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

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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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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 July 16, 2005, 12:00 a.m., and August 1, 2005, 11:59 p.m. are included in this, the August 15, 2005, 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 Rules being repealed are completely struck out.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 September 14, 2005. 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 December 13, 2005, the agency may notify the Division of Administrative Rules that it wants to make the PROPOSED RULE effective. The agency sets the effective date. The date may be no fewer than 31 days nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file a CHANGE IN PROPOSED RULE in response to comments received. If the Division of Administrative Rules does not receive a NOTICE OF EFFECTIVE DATE or a CHANGE IN PROPOSED RULE, the PROPOSED RULE filing lapses and the agency must start the process over.

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

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

The Proposed Rules Begin on the Following Page.

Agriculture and Food, Animal Industry
R58-17
Aquaculture and Aquatic Animal Health

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 28119
FILED: 08/01/2005, 10:50

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended because of the review that was done by the board for the five-year review that was due 06/15/2005.

SUMMARY OF THE RULE OR CHANGE: The changes add and change text determined by the Board to clarify the intent of this rule. The table has been changed in Section R58-17-20 to clearly classify pathogens, the species, and the inspection requirements.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 4-37-101 and 4-37-503, and Subsection 4-2-2(j)

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: There is no anticipated cost or savings to the state budget. The cost is an assessment to the owners for Certificate Registration.
❖ LOCAL GOVERNMENTS: There is no anticipated cost or savings to local government. The cost is an assessment to the owners for Certificate Registration.
❖ OTHER PERSONS: There is a $30 fee for a Certificate of Registration for fee-fishing facilities and a $150 fee for aquaculture facilities. In addition, any violation of or failure to comply with any provision of this rule may be grounds for issuance of citations and levying of fines; the maximum cost would be $5,000.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is a $30 fee for a Certificate of Registration for fee-fishing facilities and a $150 fee for aquaculture facilities. In addition, any violation of or failure to comply with any provision of this rule may be grounds for issuance of citations and levying of fines; the maximum cost would be $5,000.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The impact on businesses would be the fee charged for the Certificate of Registration. Leonard M. Blackham, Commissioner

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

AGRICULTURE AND FOOD
ANIMAL INDUSTRY
350 N REDWOOD RD
SALT LAKE CITY UT 84116-3087, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Marolyn Leetham, Kent Hauck, or Mike Marshall at the above address, by phone at 801-538-7114, 801-538-7025, or 801-538-7160, by FAX at 801-538-7126, 801-538-7169, or 801-538-7169, or by Internet E-mail at mleetham@utah.gov, khauck@utah.gov, or mmarshall@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 09/14/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 09/15/2005

AUTHORIZED BY: Leonard M. Blackham, Commissioner

R58. Agriculture and Food, Animal Industry.
R58-17. Aquaculture and Aquatic Animal Health.
R58-17-1. Authority and Purpose.

(A) This rule is promulgated under the authority of Section 4-37-101 (et seq.) Amendments, Subsection 4-2-2(j) and 4-37-503.

(B) [~~It is the intent of t~~]This rule [~~to~~] establishes a program for the registration and fish health monitoring of aquaculture facilities, fee-fishing facilities, fish brokering, public aquaculture facilities, public fishery resources, private fish ponds, institutional facilities, private stocking, short-term fishing events and displays. This rule also addresses the importation [~~(entry)~~]of aquatic animals [~~(including fish, fish eggs, gametes)~~]into [~~the State of~~]Utah and establishes requirements for health approval of aquatic animals and their sources. The program is based on the monitoring of facility operations and aquatic animal movements to prevent the exposure to and spread of pathogens or diseases which adversely affect both cultured and wild aquatic animal stocks.

(C) Persons engaged in [~~any of the aquatic animal~~]operations listed in R58-17-1(B) must comply with the rules [~~concerning~~]for site selection and species control under Department of Agriculture and Food 4-37-201(3)and 4-37-301(3) and Department of Natural Resources rules R657-3 and R657-16.

(D) This rule is part of a statewide aquaculture disease control effort that includes procedures and policies established and adopted by the Fish Health Policy Board.

R58-17-2. Definitions.

(A) The following terms are defined for [~~the purpose of~~]this rule:

(1) "Aquaculture" means the controlled cultivation of aquatic animals. In this rule, the word "aquaculture" refers to commercial aquaculture.

(2)(a) "Aquaculture facility" means any tank, canal, raceway, pond, off-stream reservoir, fish processing plant or other structure used for aquaculture. "Aquaculture facility" does not include any public aquaculture facility or fee fishing facility, as defined in this rule.

(b) Structures that are separated by more than 1/2 mile, or structures that drain to or are modified to drain into different drainages, are considered separate aquaculture facilities regardless of ownership.

(3)(a) "Aquatic animal" means a member of any species of fish, mollusk, crustacean, or amphibian.

(b) "Aquatic animal" includes a gamete or egg of any species listed in definitions under Subsection R58-17-2(3)(a).

(4) "Blue Book" means a set of the most current standard procedures approved by the American Fisheries Society for inspecting the health of aquatic animals.

([4]5) "Brokers [and dealers" are]or fish brokering" refers to the activities of dealers, entities, individuals or companies that are in the business of buying, selling, exchanging or transferring live aquatic animals between approved or licensed facilities pursuant to R58-17-13(C) and R58-17-14 without being actively involved in the culture, rearing or growth of the animals. This includes a person or company who rears aquatic animals, but also buys and sells (brokers) additional aquatic animals without rearing them[pursuant to R58-17-14(D)].

([5]6) "Certificate of Registration (COR)" means an official document which [registers]licenses facilities with the Department of Agriculture and Food or which [registers]licenses facilities and events with the Division of Wildlife Resources pursuant to R58-17-4. The purpose of the [document]COR is to establish the legal description of the facility, the species of aquatic animals reared and to grant the authority to engage in the described activity.

([6]7) "Department" means the Department of Agriculture and Food with appropriate regulatory responsibility pursuant to R58-17-4(A)(1) in accordance with the provisions of Sections 4-2-2 and 4-37-104, Utah Code.

(8) "Disease History" means a record of all known pathogens that have historically affected aquatic animals reared at a facility that seeks health approval pursuant to R58-17-15(C)(2)(b).

([7]9) "Division" means the Division of Wildlife Resources in the Department of Natural Resources with the appropriate regulatory responsibility pursuant to R58-17-4(A)(2), R657-3, R657-16 in accordance with the provisions of Sections [4-2-2]23-14-1 and [4-37-104]4-37-105, Utah Code.

([8]10) "Egg only sources" refers to a separate category of salmonid fish health approval that allows for the purchase of "fish eggs only" from a facility pursuant to R58-17-15(B)(5) and (D)(1). This category makes the distinction between those pathogens that are vertically transmitted (from parent to offspring through the egg, i.e., Renibacterium salmoninarum (BKD), IHNV, IPNV, OMV, VHSV, SVCV, EHNV) and those horizontally transmitted (from one fish to another by contact or association, i.e., Aeromonas salmonicida, Asian tapeworm, Ceratomyxa shasta, Tetracapsuloides bryosalmonae (PKX), Myxobolus cerebralis (whirling disease), and Yersinia ruckeri).

