

UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT
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Nancy L. Lancaster, Editor

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

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

Division of Administrative Rules, Salt Lake City 84114

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SPECIAL NOTICES

Governor's Proclamation: Calling the Fifty-Fifth Legislature into an Eighth Extraordinary Session (Senate Only)

PROCLAMATION

WHEREAS, since the close of the 2004 General Session of the 55th Legislature of the State of Utah, certain matters have arisen which require immediate legislative attention; and

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

NOW, THEREFORE, I, OLENE S. WALKER, Governor of the State of Utah, by virtue of the authority vested in me by the Constitution and the Laws of the State of Utah, do by this Proclamation call the Senate only of the 55th Legislature of the State of Utah into an Eighth Extraordinary Session at the State Capitol in Salt Lake City, Utah, on the 19th day of May, 2004, at 12:00 noon, for the following purpose:

For the Senate to consent to appointments made by the Governor to positions within state government of the State of Utah since the close of the 2004 General Session of the 55th Legislature of the State of Utah.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah. Done at the State Capitol Complex in Salt Lake City, Utah, this 4th day of May, 2004.

(State Seal)

Olene S. Walker
Governor

ATTEST:

Gayle F. McKeachnie
Lieutenant Governor

Governor's Executive Order 2004-0003: Regarding Water Conservation

EXECUTIVE ORDER

Regarding Water Conservation

WHEREAS, water is a precious resource that should be managed and used wisely;

WHEREAS, Utah's continued population growth combined with periodic years of drought make it necessary for Utahns to adopt long-term water conservation ethics;

WHEREAS, the state of Utah encourages an ethic of conservation and water use efficiency;

WHEREAS, the Governor's Water Conservation Team has developed guidance and plans for water conservation and made those resources available to the public on the Division of Water Resources website at www.conservewater.utah.gov;

SPECIAL NOTICES

WHEREAS, the Governor's Water Conservation Team has also developed the "Slow the Flow" water conservation campaign;

WHEREAS, the Division of Facilities Construction and Management, in cooperation with the Utah Division of Water Resources, has developed and implemented water conservation design criteria for new state facilities and remodels;

WHEREAS, water conservation criteria for existing state buildings, facilities, grounds, parks and other properties, should also be developed;

WHEREAS, state employees should be actively involved in implementing such criteria;

NOW, THEREFORE, I, Olene S. Walker, governor of the state of Utah, by virtue of the power vested in me by the laws and constitution of Utah, hereby order the following:

1. The Division of Facilities Construction and Management, in cooperation with the Utah Division of Water Resources, shall develop a water conservation operation and maintenance plan that provides state facility managers and building engineers with practical information on no-cost and low-cost measures to reduce water use in state facilities. Examples of practical conservation measures for consideration could include:

- a. Auditing and repairing all landscape irrigation systems so they are operating at an acceptable efficiency.
- b. Prohibiting watering of landscapes between 10:00 a.m. and 6:00 p.m.
- c. Implementing a leak detection and repair program for both indoor and outdoor water use.
- d. Conducting periodic checks of facility restrooms, boiler rooms, etc., to ensure appliances are working at maximum efficiency.
- e. Replacing inefficient plumbing fixtures with ultra low-flow fixtures, as replacement is appropriate.
- f. Limiting turf areas surrounding facilities.

2. Each state facility manager and building engineer shall implement such water conservation plans in the building(s) and facility(ies) and on the grounds for which he or she is responsible.

3. The Utah Division of Water Resources shall prepare an information campaign and work with state agencies to encourage state employees to conserve water in and around the workplace, to be aware of the water conservation website and to participate in the "Slow the Flow" campaign;

4. It shall be the duty and responsibility of all state government agencies and every state employee to conserve water in and around the workplace.

IN WITNESS, WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the state of Utah. Done in Salt Lake City, Utah, this 23rd day of April, 2004.

(State Seal)

OLENE S. WALKER
Governor

ATTEST:

GAYLE F. MCKEACHNIE
Lieutenant Governor

2004/0003

NOTICES OF PROPOSED RULES

A state agency may file a PROPOSED RULE when it determines the need for a new rule, a substantive change to an existing rule, or a repeal of an existing rule. Filings received between April 16, 2004, 12:00 a.m., and April 30, 2004, 11:59 p.m. are included in this, the May 15, 2004, 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 June 14, 2004. 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 September 12, 2004, 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.

Administrative Services, Finance
R25-7
Travel-Related Reimbursements for
State Employees

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 27120

FILED: 04/28/2004, 11:49

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule is being revised as a result of a division review of current reimbursement rates and practices. The review showed the following: 1) the lodging per diem for Layton is not sufficient; and 2) because we adopt the federal mileage reimbursement, we need to increase the state mileage reimbursement. Although the federal government changed their rate in January, we change our administrative rule only once a year, at the beginning of the fiscal year.

SUMMARY OF THE RULE OR CHANGE: The rule was amended to: 1) change the lodging per diem for Layton to \$63 per night plus tax; 2) change the reimbursement for private vehicle mileage to 32 cents per mile, the cost of operating a state fleet vehicle; 3) change the reimbursement rate for private vehicle mileage to 37 1/2 cents per mile, the federal mileage rate, when a state fleet vehicle is not available to the employee; and 4) change the reimbursement rate for driving a privately-owned vehicle instead of flying to 32 cents per mile.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 63A-3-107 and 63A-3-106; and UT L 2000 Ch 344, UT L 2001 Ch 334, UT L 2002 Ch 277, UT L 2003 Ch 342, and SB 1 Item 50, 2004 General Session

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** Amending this rule may result in a cost to the state budget. State agencies (including legislative staff, the Judicial Branch, and the Utah System of Higher Education) will spend more to reimburse some travel expenses. They will spend up to \$8 more per night when they reimburse lodging for Layton; 2 cents more for each mile they reimburse to an employee who chooses to drive a personal vehicle instead of a fleet vehicle, or to an employee who chooses to drive a privately-owned vehicle instead of flying; and 1 1/2 cents more for each private vehicle mile they reimburse when a fleet vehicle is not available to the employee. The Division cannot anticipate the aggregate cost to the state budget for the following reasons: 1) it is not known how many total miles agencies will reimburse; 2) it is not known whether a state fleet vehicle will be available to employees and, therefore, do not know at which rate the agencies will reimburse employees; and 3) it is not known how many total nights' lodging in Layton agencies will reimburse.

❖ **LOCAL GOVERNMENTS:** This rule applies only to state agencies and state employees and, therefore, will have no impact on local government.

❖ **OTHER PERSONS:** The amendments to this rule may result in savings to employees of the state, legislative staff, the Judicial Branch, and the Utah System of Higher Education who travel on business. Employees who drive a personal vehicle for business will receive 1 1/2 cents more per mile driven when a fleet vehicle is not available to the employee; and 2 cents more per mile driven when an employee chooses to drive a personal vehicle instead of a fleet vehicle, or when an employee chooses to drive a personal vehicle instead of flying. Employees will receive up to \$8 more per night for lodging reimbursement for Layton. The Division cannot anticipate the aggregate savings impact on employees for the following reasons: 1) it is not known how many total miles employees will be reimbursed for; 2) it is not known whether a state fleet vehicle will be available to employees and, therefore, do not know at which rate the employees will be reimbursed; and 3) it is not known how many total nights' lodging in Layton employees will be reimbursed for.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs associated with the revisions to Rule R25-7.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Amendments to Rule R25-7 apply only to state agencies and state employees (including legislative staff, the Judicial Branch, and the Utah System of Higher Education) and have no impact on businesses. -- Camille Anthony, Executive Director, Department of Administrative Services

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

ADMINISTRATIVE SERVICES

FINANCE

Room 2110 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:

Teddy Cramer at the above address, by phone at 801-538-3450, by FAX at 801-538-3244, or by Internet E-mail at tcramer@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 06/14/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 06/15/2004

AUTHORIZED BY: Kim Thorne, Director

R25. Administrative Services, Finance.

R25-7. Travel-Related Reimbursements for State Employees.

R25-7-1. Purpose.

The purpose of this rule is to establish procedures to be followed by departments to pay travel-related reimbursements to state employees.

R25-7-2. Authority and Exemptions.

(1) This rule is established pursuant to Section 63A-3-107, which authorizes the Division of Finance to adopt rules covering in-state and out-of-state travel.

(2) Senate Bill 1, Line Item 60 of the 2000 legislative session (2000 Utah Laws 344), as continued by House Bill 1, Item 57 of the 2001 legislative session (2001 Utah Laws 334), Senate Bill 1, Item 49 of the 2002 legislative session (2002 Utah Laws 277), ~~and~~ House Bill 1, Item 52 of the 2003 legislative session (2003 Utah Laws 342), and Senate Bill 1, Item 50 of the 2004 legislative session, contains intent language directing that the mileage reimbursement rate authorized in Section R25-7-10 also be applied to legislative staff, the Judicial Branch and to the Utah System of Higher Education.

R25-7-8. Reimbursement for Lodging.

State employees who travel on state business may be eligible for a lodging reimbursement.

(1) Lodging is reimbursed for single occupancy only.

(2) For non-conference hotel in-state travel, where the department/traveler makes reservations through the State Travel Agency, the state will reimburse the actual cost up to \$55 per night plus tax except in Moab, Cedar City, St. George, metropolitan Salt Lake City (Draper to Centerville), Ogden~~[-city]~~, Layton, Park City, Tooele, Heber City, Midway, and Provo/Orem~~[-city]~~. In these areas, the rates are:

(a) Moab, Cedar City, and St. George - \$65 per night plus tax

(b) Metropolitan Salt Lake City (Draper to Centerville), Park City, Tooele, Heber City, and Midway - \$68 per night plus tax

(c) Ogden~~[-city]~~, Layton, and Provo/Orem~~[-city]~~ - \$63 per night plus tax

(3) The state will reimburse the actual cost per night plus tax for out-of-state travel where the department/traveler makes reservations through the State Travel Agency.

(4) The same rates apply for in-state travel for stays at a non-conference hotel where the department/traveler makes their own reservations.

(5) For out-of-state travel, the state will reimburse the actual cost up to \$65 per night plus tax.

(6) Exceptions will be allowed for unusual circumstances when approved in writing by the Department Director or designee prior to the trip.

(a) For out-of-state travel, the approval may be on the form FI 5.

(b) Attach the written approval to the Travel Reimbursement Request, form FI 51B or FI 51D.

(7) For stays at a conference hotel, the state will reimburse the actual cost plus tax for both in-state and out-of-state travel. The traveler must include the conference registration brochure with the Travel Reimbursement Request, form FI 51A or FI 51B.

(8) A proper receipt for lodging accommodations must accompany each request for reimbursement.

(a) The tissue copy of the MasterCard Corporate charge receipt is not acceptable.

(b) A proper receipt is a copy of the registration form generally used by motels and hotels which includes the following information: name of motel/hotel, street address, town and state, telephone number, current date, name of person/persons staying at the motel/hotel, date of occupancy, amount and date paid, signature of agent, number in the party, and single or double occupancy.

(9) Travelers may also elect to stay with friends or relatives or use their personal campers or trailer homes instead of staying in a hotel.

(a) With proof of staying overnight away from home on approved state business, the traveler will be reimbursed the following:

(i) \$20 per night with no receipts required or

(ii) Actual cost up to \$30 per night with a signed receipt from a facility such as a campground or trailer park, not from a private residence.

(10) Travelers who are on assignment away from their home base for longer than 90 days will be reimbursed as follows:

(a) First 30 days - follow regular rules for lodging and meals. Lodging receipt is required.

(b) After 30 days - \$46 per day for lodging and meals. No receipt is required.

R25-7-10. Reimbursement for Transportation.

State employees who travel on state business may be eligible for a transportation reimbursement.

(1) Air transportation is limited to Air Coach or Excursion class.

(a) All reservations (in-state and out-of-state) should be made through the State Travel Office for the least expensive air fare available at the time reservations are made.

(b) Only one change fee per trip will be reimbursed.

(c) The explanation for the change and any other exception to this rule must be given and approved by the Department Director or designee.

(d) In order to preserve insurance coverage, travelers must fly on tickets in their names only.

(2) Travelers may be reimbursed for mileage to and from the airport and long-term parking or away-from-the-airport parking.

(a) The maximum reimbursement for parking, whether travelers park at the airport or away from the airport, is the airport long-term parking rate.

(b) The parking receipt must be included with the Travel Reimbursement Request, form FI 51A or FI 51B.

(c) Travelers may be reimbursed for mileage to and from the airport to allow someone to drop them off and to pick them up.

(3) Travelers may use private vehicles with prior approval from the Department Director or designee.

(a) Only one person in a vehicle may receive the reimbursement, regardless of the number of people in the vehicle.

(b) Reimbursement for a private vehicle will be at the rate of ~~[30]~~32 cents per mile, or ~~[36]~~37 1/2 cents per mile if a state fleet vehicle is not available to the employee.

(c) Agencies may establish a reimbursement rate that is more restrictive than the rate established in this Section.

(d) Exceptions must be approved in writing by the Director of Finance.

(e) Mileage will be computed from the latest official state road map and will be limited to the most economical, usually traveled routes.

(f) The mileage rate is all-inclusive, and additional expenses such as parking and storage will not be allowed unless approved in writing by the Department Director.

(g) An approved Private Vehicle Usage Report, form FI 40, should be included with the department's payroll documentation reporting miles driven on state business during the payroll period.

(h) Departments may allow mileage reimbursement on an approved Travel Reimbursement Request, form FI 51A or FI 51B, if other costs associated with the trip are to be reimbursed at the same time.

(4) A traveler may choose to drive instead of flying if approved by the Department Director.

(a) If the traveler drives a state-owned vehicle, the traveler may be reimbursed for meals and lodging for a reasonable amount of travel time; however, the total cost of the trip must not exceed the equivalent cost of the airline trip. The traveler may also be reimbursed for incidental expenses such as toll fees and parking fees.

(b) If the traveler drives a privately-owned vehicle, reimbursement will be at the rate of ~~30~~32 cents per mile or the airplane fare, whichever is less, unless otherwise approved by the Department Director.

(i) The lowest fare available within 30 days prior to the departure date will be used when calculating the cost of travel for comparison to private vehicle cost.

(ii) An itinerary printout which is available through the State Travel Office is required when the traveler is taking a private vehicle.

(c) The traveler may be reimbursed for meals and lodging for a reasonable amount of travel time; however, the total cost of the trip must not exceed the equivalent cost of an airline trip.

(d) These reimbursements are all-inclusive, and additional expenses such as parking and toll fees will not be allowed unless approved in writing by the Department Director.

(e) When submitting the reimbursement form, attach a schedule comparing the cost of driving with the cost of flying. The schedule should show that the total cost of the trip driving was less than or equal to the total cost of the trip flying.

(f) If the travel time taken for driving during the employee's normal work week is greater than that which would have occurred had the employee flown, the excess time used will be taken as annual leave and deducted on the Time and Attendance System.

(5) Use of rental vehicles must be approved in writing in advance by the Department Director.

(a) An exception to advance approval of the use of rental vehicles shall be fully explained in writing with the request for reimbursement and approved by the Department Director.

(b) Detailed explanation is required if a rental vehicle is requested for a traveler staying at a conference hotel.

(c) When making rental car arrangements through the State Travel Agency, reserve the vehicle you need. Upgrades in size or model made when picking up the rental vehicle will not be reimbursed.

(i) State employees should rent vehicles to be used for state business in their own names, using the state contract so they will have full coverage under the state's liability insurance.

(ii) Rental vehicle reservations not made through the travel agency must be approved in advance by the Department Director.

(iii) The traveler will be reimbursed the actual rate charged by the rental agency.

(iv) The traveler must have approval for a rental car in order to be reimbursed for rental car parking.

(6) Travel by private airplane must be approved in advance by the Department Director or designee.

(a) The pilot must certify to the Department Director that he is certified to fly the plane being used for state business.

(b) If the plane is owned by the pilot/employee, he must certify the existence of at least \$500,000 of liability insurance coverage.

(c) If the plane is a rental, the pilot must provide written certification from the rental agency that his insurance covers the traveler and the state as insured. The insurance must be adequate to cover any physical damage to the plane and at least \$500,000 for liability coverage.

(d) Reimbursement will be made at 50 cents per mile.

(e) Mileage calculation is based on air mileage and is limited to the most economical, usually-traveled route.

(7) Travel by private motorcycle must be approved prior to the trip by the Department Director or designee. Travel will be reimbursed at 16 cents per mile.

(8) A car allowance may be allowed in lieu of mileage reimbursement in certain cases. Prior written approval from the Department Director, the Department of Administrative Services, and the Governor is required.

KEY: air travel, per diem allowances, state employees, transportation

July 1, ~~2003~~2004

Notice of Continuation May 1, 2003

63A-3-107

63A-3-106

2000 Utah Laws 344

2001 Utah Laws 334

2002 Utah Laws 277

~~H.B. 1 Item 52, 2003 General Session~~2003 Utah Laws 342

S.B. 1 Item 50, 2004 General Session



Commerce, Occupational and Professional Licensing **R156-55b** Electricians Licensing Rules

NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 27112

FILED: 04/26/2004, 15:15

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division, the Construction Services Commission, and the Electricians Licensing Board are proposing amendments to: 1) establish guidelines for testing; 2) change work experience hours from a percentage to a number to clarify the required number of hours needed to qualify for licensure; 3) make it unprofessional conduct for an electrical contractor to refuse to provide the Division with a verification of experience for an apprentice that is working or has worked for them; and 4) correct statute citations throughout the rule. Testing: there is a need for guidelines to provide an orderly course for test takers. If an applicant for licensure fails a section of an electrical examination twice, the applicant is required to meet with the Electricians Licensing Board to determine what is needed to prepare them to successfully pass the examination when it is taken again. Some candidates are spending hundreds of dollars taking tests time after time without studying in hopes they will soon have it memorized and then can pass it. The examinations are supposed to test competency, not memory. The proposed amendments will put into rule recent procedures implemented to reduce abuses of the testing system that have allowed test takers to test multiple times in a day, as well as, day after day, until they either run out of money, give up, or pass the examination.

The Electricians Licensing Board is concerned that without these proposed amendments incompetent people could circumvent the purpose of testing. The Plumbers Licensing Board have followed similar procedures for years. They have found that the rule actually helps candidates be better prepared to take and pass the state examinations. For years plumbers test scores have been higher than electricians since students realize they need to attend classes, pay attention, and study to be prepared to pass the tests because they are not going to have infinite chances to retake and pass the examinations. Reporting of work hours: the proposed amendments regarding the reporting of work hours could be termed a technical correction because the work hours remain the same; it is just the way the hours are reported that is being revised. Work hours expressed and reported as percentages will be changed to numbers. The hours of different types of work experience required for higher level licenses expressed in percentages is confusing to applicants and difficult for employers. The Electricians Licensing Board has determined from their own experience, as licensed contractors, that it would be much simpler to deal with numbers, rather than percentages, since that is how they keep their time cards. Employer verification of hours worked: recently complaints have increased from journeyman and residential journeyman applicants because their current or former employers have refused to sign off on their hours so they can progress to a higher level license. Some say their employer says he won't sign because he doesn't want them as a competitor, the employee has left on bad terms, or the employer wants to keep them locked in as cheaper labor. Whatever the reason, the end result is the same; the employee loses credit towards the new license because they cannot get a verification of hours worked. There is nothing in the statute, at the current time, that gives any incentive or penalty to an employer that refuses to sign a verification of work hours. This proposed amendment is designed to encourage cooperation.

SUMMARY OF THE RULE OR CHANGE: In Section R156-55b-102, corrects statute citations. In Section R156-55b-302a, amendments are made to provide that there must be a minimum of 30 days between the first test and the retake of any failed section of the examination. Also, added that test approval letters expire six months from the date of issue and that reapplication for licensure is required to obtain a new test authorization letter. Amendments were also added to clarify procedures if an applicant for licensure fails any section of the Utah Electricians Licensing Examination two times. In Section R156-55b-302c, percentage amounts were changed to hourly amounts for residential journeyman electricians and journeyman electricians. In Section R156-55b-304, corrects statute citations. In Section R156-55b-401, updated employee leasing companies to their correct name which is professional employer organizations. In Section R156-55b-501, added as a unprofessional conduct the failure of an electrical contractor to certify an apprentice's hours and breakdown of work experience by category when requested by an apprentice that is or has been an employee.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsections 58-1-106(1)(a), 58-1-202(1)(a), and 58-55-308(1)

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** The Division will incur minimal costs, approximately \$50, to reprint the rule once the proposed amendments are made effective. Any costs incurred will be absorbed in the Division's current budget.

❖ **LOCAL GOVERNMENTS:** Proposed rule amendments do not apply to local governments.

