the development of long-term care insurance.

R590-148-3. Applicability and Scope.

Except as otherwise specifically provided, this rule applies to all long-term care insurance, as defined in 31A-1-301, delivered or issued for delivery in this state on or after January 1, 1993, by insurers; fraternal benefit societies; nonprofit health, hospital and

medical service corporations; prepaid health plans; health maintenance organizations and all similar organizations.

Additionally, this rule is intended to apply to policies having indemnity benefits that are triggered by activities of daily living and sold as disability income insurance, if:

(1) The benefits of the disability income policy are dependent upon or vary in amount based on the receipt of long-term care services;

(2) The disability income policy is advertised, marketed or offered as insurance for long-term care services; or

(3) Benefits under the policy may commence after the policyholder has reached Social Security's normal retirement age unless benefits are designed to replace lost income or pay for specific expenses other than long-term care services.

R590-148-4. Incorporation by Reference.

The following tables and appendices are hereby incorporated by reference within this rule and are available for public inspection at the Insurance Department during normal business hours or at <http://www.insurance.utah.gov/ruleindex.html>. These tables and appendices were adopted by the National Association of Insurance Commissioners' Long-Term Care Insurance Model Regulation #641, as approved April 2000.

(1) Table I, Notice to Applicant Regarding Replacement of Individual Accident and Sickness or Long-Term Care Insurance.

(2) Table II, Notice to Applicant Regarding Replacement of Accident and Sickness or Long-Term Care Insurance.

(3) Table III, Triggers for a Substantial Premium Increase.

(4) Table IV, Long-Term Care Insurance Outline of Coverage.

(5) Appendix A, Rescission Reporting Form.

(6) Appendix B, ~~[Personal Worksheet]~~ Long-Term Care Insurance Personal Worksheet.

(7) Appendix C, ~~[Disclosure Form]~~ Things You Should Know Before You Buy Long-Term Care Insurance.

(8) Appendix D, ~~[Response Letter]~~ Long-Term Care Insurance Suitability Letter.

(9) Appendix E, Claims Denial Reporting Form Long-Term Care Insurance.

(10) Appendix F, Worksheet Potential Rate Increase Disclosure Form.

(11) Appendix G, Replacement and Lapse Reporting Form.

R590-148-5. Definitions.

(1) For the purpose of this rule, the terms "applicant," "long-term care insurance," "certificate," "commissioner," and "policy" shall have the meanings set forth in Sections 31A-1-301 and 31A-22-1402.

(2) In addition, the following definitions apply:

(a) "Activities of daily living" means at least bathing, continence, dressing, eating, toileting and transferring.

(b) "Acute condition" means that the individual is medically unstable. Such an individual requires frequent monitoring by medical professionals, such as physicians and registered nurses, in order to maintain the individual's health status.

(c) "Adult day care" means a program for three or more individuals, of social and health-related services provided during the day in a community group setting for the purpose of supporting frail, impaired elderly or disabled adults who can benefit from care in a group setting outside the home.

(d) "Bathing" means washing oneself by sponge bath; or in either a tub or shower, including the task of getting into or out of the tub or shower.

(e) "Cognitive impairment" means a deficiency in a person's short or long-term memory, orientation as to person, place and time, deductive or abstract reasoning, or judgment as it relates to safety awareness.

(f) "Continence" means the ability to maintain control of bowel and bladder function; or, when unable to maintain control of bowel or bladder function, the ability to perform associated personal hygiene, including caring for catheter or colostomy bag.

(g)(i) "Chronically ill individual" has the meaning prescribed for this term by section 7702B(c)(2) of the Internal Revenue Code of 1986, as amended. Under this provision, a chronically ill individual means any individual who has been certified by a licensed health care practitioner as:

(A) Being unable to perform, without substantial assistance from another individual, at least two activities of daily living for a period of at least 90 days due to a loss of functional capacity; or

(B) Requiring substantial supervision to protect the individual from threats to health and safety due to severe cognitive impairment.

(ii) The term "chronically ill individual" shall not include an individual otherwise meeting these requirements unless within the preceding 12-month period a licensed health care practitioner has certified that the individual meets these requirements.

(h) "Dressing" means putting on and taking off all items of clothing and any necessary braces, fasteners or artificial limbs.

(i) "Eating" means feeding oneself by getting food into the body from a receptacle, such as a plate, cup or table, or by a feeding tube or intravenously.

(j)(i) "Exceptional increase" means only those increases filed by an insurer as exceptional for which the Commissioner determines the need for the premium rate increase is justified:

(A) due to changes in laws and rules applicable to long-term care coverage in this state; or

(B) due to increased and unexpected utilization that affects the majority of insurers of similar products.

(ii) Except as provided in Section R590-148-24, exceptional increases are subject to the same requirements as other premium rate schedule increases.

(iii) The commissioner may request review by an independent actuary or a professional actuarial body of the basis for a request that an increase be considered an exceptional increase.

(iv) The commissioner, in determining that the necessary basis for an exceptional increase exists, shall also determine any potential offsets to higher claims costs.

(k) "Hands-on assistance" means physical assistance, minimal, moderate or maximal, without which the individual would not be able to perform the activity of daily living.

(l) "Home health care services" means medical and nonmedical services, provided to ill, disabled or infirm persons in their residences. Such services may include homemaker services, assistance with activities of daily living and respite care services.

(m) "Incidental" means that the value of the long-term care benefits provided is less than 10% of the total value of the benefits provided over the life of the policy. These values shall be measured as of the date of issue.

(n) "Licensed health care practitioner" means a physician, as defined in Section 1861(r)(1) of the Social Security Act, a registered professional nurse, licensed social worker or other individual who meets requirements prescribed by the Secretary of the Treasury.

(o) "Maintenance or personal care services" means any care the primary purpose of which is the provision of needed assistance with any of the disabilities as a result of which the individual is a chronically ill individual, including the protection from threats to health and safety due to severe cognitive impairment.

(p) "Medicare" means the "Health Insurance for the Aged Act," Title XVIII of the Social Security Amendments of 1965, as then constituted or later amended.

(q) "Mental or nervous disorder" may not be defined more restrictively than a definition including neurosis, psychoneurosis, psychopathy, psychosis, or any other mental or emotional disease or disorder which does not have a demonstrable organic cause.

(r) "Personal care" means the provision of hands-on services to assist an individual with activities of daily living, for example bathing, eating, dressing, transferring and toileting.

(s) "Qualified actuary" means a member in good standing of the American Academy of Actuaries.

(t) "Qualified long-term care services" means services that meet the requirements of Section 7702(c)(1) of the Internal Revenue Code of 1986, as amended, as follows: necessary diagnostic, preventive, therapeutic, curative, treatment, mitigation and rehabilitative services, and maintenance or personal care services which are required by a chronically ill individual, and are provided pursuant to a plan of care prescribed by a licensed health care practitioner.

(u) "Similar policy forms" means all of the long-term care insurance policies and certificates issued by an insurer in the same long-term care benefit classification as the policy form being considered. Certificates of groups are not considered similar to certificates or policies otherwise issued as long-term care insurance, but are similar to other comparable certificates with the same long-term care benefit classifications. For purposes of determining similar policy forms, long-term care benefit classifications are defined as follows:

- (I) institutional long-term care benefits only;
- (ii) non-institutional long-term care benefits only; or
- (iii) comprehensive long-term care benefits.

(v) "Skilled nursing care," "intermediate care," "personal care," "home care," and other services shall be defined in relation to the level of skill required, the nature of the care and the setting in which care must be delivered.

(w) "Toileting" means getting to and from the toilet, getting on and off the toilet, and performing associated personal hygiene.

(x) "Transferring" means moving into or out of a bed, chair or wheelchair.

(3) All providers of services, including but not limited to "skilled nursing facility," "extended care facility," "intermediate care facility," "convalescent nursing home," "personal care facility," and "home care agency" shall be defined in relation to the services and facilities required to be available and the licensure or degree status of those providing or supervising the services. The definition may require that the provider be appropriately licensed or certified.

R590-148-6. Required Provisions and Practices.

(1) Renewability.

The terms "guaranteed renewable" and "noncancellable" may not be used in any individual long-term care insurance policy without further explanatory language in accordance with the disclosure requirements of Subsection R590-148-6(1)(b).

(a) No policy issued to an individual may contain renewal provisions other than "guaranteed renewable" or "noncancellable."

(i) The term "guaranteed renewable" may be used only when the insured has the right to continue the long-term care insurance in force by the timely payment of premiums and when the insurer has no unilateral right to make any change in any provision of the policy or rider while the insurance is in force, and cannot decline to renew, except that rates may be revised by the insurer on a class basis.

(ii) The term "noncancellable" may be used only when the insured has the right to continue the long-term care insurance in force by the timely payment of premiums during which period the insurer has no right to unilaterally make any change in any provision of the insurance or in the premium rate.

(b) Individual long-term care insurance policies shall contain a renewability provision. This provision shall be appropriately captioned, shall appear on the first page of the policy, and shall clearly state the duration, where limited, of renewability and the duration of the term of coverage for which the policy is issued and for which it may be renewed. This provision may not apply to policies which do not contain a renewability provision, and under which the right to non-renew is reserved solely to the policyholder.

(c) In addition to the other requirements of this subsection, a qualified long-term care insurance contract shall be guaranteed renewable, within the meaning of Section 7702B(b)(1)(C) of the Internal Revenue Code of 1986, as amended.

(2) Limitations and Exclusions.

(a) No policy may be delivered or issued for delivery in this state as long-term care insurance if the policy limits or excludes coverage by type of illness, treatment, medical condition or accident, except as follows:

- (i) preexisting conditions or diseases;
- (ii) mental or nervous disorders; however, this may not permit exclusion or limitation of benefits on the basis of Alzheimer's Disease, or any other mental or nervous disorder of organic origin;
- (iii) alcoholism and drug addiction;
- (iv) illness, treatment or medical condition arising out of:
 - (A) war or act of war, whether declared or undeclared;
 - (B) participation in a felony, riot or insurrection;
 - (C) service in the armed forces or auxiliary units;
 - (D) suicide, sane or insane, attempted suicide or intentionally self-inflicted injury; or
 - (E) aviation for non-fare-paying passengers;
- (v) treatment provided in a government facility, unless otherwise required by law;
- (vi) services for which benefits are paid under:
 - (A) Medicare or other governmental program, except Medicaid;
 - (B) any state or federal workers' compensation;
 - (C) employer's liability or occupational disease law; or
 - (D) any motor vehicle no-fault law;
- (vii) services provided by a member of the covered person's immediate family;
- (viii) services for which no charge is normally made in the absence of insurance;
- (ix) benefits provided for a level of care cannot be conditioned on a requirement that the care be in a facility licensed for higher levels of care.

(b) Subsection R590-148-6(2)(a) is not intended to prohibit exclusions and limitations by type of provider or territorial limitations outside the United States.

(3) Preexisting Condition Limitation. If a long-term care insurance policy or certificate contains any limitations with respect to preexisting conditions, the limitations shall appear as a separate

paragraph of the policy or certificate and shall be labeled as "Preexisting Condition Limitations."

(4) **Benefit Triggers.** Activities of daily living and cognitive impairment may be used to measure an insured's need for long-term care and shall be described in the policy or certificate in a separate paragraph and shall be labeled "Eligibility for the Payment of Benefits." Any additional benefit triggers shall also be explained in this paragraph. If these triggers differ for different benefits, explanation of the trigger shall accompany each benefit description. If an attending physician or other specified person must certify a certain level of functional dependency in order to be eligible for benefits, this too shall be specified.

(5) **Extension of Benefits.** Termination of long-term care insurance shall be without prejudice to any benefits payable for institutionalization if the institutionalization began while the long-term care insurance was in force and continues without interruption after termination. The extension of benefits beyond the period the long-term care insurance was in force may be limited to the duration of the benefit period, if any, or to payment of the maximum benefits and may be subject to any policy waiting period, and all other applicable provisions of the policy.

(6) **Discontinuance and Replacement.** If a group long-term care policy is replaced by another group long-term care policy issued to the same policyholder, the succeeding insurer shall offer coverage to all persons covered under the previous group policy on its date of termination. Coverage provided or offered to individuals by the insurer and premiums charged to persons under the new group policy:

(a) may not result in any exclusion for preexisting conditions that would have been covered under the group policy being replaced; and

(b) may not vary or otherwise depend on the individual's health or disability status, claim experience or use of long-term care services.

(7) **Premiums.**

(a) The term "level premium" may only be used when the insurer does not have the right to change the premium.

(b) A long-term care insurance policy or certificate, other than one where the insurer does not have the right to change the premium, shall include a statement that premium rates may change.

(c) The purchase of additional coverage shall not be considered a premium rate increase, but for purposes of the calculation required under Section R590-148-14, the portion of the premium attributable to the additional coverage shall be added to and considered part of the initial annual premium.

(d) A reduction in benefits shall not be considered a premium change, but for purpose of the calculation required under Section R590-148-14, the initial annual premium shall be based on the reduced benefits.

(8) **Riders and Endorsements.** Except for riders or endorsements by which the insurer effectuates a request made in writing by the insured under an individual long-term care insurance policy, all riders or endorsements added to an individual long-term care insurance policy after date of issue or at reinstatement or renewal which reduce or eliminate benefits or coverage in the policy shall require signed acceptance by the individual insured. After the date of policy issue, any rider or endorsement which increases benefits or coverage with a concomitant increase in premium during the policy term must be agreed to in writing signed by the insured, except if the increased benefits or coverage are required by law. Where a separate additional premium is charged for benefits

provided in connection with riders or endorsements, this premium charge shall be set forth in the policy, rider or endorsement.

(9) **Payment of Benefits.** A long-term care insurance policy or certificate that provides for the payment of benefits based on standards described as "usual and customary," "reasonable and customary" or words of similar import shall include a definition of these terms and an explanation of the terms in its accompanying outline of coverage.

(10) **Eligibility for Benefits Limitations and Conditions.** A long-term care insurance policy or certificate containing any limitations or conditions for eligibility other than those prohibited in Section 31A-22-1407 shall set forth a description of these limitations or conditions, including any required number of days of confinement, in a separate paragraph of the policy or certificate and shall label the paragraph "Limitations or Conditions on Eligibility for Benefits."

(11) **Disclosure of Tax Consequences.** With regard to life insurance policies which provide for long-term care, a disclosure statement is required at the time of application for the policy or rider and at the time the benefit payment request is submitted that receipt of these benefits may be taxable, and that assistance should be sought from a personal tax advisor. The disclosure statement shall be prominently displayed on the first page of the policy or rider and any other related documents. This subsection shall not apply to qualified long-term care insurance contracts.

(12) **Qualified Contracts.** A qualified long-term care insurance contract shall include a disclosure statement in the policy and in the outline of coverage that the policy is intended to be a qualified long-term care insurance contract under Section 7702B(b) of the Internal Revenue Code of 1986, as amended.

(13) **Nonqualified Contracts.** A nonqualified long-term care insurance contract shall include a disclosure statement in the policy and in the outline of coverage that the policy is not intended to be a qualified long-term care insurance contract.

(14) **Long-term care insurance sold in conjunction with another insurance product, including but not limited to life insurance or annuities shall be in the form of a separate rider complying with all provisions of this Rule. Long-term care insurance shall not be incorporated into a life insurance policy or annuity contract.**

R590-148-7. Minimum Standards for Home Health and Community Care Benefits in Long-Term Care Insurance Policies.

(1) A long-term care insurance policy or certificate shall not, if it provides benefits for home health care services, limit or exclude benefits:

(a) by requiring that the insured would need care in a skilled nursing facility if home health care services were not provided;

(b) by requiring that the insured first or simultaneously receive nursing or therapeutic services, or both, in a home, community or institutional setting before home health care services are covered;

(c) by limiting eligible services to services provided by registered nurses or licensed practical nurses;

(d) by requiring that a nurse or therapist provide services covered by the policy that can be provided by a home health aide, or other licensed or certified home care worker acting within the scope of the aid or worker's licensure or certification;

(e) by excluding coverage for personal care services provided by a home health aide;

(f) by requiring that the provision of home health care services be at a level of certification or licensure greater than that required for the eligible service;

(g) by requiring that the insured have an acute condition before home health care services are covered;

—(h) by limiting benefits to services provided by Medicare-certified agencies or providers; or

(i) by excluding coverage for adult day care services.

(2) Home health care coverage may be applied to the non-home health care benefits provided in the policy or certificate when determining maximum coverage under the terms of the policy or certificate.

(3) A long-term care insurance policy or certificate, if it provides for home health or community care services, shall provide total home health or community care coverage that is a dollar amount equivalent to at least one-half of one year's coverage available for nursing home benefits under the policy or certificate, at the time covered home health or community care services are being received. This requirement may not apply to policies or certificates issued to residents of continuing care retirement communities.

R590-148-8. Standards for Benefit Triggers.

(1) A long-term care insurance policy shall condition the payment of benefits on a determination of the insured's ability to perform activities of daily living and on cognitive impairment. Eligibility for the payment of benefits shall not be more restrictive than requiring either a deficiency in the ability to perform not more than 3 of the activities of daily living or the presence of cognitive impairment.

(2) Insurers may use activities of daily living to trigger covered benefits in addition to those contained in Subsection R590-148-5(2)(a) as long as they are defined in the policy.

(3) An insurer may use additional provisions for the determination of when benefits are payable under a policy or certificate; however the provisions shall not restrict, and are not in lieu of, the requirements contained in Subsections R590-148-8(1) and (2).

(4) For purposes of this section the determination of a deficiency shall not be more restrictive than:

(a) requiring the hands-on assistance of another person to perform the prescribed activities of daily living; or

(b) if the deficiency is due to the presence of a cognitive impairment, supervision or verbal cuing by another person is needed in order to protect the insured or others.

(5) Assessments of activities of daily living and cognitive impairment shall be performed by licensed or certified professionals, such as physicians, nurses or social workers.

(6) Long-term care insurance policies shall include a clear description of the process for appealing and resolving benefit determinations.

(7) The requirements set forth in this section shall be effective ~~July~~ January 1, ~~2002~~ 2003 and shall apply as follows:

(a) Except as provided in Subsection R590-148-8(7)(b), the provisions of this section apply to a long-term care policy issued in this state on or after ~~January~~ July 1, 2002.

(b) For certificates issued on or after ~~January~~ July 1, 2002, under a group long-term care insurance policy that was in force at the time this rule became effective, the provisions of this section shall not apply.

R590-148-9. Additional Standards for Benefit Triggers for Qualified Long-Term Care Insurance Contracts.

(1) A qualified long-term care insurance contract shall pay only for qualified long-term care services received by a chronically ill individual provided pursuant to a plan of care prescribed by a licensed health care practitioner.

(2) A qualified long-term care insurance contract shall condition the payment of benefits on a determination of the insured's inability to perform activities of daily living for an expected period of at least 90 days due to a loss of functional capacity or to severe cognitive impairment.

(3) Certifications regarding activities of daily living and cognitive impairment required pursuant to Subsection R590-148-9(2) shall be performed by the following licensed or certified professionals: physicians, registered professional nurses, licensed social workers, or other individuals who meet requirements prescribed by the Secretary of the Treasury.