([9]11) "Emergency prohibited pathogen" is a pathogen that causes high morbidity and high mortality, is exotic to Utah, and requires immediate action. [This type of pathogen]These pathogens generally cannot be treated and [is]shall be controlled through avoidance, eradication, and disinfection (see R58-17-20).

([10]12) "Emergency Response Procedures" are procedures [approved]established by the Fish Health Policy Board to be activated any time an emergency prohibited or prohibited pathogen is reported pursuant to R58-17-9 and R58-17-15(D)(6).

([11]13) "Emergency response team" means teams as [approved]defined by the Fish Health Policy Board responsible for developing and executing action plans to respond to and report findings of emergency prohibited or prohibited pathogens pursuant to R58-17-9, R58-17-10(A)(1) and R58-17-10(B)(1).

([12]14) "Entry Permit" means an official document issued by the Department which grants permission to the permit holder to import aquatic animals into Utah pursuant to R58-17-13. An entry permit is issued for [a 30 day period]up to 30 days and stipulates [which]the species, size or age, weight and source of aquatic animals [are]to be imported.

(15) "Facility disease history report" means a report of all known pathogens that have historically affected aquatic animals reared at a facility seeking approval pursuant to R58-17-15, subsections (B)(6), (C)(1)(a), and (C)(2)(b) and (d).

([13]16) "Fee fishing facility" means a body of water used for holding or rearing aquatic animals for the purpose of providing fishing for a fee or for pecuniary consideration or advantage pursuant to Section 4-37-103 and R58-17-18.

([14]17) "Fish health approved/health approval" means a system of procedures [and processes]which allows an assessment of the disease history of a facility or population of aquatic animals and which grants a statistical assurance that neither "emergency prohibited" nor "prohibited" pathogens are present. The Department's and Division's responsibilities for granting health approval are delineated in R58-17-15. [Fish]Health Approval status is granted to qualified COR holders in Utah and to aquatic animal sources inside and outside of Utah, all of which have satisfactorily completed health approval [assessment]requirements pursuant to R58-17-15, [have been assigned a health approval number,]and placed on the fish health approval list (R58-17-13(C)). [Fish h]Health approval of the source facility is necessary before [buying, selling or brokering aquatic animals within Utah or importing]a COR holder may purchase from the source facility or before the source facility may sell, transfer, or broker aquatic animals in or into Utah pursuant to R58-17-14.

([15]18) "Fish Health Policy Board" means the board created pursuant to Amendment 4-37-503 and referred to in R58-17 as the "Board".

([16]19) "Fish processing plant" means a facility pursuant to [R58-17-2(A)(2)(a),] R58-17-13(G) and (H), and R58-17-17 used for receiving whole dead, eviscerated fresh or frozen salmonids or other live and dead aquatic animals as approved on the COR for processing.

(20) "Five-year disease history" means a report of all known pathogens affecting each stock native to, propagated at, or imported to the originating facility. These stocks or the offspring of these stocks are subsequently moved to another facility that seeks health approval pursuant to R58-17-15 subsections (B)(6), (C)(1)(a), and (C)(2)(b) and (d). The report shall cover up to the previous five years.

([17]21) "Import/importation" means to bring live aquatic animals, by any means into the State of Utah from any location outside the state and to subsequently possess and use them for any purpose.

([18]22) "Institutional aquaculture" means aquaculture engaged in by any institution of higher learning, school, or other educational program.

(23) "OIE" means the Office International des Epizooties of the World Organization for Animal Health, an intergovernmental organization that was established in 1924 to promote world animal health. The OIE provides guidelines and standards for health regulations and diagnostic tests. The most recent manual of health standards for aquatic animals is used to inspect for aquatic animal pathogens, for which the Bluebook has not developed standards. Such pathogens include EHNV, WSSV, YHV, TSV, and IHHNV covered in R58-17-20.

([19]24) "Ornamental fish" means any species of aquatic animals that are reared or marketed for their beauty or exotic

characteristics, rather than for consumptive or recreational use. Tropical fish, goldfish and koi are included in the category of ornamental fish. This does not include those species of aquatic animals listed as prohibited or controlled in Department of Natural Resources rule R657-3. Ornamental fish are not regulated under rules R58-17 or R657-3. If the Department or Division determines that an introduction of ornamental fish poses a disease risk for aquatic animals, then all requirements under this rule apply.

([20]25)(a) "Private fish pond" means a body of water where privately owned aquatic animals are propagated or kept.

(b) "Private fish pond" does not include any aquaculture facility or fee fishing facility.

([21]26) "Procedures for the Timely Reporting of Pathogens" means procedures [approved]established by the [Fish Health Policy]Board for the timely reporting of emergency prohibited, prohibited, or reportable pathogens from any source in Utah or from any out-of-state health approved source pursuant to R58-17-9 and R58-17-15(D)(5).

([22]27) "Prohibited pathogen" is a pathogen that can cause high morbidity or high mortality, may be endemic to Utah, and requires action in a reasonable time. [frame. A prohibited pathogen is] Prohibited pathogens are generally very difficult or impossible to treat and [is]can only be controlled through avoidance, eradication, and disinfection, etc (see R58-17-20).

([23]28)(a) "Public aquaculture facility" means a tank, canal, raceway, pond, off-stream reservoir, or other structure used for [aquaculture]the controlled cultivation of aquatic animals by the Division, the U.S. Fish and Wildlife Service, or an institution of higher education.

(b) Structures that are separated by more than 1/2 mile, or structures that drain to or are modified to drain into different drainages, are considered separate public aquaculture facilities.

([24]29) "Public fishery resource" means aquatic animals produced in public aquaculture facilities, purchased or acquired for public fishery waters and sustained as wild and free ranging populations [of aquatic animals]in the surface waters of the state.

([25]30) "Quarantine" means the restriction of movement of live or dead aquatic animals regardless of age and of all equipment and hauling trucks into or from an area designated by the Commissioner of Agriculture or State Veterinarian pursuant to R58-17-10 and Agricultural code 4-31-16 and 17.

([26]31) "Reportable pathogen" is a pathogen that generally is [not a problem if]prevented using good management practices[are followed].[It is possible to prevent or treat a reportable pathogen.] Reportable pathogens are not prohibited in Utah but may be prohibited in some other states or countries[. These pathogens are of concern because of their possible effect on commerce in aquatic animals] (see R58-17-20). Inspections are not required for reportable pathogens, but positive findings must be reported to the Board.

(32) "Salmonid and non-salmonid" designate aquatic animals based on the range of optimal growth temperatures used in their culture. "Salmonid" means any species of aquatic animal that is of the order Salmoniformes and optimally lives in coldwater conditions. "Non-salmonid" means any species of aquatic animal that is not of the order Salmoniformes nor cultured in coldwater conditions. For purposes of R58-17, aquatic animals such as cool water fish, warm water fish, and crustaceans (shrimp, crayfish, and prawns) are classified as non-salmonids.