❖ **OTHER PERSONS:** Applicants applying for licensure in one of the following categories: master electrician, master residential electrician, journeyman electrician, and residential journeyman electrician will be affected by these proposed amendments. If an applicant requires a new test authorization letter because they have let the original test authorization expire after six months from the issuance date, the applicant will be required to submit a new application and pay a new application fee of \$110. Also, if an applicant for licensure in one of the above categories fails to pass the required examination after four times, they will also be required to submit a new application for licensure, and pay an application fee of \$110. There may also be some costs to the applicant to obtain whatever remedial program of education or experience may be required of them before they can retake the examination another time. Due to wide varying degrees of education or additional experience that may be required by the Electricians Licensing Board, the Division is unable to determine any exact costs associated with this. The Division also is unable to determine how many applicants will not pass any given examination within two times. However, these additional costs may be offset by the applicant not having to pay examination fees required each time they take the examination.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Applicants applying for licensure in one of the following categories: master electrician, master residential electrician, journeyman electrician and residential journeyman electrician will be affected by these proposed amendments. If an applicant requires a new test authorization letter because they have let the original test authorization expire after six months from the issuance date, the applicant will be required to submit a new application and pay a new application fee of \$110. Also, if an applicant for licensure in one of the above categories fails to pass the required examination after four times, they will also be required to submit a new application for licensure and pay an application fee of \$110. There may also be some costs to the applicant to obtain whatever remedial program of education or experience may be required of them before they can retake the examination another time. Due to wide varying degrees of education or additional experience that may be required by the Electricians Licensing Board, the Division is unable to determine any exact costs associated with this. The Division also is unable to determine how many applicants will not pass any given examination within two times. However, these additional costs may be offset by the applicant not having to pay examination fees required each time they take the examination.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule amendment adopts various examination standards intended to reduce abuse of the examination process and to improve preparation and knowledge of applicants. This amendment could have a

positive impact to applicants by saving them the cost of numerous tests until they finally pass, yet a negative impact in making them wait until 30 days or until they have remedial instruction. However, the impact to businesses and the public will be a positive one in that the examination process will better weed through the applicants to license those who are better-trained electricians. However, the amount of the fiscal impact is difficult to determined and depends upon the number of applicants affected. The rule filing further defines an electrical contractor's failure to verify the experience of his apprentices as "unprofessional conduct" and makes other technical changes. The additional definition of unprofessional conduct should again be a positive fiscal impact to businesses and the public, as it prevents abuses by certain licensees. However, the amount of the fiscal impact is undeterminable. Klarice A. Bachman, Executive Director

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

COMMERCE
OCCUPATIONAL AND PROFESSIONAL LICENSING
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:

Craig Cottle at the above address, by phone at 801-530-6375, by FAX at 801-530-6511, or by Internet E-mail at ccottle@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 06/14/2004

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 5/20/2004 at 9:00 AM, 160 East 300 South, Conference Room 4A (fourth floor), Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 06/15/2004

AUTHORIZED BY: J. Craig Jackson, Director

R156. Commerce, Occupational and Professional Licensing.

R156-55b. Electricians Licensing Rules.

R156-55b-102. Definitions.

In addition to the definitions in Title 58, Chapters 1 and 55, as used in Title 58, Chapter 55 or these rules:

(1) "Electrical work" as used in Subsection 58-55-102(~~13~~)(a) and in these rules means installation, fabrication or assembly of equipment or systems included in "Premises Wiring" as defined in the edition of the National Electrical Code, as identified in Subsection R156-56-701(1)(b) which is hereby adopted and incorporated by reference. Electrical work includes installation of raceway systems used for any electrical purpose, and installation of field-assembled systems such as ice and snow melting, pipe-tracing, manufactured wiring systems, and the like. Electrical work does not include installation of factory-assembled appliances or machinery that are not part of the premises wiring unless wiring

interconnections external to the equipment are required in the field, and does not include cable-type wiring that does not pose a hazard from a shock or fire initiation standpoint as defined in the National Electrical Code. Wiring covered by the National Electrical Code that does not pose a hazard as described above includes Class 2 wiring as defined in Article 725, Power-Limited circuits as defined in Article 760 and wiring methods covered by Chapter 8. Other wiring, including wiring under 50 volts is subject to licensing requirements.

(2) "Minor electrical work incidental to a mechanical or service installation" as used in Subsection 58-55-305(~~1~~)(n) means the electrical work involved in installation, replacement or repair of appliances or machinery that utilize electrical power. These installations do not include modification or repair of "Premises Wiring" as defined in the National Electrical Code. Electrical work is minor and incidental only when wiring is extended no more than ten feet in length from an outlet or disconnect provided specifically for the piece of equipment.

(3) "Residential project" as used in Subsection 58-55-302(3)(g)(ii) means electrical work performed in residential dwellings under four stories and will include single family dwellings, apartment complexes, condominium complexes and plated subdivisions.

(4) "Unprofessional conduct" as defined in Title 58, Chapters 1 and 55, is further defined, in accordance with Subsection 58-1-203(~~5~~)(c), in Section R156-55b-501.

(5) "Work commonly done by unskilled labor" as used in Subsection 58-55-102(~~13~~)(b)(iii) means work such as digging, sweeping, hammering, carrying, drilling holes, or other tasks that do not directly involve the installation of raceways, conductors, cables, wiring devices, overcurrent devices, or distribution equipment. Tasks such as handling wire on large wire pulls or assisting in moving heavy electrical equipment may utilize unlicensed persons in accordance with Subsections 58-55-102(11)(b)(i) and (ii) when the task is performed in the immediate presence of and supervised by properly licensed persons. Tasks that are normally performed by the skilled labor of other trades, such as operating heavy equipment, driving, forming and pouring concrete, welding and erecting structural steel shall not be considered part of the electrical trade.

R156-55b-103. Authority.

These rules are adopted by the division under the authority of Subsection 58-1-106(1)(a) to enable the division to administer Title 58, Chapter 55.

R156-55b-302a. Qualifications for Licensure - Examination Requirements.

(1) In accordance with Subsection 58-55-302(1)(c)(i), the following examinations, each consisting of a theory section, a code section and a practical section, are approved by the division in collaboration with the board:

(a) Utah Electrical Licensing Examination for Master Electricians;

(b) Utah Electrical Licensing Examination for Master Residential Electricians;

(c) Utah Electrical Licensing Examination for Journeyman Electricians; and

(d) Utah Electrical Licensing Examination for Residential Journeyman Electricians.

(2) The minimum passing score for each section of each examination is 70%.

(3) If an applicant passes any one section of the examination and fails any one or more of the other sections, he is only required to retake the section of the examination failed. There must be a minimum of 30 days between the first test and the retake of any failed section. Test approval letters expire six months from the date of issue. Reapplication for licensure is required to obtain a new test authorization letter.

(4) Admission to the examination is permitted in the form of a letter from the Division after the applicant has completed all requirements for licensure set forth in Sections R156-55b-302b and R156-55b-302c.

(5) An examinee who fails any section of the Utah Electricians Licensing Examination two times shall not be permitted to retake the examination until:

(a) the examinee meets with the board and the board outlines a required remedial program of education or experience of up to one year in length which must be completed before the examinee may again take the examination; and

(b) upon successful completion of the required remedial program of education or experience, the examinee shall apply to the Division to retake the failed portion of the examination a maximum of two times with at least 30 days between tests. Failure to pass all required portions of the examination upon retake shall result in denial of their application for licensure. An applicant continuing to seek licensure must reapply for licensure by filing a new application with the required fee and may do so only after completing additional remedial education and experience as determined by the Division and the Board.

R156-55b-302c. Qualifications for Licensure - Work Experience.

(1) In accordance with Subsections 58-55-302(3)(c), (d), (e) and (f), the practical electrical experience, course of study, practical experience, planned training program, or electrical training program shall include on-the-job work experience in the following categories and approximate percentages:

(a) [50-80%]approximately 3000-4800 hours residential journeyman electrician; 4000-6400 hours journeyman electrician in raceways, boxes and fittings, wire and cable to include conduit, wireways, cableways and other raceways and associated fittings, individual conductors and multiconductor cables, and nonmetallic-sheathed cable;

(b) [40-20%]approximately 600-1200 hours residential journeyman electrician; 800-1600 hours journeyman electrician in wire and cable to include individual conductors and multi-conductor cables;

(c) [5-15%]approximately 300-900 hours residential journeyman electrician; 400-1200 hours journeyman electrician in distribution and utilization equipment to include transformers, panel boards, switchboards, control panels, disconnects, motor starters, lighting fixtures, heaters, appliances, motors, and other distribution and utilizations equipment; and

(d) [5-15%]approximately 300-900 hours residential journeyman electrician; 400-1200 hours journeyman electrician in specialized work to include grounding, wiring of systems for sound, data, communications, alarms, automated systems, generators, batteries, computer equipment, etc.

(2) Each year of work experience shall include at least 2000 hours and may be obtained in one or more years. No more than one year of work experience may be credited for each 12 month period.

(3) No credit will be given for work experience performed illegally.

R156-55b-304. Continuing Education.

(1) In accordance with Subsections 58-1-203([7]1)(g) and 58-1-308(3)(b), there is created a continuing education requirement as a condition for renewal or reinstatement of master, journeyman, residential master, residential journeyman and apprentice electrician licenses issued under Title 58, Chapter 55.

(2) Continuing education shall consist of 16 hours of course work in each preceding two year period of licensure or expiration of licensure.

(3) A minimum of eight hours shall be on the current edition of the National Electrical Code, as identified in Subsection R156-56-701(1)(b).

(4) The licensee is responsible for maintaining competent records of completed qualified continuing education for a period of four years after the close of the two year renewal period to which the records pertain.

(5) The standards for qualified continuing education are as follows:

(a) the content must be relevant to the electrical trade and consistent with the laws and rules of this state;

(b) an instructor must either be currently teaching or have taught courses related to the electrical trade within the preceding two years for one of the following:

(i) a trade school, college or university whose electrical program is approved in accordance with Subsections R156-55b-302b(1)(a) and (5);

(ii) a professional association or organization representing licensed electricians whose program objectives relate to the electrical trade;

(iii) the licensing agency of another state;

(iv) a federal or other Utah agency or another state's agency; or

(v) the Division's Building Codes Education program.

(6) Electricians Licensing Board members, acting in their official capacity as a board member, may attend any continuing education course at no charge, at any time, for no credit, to monitor the quality of instruction.

R156-55b-401. Scope of Practice.

In accordance with Subsection 58-55-308(1), the following shall apply:

(1) It shall be the responsibility of the journeyman, residential journeyman, master or residential master electrician who is licensed by the division to insure that the work installed by himself, as well as by any apprentice under his supervision, is properly installed. Proper and safe installations shall be the responsibility of the supervising party or parties.

(2) An apprentice in a planned training program as set forth in Subsection 58-55-302(3)(e)(i) may be supervised as a fourth year apprentice in the fifth and sixth year of apprenticeship; however, in the seventh and succeeding years of apprenticeship, he shall be under immediate supervision as set forth in Subsection 58-55-302(3)(g)(i).

(3) All other apprentices shall be under immediate supervision as set forth in Subsection 58-55-302(3)(g).

(4) For the purposes of Subsections 58-55-102(24), 58-55-501(17) and 58-55-302(3)(g), apprentices and the licensed electricians responsible for their supervision shall be employees of

the same contractor, or the employers of the supervising employees shall have a contractual responsibility for the performance of both the supervised and supervising employees. Employees of licensed ~~[employee leasing companies]~~ professional employer organizations who provide workers under a contract with an electrical contractor shall be considered to be the employees of the electrical contractor for the purposes of this rule.

R156-55b-501. Unprofessional Conduct.

"Unprofessional conduct" includes:

- (1) failure of a licensee to carry a copy of their current license at all times when performing electrical work; and
- (2) failure of an electrical contractor to certify an apprentice's hours and breakdown of work experience by category when requested by an apprentice that is or has been an employee.

KEY: occupational licensing, licensing, contractors, electricians[±]

~~[April 30, 2004]~~ 2004

Notice of Continuation January 7, 2002

58-1-106(1)(a)

58-1-202(1)(a)

58-55-308(1)

▼ ————— ▼

Commerce, Real Estate
R162-101-2
Definitions.

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 27132

FILED: 04/30/2004, 09:43

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: These changes are related to a proposed amendment to Rule R162-105. If the changes to that rule are enacted, the definition of "unclassified individual" will no longer be needed and will need to be replaced by a definition of "trainee." Minor housekeeping changes are also made. (DAR NOTE: The proposed amendment to Rule R162-105 is under DAR No. 27131 in this issue.)

SUMMARY OF THE RULE OR CHANGE: The definition of "unclassified individual" is deleted and replaced by a definition of "trainee." The Division of Real Estate no longer issues "registrations" to appraisers and therefore the word "registration" is no longer necessary where it appears in the definitions in this rule.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 61-2b-6(1)(l)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: None--Changing the names of the categories of unlicensed persons who may assist in an appraisal does not impact the State budget.

❖ LOCAL GOVERNMENTS: None--Changing the names of the categories of unlicensed persons who may assist in an appraisal does not impact local government.

❖ OTHER PERSONS: None--Changing the names of the categories of unlicensed persons who may assist in an appraisal does not impact other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--Changing the names of the categories of unlicensed persons who may assist in an appraisal will not cause either appraisers or their unlicensed assistants to incur any costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule filing contains minor technical amendments to the definitions provision pertaining to appraisers. There appears to be no fiscal impact to businesses as a result of this amendment.

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

COMMERCE
REAL ESTATE
HEBER M WELLS BLDG
160 E 300 S
SALT LAKE CITY UT 84111-2316, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Shelley Wismer at the above address, by phone at 801-530-6761, by FAX at 801-530-6749, or by Internet E-mail at swismer@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 06/14/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 06/15/2004

AUTHORIZED BY: Dexter Bell, Director

R162. Commerce, Real Estate.

R162-101. Authority and Definitions.

R162-101-1. Authority.

101.1 The following administrative rules, applicable to the Division of Real Estate, Department of Commerce, have been established under the authority granted by Section 61-2b-6(1).

101.1.1 The authority to establish and collect fees is granted by Section 61-2b-37.

R162-101-2. Definitions.

101.2.1 AQB: the Appraiser Qualifications Board of The Appraisal Foundation, 1029 Vermont Avenue, N.W., Suite 900, Washington, D.C. 20005.

101.2.2 Board: the Utah Appraiser Licensing and Certification Board.

101.2.3 Classification: the type of ~~[registration]~~ license[?] or certification held by an appraiser.

101.2.4 Division: the Division of Real Estate of the Department of Commerce.

101.2.5 Reinstatement: renewing a license~~[registration]~~ or certification for an additional period after its expiration date has passed but prior to six months after the expiration date.

101.2.6 Renewal: extending a license~~[registration]~~ or certification for an additional period upon its expiration.

101.2.7 [~~Unclassified individual: An individual who does not hold any appraisal classification issued by the Division.~~] Trainee: a person who is working under the direct supervision of a State-licensed appraiser, a State-certified residential appraiser, or a State-certified general appraiser to earn points for licensure, and who meets the requirements of Section 105.3.3.

101.2.8 USPAP: The Uniform Standards of Professional Appraisal Practice published by The Appraisal Foundation, 1029 Vermont Avenue, N.W., Suite 900, Washington, D.C. 20005.

KEY: real estate appraisals, definitions

[July 16, 1999]2004

Notice of Continuation June 3, 2002

61-2b-20 to 61-2b-31



Commerce, Real Estate **R162-105** Scope of Authority

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 27131

FILED: 04/30/2004, 09:37

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Utah Appraiser Licensing and Certification Board has decided to simplify the rules on appraisal trainees and to liberalize the rule on unlicensed trainees inspecting properties in the hope that these changes will make those who are already licensed or certified appraisers more willing to take on trainees, thereby reducing barriers to entry into the appraiser profession. Some minor housekeeping changes are also made.

SUMMARY OF THE RULE OR CHANGE: The rule currently provides that a trainee, no matter how experienced, may not inspect a property unless his supervising appraiser is present. The rule change will require the supervisor to be present for only the first 100 residential inspections and the first 20 non-residential inspections, after which time the trainee will be allowed to inspect a property by himself. In addition, the current two-tiered system of "unclassified individuals" and "trainees" is replaced by a simpler one-tiered "trainee" system.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 61-2b-6(1)(l)

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** None--The rules that govern how unlicensed persons become appraisers do not affect State government.

❖ **LOCAL GOVERNMENTS:** To the extent that County Assessors hire unlicensed persons and train them to become appraisers, this rule change would lessen the cost of training those individuals since they would be allowed to inspect properties by themselves after a period of monitoring by the supervisor instead of the supervisor's physical presence being required during the whole training period.

❖ **OTHER PERSONS:** For the reasons stated under local government, there would be less supervision costs incurred by any other persons who hire and train unlicensed persons to become appraisers.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be no compliance costs. This rule should reduce the cost to supervisors of training candidates for entry into the profession.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule amendment relaxes the standards regulating the supervision of appraiser trainees.

The amendment will result in reduced costs to appraisers who use trainees, and to consumers who hire appraisers. Pursuant to standards adopted by the Division of Real Estate, the licensed or certified appraiser is ultimately responsible for the work completed by the trainee. Therefore, there does not appear to be any negative fiscal impact to businesses or to the public. The rule filing also contains some technical clarifying amendments - basically the removal of references to the "unclassified individual" category. The rule now refers to those who are "trainees" (individuals with sufficient experience and education who are properly registered with the Division) and those who are not. There appears to be no fiscal impact to businesses as a result of this clarification.

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

COMMERCE
REAL ESTATE
HEBER M WELLS BLDG
160 E 300 S
SALT LAKE CITY UT 84111-2316, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Shelley Wismer at the above address, by phone at 801-530-6761, by FAX at 801-530-6749, or by Internet E-mail at swismer@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 06/14/2004

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 5/26/2004 at 10:00 AM, 160 East 300 South, Room 205, 2nd Floor, Salt Lake City, Utah.

THIS RULE MAY BECOME EFFECTIVE ON: 06/15/2004

AUTHORIZED BY: Dexter Bell, Director

R162. Commerce, Real Estate.**R162-105. Scope of Authority.****R162-105-1. Scope of Authority.**

105.1 Transaction value. "Transaction value" means:

105.1.1 For loans or other extensions of credit, the amount of the loan or extension of credit;

105.1.2 For sales, leases, purchases, and investments in or exchanges of real property, the market value of the real property interest involved; and

105.1.3 For the pooling of loans or interests in real property for resale or purchase, the amount of the loan or market value of the real property calculated with respect to each such loan or interest in real property.

105.2 State-Licensed Appraisers. In federally-related transactions, the Utah Real Estate Appraiser Licensing Act and the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 and related federal regulations allow State-Licensed Appraisers to perform the appraisal of non-complex one to four residential units having a transaction value of less than \$1,000,000 and complex one to four residential units having a transaction value of less than \$250,000.

105.2.1 Subject to the transaction value limits in Section 105.2, State-Licensed Appraisers may also perform appraisals in federally-related transactions of vacant or unimproved land that is utilized for one to four family purposes, or for which the highest and best use is 1-4 family purposes, so long as net income capitalization analysis is not required by the terms of the assignment.

105.2.2 State-Licensed Appraisers may not perform appraisals of subdivisions in federally-related transactions for which a development analysis/appraisal is necessary or for which discounted cash flow analysis is required by the terms of the assignment.

105.3 ~~[Unclassified Individuals.]~~ Trainees.

105.3.1 For the purposes of these rules, "trainee" means a person who is working under the direct supervision of a State-Licensed or State-Certified Appraiser to earn points for licensure.

105.3.2 Appraisal-related duties by unlicensed persons. Unlicensed persons who have not qualified as trainees as provided in Subsection 105.3.3 may perform only clerical duties in connection with an appraisal. For the purposes of this rule, appraisal-related clerical duties include typing an appraiser's research notes or an appraiser's report, taking photographs of properties, and obtaining copies of public records. Only those persons who have properly qualified as trainees as provided in Subsection 105.3.3 may perform the following appraisal-related duties: participating in property inspections, measuring or assisting in the measurement of properties, performing appraisal-related calculations, participating in the selection of comparables for an appraisal assignment, making adjustments to comparables, and drafting or assisting in the drafting of an appraisal report. The supervising appraiser shall be responsible to determine the point at which a trainee is competent to participate in each of these activities.

105.3.3 In order to become a trainee, the person must have successfully completed 75 classroom hours of State-approved education in subjects related to real estate appraisal, including the Uniform Standards of Professional Appraisal Practice (USPAP), must have passed the final examination in the USPAP course, and must file a notification with the Division as provided in Subsection 105.3.3.1.