(4) Certifications required pursuant to Subsection R590-148-9(2) may be performed by a licensed health care professional at the direction of the carrier as is reasonably necessary with respect to a specific claim, except that when a licensed health care practitioner has certified that an insured is unable to perform activities of daily living for an expected period of at least 90 days due to a loss of functional capacity and the insured is in claim status, the certification may not be rescinded and additional certifications may not be performed until after the expiration of the 90-day period.

(5) Qualified long-term care insurance contracts shall include a clear description of the process for appealing and resolving disputes with respect to benefit determinations.

R590-148-10. Continuation and Conversion.

(1) Group long-term care insurance issued in this state on or after ~~January~~ July 1, 2002 shall provide covered individuals with a basis for continuation or conversion of coverage.

(2) For the purposes of this section:

(a) "a basis for continuation of coverage" means a policy provision which maintains coverage under the existing group policy when the coverage would otherwise terminate and which is subject only to the continued timely payment of premium when due. Group policies which restrict provision of benefits and services to, or contain incentives to use certain providers, facilities, or both, may provide continuation benefits which are substantially equivalent to the benefits of the existing group policy. The commissioner shall make a determination as to the substantial equivalency of benefits, and in doing so, shall take into consideration the differences between managed care and non-managed care plans, including, but not limited to, provider system arrangements, service availability, benefit levels and administrative complexity.

(b) "a basis for conversion of coverage" means a policy provision that an individual whose coverage under the group policy would otherwise terminate or has been terminated for any reason, including discontinuance of the group policy in its entirety or with respect to an insured class, and who has been continuously insured under the group policy, and any group policy which it replaced, for at least six months immediately prior to termination, shall be entitled to the issuance of a converted policy by the insurer under whose group policy the individual is covered, without evidence of insurability.

(c) "converted policy" means an individual policy of long-term care insurance providing benefits identical to or benefits determined by the commissioner to be substantially equivalent to or in excess of

those provided under the group policy from which conversion is made. Where the group policy from which conversion is made restricts provision of benefits and services to, or contains incentives to use certain providers, facilities, or both, the commissioner, in making a determination as to the substantial equivalency of benefits, shall take into consideration the differences between managed care and non-managed care plans, including provider system arrangements, service availability, benefit levels and administrative complexity.

(d) a "Managed-Care Plan" is a health care or assisted living arrangement designed to coordinate patient care or control costs through utilization review, case management or use of specific provider networks.

(3) Written application for the converted policy shall be made and the first premium due, if any, shall be paid as directed by the insurer not later than 60 days after termination of coverage under the group policy. The converted policy shall be issued effective on the day following the termination of coverage under the group policy, and shall be renewable annually.

(4) Unless the group policy from which conversion is made replaced previous group coverage, the premium for the converted policy shall be calculated on the basis of the insured's age at inception of coverage under the group policy from which conversion is made. Where the group policy from which conversion is made replaced previous group coverage, the premium for the converted policy shall be calculated on the basis of the insured's age at inception of coverage under the group policy replaced.

(5) The premium for the individual converted policy shall not exceed the insurer's customary rate at the time of the termination, which is applicable to the form and amount of the individual policy, and to the class of risk to which the person belonged when terminated from the group policy.

(6) Continuation of coverage or issuance of a converted policy shall be mandatory, except where:

(a) termination of group coverage resulted from an individual's failure to make any required payment of premium or contribution when due; or

(b) the terminating coverage is replaced not later than 31 days after termination, by group coverage effective on the day following the termination of coverage:

(i) providing benefits identical to or benefits determined by the commissioner to be substantially equivalent to or in excess of those provided by the terminating coverage; and

(ii) the premium for which is calculated in a manner consistent with the requirements of Subsection R590-148-10(4).

(7) Notwithstanding any other provision of this section, a converted policy issued to an individual who at the time of conversion is covered by another long-term care insurance policy which provides benefits on the basis of incurred expenses, may contain a provision which results in a reduction of benefits payable if the benefits provided under the additional coverage, together with the full benefits provided by the converted policy, would result in payment of more than 100% of incurred expenses. This provision shall only be included in the converted policy if the converted policy also provides for a premium decrease or refund which reflects the reduction in benefits payable.

(8) The converted policy may provide that the benefits payable under the converted policy, together with the benefits payable under the group policy from which conversion is made, may not exceed those that would have been payable had the individual's coverage under the group policy remained in force and effect.

(9) Notwithstanding any other provision of this section, any insured individual whose eligibility for group long-term care coverage is based upon the individual's relationship to another person, shall be entitled to continuation of coverage under the group policy upon termination of the qualifying relationship by death or dissolution of marriage.

R590-148-11. Unintentional Lapse and Reinstatement.

Each insurer offering long-term care insurance shall, as a protection against unintentional lapse, comply with the following:

(1)(a) Notice before lapse or termination. No individual long-term care policy or certificate shall be issued until the insurer has received from the applicant either a written designation of at least one person, in addition to the applicant, who is to receive notice of lapse or termination of the policy or certificate for nonpayment of premium, or a written waiver dated and signed by the applicant electing not to designate additional persons to receive notice. The applicant has the right to designate at least one person who is to receive the notice of termination, in addition to the insured. Designation shall not constitute acceptance of any liability on the third party for services provided to the insured. The form used for the written designation must provide space clearly designated for listing at least one person. The designation shall include each person's full name and home address. In the case of an applicant who elects not to designate an additional person, the waiver shall state: "Protection against unintended lapse. I understand that I have the right to designate at least one person other than myself to receive notice of lapse or termination of this long-term care insurance policy for nonpayment of premium. I understand that notice will not be given until 30 days after a premium is due and unpaid. I elect NOT to designate a person to receive this notice."

(b) The insurer shall notify the insured of the right to change this written designation, no less often than once every two years.

(c) When the policyholder or certificateholder pays premium for a long-term care insurance policy or certificate through a payroll or pension deduction plan the requirements contained in Subsection R590-148-11(1)(a) need not be met until 60 days after the policyholder or certificateholder is no longer on a payroll or pension deduction plan.

—(d) Lapse or termination for nonpayment of premium. No individual long-term care policy or certificate shall lapse or be terminated for nonpayment of premium unless the insurer, at least 30 days before the effective date of the lapse or termination, has given notice to the insured and to those persons designated pursuant to Subsection R590-148-11(1)(a), at the address provided by the insured for purposes of receiving notice of lapse or termination. Notice shall be given by first class United States mail, postage prepaid; and notice may not be given until 30 days after a premium is due and unpaid. Notice shall be deemed to have been given as of five days after the date of mailing.

(2) Reinstatement. In addition to the requirement in Subsection R590-148-11(1)(a), a long-term care insurance policy or certificate shall include a provision that provides for reinstatement of coverage in the event of lapse if the insurer is provided proof that the policyholder or certificateholder was cognitively impaired or had a loss of functional capacity before the grace period contained in the policy expired. This option shall be available to the insured if requested within ~~[to the insured if requested within]~~ five months after termination and shall allow for the collection of past due premium, where appropriate. The standard of proof of cognitive impairment or loss of functional capacity shall not be more stringent

than the benefit eligibility criteria on cognitive impairment or the loss of functional capacity contained in the policy and certificate.

R590-148-12. Applications, Enrollment and Replacement of Coverage.

(1) All applications for long-term care insurance policies or certificates except those which are guaranteed issue shall contain clear and unambiguous questions designed to ascertain the health condition of the applicant.

(2)(a) If an application for long-term care insurance contains a question which asks whether the applicant has had medication prescribed by a physician, it must also ask the applicant to list the medication that has been prescribed.

(b) If the medications listed in the application were known by the insurer, or should have been known at the time of application, to be directly related to a medical condition for which coverage would otherwise be denied, then the policy or certificate may not be rescinded for that condition.

(3) All applications shall clearly indicate the payment plan selected by the applicant.

(4) Except for policies or certificates which are guaranteed issue:

(a) the following language shall be set out conspicuously and in close conjunction with the applicant's signature block on an application for a long-term care insurance policy or certificate:

Caution: If your answers on this application are incorrect or untrue, (company) may have the right to deny benefits or rescind your policy.

(b) the following language, or language substantially similar to the following, shall be set out conspicuously on the long-term care insurance policy or certificate at the time of delivery:

Caution: The issuance of this long-term care insurance (policy) (certificate) was based upon your responses to the questions on your application. A copy of your (application) (enrollment form) (is enclosed) (was retained by you when you applied). If your answers are incorrect or untrue, the company has the right to deny benefits or rescind your policy. The best time to clear up any questions is now, before a claim arises! If, for any reason, any of your answers are incorrect, contact the company at this address: (insert address)

(5) Prior to issuance of a long-term care policy or certificate to an applicant age 80 or older, the insurer shall obtain one of the following:

- (a) a report of a physical examination;
- (b) an assessment of functional capacity;
- (c) an attending physician's statement; or
- (d) copies of medical records.

(6) A copy of the completed application or enrollment form, whichever is applicable, shall be delivered to the insured no later than at the time of delivery of the policy or certificate unless it was retained by the applicant at the time of application.

(7) Application forms shall include the following questions designed to elicit information as to whether, as of the date of the application, the applicant has another long-term care insurance policy or certificate in force or whether a long-term care policy or certificate is intended to replace any other accident and sickness or long-term care policy or certificate presently in force. A supplementary application or other form to be signed by the applicant and agent, except where the coverage is sold without an agent, containing these questions may be used. With regard to a replacement policy issued to a group, other than employee and labor union groups, the following questions may be modified only to the

extent necessary to elicit information about health or long-term care insurance policies other than the group policy being replaced; provided, however, that the certificateholder has been notified of the replacement.

(a) Do you have another long-term care insurance policy or certificate in force, including health care service contract, health maintenance organization contract?

(b) Did you have another long-term care insurance policy or certificate in force during the last 12 months?

(i) If so, with which company?

(ii) If that policy lapsed, when did it lapse?

(c) Are you covered by Medicaid?

(d) Do you intend to replace any of your medical or health insurance coverage with this policy/certificate?

(8) Agents shall list any other health insurance policies they have sold to the applicant.

(a) List policies sold which are still in force.

(b) List policies sold in the past five years which are no longer in force.

(9) Solicitations Other than Direct Response. Upon determining that a sale will involve replacement, an insurer; other than an insurer using direct response solicitation methods, or its agent; shall furnish the applicant, prior to issuance or delivery of the individual long-term care insurance policy, a notice regarding replacement of accident and sickness or long-term care coverage. One copy of this notice shall be retained by the applicant and an additional copy signed by the applicant shall be retained by the insurer. The required notice shall be provided in the manner detailed in Table I, Notice to Applicant Regarding Replacement of Individual Accident and Sickness or Long-Term Care Insurance.

(10) Direct Response Solicitations. Insurers using direct response solicitation methods shall deliver a notice regarding replacement of accident and sickness or long-term care coverage to the applicant upon issuance of the policy. The required notice shall be provided in the manner detailed in Table II, Notice to Applicant Regarding Replacement of Accident and Sickness or Long-Term Care Insurance.

(11) Where replacement is intended, the replacing insurer shall notify, in writing, the existing insurer of the proposed replacement. The existing policy shall be identified by the insurer, name of the insured and policy number or address including zip code. The notice shall be made within five working days from the date the application is received by the insurer or the date the policy is issued, whichever is sooner.

(12) Life insurance policies and certificates that provide benefits for long-term care shall comply with this section if the policy being replaced is a long-term care insurance policy. If the policy being replaced is a life insurance policy, the insurer shall comply with the replacement requirements of R590-93, Replacement of Life Insurance and Annuities. If a life insurance policy that provide benefits for long-term care is replaced by another such policy, the replacing insurer shall comply with both the long-term care and the life insurance replacement requirements.

(13) Electronic Enrollment for Group Policies:

(a) In the case of a group policy, any requirement that a signature of an insured be obtained by an agent or insurer shall be deemed satisfied if:

(i) the consent is obtained by telephonic or electronic enrollment by the group policyholder or insurer. A verification of enrollment information shall be provided to the enrollee;

(ii) the telephonic or electronic enrollment provides necessary and reasonable safeguards to assure the accuracy, retention and prompt retrieval of records; and

(iii) the telephonic or electronic enrollment provides necessary and reasonable safeguards to assure the confidentiality of individually identifiable information and "privileged information" as defined by the Utah Government Records Access and Management Act, Section 63-2-101, is maintained.

(b) The insurer shall make available, upon request of the commissioner, records that will demonstrate the insurer's ability to confirm enrollment and coverage amounts.

R590-148-13. Requirement to Offer Inflation Protection.

(1) No insurer may offer a long-term care insurance policy unless the insurer also offers to the policyholder in addition to any other inflation protection the option to purchase a policy that provides for benefit levels to increase with benefit maximums or reasonable durations which are meaningful to account for reasonably anticipated increases in the costs of long-term care services covered by the policy. Insurers must offer to each policyholder, at the time of purchase, the option to purchase a policy with an inflation protection feature no less favorable than one of the following:

(a) increases benefit levels annually in a manner so that the increases are compounded annually at a rate not less than 5%;

(b) guarantees the insured individual the right to periodically increase benefit levels without providing evidence of insurability or health status so long as the option for the previous period has not been declined. The premium rate for the additional benefit shall not exceed the insurer's customary rate at the time the offer is made, which is applicable to the form and amount of the policy, the class of risk to which the person belonged at the time of issue of the policy, and to the age attained on the effective date of the increase. The amount of the additional benefit may be no less than the difference between the existing policy benefit and that benefit compounded annually at a rate of at least 5% for the period beginning with the purchase of the existing benefit and extending until the year in which the offer is made; or

(c) covers a specified percentage of actual or reasonable charges and does not include a maximum specified indemnity amount or limit.

(2) Where the policy is issued to a group, except a continuing care retirement community center, the required offer in Subsection R590-148-13(1) shall be made to the group policyholder and to each proposed certificateholder.

—(3) Insurers shall include the following information in or with the outline of coverage:

(a) a graphic comparison of the benefit levels of a policy that increases benefits over the policy period with a policy that does not increase benefits. The graphic comparison shall show benefit levels over at least a 20 year period; and

(b) any expected premium increases or additional premiums to pay for automatic or optional benefit increases. An insurer may use a reasonable hypothetical, or a graphic demonstration, for the purposes of this disclosure.

(4) Inflation protection benefit increases under a policy which contains this benefit shall continue without regard to an insured's age, claim status or claim history, or the length of time the person has been insured under the policy.

(5) An offer of inflation protection which provides for automatic benefit increases shall include an offer of a premium which the insurer expects to remain constant. The offer shall

disclose in a conspicuous manner that the premium may change in the future unless the premium is guaranteed to remain constant.

(6)(a) Inflation protection as provided in Subsection R590-148-13(1)(a) shall be included in a long-term care insurance policy unless an insurer obtains a rejection of inflation protection signed by the policyholder as required in this subsection. The rejection may be either in the application or on a separate form.

(b) The rejection shall be considered a part of the application and shall state:

I have reviewed the outline of coverage and the graphs that compare the benefits and premiums of this policy with and without inflation protection. Specifically, I have reviewed Plans (indicate), and I reject inflation protection.

R590-148-14. Nonforfeiture and Contingent Benefit Requirements.

(1) To comply with the requirement to offer a nonforfeiture benefit pursuant to the provisions of Section 31A-22-1412:

(a) a policy or certificate offered with nonforfeiture benefits shall have coverage elements, eligibility, benefit triggers and benefit length that are the same as coverage to be issued without nonforfeiture benefits. The nonforfeiture benefit included in the offer shall be the benefit described in Subsection R590-148-14(4); and

(b) the offer shall be in writing if the nonforfeiture benefit is not otherwise described in the Outline of Coverage or other materials given to the prospective policyholder.

(2) If the offer required to be made under Section 31A-22-1412 is rejected, the insurer shall provide the contingent benefit upon lapse described in this section.

(3)(a) After rejection of the offer required under Section 31A-22-1412, for individual and group policies without nonforfeiture benefits issued after ~~January~~ July 1, 2002, the insurer shall provide a contingent benefit upon lapse.

(b) In the event a group policyholder elects to make the nonforfeiture benefit an option to the certificateholder, a certificate shall provide either the nonforfeiture benefit or the contingent benefit upon lapse.

(c) The contingent benefit on lapse shall be triggered every time an insurer increases the premium rates to a level which results in a cumulative increase of the annual premium equal to or exceeding the percentage of the insured's initial annual premium set forth in Table III, Triggers for a Substantial Premium Increase, based on the insured's issue age, and the policy or certificate lapses within 120 days of the due date of the premium so increased. Unless otherwise required, policyholders shall be notified at least 30 days prior to the due date of the premium reflecting the rate increase.

(d) On or before the effective date of a substantial premium increase as defined in Subsection R590-148-14(3)(c), the insurer shall:

(i) offer to reduce policy benefits provided by the current coverage without the requirement of additional underwriting so that required premium payments are not increased;

(ii) offer to convert the coverage to a paid-up status with a shortened benefit period in accordance with the terms of Subsection R590-148-14(4). This option may be elected at any time during the 120-day period referenced in Subsection R590-148-14(3)(c); and

(iii) notify the policyholder or certificateholder that a default or lapse at any time during the 120-day period referenced in Subsection R590-148-14(3)(c) shall be deemed to be the election of the offer to convert in Subsection R590-148-14(3)(d)(ii).

(4) Benefits continued as nonforfeiture benefits, including contingent benefits upon lapse, are described in this subsection:

(a) For purposes of this subsection, attained age rating is defined as a schedule of premiums starting from the issue date which increases with age at least 1% per year prior to age 50, and at least 3% per year beyond age 50.

(b) For purposes of this subsection, the nonforfeiture benefit shall be of a shortened benefit period providing paid-up long-term care insurance coverage after lapse. The same benefits, amounts and frequency in effect at the time of lapse but not increased thereafter, will be payable for a qualifying claim, but the lifetime maximum dollars or days of benefits shall be determined as specified in Subsection R590-148-14(4)(c).

(c) The standard nonforfeiture credit will be equal to 100% of the sum of all premiums paid, including the premiums paid prior to any changes in benefits. The insurer may offer additional shortened benefit period options, as long as the benefits for each duration equal or exceed the standard nonforfeiture credit for that duration. However, the minimum nonforfeiture credit shall not be less than 30 times the daily nursing home benefit at the time of lapse. In either event, the calculation of the nonforfeiture credit is subject to the limitation of Subsection R590-148-14(5).

(d)(i) The nonforfeiture benefit shall begin not later than the end of the third year following the policy or certificate issue date. The contingent benefit upon lapse shall be effective during the first three years as well as thereafter.

(ii) Notwithstanding Subsection R590-148-14(4)(d)(i), for a policy or certificate with attained age rating, the nonforfeiture benefit shall begin on the earlier of:

(A) the end of the tenth year following the policy or certificate issue date; or

(B) the end of the second year following the date the policy or certificate is no longer subject to attained age rating.

(e) Nonforfeiture credits may be used for all care and services qualifying for benefits under the terms of the policy or certificate, up to the limits specified in the policy or certificate.

(5) All benefits paid by the insurer while the policy or certificate is in premium paying status and in the paid up status will not exceed the maximum benefits, which would be payable if the policy or certificate had remained in premium paying status.

(6) There shall be no difference in the minimum nonforfeiture benefits as required under this section for group and individual policies.