([27]33) "Source" means all[the] rearing or holding [environment of]locations during all of the life stages of an aquatic animal.

([28]34) "Unregulated pathogen" is a pathogen that is not regulated in Utah. Unregulated pathogens include all pathogens not classified as either emergency prohibited, prohibited, or reportable. Reporting of these pathogens to the Fish Health Policy Board is not required (see R58-17-20).

R58-17-3. Penalties.

Any violation of or failure to comply with any provision of this rule or R657-16 or any specific requirement contained in a certificate of registration or entry permit issued pursuant to this rule or R657-16 may be grounds for issuance of citations, levying of fines, revocation of the certificate of registration or denial of future certificates of registration pursuant to Subsections 4-2-2(1)(f) and 4-2-15(1), as determined by the Commissioner of Agriculture and Food and pursuant to Sections 23-19-9 and 23-13-11, as determined by the Director of the Division of Wildlife Resources.

R58-17-4. Certificate of Registration (COR) Required.

(A) Activities requiring a COR:

(1) A COR, issued by the Department, is required before a person may engage in the following activities within the [State of]Utah:

(a) Operate an aquaculture facility.

(b) Operate a fee-fishing facility.

(c) Operate a fish processing plant.

(d) Broker aquatic animals.

(2) A COR, issued by the Division, is required for operation of the following activities within the State of Utah:

(a) public aquaculture facilities;.

(b) private fish ponds (R657-16-10);

(c) institutional aquaculture facilities (R657-16-13);

(d) short term fishing events (R657-16-11);

(e) private stocking (R657-16-12);

(f) displays (R657-16-14).

(3) [One of the above CORs must be in place prior to the issuance of an entry permit for importing live aquatic animals into Utah.]Entry permits shall be issued only to holders of current CORs for the activities named in this subsection.[

(B) No refunds may be given. Sales of CORs are final.]

R58-17-5. Species Allowed.

(A) Pursuant to Department of Natural Resources rule R657-3, only those species [approved]authorized by the Wildlife Board and listed on the COR may be [used]imported, possessed, or transported in conjunction with the activity listed on the COR.

(B) Pursuant to 4-37-105(1), 4-37-201(3)(B) and 4-37-301(3)(B) the Department shall coordinate with the Division to determine which species the holder of a COR may propagate, possess, transport or sell.

(C) The Department will insure that the species described on CORs and entry permits issued by the Department are those [approved]authorized by the Division.

R58-17-6. Qualifying Waters.

(A) [An]A private or public aquaculture facility, fee-fishing facility or private fish pond may not be developed on natural lakes,

natural flowing streams, or reservoirs constructed on natural stream channels. Other water, including canals, offstream reservoirs, and excavated ponds or raceways [~~will~~]may be considered for use as an aquaculture or fee-fishing facility.

(B) During the COR application process, the Department shall coordinate with the Division to determine the suitability of the proposed site pursuant to R58-17-6(A), 4-37-111, 4-37-201(3) and 4-37-301(3).

R58-17-7. Screens Required.

(A) Screens or other devices that are designed to prevent the movement of fish into or out of an aquaculture facility, fee-fishing facility, public aquaculture facility, private fish pond, institutional aquaculture facility, short term fishing event or display must be placed at the inflow and outflow. The presence of adequate screening or other devices is a precondition to issuance or renewal of CORs.

(B) As part of the COR issuance process, the Department or the Division shall make site visits and determine the adequacy of screening.

(C) During and following the COR application process, the Department or Division may inspect screening or other devices in their respective areas of responsibility to assure compliance with Subsections R58-17-7(A) and (B) during reasonable hours.

(D) It is the responsibility of the COR holder to report to the Department or Division, depending on which agency issued the COR, all escapements of aquatic animals from facilities. This is to be done within 72 hours of the loss or knowledge of the loss. The report shall include facility names, date of loss, estimate of number of aquatic animals lost, names of the public water the aquatic animals escaped into, remedial actions taken, and plans for future remedial action. The COR holder and/or facility operator will bear all costs for remedial actions. The Department or Division shall notify all affected agencies and [~~affected~~]parties within two working days. The agency having responsibility may suspend all activities at the facility, including aquatic animal imports, transfers, sales, fishing, etc., until the investigation and remedial actions are completed.

R58-17-8. Application and Renewal of Certificates of Registration (CORs).

(A) Application process.

(1) For application procedures pursuant to R58-17-4, contact the Fish Health Program of the Department at 350 N. Redwood Road, Box 146500, Salt Lake City, UT 84114-6500 for activities listed in R58-17-4(A)(1) or the Wildlife Registration Office of the Division at 1594 West North Temple, Suite 2110, Salt Lake City, UT 84114-6301 for activities listed in R58-17-4(A)(2).

(2) The application form must be completed and sent to the appropriate address with the required fee. Forms that are incomplete, incorrect or not accompanied by the required fee may be returned.

(3) Department or Division [~~approval~~]authorization of the site and species will be done at the earliest possible date. The Department will make every effort to process applications submitted to it within [~~two weeks~~]14 work days pursuant to [~~4-37-201(3)~~]R58-17-5 and [~~4-37-301(3)~~]R58-17-6. Pursuant to R657-16-4, applications submitted under the jurisdiction of the Division require up to 45 days for processing, except for short-term fishing events, which require up to 10 days.

(4) [~~Upon approval~~]If the application is granted, a written COR and COR number will be issued. [~~This certificate will be sent to the facility owner or operator and should be filed~~]The COR holder shall keep a copy of the COR on file for 2 years pursuant to Section 4-37-110.

(5) If the application is denied, a written explanation will be sent to the applicant.

(B) Renewal process.

(1) All CORs are valid until December 31 for the calendar year issued [~~and will remain valid until January 31 of the following year~~]unless specified otherwise on the COR or unless renewed sooner.

(2) CORs [~~are~~]must be renewed annually by submitting a completed application and the required fee to the Department or Division, and by complying with all other applicable renewal criteria.

(3) Failure to timely renew the COR annually may result in the loss of health approval, denial of future CORs, and the removal or destruction pursuant to R58-17-13(G) of the live or dead aquatic animals at the facility. Removal or disposal of live or dead aquatic animals is the responsibility of the owner and shall be done by means acceptable to the [~~Department~~]agency having responsibility.

(C) CORs are not transfer[~~r~~]able.

R58-17-9. Reporting Fish Diseases.

Persons involved in aquaculture and being regulated by this rule, having knowledge of the existence in the state of any of the diseases currently on the pathogen list, Subsection R58-17-15(D)(2), (3), and (4), shall report it to the Department, Fish Health Program or the Division, Aquatics Section. The Department or Division will follow the Procedures for the Timely Reporting of Pathogens and the Emergency Response Procedures [~~developed~~]established by the [~~Fish Health Policy~~]Board[~~ in determining reporting and response procedures~~]. All confirmed findings of pathogens pursuant to R58-17-15(D)(2), (3), and (4), determined from such incidents or from inspections or diagnostic work initiated by the Department or the Division, will be reported to the [~~Fish Health Policy~~]Board.