105.3.3.1 Trainee Notification. Prior to performing any of the appraisal-related activities for which points will be claimed toward licensure, a trainee must file with the Division a notification in the

form required by the Division. In addition to any identifying information about the trainee required by the Division, the notification shall contain the name and business address of the appraiser(s) who will supervise the trainee in the performance of the appraisal-related duties, and shall be signed by the supervisor. The notification shall also contain the course names, course provider names, and course completion dates for the 75 hours of education required by Subsection 105.3.3. The original course completion certificates shall be submitted to the Division with the notification.

105.3.3.2 Except as provided in Subsection 105.3.3.3, no experience points will be granted toward licensure for trainee experience that is claimed to have been earned prior to the date the notification was filed with the Division.

105.3.3.3 Until five years after the effective date of this rule, points that were earned prior to the effective date of this rule may be claimed and will be awarded to applicants who are able to document those points on the forms required by the Division, notwithstanding the fact that the points were earned prior to the date a trainee notification was filed with the Division.

105.3.4 Supervising Appraisers. A trainee may have more than one supervising appraiser.

105.3.5 Residential Property Inspections. A trainee must be accompanied by a supervising State-Licensed Appraiser, State-Certified Residential Appraiser, or State-Certified General Appraiser on all inspections of residential property until the trainee has performed 100 inspections of residential properties in which both the interior and the exterior of the properties are inspected.

105.3.6 Non-Residential Property Inspections. A trainee must be accompanied by a supervising State-Certified General Appraiser on all inspections of non-residential property until the trainee has performed 20 inspections of non-residential properties in which both the interior and the exterior of the properties are inspected.~~[105-3-1 Unclassified individuals who have not yet accumulated 100 experience points and who have not successfully completed the education required for licensure may perform the following duties under the direct supervision of a state licensed or state certified appraiser: typing an appraiser's research notes; typing an appraisal report; accompanying an appraiser on an inspection visit to a property; assisting an appraiser in measuring a property; taking photographs of specific properties selected and inspected by the appraiser; performing routine calculations; and obtaining copies of assessment records, deeds, maps, and data from real property data bases relating to properties selected by the appraiser.~~

~~105.3.1.1 The unclassified individual may accumulate the first 100 experience points with each duty listed in the following table being worth 20% of the total points awarded from the Appraisal Experience Points Schedule under Section 104-18.1. or 104-18.2. not to exceed the maximum number of points awarded for each property. Applicants must have experience in at least five of the following categories and no more than one-third of the experience can come from any one of the following categories.~~

- ~~— (a) type an appraiser's research notes — 20% of total points~~
- ~~— (b) type an appraisal report — 20% of total points~~
- ~~— (c) accompany an appraiser on an inspection visit — 20% of total points~~
- ~~— (d) assist an appraiser in measuring property — 20% of total points~~
- ~~— (e) take photographs of specific properties selected and inspected by the appraiser — 20% of total points~~
- ~~— (f) perform routine calculations — 20% of total points~~

—(g) obtain copies of assessment records, deeds, maps and data from real property databases relating to properties selected by the supervising appraiser—20% of total points

—105.3.1.2. ~~Unclassified individuals who have not yet accumulated 100 experience points and who have not successfully completed the education required for licensure may not participate in: selecting comparables for an appraisal assignment; making adjustments to comparables; drafting an appraisal report; and, except when working in the presence of a state licensed or state certified appraiser, inspecting a property that is the subject of an appraisal or that may be used as a comparable in an appraisal, or measuring a property.~~

—105.3.2. ~~Unclassified individuals who have accumulated 100 experience points and have successfully completed at least 30 hours of the education required for licensure may act in the capacity of an appraisal "trainee" under the direct supervision of a state licensed or state certified appraiser. A "trainee" is permitted to have more than one supervising appraiser.~~

—105.3.2.1. ~~An appraiser "trainee" may, under the direct supervision of a state licensed or state certified appraiser, participate in selecting comparables for an appraisal assignment, participate in making adjustments to comparables, draft appraisal reports, and when working in the presence of a state licensed or state certified appraiser, inspect a property that is the subject of an appraisal or that may be used as a comparable in an appraisal, and measure a property.]~~

105.3.[2-2-]7 Points for Licensure. ~~[The unclassified individual who is a "trainee"]~~A trainee may accumulate ~~[the]~~experience points ~~[with]for~~ each duty listed ~~[in the following table being worth]below~~ at the rate of 33.3% of the total points awarded from the Appraisal Experience Points Schedule under Section 104-18.1[-] or 104-18.2[-], not to exceed the maximum number of points awarded for each property. ~~["]~~Trainee~~["]~~ experience must be earned in at least three of the following categories, ~~[and no]No~~ more than one-third of the~~[re] experience points submitted toward licensure may[ean]~~ come from any one of the following categories[-];

(a) participat[e]ion in selecting comparables for an appraisal assignment - 33.3% of total points

(b) participat[e]ion in making adjustments to comparables - 33.3% of total points

(c) drafting appraisal reports - 33.3% of total points

(d) ~~[when working in the presence of a state licensed or state certified appraiser]~~as provided in Sections 105.3.5 and 105.3.6, inspecting a property that is the subject of an appraisal or that may be used as a comparable in an appraisal, and measur[e]ing the property - 33.3% of total points as long as both an interior and exterior inspection of the property is performed. No points will be granted for inspections that do not include both an interior and an exterior inspection.

105.3.[3-]8 ~~[All experience points cannot be earned in one 12-month period. For applicants for licensure, a maximum of 300 points will be credited for any one 12-month period.]~~Credit will be given for appraisal experience earned only within five years immediately preceding the licensure or certification application. Applicants who believe the Experience Points Schedules do[es] not adequately reflect their experience may refer to Section 104-17.

105.3.[4-]9 All ~~[unclassified individuals]~~trainees are prohibited from signing an appraisal report or discussing an appraisal assignment with anyone other than the appraiser responsible for the assignment, state enforcement agencies and such third parties as

may be authorized by due process of law, or a duly authorized professional peer review committee.

105.3.[5-]10 A state-licensed or state-certified~~[classified]~~ appraiser who supervises ~~[an unclassified individual]~~a trainee shall be responsible for the training and direct supervision of the ~~[unclassified individual]~~trainee.

105.3.[5-]10.1 Direct supervision shall consist of critical observation and direction of all aspects of the appraisal process and accepting full responsibility for the appraisal and the contents of the appraisal report. The supervising appraiser shall be responsible to personally inspect each residential property that is appraised with a trainee until the trainee has performed 100 residential inspections as provided in Subsection 105.3.5 and 20 non-residential inspections as provided in Subsection 105.3.6. The supervising appraiser must actively supervise those inspections and the resulting appraisals.

105.3.[5-2-]11 A supervising~~[classified]~~ appraiser shall require the ~~[unclassified appraiser]~~trainee to maintain a log in a form satisfactory to the Board which shall contain, at a minimum, the following information for each appraisal.

- (a) Type of property;
- (b) Address of appraised property;
- (c) Description of work performed;
- (d) Number of work hours;
- (e) Signature and state license/certification number of the supervising appraiser[-]; and
- (f) Client name and address.

105.3.[6-]12 The ~~[unclassified individual]~~trainee shall maintain a separate appraisal log for each supervising appraiser.

105.4. ~~[Term of Revocation or Surrender]~~Trainee Status after Revocation, Surrender, or Suspension of License or Certification.

105.4.1 Trainee Status after Revocation or Surrender of License or Certification. Unless otherwise ordered by the Board, an~~[y]~~ appraiser whose appraiser certification~~[;]~~ or license~~[, or registration]~~ has been revoked ~~[or suspended]~~by the Board, or who has surrendered a certification~~[;]~~ or license~~[, or registration]~~ as a result of an investigation by the Division, may not serve as ~~[an unclassified appraiser]~~a trainee for a period of five years after the date of the revocation or surrender, nor may a licensed or certified appraiser employ or supervise him during that period in the performance of the activities permitted ~~[unclassified persons]~~trainees.

105.4.2 Trainee Status while License or Certification is Suspended. Unless otherwise ordered by the Board, any appraiser whose appraiser license or certificate has been suspended by the Board as a result of an investigation by the Division may not serve as a trainee during the period of suspension, nor may a licensed or certified appraiser employ or supervise him during that period in the performance of the activities permitted trainees.

KEY: real estate appraisals

[2003]2004

Notice of Continuation January 13, 2004

61-2b-6(1)(l)

▼ ————— ▼

Commerce, Real Estate
R162-107
Unprofessional Conduct

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 27128

FILED: 04/29/2004, 17:10

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The current rule references "unclassified persons". The concept of "unclassified persons" is being eliminated and replaced by the single category of "trainees" in a proposed amendment to Rule R162-105. This rule is proposed to be amended to coincide with that change. (DAR NOTE: The proposed amendment to R162-105 is under DAR No. 27131 in this issue.)

SUMMARY OF THE RULE OR CHANGE: "Unclassified person" is changed to "unlicensed person" in the beginning of Subsection R162-107-1(107.1.6) and to "appraisal trainee" the second time the term is used in the paragraph. The effect of the changes are that an appraiser would be precluded from splitting appraisal fees with any unlicensed person, except that a trainee could be paid a reasonable hourly rate for services actually performed.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection Section 61-2b-(6)(1)(l)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: None--There is no impact on State budget from changing the names of categories of unlicensed appraisers. It is unlikely that any appraisers hired by the State would split appraisal fees with unlicensed persons except as provided in this rule, so no impact on the State budget is expected from the prohibition on fee splitting.

❖ LOCAL GOVERNMENTS: None--There is no impact on local government from changing the names of categories of unlicensed appraisers. It is unlikely that any appraisers hired by local governments would split appraisal fees with unlicensed persons except as provided in this rule, so no impact on the local government is expected from the prohibition on fee splitting.

❖ OTHER PERSONS: None--There is no impact on other persons from changing the names of categories of unlicensed appraisers.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule precludes appraisers from splitting fees with unlicensed persons, except that bona fide trainees may be paid a reasonable hourly salary for their assistance with an appraisal as part of their training. This rule could affect an appraiser who might otherwise delegate the assignment to an unlicensed or unqualified person and give that person the majority of the fee, keeping only a "signing fee" for himself, which is the practice sought to be prohibited by this rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The rule previously prevented fee splitting with "unclassified" persons. That is clarified now to those who are not state-licensed or state-certified appraisers. The rule further clarifies that trainees receive only

payment of salary and hourly rate. There appears to be no fiscal impact to businesses as a result of these clarifications.

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

COMMERCE
REAL ESTATE
HEBER M WELLS BLDG
160 E 300 S
SALT LAKE CITY UT 84111-2316, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Shelley Wismer at the above address, by phone at 801-530-6761, by FAX at 801-530-6749, or by Internet E-mail at swismer@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 06/14/2004

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 5/26/2004 at 10:00 AM, 160 East 300 South, Room 205, 2nd Floor, Salt Lake City, Utah.

THIS RULE MAY BECOME EFFECTIVE ON: 06/15/2004

AUTHORIZED BY: Klare Bachman, Executive Director

R162. Commerce, Real Estate.**R162-107. Unprofessional Conduct.****R162-107-1. Unprofessional Conduct.**

107.1 Unprofessional conduct includes the following specific acts or omissions:

107.1.1 Violating or disregarding a disciplinary order of the Utah Appraiser Licensing and Certification Board or the division;

107.1.2 Signing an appraisal report containing a statement indicating that an appraiser has inspected a property if the appraiser has not inspected the property;

107.1.3 Signing an appraisal report as the supervising appraiser without having given adequate supervision to the registered appraiser or the unclassified assistant;

107.1.4 Allowing an appraiser in his employ, or an appraiser whom he is otherwise responsible to supervise, to:

(a) exceed the authority of the subordinate appraiser's classification;

(b) engage in conduct which is a violation of Title 61, Chapter 2b.

107.1.5 Allowing a non-appraiser to:

(a) exceed the authority granted to an unclassified person by these rules;

(b) engage in conduct which would be a violation of Title 61, Chapter 2b if done by an appraiser; or

107.1.6 Splitting appraisal fees with any ~~unclassified~~ person who is not a State-Licensed Appraiser or a State-Certified Appraiser, except that an ~~unclassified person~~ appraisal trainee may be paid a reasonable salary or a reasonable hourly rate for lawful services actually performed in connection with appraisals.

107.2 The Board may appoint members of the appraisal industry to serve as a Technical Advisory Panel to provide advice to the Division concerning technical appraisal issues and conduct constituting unprofessional conduct.

KEY: real estate appraisals, conduct
~~June 1, 2000~~ 2004
Notice of Continuation January 21, 2003
61-2b-8



Commerce, Real Estate
R162-201
 Residential Mortgage Definitions

NOTICE OF PROPOSED RULE

(New Rule)
 DAR FILE NO.: 27129
 FILED: 04/30/2004, 08:29

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: In order to administer the exemptions in the Utah Residential Mortgage Practices Act, it is necessary to define the word "control."

SUMMARY OF THE RULE OR CHANGE: Control is defined as the power to directly or indirectly exercise a controlling influence over an entity, vote 20% or more of any class of voting securities of an entity by an individual, or vote more than 5% of any class of voting securities of an entity by another entity.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 61-2c-103(3)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: None--The definition of "control" for the purposes of the Utah Residential Mortgage Practices Act involves neither cost nor savings to the State budget.

❖ LOCAL GOVERNMENTS: None--Local government is not affected by the definition of "control" as applied to the Utah Residential Mortgage Practices Act.

❖ OTHER PERSONS: The only other persons who would be affected by the definition of "control" as applied to the Utah Residential Mortgage Practices Act are those mortgage lenders who would not be required to license with the Division of Real Estate if the term "affiliate" in Subsection 61-2c-102(1) is affected by adopting the proposed definition of "control".

COMPLIANCE COSTS FOR AFFECTED PERSONS: A lesser number of entities may be required to license with the Division of Real Estate as a result of the definition of the word "control" and would thereby save licensing fees.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule filing adopts a definition of the term "control" as that term is used in the term "affiliate" in Subsection 61-2c-102(1). This definition codifies existing practice. Therefore, there appears to be no fiscal impact to businesses as a result of this rule filing.

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

COMMERCE
 REAL ESTATE
 HEBER M WELLS BLDG
 160 E 300 S
 SALT LAKE CITY UT 84111-2316, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Shelley Wismer at the above address, by phone at 801-530-6761, by FAX at 801-530-6749, or by Internet E-mail at swismer@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 06/14/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 06/15/2004

AUTHORIZED BY: Dexter Bell, Director

R162. Commerce, Real Estate.

R162-201. Residential Mortgage Definitions.

R162-201-1. Residential Mortgage Definitions.

As used in Section 61-2c-102(1) of the Utah Residential Mortgage Practices Act, "control" is defined as the power to directly or indirectly:

(a) direct or exercise a controlling influence over:

(i) the management or policies of an entity;

(ii) the election of a majority of the directors,

officers, managers, or managing partners of an entity;

(b) vote 20% or more of any class of voting securities of an entity by an individual; or

(c) vote more than 5% of any class of voting securities of an entity by another entity.

KEY: residential mortgage loan origination

2004

61-2c-103(3)



Commerce, Real Estate
R162-202
 Initial Application

NOTICE OF PROPOSED RULE

(Amendment)
 DAR FILE NO.: 27130
 FILED: 04/30/2004, 09:23

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Since minors may disaffirm their contracts upon reaching the age of majority, it is necessary to amend the rule to provide that minors may not obtain licenses to engage in the residential mortgage loan business. A typographical error in Subsection

R162-202-1(202.5.1(e)) is also corrected, and missing subsection headings are inserted.

SUMMARY OF THE RULE OR CHANGE: The rule is changed to require that all applicants for a mortgage license shall be at least 18 years old. In addition, a typographical error in Subsection R162-202-1(202.5.1(e)) is corrected from "ether" to "whether." Missing subsection headings are also provided.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 61-2c-103(3)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: None--No cost or savings to the State budget is anticipated if those few individuals under the age of 18 who may be considering applying for a mortgage license are required to wait until they are 18 years old before applying for the license.

❖ LOCAL GOVERNMENTS: None--No cost or savings to the local governments is anticipated if those few individuals under the age of 18 who may be considering applying for a mortgage license are required to wait until they are 18 years old before applying for the license.

❖ OTHER PERSONS: None--No cost or savings to other persons is anticipated if those few individuals under the age of 18 who may be considering applying for a mortgage license are required to wait until they are 18 years old before applying for the license.

COMPLIANCE COSTS FOR AFFECTED PERSONS: A very small number of persons will have to wait until they are 18 years old before they may apply for a mortgage license. It is impossible to estimate the cost, if any, that these persons will incur because they must seek employment in other fields until they reach the age of 18.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule filing makes age 18 the minimum age for residential mortgage license applicants, because minors may disaffirm their contracts upon reaching the age of majority. The fiscal impact, if any, to businesses would likely be a positive one in that the integrity of contracts executed by licensed residential mortgage lenders will be preserved. However, the amount of such fiscal impact is difficult to determine.

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

COMMERCE
REAL ESTATE
HEBER M WELLS BLDG
160 E 300 S
SALT LAKE CITY UT 84111-2316, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Shelley Wismer at the above address, by phone at 801-530-6761, by FAX at 801-530-6749, or by Internet E-mail at swismer@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 06/14/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 06/15/2004

AUTHORIZED BY: Dexter Bell, Director

R162. Commerce, Real Estate.

R162-202. Initial Application.

R162-202-1. ~~[Initial Application.]~~Licensing Examination.

202.1 Effective January 1, 2004, an individual applying for an initial license is required to have passed the licensing examination approved by the commission before making application to the division for a license.

202.1.1 All examination results are valid for 90 days after the date of the examination. If the applicant does not submit an application for licensure within 90 days after successful completion of the examination, the examination results shall lapse and the applicant shall be required to retake and successfully pass the examination again in order to apply for a license.

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

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

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

202.2.3 The home street address and home telephone number of any individual applicant or control person of an entity applicant;

202.2.4 A mailing address for the applicant;

202.2.5 The date of birth and social security number of any individual applicant or control person of an entity applicant;

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

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

202.2.8 If an individual applicant or a control person of an entity applicant has been convicted of any felonies or misdemeanors involving moral turpitude within the ten years preceding application, the charging document, the judgment and sentencing document, and the case docket on each such conviction must be provided with the application; and

202.2.9 If an individual or entity applicant or a control person of an entity applicant has had a license or registration suspended, revoked, surrendered, canceled or denied in the five years preceding application based on misconduct in a professional capacity that relates to good moral character or the competency to transact the business of residential mortgage loans, the documents stating the sanction taken against the license or registration and the reasons therefore must be provided with the application.

202.3 Incomplete Application. If an applicant for a license makes a good faith attempt to submit a completed application within 90 days after passing the examination, but the application is incomplete, the Division may grant an extension of the validity of the examination results for a period not to exceed 30 days to enable the applicant to provide the missing documents or information necessary to complete the application. Following the extension period, the application will be denied as incomplete if the applicant has not supplied the missing documents or information.

202.4 Nonrefundable fees. All fees required in conjunction with an application for a license are nonrefundable and will not be refunded if the applicant fails to complete an application or if a completed application is denied for failure to meet the licensing criteria.

202.5 Determining Fitness for Licensure.

202.5.1 Good Moral Character. The Commission and the Division will consider information necessary to determine whether an applicant for a license or the control person of an entity that has applied for a license meets the requirement of good moral character, which may include the following in addition to whether the individual has been convicted of a felony or misdemeanor involving moral turpitude in the ten years preceding the application:

(a) The circumstances that led to any criminal convictions considered by the Commission and the Division;

(b) The amount of time that has passed since the individual's last criminal conviction;

(c) Any character testimony presented at the hearing and any character references submitted by the individual;

(d) Past acts related to honesty or moral character involving the business of residential mortgage loans;

(e) Whether the individual has been guilty of dishonest conduct in the five years preceding the application that would have been grounds under Utah law for revocation or suspension of a registration or license had the individual then been registered or licensed;

(f) Whether a civil judgment based on fraud, misrepresentation, or deceit has been entered against the individual, or whether a finding of fraud, misrepresentation or deceit by the individual has been made in a civil suit, regardless of whether related to the residential mortgage loan business, and whether any money judgment has been fully satisfied;

(g) Whether fines and restitution ordered by a court in a criminal proceeding have been fully satisfied, and whether the individual has complied with court orders in the criminal proceeding;

(h) Whether a probation agreement, plea in abeyance, or diversion agreement entered into in a criminal proceeding in the ten years preceding the application has been successfully completed;

(i) Whether any tax and child support arrearages have been paid; and

(j) Whether there has been good conduct on the part of the individual subsequent to the individual's offenses.