(7) The requirements set forth in this section shall become effective ~~July~~ January 1, ~~2002~~ 2003 and shall apply as follows:

(a) Except as provided in Subsection R590-148-14(7)(b), the provisions of this section apply to any long-term care policy issued in this state on or after ~~January~~ July 1, 2002.

(b) For certificates issued on or after ~~January~~ July 1, 2002, under a group long-term care insurance policy, which policy was in force at the time this rule became effective, the provisions of this section shall not apply.

(8) Premiums charged for a policy or certificate containing nonforfeiture benefits or a contingent benefit on lapse shall be subject to the loss ratio requirements of Section R590-148-~~21~~ 22 treating the policy as a whole.

(9) To determine whether contingent nonforfeiture upon lapse provisions are triggered under Subsection R590-148-14(3)(c), a replacing insurer that purchased or otherwise assumed a block or blocks of long-term care insurance policies from another insurer shall calculate the percentage increase based on the initial annual

premium paid by the insured when the policy was first purchased from the original insurer.

(10) A nonforfeiture benefit for qualified long-term care insurance contracts that are level premium contracts shall be offered that meets the following requirements:

(a) the nonforfeiture provision shall be appropriately captioned;

(b) the nonforfeiture provision shall provide a benefit available in the event of a default in the payment of any premiums and shall state that the amount of the benefit may be adjusted subsequent to being initially granted only as necessary to reflect changes in claims, persistency and interest as reflected in changes in rates for premium paying contracts approved by the commissioner for the same contract form; and

(c) the nonforfeiture provision shall provide at least one of the following:

(i) reduced paid-up insurance;

(ii) extended term insurance;

(iii) shortened benefit period; or

(iv) other similar offerings approved by the commissioner.

R590-148-15. Standard Format Outline of Coverage.

This section of the rule implements, interprets and prescribes a standard format of an outline of coverage for the provisions in Subsection 31A-22-1409(2).

(1) The outline of coverage shall be a free-standing document, using no smaller than ten point type.

(2) The outline of coverage may contain no material of an advertising nature.

(3) Text which is capitalized or underscored in the standard format outline of coverage may be emphasized by other means which provide prominence equivalent to capitalization or underscoring.

(4) Use of the text and sequence of text of the standard format outline of coverage is mandatory, unless otherwise specifically indicated.

(5) The format for outline of coverage can be found in Table IV, Long-Term Care Insurance Outline of Coverage.

R590-148-16. Requirement to Deliver Shopper's Guide.

(1) A long-term care insurance shopper's guide in the format developed by the National Association of Insurance Commissioners, or a guide developed or approved by the commissioner, shall be provided to all prospective applicants of a long-term care insurance policy or certificate.

(a) In the case of agent solicitations, an agent must deliver the shopper's guide prior to the presentation of an application or enrollment form.

(b) In the case of direct response solicitations, the shopper's guide must be presented in conjunction with any application or enrollment form.

(2) Life insurance policies or riders that provide long-term care benefits are not required to furnish the above-referenced guide if the long term care benefits are incidental, but shall furnish the policy summary required under Subsection 31A-22-1409(8).

R590-148-17]. Filing Requirements.

~~(1) Prior to an insurer or similar organization offering group long-term care insurance to a resident of this state pursuant to Section 31A-22-1403, it shall file with the commissioner evidence that the group policy or certificate thereunder has been approved by~~

~~a state having statutory or regulatory long-term care insurance requirements substantially similar to those adopted in this state.~~

~~—(2)(a) Every insurer shall provide a copy of any long-term care insurance advertisement intended for use in Utah whether through written, radio or television medium to the insurance commissioner of this state.~~

~~—(b) All advertisements shall be retained by the insurer, health care service plan or other entity for at least three years from the date the advertisement was first used.~~

~~—(c) The commissioner may exempt from these requirements any advertising form or material when, in the commissioner's opinion, this requirement may not be reasonably applied.~~

R590-148-18]. Suitability.

(1) Every insurer shall:

(a) develop and use suitability standards to determine whether the purchase or replacement of long-term care insurance is appropriate for the needs of the applicant;

(b) train its agents in the use of its suitability standards; and

(c) maintain a copy of its suitability standards and make them available for inspection upon request by the commissioner.

(2)(a) To determine whether the applicant meets the standards developed by the insurer, the agent and insurer shall develop procedures that take the following into consideration:

(i) the ability to pay for the proposed coverage and other pertinent financial information related to the purchase of the coverage;

(ii) the applicant's goals or needs with respect to long-term care and the advantages and disadvantages of insurance to meet these goals or needs; and

(iii) the values, benefits and costs of the applicant's existing insurance, if any, when compared to the values, benefits and costs of the recommended purchase or replacement.

(b) The insurer, and where an agent is involved, the agent shall make reasonable efforts to obtain the information set out in Subsection R590-148-~~18(2)(a)~~17(2)(a). The efforts shall include presentation to the applicant, at or prior to application, the "Long-Term Care Insurance Personal Worksheet." The personal worksheet used by the insurer shall contain, at a minimum, the information in the format contained in Appendix B, in not less than 12 point type. The insurer may request the applicant to provide additional information to comply with its suitability standards. A copy of the insurer's personal worksheet shall be filed with the commissioner.

(c) A completed personal worksheet shall be returned to the insurer prior to the insurer's consideration of the applicant for coverage, except the personal worksheet need not be returned for sales of employer group long-term care insurance to employees and their spouses.

(d) The sale or dissemination outside the company or agency by the insurer or agent of information obtained through the personal worksheet in Appendix B is prohibited.

(3) The insurer shall use the suitability standards it has developed pursuant to this section in determining whether issuing long-term care insurance coverage to an applicant is appropriate.

(4) Agents shall use the suitability standards developed by the insurer in marketing long-term care insurance.

(5) At the same time as the personal worksheet is provided to the applicant, the disclosure form entitled "Things You Should Know Before You Buy Long-Term Care Insurance" shall be provided. The form shall be in the format contained in Appendix C in not less than 12 point type.

(6) If the insurer determines that the applicant does not meet its financial suitability standards, or if the applicant has declined to provide the information, the insurer may reject the application. In the alternative, the insurer shall send the applicant a letter similar to Appendix D, Long-Term Care Insurance Suitability Letter. However, if the applicant has declined to provide financial information, the insurer may use some other method to verify the applicant's intent. Either the applicant's returned letter or a record of the alternative method of verification shall be made part of the applicant's file.

(7) If a long-term care insurance policy or certificate replaces another long-term care policy or certificate, the replacing insurer shall waive any time periods applicable to preexisting conditions and probationary periods in the new long-term care policy for similar benefits to the extent that similar exclusions have been satisfied under the original policy.

R590-148-~~19~~18. Marketing Standards.

(1) Every insurer shall:

(a) Establish marketing procedures to assure that any comparison of policies by its agents or other producers will be fair and accurate.

(b) Establish marketing procedures to assure excessive insurance is not sold or issued.

(c) Display prominently by type, stamp or other appropriate means, on the first page of the outline of coverage and policy the following:

"Notice to buyer: This policy may not cover all of the costs associated with long-term care incurred by the buyer during the period of coverage. The buyer is advised to review carefully all policy limitations."

(d) Provide copies of the disclosure forms required in Subsection R590-148-~~20(2)~~19(2) to the applicant. See Appendix B, Long-Term Care Insurance Personal Worksheet, and Appendix F, Potential Rate Increase Disclosure Form.

(e) Inquire and otherwise make every reasonable effort to identify whether a prospective applicant or enrollee for long-term care insurance already has accident and sickness or long-term care insurance and the types and amounts of this insurance, except that in the case of qualified long-term care insurance contracts, an inquiry into whether a prospective applicant or enrollee for long-term care insurance has accident and sickness insurance is not required.

(f) Every insurer or entity marketing long-term care insurance shall establish audit able procedures for verifying compliance with this Subsection R590-148-~~19(1)~~18(1).

(g) If the state in which the policy or certificate is to be delivered or issued for delivery has a senior insurance counseling program approved by the commissioner, the insurer shall, at solicitation, provide written notice to the prospective policyholder and certificateholder that the program is available and the name, address and telephone number of the program.

(h) For long-term care health insurance policies and certificates, use the terms "noncancellable" or "level premium" only when the policy or certificate conforms to Subsections R590-148-6(1)(a)(ii) and R590-148-6(6)(a).

(i) Provide an explanation of contingent benefit upon lapse provided for in Subsection R590-148-14(3)(c).

(2) In addition to the practices prohibited in Part 3, Chapter 23 of Title 31A, the following acts and practices are prohibited:

(a) Twisting. Knowingly making any misleading representation or incomplete or fraudulent comparison of any

insurance policies or insurers for the purpose of inducing, or tending to induce, any person to lapse, forfeit, surrender, terminate, retain, pledge, assign, borrow on or convert any insurance policy or to take out a policy of insurance with another insurer.

(b) High pressure tactics. Employing any method of marketing having the effect of or tending to induce the purchase of insurance through force, fright, threat, whether explicit or implied, or undue pressure to purchase or recommend the purchase of insurance.

(c) Cold lead advertising. Making use directly or indirectly of any method of marketing which fails to disclose in a conspicuous manner that a purpose of the method of marketing is solicitation of insurance and that contact will be made by an insurance agent or insurance company.

(d) Misrepresentation. Misrepresenting a material fact in selling or offering to sell a long-term care insurance policy.

R590-148-~~20~~19. Required Disclosure of Rating Practices to Consumer.

(1) This section shall apply as follows:

(a) Except as provided in Subsection R590-148-~~20(1)(b)~~19(1)(b), this section applies to any long-term care policy or certificate issued in this state on or after January 1, ~~2002~~2003.

(b) For certificates issued on or after ~~January~~July 1, 2002, under a group long-term care insurance policy, which policy was in force at the time this rule became effective, the provisions of this section shall apply on the policy anniversary following ~~July~~January 1, ~~2002~~2003.

(2) Other than policies for which no applicable premium rate or rate schedule increases can be made, insurers shall provide all of the information listed in this subsection to the applicant at the time of application or enrollment, unless the method of application does not allow for delivery at that time. In such a case, an insurer shall provide all of the information listed in this section to the applicant no later than at the time of delivery of the policy or certificate.

(a) A statement that the policy may be subject to rate increases in the future;

(b) an explanation of potential future premium rate revisions, and the policyholder's or certificateholder's option in the event of a premium rate revision;

(c) the premium rate or rate schedules applicable to the applicant that will be in effect until a request is made for an increase;

(d) a general explanation for applying premium rate or rate schedule adjustments that shall include:

(i) a description of when premium rate or rate schedule adjustments will be effective, e.g., next anniversary date, next billing date, etc.; and

(ii) the right to a revised premium rate or rate schedule as provided in Subsection R590-148-~~20(2)(b)~~19(2)(b) if the premium rate or rate schedule is changed.

(e)(i) Information regarding each premium rate increase on this policy form or similar policy forms over the past ten years for this state or any other state that, at a minimum, identifies:

(A) the policy forms for which premium rates have been increased;

(B) the calendar years when the form was available for purchase; and

(C) the amount, percent, and date of implementation for each increase. The percentage may be expressed as a percentage of the premium rate prior to the increase, and may also be expressed as minimum and maximum percentages if the rate increase is variable by rating characteristics.

(ii) The insurer may, in a fair manner, provide additional explanatory information related to the rate increases.

(iii) An insurer shall have the right to exclude from the disclosure premium rate increases that only apply to blocks of business acquired from other nonaffiliated insurers or the long-term care policies acquired from other nonaffiliated insurers when those increases occurred prior to the acquisition.

(iv) If an acquiring insurer files for a rate increase on a long-term care policy form acquired from nonaffiliated insurers or a block of policy forms acquired from nonaffiliated insurers on or before the ~~later of January 1, 2002~~effective date of this section, or the end of a 24-month period following the acquisition of the block or policies, the acquiring insurer may exclude that rate increase from the disclosure. However, the nonaffiliated selling company shall include the disclosure of that rate increase in accordance with Subsection R590-148-~~20(2)(e)(i)~~19(2)(e)(i).

(v) If the acquiring insurer in Subsection R590-148-~~20(2)(e)(iv)~~19(2)(e)(iv) files for a subsequent rate increase, even within the 24-month period, on the same policy form acquired from nonaffiliated insurers or block of policy forms acquired from nonaffiliated insurers referenced in Subsection R590-148-~~20(2)(e)(iv)~~19(2)(e)(iv), the acquiring insurer shall make all disclosures required by Subsection R590-148-~~20(2)(e)~~19(2)(e), including disclosure of the earlier rate increase referenced in Subsection R590-148-~~20(2)(e)(iv)~~19(2)(e)(iv).

(3) An applicant shall sign an acknowledgment at the time of application, unless the method of application does not allow for signature at that time, that the insurer made the disclosure required under Subsections R590-148-~~20(2)(a)~~19(2)(a) and (e). If due to the method of application the applicant cannot sign an acknowledgment at the time of application, the applicant shall sign no later than at the time of delivery of the policy or certificate.

(4) An insurer shall use the forms in Appendix B, Personal Worksheet, and Appendix F, Potential Rate Increase Disclosure Form, to comply with the requirements of Subsections R590-148-~~20(1)~~19(1) and (2).

(5) An insurer shall provide notice of an upcoming premium rate schedule increase to all policyholders or certificateholders, if applicable, at least 45 days prior to the implementation of the premium rate schedule increase by the insurer. The notice shall include the information required by Subsection R590-148-~~20(2)~~19(2) when the rate increase is implemented.

R590-148-~~21. Loss Ratio.~~20. Filing Requirements.

(1) ~~[This section shall apply to all individual]~~Prior to an insurer or similar organization offering group long-term care insurance to a resident of this state pursuant to Section 31A-22-1403, it shall file with the commissioner evidence that the group policy or certificate thereunder has been approved by a state having statutory or regulatory~~[except those covered in Sections R590-148-22 and R590-148-24.~~

~~—(2) Benefits under individual]~~ long-term care insurance ~~[policies shall be deemed reasonable in relation to premiums provided the expected loss ratio is at least 60%, calculated in a manner which provides for adequate reserving of the]~~requirements substantially similar to those adopted in this state.

~~—(2)(a) Every insurer shall provide a copy of any long-term care insurance [risk]~~advertisement intended for use in Utah whether through written, radio or television medium to the insurance commissioner of this state upon request.

~~[(3) In evaluating the expected loss ratio, due consideration shall be given to all relevant factors, including:]~~(b) All advertisements shall be retained by the insurer, health care service plan or other entity for at least three years from the date the advertisement was first used.

~~[(a) statistical credibility of incurred claims experience and earned premiums;](c) The commissioner may exempt from these requirements any advertising form or material when, in the commissioner's opinion, this requirement may not be reasonably applied.~~

~~[(b) the period for which rates are computed to provide coverage;~~

~~— (c) experienced and projected trends;~~
~~— (d) concentration of experience within early policy duration;~~
~~— (e) expected claim fluctuation;~~
~~— (f) experience refunds, adjustments or dividends;~~
~~— (g) renewability features;~~
~~— (h) all appropriate expense factors;~~
~~— (i) interest;~~
~~— (j) experimental nature of the coverage;~~
~~— (k) policy reserves;~~
~~— (l) mix of business by risk classification; and~~
~~— (m) product features such as long elimination periods, high deductibles and high maximum limits.~~

~~(4) The premiums charged to an insured for long-term care insurance may not increase due to either:~~

~~— (a) the increasing age of the insured at ages beyond 65; or~~
~~— (b) the duration the insured has been covered under the policy.~~

[R590-148-22. Premium Rate Schedule Increases.]R590-148-21. Initial Filing Requirements.

(1) This section shall apply [as follows:

~~— (a) except as provided in Subsection R590-148-22(1)(b), this section applies]to any long-term care policy [or certificate]issued in this state on or after January 1, 2003.[2002;~~

~~— (b) for certificates issued on or after January 1, 2002, under a group long-term care insurance policy, which policy was in force at the time this rule became effective, the provisions of this section shall apply on the policy anniversary following July 1, 2002.]~~

(2) An insurer shall file the information listed in this subsection to the commissioner prior to making a long-term care insurance form available for sale:

(a) a copy of the disclosure documents required in Section R590-148-[20]19; and

(b) an actuarial certification consisting of at least the following:

(i) a statement that the initial premium rate schedule is sufficient to cover anticipated costs under moderately adverse experience and that the premium rate schedule is reasonably expected to be sustainable over the life of the form with no future premium increases anticipated;

(ii) a statement that the policy design and coverage provided have been reviewed and taken into consideration;

(iii) a statement that the underwriting and claims adjudication processes have been reviewed and taken into consideration;

(iv) a complete description of the basis for contract reserves that are anticipated to be held under the form, to include:

(A) sufficient detail or sample calculations provided so as to have a complete depiction of the reserve amounts to be held;

(B) a statement that the assumptions used for reserves contain reasonable margins for adverse experience;

(C) a statement that the net valuation premium for renewal years does not increase, except for attained-age rating where permitted; and

(D) a statement that the difference between the gross premium and the net valuation premium for renewal years is sufficient to cover expected renewal expenses; or if such a statement cannot be made, a complete description of the situations where this does not occur;

(I) an aggregate distribution of anticipated issues may be used as long as the underlying gross premiums maintain a reasonably consistent relationship; and

(II) if the gross premiums for certain age groups appear to be inconsistent with this requirement, the commissioner may request a demonstration under Subsection R590-148-[22(3)]21(3) based on a standard age distribution;

(v)(A) A statement that the premium rate schedule is not less than the premium rate schedule for existing similar policy forms also available from the insurer except for reasonable differences attributable to benefits; or

(B) A comparison of the premium schedules for similar policy forms that are currently available from the insurer with an explanation of the differences.

(3) The commissioner may request an actuarial demonstration that benefits are reasonable in relation to premiums. The actuarial demonstration shall include either premium and claim experience on similar policy forms, adjusted for any premium or benefit differences, relevant and credible data from other studies, or both.

(4) The premiums charged to an insured for long-term care insurance may not increase due to either:

(a) the increasing age of the insured at ages beyond 65; or
 (b) the duration the insured has been covered under the policy.

R590-148-22. Loss Ratio.

(1) This section shall apply to all individual long-term care insurance except those covered in Sections R590-148-21 and R590-148-24.

(2) Benefits under individual long-term care insurance policies shall be deemed reasonable in relation to premiums provided the expected loss ratio is at least 60%, calculated in a manner which provides for adequate reserving of the long-term care insurance risk.

(3) In evaluating the expected loss ratio, due consideration shall be given to all relevant factors, including:

~~— (a) statistical credibility of incurred claims experience and earned premiums;~~

~~— (b) the period for which rates are computed to provide coverage;~~

~~— (c) experienced and projected trends;~~

~~— (d) concentration of experience within early policy duration;~~

~~— (e) expected claim fluctuation;~~

~~— (f) experience refunds, adjustments or dividends;~~

~~— (g) renewability features;~~

~~— (h) all appropriate expense factors;~~

~~— (i) interest;~~

~~— (j) experimental nature of the coverage;~~

~~— (k) policy reserves;~~

~~— (l) mix of business by risk classification; and~~

~~— (m) product features such as long elimination periods, high deductibles and high maximum limits.~~

~~(4) The premiums charged to an insured for long-term care insurance may not increase due to either:~~

- (a) the increasing age of the insured at ages beyond 65; or
(b) the duration the insured has been covered under the policy.