R58-17-10. Quarantine of Aquatic Animals and Premises.

(A) If evidence exists that the aquatic animals [~~of~~]in any facility are infected with or have been exposed to pathogens [~~pursuant to~~]listed in R58-17-15(D)(2) and (3), then a quarantine may be imposed by the Commissioner of Agriculture or the State Veterinarian. This action may be reviewed by the [~~Fish Health Policy~~]Board for recommendations to the Department.

(1) Lifting of the quarantine imposed on a facility infected with or exposed to emergency or prohibited pathogens requires [~~a minimum of two negative tests, six months apart,~~]the creation and implementation of a biosecurity plan that specifies action to control the pathogen and includes testing requirements of all lots of fish to verify the absence of the pathogen. In addition, the Department may require [~~disinfection~~]decontamination of the facilities and equipment in accordance with current medical knowledge of the organism, [~~American Fisheries Society~~]the Blue Book[~~ procedures~~], and guidelines set forth by the Emergency Response Team.

(2) If the Department has reasonable evidence that the contagion is still present pursuant to R58-17-11, then quarantine, closure, or other measures such as decontamination of the facility and equipment, destruction of aquatic animals, etc. [~~shall~~]may be imposed. Such measures will be in accordance with current medical knowledge of the organism, the Blue Book, and guidelines set forth by the Emergency Response Team.

(B) A quarantine may be imposed by the Commissioner of Agriculture or the State Veterinarian where aquatic animals are possessed, transported or transferred in violation of this rule, wildlife rules, or statute and consequently pose a possible disease threat; or where a quarantine is reasonably necessary to protect aquatic animals within the state. This action may be reviewed by the [~~Fish Health Policy~~]Board for recommendations to the Department.

(1) Quarantines imposed on facilities for rule or statute violations or for purposes of protecting aquatic animals may be lifted once sufficient evidence is presented to the State Veterinarian's satisfaction that infection is not present at the facility or that biosecurity control measures are being followed which will control further spread of the pathogen, and that removal of the quarantine does not create a risk to other aquatic animal populations. In addition, the Department may require [~~disinfection~~] decontamination of the facilities and equipment in accordance with current medical knowledge of the organism, [~~American Fisheries Society~~]Blue Book procedures, and guidelines set forth by the Emergency Response Team.

(2) If the Department has reasonable evidence that the contagion is present pursuant to R58-17-11, then quarantine, closure, or other measures shall be imposed pursuant to R58-17-10(A)(2).

(C) Any person, license pursuant to R58-17 and affiliated with a facility under quarantine, who delivers aquatic animals from health-approved sources for other public or private aquaculture facilities may, with written permission from the Department, use their hauling trucks if the operator either houses the truck off the quarantined facility, or [~~disinfects~~]sanitizes the truck according to Department recommendations each time it leaves the quarantined facility.

R58-17-11. Handling of Aquatic Animals and Premises Confirmed to Be Infected With a Listed Pathogen in R58-17-15(D).

(A) Where any facility or group of aquatic animals is confirmed to be infected with one or more of the pathogens listed in R58-17-15(D), the Commissioner of Agriculture and Food or State Veterinarian may [~~place a~~]quarantine and take steps to prevent the spread of the pathogen and to eliminate it[~~ from the facility~~]. These actions may be reviewed by the [~~Fish Health Policy~~]Board for recommendations to the Department. The Department or Division, in their respective areas of responsibility, may take one or more of the following actions as listed below in this subsection, depending on [~~which~~]the pathogen [~~is~~]involved and the potential effects of the pathogen on the receiving water, neighboring aquaculture facilities or the public fishery resource.

(1) Destruction and disposal of all infected and exposed aquatic animals.

(2) Cleaning and [~~disinfection~~]decontamination or disposal of all handling equipment and holding facilities.

(3) Testing is required of all lots of fish, which may be at the owner's expense, to detect the presence or spread of the pathogen. This may include the use of sentinel fish. After two negative tests, six months apart, the quarantine shall be reas[~~s~~]essed, possibly released, and/or other measures may be imposed pursuant to R58-17-10(A)(2). [~~Following removal of the quarantine~~]Once sufficient evidence shows that the pathogen is not present at a facility, full restocking [~~can~~]may begin.

(4) The infected aquatic animals may be allowed to remain on the premises through the production cycle depending on the pathogen involved and its potential effects on adjacent animals. All stocks within the facility shall be tested [~~every 6 months or sooner~~]according to provisions outlined in the biosecurity plan to determine if the pathogen persists[~~ in infecting the aquatic animals~~]. At the end of the production cycle, then testing [~~shall~~]should be done at least annually. If the pathogen is not found after two consecutive annual inspections, then testing may revert to the original requirements for the facility. If biosecurity of the facility cannot or is not being maintained, immediate destruction of the stocks may be required. The biosecurity plan for the facility shall remain in effect if the COR holder sells or goes out of business.

R58-17-12. Statement of Variances.

Circumstances may arise which cannot be adequately addressed or resolved with this rule. The [~~Fish Health Policy~~]Board may grant specific variances to the rule if the following conditions are met:

(A) The variance is based on scientifically sound information and rationale.

(B) The variance will cause no significant threat to other aquaculture operations, state or private, or to [~~wild fish populations~~]public fishery resources.

(C) The variance is documented appropriately.

R58-17-13. Importation of Aquatic Animals or Aquaculture Products Into Utah.

(A) An official ENTRY PERMIT is required to import live aquatic animals or their gametes into Utah[~~ from any location outside the state~~]. This permit is in addition to the COR for operation of the facility. The entry permit can be obtained at no charge by contacting the Department, Fish Health Program and providing the following information:

(1) Name, address, phone number and COR number of importer.

(2) Species, size and/or number of aquatic animals [~~or eggs~~] to be imported.

(3) Name and health approval number of sources, origin of aquatic animals[~~/eggs~~], transfer history, and approximate date of shipment.

(4) For international shipments, a certificate of veterinary inspection from the source must be obtained by the importer indicating a negative record of testing by OIE reference labs for prohibited pathogens pursuant to R58-17-15(D)(2) and (3), a negative record of other OIE-listed pathogens affecting the aquatic animals to be imported, and that known nuisance species are not found in the water source. In addition, written authorization from the US Department of Agriculture, Animal and Plant Health Inspection Service (USDA/APHIS) for the importation must be included.

(B) Each shipment of live aquatic animals[~~/eggs~~] must be [~~approved~~]authorized[~~individually~~]. A copy of the entry permit will be sent to the requesting party and a copy must accompany the shipment. The permit holder shall allow [~~one~~]up to two weeks for the Department to verify the health approval status of the source and to verify [~~approved~~]authorized species status pursuant to R58-17-5.