202.5.2 Competency to Transact the Business of Residential Mortgage Loans. The Commission and the Division will consider information necessary to determine whether an applicant for a license or the control person of an entity that has applied for a license meets the requirement of competency to transact the business of residential mortgage loans, which shall include the following:

(a) Past acts related to competency to transact the business of residential mortgage loans;

(b) Whether a civil judgment involving the business of mortgage loans has been entered against the individual, and whether the judgment has been fully satisfied, unless the judgment has been discharged in bankruptcy;

(c) The failure of any previous mortgage loan business in which the individual engaged, and the reasons for any failure;

(d) The individual's management and employment practices in any previous mortgage loan business, including whether or not employees were paid the amounts owed to them;

(e) The individual's training and education in mortgage lending, if any was available to the applicant;

(f) The individual's training, education, and experience in the mortgage loan business or in management of a mortgage loan business, if any was available to the individual;

(g) A lack of knowledge of the Utah Residential Mortgage Practices Act on the part of the individual;

(h) A history of disregard for licensing laws;

(i) A prior history of drug or alcohol dependency within the last five years, and any subsequent period of sobriety; and

(j) Whether the individual has demonstrated competency in business subsequent to any past incompetence by the individual in the mortgage loan business.

202.5.3 Age. All applicants shall be at least 18 years old.

202.6 Conversion of Existing Registrations. In order to comply with Section 61-2c-201(1), the division shall convert all existing registrations to licenses on January 1, 2004. The licenses issued to individuals under the authority of this rule shall be issued subject to Section 61-2c-202(4)(a)(ii).

KEY: residential mortgage loan origination

2004

61-2c-103(3)

▼ ————— ▼

Community and Economic Development, Community Development, Library **R223-2-2** Definitions

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 27125

FILED: 04/28/2004, 14:10

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This proposed amendment brings the definitions used in the existing rule (R223-3) into conformity with the definitions used in the amended Sections 9-7-215 and 9-7-216 (H.B. 341). (DAR NOTE: H.B. 341 is found at UT L 2004 Ch 193, and was effective May 3, 2004.)

SUMMARY OF THE RULE OR CHANGE: The changes are: in Section R223-2-2, adds "and 9-7-215."; and deletes all of Subsection R223-2-2(2).

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 9-7-213, 9-7-215, and 9-7-216

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: There are neither costs nor savings associated with these proposed amendments to the rule, which are technical in nature. The reporting and administrative procedures established in the original rule remain unchanged and in force.
- ❖ LOCAL GOVERNMENTS: There are neither costs nor savings associated with these proposed amendments to the rule, which are technical in nature. The reporting and administrative procedures established in the original rule remain unchanged and in force.
- ❖ OTHER PERSONS: There are neither costs nor savings associated with these proposed amendments to the rule, which are technical in nature. The reporting and administrative procedures established in the original rule remain unchanged and in force.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are neither costs nor savings associated with these proposed amendments to the rule, which are technical in nature. The reporting and administrative procedures established in the original rule remain unchanged and in force.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed amendments to Section R223-2-2, which relates exclusively to public libraries in Utah, will have no fiscal impact on Utah businesses. -- David Harmer, Executive Director, DCED

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

COMMUNITY AND ECONOMIC DEVELOPMENT
 COMMUNITY DEVELOPMENT, LIBRARY
 Room A
 250 N 1950 W
 SALT LAKE CITY UT 84116-7901, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 Barbara Forbush at the above address, by phone at 801-715-6769, by FAX at 801-715-6767, or by Internet E-mail at bforbush@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 06/14/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 06/15/2004

AUTHORIZED BY: Donna J. Morris, Director

R223. Community and Economic Development, Community Development, State Library.

R223-2. Public Library Online Access for Eligibility to Receive Public Funds.

R223-2-2. Definitions.

In addition to the terms defined in Section 9-7-101, and 9-7-215:

- (1) "Minor" means any individual younger than 18 years of age.]
- ~~(2) "Obscene" means materials meeting the standard established by the U.S. Supreme Court in Miller v. California, 413 U.S. 15 (1973) whereby an affirmative answer is required to each of the three following questions:~~
 - ~~(a) whether "the average person applying contemporary community standards" would find that the work, taken as a whole, appeals to the prurient interest;~~
 - ~~(b) whether the work depicts or describes, in a patently offensive way, sexual content specifically defined by the applicable state law; and~~
 - ~~(c) whether the work, taken as a whole, lacks serious literary, artistic, political or scientific value.]~~

KEY: libraries, public library, Internet access*

~~[September 7, 2001]~~ **2004**

9-7-213

9-7-215

9-7-216

20 U.S.C. Sec. 9101



**Governor, Planning and Budget, Chief
 Information Officer
 R365-6
 IT Plan Submission Rule for Executive
 Branch Agencies**

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 27108

FILED: 04/20/2004, 11:31

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This proposed new rule provides a common base for Information Technology (IT) Plan Submission to maximize consistency of format and content across the enterprise.

SUMMARY OF THE RULE OR CHANGE: The proposed new rule establishes consistent format for state agency IT Plan submission.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 63D-1a-301.2 and 63D-1a-303

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: None--Agency IT Departments currently submit annual IT plans per the statute.
- ❖ LOCAL GOVERNMENTS: None--This rule is for Executive Branch Agencies only.
- ❖ OTHER PERSONS: None--This rule affects Executive Branch Agencies only.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Cost for compliance is negligible. Agencies currently provide this information.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule represents the base standards for the Executive Branch IT Planning Documents. This is a continuing process, and therefore will have no fiscal impact upon participating departments.

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

GOVERNOR
PLANNING AND BUDGET,
CHIEF INFORMATION OFFICER
Room 116 STATE CAPITOL
350 N STATE ST
SALT LAKE CITY UT 84114-1103, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Randy Hughes at the above address, by phone at 801-537-9071, by FAX at 801-538-1547, or by Internet E-mail at randyhughes@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 06/14/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 06/15/2004

AUTHORIZED BY: Val Oveson, Chief Information Officer

R365. Governor, Planning and Budget, Chief Information Officer.

R365-6. IT Plan Submission Rule for Agencies.

R365-6-1. Purpose.

State agencies are required by statute to submit IT plans for review and approval by the Chief Information Officer (CIO) office. This rule provides the format and content requirements for IT Plan submission.

R365-6-2. Authority.

This rule is issued by the Chief Information Officer under the authority of Section 63D-1a-301.2 of the Information Technology Act, in accordance with Section 63-46a-3 of the Utah Rulemaking Act, Utah Code Annotated, and section 63D-1a-303 of the Utah code, Agency Information Technology Plans.

R365-6-3. Scope of Application.

All state agencies of the executive branch of the State of Utah government shall comply with this rule, which provides a consistent technology planning method for the State of Utah.

R365-6-4. Definitions.

(1) "Project" Investment in development of a new application/system or to upgrade or enhance and existing information system.

(2) Plan Timeframe: Two fiscal years into the future; i.e., 1) Budget fiscal year and 2) Planning fiscal year.

(3) Severity level: Severity level is rated on four categories: impact on citizens, visibility to the public and Legislature, impact on state operations, and the consequences of doing nothing. The severity rating reflects the impact on external stakeholders.

(4) Risk level: The risk criteria measure the impact of the project on the organization, the effort needed to complete the project, the stability of the proposed technology, and the agency preparedness. The risk rating reflects the impact on the internal stakeholders.

R365-6-5. Compliance and Responsibilities.

The following are the compliance issues and the responsibilities for state agencies:

(1) Any state executive branch agency that develops, hosts, or funds information technology projects or infrastructure shall submit a plan following the format outlined in R365-06-5(a) below.

(2) The CIO office shall provide education and instruction to the agencies to enable consistent response.

(3) Agency IT Plans shall be delivered to the CIO office, in electronic format, by July 1 of each year.

(4) Agency IT Plans shall use document formatting methods as defined in CIO instruction.

(5) Agency IT Plans at a division level, shall be combined for submission to the CIO office at the Agency/Department level.

(6) Amendments to the IT Plan shall be submitted for any significant change in a project or if an IT supplemental appropriation is requested during the budget process.

R365-6-6. Agency IT Plan Format.

The following is the IT plan format:

(1) SUBMIT AN EXECUTIVE SUMMARY.

(a) Department/Agency Mission Statement.

(b) Department/Agency Business Objectives that have IT projects supporting them.

(c) Statement of IT Vision/Mission.

(d) Description of accomplishments of past calendar year.

(e) Description of IT alignment with business objectives.

(f) IT Budget Summary for Department/Agency.

(g) Verification of compliance procedures for information technology policies, administrative rules, and statutes.

(2) IT PLAN DETAILS.

(a) IT Assets Inventory.

(b) Security Plan Documentation.

(c) Disaster Recovery/Business Resumption Plan Documentation.

(d) Budget Fiscal Year: If a supplemental IT appropriation is anticipated, describe.

(e) Planning Fiscal Year: Describe anticipated changes in objectives, projects or initiatives.

(f) Planning Fiscal Year: If a building block request for an IT appropriation is anticipated, describe.

(3) PROPOSED PROJECT DESCRIPTION

Complete a project description for each IT project including the following information:

(a) Project organizational impact:

(i) Division (or other dept. sub-unit) project; identify:

(ii) Department project.

(iii) Cross-department project.

(b) Project Name.

(c) Project Manager.

(d) Project Purpose (check all that apply):

(i) Maintain/enhance existing infrastructure.

(ii) New infrastructure.

(iii) Maintain/enhance existing application/product.

(iv) Develop new application/product.

(v) Support of UCA 46-4-503.

(vi) Pilot project.

(vii) Implement/enhance GIS.

(viii) Collaboration with local government.

(ix) Public/private partnership.

(x) Other, please specify.

(4) DOCUMENT SUPPORT OF EXECUTIVE BRANCH STRATEGIC GOALS.

(5) DESCRIBE PROPOSED PROJECT AND ITS ANTICIPATED BENEFITS.

(6) DESCRIBE PERFORMANCE MEASURES USED BY THE AGENCY FOR IMPLEMENTING THE AGENCY'S INFORMATION TECHNOLOGY OBJECTIVES.

(7) IDENTIFY THE IMPACT ON ITS SERVICES THAT MAY RESULT WITH THE DEVELOPMENT OF THIS PROJECT.

(8) LIST ESTIMATED START AND END DATE FOR PROJECT.

(9) ESTIMATE PROJECT COSTS INCLUDING LABOR, HARDWARE, SOFTWARE, CONTRACT SERVICES AND OTHER.

(10) ESTIMATE ANNUAL OPERATION/MAINTENANCE COSTS.

(11) DESCRIBE RISK LEVEL OF PROJECT FOLLOWING CIO INSTRUCTION FOR FORMAT.

(12) DESCRIBE SEVERITY LEVEL OF PROJECT FOLLOWING CIO INSTRUCTION FOR FORMAT.

R365-6-7. Exceptions.

Any variance to format or content as established in this rule shall be approved by the CIO office.

R365-6-8. Rule Compliance Management.

The CIO may enforce this rule by non-approval of the IT Plan as defined in Utah Code, Section 63D-1a-303.

KEY: IT planning

2004

63D-1a-301.2

63D-1a-303

63-46a-3

**Governor, Planning and Budget, Chief
Information Officer**

R365-7

**Acceptable Use of Information
Technology Resources**

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 27119

FILED: 04/28/2004, 08:23

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This proposed new rule implements the existing acceptable use policy into rule. Substantial editing of content has been implemented, but intent and substance are the same.

SUMMARY OF THE RULE OR CHANGE: The proposed new rule defines the acceptable use for information technology (IT) related resources by employees of the Executive branch of State Government.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 63D-1a-101 et seq. and Section 63-46a-3

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** This rule should have no cost or savings impact to agencies affected because the practices related to the existing policy will substantially conform to this rule.

❖ **LOCAL GOVERNMENTS:** No impact--This rule applies to Executive Branch Agencies of State Government only.

❖ **OTHER PERSONS:** No impact--This rule applies to Executive Branch Agencies of State Government only.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no expected compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule converts existing policy for acceptable use of information technology resources into rule from policy. It is not expected that there will be any fiscal impact on businesses.

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

GOVERNOR
PLANNING AND BUDGET,
CHIEF INFORMATION OFFICER
Room 116 STATE CAPITOL
350 N STATE ST
SALT LAKE CITY UT 84114-1103, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Randy Hughes at the above address, by phone at 801-537-9071, by FAX at 801-538-1547, or by Internet E-mail at randyhughes@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 06/15/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 07/02/2004

AUTHORIZED BY: Val Oveson, Chief Information Officer

R365. Governor, Planning and Budget, Chief Information Officer.

R365-7. Acceptable Use of Information Technology Resources.
R365-7-1. Purpose.

Information technology resources are provided to state employees to assist in the efficient day to day operations of state agencies. Employees shall use information technology resources in compliance with this rule.

R365-7-2. Application.

All agencies of the executive branch of state government including its administrative sub-units, except the State Board of Education and the Board of Regents and institutions of higher education, shall comply with this rule.

R365-7-3. Authority.

This rule is issued by the Chief Information Officer under the authority of Section 63D-1a-305 of the Information Technology Act, Utah Code, and in accordance with Section 63-46a-3 of the Utah Rulemaking Act, Utah Code.

R365-7-4. Employee and Management Conduct.

(1) Providing IT resources to an employee does not imply an expectation of privacy. Agency management may:

(a) View, authorize access to, and disclose the contents of electronic files or communications, as required for legal, audit, or legitimate state operational or management purposes;

(b) Monitor the network or email system including the content of electronic messages, including stored files, documents, or communications as are displayed in real-time by employees, when required for state business and within the officially authorized scope of the person's employment.

(2) An employee may engage in incidental and occasional personal use of IT resources provided that such use does not:

(a) Disrupt or distract the conduct of state business due to volume, timing, or frequency;

(b) Involve solicitation;

(c) Involve for-profit personal business activity;

(d) Involve actions, which are intended to harm or otherwise disadvantage the state; or

(e) Involve illegal or other activities prohibited by this rule.

(3) An employee shall:

(a) comply with the Government Records Access and Management Act, as found in Section 63-1-101 et seq., Utah Code, when transmitting information with state provided IT resources.

(b) Report to agency management any computer security breaches, or the receipt of unauthorized or unintended information.

(4) While using state provided IT resources, an employee may not:

(a) Access private, protected or controlled records regardless of the electronic form without management authorization;

(b) Divulge or make known his/her own password(s) to another person;

(c) Distribute offensive, disparaging or harassing statements including those that might incite violence or that are based on race, national origin, sex, sexual orientation, age, disability or political or religious beliefs;

(d) Distribute information that describes or promotes the illegal use of weapons or devices including those associated with terrorist activities;

(e) View, transmit, retrieve, save, print or solicit sexually-oriented messages or images;

(f) Use state-provided IT resources to violate any local, state, or federal law;

(g) Use state-provided IT resources for commercial purposes, product advertisements or "for-profit" personal activity;

(h) Use state-provided IT resources for religious or political functions, including lobbying as defined according to Section 36-11-102, Utah Code, and rule R623-1;

(i) Represent oneself as someone else including either a fictional or real person;

(j) Knowingly or recklessly spread computer viruses, including acting in a way that effectively opens file types known to spread computer viruses particularly from unknown sources or from sources from which the file would not be reasonably expected to be connected with;

(k) Create and distribute or redistribute "junk" electronic communications, such as chain letters, advertisements, or unauthorized solicitations.

(5) Once agency management determines that an employee has violated this rule, they may impose disciplinary actions in accordance with the provisions of DHRM rule R477-11-1.

KEY: information technology resources, acceptable use
2004
63D-1a-305

Human Services, Mental Health
R523-1-10

Allocation of Utah State Hospital Bed
Days to Local Mental Health Authorities

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 27117

FILED: 04/27/2004, 11:05

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The current section does not establish a formula, as required by statute, to allocate adult beds to local mental health authorities.

SUMMARY OF THE RULE OR CHANGE: The proposed section establishes a formula to allocate state hospital adult beds to local mental health authorities as required by statute

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 62A-15-611(2)(a)

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: None

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: Beds at the Utah State Hospital are funded in the state budget and number of beds allocated is based on that budget per Section 62A-15-612 so no new cost to the state budget is anticipated.

❖ LOCAL GOVERNMENTS: Re-allocation of beds at the Utah State Hospital may result in the loss of a bed for some local authorities and additional beds for others. Those authorities that lose beds could incur additional costs for hospitalizations in local hospitals, those that gain beds could experience a saving by cutting the cost of using local hospital beds. Each hospital has a different bed day rate and the length of stay for each individual would vary consequently an aggregate cost or saving cannot be calculated.

❖ OTHER PERSONS: State Statute allocates beds the State Hospital to local authorities who may contract with private not for profit entities to provide mental health services for residents in their catchment area. The loss of a bed at the hospital may cause them to incur additional hospital costs by needing to use beds at local hospitals or they could experience a saving by gaining an additional bed at the State Hospital by decreasing the reliance on local hospitals.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Re-allocation of beds at the Utah State Hospital may result in the loss of a bed for some local authorities or the gain of a bed for others. Those authorities that lose a bed might incur additional costs for hospitalizations in local hospitals those that gain a bed could experience a saving. Each hospital has a different bed day rate and the length of stay for each individual would vary, consequently the cost or saving for each affected person cannot be calculated.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Local authorities in some areas of the State contract with private not for profit entities to provide mental health services for residents in their catchment area. The loss or gain of a bed at the Utah State Hospital may cause them to incur additional hospital costs at local hospitals or additional savings by not using local hospital beds.

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

HUMAN SERVICES
MENTAL HEALTH
120 N 200 W 4TH FL
SALT LAKE CITY UT 84103-1500, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Janina Chilton at the above address, by phone at 801-538-4072, by FAX at 801-538-3993, or by Internet E-mail at jchilton@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 06/14/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 06/15/2004

AUTHORIZED BY: Robin Arnold-Williams, Executive Director

R523. Human Services, Mental Health.

R523-1. Policies and Procedures.

R523-1-10. Allocation of Utah State Hospital Bed Days to Local Mental Health Authorities.

~~[All adult general psychiatric beds at the Utah State Hospital for individuals who meet the requirements of 62A-12-209(2)(a); shall be provided to mental health catchment areas governed by a local mental health authority or association of local mental authorities; and shall provide for allocation of these beds based on:~~

~~— A. the percentage of the state's population that is located within a mental health catchment area.~~

~~— B. a differential to compensate for additional demand of state hospital beds in the urban areas of the state.]1. Pursuant to UCA 62A-15-611(2)(a), the Board herein establishes, by rule, a formula to allocate to local mental health authorities adult beds for persons who meet the requirements of UCA 62A-15-610(2)(a).~~

~~2. The formula established provides for allocation based on (1) the percentage of the state's adult population located within a mental health catchment area; and (2) a differential to compensate for the additional demand for hospital beds in mental health catchment areas that are located within urban areas.~~

~~3. The Board hereby establishes a formula to determine adult bed allocation:~~

~~a. The most recent available population estimates are obtained from the Utah Population Estimates Committee.~~

~~b. The total adult population figures for the State are identified which includes general adults and geriatric populations. Adult means age 18 through age 64. Geriatric means age 65 and older.~~

~~c. Adult and Geriatric population numbers are identified for each county.~~

~~d. The urban counties are identified (county classifications are determined by the lieutenant governor's office pursuant to UCA 17-50-501 and 17-50-502 and the most recent classifications are used to determine which counties are defined as urban) and given a differential as follows:~~

~~i. The total number of adult beds available at the Utah State Hospital are determined, from which the total number of geriatric beds and adult beds are identified.~~

~~ii. 4.8% is subtracted from the total number of beds available for adults to be allocated as a differential.~~

~~iii. 4.8% is subtracted from the total number of beds available for geriatrics to be allocated as a differential.~~

~~e. The total number of available adult beds minus the differential is multiplied by the county's percentage of the state's total adult and geriatric populations to determine the number of allocated beds for each county.~~

~~f. Each catchments area's individual county numbers are added to determine the total number of beds allocated to a catchment area. This fractional number is rounded to the nearest whole bed.~~

~~g. The differential beds are then distributed to urban counties based on their respective percentage of urban counties as a whole.~~

~~h. At least one adult (18 - 64) bed is allocated to each community mental health center.~~

4. In accordance with UCA 62A-15-611(6), the Board shall periodically review and make changes in the formula as necessary to accurately reflect changes in population.

5. Applying the formula.

a. Adjustments of adult beds, as the formula is applied, shall become effective at the beginning of the next fiscal year.

b. The Division of Substance Abuse and Mental Health, as staff to the Board, is responsible to calculate adult bed allocation as directed by the Board or as required by statute.

c. Each local mental health authority will be notified of changes in adult bed allocation.

6. The number of allocated adult beds shall be reviewed and adjusted as necessary or at least every three years as required by statute.

7. A local mental health authority may sell or loan its allocation of adult beds to another local mental health authority.