R590-148-23. Reserve Standards.

(1) When long-term care benefits are provided through the acceleration of benefits under group or individual life policies or riders to these policies, policy reserves for these benefits shall be determined in accordance with Subsection 31A-17-504(7). Claim reserves must also be established when the policy or rider is in claim status.

Reserves for policies and riders subject to this subsection should be based on the multiple decrement model utilizing all relevant decrements except for voluntary termination rates. Single decrement approximations are acceptable if the calculation produces essentially similar reserves, if the reserve is clearly more conservative, or if the reserve is immaterial. The calculations may take into account the reduction in life insurance benefits due to the payment of long-term care benefits. However, in no event may the reserves for the long-term care benefit and the life insurance benefit be less than the reserves for the life insurance benefit assuming no long-term care benefit.

In the development and calculation of reserves for policies and riders subject to this subsection, due regard shall be given to the applicable policy provisions, marketing methods, administrative procedures and all other considerations which have an impact on projected claim costs, including, but not limited to, the following:

- (a) definition of insured events;
- (b) covered long-term care facilities;
- (c) existence of home convalescence care coverage;
- (d) definition of facilities;
- (e) existence or absence of barriers to eligibility;
- (f) premium waiver provision;
- (g) renewability;
- (h) ability to raise premiums;
- (i) marketing method;
- (j) underwriting procedures;
- (k) claims adjustment procedures;
- (l) waiting period;
- (m) maximum benefit
- (n) availability of eligible facilities;
- (o) margins in claim costs;
- (p) optional nature of benefit;
- (q) delay in eligibility for benefit;
- (r) inflation protection provisions; and
- (s) guaranteed insurability option.

Any applicable valuation morbidity table shall be certified as appropriate as a statutory valuation table by a member of the American Academy of Actuaries.

(2) When long-term care benefits are provided other than as in Subsection R590-148-23(1), reserves shall be determined in accordance with [31A-17-402(2)(b)] Minimum Reserve Standards for Individual and Group Health Insurance Contracts, Appendix A-010, Accounting Practices and Procedures Manual, edition March 2001, published by the National Association of Insurance Commissioners.

R590-148-24. Premium Rate Schedule Increases.

(1) This section shall apply as follows:

(a) except as provided in Subsection R590-148-24(1)(b), this section applies to any long-term care policy or certificate issued in this state on or after January 1, ~~[2002]~~2003.

(b) for certificates issued on or after ~~[January]~~July 1, 2002, under a group long-term care insurance policy, which policy was in force at the time this rule became effective, the provisions of this section shall apply on the policy anniversary following ~~[July]~~January 1, ~~[2002]~~2003.

(2) An insurer shall file notice of a pending premium rate schedule increase, including an exceptional increase, to the commissioner prior to the notice to the policyholders and shall include:

- (a) information required by Section R590-148-~~[20]~~19;
- (b) certification by a qualified actuary that:

(i) if the requested premium rate schedule increase is implemented and the underlying assumptions, which reflect moderately adverse conditions, are realized, no further premium rate schedule increases are anticipated;

(ii) the premium rate filing is in compliance with the provisions of this section;

(c) an actuarial memorandum justifying the rate schedule change request that includes:

(i) lifetime projections of earned premiums and incurred claims based on the filed premium rate schedule increase; and the method and assumptions used in determining the projected values, including reflection of any assumptions that deviate from those used for pricing other forms currently available for sale:

(A) annual values for the five years preceding and the three years following the valuation date shall be provided separately;

(B) the projections shall include the development of the lifetime loss ratio, unless the rate increase is an exceptional increase;

(C) the projections shall demonstrate compliance with Subsection R590-148-24(3); and

(D) for exceptional increases:

(I) the projected experience should be limited to the increases in claims expenses attributable to the approved reasons for the exceptional increase; and

(II) in the event the commissioner determines as provided in Section R590-148-5(2)(j)(iv) that offsets may exist, the insurer shall use appropriate net projected experience;

(ii) disclosure of how reserves have been incorporated in this rate increase whenever the rate increase will trigger contingent benefit upon lapse;

(iii) disclosure of the analysis performed to determine why a rate adjustment is necessary, which pricing assumptions were not realized and why, and what other actions taken by the company have been relied on by the actuary;

(iv) a statement that policy design, underwriting and claims adjudication practices have been taken into consideration; and

(v) in the event that it is necessary to maintain consistent premium rates for new certificates and certificates receiving a rate increase, the insurer will need to file composite rates reflecting projections of new certificates;

(d) a statement that renewal premium rate schedules are not greater than new business premium rate schedules except for differences attributable to benefits, unless sufficient justification is provided to the commissioner; and

(e) sufficient information for review of the premium rate schedule increase by the commissioner.

(3) All premium rate schedule increases shall be determined in accordance with the following requirements:

(a) exceptional increases shall provide that at least 70% of the present value of projected additional premiums from the exceptional increase will be returned to policyholders in benefits;

(b) premium rate schedule increases shall be calculated such that the sum of the accumulated value of incurred claims, without the inclusion of active life reserves, and the present value of future projected incurred claims, without the inclusion of active life reserves, will not be less than the sum of the following:

(i) the accumulated value of the initial earned premium times 58%;

(ii) 85% percent of the accumulated value of prior premium rate schedule increases on an earned basis;

(iii) the present value of future projected initial earned premiums times 58%; and

(iv) 85% percent of the present value of future projected premiums not in Subsection R590-148-24(3)(b)(iii) on an earned basis;

(c) in the event that a policy form has both exceptional and other increases, the values in Subsections R590-148-24(3)(b)(ii) and (iv) will also include 70% for exceptional rate increase amounts; and

(d) all present and accumulated values used to determine rate increases shall use the maximum valuation interest rate for contract reserves which is the maximum rate permitted by law in the valuation of whole life insurance issued on the same date as the health insurance contract. The actuary shall disclose as part of the actuarial memorandum, the use of any appropriate averages.

(4) For each rate increase that is implemented, the insurer shall file for review by the commissioner updated projections, as defined in Subsection R590-148-24(2)(c)(i), annually for the next three years and include a comparison of actual results to projected values. The commissioner may extend the period to greater than three years if actual results are not consistent with projected values from prior projections. For group insurance policies that meet the conditions in Subsection R590-148-24(11), the projections required by this subsection shall be provided to the policyholder in lieu of filing with the commissioner.

(5) If any premium rate in the revised premium rate schedule is greater than 200% of the comparable rate in the initial premium schedule, lifetime projections, as defined in Subsection R590-148-24(2)(c)(i), shall be filed for review by the commissioner every five years following the end of the required period in Subsection R590-148-24(4). For group insurance policies that meet the conditions in Subsection R590-148-24(11), the projections required by this subsection shall be provided to the policyholder in lieu of filing with the commissioner.

(6)(a) If the commissioner has determined that the actual experience following a rate increase does not adequately match the projected experience and that the current projections under moderately adverse conditions demonstrate that incurred claims will not exceed proportions of premiums specified in Subsection R590-148-24(3), the commissioner may require the insurer to implement any of the following:

(i) premium rate schedule adjustments; or

(ii) other measures to reduce the difference between the projected and actual experience.

(b) In determining whether the actual experience adequately matches the projected experience, consideration should be given to Subsection R590-148-24(2)(c)(v), if applicable.

(7) If the majority of the policies or certificates to which the increase is applicable are eligible for the contingent benefit upon lapse, the insurer shall file:

(a) a plan, subject to commissioner approval, for improved administration or claims processing designed to eliminate the

potential for further deterioration of the policy form requiring further premium rate schedule increases, or both, or to demonstrate that appropriate administration and claims processing have been implemented or are in effect; otherwise the commissioner may impose the condition in Subsection R590-148-24(8); and

(b) the original anticipated lifetime loss ratio, and the premium rate schedule increase that would have been calculated according to Subsection R590-148-24(3) had the greater of the original anticipated lifetime loss ratio or 58% been used in the calculations described in Subsection R590-148-24(3)(a)(i) and (iii).

(8) (a) For a rate increase filing that meets the following criteria, the commissioner shall review, for all policies included in the filing, the projected lapse rates and past lapse rates during the 12 months following each increase to determine if significant adverse lapsation has occurred or is anticipated:

(i) the rate increase is not the first rate increase requested for the specific policy form or forms;

(ii) the rate increase is not an exceptional increase; and

(iii) the majority of the policies or certificates to which the increase is applicable are eligible for the contingent benefit upon lapse.

(b) In the event significant adverse lapsation has occurred, is anticipated in the filing or is evidenced in the actual results as presented in the updated projections provided by the insurer following the requested rate increase, the commissioner may determine that a rate spiral exists. Following the determination that a rate spiral exists, the commissioner may require the insurer to offer, without underwriting, to all in force insureds subject to the rate increase the option to replace existing coverage with one or more reasonably comparable products being offered by the insurer or its affiliates.

(i) The offer shall:

(A) be subject to the approval of the commissioner;

(B) be based on actuarially sound principles, but not be based on attained age; and

(C) provide that maximum benefits under any new policy accepted by an insured shall be reduced by comparable benefits already paid under the existing policy.

(ii) The insurer shall maintain the experience of all the replacement insureds separate from the experience of insureds originally issued the policy forms. In the event of a request for a rate increase on the policy form, the rate increase shall be limited to the lesser of:

(A) the maximum rate increase determined based on the combined experience; and

(B) the maximum rate increase determined based only on the experience of the insureds originally issued the form plus 10%.

(9) If the commissioner determines that the insurer has exhibited a persistent practice of filing inadequate initial premium rates for long-term care insurance, the commissioner may, in addition to the provisions of Subsection R590-148-~~24(8)~~24(8), prohibit the insurer from either of the following:

(a) filing and marketing comparable coverage for a period of up to five years; or

(b) offering all other similar coverages and limiting marketing of new applications to the products subject to recent premium rate schedule increases.

(10) Subsections R590-148-24(1) through (9) shall not apply to policies for which the long-term care benefits provided by the policy are incidental, as defined in Subsection R590-148-5(2)(m), if the policy complies with all of the following provisions:

(a) the interest credited internally to determine cash value accumulations, including long-term care, if any, are guaranteed not to be less than the minimum guaranteed interest rate for cash value accumulations without long-term care set forth in the policy;

(b) the portion of the policy that provides insurance benefits other than long-term care coverage meets the nonforfeiture requirements as applicable in any of the following:

(i) Section 31A-22-408; and

(ii) Section 31A-22-409;

(c) the policy meets the disclosure requirements of Subsections 31A-22-1409(7) and (8) and 31A-22-1410;

(d) the portion of the policy that provides insurance benefits other than long-term care coverage meets the requirements as applicable in the following:

(i) policy illustrations as required by R590-177; and

(ii) disclosure requirements in R590-133;

(e) an actuarial memorandum is filed with the insurance department that includes:

(i) a description of the basis on which the long-term care rates were determined;

(ii) a description of the basis for the reserves;

(iii) a summary of the type of policy, benefits, renewability, general marketing method, and limits on ages of issuance;

(iv) a description and a table of each actuarial assumption used. For expenses, an insurer must include percent of premium dollars per policy and dollars per unit of benefits, if any;

(v) a description and a table of the anticipated policy reserves and additional reserves to be held in each future year for active lives;

(vi) the estimated average annual premium per policy and the average issue age;

(vii) a statement as to whether underwriting is performed at the time of application. The statement shall indicate whether underwriting is used and, if used, the statement shall include a description of the type or types of underwriting used, such as medical underwriting or functional assessment underwriting. Concerning a group policy, the statement shall indicate whether the enrollee or any dependent will be underwritten and when underwriting occurs; and

(viii) a description of the effect of the long-term care policy provision on the required premiums, nonforfeiture values and reserves on the underlying insurance policy, both for active lives and those in long-term care claim status.

(11) Subsections R590-148-24(6) and (8) shall not apply to group insurance policies where:

(a) the policies insure 250 or more persons and the policyholder has 5,000 or more eligible employees of a single employer; or

(b) the policyholder, and not the certificateholders, pays a material portion of the premium, which shall not be less than 20% of the total premium for the group in the calendar year prior to the year a rate increase is filed.

R590-148-25. Reporting Requirements.

(1) Every insurer shall maintain records for each agent of that agent's amount of replacement sales as a percent of the agent's total annual sales and the amount of lapses of long-term care insurance policies sold by the agent as a percent of the agent's total annual sales.

(a) Every insurer shall report the 10% of its agents with the greatest percentages of lapses and replacements as measured by Subsection R590-148-25(1).

(b) Every insurer shall report the number of lapsed policies as a percent of its total annual sales and as a percent of its total number of policies in force as of the end of the preceding calendar year.

(c) Every insurer shall report the number of replacement policies sold as a percent of its total annual sales and as a percent of its total number of policies in force as of the preceding calendar year.

(d) The reports required by Subsection R590-148-25(1)(a), (b), and (c) must be reported on the "Replacement and Lapse Reporting Form." Appendix G.

(e) Reported replacement and lapse rates do not alone constitute a violation of insurance laws or necessarily imply wrongdoing. The reports are for the purpose of reviewing more closely agent activities regarding the sale of long-term care insurance.

(2) Every insurer shall report, for qualified long-term care insurance contracts, the number of claims denied for each class of business, expressed as a percentage of claims denied. The report used by the insurer shall contain, at a minimum, the information in the format contained in Appendix E, Claims Denial Reporting Form Long-Term Care Insurance, in not less than 12 point type.

(3) Every insurer shall maintain a record of all policy or certificate rescissions, both state and countrywide, except those which the insured voluntarily effectuated and shall annually report this information in the format currently prescribed by the National Association of Insurance Commissioners.

(4) Every insurer shall report the total number of applications received from residents of this state, the number of those who declined to provide information on the personal worksheet, the number of applicants who did not meet the suitability standards, and the number of those who chose to confirm after receiving a suitability letter.

(5) For purposes of this section:

(a) "policy" shall mean only long-term care insurance;

(b) "claim" means a request for payment of benefits under an in force policy regardless of whether the benefit claimed is covered under the policy or any terms or conditions of the policy have been met;

(c) "denied" means that the insurer refuses to pay a claim for any reason other than for claims not paid for failure to meet the waiting period or because of an applicable preexisting condition; and

(d) "report" means on a statewide basis.

(6) Reports required under this section shall be filed with the commissioner annually on or before June 30.

R590-148-26. Licensing.

A producer is not authorized to sell, solicit or negotiate with respect to long-term care insurance except as authorized by Chapter 23 of Title 31A.

R590-148-27. Discretionary Powers of Commissioner.

The commissioner may upon written request and after an administrative hearing, issue an order to modify or suspend a specific provision or provisions of this rule with respect to a specific long-term care insurance policy or certificate upon a written finding that:

(1) the modification or suspension would be in the best interest of the insured; and

(2) the purposes to be achieved could not be effectively or efficiently achieved without the modification or suspension; and

(3) one of the following occur:

(a) the modification or suspension is necessary to the development of an innovative and reasonable approach for insuring long-term care;

(b) the policy or certificate is to be issued to residents of a life care or continuing care retirement community or some other residential community for the elderly and the modification or suspension is reasonably related to the special needs or nature of the community; or

(c) the modification or suspension is necessary to permit long-term care insurance to be sold as part of, or in conjunction with, another insurance product.

R590-148-28. Penalties.

In addition to any other penalties provided by the laws of this state any insurer and any agent found to have violated any requirement of this state relating to the rule of long-term care insurance or the marketing of this insurance shall be subject to a fine of up to three times the amount of any commissions paid for each policy involved in the violation or up to \$10,000, whichever is greater.

R590-148-29. Enforcement Date.

~~[The]Effective July 1, 2002, the~~ department will enforce all sections of the rule not already including a compliance date~~[45 days from the date the rule takes effect.]~~

R590-148-30. 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 and the provisions of this rule are declared to be severable.

KEY: insurance

2002

31A-2-201

31A-22-1404



Natural Resources, Wildlife Resources **R657-3** Collection, Importation, Transportation, and Possession of Zoological Animals

NOTICE OF CHANGE IN PROPOSED RULE

DAR File No.: 24394
Filed: 03/01/2002, 13:58

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Provisions in Sections R657-3-21, R657-3-24, and R657-3-26 are being amended to correct the previous filing of R657-3, DAR File No. 24394. These corrections were adopted by the Utah Wildlife Board on February 21, 2002.

SUMMARY OF THE RULE OR CHANGE: Subsection R657-3-21(3) is being amended to delete the requirement that a person who possess more than four amphibians classified as

noncontrolled will be required to obtain a Certificate of Registration (COR). A person will be required to obtain a COR for collecting more than four amphibians classified as noncontrolled. Subsection R657-3-24(1)(b) is being amended to correct a typographical error. Subsection R657-3-26(1)(b)(i) is being amended to add the Beaded Lizard, Helodermatidae Family, to the list of classified species, which is prohibited for collection, importation, and possession. This species was inadvertently deleted from the list. Subsection R657-3-26(5)(a) is being amended to delete the requirement that a person who imports or possess more than four reptiles classified as noncontrolled will be required to obtain a COR. A person will be required to obtain a COR for collecting more than four reptiles classified as noncontrolled. (DAR NOTE: This change in proposed rule has been filed to make additional changes to a proposed repeal and reenact that was published in the February 1, 2002, issue of the Utah State Bulletin, on page 31. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the change in proposed rule and the proposed repeal and reenact together to understand all of the changes that will be enforceable should the agency make this rule effective.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 23-14-18 and 23-14-19

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: These amendments correct the previous filing of R657-3, DAR File No. 24394. The Division of Wildlife Resources (DWR) will no longer issue CORs for four or more noncontrolled species of amphibians or reptiles for importation or possession, which may minimally impact DWR's budget. Otherwise, there are no cost or savings impact to DWR's budget or the state budget.
- ❖ LOCAL GOVERNMENTS: None--This filing does not create any direct cost or savings impact to local governments because they are not directly affected by the rule. Nor are local governments indirectly impacted because the rule does not create a situation requiring services from local governments.
- ❖ OTHER PERSONS: These amendments are corrections to the previous filing on R657-3. However, the amendments do not impose any additional requirements on other persons, nor generate a cost or savings impact to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: These amendments correct the previous filing of R657-3. DWR will no longer issue CORs for four or more noncontrolled species of amphibians or reptiles for importation or possession. Therefore, persons that were previously required to obtain a COR to import and possess for four or more, noncontrolled amphibians or reptiles will save on the \$50 COR fee and will not incur additional costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The amendments to this rule do not create an impact on businesses.

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

NATURAL RESOURCES
WILDLIFE RESOURCES
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Debbie Sundell at the above address, by phone at 801-538-4707, by FAX at 801-538-4745, or by Internet E-mail at dsundell.nrdwr@state.ut.us

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 04/15/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 04/16/2002

AUTHORIZED BY: Kevin Conway, Assistant Director

R657. Natural Resources, Wildlife Resources.

R657-3. Collection, Importation, Transportation, and Possession of Zoological Animals.

R657-3-21. Classification and Specific Rules for Amphibians.