(C) All import shipments of live aquatic animals must originate from sources that have been health approved by the Department pursuant to R58-17-15(A)(2) and (B)[~~assigned a fish health approval number~~]. A list of approved sources is maintained by the Department, but [~~cannot be~~]the list is not published due to frequent updates. Information on currently approved sources may [~~only~~] be obtained by contacting the Department Fish Health Program.

(D) All importations must be species that have been [approved]authorized by the Wildlife Board and the Division pursuant to R657-3 and 4-37-105(1).

(E) To import live grass carp (Ctenopharyngodon idella), a COR and an ENTRY PERMIT are required. In addition, the fish must also be verified as being triploid (sterile) by a [source]laboratory and method acceptable to the Department. A U. S. Fish and Wildlife Service triploid verification form must be obtained from the supplier as required in R657-16-7. Both this form and the Department's statement verifying treatment or testing for the Asian tapeworm must be on file with the Department prior to shipment of the fish. Copies of the entry permit, treatment [and]or testing statement and the triploid verification forms must accompany the fish during transit. The statement verifying treatment or testing is also required for all aquatic animal species that are known or reported hosts or carriers of the Asian tapeworm.

(F) The State Veterinarian may require treatment or testing of any aquatic animal species in accordance with current medical knowledge before importation.

(G) Whole dead and eviscerated fresh or frozen salmonid fish or live aquatic animals [pursuant to R58-17-2(A)(16)]may be imported into Utah for processing at a fish processing plant without an Entry Permit. Live salmonid fish may be imported into and transported within Utah for processing at a fish processing plant without an Entry Permit, but they must be killed upon release from the transport vehicle and may not be held live at the fish processing plant. Waste products, i.e., brine shrimp cysts, carcasses, viscera and waste water, must be incinerated, buried with "quick lime" (Calcium oxide), composted, digested, or disposed of by means acceptable to the Department to deter the spread of pathogens and non-native species pursuant to R657-3 by water or animals. The Department may apply the requirements in this subsection to other species of aquatic animals and pathogens if future needs arise.

(H) Placement of dead fish, fish parts, or fish waste products from a fish processing plant, or live or dead aquatic animals from any facility into public waters is illegal. Proper disposal is the responsibility of the processor/owner/broker pursuant to R58-17-13(G).

(I) All transport vehicles, [carrying]importing aquatic animals imported into Utah or [transported]transporting them through Utah pursuant to R58-17-14(C), must have proper documentation and are subject to inspection. The lack of proper documentation and/or the findings of an inspection may result in entry denial, fines, or other Department actions. All inspection costs will be born by the importer.

R58-17-14. Buying, Selling, and Transporting Aquatic Animals.

(A) Buying aquatic animals:

Live aquatic animals, except ornamental fish, unless the ornamental fish are determined a risk pursuant to R58-17-2(A)(24), may be purchased or acquired only by persons or entities who [have]possess a valid COR [to possess such]that authorizes the animals. This applies to separate facilities owned by the same individual. Live aquatic animals must be purchased only from sources that either are located in-state and have a valid COR for [commercial]aquaculture or are located outside of Utah. In both cases, the sources must also be on the current fish health approval list.

(B) Selling aquatic animals:

Live aquatic animals, except ornamental fish, unless the ornamental fish are determined a risk pursuant to R58-17-2(A)(24), may be sold only by a person or entity located in-state who possesses a valid COR for aquaculture or by a person or entity located outside of Utah. Current listing for each source and species on the [fish]health approval list is also required. Within Utah, an aquaculture facility operator may only sell or transfer live aquatic animals to a person or entity, which has been issued a valid COR to possess such animals.

(C) Transporting aquatic animals:

(1) Any person possessing a valid COR may transport the live aquatic animals specified on the COR to [their]the facility named on the COR[or approved site].

(2) All transfers or shipments of live aquatic animals within Utah, except ornamental fish, unless the ornamental fish are determined a risk pursuant to R58-17-2(A)(24), must be accompanied by documentation of the source and destination, including:

(a) Name, address, phone number, COR number and COR expiration date, fish health approval number and expiration date of source and transfer history.

(b) Species, size, number or weight being shipped.

(c) Name, address, phone number, COR number and COR expiration date of the destination.

(d) Date of transaction.

(3) Live aquatic animals may be shipped through Utah without a COR, provided that the animals will not be sold, released or transferred, the products remain in the original container, water from the out-of-state source is not exchanged or released, and the shipment is in Utah no longer than 72 hours. Proof of legal ownership, origin of aquatic animals and destination must accompany the shipment.

(4) Any person who hauls fish may transport a species other than those listed on their COR provided the source facility and destination both have a valid COR to possess that species.

(5) No person may move or cause to be moved aquatic animals from a facility known to be exposed to or infected with any of the [diseases currently]pathogens on the pathogen list, R58-17-15(D)(2) through (4), without first reporting it to the appropriate regulating agency pursuant to R58-17-9 and receiving written authorization to move the aquatic animals.

(D) Brokers[and Dealers]:

(1) Brokers [and Dealers must]shall follow the same requirements that other producers [do with respect]follow as to importation, [fish]health approval of their facility and their source facilities and assuring that live sales are only made to those with valid CORs.

(2) [To gain fish]To qualify for health approval of their fish, brokers [and dealers must]shall obtain health approval for all [their]source facilities from which they broker fish.

R58-17-15. Aquatic Animal Health Approval.

(A) Live aquatic animals, except ornamental fish, unless the ornamental fish are determined a risk pursuant to R58-17-2(A)(24), may be acquired, purchased, sold or transferred only from sources which have been granted health approval by the Department [and assigned a fish health approval number]pursuant to this section. This applies to separate facilities owned by the same individual and to both in-state and out-of-state facilities.

(1) [Within Utah, t]The Department shall be responsible for granting health approval and assigning [an aquatic animal]a health approval number to aquaculture facilities in Utah, [fee fishing facilities]and to any out-of-state sources pursuant to [amendment

]4-37-501(1). The Division shall be responsible for granting health approval and assigning [an aquatic animal]a health approval number to public aquaculture facilities within the state, [private fish ponds within the state,] and for the movement of live[wild populations of] aquatic animals from wild populations in waters of the state pursuant to [amendment]4-37-501(1).

(2) The Department is responsible for granting health approval for the importation into or transportation through Utah of aquatic animals.

(3) The [Fish Health Policy]Board may review health approval actions of the Department [and/]or the Division.

(B) Basis for Health Approval:

(1) Health approval for salmonid [species]aquatic animals is based on the statistical attribute sampling of [fish from]each lot of aquatic animals [on]at the facility in accordance with current [American Fisheries Society]Blue Book procedures. This shall require minimum sampling at the 95% confidence level, assuming a 5% carrier [incidence]prevalence for the prohibited pathogens, pursuant to R58-17-15(D)(2) and (3). Health approval is applied to the entire facility, not individual lots of fish.