KEY: bed allocations, due process, prohibited items and devices, fees

[September 8, 2003]2004

Notice of Continuation December 11, 2002

62A-12-102

62A-12-104

62A-12-209.6(2)

62A-12-283.1(3)(a)(i)

62A-12-283.1(3)(a)(ii)



Human Services, Mental Health **R523-1-16** Pediatric Bed Allocation at the Utah State Hospital

NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 27118

FILED: 04/27/2004, 11:17

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The current section of this rule does not establish, as required by statute, a formula to allocate Utah State Hospital pediatric beds to local mental health authorities.

SUMMARY OF THE RULE OR CHANGE: The proposed section establishes formula to allocate Utah State Hospital pediatric beds to local mental health authorities.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 62A-15-612(2)

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: None

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: Beds at the State Hospital are funded in the state budget and number of beds allocated is based on

that budget per Section 62A-15-612 so no new cost to the state budget is anticipated.

❖ LOCAL GOVERNMENTS: Re-allocation of beds at the Utah State Hospital may result in the loss of a bed for some local authorities and additional beds for others. Those authorities that lose beds could incur additional costs for hospitalizations in local hospitals, those that gain beds could experience a saving by cutting the cost of using local hospital beds. Each hospital has a different bed day rate and the length of stay for each individual would vary, consequently an aggregate cost or saving cannot be calculated.

❖ OTHER PERSONS: State Statute allocates beds at the State Hospital to local authorities who may contract with private not for profit entities to provide mental health services for residents in their catchment area. The loss of a bed at the hospital may cause them to incur additional hospital costs by needing to use beds at local hospitals or they could experience a saving by gaining additional beds at the State Hospital thereby decreasing their reliance on local hospitals.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Re-allocation of beds at the Utah State Hospital may result in the loss of a bed for some local authorities or the gain of a bed for others. Those authorities that lose a bed might incur additional costs for hospitalizations in local hospitals those who gain a bed could experience a saving. Each hospital has a different bed day rate and the length of stay for each individual would vary, consequently the cost or saving for each affected person cannot be calculated.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Local authorities in some areas of the State contract with private not for profit entities to provide mental health services for residents in their catchment area. The loss or gain of a bed at the Utah State Hospital may cause them to incur additional hospital costs at local hospitals or additional savings by not using local hospital beds.

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

HUMAN SERVICES
MENTAL HEALTH
120 N 200 W 4TH FL
SALT LAKE CITY UT 84103-1500, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Janina Chilton at the above address, by phone at 801-538-4072, by FAX at 801-538-3993, or by Internet E-mail at jchilton@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 06/14/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 06/15/2004

AUTHORIZED BY: Robin Arnold-Williams, Executive Director

R523. Human Services, Mental Health.

R523-1. Policies and Procedures.

R523-1-16. [Pediatric Bed Allocation at the Utah State Hospital.] Allocation of Utah State Hospital Pediatric Beds to Local Mental Health Authorities.

[Legal Authority:

— This rule establishes the following formula to separately allocate to local mental health authorities, such pediatric beds as have been allocated for persons who meet the requirements of subsection 62A-12-209(2)(b), and pursuant to Section 62A-12-209.6. In addition to terms defined in this rule, other terms used herein are as defined in Section 62A-12-209-101, and Section 62A-12-202.

— A. Pediatric beds at the Utah State Hospital are allocated to local mental health authorities based on the 0-18 age population of the state. The allocation shall be reviewed and adjusted as necessary every three years according to the population of persons under 18 years of age, using the most recent population estimates from the Governor's Office of Planning and Budget. Each local mental health authority shall receive not less than one bed under this formula.

— B. As of July 1, 1996 beds are allocated according to the formula in the following table:

TABLE

Bear River Mental Health	5
Weber Mental Health	6
Davis Mental Health	8
Wasatch Mental Health	12
Valley Mental Health	31
Central Utah Mental Health	2
Four Corners Mental Health	1
Southwest Center	4
Uintah Basin Counseling	1
San Juan Mental Health	1
Statewide Emergency Bed	1

— C. Monthly, a written report shall be issued by the Division through its Continuity of Care Committee as established to operationalize R523-1-11. This report shall detail allocation and utilization by child, adolescent male and adolescent female under each local mental health authority catchment area and will be disseminated to each local mental health center liaison. Review of the report shall be an agenda item at each of the Division's Pediatric Continuity of Care Meetings.

— D. The pediatric bed allocation formula and process shall be reviewed at least annually and a written report submitted to the State Board of Mental Health by the Division. Changes or realignments shall be considered at that time.

— E. All local mental health authority programs shall follow State Board of Mental Health Policy (Rule R523-1-11) relating to referrals, admissions, and transfers by mental health centers to the Utah State Hospital and between mental health center catchment areas.

— F. In the event a local mental health authority requires a bed for a child or adolescent beyond the number allocated, a designated representative from that center may contact another local mental health center to negotiate utilization of one of that center's allocated beds. These negotiations shall be conducted by the two centers. A report of the final agreement for bed exchange shall be made as part of the agenda at the Division's next Pediatric Continuity of Care meeting.

— G. In making decisions about the placement of child or youth, centers shall give first priority to the best interests of the child/youth. Allocation and use of the beds shall be monitored monthly by the division's Pediatric Continuity of Care Committee and reported to the board upon request.]1. Pursuant to UCA 62A-15-612(2), the

Board herein establishes, by rule, a formula to allocate to local mental health authorities pediatric beds for persons who meet the requirements of UCA 62A-15-610(2)(b).

2. The formula established provides for allocation based on the percentage of the state's population of persons under the age of 18 located within a mental health catchment area.

3. Each community mental health center shall be allocated at least one pediatric bed. (UCA 62A-15-612(3))

4. The board hereby establishes a formula to determined pediatric bed allocation:

a. The most recent available population estimates are obtained from the Governor's Office of Planning and Budget.

b. The total pediatric population figures for the State are identified. Pediatric means under the age of 18.

c. Pediatric population figures are identified for each county.

d. The total number of pediatric beds available is multiplied by the county's percentage of the state's total pediatric population. This will determine the number of allocated pediatric beds for each county.

e. Each catchment area's individual county numbers are added to determine the total number of pediatric beds allocated to a catchment area. This fractional number is rounded to the nearest whole bed.

5. In accordance with UCA 62A-15-612(6), the Board shall periodically review and make changes in the formula as necessary.

6. Applying the formula.

a. Adjustments of pediatric beds, as the formula is applied, shall become effective at the beginning of the new fiscal year.

b. The Division of Substance Abuse and Mental Health, as staff to the Board, is responsible to calculate pediatric bed allocation as directed by the Board or as required by statute.

c. Each local mental health authority will be notified of changes in pediatric bed allocation.

7. The number of allocated pediatric beds shall be reviewed and adjusted as necessary or at least every three years as required by statute.

8. A local mental health authority may sell or loan its allocation of adult beds to another local mental health authority.

KEY: bed allocations, due process, prohibited items and devices, fees

[September 8, 2003]2004

Notice of Continuation December 11, 2002

62A-12-102

62A-12-104

62A-12-209.6(2)

62A-12-283.1(3)(a)(i)

62A-12-283.1(3)(a)(ii)

62A-15-612(2)



Lieutenant Governor, Elections

R623-2

Uniform Ballot Counting Standards

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 27123

FILED: 04/28/2004, 13:00

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The State of Utah is adopting uniform and nondiscriminatory standards that define what constitutes a vote and what will be counted for each voting system used in the state as required by the Help America Vote Act, 42 U.S.C. 15481(a)(6).

SUMMARY OF THE RULE OR CHANGE: This executive rule officially adopts the standards for evaluating ballots currently used by the county clerks in Utah. The rule addresses ballot counting standards for optical scan ballots and punch card ballots.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Article VII, Sections 1, 5 and 14; Subsection 67-1a-2(2); 42 U.S.C. 15481(a)(6); and 42 USC 15403(e)

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: This rule is one part of the compliance with the Help America Vote Act which will enable Utah to get approximately \$28,000,000 in federal funding.
- ❖ LOCAL GOVERNMENTS: None--This rule incorporates current procedures used at the county level and neither adds nor decreases costs for the counting of ballots.
- ❖ OTHER PERSONS: None--County officials have the sole responsibility of counting ballots.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule incorporates current procedures by rule and neither adds nor decreases costs for the counting of ballots at the county level.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Since county officials run elections, there will be no fiscal impact on businesses.

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

LIEUTENANT GOVERNOR
ELECTIONS
Room 325 EAST OFFICE BLDG
UTAH STATE CAPITOL COMPLEX
SALT LAKE CITY UT 84114, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Amy Naccarato or Leslie Barron at the above address, by phone at 801-538-1041 or 801-538-1526, by FAX at 801-538-1133 or 801-538-1133, or by Internet E-mail at anaccarato@utah.gov or lbarron@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 06/14/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 06/15/2004

AUTHORIZED BY: Amy Naccarato, Director

R623. Lieutenant Governor, Elections.**R623-2. Uniform Ballot Counting Standards.****R623-2-1. Purpose.**

The State of Utah is adopting uniform and nondiscriminatory standards that define what constitutes a vote and what will be counted for each voting system used in the state.

R623-2-2. Authority.

This rule is authorized by Utah Code Section 67-1a-2(2)(a); 42 USC 15403(e); 42 USC 15481(a)(6); Utah Constitution Article VII Sections 1, 5 and 14.

R623-2-3. Definitions.

In addition to the terms defined in Utah Code Section 20A-1-102, the following definitions apply:

A. "Blank Ballot" means a ballot on which the voter has made no marks in any voting position, or has been marked with an unreadable marker, or is one which has been consistently marked outside of the "read" area of the scanner.

B. "Chad" means the small piece of paper or cardboard produced from a punch card ballot when a voter pierces a hole in a perforated, designated position on the ballot with a marking device to record the voter's candidate, question, or issue choice.

C. "Counter" means automatic tabulating equipment or other electronic voting equipment upon which ballots are counted.

D. "Damaged Ballot" means a ballot that has been torn, bent, or otherwise mutilated or rendered unreadable so that it cannot be processed by automatic tabulating equipment.

E. "Duplicate Ballot" means a ballot for which a duplicate is made in order to be properly processed and counted due to damage, improper marking or some other reason which would prevent a counter from accurately counting the ballot in accordance with the voter's intent.

F. "Overvote" means a race, question or issue which contains votes for more than the maximum number of candidates or responses for a ballot question or issue allowed.

G. "Optical Scan Ballot" means a paper ballot that contains blank ovals or arrows that are to be filled in by the voters using a readable marker.

H. "Punch Card Ballot" means a ballot card that contains small perforated designated positions that a marking device must pierce to form a hole that records a voter's candidate, question, or issue choice.

I. "Resolution Board" means election judges who inspect the optical scan ballots.

J. "Undervote" means a race, question or issue which contains no votes or when more than one choice is available, less than the maximum number of votes allowed.

K. "Zero tape" means a paper record that no votes have been cast or counted on any automatic tabulating equipment or voting machine.

R623-2-4. Uniform Counting Standards for Optical Scan Ballots.

A. A correctly voted optical scan ballot occurs when a voter, using a readable marker, fills in or connects at least one of the ovals/arrows per race, question, or issue, not to exceed the maximum allowable votes per race, question or issue, in accordance with the ballot marking instructions.

B. Optical scan equipment shall be set to consistent and uniform sensitivity standards for each system type.

C. Pre-election testing shall be performed by the designated election official in accordance with Utah Code Section 20A-4-104(1).

D. Election day count machine settings shall be set to sort blank ballots, overvotes, and write-in votes.

E. When a precinct optical scan counter is used in the precinct the procedure is as follows:

1. A zero tape shall be run indicating no votes cast or counted before the machine is used.

2. Voters whose ballots are rejected or sorted by the precinct counter as a blank, overvoted or undervoted ballot shall be given the opportunity to correct their ballot.

3. Ballots sorted to a write-in bin shall be tallied at the conclusion of the voting and delivered to the central counting center in a secure container.

F. When using a central count optical scan counter, the procedure is as follows:

1. A zero tape shall be run indicating no votes cast or counted before the counting begins.

2. Official ballots shall be processed through the optical scanner, with write in votes tallied. If there are no legally qualified write-in candidates, the write-in sort option shall not be utilized.

3. The optical scanner shall be tested again by tabulating the test deck at the conclusion of the count.

G. Resolution of optical scan ballots shall be as follows:

1. Damaged or defective ballots shall be repaired, if possible, to be accepted by the optical scan equipment. If the ballot is damaged beyond repair, the ballot shall be duplicated utilizing the ballot duplication procedures established in Utah Code Section 20A-4-104(3).

2. Blank ballots shall be examined by the resolution board to determine if the ballot is a true blank ballot or one that has been marked with a non-detected device. The resolution board may clarify a non-detected mark in such a manner that the original voter mark is preserved, such as making a detectable line through the non-detected mark, placing a removable label over the non-detected mark and marking with the proper device, or placing cellophane tape over the mark and a marked removable label to properly reflect the voter's intent. The election officer must initial the clarification in a non-readable area on the ballot next to the clarification. The election official may also choose to make a true duplicate copy of the ballot utilizing the ballot duplication procedures. If a ballot is truly blank, it shall be sent back for the resolution pass through the scanner, and the ballot tabulated with no races, issues or questions voted.

3. Overvoted ballots shall be inspected by the resolution board. Any marks that are clearly identified as unintentional but register as an overvote on the scanner may be clarified by the election officer by the placement of a removable adhesive sticker over the unintentional mark to properly reflect the voter's intent. The election officer must initial next to the clarification in a non-readable portion of the ballot. The election officer may also choose to make a

true duplicate copy of the ballot utilizing the procedures for duplication of ballots.

4. Write-in votes sorted by the optical scan equipment on election day shall be designated for hand counting. In order to be counted, the oval must be darkened or the arrow connected according to the appropriate voting instructions.

H. Recount Procedures for Optical Scan.

1. Optical scan equipment shall be set to consistent sensitivity standards for each system type, shall be tested prior to the recount, and shall be programmed to sort undervotes for the individuals race(s), issue(s) or question(s) being recounted.

2. Recounts will include a visual inspection of all ballots cast for write-in candidates in the contested race(s) to determine voter intent.

R623-2-5. Uniform Counting Standards for Punch Card Voting Systems.

A. Prior to the counting of the ballots by automatic tabulating equipment, at least one team of election personnel shall inspect the ballots for loose chads, ballot damage, including holes that are too large, a ballot that is torn in the mail, etc., written instructions and corrections, and write-in votes. The purpose of the inspection shall be to insure that all ballots are machine-readable and that the voter's intent will be recorded correctly and accurately. In some instances, duplication of the ballot may be necessary in order to count the ballot.

B. All loose chads shall be removed to insure that all of the voter's choices on the ballot are correctly and accurately reflected in the count.

1. A chad that is unattached on two or more corners represents a vote and shall be removed.

2. If a chad is attached to a punch card ballot by three or four corners, unless there is a complete hole in the chad made by the stylus, no vote shall be recorded for that candidate, issue or question at that particular ballot position, and the chad shall not be removed.

C. Dimpled mark or puncture. If the ballot has been marked according to instructions but there is a dimple mark located wholly on the non removed chad, that mark shall be considered a random mark, no vote shall be recorded for that candidate, issue or question at that particular ballot position, and the chad shall not be removed.

D. Damaged ballots. If the ballot has damage or defects that would cause problems in tallying, the ballot shall be duplicated to the extent possible in accordance with the voter's intent. If the voter's intent cannot be determined for a specific office, issue or question on the damaged ballot, that position shall be left blank on the duplicate ballot.

E. If other material is included with an absentee ballot or is attached to the secrecy envelope, the material shall be inspected to determine if it has a bearing on the voter's intent. If the material has a bearing on the voter's intent, the original ballot shall be duplicated as necessary and the original ballot, along with the material, shall be placed in an envelope marked "Duplicated Ballot". If the material has no bearing on the voter's intent, it shall be discarded.

KEY: elections, ballots, Help America Vote Act, voting June 15, 2004

Article VII, Sections 1, 5, and 14 67-1a-2(2)

42 U.S.C. 15481(a)(6)



Lieutenant Governor, Elections
R623-3
Utah State Plan on Election Reform

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE No.: 27127

FILED: 04/28/2004, 16:16

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this executive rule is to incorporate by reference the Utah State Plan on Election Reform adopted by the State Plan Committee on September 25, 2003, pursuant to the Help America Vote Act, 42 U.S.C. 15404 and 15403(e).

SUMMARY OF THE RULE OR CHANGE: This rule incorporates by reference the Utah State Plan on Election Reform, as adopted by the State Plan Committee on Election Reform, on September 25, 2003, as required by 42 USC 15404. The State Plan is available for public inspection in the State Elections Office or the Division of Administrative Rules during regular business hours (8:00 a.m. to 5:00 p.m.). It is also available on the State Elections Office website at <http://www.elections.utah.gov/>. The requirements of this State Plan on Election Reform shall be implemented by the State of Utah, Office of the Lt. Governor, Elections Division, and the separate counties of the State of Utah.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Article VII, Sections 1, 5 and 14; Subsection 67-1a-2(2); 42 U.S.C. 15404; and 42 U.S.C. 15403(e)

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: State Plan on Election Reform, adopted September 25, 2003

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** Over the course of then next 3 years, the State is eligible to receive approximately \$28,000,000 in federal funds to ensure compliance with the Help America Vote Act (Pub. L. No. 107-252). The costs to the State have already been calculated and this rule does not increase or decrease those costs.

❖ **LOCAL GOVERNMENTS:** As indicated in the State Plan, county governments will incur costs to implement the Help America Vote Act. The amount each county will incur depends on the number of registered voters in the county and the number of precincts. A breakdown of estimated costs per county is on file in the State Elections Office. The counties have calculated or are in the process of calculating their costs and this rule does not increase or decrease those costs.

❖ **OTHER PERSONS:** Because the State Plan is a guidance document for election reform at the state and county level, this rule will have no impact on other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Government entities will be affected by this rule. As indicated in the State Plan, county governments will incur costs to implement the Help America Vote Act. The amount each county will incur depends on the number of registered voters in the county and the number of precincts. A breakdown of estimated costs per county is on file in the State Elections Office. The counties have calculated or are in the process of calculating their costs and this rule does not increase or decrease those costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Because the State Plan is a guidance document for election reform at the state and county level, this rule will have no impact on businesses.

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

LIEUTENANT GOVERNOR
 ELECTIONS
 Room 325 EAST OFFICE BLDG
 UTAH STATE CAPITOL COMPLEX
 SALT LAKE CITY UT 84114, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Amy Naccarato or Leslie Barron at the above address, by phone at 801-538-1041 or 801-538-1526, by FAX at 801-538-1133 or 801-538-1133, or by Internet E-mail at anaccarato@utah.gov or lbarron@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 06/14/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 06/15/2004

AUTHORIZED BY: Amy Naccarato, Director

R623. Lieutenant Governor, Elections.

R623-3. Utah State Plan on Election Reform.

R623-3-1. Purpose.

The purpose of this rule is to incorporate by reference the policies and procedures of the Utah State Plan on Election Reform adopted by the State Plan Committee on September 25, 2003.

R623-3-2. Authority.

This rule is authorized by 42 USC 15404; 42 USC 15403(e); Utah Code Subsection 67-1a-2(2); and Utah Constitution Article VII, Sections 1, 5 and 14.

R623-3-3. Incorporation of the Utah State Plan on Election Reform.

The State Elections Office incorporates by reference the Utah State Plan on Election Reform adopted on September 25, 2003. The Utah State Plan on Election Reform was published in the Federal Register (69 FR14002) on March 24, 2004.

KEY: elections, state plan, federal election reform**June 15, 2004****Article VII, Sections 1, 5, and 14****67-1a-2(2)****42 U.S.C. 15404****42 U.S.C. 15403(e)**

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**Money Management Council,
Administration**

R628-15**Certification as an Investment Adviser****NOTICE OF PROPOSED RULE**

(New Rule)

DAR FILE NO.: 27136

FILED: 04/30/2004, 16:26

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to establish a uniform standard to evaluate the financial condition and the standing of an investment adviser to determine if investment transactions with public treasurers by investment advisers would expose public funds to undue risk.

SUMMARY OF THE RULE OR CHANGE: This rule requires that an investment adviser who intends to provide investment advisory services to a public treasurer become certified. It provides for the application process and the information required from the investment adviser to become certified. The rule requires that investment advisers renew their certification annually and contains post certification requirements. It provides qualification criteria for the use of non-certified broker/dealers by investment advisers. The rule requires that the Money Management Council mail the list of certified investment advisers out to public treasurers at least semi-annually. The rule also provides grounds and procedures for denial, suspension, and termination of status as a certified investment adviser.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsections 51-7-3(3) and 51-7-3(10), and Section 51-7-18

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** The fee for certification is \$500 per each firm. It is not known how many investment advisers will become certified. Using the certified dealers list as an example, the fee process could generate up to \$10,000 annually. Currently, the Council is aware of five investment advisory firms that will become certified.