(1) Amphibians are classified as follows:

(a) Bullfrog, Ranidae Family (*Rana catesbeiana*) is prohibited for collection, importation and possession, except as provided in Subsection (5);

(b) Clawed frog, Pipidae Family (*Xenopus*) (All species) is prohibited for collection, importation and possession;

(c) Columbia spotted frog, Ranidae Family (*Rana luteiventris*) is prohibited for collection, importation and possession;

(d) Green frog, Ranidae Family (*Rana clamitans*) is prohibited for collection, importation and possession, except as provided in Subsection (5);

(e) Northern leopard frog, Ranidae Family (*Rana pipiens*) is controlled for collection, importation and possession;

(f) Pacific chorus frog, Ranidae Family (*Pseudacris regilla*) is controlled for collection, importation and possession;

(g) Relict leopard frog, Ranidae Family (*Rana onca*) is prohibited for collection, importation and possession;

(h) Yavapai leopard frog, Ranidae Family (*Rana yavapaiensis*) is prohibited for collection, importation and possession;

(i) Tiger salamander, Ambystomatidae Family (*Ambystoma tigrinum*) is controlled for importation, and noncontrolled for collection and possession as provided in Subsection (4);

(j) Giant (Marine) toad, Bufonidae Family (*Bufo marinus*) is prohibited for collection, importation and possession;

(k) Southwestern toad, Bufonidae Family (*Bufo microscaphus*) is controlled for collection, importation and possession; and

(l) Western toad, Bufonidae Family (*Bufo boreas*) is prohibited for collection, importation and possession.

(2) All species and subspecies of amphibians not listed in Subsection (1) are classified as noncontrolled for collection, importation and possession, except as provided in Subsection (3).

(3) A person must obtain a certificate of registration to collect ~~or possess~~ four or more amphibians of each species classified as

noncontrolled within a calendar year, except as provided in Subsection (4) and (5).

(4) A person may collect or possess for personal use up to 50 Tiger salamanders (*Ambystoma tigrinum*) without a certificate of registration.

(5) A person may collect or possess any number of Bullfrogs (*Rana catesbeiana*) or Green frogs (*Rana clamitans*) without a certificate of registration provided they are either killed or released immediately upon removing them from the water. A person may not transport a live bullfrog or green frog from the water from which it was collected without first obtaining a certificate of registration.

R657-3-24. Classification and Specific Rules for Fish.

(1) All species of fish listed in Subsections (2) through (30) are classified as prohibited for collection, importation and possession, except:

(a) Koi, Cyprinidae Family (*Cyprinus carpio*) is prohibited for collection, and noncontrolled for importation and possession;

(b) all species and subspecies ~~of~~ ornamental fish not listed in Subsections (2) through (30) are classified as prohibited for collection, and noncontrolled for importation and possession; and

(c) all species and subspecies of non-ornamental fish not listed in Subsections (2) through (30) are classified as prohibited for collection, and controlled for importation and possession.

(2) Carp, including hybrids, Cyprinidae Family, (All species, except Koi).

(3) Catfish:

(a) Flathead catfish, Ictaluridae Family (*Pylodictus olivaris*);

(b) Giant walking catfish (airsac), Heteropneustidae Family (All species);

(c) Labyrinth catfish (walking), Clariidae Family (All species); and

(d) Parasitic catfish (candiru, carnero) Trichomycteridae Family (All species).

(4) Herring:

(a) Alewife, Clupeidae Family (*Alosa pseudoharengus*); and

(b) Gizzard shad, Clupeidae Family (*Dorosoma cepedianum*).

(5) Killifish, Fundulidae Family (All species).

(6) Pike killifish, Poeciliidae Family (*Belonesox belizanus*).

(7) Minnows:

(a) Bonytail, Cyprinidae Family (*Gila elegans*);

(b) Colorado pikeminnow, Cyprinidae Family (*Ptychocheilus lucius*);

(c) Creek chub, Cyprinidae Family (*Semotilus atromaculatus*);

(d) Humpback chub, Cyprinidae Family (*Gila cypha*);

(e) Least chub, Cyprinidae Family (*Lotichthys phlegethontis*);

(f) Leatherside chub, Cyprinidae Family (*Gila copei*);

(g) Red shiner, Cyprinidae Family (*Cyprinella lutrensis*);

(h) Redside shiner, Cyprinidae Family (*Richardsonius balteatus*);

(i) Roundtail chub, Cyprinidae Family (*Gila robusta*);

(j) Sand shiner, Cyprinidae Family (*Notropis stramineus*);

(k) Utah chub, Cyprinidae Family (*Gila atraria*);

(l) Virgin River chub, Cyprinidae (*Gila seminuda*); and

(m) Virgin spinedace, Cyprinidae Family (*Lepidomeda mollispinis*).

(8) Woundfin, Cyprinidae Family (*Plagopterus argentissimus*).

(9) Suckers:

(a) Bluehead sucker, Catostomatidae Family (*Catostomus discobolus*);

- (b) Desert sucker, Catostomidae Family (*Catostomus clarki*);
- (c) Flannelmouth sucker, Catostomidae Family (*Catostomus latipinnis*);
- (d) June sucker, Catostomidae Family (*Chasmistes liorus*);
- (e) Razorback sucker, Catostomidae Family (*Xyrauchen texanus*);
- (f) Utah sucker, Catostomidae Family (*Catostomus ardens*); and
- (g) White sucker, Catostomidae Family (*Catostomus commersoni*).
- (10) White perch, Moronidae Family (*Morone americana*).
- (11) Cutthroat trout, Salmonidae Family (*Oncorhynchus clarki*) (All subspecies).
- (12) Bowfin, Amiidae Family (All species).
- (13) Bull shark, Carcharhinidae Family (*Carcharhinus leucas*).
- (14) Drum (freshwater forms), Sciaenidae Family (All species).
- (15) Gar, Lepidosteidae Family (All species).
- (16) Jaguar guapote, Cichlidae Family (*Cichlasoma managuense*).
- (17) Lamprey, Petromyzontidae Family (All species).
- (18) Mexican tetra, Characidae Family (*Astyanax mexicanus*, except blind form).
- (19) Mooneye, Hiodontidae Family (All species).
- (20) Nile perch, Centropomidae Family (*Lates, lucioides*) (All species).
- (21) Northern pike, Esocidae Family (*Esox lucius*).
- (22) Pirhana, Characidae Family (*Serrasalmus*, All species).
- (23) Round goby, Gobiidae Family (*Neogobius melanostomus*).
- (24) Ruffe, Percidae Family (*Gymnocephalus cernuus*).
- (25) Snakehead, Channidae Family (All species).
- (26) Stickleback, Gasterosteidae Family (All species).
- (27) Stingray (freshwater), Dasyatidae Family (All species).
- (28) Swamp eel, Synbranchidae Family (All species).
- (29) Tiger fish, guavinus, Erythrinidae Family (*Hoplias malabaricus*).
- (30) Tilapia, Cichlidae Family (*Tilapia* and *Sarotherodon*) (All species).

R657-3-26. Classification and Specific Rules for Reptiles.

- (1) Reptiles are classified as follows:
 - (a) Crocodiles are classified as follows:
 - (i) Alligators and caimans, Alligatoridae Family (All species) are prohibited for collection, importation and possession;
 - (ii) Crocodiles, Crocodylidae Family (All species) are prohibited for collection, importation and possession;
 - (iii) Garial, Gavialidae Family (*Vavialis gangeticus*) is prohibited for collection, importation and possession;
 - (b) Lizards are classified as follows:
 - (i) Beaded lizard, Helodermatidae Family, *Heloderma horridum* is prohibited for collection, importation, and possession;
 - (ii) Chuckwalla, Iguanidae Family (*Sauromalus*) (All species) are prohibited for collection, and controlled for importation and possession;
 - (iii) Desert iguana, Iguanidae Family (*Dipsosaurus dorsalis*) is prohibited for collection, and controlled for importation and possession;
 - (iv) Gila monster, Helodermatidae Family (*Heloderma suspectum*) is prohibited for collection, importation and possession;

- (v) Many-lined skink, Scincidae Family (*Eumeces multivirgatus gaigeae*) is controlled for collection, importation and possession;
- (vi) Night lizard, Xantusiidae Family (*Xantusia vigilis*) is controlled for collection, importation and possession;
- (vii) Plateau striped whiptail, Teiidae Family (*Cnemidophorus velox*) is controlled for collection, importation and possession;
- (viii) Side-blotched lizard, Phrynosomatidae Family (*Uta stansburiana*) is noncontrolled collection, importation and possession, except as provided in Section R657-3-26(5);
- (ix) Utah banded Gecko, Gekkonidae Family (*Coleonyx variegatus utahensis*) is controlled for collection, importation and possession;
- (x) Mojave zebra-tailed lizard, Phrynosomatidae Family (*Callisaurus draconoides rhodostictus*) is controlled for collection, importation and possession;
- (c) Snakes are classified as follows:
 - (i) Bird Snake, Colubridae Family (*Thelotornis*) (All species) are prohibited for collection, importation and possession;
 - (ii) Boomslang, Colubridae Family (*Dispholidus typus*) is prohibited for collection, importation and possession;
 - (iii) Burrowing asps, Atractaspididae Family (All species) are prohibited for collection, importation and possession;
 - (iv) California kingsnake (black and white banded-form), Colubridae Family (*Lampropeltis getula californiae*) is controlled for collection, importation and possession;
 - (v) Desert glossy snake, Colubridae Family (*Arizona elegans eburnata*) is controlled for collection, importation and possession;
 - (vi) Great Plains rat snake, Colubridae Family (*Elaphe guttata emoryi*) is controlled for collection, importation and possession;
 - (vii) Keelback, Colubridae Family (*Rhabdophis*) (All species) are prohibited for collection, importation and possession;
 - (viii) Mojave patch-nosed snake, Colubridae Family (*Salvadora hexalepis mojavensis*) is controlled for collection, importation and possession;
 - (ix) Painted desert glossy snake, Colubridae Family (*Arizona elegans philipi*) is controlled for collection, importation and possession;
 - (x) Pit vipers, Viperidae Family (All species, except *Crotalus viridis*) are prohibited for collection, importation and possession;
 - (xi) Proteroglyphous snakes, Australian spp., cobras, coral snakes, kraits, and their allies, Elapidae Family (All species) are prohibited for collection, importation and possession;
 - (xii) Sonoran lyre snake, Colubridae Family (*Trimorphodon biscutatus lambda*) are prohibited for collection, importation and possession;
 - (xiii) Southwestern black-headed snake, Colubridae Family (*Tantilla hobartsmithi*) is controlled for collection, importation and possession;
 - (xiv) Utah blind snake, Leptotyphlopidae Family (*Leptotyphlops humilis utahensis*) is controlled for collection, importation and possession;
 - (xv) Utah milk snake, Colubridae Family (*Lampropeltis triangulum taylori*) is prohibited for collection, importation and possession;
 - (xvi) Utah mountain kingsnake, Colubridae Family (*Lampropeltis pyromelana infralabialis*) is prohibited for collection, importation and possession;

(xvii) Western rattlesnake, Viperidae Family (*Crotalus viridis*) is controlled for collection, prohibited for importation, and controlled for possession;

(xviii) Western smooth green snake, Colubridae Family (*Liochlorophis vernalis blanchardi*) is controlled for collection, importation and possession;

(xix) Western terrestrial garter snake, Colubridae Family (*Thamnophis elegans*) is noncontrolled for collection, importation and possession, except as provided in Section R657-3-26(5);

(d) Turtles are classified as follows:

(i) Desert tortoise, Testudinidae Family (*Gopherus agassizii*) is prohibited for collection and importation, and controlled for possession;

(ii) Snapping turtle, Chelydridae Family (*Chelydra serpentina*) is prohibited for collection, importation and possession, except as provided in Section R657-3-26(6);

(iii) Spiny softshell, Trionychidae Family (*Apalone spinifera*) is prohibited for collection, importation and possession, except as provided in Section R657-3-26(6).

(2) All species and subspecies of reptiles not listed in Subsection (1) are classified as noncontrolled for collection, importation and possession, except as provided in Subsection (5).

(3) A person may not:

(a) disturb the den of any reptile or kill, capture, or harass any reptile within 100 yards of a reptile den without first obtaining a certificate of registration from the division; or

(b) indiscriminately kill any reptile.

(4)(a) Western rattlesnakes, *Crotalus viridis*, may be killed without a certificate of registration only for reasons of human safety.

(b) The carcass of a Western rattlesnake killed pursuant to Subsection (a) may be retained for personal use only.

(5)(a) A person must obtain a certificate of registration to collect~~[-import, or possess]~~ four or more reptiles of each species classified as noncontrolled within a calendar year, except as provided in Subsection (5)(b) and Subsection (6).

(b) A person may collect and possess any number of side-blotched lizards, *Uta stansburiana*, and western terrestrial garter, *Thamnophis elegans*, snakes without obtaining a certificate of registration.

(6) A person may collect or possess any number of snapping turtles, *Chelydra serpentina*, or spiny softshell, *Apalone spinifera*, turtles without a certificate of registration provide they are either killed or released immediately upon removing them from the water. A person may not transport a live snapping turtle or spiny softshell turtle from the water from which it was collected without first obtaining a certificate of registration.

(7) For purposes of this section, "white" means white and other non-yellow shades of white.

KEY: wildlife, animal protection, import restrictions, zoological animals[[±]]

2002

Notice of Continuation April 16, 2001

23-14-18

23-14-19

23-20-3

23-13-14

63-30-1 et seq.



End of the Notices of Changes in Proposed Rules Section

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

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

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

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

Corrections, Administration **R251-107** Executions

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 24499
FILED: 02/20/2002, 11:26

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: Sections 77-19-10 and 77-19-11 direct the department to adopt rules regarding the execution of judgments of death and attendance of persons at the execution.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is necessary to establish safety and security within prison facilities prior to, during, and immediately following an execution.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Ginny L Duncan at the above address, by phone at 801-545-5722, by FAX at 801-545-5523, or by Internet E-mail at guncan@udc.state.ut.us

AUTHORIZED BY: Michael P. Chabries, Executive Director

EFFECTIVE: 03/07/2002



Education, Administration **R277-915** Work-based Learning Programs for Interns

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 24521
FILED: 02/28/2002, 18:41

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 53A-29-102 provides that the State Board of Education shall provide rules to schools wishing to offer and operate internships in connection with work experience and career exploration programs.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The law requires a rule to provide necessary guidelines and direction to schools regarding internships.

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 clear@usoe.k12.ut.us

AUTHORIZED BY: Carol Lear, Coordinator School Law and Legislation

EFFECTIVE: 03/07/2002

Insurance, Administration

R590-70

Insurance Holding Companies

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 24500
FILED: 02/21/2002, 08:43

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 gives the insurance commissioner the authority to make rules to implement the provisions of Title 31A. This rule deals with the requirements of Title 31A, Chapter 16 entitled, "Insurance Holding Companies" setting guidelines in the acquisition of a domestic insurer, as well as the relationship and transactions among affiliates in a holding company system ensuring policyholders, shareholders, and the public are not harmed.

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 provides guidance for the filing of registration statements required by Title 31A, Chapter 16. Registration statements must be filed by every insurer which is authorized to do business in the State of Utah and which is a member of an insurance holding company system.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jilene Whitby at the above address, by phone at 801-538-

3803, by FAX at 801-538-3829, or by Internet E-mail at jwhitby@insurance.state.ut.us

AUTHORIZED BY: Jilene Whitby, Information Specialist

EFFECTIVE: 03/07/2002

Insurance, Administration

R590-78

Exchange-Traded Options

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 24512
FILED: 02/26/2002, 16:48

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 31A-2-201 authorizes the insurance commissioner to write rules necessary to implement the provisions of the insurance code. Subsection 31A-18-105(13) gives the insurance commissioner specific rulemaking authority to write a rule listing investments other than those listed as authorized investments in the Insurance Code. The rule establishes procedures and guidelines for all domestic insurance companies with respect to the sale and purchase of exchange-traded call options.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The department has received only one written comment regarding this rule in the past five years. It was from one of their own examiners reporting that this rule conflicts with the requirements of the code, Subsection 31A-17-201(2)(a), requiring the use of the Accounting Practices and Procedures Manual, published by the National Association of Insurance Commissioners, to determine if an insurer's asset may be considered admitted.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: It has been determined by the department that as a result of the finding that this rule conflicts with Subsection 31A-17-201(2)(a), the department will repeal this rule in the very near future.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

AUTHORIZED BY: Jilene Whitby, Information Specialist

EFFECTIVE: 03/07/2002



Insurance, Administration
R590-95
Rule to Permit the Same Minimum
Nonforfeiture Standards for Men and
Women Insureds Under the 1980 CSO
and 1980 CET Mortality Tables

FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION

DAR FILE NO.: 24506
 FILED: 02/25/2002, 16:16

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 provides the commissioner with general rulemaking authority to make rules to implement the provisions of the insurance code. Section 31A-22-408 provides specific rulemaking authority regarding standard nonforfeiture law for life insurance. Subsection 31A-22-408(11) provides rulemaking authority to allow the commissioner to adopt rules interpreting, describing, and clarifying the application of this nonforfeiture law to any form of life insurance. The rule permits individual life insurance policies to provide the same cash surrender value and paid-up nonforfeiture benefits to both men and women.

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 written comments regarding this rule in the past five years.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R590-95 was adopted because of the U.S. Supreme Court case of *Arizona Governing Committee v. Norris* in 1983. The court ruled that the use of gender-based actuarial tables in an annuity for an employer's pension plan violates the federal Civil Rights Act of 1964. So, the National Association of Insurance Commissioners created a regulation that recognizes gender-blended mortality tables for nonforfeiture standards for men and women. Most states, including Utah, adopted the model regulation that allows insurance companies issuing annuity

contracts to employer-clients to comply with the Norris decision.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

AUTHORIZED BY: Jilene Whitby, Information Specialist

EFFECTIVE: 03/07/2002



Insurance, Administration
R590-99
Delay or Failure to Record Documents
and the Insuring of Properties with the
False Appearance of Unmarketability as
Unfair Title Insurance Practices

FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION

DAR FILE NO.: 24513
 FILED: 02/26/2002, 17:16

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 gives the insurance commissioner the authority to write rules necessary to implement the provisions of the insurance code.

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 written comments regarding this rule in the past five years.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: There are several reasons the Insurance Department thinks this rule should remain in effect. For one, the department still sees instances where underwriters and their agents will insure around a defect, lien, or encumbrance in title in order to hold the potential property seller or borrower "captive" for future business when other insurers will not take the risk (reference Section R590-99-2).

More recently, the department has seen many instances of "stacked mortgages" where, by delaying the recording of one or more new mortgages, multiple lenders are defrauded into believing they have a first lien position. In some cases, this can also include naive sellers who carry back second trust deeds only to find they have no recorded interest in the property.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

AUTHORIZED BY: Jilene Whitby, Information Specialist

EFFECTIVE: 03/07/2002

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule complies with the requirement of the law to disclose information to the public and licensees regarding the fees the department charges.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

AUTHORIZED BY: Jilene Whitby, Information Specialist

EFFECTIVE: 03/07/2002



Insurance, Administration
R590-102

Insurance Department Fee Payment
Deadlines

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

DAR File No.: 24504
FILED: 02/21/2002, 10:06

**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: Subsection 31A-3-103(3) requires the commissioner to include, in a compilation of rules, the fee schedule set by the legislature. This is done in Section R590-102-4 of the rule. Subsection 31A-3-103(5) requires the commissioner, by rule, to establish the deadlines for each fee payment. This is also done in Section R590-102-4 of the rule.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The department has received no written comments regarding this version of the rule in the past five years. The department is proposing changes to the rule and as a result has received comments regarding those proposed changes. The proposed changes have not been filed at this time.