(2) All lots of fish shall be sampled.[Approval will be withheld if a pathogen listed under R58-17-15(D)(2) or (3) is detected in any of the lots.]

(3) For brood facilities, lethal sampling may be required on the brood fish if the following conditions [are not met]exist:

(a) Progeny are not available at the facility for lethal sampling[.];or

(b) A statistically valid sample of ovarian fluids from ripe females is not tested.

(4) Collection, transportation and laboratory testing of the samples will follow standard procedures specified by the Department, the Division and the [Fish Health Policy]Board. Inspections will be conducted under the direction of an individual [who has received certification]certified by the American Fisheries Society as a fish health inspector.

(5) EGG ONLY sources - A facility which cannot gain full [fish]health approval because of a horizontally transmitted pathogen, may be approved to sell eggs provided [they]the eggs are free of the listed vertically transmitted pathogens pursuant to R58-17-15(D)(1) and are properly disinfected using approved methods prior to shipment. Eggs may be required to be from incubation units isolated from hatchery and open water supplies and to be from fish-free water sources.

(6) Health approval for [warm water species]non-salmonid aquatic animals is based on [disease history information obtained from the producer, fish pathologists or other fish health professionals in the producer's state or locale. Standardized inspection protocols for warm water fish diseases have not been developed.]specific pathogen testing for that identified aquatic animal as per R58-17-15(D). In addition, t[T]he agency having responsibility pursuant to R58-17-15(A)(1) and (2) will discuss the disease history of the facility with the producer, and then [may]contact acceptable[local] fish health professionals to identify [any]other existing or potential disease problems.

(7) Under no circumstances shall health approval be granted to a facility [using emergency prohibited or prohibited]if any lots test positive for pathogens listed in R58-17-15(D)(2) or (3) or if any of the same pathogens [contaminated water as a source]contaminate the facility's production waters or water source.

(C) Approval Procedures:

(1) Applicable to all[warm and cold water] aquatic animals.

(a) To receive initial [fish]health approval, inspection reports or other evidence of the disease status of an aquaculture facility or public aquaculture facility must be submitted to the appropriate agency (see R58-17-15(A)(1) and (2)). [For warm water aquatic animal approval, the "Application for Warm Water Species Fish Health Approval " form must be submitted for initial approval and for renewal pursuant to R58-17-15(B)(6).]Applicants seeking initial approval and annual renewal for non-salmonid aquatic animals shall complete and submit forms provided by the Department or Division. Initial approval also requires the applicant to include information on origins of the aquatic animals at the facility, available disease histories by means of a facility disease history report and a five year disease history report, and [their]fish transfer histories. The same application materials shall be required annually for renewal of [fish]health approval for activities occurring between applications.

(b) Inspections are conducted pursuant to [UCA amendment]Utah Code Section 4-37-502 and this section rule to detect the presence of any prohibited pathogens listed under R58-17-15(D)(2) and (3). Overt disease need not be evident to disqualify a facility. To qualify for initial and renewal of [aquatic animal]health approval, evidence must be available verifying that [any] prohibited pathogens listed under R58-17-15(D)(2) and (3) are not present.

(c) Once [the]requirements for [initial]health approval [or renewal of approval]have been met, the facility shall be added to the [fish]health approval list of the responsible agency and assigned a [fish] health approval number for the current year. [Fish h]Health approval of each facility shall be reviewed annually for continuance on the lists maintained by the Department and the Division pursuant to R58-17-15(A)(1).

(d) The Department will report [the]all confirmed results of [annual inspections conducted at aquaculture facilities, fee fishing facilities, and out-of-state] pathogens pursuant to R58-17-15(D) for sources under its jurisdiction at each meeting of the [Fish Health Policy] Board.

(e) Public aquaculture facilities and wild brood stocks are included on the [fish]health approval list maintained by the Division. The Division will report [the]all confirmed results of [annual health inspections conducted at public aquaculture facilities, private ponds and wild populations of aquatic animals]pathogens pursuant to R58-17-15(D) for sources under its jurisdiction at each meeting of the [Fish Health Policy]Board.

(f) If all aquatic animals are removed from an approved facility for a period of three months or more, or if [fish]health approval is canceled or denied, then subsequent [fish]health approval [will]may be granted only after the facility owner has [completed the process]satisfactorily reapplied [for initial approval as outlined under]pursuant to R58-17-15(C).

(2) Applicable to [cold water]salmonid aquatic animals:

(a) For initial approval of new facilities, two inspections of the same lot, at least four months apart and negative for any prohibited pathogen listed in [pursuant to] R58-17-15(D)(2) and (3), are required. The aquatic animals must have been [on]at the facility at least six months prior to the first inspection. During the inspections, the aquatic animals shall be reared for appropriate periods in waters from one source, and lots from all source waters at a facility shall be inspected.

(b) For initial approval of existing facilities, health inspection reports for a minimum of the previous two years, and facility disease history reports for up to the previous five years and five-year disease histories for all stocks [imported]transferred to the facility are required.

(c) All lots of aquatic animals [on]at the facility as well as any outside sources of these aquatic animals must be inspected for initial approval and for renewals pursuant to R58-17-15(B)(4).

(d) After initial approval, annual inspections shall be [required]conducted to renew [fish]health approval. A two-month grace period is granted at the completion of the annual inspection for laboratory testing of samples and reporting of test results. This is to allow the facility to conduct business while awaiting test results. Health inspection reports, the facility disease history for at least the previous year, and disease histories for at least the previous year for all stocks imported to the facility shall be required before each renewal.

(3) Applicable to non-salmonid aquatic animals:

(a) For approval of facilities, one inspection of aquatic animals to be approved from the pond, reservoir, or holding facility and negative testing of an appropriate attribute sample for any applicable prohibited pathogen pursuant to R58-17-15(D)(2) and (3)is required. A composite sample of 60 fish of the same lot from all ponds in the shipment from the same water source may be accepted in lieu of a full attribute sample.

(b) In addition, a written report is required from an acceptable fish health professional stating that no clinical signs of any infectious fish disease are ongoing and that certain pathogens are not infecting the species to be imported at the time of importation.

(D) Prohibited and reportable pathogen list:

(1) Pathogens requiring [some form of action]control are classified as [either] emergency prohibited, prohibited, or reportable. Those pathogens denoted by an asterisk (*) preceding the name will only be tested for if the [fish]aquatic animals or eggs originate from an area where the pathogen is found. Pathogens denoted by a double asterisk (**) after the name can only be transmitted in fish and not in the eggs, therefore permitting the special provisions for egg only sources provided in [Sections]R58-17-2[(8)](A)(10) and R58-17-15(B)(5). Excluding Artemia cysts, aquatic shrimp and prawns are not marketed as eggs, thus exempting shrimp and prawns from the egg-only provisions. However, the egg-only provision may be applied should shrimp or prawns be marketed as eggs and the Department or Division determines a vertically transmissible, emergency prohibited pathogen is present. Pathogens of aquatic shrimp and prawns are denoted with a triple asterisk (***) after the name. Pathogens that are inspected using the most current OIE Manual of Diagnostic Tests for Aquatic Animals are denoted with the pound sign (#) after the name.