❖ **LOCAL GOVERNMENTS:** The local public treasurers will not have any costs associated with this rule. If they choose to utilize investment advisers to manage their money, any fees paid should in theory, be offset by earnings on those funds under management.

❖ **OTHER PERSONS:** A non-licensed investment adviser would have a minimal \$30 annual fee to become licensed. The certified investment adviser fee is \$500 annually, these fees would be offset by potential income from managing public funds.

COMPLIANCE COSTS FOR AFFECTED PERSONS: For those firms and individuals not already licensed with the Division of Securities, an annual \$30 fee is required. If an individual does not have a NASD Series 65, or Series 66 and Series 7 license, they will have to obtain that license at a one-time cost of \$110 for either the Series 65 or 66, and \$200 for the Series 7. The firm will then have an annual cost of \$500 to become certified under the Rules of the Money Management Council.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Investment advisers seeking certification must pay a \$500 annual certification fee established by Section 51-7-18.4. Compliance with this rule requires certified investment advisers to provide copies of certain documents and to give notices which may result in nominal, incremental costs for duplication and delivery. Federal covered investment advisers may incur additional legal fees and other administrative and registration costs as a result of the requirement for licensing in Utah.

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

MONEY MANAGEMENT COUNCIL
ADMINISTRATION
Room E315 EAST OFFICE BLDG
STATE CAPITOL COMPLEX
PO BOX 142315
SALT LAKE CITY UT 84114-2315, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Ann Pedroza at the above address, by phone at 801-538-1883, by FAX at 801-538-1465, or by Internet E-mail at apedroza@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 06/14/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 06/15/2004

AUTHORIZED BY: Larry Richardson, Chair

R628. Money Management Council, Administration.**R628-15. Certification as an Investment Adviser.****R628-15-1. Authority.**

This rule is issued pursuant to Sections 51-7-3(3), 51-7-3(10), and 51-7-18.

R628-15-2. Scope.

This rule establishes the criteria applicable to all investment advisers and investment adviser representatives for certification by the Director as eligible to provide advisory services to public

treasurers under the State Money Management Act (the "Act"). It further establishes the application contents and procedures, and the criteria and the procedures for denial, suspension, termination and reinstatement of certification. Additionally, the qualification of non-certified dealers and the use of these qualified dealers by certified investment advisers is provided for.

R628-15-3. Purpose.

This rule establishes a uniform standard to evaluate the financial condition and the standing of an investment adviser to determine if investment transactions with public treasurers by investment advisers would expose public funds to undue risk.

R628-15-4. Definitions.

A. The following terms are defined in Section 51-7-3 of the Act, and when used in this rule, have the same meaning as in the Act:

1. "Certified investment adviser";
2. "Council";
3. "Director";
4. "Public treasurer"; and
5. "Investment adviser representative".

B. For purposes of this rule the following terms are defined:

1. "Investment adviser" means either a federal covered adviser as defined in Section 61-1-13 or an investment adviser as defined in Section 61-1-13.

2. "Qualified dealer" means a non-certified broker/dealer that is licensed by the Division and is qualified by the Council to conduct investment transactions on behalf of a public treasurer pursuant to an investment adviser contract not inconsistent with the Act or Rules of the Council between the public treasurer and a certified investment adviser.

R628-15-5. General Rule.

Before an investment adviser or investment adviser representative provides investment advisory services to any public treasurer, the investment adviser or investment adviser representative must submit and receive approval of an application to the Division, pay to the Division a non-refundable fee as described in Section 51-7-18.4(2), and become a Certified investment adviser or Investment adviser representative under the Act.

R628-15-6. Criteria for Certification of an Investment Adviser.

To be certified by the Director as a Certified investment adviser or Investment adviser representative under the Act, an investment adviser or investment adviser representative shall:

A. Submit an application to the Division on Form 628-15 and pay to the Division the non-refundable fee described in Section 51-7-18.4(2).

B. Be licensed with the Division under its laws and rules, effective as of the date of the application. Licensing is required for all of the following:

- (1) the investment adviser;
- (2) its designated official as defined in R164-4-2 of the Division; and

(3) any investment adviser representative who provides investment advisory services to public treasurers in the state. C. Have a current Certificate of Good Standing dated within 30 days of application from the state in which the applicant is incorporated or organized.

D. Have net worth as of its most recent fiscal year-end of not less than \$150,000 documented by financial statements prepared by an independent certified public accountant in accordance with generally accepted accounting principles.

E. Have surety bond coverage of not less than fifteen percent (15%) of assets under management as of the date of application.

F. Allow the public treasurer to select the forum and method for dispute resolution, whether that forum be arbitration, mediation or litigation in any state or federal court. No agreement, contract, or other document that the applicant requires or intends to require to be signed by the public treasurer to open or maintain an account shall require or propose to require that any dispute between the applicant and the public treasurer must be submitted to arbitration.

G. Agree to the jurisdiction of the Courts of the State of Utah and applicability of Utah law, where relevant, for litigation of any dispute arising out of transactions between the applicant and the public treasurer.

H. All Investment adviser representatives who have any contact with a public treasurer or its account, must sign and have notarized a statement that the representative:

(1) is familiar with the authorized investments as set forth in the Act and the rules of the Council;

(2) is familiar with the investment objectives of the public treasurer, as set forth in Section 51-7-17(2);

(3) acknowledges, understands, and agrees that all investment transactions conducted for the benefit of the public treasurer are required to be settled on a delivery vs. payment basis only at the treasurer's safekeeping bank and that the Certified investment adviser and any Investment adviser representative is prohibited from receiving custody of any public funds or investment securities at any time.

R628-15-7. Certification.

A. The initial application for certification must be received on or before the last day of the month for approval at the following month's Council meeting.

B. All certifications shall be effective upon acceptance by the Council.

C. All certifications not otherwise terminated shall expire on June 30 of each year, unless renewed. Renewal applications must be received on or before April 30 of each year.

R628-15-8. Renewal of Application.

A. Certified investment advisers shall apply annually, on or before April 30 of each year, for certification to be effective July 1 of each year.

B. The application must contain all of the documents and meet all of the requirements as set forth above with respect to initial applications.

C. The application must be accompanied by an annual certification fee as described in section 51-7-18.4(2).

R628-15-9. Post Certification Requirements.

A. Certified investment advisers shall notify the Division of any changes to any items or information contained in the original application within 30 calendar days of the change. The notification shall provide copies, where necessary, of relevant documents.

B. Certified investment advisers shall maintain licensing with the Division and registration as an investment adviser under the Investment Advisers Act of 1940 throughout the term of any agreement or contract with any public treasurer.

C. Certified investment advisers shall provide to the public treasurer the SEC Form ADV Part II prior to contract execution.

D. Certified investment advisers shall file annual audited financial statements with all public treasurers with whom they are doing business and with the Division.

E. Certified investment advisers shall fully disclose all conflicts of interest and all economic interests in qualified dealers and other affiliates, consultants and experts used by the Investment adviser in providing investment advisory services.

F. Certified investment advisers shall act with the degree of care, skill, prudence, and diligence that a person having special skills or expertise acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims.

G. Certified investment advisers shall exercise good faith in allocating transactions to qualified dealers in the best interest of the account and in overseeing the completion of transactions and performance of qualified dealers used by the Investment adviser in connection with investment advisory services.

H. Certified investment advisers shall fully disclose to the public treasurer any self-dealing with subsidiaries, affiliates or partners of the Investment adviser and any "soft dollar" benefits to the Investment adviser for transactions placed on behalf of the public treasurer.

I. Certified investment advisers shall fully and completely disclose to all public treasurers with whom they do business the basis for calculation of fees, whether and how fees may be adjusted during the term of any agreement, and any other costs chargeable to the account. If performance-based fees are proposed, the disclosure shall include a clear explanation of the amount of the fee at specific levels of performance and how prior losses are handled in calculation of the performance-based fee.

J. Certified investment advisers shall not assign any contract or agreement with a public treasurer without the written consent of the public treasurer.

K. Certified investment advisers shall provide immediate written notification to any public treasurer to whom advisory services are provided and to the Division upon conviction of any crime involving breach of trust or fiduciary duty or securities law violations.

L. Not less than once each calendar quarter and as often as requested by the public treasurer, Certified investment advisers shall timely deliver to the public treasurer:

(1) copies of all trade confirmations for transactions in the account;

(2) a summary of all transactions completed during the reporting period;

(3) a listing of all securities in the portfolio at the end of each reporting period, the market value and cost of each security, and the credit rating of each security;

(4) performance reports for each reporting period showing the total return on the portfolio as well as the accrual basis return and the net return after calculation of all fees and charges permitted by the agreement; and

(5) a statistical analysis showing the portfolio's weighted average maturity and duration as of the end of each reporting period.

R628-15-10. Notification of Certification.

The Director shall provide a list of Certified investment advisers and Investment adviser representatives to the Council at least semiannually. The Council shall mail this list to each public treasurer.

R628-15-11. Criteria for Qualification of a Non-Certified Dealer.

A. Before a Certified investment adviser uses a non-certified dealer to conduct investment transactions on behalf of a public treasurer, the investment adviser must submit an application for each non-certified dealer for qualification by the Division.

B. The application must include:

(1) Proof of licensing with the Division under its laws and rules, effective as of the date of the application, of the following:

(a) the broker-dealer;

(b) any agents of a firm doing business in the state.

(2) A Certificate of Good Standing, obtained from the state in which the applicant is incorporated or organized.

(3) With respect to applicants who are not primary reporting dealers, financial statements, prepared by an independent certified public accountant in accordance with generally accepted accounting principles, indicating that the applicant has, as of its most recent fiscal year end:

(a) Minimum net capital, as calculated under rule 15c3-1 of the Securities and Exchange Act of 1934 (17 CFR 240.15c3-1(2004)), of at least 5% of the applicant's aggregate debt balances, as defined in the rule, and;

(b) Total capital as follows:

(i) of at least \$10 million or;

(ii) of at least \$25 million, calculated on a consolidated basis, with respect to an applicant which is a wholly-owned subsidiary.

R628-15-12. Grounds for Denial, Suspension or Termination of Status as a Certified Investment Adviser.

Any of the following constitutes grounds for denial, suspension, or termination of status as a Certified investment adviser:

A. Denial, suspension or termination of the Certified investment adviser's license by the Division.

B. Failure to maintain a license with the Division by the firm or any of its Investment adviser representatives conducting investment transactions with a public treasurer.

C. Failure to maintain the required minimum net worth and the required surety bond.

D. Requiring the public treasurer to sign any documents, contracts, or agreements which require that disputes be submitted to mandatory arbitration.

E. Failure to pay the annual certification fee.

F. Making any false statement or filing any false report with the Division.

G. Failure to comply with any requirement of section R628-15-9.

H. Engaging in any act in violation of the Act or Rules of the Council.

I. Failure to respond to requests for information from the Division or the Council within 15 days after receipt of a request for information.

J. Engaging in a dishonest or unethical practice. "Dishonest or unethical practice" includes but is not limited to those acts and practices enumerated in Rule R164-6-1g.

K. Being the subject of:

(1) an adjudication or determination, within the past five years by a securities or commodities agency or administrator of another state, Canadian province or territory, or a court of competent jurisdiction that the person has willfully violated the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Advisers Act of 1940, the Investment Company Act of 1940, the Commodity Exchange Act, or the securities or commodities law of any other state; or

(2) an order entered within the past five years by the securities administrator of any state or Canadian province or territory or by the Securities and Exchange Commission denying or revoking license as a broker-dealer, agent, investment adviser, or investment adviser representative or the substantial equivalent of those terms or is the subject of an order of the Securities and Exchange Commission suspending or expelling the person from a national securities exchange or national securities association registered under the Securities Exchange Act of 1934, or is the subject of a United States post office fraud order.

R628-15-13. Procedures for Denial, Suspension, or Termination and Reinstatement of Status.

A. Where it appears to the Division or to the Council that grounds may exist to deny, suspend, or terminate status as a Certified investment adviser, the Council shall proceed under the Utah Administrative Procedures Act, Chapter 46b, Title 63 ("UAPA").

B. All proceedings to suspend a Certified investment adviser or to terminate status as a certified investment adviser are designated as informal proceedings under ("UAPA").

C. In any hearings held, the Chair of the Council shall be the presiding officer, and that person may act as the hearing officer, or may designate another person from the Council or the Division to be the hearing officer. At the close of the hearing, other members of the Council may make recommendations to the hearing officer after the close of the hearing.

D. The Notice of Agency Action as set forth under UAPA, or any petition filed in connection with it, shall include a statement of the grounds for termination, and the remedies required to cure the violation.

E. After the date of service of the Notice of Agency Action, the Certified investment adviser and its Investment adviser representatives shall not conduct any investment transaction with any public treasurer if so ordered by the Money Management Council. The order issued by the hearing officer on behalf of the Council at the conclusion of the proceedings shall lift this prohibition if the order allows the Certified investment adviser to keep its status as a Certified investment adviser.

KEY: cash management, public investments, securities regulation, investment advisers

2004

51-7-3(1)

51-7-18(2)(b)(v)



**Money Management Council,
Administration
R628-19
Requirements for the Use of Investment
Advisers by Public Treasurers**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 27137

FILED: 04/30/2004, 16:27

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Money Management Act was amended this legislative session (H.B. 114), specifically regarding the use of investment advisers by public treasurers. These amendments required that changes be made to the rule to reflect the law. (DAR NOTE: H.B. 114 is found at UT L 2004 Ch 248, and was effective May 3, 2004.)

SUMMARY OF THE RULE OR CHANGE: The changes incorporate new definitions of certified investment advisers and requires that public treasurers use only Certified investment advisers as defined in Rule R628-15. Additional changes in the rule instruct the public treasurer to review the certified investment adviser's written programs, objectives, management, approach and strategies. (DAR NOTE: The proposed amendment to Rule R628-15 is under DAR No. 27136 in this issue.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsections 51-7-3(1) and 51-7-18(2)(b)(v)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The requirement to be licensed as an investment adviser has been removed from this rule. Any fees required to be licensed or certified are now under another rule. So there is no income associated with rule.

❖ LOCAL GOVERNMENTS: None--In theory, any management fee charged by advisers will be offset by earnings on the funds under management.

❖ OTHER PERSONS: The requirement to be licensed as an investment adviser has been removed from this rule. Any fees required to be licensed or certified are now under another rule. There are no costs associated with this rule.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The licensing requirement has been moved to another rule, there are no costs for other persons under this rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule applies only to Utah public treasurers and has no fiscal impact on businesses.

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

MONEY MANAGEMENT COUNCIL
ADMINISTRATION
Room E315 EAST OFFICE BLDG
STATE CAPITOL COMPLEX
PO BOX 142315
SALT LAKE CITY UT 84114-2315, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Ann Pedroza at the above address, by phone at 801-538-1883, by FAX at 801-538-1465, or by Internet E-mail at apedroza@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 06/14/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 06/15/2004

AUTHORIZED BY: Larry Richardson, Chair

R628. Money Management Council, Administration.

R628-19. Requirements for the Use of Investment Advisers by Public Treasurers.

R628-19-1. Authority.

This rule is issued pursuant to Section 51-7-18(2)(b).

R628-19-2. Scope.

This rule establishes basic requirements for public treasurers when using investment advisers.

R628-19-3. Purpose.

The purpose of this rule is to outline requirements for public treasurers who are considering utilizing investment advisers to invest public funds. These are minimum requirements and not exhaustive criteria to be used when choosing an adviser.

R628-19-4. Definitions.

(1) The following terms are defined in Section 51-7-3 of the Act, and when used in this rule, have the same meaning as in the Act:

- (a) "Certified investment adviser";
- (b) "Council";
- (c) "Director"; and
- (d) "Investment adviser representative".

(2) For purposes of this rule:

(a) "Investment adviser" [as used in this rule has the same meaning as defined in Section 61-1-13(15).] means either a federal covered adviser as defined in Section 61-1-13 or an investment adviser as defined in Section 61-1-13.

(b) Investment adviser representative as used in this rule has the same meaning as defined in Section 61-1-13(16).

(e)(b) "Realized rate of return" means: yield calculated by combining interest earned, discounts accreted and premiums amortized, plus any gains or losses realized during the month, less all fees, divided by the average daily balance during the reporting period. The realized return should then be annualized.

R628-19-5. General Rule.

[When considering and using an investment adviser the public treasurer shall follow these minimum requirements:]1. A public treasurer may use an investment adviser to conduct investment transactions on behalf of the public treasurer as permitted by statute, rules of the Council, and local ordinance or policy.

2. A public treasurer using an investment adviser to conduct investment transactions on behalf of the public treasurer is responsible for full compliance with the Act and rules of the Council.

3. Due diligence in the selection of an investment adviser and in monitoring the performance of investment advisers is the responsibility of the public treasurer. In that regard, the public treasurer may not rely on certification by the Director as satisfaction of prudent and reasonable due diligence on the part of the public treasurer.

4. The public treasurer shall assure compliance with the following minimum standards:

(1)a) [A person offering investment advisory services to a public treasurer shall at all times be licensed as an investment adviser or an investment adviser representative with the Utah Securities Division.]A public treasurer may use a Certified investment adviser properly designated pursuant to R628-15.

(2)b) [The public treasurer shall request and the investment adviser shall furnish, a clear and concise written explanation of any and all fees and the fee structure.]A public treasurer's use of a Certified investment adviser shall be governed by a written investment advisory services agreement between the public treasurer and the Certified investment adviser. Terms of the agreement shall conform to the requirements of R628-15, and shall be adopted pursuant to all procurement requirements of statute and local ordinance or policy.

(3)c) Prior to entering into an investment advisory services agreement with a Certified investment adviser, [T]he public treasurer shall request and the investment adviser shall furnish, [examples of report formats which shall reflect at a minimum the following information:]the SEC Form ADV Part II for review and consideration by the public treasurer.

[a) the realized rate of return on the funds under the advisers management reported monthly on an actual over 360 day basis; and
— (b) a description of the security including the name, interest rate, maturity date and purchase date of the security.]

(4)d) All investment transactions and activities of the public treasurer and the Certified investment adviser must be in full compliance with all aspects of the Money Management Act and Rules of the Council particularly those requirements governing criteria for investments, safekeeping, utilizing only certified dealers or qualified dealers, [qualified depositories] and purchasing only the types of securities listed in 51-7-11., 51-7-12. and 51-7-13. as applicable.

(5)e) [Transaction confirmations shall be provided on every trade transacted for the public entity, within five business days of trade date by the certified dealer, to the public treasurer.]Prior to entering into an investment advisory services agreement with a Certified investment adviser, the public treasurer shall request and the investment adviser shall furnish a clear and concise explanation of the investment adviser's program, objectives, management approach and strategies used to add value to the portfolio and return, including the methods and securities to be employed.

(5) If selection of a Certified investment adviser to provide investment advisory services to a public treasurer is based upon the investment adviser's representation of special skills or expertise, the investment advisory services agreement shall require the Certified investment adviser to act with the degree of care, skill, prudence, and diligence that a person having special skills or expertise acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims.

(6) The public treasurer is advised to review and consider standards of practice recommended by other sources, such as the Government Finance Officers Association, in the selection and management of investment adviser services.

R628-19-6. Reporting to the Council.

When a public treasurer has contracted with an investment adviser for the management of public funds, the public treasurer shall provide the detail of those investments to the Council, pursuant to Section 51-7-18.2.

**KEY: securities, investment advisers, public funds
2004**

**51-7-18(2)(b)
61-1-13**



Transportation, Operations, Maintenance

R918-4

Using Volunteer Groups for the Adopt-a-Highway Program

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 27111

FILED: 04/26/2004, 15:05

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This change is designed to add new conditions to permits issued under this rule.

SUMMARY OF THE RULE OR CHANGE: This rule amendment specifies in more detail the information on adopt-a-highway signs that is forbidden.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 72-1-201

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** No anticipated cost because the changes are not affecting a person's ability to apply for the program. Therefore, costs to evaluate applications should stay about the same.

❖ **LOCAL GOVERNMENTS:** This program does not apply to local governments; therefore, there would be neither costs nor savings to local government.

❖ **OTHER PERSONS:** This does not increase any fee or impose any requirement that should result in an increased cost, or savings, to others.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be no compliance costs to other persons because there is no increase in fees.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule amendment has no fiscal impact on businesses.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

James Beadles at the above address, by phone at 801-965-4168, by FAX at 801-965-4796, or by Internet E-mail at jbeadles@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 06/14/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 06/15/2004

AUTHORIZED BY: John R. Njord, Executive Director

R918. Transportation, Operations, Maintenance.