Insurance, Administration
R590-114
Letters of Credit

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

DAR File No.: 24501
FILED: 02/21/2002, 09:10

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 31A-2-201 gives the commissioner the authority to make rules to implement provisions of Title 31A. Section 31A-17-404 gives specific rulemaking authority to determine the form of letters of credit used as security to protect a ceding insurer in a transaction of insurance. Subsection R590-114-4 of the rule sets the requirements that the letters of credit are to meet, as well as how they are nonrenewed and withdrawn, and gives the commissioner the right to inspect them.

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 by the department regarding this rule in the past five years.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Insurers use letters of credit in connection with reinsurance transactions. Rule R590-114

describes the standards that a letter of credit must be allowed as an asset.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

AUTHORIZED BY: Jilene Whitby, Information Specialist

EFFECTIVE: 03/07/2002



Insurance, Administration
R590-123
Additions and Deletions of Designees
by Organizations

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

DAR FILE NO.: 24508
FILED: 02/26/2002, 11:34

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 31A-2-201 is the general rulemaking authority given to the commissioner to write rules as needed to implement the provisions of the insurance code. Subsection 31A-23-215(2) is the specific granted rulemaking authority to write a rule prescribing the detail and form in which an insurance organization is to report annually all natural persons acting for them as agents, brokers, surplus lines brokers, managing general agents, or consultants. The rule does this by adopting the detail, form, and time by which an organization will either add or delete any natural person to or from their list of authorized designees who conduct business on behalf of the organization in this state.

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 comments regarding this rule in the past five years.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS

IN OPPOSITION TO THE RULE, IF ANY: The rule sets the line of responsibility between the insurance organization and those active in the insurance business on their behalf, consulting and selling their policies. If one of these designees acts in an illegal or unprofessional way, the department has a legal record of who they represent and is responsible for their insurance-related conduct.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

AUTHORIZED BY: Jilene Whitby, Information Specialist

EFFECTIVE: 03/07/2002



Insurance, Administration
R590-142
Continuing Education Rule

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

DAR FILE NO.: 24507
FILED: 02/26/2002, 11:23

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Sections 31A-23-206 and 31A-26-206 authorize the commissioner to prescribe by rule continuing education (CE) requirements for each class of agent, broker, consultant, and adjuster's license. This rule does this by setting the program requirements, the controls, and reporting requirements of the CE provider. It also sets the grounds for suspending the certification of a CE program and the penalties to be imposed for violations of CE requirements.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The department has received comments both supporting and opposing the rule. Some feel CE is a waste of time, it costs too much, and they cannot find any classes to take. Some feel the requirements are too little, and others, that they are too tough. Those that have expressed opposition to the rule are those that have not completed their CE requirements before the renewal of their license is due. To date, 48 insurance departments have CE

requirements and the average requirement is 15 hours a year.

Utah requires a minimum of 12 hours and a maximum of 24 hours every two years depending on the number of lines of insurance an individual is licensed for. CE courses are displayed on the department's website and available in hard copy from the department.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule builds the professionalism of those that work in the insurance industry. It helps to ensure consumers receive accurate insurance information and proper coverage.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

AUTHORIZED BY: Jilene Whitby, Information Specialist

EFFECTIVE: 03/07/2002

Insurance, Administration **R590-143**

Life And Health Reinsurance Agreements

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 24497
FILED: 02/19/2002, 10:24

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 31A-2-201 provides the commissioner with general rulemaking authority, as needed, to implement the provisions of the insurance code.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The department has received no written comments 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 provides guidance for the evaluation and/or accounting for reinsurance agreements entered into by insurers doing business in the State of Utah.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

AUTHORIZED BY: Jilene Whitby, Information Specialist

EFFECTIVE: 03/07/2002

Insurance, Administration **R590-147** Annual Statement Instructions

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 24502
FILED: 02/21/2002, 09:31

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 31A-2-201 gives the commissioner the authority to make rules to implement provisions of Title 31A. Section 31A-4-113 gives the commissioner the authority to set the form and information required in the annual statement insurers are required to file with the commissioner. This rule requires all licensed insurers to file their annual statement on the form and according to the instructions published by the National Association of Insurance Commissioners.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The department has not received any written comments regarding this rule in the past five years.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule provides guidance and instructions for meeting the requirements of the statute.

As a result of this rule, all insurers of each major line of insurance, i.e., life, health, property and casualty, title, health maintenance organizations, and fraternal, are required to file on the same type of forms, which standardizes the information and makes it easier verify the financial health of licensed insurers.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

AUTHORIZED BY: Jilene Whitby, Information Specialist

EFFECTIVE: 03/07/2002



Insurance, Administration
R590-150
Commissioner's Acceptance of
Examination Reports

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

DAR FILE NO.: 24503
FILED: 02/21/2002, 09:44

**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 make rules to implement provisions of Title 31A. Subsection 31A-2-203(4) authorizes the commissioner to approve actuarial evaluations made by an actuary. The rule supports Subsection 31A-2-203(4) by defining standards that reports of examinations conducted by insurance departments of other states must meet to be acceptable to the commissioner. Standards were implemented as a result of the National Association of Insurance Commissioners' accreditation program.

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 written comments regarding this rule in the past five years.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule supports Subsection 31A-2-203(4) by defining standards that reports of examinations conducted by insurance departments of other states must meet to be acceptable to the commissioner. Standards were implemented as a result of the National Association of Insurance Commissioners' accreditation program.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

AUTHORIZED BY: Jilene Whitby, Information Specialist

EFFECTIVE: 03/07/2002



Natural Resources, Wildlife Resources
R657-20
Falconry

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

DAR FILE NO.: 24531
FILED: 03/01/2002, 13:59

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Under Section 23-17-7 and in accordance with 50 CFR 21, 2000 ed., which is incorporated by reference into Rule R657-20, the Wildlife Board is authorized and required to regulate the possession and use of raptors for falconry.

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 Division of Wildlife Resources and the Wildlife Board have received several comments, both in support and opposition to Rule R657-20, Falconry. Written comments received in opposition to the rule are resolved using existing policies and procedures or the issue is placed on the Regional Advisory Council's and Wildlife Board's agenda for review and discussion during the review process for taking public input. The public is welcome to view the Regional Advisory Council minutes, Wildlife Board

minutes, and administrative record for this rule at the Division of Wildlife Resources.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R657-20 provides the requirements, procedures, and standards for possessing and using raptors for falconry. The provisions adopted in this rule are effective in providing the requirements, procedures and standards for managing the falconry program. Continuation of this rule is necessary for continued success of this program.

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

NATURAL RESOURCES
WILDLIFE RESOURCES
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Debbie Sundell at the above address, by phone at 801-538-4707, by FAX at 801-538-4745, or by Internet E-mail at dsundell.nrdwr@state.ut.us

AUTHORIZED BY: Kevin Conway, Assistant Director

EFFECTIVE: 03/07/2002

review process for taking public input. The public is welcome to view the Regional Advisory Council minutes, Wildlife Board minutes, and administrative record for this rule at the Division of Wildlife Resources.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R657-43 provides the requirements, procedures, and standards for private landowners to obtain landowner permits for taking buck deer within a general regional hunt boundary where the landowner's property is located, and taking bull elk, buck deer, or buck pronghorn within a limited entry unit. This rule provides the opportunity for landowners, whose property provides habitat for deer, elk, or pronghorn, to benefit by obtaining landowner permits for use within a general regional hunt area or limited entry area where the landowner's property is located. The provisions adopted in this rule are effective in providing the requirements, procedures, and standards for managing the landowner permit program. Continuation of this rule is necessary for continued success of this program.

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

NATURAL RESOURCES
WILDLIFE RESOURCES
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Debbie Sundell at the above address, by phone at 801-538-4707, by FAX at 801-538-4745, or by Internet E-mail at dsundell.nrdwr@state.ut.us

AUTHORIZED BY: Kevin Conway, Assistant Director

EFFECTIVE: 03/07/2002

Natural Resources, Wildlife Resources **R657-43** Landowner Permits

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 24535
FILED: 03/01/2002, 14:05

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Under Sections 23-14-18 and 23-14-19, the Wildlife Board is authorized and required to provide rules to regulate the management of big game species. This rule provides the standards and procedures for private landowners to obtain landowner permits for taking specific big game species from the landowner's property.

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 Division of Wildlife Resources and the Wildlife Board have received several comments, both in support and opposition to Rule R657-43, Landowner Permits. Written comments received in opposition to the rule are resolved using existing policies and procedures or the issue is placed on the Regional Advisory Council's and Wildlife Board's agenda for review and discussion during the

Regents (Board Of), University of Utah, Parking and Transportation Services

R810-2 Parking Meters

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 24516
FILED: 02/27/2002, 10:29

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 53B-3-103 gives the board authority to enact regulations governing the conduct of university students, faculty, and employees. Section 53b-3-107 regulates what are and how to deal with traffic violations.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: University of Utah parking is self-funded. Faculty, staff, and students must purchase permits to park on campus. Parking meters allow visitors to park on campus without having to purchase a permit. There have been no comments in opposition to the rule.

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

REGENTS (BOARD OF)
UNIVERSITY OF UTAH,
PARKING AND TRANSPORTATION SERVICES
Room 101
1910 E RESEARCH RD
SALT LAKE CITY UT 84112-0436, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

John Crawford at the above address, by phone at 801-585-6941, by FAX at 801-581-4056, or by Internet E-mail at john@parking.utah.edu

AUTHORIZED BY: John Crawford, Office Operations Manager

EFFECTIVE: 03/07/2002



Regents (Board Of), University of Utah,
Parking and Transportation Services

R810-6

Permit Prices and Refunds FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR File No.: 24530
FILED: 03/01/2002, 13:43

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 53B-3-103 gives the board authority to enact regulations governing the conduct of university students, faculty, and employees. Section 53b-3-107 regulates what are and how to deal with traffic violations.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no comments supporting or opposing the rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS

IN OPPOSITION TO THE RULE, IF ANY: University of Utah parking is self-funded. This rule outlines who approves permit prices and how permits are handled, i.e., expirations, prorations, and refunds.

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

REGENTS (BOARD OF)
UNIVERSITY OF UTAH,
PARKING AND TRANSPORTATION SERVICES
Room 101
1910 E RESEARCH RD
SALT LAKE CITY UT 84112-0436, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

John Crawford at the above address, by phone at 801-585-6941, by FAX at 801-581-4056, or by Internet E-mail at john@parking.utah.edu

AUTHORIZED BY: John Crawford, Office Operations Manager

EFFECTIVE: 03/07/2002



Regents (Board Of), University of Utah,
Parking and Transportation Services

R810-9

Contractors and Their Employees

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR File No.: 24533
FILED: 03/01/2002, 14:02

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 53B-3-103 gives the board authority to enact regulations governing the conduct of university students, faculty, and employees. Section 53b-3-107 regulates what are and how to deal with traffic violations.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no comments either opposing or supporting this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule establishes procedures for contractors working at the University of Utah to park vehicles in areas set aside specifically for them while working on their projects.

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

REGENTS (BOARD OF)
UNIVERSITY OF UTAH,
PARKING AND TRANSPORTATION SERVICES
Room 101
1910 E RESEARCH RD
SALT LAKE CITY UT 84112-0436, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

John Crawford at the above address, by phone at 801-585-6941, by FAX at 801-581-4056, or by Internet E-mail at john@parking.utah.edu

AUTHORIZED BY: John Crawford, Office Operations Manager

EFFECTIVE: 03/07/2002



Regents (Board Of), University of Utah,
Parking and Transportation Services

R810-10

Enforcement System

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 24536
FILED: 03/01/2002, 14:23

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 53B-3-103 gives the board authority to enact regulations governing the conduct of university students, faculty, and employees. Section 53b-3-107 regulates what are and how to deal with traffic violations.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no comments either supporting or opposing this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Parking at the University of Utah is self-funded. Payment of user fees are collected in order to support the parking system. Enforcement is necessary to ensure that those parking on the campus have paid the proper user fee.

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

REGENTS (BOARD OF)
UNIVERSITY OF UTAH,
PARKING AND TRANSPORTATION SERVICES
Room 101
1910 E RESEARCH RD
SALT LAKE CITY UT 84112-0436, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

John Crawford at the above address, by phone at 801-585-6941, by FAX at 801-581-4056, or by Internet E-mail at john@parking.utah.edu

AUTHORIZED BY: John Crawford, Office Operations Manager

EFFECTIVE: 03/07/2002



Regents (Board Of), University of Utah,
Parking and Transportation Services

R810-11

Appeals System

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 24537
FILED: 03/01/2002, 15:16

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 53B-3-103 gives the board authority to enact regulations governing the conduct of university students, faculty, and employees. Section 53b-3-107 regulates what are and how to deal with traffic violations.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no written comments received either supporting or opposing the rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The appeals system gives individuals a way to appeal parking tickets received on campus. There have been no comments opposing this rule.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
REGENTS (BOARD OF)
UNIVERSITY OF UTAH,
PARKING AND TRANSPORTATION SERVICES
Room 101
1910 E RESEARCH RD
SALT LAKE CITY UT 84112-0436, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
John Crawford at the above address, by phone at 801-585-6941, by FAX at 801-581-4056, or by Internet E-mail at john@parking.utah.edu

AUTHORIZED BY: John Crawford, Office Operations Manager

EFFECTIVE: 03/07/2002



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

NOTICES OF RULE EFFECTIVE DATES

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

Abbreviations

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

Alcoholic Beverage Control

Administration

No. 24352 (AMD): R81-1-19. Emergency Meetings.
Published: January 15, 2002
Effective: March 1, 2002

No. 24353 (AMD): R81-1-20. Electronic Meetings.
Published: January 15, 2002
Effective: March 1, 2002

Commerce

Occupational and Professional Licensing

No. 24329 (AMD): R156-1-109. Presiding Officers.
Published: January 15, 2002
Effective: February 19, 2002

No. 24331 (AMD): R156-67-306. Exemptions from Licensure.
Published: January 15, 2002
Effective: February 19, 2002

Community and Economic Development

Community Development, History

No. 24323 (AMD): R212-6. State Register for Historic Resources and Archaeological Sites.
Published: January 15, 2002
Effective: February 21, 2002

No. 24322 (AMD): R212-7. Cultural Resource Management.
Published: January 15, 2002
Effective: February 21, 2002

Insurance

Administration

No. 24341 (AMD): R590-147. Annual Statement Instructions.
Published: January 15, 2002
Effective: February 21, 2002

Natural Resources

Wildlife Resources

No. 24342 (AMD): R657-33. Taking Bear.
Published: January 15, 2002
Effective: February 26, 2002

No. 24344 (AMD): R657-49. Big Game Conservation Easements on Former School Trust Lands.
Published: January 15, 2002
Effective: February 26, 2002

No. 24343 (NEW): R657-51. Youth Permits.
Published: January 15, 2002
Effective: February 26, 2002

Tax Commission

Auditing

No. 24336 (AMD): R865-6F-28. Enterprise Zone Corporate Franchise Tax Credits Pursuant to Utah Code Ann. Sections 9-2-401 through 9-2-414.
Published: January 15, 2002
Effective: February 25, 2002

No. 24284 (AMD): R865-9I-17. Periodic Deposit of Withheld Taxes Pursuant to Utah Code Ann. Section 59-10-407.
Published: December 15, 2001
Effective: February 25, 2002

No. 24337 (AMD): R865-9I-37. Enterprise Zone Individual Income Tax Credits Pursuant to Utah Code Ann. Sections 9-2-401 through 9-2-414.
Published: January 15, 2002
Effective: February 25, 2002

End of the Notices of Rule Effective Dates Section

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

The *Rules Index* is a cumulative index that reflects all effective changes to Utah's administrative rules. The current *Index* lists changes made effective from January 2, 2001, including notices of effective date received through March 1, 2002, the effective dates of which are no later than March 15, 2002. The *Rules Index* is published in the *Utah State Bulletin* and in the annual *Index of Changes*. Nonsubstantive changes, while not published in the *Bulletin*, do become part of the *Utah Administrative Code (Code)* and are included in this *Index*, as well as 120-Day (Emergency) rules that do not become part of the *Code*. The rules are indexed by Agency (Code Number) and Keyword (Subject).