(2) Emergency prohibited pathogens.

(a) Infectious hematopoietic necrosis virus (IHNV).

(b) Infectious pancreatic necrosis virus (IPNV).

(c) Viral hemorrhagic septicemia virus (VHSV).

(d) *Oncorhynchus masou virus (OMV).

(e) Spring viremia of carp virus (SVCV).

(f) *Epizootic hematopoietic necrosis virus (EHNV)#.

(g) White spot syndrome virus (WSSV)***#.

(h) Yellow head virus (YHV)***#.

(i) Taura syndrome virus (TSV)***#.

(j) Infectious hypodermal & hematopoietic necrosis virus (IHHNV)***#.

(3) Prohibited pathogens.

(a) Myxobolus cerebralis ([pathogen that causes]whirling disease)**.

(b) Renibacterium salmoninarum ([pathogen that causes] bacterial kidney disease (BKD)).

(c) *Ceratomyxa shasta ([pathogen that causes the disease] ceratomyxosis disease)**.

(d) Bothriocephalus (Asian tapeworm [and cause of the] disease bothriocephalosis)[.]**.

(e) *Tetracapsuloides bryosalmonae or PKX ([pathogen that causes]proliferative kidney disease (PKD))**.

(4) Reportable pathogens.

(a) Yersinia ruckeri ([pathogen that causes]enteric redmouth disease)**.

(b) Aeromonas salmonicida ([pathogen that causes] furunculosis disease)**.

(c) Centrocestus formosanus.

([c]d) Emerging fish pathogens (including any filterable agent or agent of clinical significance as determined by the [Fish Health Policy]Board).

(5) The [Fish Health Policy Board]Procedures for the Timely Reporting of Pathogens shall be followed if any emergency prohibited, prohibited, or reportable pathogen is found. Inspection for reportable pathogens is optional, but positive findings of these pathogens must be reported to the [Fish Health Policy]Board. Reporting of unregulated pathogens to the [Fish Health Policy]Board is not required.

(6) The [Fish Health Policy Board]Emergency Response Procedures shall be activated any time a confirmed finding or unconfirmed evidence of an emergency prohibited or prohibited pathogen is reported.

R58-17-16. Inspection of Records and Facilities.

(A) The following records [must]shall be maintained for a period of up to five years and be available for inspection during reasonable hours by the appropriate agency [representative]pursuant to R58-17-4.

(1) [Records of purchases]Purchase, acquisition, distribution, and production histories of live aquatic animals.

(2) CORs and entry permits.

(3) Valid identification of stocks, including origin of stocks.

(B) The appropriate agency representatives pursuant to R58-17-4 may conduct pathological or physical investigations at any registered facility, [pursuant to R58-17-4]including fish being transported in vehicles, during reasonable hours if there is cause to believe that a disease condition exists. Any laboratory testing [that is necessary]as a result of this investigation will [not]be at the owner's expense if evidence indicates that R58-17 has been violated pursuant to the investigation.

R58-17-17. Aquaculture Facilities, Fish Processing Plants, Brokers.

(A) COR required:

A COR is required to operate an aquaculture facility or a fish processing plant and to act as a broker. A separate COR and fee are required for each [individual]facility [as]defined under "aquaculture facility", Section 4-37-103(2), regardless of ownership.

(B) Live aquatic animals may be sold or transferred:

The operator of an aquaculture facility with [aquatic animal]health approval may take the aquatic animals as [approved]authorized on the COR from the facility at any time and offer them for sale. Within Utah, live aquatic animals can only be sold to other facilities which have a valid COR for that species. Fish Processing plants dealing with salmonids shall neither hold nor sell live salmonids[pursuant to R58-17-2(A)(16)].

(C) Fee-fishing facility and/or fish processing plant allowed:

The operator of an aquaculture facility may also operate a fee-fishing facility [under the terms applicable to fee-fishing facilities in Section]pursuant to R58-17-18 and/or a fish processing plant pursuant to R58-17-17 and R58-17-13(G) and (H), provided the fee-fishing facility or the fish processing plant is [located at the site and]within one half mile distance from the aquaculture facility, contains only those species authorized on the COR for the aquaculture facility, and this activity is listed on the COR for the aquaculture facility.

(D) Receipts required:

Any in-state sale, shipment or transfer of live [fish]aquatic animals from an aquaculture facility must be accompanied by a receipt[with documentation of the source and destination]. A receipt book will be provided by the Department upon request. Copies of all receipts will be submitted to the Department [and will serve as]with the annual report[of sales]. The receipt [book is to be used for in-state sales or transfers, and]will contain[the following information]:

(1) Names, addresses, phone numbers, COR numbers, COR expiration dates, fish health approval numbers and expiration dates of sources.

(2) Number and weight being shipped, by species.

(3) Names, addresses and phone numbers of destinations.

(4) COR numbers and COR expiration dates for destinations [(for in-state transfers only)].

(5) Dates of transactions.

(6) Signature of seller.

(E) Annual reports required:

Aquaculture facility owners, fish processing plant owners, and brokers shall submit [A]annual reports of all sales, transfers, and purchases [must be submitted] to the Department [as part of]at the time of the COR renewal[process], pursuant to [Subsection] R58-17-8(B)(2). [A r]Report forms [for all purchases or transfers into a facility]will be provided by the Department.

(1) [For all purchases, this]The report will contain[the following information]:

(a) Names, addresses, phone numbers, COR numbers and [fish]health approval numbers of sources.

(b) Number, size and weight by species.

(c) Names, addresses, phone numbers, COR numbers of the destinations.

(d) Dates of transactions.

(2) [For all sales or transfers, c]Copies of [the] receipts [book transactions] pursuant to R58-17-17(D), [will]shall be submitted as part of the annual report to the Department.

(3) [The records and r]Reports [must]shall be submitted to the Department by December 31 each year and must be received before a COR will be renewed. If the report, application, receipts and fee are not received by December 31 pursuant to R58-17-8(B), the COR will no longer be valid and regulatory action may be initiated pursuant to R58-17-8(B)(3). For sales made after submittal of the annual report and before January 1, the facility owner shall submit an addendum report that is due by January 31.

(4) The report made by operators of fish processing plants shall also contain [source names, addresses, phone numbers, species names, and live or dead state for] all purchases and transfers to and from the facility[. The report] and shall address proper methods of disposal with dates and locations pursuant to R58-17-13(G) and (H).[Brine shrimp processing plants shall prepare an annual report with the above information for non-Great Salt Lake brine shrimp or other aquatic invertebrates imported into Utah.]