R918-4. Using Volunteer Groups for the Adopt-a-Highway Program.

R918-4-1. Purpose of Procedure.

To establish a procedure for using volunteer groups for litter pickup. To provide additional resources to increase UDOT's litter control effort at a minimal cost. This program is not operated for the purpose of providing a highway signing program for a free speech forum.

R918-4-2. Application.

(1) A group or person who wishes to participate in a program to pick up litter along UDOT right-of-way may apply with the UDOT Region in which the right-of-way is located. The application shall contain, at a minimum, the name of the organization or person, the right-of-way requested, along with alternatives if desired, and the name and address of a contact person, and the ~~text~~ name of the sponsoring organization requested to be placed ~~on~~ on the Recognition Sign.

(2) If the name of an organization is to appear on the sign, the applicant shall submit, with the application, documentation from the state showing the form, status, and official name of the entity. Only the official name of the organization will be printed on the sign.

R918-4-3. Conditions to Participation.

If the application is granted, UDOT shall notify the applicant's contact person in writing and promptly send to him or her a contract that sets forth the following basic conditions:

- (1) the location of the right-of-way;
- (2) a hold harmless agreement, waiver of liability, and indemnification for third-party claims;
- (3) safety rules;
- (4) information concerning safety apparel that must be used and that is recommended;
- (5) the name of the entity or organization that is applying for the permit;
- (6) an explanation of the condition in which UDOT expects the applicant to keep the roadway and notification that the decision whether or not the applicant has done so is solely within UDOT's discretion;
- (7) notification of reasons for termination, which include failure to comply with any part of the agreement, fraud in the application, failure to follow safety requirements or commands;
- (8) a date when the agreement will terminate, along with any automatic renewal provisions;
- (9) volunteer groups shall provide a responsible supervisor to properly control the activities of the group, with the expertise and degree of supervision to be decided by UDOT;
- (10) no person under the age of 11 may participate in the litter pick-up program or be on the right-of-way;
- (11) volunteers shall accept and receive safety instructions by the Region Safety/Risk Manager, or designee;
- (12) volunteers shall stay off the traveled area of the roadway, except when traveled area must be crossed, with any crossing being done by the entire group together along with the signing, flagging, or supervision directed by the Region Safety/Risk Manager or designee;
- (13) volunteers shall stay off the traveled areas of Interstate Freeways at all times, except when crossing in the manner specified in paragraph (12);
- (14) in areas where the Region Director or Safety/Risk Manager or Traffic Engineer believes it appropriate, the applicant shall use advance warning signs;
- (15) work shall be done during daylight hours;
- (16) such other information as UDOT believes may be required to adequately advise the applicant of its responsibilities and provide for the public safety; ~~and~~
- (17) clean up the assigned right-of-way at least three times a year as well as when UDOT specifically requests; and
- (18) notify the appropriate authorities like the Health Department or police if they find items that appear suspicious or unsafe, i.e., syringes, closed containers.

R918-4-4. UDOT discretion to allow use of right-of-way.

(1) Nothing in this rule or other UDOT rule may be construed to require UDOT to make any particular portion of right-of-way available for litter pick up. The decision whether to do so is exclusively within UDOT's discretion. Similarly, the decision to take a route out of the litter pick-up program is also within UDOT's exclusive discretion even if the route is currently available and being used for litter pick-up.

(2) Should UDOT determine that a route no longer qualifies for participation in the Adopt-a-Highway program, UDOT shall notify the person or organization that is assigned the route of that determination. The notification constitutes termination of the contract, regardless of how much time is left on the contract.

(3) UDOT may also terminate a contract at any time if it determines that continuing the contract would be counterproductive to the program's purpose or have undesirable results such as vandalism, increased litter, or would otherwise jeopardize the safety of the participants, the traveling public, or UDOT employees.

R918-4-5. Recognition Signs.

If the applicant's authorized representative (contact person) signs the contract sent to him or her by UDOT, UDOT will place a recognition sign along the route, if all other conditions are met, [with text to identify the group or person carrying out the litter pick-up]. [Only the name of the organization or person may be placed on the sign.] UDOT will not place either slogans or logos on a sign. The ~~applicant's~~ name may be edited to comply with space limitations.

R918-4-6. Replacement of Signs.

UDOT ~~[has neither the duty nor responsibility to]~~ will not replace damaged or missing signs unless the damage was due to weather or other natural cause and then only if there is sufficient funding. In no case will UDOT replace a sign more than once every five years. ~~[However, UDOT may replace the sign if it believes that replacement appropriate given all the circumstances. The decision to do so is solely within UDOT's discretion. If the sign is damaged or becomes missing and UDOT does not replace it within 90 days or the applicant has not paid for the cost of replacement within 90 days, the contract shall be considered terminated.]~~

R918-4-7. UDOT's Responsibilities.

UDOT shall:

- (1) furnish volunteers with UDOT-standard vests, which, when the contract is terminated shall be returned;
- (2) furnish the litter bags, which, when filled, shall be placed along the shoulder of the road for collection by UDOT personnel.

KEY: adopt-a-highway, highways, transportation
~~July 10, 2003~~ 2004
 72-1-201

▼ ————— ▼

**Workforce Services, Employment
 Development
 R986-700
 Child Care Assistance**

NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE NO.: 27138
 FILED: 04/30/2004, 16:37

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: These technical changes to are needed to better assist clients, children, and providers.

SUMMARY OF THE RULE OR CHANGE: With consent of the client, the department will make additional information available to a child care provider to insure timely payment of benefits. The Office of Recovery Services (ORS) will not attempt collection for a client who has established good cause for not cooperating with ORS. A person who was related to the client but no longer is as a result of a divorce can still be an eligible child care provider under this proposed change. Self employed clients will be required to provide evidence that the employment activity is likely to result in sufficient income to justify assistance. The change would support obtaining a teaching certificate but not if the client has a bachelor's degree. Child care assistance is not available to support education to any client who already has a bachelor's degree.

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

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** There are no anticipated costs or savings to the state budget. These changes are not likely to result in substantial changes to eligibility and this is a federally funded program.
- ❖ **LOCAL GOVERNMENTS:** There are no anticipated costs or savings to local government as this is a state program which is federally funded.
- ❖ **OTHER PERSONS:** There are no anticipated costs or savings to any other persons as this is a federally-funded program.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs associated with these proposed rule changes. Child care is a federally-funded program and there are no costs to participate.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: These rule changes will have no fiscal impact on any business. These changes may insure that child care providers are paid in a more timely manner which is not a cost but may represent a savings. No other businesses will be affected by these changes.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Suzan Pixton at the above address, by phone at 801-526-9645, by FAX at 801-526-9211, or by Internet E-mail at spixton@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 06/18/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 07/01/2004

AUTHORIZED BY: Raylene G. Ireland, Executive Director

R986. Workforce Services, Employment Development.

R986-700. Child Care Assistance.

R986-700-703. Client Rights and Responsibilities.

In addition to the client rights and responsibilities found in R986-100, the following client rights and responsibilities apply:

(1) A client has the right to select the type of child care which best meets the family's needs.

(2) If a client requests help in selecting a provider, the Department will refer the client to the local Child Care Resource and Referral agency.

(3) A client is responsible for monitoring the child care provider. The Department will not monitor the provider.

(4) A client is responsible to pay all costs of care charged by the provider. If the child care assistance payment is less than the amount charged by the provider, the client is responsible for paying the provider the difference.

(5) In addition to the requirements for reporting other material changes that might affect eligibility, outlined in R986-100-113, a client is responsible for reporting a change in the client's need for child care, a change in the client's child care provider, and a change in the amount a provider charges for child care, to the Department within 10 days of the change.

(6) If a material change which would result in a decrease in the amount of the CC payment is reported within 10 days the decrease will be made effective beginning the next month and sums received in the month in which the change occurred will not be treated as an overpayment. If it is too late to make the change to the next month's CC payment, the client is responsible for repayment even if the 10 days for reporting the change has not expired. If the client fails to report the change within 10 days, the decrease will occur as soon as the Department learns of the change and the overpayment will be assessed back to the date of the change.

(7) A client is responsible for payment to the Department of any overpayment made in CC.

(8) Any client receiving any type of CC who is not receiving full court or ORS ordered child support must cooperate with ORS in obtaining child support from the absent parent. Child support payments received by the client count as unearned income even if the payments are more than the court or ORS ordered child support. If a client's case was closed for failure to cooperate with ORS it cannot be reopened until ORS notifies the Department that the client is cooperating or it is determined on appeal that the client is cooperating. The requirements of this section will be satisfied if the client is cooperating with the appropriate agency in another state and can provide the Department with verification of the client's continuing cooperation with the other state. If the other state agency has not been successful in collecting child support, the Department may require that the client request that the client's case be closed in the other state and that the client cooperate with ORS.

(9) All clients receiving CC must cooperate in good faith with the Department in establishing paternity unless there is good cause for not cooperating.

(10) If the client has failed to provide all necessary information and the child care provider requests information about payment of CC to the client, the Department is authorized to inform the provider that further information is needed before payment can be determined.

(11) The Department may also release ~~[general information to a provider regarding the status of or a delay in the payment of CC.]the following information to the designated provider:~~

- ~~(a) limited information regarding the status of a CC payment including that no payment was issued or services were denied;~~
- ~~(b) information contained on the Form 980;~~
- ~~(c) the date the child care subsidy was issued;~~
- ~~(d) the subsidy amount for that provider;~~
- ~~(e) the subsidy deduction amount;~~
- ~~(f) the date a two party check was mailed to the client; and~~
- ~~(g) a copy of the two party check on a need to know basis.~~

(12) If child care funds are issued on the Horizon Card (electronic benefit transfer) unused child care funds will be removed from the Horizon Card 60 days after the last child care transaction/transfer occurred ("aged off") and will no longer be available to the client. ~~[-The Department cannot replace child care payments which have been aged off the horizon card.]~~

R986-700-704. Establishment of Paternity.

(1) If ORS notifies the Department that a client is not cooperating with the establishment of paternity, the client may appeal to a Department ALJ by following the procedures for hearings set forth in R986-100.

(2) The ALJ will make a determination on the question of whether or not the client is making a good faith effort to cooperate based on the same criteria ORS uses in FEP cases.

(3) The procedure and rules for establishing good cause for not cooperating in the establishment of paternity are the same as in R986-200. If the client appeals both a good faith determination and alleges good cause for not cooperating, the ALJ will join the two issues together and make a decision on the questions of good faith and good cause at the same hearing.

~~(4) The provisions of R986-200-208(12) do not apply to ES CC.~~

R986-700-705. Eligible Providers and Provider Settings.

(1) The Department will only pay CC to clients who select eligible providers. The only eligible providers are:

- (a) licensed and accredited providers:
 - (i) licensed homes;
 - (ii) licensed family group homes; and
 - (iii) licensed child care centers.
- (b) license exempt providers who are not required by law to be licensed and are either:
 - (i) license exempt centers; or
 - (ii) related to the client and/or the child. Related under this paragraph means: siblings who are at least 18 years of age and who live in a different residence than the parent, grandparents, step grandparents, aunts, step aunts, uncles, step uncles or people of prior generations of grandparents, aunts, or uncles, as designated by the prefix grand, great, great-great, or great-great-great or persons who meet any of the above relationships even if the marriage has been terminated.

(c) homes with a Residential Certificate obtained from the Bureau of Licensing.

(2) All clients who were receiving child care prior to January 1, 2001, will be granted a grace period in which to find an eligible provider. The length of the grace period will be determined by the Department but in no event will it extend later than June 30, 2001.

(3) If a new client has a provider who is providing child care at the time the client applies for child care assistance or has provided child care in the past and has an established relationship with the child(ren), but the provider is not currently eligible, the client may receive child

care assistance for a period not to exceed three months if the provider is willing to become an eligible provider and actively pursues eligibility.

(4) The Department may, on a case by case basis, grant an exception and pay for CC when an eligible provider is not available:

(a) within a reasonable distance from the client's home. A reasonable distance, for the purpose of this exception only, will be determined by the transportation situation of the parent and child care availability in the community where the parent resides; or

(b) because a child in the home has special needs which cannot be otherwise accommodated; or

(c) which will accommodate the hours when the client needs child care; or

(d) if the provider lives in an area where the Department of Health lacks jurisdiction, which includes tribal lands, to provide licensing or certification; or

(5) If an eligible provider is available, an exception may be granted in the event of unusual or extraordinary circumstances but only with the approval of a Department supervisor.

(6) If an exception is granted under paragraph (4) or (5) above, the exception will be reviewed at each of the client's review dates to determine if an exception is still appropriate.

(7) License exempt providers must register with the Department and agree to maintain minimal health and safety criteria by signing a certification before payment to the client can be approved. The minimum criteria are that:

(a) the provider be at least 18 years of age and physically and mentally capable of providing care to children;

(b) the provider's home is equipped with hot and cold running water, toilet facilities, and is clean and safe from hazardous items which could cause injury to a child. This applies to outdoor areas as well;

(c) there are working smoke detectors and fire extinguishers on all floors of the house where children are provided care;

(d) there are no individuals residing in the home who have a conviction for a misdemeanor which is an offense against a person, or any felony conviction, or have been subject to a supported finding of child abuse or neglect by the Utah Department of Human Services, Division of Child and Family Services or a court;

(e) there is a telephone in operating condition with a list of emergency numbers located next to the phone which includes the phone numbers for poison control and for the parents of each child in care;

(f) food will be provided to the child in care of sufficient amount and nutritional value to provide the average daily nutrient intake required. Food supplies will be maintained to prevent spoilage or contamination. Any allergies will be noted and care given to ensure that the child in care is protected from exposure to those items; and

(g) the child in care will be immunized as required by the Utah Immunization Act and;

(h) good hand washing practices will be maintained to discourage infection and contamination.

(8) The following providers are not eligible for receipt of a CC payment:

(a) a member of household assistance unit who is receiving one or more of the following assistance payments: FEP, FEPTP, diversion assistance or food stamps for any child in that household assistance unit. The person may, however, be paid as a provider for a child in a different household assistance unit;

(b) a sibling of the child living in the home;

(c) household members whose income must be counted in determining eligibility for CC;

- (d) a parent, foster care parent, stepparent or former stepparent, even if living in another residence;
- (e) illegal aliens;
- (f) persons under age 18;
- (g) a provider providing care for the child in another state; and
- (h) a provider who has committed fraud as a provider, as determined by the Department or by a court.

R986-700-709. Employment Support (ES) CC.

(1) Parents who are not eligible for FEP CC or Diversion CC may be eligible for Employment Support (ES) CC. To be eligible, a parent must be employed or be employed while participating in educational or training activities. Work Study is not considered employment. A parent who attends school but is not employed at least 15 hours per week, is not eligible for ES CC. ES CC will only be provided to cover the hours a client needs child care for work or work and approved educational or training activities.

(2) If the household has only one parent, the parent must be employed at least an average of 15 hours per week.

(3) If the family has two parents, CC can be provided if:

(a) one parent is employed at least an average of 30 hours per week and the other parent is employed at least an average of 15 hours per week and their work schedules cannot be changed to provide care for the child(ren). CC will only be provided during the time both parents are in approved activities and neither is available to care for the children; or

(b) one parent is employed and the other parent cannot work, or is not capable of earning \$500 per month and cannot provide care for their own children because of a physical, emotional or mental incapacity. Any employment or educational or training activities invalidate a claim of incapacity. The incapacity must be expected to last 30 days or longer. The individual claiming incapacity must verify that incapacity in one of the following ways:

(i) receipt of disability benefits from SSA;

(ii) 100 percent disabled by VA; or

(iii) by submitting a written statement from:

(A) a licensed medical doctor;

(B) a doctor of osteopathy;

(C) a licensed Mental Health Therapist as defined in UCA 58-60-102;

(D) a licensed Advanced Practice Registered Nurse; or

(E) a licensed Physician's Assistant.

(4) Employed or self-employed parent client(s) must make, either through wages or profit from self-employment, a rate of pay equal to or greater than minimum wage multiplied by the number of hours the parent is working. If the prevailing community standard is below minimum wage, the employed parent client must make at least the prevailing community standard. To be eligible for ES CC, a self employed parent must provide business records for the most recent three month time period to establish that the parent is likely to make at least minimum wage or, if the prevailing community standard is below minimum wage, the parent must establish that he or she is likely to make at least the prevailing community standard. If a parent has a barrier to other types of employment, exceptions can be made in extraordinary cases with the approval of the state program specialist.

(5) The stipend received by Americorps*Vista volunteers meets the prevailing community standard test for this section even though the stipend is not counted as income. The activities of Americorps*Vista volunteers are considered to be work and not training. Job Corps activities are considered to be training and a client in the Job Corps

would also have to meet the work requirements to be eligible for ES CC.

(~~5~~6) If a parent was receiving FEP or FEPTP, and their financial assistance was terminated due to increased income, and the parent is otherwise eligible for ES CC, the subsidy deduction will not be taken for the two months immediately following the termination of FEP or FEPTP, provided the client works a minimum of 15 hours per week. The third month following termination of FEP or FEPTP CC is subject to the subsidy deduction.

(~~6~~7) Applicants must verify identity but are not required to provide a Social Security Number (SSN) for household members. Benefits will not be denied or withheld if a customer chooses not to provide a Social Security Number if all factors of eligibility are met. SSN's that are supplied will be verified. If an SSN is provided but is not valid, further verification will be requested to confirm identity.

R986-700-711. ES CC to Support Education and Training Activities.

(1) CC may be provided when the client(s) is engaged in education or training and employment, provided the client(s) meet the work requirements under Section R986-700-709(1).

(2) The education or training is limited to courses that directly relate to improving the parent(s)' employment skills.

(3) ES CC will only be paid to support education or training activities for a total of 24 calendar months. The months need not be consecutive.

(a) On a case by case basis, and for a reasonable length of time, months do not count toward the 24 month time limit when a client is enrolled in a formal course of study for any of the following:

(i) obtaining a high school diploma or equivalent,

(ii) adult basic education, and/or

(iii) learning English as a second language.

(b) Months during which the client received FEP child care while receiving education and training do not count toward the 24 month time limit.

(c) CC can not ordinarily be used to support short term workshops unless they are required or encouraged by the employer. If a short term workshop is required or encouraged by the employer, and approved by the Department, months during which the client receives child care to attend such a workshop do not count toward the 24 month time limit.

(4) Education or training can only be approved if the parent can realistically complete the course of study within 24 months.

(5) Any child care assistance payment made for a calendar month, or a partial calendar month, counts as one month toward the 24-month limit.

(6) There are no exceptions to the 24-month time limit, and no extensions can be granted.

(7) CC is not allowed to support education or training if the parent already has a bachelor's degree [~~in a marketable occupation~~].

(8) CC cannot be approved for graduate study or obtaining a teaching certificate if the client already has a bachelor's degree.

(9) In a two-parent family receiving CC for education or training activities, the monthly CC subsidy cannot exceed the established monthly local market rates.

KEY: child care

2004

35A-3-310

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).

Human Services, Recovery Services **R527-302** Income Withholding Fees

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 27109
FILED: 04/21/2004, 10:01

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 62A-11-406 allows the payor of income to deduct a fee for income withholding in accordance with Rule 64D of the Utah Rules of Civil Procedures. Section 78-7-44 indicates that the fee is a one-time \$25 fee. The administrative rule allows payors to deduct the fee in the first month or in monthly increments not to exceed the maximum amount permitted under Subsection 303(b) of the Consumer Credit Protection Act.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The statutes under which this rule is enacted are still in effect and the rule is reflected in the current policy, practices, and procedures of the Office of Recovery Services and therefore, the rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Kristen Lowe at the above address, by phone at 801-536-0347, by FAX at 801-536-8833, or by Internet E-mail at klowe@utah.gov

AUTHORIZED BY: Emma Chacon, Director

EFFECTIVE: 04/21/2004



Insurance, Administration **R590-93** Replacement of Life Insurance and Annuities

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 27121
FILED: 04/28/2004, 12:00

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is adopted pursuant to Subsection 31A-2-201(3) which authorizes the commissioner to make rules to implement the provisions of Title 31A.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The department has received no written comments regarding this rule in the past five years.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule provides consumer protection and sets minimum standards to be followed by producers and insurers during the replacement of life insurance policies and annuity contracts. It informs the

consumer who is contemplating replacing existing coverage to think about the benefits that the old policy may provide over those in a new policy, and therefore, the rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jilene Whitby at the above address, by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at jwhitby@utah.gov

AUTHORIZED BY: Jilene Whitby, Information Specialist

EFFECTIVE: 04/28/2004



Insurance, Administration
R590-98
Unfair Practice in Payment of Life
Insurance and Annuity Policy Values

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

DAR FILE NO.: 27122
FILED: 04/28/2004, 12:45

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: The sections authorizing this rule are: Section 31A-2-201 that authorizes the commissioner to make rules to implement the provisions of Title 31A; and Section 31A-23-302, which has legislatively been changed to 31A-23a-402 and will be corrected in this rule later this year, authorizes the commissioner to define methods of competition and acts and practices found by him to be unfair or deceptive.