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

RULES INDEX - BY AGENCY (CODE NUMBER)

ABBREVIATIONS

| | |
|--------------------------------|--|
| AMD = Amendment | NSC = Nonsubstantive rule change |
| CPR = Change in proposed rule | REP = Repeal |
| EMR = Emergency rule (120 day) | R&R = Repeal and reenact |
| NEW = New rule | * = Text too long to print in <i>Bulletin</i> , or repealed text not printed in <i>Bulletin</i> |
| 5YR = Five-Year Review | |
| EXD = Expired | |

| CODE REFERENCE | TITLE | FILE NUMBER | ACTION | EFFECTIVE DATE | BULLETIN ISSUE/PAGE |
|-----------------------------------|---|----------------|--------|-------------------|------------------------|
| Administrative Services | | | | | |
| <u>Fleet Operations</u> | | | | | |
| R27-1 | Definitions | 24187 | R&R | 01/23/2002 | 2001-22/8 |
| R27-3 | Vehicle Use Standards | 24186 | R&R | 01/23/2002 | 2001-22/11 |
| Agriculture and Food | | | | | |
| <u>Animal Industry</u> | | | | | |
| R58-7-3 | Livestock Markets | 24194 | AMD | 02/12/2002 | 2001-23/4 |
| R58-19 | Compliance Procedures | 24191 | AMD | 02/12/2002 | 2001-23/5 |
| <u>Regulatory Services</u> | | | | | |
| R70-910 | Voluntary Registration of Servicemen and Service Agencies for Commercial Weighing and Measuring Devices | 24200 | AMD | 02/12/2002 | 2001-23/7 |
| R70-940 | Standards and Testing of Motor Fuel | 24198 | AMD | 02/12/2002 | 2001-23/9 |
| Alcoholic Beverage Control | | | | | |
| <u>Administration</u> | | | | | |
| R81-1-19 | Emergency Meetings | 24352 | AMD | 03/01/2002 | 2002-2/4 |
| R81-1-20 | Electronic Meetings | 24353 | AMD | 03/01/2002 | 2002-2/5 |

RULES INDEX

| CODE REFERENCE | TITLE | FILE NUMBER | ACTION | EFFECTIVE DATE | BULLETIN ISSUE/PAGE |
|---|--|-------------|--------|----------------|---------------------|
| Capitol Preservation Board (State) | | | | | |
| <u>Administration</u> | | | | | |
| R131-3 | Use of Magnetometers on Capitol Hill | 24366 | EMR | 01/07/2002 | 2002-3/119 |
| Commerce | | | | | |
| <u>Occupational and Professional Licensing</u> | | | | | |
| R156-1-109 | Presiding Officers | 24329 | AMD | 02/19/2002 | 2002-2/6 |
| R156-24a-601 | Animal Physical Therapy | 24247 | AMD | 01/07/2002 | 2001-23/10 |
| R156-60c-502 | Unprofessional Conduct | 24196 | AMD | 01/07/2002 | 2001-23/11 |
| R156-66a | Amateur Boxing Fund Grant Rules | 24202 | REP | 01/07/2002 | 2001-23/12 |
| R156-67-306 | Exemptions from Licensure | 24331 | AMD | 02/19/2002 | 2002-2/7 |
| Community and Economic Development | | | | | |
| <u>Community Development, History</u> | | | | | |
| R212-6 | State Register for Historic Resources and Archaeological Sites | 24323 | AMD | 02/21/2002 | 2002-2/9 |
| R212-7 | Cultural Resource Management | 24322 | AMD | 02/21/2002 | 2002-2/10 |
| Corrections | | | | | |
| <u>Administration</u> | | | | | |
| R251-111 | Government Records Access and Management | 24274 | AMD | 01/28/2002 | 2001-24/2 |
| Education | | | | | |
| <u>Administration</u> | | | | | |
| R277-432 | Twenty Percent Funding for Class Size Reduction | 24293 | REP | 01/15/2002 | 2001-24/3 |
| R277-502 | Teacher Certification Procedures | 24262 | AMD | 01/04/2002 | 2001-23/14 |
| R277-717 | Math, Engineering, Science Achievement (MESA) | 24263 | AMD | 01/04/2002 | 2001-23/17 |
| R277-902 | Applied Technology Center Tuitions | 24254 | REP | 01/04/2002 | 2001-23/19 |
| R277-903 | Career Ladders for Applied Technology Centers | 24255 | REP | 01/04/2002 | 2001-23/21 |
| R277-904 | Applied Technology Center and Service Region Standards and Operating Procedures | 24257 | REP | 01/04/2002 | 2001-23/23 |
| R277-905 | Standards for Granting Academic Credit by Utah System of Higher Education Institutions for Course Work Completed at Applied Technology Centers | 24258 | REP | 01/04/2002 | 2001-23/29 |
| R277-907 | ATC/ATCSR Membership Hour Accounting | 24259 | REP | 01/04/2002 | 2001-23/31 |
| R277-912 | Standards and Procedures for Post-Secondary Applied Technology Education Accreditation | 24260 | REP | 01/04/2002 | 2001-23/34 |
| R277-913 | Utah's State Custom Fit Training Program | 24261 | REP | 01/04/2002 | 2001-23/35 |
| Environmental Quality | | | | | |
| <u>Water Quality</u> | | | | | |
| R317-6 | Ground Water Quality Protection | 23986 | CPR | 01/22/2002 | 2001-24/31 |
| Health | | | | | |
| <u>Children's Health Insurance Program</u> | | | | | |
| R382-10 | Eligibility | 24063 | AMD | 02/07/2002 | 2001-20/19 |
| <u>Epidemiology and Laboratory Services, Epidemiology</u> | | | | | |
| R386-710 | Early Warning Reporting | 24297 | NEW | 01/15/2002 | 2001-24/5 |

| CODE REFERENCE | TITLE | FILE NUMBER | ACTION | EFFECTIVE DATE | BULLETIN ISSUE/PAGE |
|---|---|-------------|--------|----------------|---------------------|
| <u>Health Care Financing, Coverage and Reimbursement Policy</u> | | | | | |
| R414-2A | Inpatient Hospital Services | 24314 | AMD | 02/01/2002 | 2002-1/6 |
| R414-304 | Income and Budgeting | 24167 | AMD | 01/14/2002 | 2001-22/60 |
| <u>Health Systems Improvement, Child Care Licensing</u> | | | | | |
| R430-50 | Residential Certificate Child Care Standards | 24264 | AMD | 01/14/2002 | 2001-23/37 |
| R430-50-10 | Fire, Safety, and Sanitation | 24345 | AMD | 02/15/2002 | 2002-2/17 |
| R430-60 | Hourly Child Care Center | 24265 | AMD | 01/14/2002 | 2001-23/40 |
| R430-60-13 | Fire, Sanitation, and Safety | 24346 | AMD | 02/15/2002 | 2002-2/18 |
| R430-90 | Licensed Family Child Care | 24266 | AMD | 01/14/2002 | 2001-23/45 |
| R430-90-15 | Safety | 24347 | AMD | 02/15/2002 | 2002-2/20 |
| R430-100-16 | Safety | 24348 | AMD | 02/15/2002 | 2002-2/21 |
| <u>Health Systems Improvement, Licensing</u> | | | | | |
| R432-35 | Background Screening | 24268 | AMD | 01/14/2002 | 2001-23/51 |
| R432-500 | Freestanding Ambulatory Surgical Centers Rules | 24165 | AMD | 01/14/2002 | 2001-22/73 |
| Human Resource Management | | | | | |
| <u>Administration</u> | | | | | |
| R477-9 | Employee Conduct | 24236 | AMD | 01/04/2002 | 2001-23/54 |
| Human Services | | | | | |
| <u>Recovery Services</u> | | | | | |
| R527-5 | Release of Information | 24190 | AMD | 01/02/2002 | 2001-23/57 |
| Insurance | | | | | |
| <u>Administration</u> | | | | | |
| R590-147 | Annual Statement Instructions | 24341 | AMD | 02/21/2002 | 2002-2/22 |
| R590-206-4 | Definitions | 24310 | AMD | 02/12/2002 | 2002-1/8 |
| R590-208 | Uniform Application for Certificates of Authority | 24292 | AMD | 01/24/2002 | 2001-24/6 |
| R590-211 | Underinsured Motorist Insurer Notification Ruling | 23813 | CPR | 01/10/2002 | 2001-23/129 |
| R590-212 | Requirements for Interest Bearing Accounts Used by Title Insurance Agencies for Trust Fund Deposits | 24050 | CPR | 01/10/2002 | 2001-23/130 |
| Labor Commission | | | | | |
| <u>Adjudication</u> | | | | | |
| R602-2-4 | Attorney Fees | 24285 | AMD | 01/15/2002 | 2001-24/7 |
| <u>Industrial Accidents</u> | | | | | |
| R612-1-11 | Burial Expenses | 24280 | AMD | 01/15/2002 | 2001-24/9 |
| R612-4-2 | Premium Rates for the Uninsured Employers' Fund and the Employers' Reinsurance Fund | 24283 | AMD | 01/15/2002 | 2001-24/10 |
| R612-7-3 | Method for Rating | 24296 | AMD | 01/15/2002 | 2001-24/11 |
| <u>Occupational Safety and Health</u> | | | | | |
| R614-1-4 | Incorporation of Federal Standards | 24281 | AMD | 01/15/2002 | 2001-24/12 |
| <u>Safety</u> | | | | | |
| R616-2-3 | Safety Codes and Rules for Boilers and Pressure Vessels | 24286 | AMD | 01/15/2002 | 2001-24/13 |
| R616-3 | Elevator Rules | 24295 | AMD | 01/15/2002 | 2001-24/14 |

RULES INDEX

| CODE REFERENCE | TITLE | FILE NUMBER | ACTION | EFFECTIVE DATE | BULLETIN ISSUE/PAGE |
|---|---|-------------|--------|----------------|---------------------|
| Natural Resources | | | | | |
| <u>Forestry, Fire and State Lands</u> | | | | | |
| R652-121 | Wildland Fire Suppression Fund | 24168 | AMD | 01/04/2002 | 2001-22/82 |
| R652-140 | Utah Forest Practices Act | 24251 | NEW | 01/22/2002 | 2001-23/83 |
| <u>Water Resources</u> | | | | | |
| R653-2 | Financial Assistance from the Board of Water Resources | 24238 | AMD | 01/16/2002 | 2001-23/84 |
| <u>Wildlife Resources</u> | | | | | |
| R657-13 | Taking Fish and Crayfish | 24067 | AMD | 01/02/2002 | 2001-20/35 |
| R657-33 | Taking Bear | 24342 | AMD | 02/26/2002 | 2002-2/23 |
| R657-38 | Dedicated Hunter Program | 24289 | AMD | 01/15/2002 | 2001-24/17 |
| R657-49 | Big Game Conservation Easements on Former School Trust Lands | 24344 | AMD | 02/26/2002 | 2002-2/29 |
| R657-51 | Youth Permits | 24343 | NEW | 02/26/2002 | 2002-2/31 |
| Public Safety | | | | | |
| <u>Fire Marshal</u> | | | | | |
| R710-2 | Rules Pursuant to the Utah Fireworks Act | 24249 | AMD | 01/02/2002 | 2001-23/88 |
| R710-3 | Assisted Living Facilities | 24242 | AMD | 01/02/2002 | 2001-23/91 |
| R710-4 | Buildings Under the Jurisdiction of the State Fire Prevention Board | 24243 | AMD | 01/02/2002 | 2001-23/94 |
| R710-6 | Liquefied Petroleum Gas Rules | 24244 | AMD | 01/02/2002 | 2001-23/99 |
| R710-8 | Day Care Rules | 24245 | AMD | 01/02/2002 | 2001-23/105 |
| R710-9 | Rules Pursuant to the Utah Fire Prevention Law | 24246 | AMD | 01/02/2002 | 2001-23/107 |
| School and Institutional Trust Lands | | | | | |
| <u>Administration</u> | | | | | |
| R850-41-1310 | Prevention of the Spread of Noxious Weeds | 24333 | AMD | 02/15/2002 | 2002-2/33 |
| Tax Commission | | | | | |
| <u>Auditing</u> | | | | | |
| R865-6F-28 | Enterprise Zone Corporate Franchise Tax Credits Pursuant to Utah Code Ann. Sections 9-2-401 through 9-2-414 | 24336 | AMD | 02/25/2002 | 2002-2/34 |
| R865-9I-17 | Periodic Deposit of Withheld Taxes Pursuant to Utah Code Ann. Section 59-10-407 | 24284 | AMD | 02/25/2002 | 2001-24/22 |
| R865-9I-37 | Enterprise Zone Individual Income Tax Credits Pursuant to Utah Code Ann. Sections 9-2-401 through 9-2-414 | 24337 | AMD | 02/25/2002 | 2002-2/36 |
| Transportation | | | | | |
| <u>Administration</u> | | | | | |
| R907-1 | Appeal of Departmental Actions | 24313 | AMD | 02/02/2002 | 2002-1/12 |
| R907-1 | Administrative Procedures | 24312 | AMD | 02/02/2002 | 2002-1/14 |
| <u>Motor Carrier</u> | | | | | |
| R909-19 | Safety Regulations for Tow Truck Operations - Tow Truck Requirements for Equipment, Operation and Certification | 24287 | AMD | 01/18/2002 | 2001-24/23 |
| Workforce Services | | | | | |
| <u>Employment Development</u> | | | | | |
| R986-100 | Employment Support Programs | 24240 | AMD | 02/01/2002 | 2001-23/113 |

| CODE REFERENCE | TITLE | FILE NUMBER | ACTION | EFFECTIVE DATE | BULLETIN ISSUE/PAGE |
|----------------|--|-------------|--------|----------------|---------------------|
| R986-200 | Family Employment Program | 24241 | AMD | 02/01/2002 | 2001-23/114 |
| R986-400 | General Assistance and Working Toward Employment | 24239 | AMD | 02/01/2002 | 2001-23/116 |
| R986-700 | Child Care Assistance | 24248 | AMD | 02/01/2002 | 2001-23/117 |
| R986-900 | Food Stamps | 24250 | AMD | 02/01/2002 | 2001-23/121 |

RULES INDEX - BY KEYWORD (SUBJECT)

ABBREVIATIONS

| | |
|--------------------------------|---|
| AMD = Amendment | NSC = Nonsubstantive rule change |
| CPR = Change in proposed rule | REP = Repeal |
| EMR = Emergency rule (120 day) | R&R = Repeal and reenact |
| NEW = New rule | * = Text too long to print in <i>Bulletin</i> , or repealed text not printed in <i>Bulletin</i> |
| 5YR = Five-Year Review | |
| EXD = Expired | |

| KEYWORD AGENCY | FILE NUMBER | CODE REFERENCE | ACTION | EFFECTIVE DATE | BULLETIN ISSUE/PAGE |
|--|-------------|----------------|--------|----------------|---------------------|
| <u>accreditation</u> | | | | | |
| Education, Administration | 24260 | R277-912 | REP | 01/04/2002 | 2001-23/34 |
| <u>administrative procedures</u> | | | | | |
| Labor Commission, Adjudication | 24285 | R602-2-4 | AMD | 01/15/2002 | 2001-24/7 |
| Labor Commission, Industrial Accidents | 24280 | R612-1-11 | AMD | 01/15/2002 | 2001-24/9 |
| Natural Resources, Forestry, Fire and State Lands | 24168 | R652-121 | AMD | 01/04/2002 | 2001-22/82 |
| School and Institutional Trust Lands, Administration | 24333 | R850-41-1310 | AMD | 02/15/2002 | 2002-2/33 |
| | 24313 | R907-1 | AMD | 02/02/2002 | 2002-1/12 |
| | 24312 | R907-1 | AMD | 02/02/2002 | 2002-1/14 |
| <u>adult education</u> | | | | | |
| Education, Administration | 24254 | R277-902 | REP | 01/04/2002 | 2001-23/19 |
| | 24257 | R277-904 | REP | 01/04/2002 | 2001-23/23 |
| <u>agricultural law</u> | | | | | |
| Agriculture and Food, Animal Industry | 24191 | R58-19 | AMD | 02/12/2002 | 2001-23/5 |
| <u>alcoholic beverages</u> | | | | | |
| Alcoholic Beverage Control, Administration | 24352 | R81-1-19 | AMD | 03/01/2002 | 2002-2/4 |
| | 24353 | R81-1-20 | AMD | 03/01/2002 | 2002-2/5 |
| <u>amateur boxing</u> | | | | | |
| Commerce, Occupational and Professional Licensing | 24202 | R156-66a | REP | 01/07/2002 | 2001-23/12 |
| <u>appeals</u> | | | | | |
| Transportation, Administration | 24312 | R907-1 | AMD | 02/02/2002 | 2002-1/14 |
| | 24313 | R907-1 | AMD | 02/02/2002 | 2002-1/12 |

RULES INDEX

| KEYWORD AGENCY | FILE NUMBER | CODE REFERENCE | ACTION | EFFECTIVE DATE | BULLETIN ISSUE/PAGE |
|--|----------------|----------------|--------|-------------------|------------------------|
| <u>applied technology education</u> | | | | | |
| Education, Administration | 24257 | R277-904 | REP | 01/04/2002 | 2001-23/23 |
| | 24258 | R277-905 | REP | 01/04/2002 | 2001-23/29 |
| | 24259 | R277-907 | REP | 01/04/2002 | 2001-23/31 |
| | 24260 | R277-912 | REP | 01/04/2002 | 2001-23/34 |
| | 24261 | R277-913 | REP | 01/04/2002 | 2001-23/35 |
| <u>assisted living facilities</u> | | | | | |
| Public Safety, Fire Marshal | 24242 | R710-3 | AMD | 01/02/2002 | 2001-23/91 |
| <u>bear</u> | | | | | |
| Natural Resources, Wildlife Resources | 24342 | R657-33 | AMD | 02/26/2002 | 2002-2/23 |
| <u>big game conservation easements</u> | | | | | |
| Natural Resources, Wildlife Resources | 24344 | R657-49 | AMD | 02/26/2002 | 2002-2/29 |
| <u>boilers</u> | | | | | |
| Labor Commission, Safety | 24286 | R616-2-3 | AMD | 01/15/2002 | 2001-24/13 |
| <u>budgeting</u> | | | | | |
| Health, Health Care Financing, Coverage and Reimbursement Policy | 24167 | R414-304 | AMD | 01/14/2002 | 2001-22/60 |
| <u>certifications</u> | | | | | |
| Labor Commission, Safety | 24286 | R616-2-3 | AMD | 01/15/2002 | 2001-24/13 |
| | 24295 | R616-3 | AMD | 01/15/2002 | 2001-24/14 |
| Transportation, Motor Carrier | 24287 | R909-19 | AMD | 01/18/2002 | 2001-24/23 |
| <u>child care</u> | | | | | |
| Health, Health Systems Improvement, Child Care Licensing | 24345 | R430-50-10 | AMD | 02/15/2002 | 2002-2/17 |
| | 24346 | R430-60-13 | AMD | 02/15/2002 | 2002-2/18 |
| | 24347 | R430-90-15 | AMD | 02/15/2002 | 2002-2/20 |
| | 24348 | R430-100-16 | AMD | 02/15/2002 | 2002-2/21 |
| Workforce Services, Employment Development | 24248 | R986-700 | AMD | 02/01/2002 | 2001-23/117 |
| <u>child care facilities</u> | | | | | |
| Health, Health Systems Improvement, Child Care Licensing | 24264 | R430-50 | AMD | 01/14/2002 | 2001-23/37 |
| | 24265 | R430-60 | AMD | 01/14/2002 | 2001-23/40 |
| | 24266 | R430-90 | AMD | 01/14/2002 | 2001-23/45 |
| <u>child support</u> | | | | | |
| Human Services, Recovery Services | 24190 | R527-5 | AMD | 01/02/2002 | 2001-23/57 |
| <u>confidentiality</u> | | | | | |
| Human Services, Recovery Services | 24190 | R527-5 | AMD | 01/02/2002 | 2001-23/57 |
| <u>conflict of interest</u> | | | | | |
| Human Resource Management, Administration | 24236 | R477-9 | AMD | 01/04/2002 | 2001-23/54 |
| <u>counselors</u> | | | | | |
| Commerce, Occupational and Professional Licensing | 24196 | R156-60c-502 | AMD | 01/07/2002 | 2001-23/11 |

| <u>KEYWORD AGENCY</u> | <u>FILE NUMBER</u> | <u>CODE REFERENCE</u> | <u>ACTION</u> | <u>EFFECTIVE DATE</u> | <u>BULLETIN ISSUE/PAGE</u> |
|---|-------------------------|---|-------------------|--|-------------------------------------|
| <u>criminal records</u> Corrections, Administration | 24274 | R251-111 | AMD | 01/28/2002 | 2001-24/2 |
| <u>cultural resources</u> Community and Economic Development, Community Development, History | 24322 | R212-7 | AMD | 02/21/2002 | 2002-2/10 |
| <u>day care</u> Public Safety, Fire Marshal | 24245 | R710-8 | AMD | 01/02/2002 | 2001-23/105 |
| <u>definitions</u> Administrative Services, Fleet Operations | 24187 | R27-1 | R&R | 01/23/2002 | 2001-22/8 |
| <u>disease reporting</u> Health, Epidemiology and Laboratory Services, Epidemiology | 24297 | R386-710 | NEW | 01/15/2002 | 2001-24/5 |
| <u>diversion programs</u> Commerce, Occupational and Professional Licensing | 24329 | R156-1-109 | AMD | 02/19/2002 | 2002-2/6 |
| <u>education</u> Education, Administration | 24255 | R277-903 | REP | 01/04/2002 | 2001-23/21 |
| <u>education finance</u> Education, Administration | 24259 | R277-907 | REP | 01/04/2002 | 2001-23/31 |
| <u>education finances</u> Education, Administration | 24293 | R277-432 | REP | 01/15/2002 | 2001-24/3 |
| <u>educational facilities</u> Education, Administration | 24293 | R277-432 | REP | 01/15/2002 | 2001-24/3 |
| <u>educational tuitions</u> Education, Administration | 24254 | R277-902 | REP | 01/04/2002 | 2001-23/19 |
| <u>educator licensing</u> Education, Administration | 24262 | R277-502 | AMD | 01/04/2002 | 2001-23/14 |
| <u>elevators</u> Labor Commission, Safety | 24295 | R616-3 | AMD | 01/15/2002 | 2001-24/14 |
| <u>employment support procedures</u> Workforce Services, Employment Development | 24240 | R986-100 | AMD | 02/01/2002 | 2001-23/113 |
| <u>engineering</u> Education, Administration | 24263 | R277-717 | AMD | 01/04/2002 | 2001-23/17 |
| <u>enterprise zones</u> Tax Commission, Auditing | 24284 24337 | R865-91-17 R865-91-37 | AMD AMD | 02/25/2002 02/25/2002 | 2001-24/22 2002-2/36 |
| <u>facilities</u> Health, Health Systems Improvement, Child Care Licensing | 24345 24347 24348 | R430-50-10 R430-90-15 R430-100-16 | AMD AMD AMD | 02/15/2002 02/15/2002 02/15/2002 | 2002-2/17 2002-2/20 2002-2/21 |

RULES INDEX

| <u>KEYWORD</u> <u>AGENCY</u> | <u>FILE</u> <u>NUMBER</u> | <u>CODE REFERENCE</u> | <u>ACTION</u> | <u>EFFECTIVE</u> <u>DATE</u> | <u>BULLETIN</u> <u>ISSUE/PAGE</u> |
|--|------------------------------|-----------------------|---------------|---------------------------------|--------------------------------------|
| <u>facilities use</u> Capitol Preservation Board (State), Administration | 24366 | R131-3 | EMR | 01/07/2002 | 2002-3/119 |
| <u>faculty</u> Education, Administration | 24255 | R277-903 | REP | 01/04/2002 | 2001-23/21 |
| <u>family employment program</u> Workforce Services, Employment Development | 24241 | R986-200 | AMD | 02/01/2002 | 2001-23/114 |
| <u>filing deadlines</u> Labor Commission, Industrial Accidents | 24280 | R612-1-11 | AMD | 01/15/2002 | 2001-24/9 |
| <u>financial disclosures</u> Health, Health Care Financing, Coverage and Reimbursement Policy | 24167 | R414-304 | AMD | 01/14/2002 | 2001-22/60 |
| <u>fire prevention</u> Public Safety, Fire Marshal | 24243 | R710-4 | AMD | 01/02/2002 | 2001-23/94 |
| | 24245 | R710-8 | AMD | 01/02/2002 | 2001-23/105 |
| | 24246 | R710-9 | AMD | 01/02/2002 | 2001-23/107 |
| <u>fireworks</u> Public Safety, Fire Marshal | 24249 | R710-2 | AMD | 01/02/2002 | 2001-23/88 |
| <u>fish</u> Natural Resources, Wildlife Resources | 24067 | R657-13 | AMD | 01/02/2002 | 2001-20/35 |
| <u>fishing</u> Natural Resources, Wildlife Resources | 24067 | R657-13 | AMD | 01/02/2002 | 2001-20/35 |
| <u>food stamps</u> Workforce Services, Employment Development | 24250 | R986-900 | AMD | 02/01/2002 | 2001-23/121 |
| <u>forest practices</u> Natural Resources, Forestry, Fire and State Lands | 24251 | R652-140 | NEW | 01/22/2002 | 2001-23/83 |
| <u>franchises</u> Tax Commission, Auditing | 24336 | R865-6F-28 | AMD | 02/25/2002 | 2002-2/34 |
| <u>game laws</u> Natural Resources, Wildlife Resources | 24342 | R657-33 | AMD | 02/26/2002 | 2002-2/23 |
| <u>general assistance</u> Workforce Services, Employment Development | 24239 | R986-400 | AMD | 02/01/2002 | 2001-23/116 |
| <u>government ethics</u> Human Resource Management, Administration | 24236 | R477-9 | AMD | 01/04/2002 | 2001-23/54 |
| <u>government records</u> Corrections, Administration | 24274 | R251-111 | AMD | 01/28/2002 | 2001-24/2 |
| <u>grants</u> Commerce, Occupational and Professional Licensing | 24202 | R156-66a | REP | 01/07/2002 | 2001-23/12 |

| <u>KEYWORD AGENCY</u> | <u>FILE NUMBER</u> | <u>CODE REFERENCE</u> | <u>ACTION</u> | <u>EFFECTIVE DATE</u> | <u>BULLETIN ISSUE/PAGE</u> |
|--|----------------------------------|--|--------------------------|--|---|
| <u>ground water</u> Environmental Quality, Water Quality | 23986 | R317-6 | CPR | 01/22/2002 | 2001-24/31 |
| <u>guns</u> Health, Health Systems Improvement, Child Care Licensing | 24346 | R430-60-13 | AMD | 02/15/2002 | 2002-2/18 |
| <u>Hatch Act</u> Human Resource Management, Administration | 24236 | R477-9 | AMD | 01/04/2002 | 2001-23/54 |
| <u>health care facilities</u> Health, Health Systems Improvement, Licensing | 24268 | R432-35 | AMD | 01/14/2002 | 2001-23/51 |
| <u>health facilities</u> Health, Health Systems Improvement, Licensing | 24165 | R432-500 | AMD | 01/14/2002 | 2001-22/73 |
| <u>hearings</u> Labor Commission, Adjudication | 24285 | R602-2-4 | AMD | 01/15/2002 | 2001-24/7 |
| <u>higher education</u> Education, Administration | 24258 | R277-905 | REP | 01/04/2002 | 2001-23/29 |
| <u>historic preservation</u> Community and Economic Development, Community Development, History Tax Commission, Auditing | 24322 24336 24284 24337 | R212-7 R865-6F-28 R865-9I-17 R865-9I-37 | AMD AMD AMD AMD | 02/21/2002 02/25/2002 02/25/2002 02/25/2002 | 2002-2/10 2002-2/34 2001-24/22 2002-2/36 |
| <u>historic sites</u> Community and Economic Development, Community Development, History | 24323 | R212-6 | AMD | 02/21/2002 | 2002-2/9 |
| <u>hunting</u> Natural Resources, Wildlife Resources | 24289 | R657-38 | AMD | 01/15/2002 | 2001-24/17 |
| <u>impairment ratings</u> Labor Commission, Industrial Accidents | 24296 | R612-7-3 | AMD | 01/15/2002 | 2001-24/11 |
| <u>income</u> Health, Health Care Financing, Coverage and Reimbursement Policy | 24167 | R414-304 | AMD | 01/14/2002 | 2001-22/60 |
| <u>income tax</u> Tax Commission, Auditing | 24284 24337 | R865-9I-17 R865-9I-37 | AMD AMD | 02/25/2002 02/25/2002 | 2001-24/22 2002-2/36 |
| <u>inspections</u> Agriculture and Food, Regulatory Services | 24200 24198 | R70-910 R70-940 | AMD AMD | 02/12/2002 02/12/2002 | 2001-23/7 2001-23/9 |
| <u>insurance</u> Insurance, Administration | 24341 23813 24050 | R590-147 R590-211 R590-212 | AMD CPR CPR | 02/21/2002 01/10/2002 01/10/2002 | 2002-2/22 2001-23/129 2001-23/130 |

RULES INDEX

| KEYWORD AGENCY | FILE NUMBER | CODE REFERENCE | ACTION | EFFECTIVE DATE | BULLETIN ISSUE/PAGE |
|--|----------------|----------------|--------|-------------------|------------------------|
| <u>insurance certificate of authority</u> Insurance, Administration | 24292 | R590-208 | AMD | 01/24/2002 | 2001-24/6 |
| <u>insurance law</u> Insurance, Administration | 24310 | R590-206-4 | AMD | 02/12/2002 | 2002-1/8 |
| <u>law</u> Public Safety, Fire Marshal | 24246 | R710-9 | AMD | 01/02/2002 | 2001-23/107 |
| <u>licensing</u> Commerce, Occupational and Professional Licensing | 24329 | R156-1-109 | AMD | 02/19/2002 | 2002-2/6 |
| | 24247 | R156-24a-601 | AMD | 01/07/2002 | 2001-23/10 |
| | 24196 | R156-60c-502 | AMD | 01/07/2002 | 2001-23/11 |
| | 24331 | R156-67-306 | AMD | 02/19/2002 | 2002-2/7 |
| <u>liquefied petroleum gas</u> Public Safety, Fire Marshal | 24244 | R710-6 | AMD | 01/02/2002 | 2001-23/99 |
| <u>livestock</u> Agriculture and Food, Animal Industry | 24194 | R58-7-3 | AMD | 02/12/2002 | 2001-23/4 |
| <u>management</u> Community and Economic Development, Community Development, History | 24322 | R212-7 | AMD | 02/21/2002 | 2002-2/10 |
| School and Institutional Trust Lands, Administration | 24333 | R850-41-1310 | AMD | 02/15/2002 | 2002-2/33 |
| <u>mathematics</u> Education, Administration | 24263 | R277-717 | AMD | 01/04/2002 | 2001-23/17 |
| <u>Medicaid</u> Health, Children's Health Insurance Program | 24063 | R382-10 | AMD | 02/07/2002 | 2001-20/19 |
| Health, Health Care Financing, Coverage and Reimbursement Policy | 24314 | R414-2A | AMD | 02/01/2002 | 2002-1/6 |
| <u>mental health</u> Commerce, Occupational and Professional Licensing | 24196 | R156-60c-502 | AMD | 01/07/2002 | 2001-23/11 |
| <u>minority education</u> Education, Administration | 24263 | R277-717 | AMD | 01/04/2002 | 2001-23/17 |
| <u>national register</u> Community and Economic Development, Community Development, History | 24323 | R212-6 | AMD | 02/21/2002 | 2002-2/9 |
| <u>natural resources</u> School and Institutional Trust Lands, Administration | 24333 | R850-41-1310 | AMD | 02/15/2002 | 2002-2/33 |
| <u>notifications</u> Natural Resources, Forestry, Fire and State Lands | 24251 | R652-140 | NEW | 01/22/2002 | 2001-23/83 |
| <u>occupational licensing</u> Commerce, Occupational and Professional Licensing | 24329 | R156-1-109 | AMD | 02/19/2002 | 2002-2/6 |

| <u>KEYWORD AGENCY</u> | <u>FILE NUMBER</u> | <u>CODE REFERENCE</u> | <u>ACTION</u> | <u>EFFECTIVE DATE</u> | <u>BULLETIN ISSUE/PAGE</u> |
|---|------------------------|-----------------------|---------------|---------------------------|--------------------------------|
| <u>personnel management</u> | | | | | |
| Human Resource Management, Administration | 24236 | R477-9 | AMD | 01/04/2002 | 2001-23/54 |
| <u>physical therapy</u> | | | | | |
| Commerce, Occupational and Professional Licensing | 24247 | R156-24a-601 | AMD | 01/07/2002 | 2001-23/10 |
| <u>physicians</u> | | | | | |
| Commerce, Occupational and Professional Licensing | 24331 | R156-67-306 | AMD | 02/19/2002 | 2002-2/7 |
| <u>privacy law</u> | | | | | |
| Human Services, Recovery Services | 24190 | R527-5 | AMD | 01/02/2002 | 2001-23/57 |
| <u>professional competency</u> | | | | | |
| Education, Administration | 24262 | R277-502 | AMD | 01/04/2002 | 2001-23/14 |
| | 24255 | R277-903 | REP | 01/04/2002 | 2001-23/21 |
| <u>professional counselors</u> | | | | | |
| Commerce, Occupational and Professional Licensing | 24196 | R156-60c-502 | AMD | 01/07/2002 | 2001-23/11 |
| <u>public assistance</u> | | | | | |
| Workforce Services, Employment Development | 24250 | R986-900 | AMD | 02/01/2002 | 2001-23/121 |
| <u>public buildings</u> | | | | | |
| Capitol Preservation Board (State), Administration | 24366 | R131-3 | EMR | 01/07/2002 | 2002-3/119 |
| Public Safety, Fire Marshal | 24243 | R710-4 | AMD | 01/02/2002 | 2001-23/94 |
| <u>rates</u> | | | | | |
| Labor Commission, Industrial Accidents | 24283 | R612-4-2 | AMD | 01/15/2002 | 2001-24/10 |
| <u>recreation</u> | | | | | |
| Natural Resources, Wildlife Resources | 24289 | R657-38 | AMD | 01/15/2002 | 2001-24/17 |
| <u>registration</u> | | | | | |
| Natural Resources, Forestry, Fire and State Lands | 24251 | R652-140 | NEW | 01/22/2002 | 2001-23/83 |
| <u>safety</u> | | | | | |
| Labor Commission, Occupational Safety and Health | 24281 | R614-1-4 | AMD | 01/15/2002 | 2001-24/12 |
| Labor Commission, Safety | 24286 | R616-2-3 | AMD | 01/15/2002 | 2001-24/13 |
| | 24295 | R616-3 | AMD | 01/15/2002 | 2001-24/14 |
| <u>safety regulations</u> | | | | | |
| Transportation, Motor Carrier | 24287 | R909-19 | AMD | 01/18/2002 | 2001-24/23 |
| <u>school enrollment</u> | | | | | |
| Education, Administration | 24259 | R277-907 | REP | 01/04/2002 | 2001-23/31 |
| <u>science</u> | | | | | |
| Education, Administration | 24263 | R277-717 | AMD | 01/04/2002 | 2001-23/17 |
| <u>secondary education</u> | | | | | |
| Education, Administration | 24261 | R277-913 | REP | 01/04/2002 | 2001-23/35 |

RULES INDEX

| <u>KEYWORD</u> <u>AGENCY</u> | <u>FILE</u> <u>NUMBER</u> | <u>CODE REFERENCE</u> | <u>ACTION</u> | <u>EFFECTIVE</u> <u>DATE</u> | <u>BULLETIN</u> <u>ISSUE/PAGE</u> |
|---|------------------------------|-----------------------|---------------|---------------------------------|--------------------------------------|
| <u>security measures</u> | | | | | |
| Corrections, Administration | 24274 | R251-111 | AMD | 01/28/2002 | 2001-24/2 |
| <u>settlements</u> | | | | | |
| Labor Commission, Adjudication | 24285 | R602-2-4 | AMD | 01/15/2002 | 2001-24/7 |
| <u>state buildings</u> | | | | | |
| Capitol Preservation Board (State), Administration | 24366 | R131-3 | EMR | 01/07/2002 | 2002-3/119 |
| <u>state register</u> | | | | | |
| Community and Economic Development, Community Development, History | 24323 | R212-6 | AMD | 02/21/2002 | 2002-2/9 |
| <u>state vehicle use</u> | | | | | |
| Administrative Services, Fleet Operations | 24186 | R27-3 | R&R | 01/23/2002 | 2001-22/11 |
| <u>tax returns</u> | | | | | |
| Tax Commission, Auditing | 24284 | R865-9I-17 | AMD | 02/25/2002 | 2001-24/22 |
| | 24337 | R865-9I-37 | AMD | 02/25/2002 | 2002-2/36 |
| <u>taxation</u> | | | | | |
| Tax Commission, Auditing | 24336 | R865-6F-28 | AMD | 02/25/2002 | 2002-2/34 |
| <u>time</u> | | | | | |
| Labor Commission, Industrial Accidents | 24280 | R612-1-11 | AMD | 01/15/2002 | 2001-24/9 |
| <u>title</u> | | | | | |
| Insurance, Administration | 24050 | R590-212 | CPR | 01/10/2002 | 2001-23/130 |
| <u>towing</u> | | | | | |
| Transportation, Motor Carrier | 24287 | R909-19 | AMD | 01/18/2002 | 2001-24/23 |
| <u>transportation</u> | | | | | |
| Transportation, Administration | 24313 | R907-1 | AMD | 02/02/2002 | 2002-1/12 |
| | 24312 | R907-1 | AMD | 02/02/2002 | 2002-1/14 |
| <u>trucking industries</u> | | | | | |
| Tax Commission, Auditing | 24336 | R865-6F-28 | AMD | 02/25/2002 | 2002-2/34 |
| <u>trucks</u> | | | | | |
| Transportation, Motor Carrier | 24287 | R909-19 | AMD | 01/18/2002 | 2001-24/23 |
| <u>water funding</u> | | | | | |
| Natural Resources, Water Resources | 24238 | R653-2 | AMD | 01/16/2002 | 2001-23/84 |
| <u>water quality</u> | | | | | |
| Environmental Quality, Water Quality | 23986 | R317-6 | CPR | 01/22/2002 | 2001-24/31 |
| <u>wildland fire fund</u> | | | | | |
| Natural Resources, Forestry, Fire and State Lands | 24168 | R652-121 | AMD | 01/04/2002 | 2001-22/82 |
| <u>wildlife</u> | | | | | |
| Natural Resources, Wildlife Resources | 24067 | R657-13 | AMD | 01/02/2002 | 2001-20/35 |
| | 24342 | R657-33 | AMD | 02/26/2002 | 2002-2/23 |
| | 24289 | R657-38 | AMD | 01/15/2002 | 2001-24/17 |

| <u>KEYWORD</u> <u>AGENCY</u> | <u>FILE</u> <u>NUMBER</u> | <u>CODE REFERENCE</u> | <u>ACTION</u> | <u>EFFECTIVE</u> <u>DATE</u> | <u>BULLETIN</u> <u>ISSUE/PAGE</u> |
|--|------------------------------|-----------------------|---------------|---------------------------------|--------------------------------------|
| | 24344 | R657-49 | AMD | 02/26/2002 | 2002-2/29 |
| | 24343 | R657-51 | NEW | 02/26/2002 | 2002-2/31 |
| <u>wildlife conservation</u> | | | | | |
| Natural Resources, Wildlife Resources | 24289 | R657-38 | AMD | 01/15/2002 | 2001-24/17 |
| <u>wildlife law</u> | | | | | |
| Natural Resources, Wildlife Resources | 24067 | R657-13 | AMD | 01/02/2002 | 2001-20/35 |
| <u>wildlife permits</u> | | | | | |
| Natural Resources, Wildlife Resources | 24343 | R657-51 | NEW | 02/26/2002 | 2002-2/31 |
| <u>workers' compensation</u> | | | | | |
| Labor Commission, Adjudication | 24285 | R602-2-4 | AMD | 01/15/2002 | 2001-24/7 |
| Labor Commission, Industrial Accidents | 24280 | R612-1-11 | AMD | 01/15/2002 | 2001-24/9 |
| | 24283 | R612-4-2 | AMD | 01/15/2002 | 2001-24/10 |
| | 24296 | R612-7-3 | AMD | 01/15/2002 | 2001-24/11 |
| <u>working toward employment</u> | | | | | |
| Workforce Services, Employment Development | 24239 | R986-400 | AMD | 02/01/2002 | 2001-23/116 |