Section R590-98-5 sets forth two acts that the commissioner deems unfair or deceptive and Section R590-98-6 sets forth requirements to be followed by insurers and producers to avoid these unfair or deceptive acts.

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 Insurance 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: This rule is necessary to protect policy holders requesting payment of life and annuity policy values. Otherwise some insurance companies think they can delay payment up to six months. Such a delay can only be done after getting approval for the delay from the insurance commissioner.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jilene Whitby at the above address, by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at jwhitby@utah.gov

AUTHORIZED BY: Jilene Whitby, Information Specialist

EFFECTIVE: 04/28/2004



Insurance, Administration
R590-166
Home Protection Service Contract Rule

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

DAR FILE NO.: 27126
FILED: 04/28/2004, 15:11

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule receives its authority from the following code references: Subsection 31A-2-201(3) which authorizes the commissioner to adopt rules to implement the provisions of Title 31A; and Subsections 31A-6a-110(1) and (2) which authorizes the commissioner to write rules to implement the provisions of Chapter 6a, Service Contracts, of Title 31A; and authorizes the commissioner to exempt certain service contract providers, or just a particular service they provide, from the provisions of Chapter 6a. Sections R590-166-4 and R590-166-6 define how a home protection company qualifies to be exempt from certain sections of Chapter 6a and sets conditions that must be followed to maintain this exemption.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The department has not received any written comments regarding this rule in the past five years.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule was intended to be a temporary fix to a problem facing home warranty companies having problems finding reimbursement insurance. The rule was intended to be a stop-gap measure to allow them to provide "alternative security" for the warranties they issue until the reimbursement insurance market could be developed. At this point, the department has received no indication that reimbursement insurance is easier to find and therefore, the rule is still necessary and should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jilene Whitby at the above address, by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at jwhitby@utah.gov

AUTHORIZED BY: Jilene Whitby, Information Specialist

EFFECTIVE: 04/28/2004



Insurance, Administration
R590-190
Unfair Property, Liability and Title
Claims Settlement Practices Rule

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

DAR FILE No.: 27113
FILED: 04/26/2004, 16:00

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized specifically or generally by the following Utah Code references: 1) Subsection 31A-2-201(1) requires the commissioner to administer and enforce Title 31A; 2) Subsection 31A-2-201(3)(a) gives the commissioner authority to implement the provisions of Title 31A; 3) Section 31A-2-204 is a typo that should be Subsection 31A-2-202(4) requiring the insurer to respond to the Insurance Department in a timely manner. This will be corrected in a subsequent nonsubstantive change filing; 4) Subsection 31A-21-312(5) requires the commissioner to adopt rules dealing with notice and proof of loss time limitations under an insurance policy. Section R590-190-4 deals with this issue; 5) Section 31A-26-

301 requires insurers to provide timely payment of claims. Subsection R590-190-4(13) addresses this issue; and 6) Subsection 31A-26-303(4) allows the commissioner to define by rule acts or general business practices that are unfair claim settlement practices after a finding of fact. Section R590-190-5 provides 13 acts or failure to perform required acts to be misleading, deceptive, unfairly discriminatory, or overreaching in the settlement of claims. (DAR NOTE: The nonsubstantive change to correct the citation in R590-190-1 can be found under DAR No. 27114.)

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The department has not received any written comments regarding this rule in the past five years.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is a critical guide for the insurance industry to use in claim settlement issues for automobile and homeowners policies. These standards govern the industry in claims issues which frequently occur and therefore, the rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jilene Whitby at the above address, by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at jwhitby@utah.gov

AUTHORIZED BY: Jilene Whitby, Information Specialist

EFFECTIVE: 04/26/2004



Insurance, Administration
R590-191
Unfair Life Insurance Claims Settlement
Practices Rule

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

DAR FILE No.: 27115
FILED: 04/26/2004, 16:31

**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: This rule is authorized specifically or generally by the following Utah Code references: 1) Subsection 31A-2-201(1) requires the commissioner to administer and enforce Title 31A; 2) Subsection 31A-2-201(3)(a) gives the commissioner authority to implement the provisions of Title 31A; 3) Section 31A-2-204 is a typo that should instead be Subsection 31A-2-202(4) requiring the insurer to respond to the Insurance Department in a timely manner. Subsection R590-191-4(13) gives direction regarding this requirement; 4) Subsection 31A-21-312(5) requires the commissioner to adopt rules dealing with notice and proof of loss time limitations under an insurance policy. Section R590-191-4 deals with this issue; 5) Section 31A-26-301 requires insurers to provide timely payment of claims. Section R590-191-4 addresses this issue; and 6) Subsection 31A-26-303(4) allows the commissioner to define by rule acts or general business practices that are unfair claim settlement practices after a finding of fact. Section R590-191-5 provides 13 acts or failure to perform required acts to be misleading, deceptive, unfairly discriminatory, or overreaching in the settlement of claims.

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 is a critical guide for the insurance industry to use in claim settlement issues for life insurance policies. These standards govern the industry in claims issues which frequently occur; and therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jilene Whitby at the above address, by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at jwhitby@utah.gov

AUTHORIZED BY: Jilene Whitby, Information Specialist

EFFECTIVE: 04/26/2004



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

NOTICES OF FIVE-YEAR REVIEW EXTENSIONS

Rulewriting agencies are required by law to review each of their administrative rules within five years of the date of the rule's original enactment or the date of last review (*Utah Code* Section 63-46a-9 (1996)). If the agency finds that it will not meet the deadline for review of the rule (the five-year anniversary date), it may file an extension with the Division of Administrative Rules. The extension permits the agency to file the review up to 120 days beyond the anniversary date.

Agencies have filed extensions for the rules listed below. The "Extended Due Date" is 120 days after the anniversary date. The five-year review extension is governed by *Utah Code* Subsection 63-46a-9(4) and (5) (1996).

Environmental Quality

Air Quality

No. 27106 (filed 04/20/2004 at 9:22 a.m.): R307-309. Davis, Salt Lake and Utah Counties, Ogden City and Any Nonattainment Area for PM10: gitive Emissions and Fugitive Dust.

Enacted or Last Five-Year Review: 05/04/99 (No. 21698, CPR, filed 03/15/99 at 2:56 p.m., published 04/01/99)

Extended Due Date: 09/01/2004

No. 27107 (filed 04/20/2004 at 9:59 a.m.): R307-420. Permits: Ozone Offset Requirements in Davis and Salt Lake Counties.

Enacted or Last Five-Year Review: 05/06/99 (No. 21853, NEW, filed 02/10/99 at 2:24 p.m., published 03/01/99)

Extended Due Date: 09/03/2004

End of the Notices of Five-Year Review Extensions 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

No. 26971 (AMD): R309-204. Facility Design and Operation: Source Development.

Published: March 15, 2004

Effective: April 21, 2004

Commerce

Real Estate

No. 26944 (AMD): R162-6-2. Standards of Practice.

Published: March 1, 2004

Effective: April 21, 2004

Insurance

Administration

No. 26978 (REP): R590-86. Filing of Life and Disability Forms and Rates.

Published: March 15, 2004

Effective: April 23, 2004

Environmental Quality

Drinking Water

No. 26970 (AMD): R309-110. Administration:

Definitions.

Published: March 15, 2004

Effective: April 21, 2004

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, 2004, including notices of effective date received through April 30, 2004, the effective dates of which are no later than May 15, 2004. The *Rules Index* is published in the *Utah State Bulletin* and in the annual *Index of Changes*. Nonsubstantive changes, while not published in the *Bulletin*, do become part of the *Utah Administrative Code (Code)* and are included in this *Index*, as well as 120-Day (Emergency) rules that do not become part of the *Code*. The rules are indexed by Agency (Code Number) and Keyword (Subject).

DAR NOTE: The index may contain inaccurate page number references. Also the index is incomplete in the sense that index entries for Changes in Proposed Rules (CPRs) are not preceded by entries for their parent Proposed Rules. Bulletin issue information and effective date information presented in the index are, to the best of our knowledge, complete and accurate. If you have any questions regarding the index and the information it contains, please contact Nancy Lancaster (801 538-3218), Mike Broschinsky (801 538-3003), or Kenneth A. Hansen (801 538-3777).

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

RULES INDEX - BY AGENCY (CODE NUMBER)

ABBREVIATIONS

AMD = Amendment	NSC = Nonsubstantive rule change
CPR = Change in proposed rule	REP = Repeal
EMR = Emergency rule (120 day)	R&R = Repeal and reenact
NEW = New rule	5YR = Five-Year Review
EXD = Expired	

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
Administrative Services					
<u>Facilities Construction and Management</u>					
R23-29	Across the Board Delegation	26991	5YR	03/10/2004	2004-7/36
<u>Fleet Operations, Surplus Property</u>					
R28-3	Utah State Agency for Surplus Property Adjudicative Proceedings	26843	AMD	02/12/2004	2004-1/4
Agriculture and Food					
<u>Animal Industry</u>					
R58-20	Domesticated Elk Hunting Parks	26990	5YR	03/05/2004	2004-7/36
R58-20-5	Facilities	26989	AMD	05/04/2004	2004-7/3
R58-21	Trichomoniasis	26891	AMD	03/04/2004	2004-3/4
<u>Plant Industry</u>					
R68-7-6	Categorization of Pesticide Applicators	26794	NSC	01/01/2004	Not Printed

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R68-20-1	Authority	26949	AMD	04/01/2004	2004-5/2
Commerce					
<u>Occupational and Professional Licensing</u>					
R156-1	General Rules of the Division of Occupational and Professional Licensing	26678	NSC	01/01/2004	Not Printed
R156-1-106	Division - Duties, Functions, and Responsibilities	26805	AMD	01/20/2004	2003-24/4
R156-5a	Podiatric Physician Licensing Act Rules	26917	5YR	01/27/2004	2004-4/74
R156-17a-612	Operating Standards - Pharmaceutical Wholesaler/Distributor and Pharmaceutical Manufacturer located in Utah	26754	AMD	02/19/2004	2003-22/11
R156-17a-612	Operating Standards - Pharmaceutical Wholesaler/Distributor and Pharmaceutical Manufacturer located in Utah	26754	CPR	02/19/2004	2004-2/10
R156-22-503	Administrative Penalties	26859	NSC	01/01/2004	Not Printed
R156-26a-303b	Renewal and Reinstatement Requirements - Continuing Professional Education (CPE)	26786	AMD	01/06/2004	2003-23/7
R156-37c	Utah Controlled Substance Precursor Act Rules	26916	5YR	01/27/2004	2004-4/74
R156-38	Residence Lien Restriction and Lien Recovery Fund Rules	26834	AMD	02/03/2004	2004-1/5
R156-39a	Alternative Dispute Resolution Providers Certification Act Rules	26915	5YR	01/27/2004	2004-4/75
R156-54-302b	Examination Requirements - Radiology Practical Technician	26580	AMD	01/20/2004	2003-18/4
R156-54-302b	Examination Requirements - Radiology Practical Technician	26580	CPR	01/20/2004	2003-24/70
R156-56	Utah Uniform Building Standard Act Rules	26866	NSC	01/01/2004	Not Printed
R156-56	Utah Uniform Building Standard Act Rules	26693	AMD	01/01/2004	2003-21/7
R156-56-707	Statewide Amendments to the IPC	26692	AMD	01/01/2004	2003-21/34
R156-63	Security Personnel Licensing Act Rules	26888	AMD	03/04/2004	2004-3/5
R156-68	Utah Osteopathic Medical Practice Act Rules	26956	AMD	04/15/2004	2004-6/2
R156-71-202	Naturopathic Physician Formulary	26998	AMD	05/04/2004	2004-7/3
R156-74	Certified Shorthand Reporters Licensing Act Rules	26927	5YR	02/02/2004	2004-4/75
R156-76-102	Definitions	26777	AMD	01/20/2004	2003-23/14
<u>Real Estate</u>					
R162-6-2	Standards of Practice	26944	AMD	04/21/2004	2004-5/6
R162-7-3	Investigation and Enforcement	26835	AMD	02/18/2004	2004-1/9
R162-105	Scope of Authority	26890	5YR	01/13/2004	2004-3/42
R162-202	Residential Mortgage Renewal Period	26837	AMD	02/03/2004	2004-1/10
R162-203	Changes to Residential Mortgage Registration Statement	26909	AMD	04/12/2004	2004-4/7
R162-204	Residential Mortgage Record Keeping Requirements	26908	AMD	04/12/2004	2004-4/8
R162-205	Residential Mortgage Unprofessional Conduct	26907	AMD	04/12/2004	2004-4/9
R162-206	Licensing Examination	26840	NEW	02/03/2004	2004-1/12
R162-207	License Renewal	26839	NEW	02/03/2004	2004-1/13
R162-208	Continuing Education	26836	NEW	02/03/2004	2004-1/14
R162-209	Administrative Proceedings	26906	AMD	04/12/2004	2004-4/10
<u>Securities</u>					
R164-11-2	Hearings for Certain Exchanges of Securities	26481	CPR	01/05/2004	2003-23/83
R164-11-2	Hearings for Certain Exchanges of Securities	26481	AMD	01/05/2004	2003-15/17

RULES INDEX

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
Corrections					
<u>Administration</u>					
R251-101	Corrections Advisory Council Bylaws	26769	REP	03/24/2004	2003-23/15
Education					
<u>Administration</u>					
R277-102	Adjudicative Proceedings	26958	5YR	02/26/2004	2004-6/58
R277-413	Accreditation of Secondary Schools, Alternative or Special Purpose Schools	26959	5YR	02/26/2004	2004-6/58
R277-425	Budgeting, Accounting, and Auditing for Utah School Districts	26960	5YR	02/26/2004	2004-6/59
R277-437	Student Enrollment Options	26871	5YR	01/05/2004	2004-3/42
R277-444	Distribution of Funds to Arts and Sciences Organizations	26979	AMD	04/15/2004	2004-6/4
R277-462	Comprehensive Guidance Program	26850	AMD	02/05/2004	2004-1/16
R277-469	Instructional Materials Commission Operating Procedures	26999	AMD	05/05/2004	2004-7/5
R277-484	Data Standards, Deadlines and Procedures	26688	NSC	01/01/2004	Not Printed
R277-486	Professional Staff Cost Program	26828	NEW	01/15/2004	2003-24/5
R277-501	Educator Licensing Renewal	26980	AMD	04/15/2004	2004-6/5
R277-502	Educator Licensing and Data Retention	26827	AMD	01/15/2004	2003-24/6
R277-514	Board Procedures: Sanctions for Educator Misconduct	26981	AMD	04/15/2004	2004-6/10
R277-517	Athletic Coaching Certification	26852	AMD	02/05/2004	2004-1/18
R277-518	Vocational-Technical Certificates	27000	AMD	05/05/2004	2004-7/8
R277-520	Appropriate Licensing and Assignment of Teachers	26851	R&R	02/05/2004	2004-1/20
R277-524	Paraprofessional Qualifications	26853	NEW	02/05/2004	2004-1/25
R277-601	Standards for Utah School Buses and Operations	26961	5YR	02/26/2004	2004-6/59
R277-700	The Elementary and Secondary School Core Curriculum	26902	AMD	03/03/2004	2004-3/10
R277-712	Advanced Placement Programs	26962	5YR	02/26/2004	2004-6/60
R277-720	Child Nutrition Programs	26830	AMD	01/15/2004	2003-24/10
R277-724	Criteria for Sponsors Recruiting Day Care Facilities in the Child and Adult Care Food Program	26829	NEW	01/15/2004	2003-24/11
R277-725	Electronic High School	26982	NEW	04/15/2004	2004-6/12
R277-734	Standards and Procedures for Adult Education Section 353 Funds	26963	5YR	02/26/2004	2004-6/60
R277-734	Standards and Procedures for Adult Education Section 353 Funds	27001	REP	05/05/2004	2004-7/11
R277-735	Standards and Procedures for Corrections Education Programs Serving Inmates of the Utah Department of Corrections	26870	5YR	01/05/2004	2004-3/43
<u>Rehabilitation</u>					
R280-201	USOR ADA Complaint Procedure	26872	5YR	01/05/2004	2004-3/43
R280-202	USOR Procedures for Individuals with the Most Severe Disabilities	26873	5YR	01/05/2004	2004-3/44
Environmental Quality					
<u>Air Quality</u>					
R307-150	Emission Inventories	26942	5YR	02/09/2004	2004-5/43
R307-214	National Emission Standards for Hazardous Air Pollutants	26939	5YR	02/09/2004	2004-5/44
R307-415	Permits: Operating Permit Requirements	26940	5YR	02/09/2004	2004-5/45

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R307-417	Permits: Acid Rain Sources	26941	5YR	02/09/2004	2004-5/45
<u>Drinking Water</u>					
R309-110	Administration: Definitions	26970	AMD	04/21/2004	2004-6/13
R309-204	Facility Design and Operation: Source Development	26971	AMD	04/21/2004	2004-6/23
R309-705	Financial Assistance: Federal Drinking Water Project Revolving Loan Program	26760	AMD	01/01/2004	2003-22/19
<u>Solid and Hazardous Waste</u>					
R315-320	Waste Tire Transporter and Recycler Requirements	26972	5YR	03/01/2004	2004-6/61
<u>Water Quality</u>					
R317-1	Definitions and General Requirements	26796	AMD	03/29/2004	2003-23/16
R317-2	Standards of Quality for Waters of the State	26242	CPR	01/06/2004	2003-18/35
R317-2	Standards of Quality for Waters of the State	26242	AMD	01/06/2004	2003-10/27
R317-8	Utah Pollutant Discharge Elimination System (UPDES)	26903	AMD	03/30/2004	2004-3/19
Governor					
<u>Planning and Budget, Chief Information Officer</u>					
R365-4	Sub-Domain Naming Conventions for Executive Branch Agencies	26953	NEW	04/15/2004	2004-5/12
Health					
<u>Children's Health Insurance Program</u>					
R382-10	Eligibility	26757	AMD	01/05/2004	2003-22/21
<u>Health Care Financing, Coverage and Reimbursement Policy</u>					
R414-9	Federally Qualified Health Centers	26854	NEW	02/03/2004	2004-1/26
R414-49	Dental Service	26964	AMD	05/07/2004	2004-6/48
R414-50	Dental, Oral and Maxillofacial Surgeons	26802	AMD	01/28/2004	2003-24/13
R414-51	Dental, Orthodontia	26782	AMD	01/28/2004	2003-23/25
R414-52	Optometry Services	26798	AMD	01/01/2004	2003-23/27
R414-53	Eyeglasses Services	26783	AMD	01/28/2004	2003-23/28
R414-54	Speech-Language Pathology Services	26803	AMD	01/28/2004	2003-24/14
R414-54	Speech-Language Pathology Services	27012	5YR	03/23/2004	2004-8/97
R414-58	Children's Organ Transplants	26935	5YR	02/03/2004	2004-5/46
R414-99	Chiropractic Services	26809	NEW	02/17/2004	2003-24/15
R414-300	Primary Care Network, Covered-at-Work Demonstration Waiver	26811	NEW	02/10/2004	2003-24/17
R414-304	Income and Budgeting	26781	AMD	01/01/2004	2003-23/29
R414-305-3	Spousal Impoverishment Resource Rules for Married Institutionalized Individuals	26965	AMD	05/07/2004	2004-6/50
R414-310	Medicaid Primary Care Network Demonstration Waiver	26810	AMD	02/10/2004	2003-24/18
<u>Health Systems Improvement, Emergency Medical Services</u>					
R426-13	Emergency Medical Services Provider Designations	26669	AMD	01/01/2004	2003-20/7
R426-14	Ambulance Service and Paramedic Service Licensure	26670	AMD	01/01/2004	2003-20/10
R426-15	Licensed and Designated Provider Operations	26671	AMD	01/01/2004	2003-20/14
<u>Center for Health Data, Health Care Statistics</u>					
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ABBREVIATIONS

AMD = Amendment
 CPR = Change in proposed rule
 EMR = Emergency rule (120 day)
 NEW = New rule
 EXD = Expired
 NSC = Nonsubstantive rule change
 REP = Repeal
 R&R = Repeal and reenact
 5YR = Five-Year Review

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<u>chiropractic services</u> Health, Health Care Financing, Coverage and Reimbursement Policy	26809	R414-99	NEW	02/17/2004	2003-24/15
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	26693	R156-56	AMD	01/01/2004	2003-21/7
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<u>professional geologists</u> Commerce, Occupational and Professional Licensing	26777	R156-76-102	AMD	01/20/2004	2003-23/14
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<u>radiology practical technicians</u>					
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