(F) Fees assessed:

[A COR for an aquaculture facility shall be assessed a fee of $150.00 during application and annually for renewal,]The initial and annual renewal COR fee for aquaculture facilities, brokers, and fish processing plants is $150.00, pursuant to Section 4-37-301.[Only fish processing plants that work with fin fish are assessed this fee. The deadline for COR renewal is December 31. If the COR renewal application is not received by February 28, the COR will be no longer valid and regulatory action shall be initiated pursuant to R58-17-8(B)(3).]

(G) The COR holder shall keep a copy of CORs, reports, and records on file for two years pursuant to 4-37-110.

R58-17-18. Fee-Fishing Facilities.

(A) COR required:

A COR is required to operate a fee-fishing facility. A separate COR is necessary for separate fee-fishing facilities as defined under "aquaculture facility", Section 4-37-103(2), regardless of ownership.

(B) Live sales or transfers prohibited:

The operator of a fee-fishing facility may not sell, donate, or otherwise transfer live aquatic animals, except [that]when the approved species may be transferred into the same facility from an approved source.

(C) Fishing licenses not required:

A fishing license is not required to take aquatic animals [from]at a fee-fishing facility.

(D) Receipts required:

To transport dead aquatic animals [away]from a fee-fishing facility, the [operator must]customer (owner associations and catch and release operations are exempt) shall receive from the operator a receipt which includes:[provide a receipt to the customer which contains the following information:]

(1) Name, address, COR number, COR expiration date and phone number of [fee-fishing]the facility.

(2) Date caught.

(3) Species and number of fish.

(E) Annual report required:

The operator of a fee-fishing facility [must]shall submit to the Department an annual report of all live aquatic animals purchased or acquired during the year. A report form [for all purchases or transfers into a facility]will be provided by the Department. This report must contain[the following information]:

(1) Names, addresses, phone numbers, [fish]health approval numbers, [of all sources and/or]COR numbers and COR expiration dates of all sources.

(2) Number, size and weight by species.

(3) Dates of [sales or transfers]purchase and acquisition of aquatic animals.[

(4) Names, addresses, phone numbers, COR numbers and COR expiration dates of the destinations.]

(F) Fees assessed and annual report deadline:

[A fee of](1) The initial and annual renewal fee for a fee fishing COR is $30.00, [shall be required with the application for the fee-fishing COR. This fee shall be required annually with the reports for COR renewal,] pursuant to 4-37-301.[The deadline for COR renewal is December 31. If the COR renewal application is not received by February 28,]

(2) Holders of CORs, who renew applications including report, receipts, and fee after December 31 pursuant to R58-17-17(E)(3), shall be assessed a $25.00 late fee. If the application, report, receipts and fee are not received by December 31 pursuant to R58-17-8(B)(1), the COR will be no longer valid and regulatory action [~~shall~~]may be initiated pursuant to R58-17-8(B)(3).

(G) The COR holder shall keep a copy of CORs, reports, logs, and records on file for two years pursuant to 4-37-110.

R58-17-19. Public Aquaculture, Private Fish Ponds, Institutional Aquaculture Facilities, Short Term Fishing Events, Private Stocking and Displays.

Details on the COR and regulatory requirements pursuant to R58-17-4(2) for operating public aquaculture, private fish ponds, institutional aquaculture facilities, short term fishing events, private stocking and displays are found in the code for Natural Resources, Wildlife Resources, at Rule R657-16 of the Utah Administrative Code.

R58-17-20. Classification of Pathogens.

I. Emergency prohibited pathogens are pathogens that cause high morbidity and high mortality, are exotic to Utah, and require immediate action. These pathogens generally can not be treated and shall be controlled through avoidance, eradication, and disinfection.

TABLE

[~~Classification~~	~~Criteria~~	~~Control Methods~~	~~Included Pathogens (and diseases they cause)~~
~~Emergency~~	~~High morbidity~~	~~Cannot be treated~~	~~IHNV~~
	~~High mortality~~	~~Avoidance, eradication and disinfection~~	~~IPNV~~
	~~Exotic to Utah~~		~~VHSV~~
	~~Immediate action required~~		~~OMV~~
~~Prohibited~~	~~Can cause high morbidity or high mortality~~	~~Very difficult or impossible to treat~~	~~Myxobolus cerebralis (whirling disease)~~
	~~May be endemic to Utah~~	~~Avoidance, eradication and disinfection~~	~~Renibacterium salmoninarum (BKD)~~
	~~Action required in reasonable time frame~~		~~Ceratomyxa shasta PKX organism (PKD)~~
			~~Bothrio-cephalus acheilognathi (Asian tapeworm)~~
~~Reportable~~	~~Management diseases~~	~~Possible to prevent or treat~~	~~Yersinia ruckeri (Enteric redmouth)~~
	~~Not prohibited in Utah~~		
	~~Prohibited in some other states or countries~~		~~Aeromonas Salmonicida (furun-culosis)~~
	~~Economic importance~~		~~Emerging fish Pathogens (including but not limited to any filterable agent or agent of clinical significance as determined by the Fish Health Policy Board)~~
	~~Inspection is optional~~		
	~~Positive findings must be reported to the Fish Health Policy Board~~		
~~Unregulated~~	~~Not regulated in Utah~~		
	~~Includes all pathogens not listed above~~		
	~~Reporting to the Fish Health Policy Board not required~~]		

Pathogen	Classification	Species	Inspection Requirement/Comment
Infectious Hematopoietic Necrosis Virus (IHNV)	Emergency Prohibited	Salmonids	
Infectious Pancreatic Necrosis Virus (IPNV)/Aquatic Birnaviruses	Emergency Prohibited	All susceptible hosts	May be isolated from many species of aquatic organisms
Viral Hemorrhagic Septicemia Virus (VHSV)	Emergency Prohibited	Salmonids, pike, herring turbot, pilchard, etc.	
Oncorhynchus Masou Virus (OMV)	Emergency Prohibited	Salmonids	
Spring Viremia Of Carp Virus (SVCV)	Emergency Prohibited	All cyprinids esocids Shrimp	Required use of Bluebook designated, cell lines; inspection requirement shall be applied as needed to koi and ornamental fish
Epizootic Hematopoietic Necrosis Virus (EHNV)	Emergency Prohibited	Salmonids, percids, ictalurids, silurids, Gambusia, etc.	Required only for fish from endemic areas; use OIE Manual for test protocol
White Spot Syndrome Virus (WSSV)	Emergency Prohibited	Freshwater or marine shrimp	Protocol for testing in OIE Manual
Yellow Head Virus (YHV)	Emergency Prohibited	Freshwater or marine shrimp	Protocol for testing in OIE Manual

Taura Syndrome Virus (TSV)	Emergency Prohibited	Freshwater or marine Shrimp	Protocol for testing in OIE Manual
Infectious Hypodermal and Hematopoietic Necrosis Virus (IHHNV)	Emergency Prohibited	Freshwater or marine shrimp	Protocol for testing in OIE Manual

II. Prohibited pathogens are pathogens that can cause high morbidity or high mortality, may be endemic to Utah, and require action in a reasonable time. Prohibited pathogens are generally very difficult or impossible to treat and can only be controlled through avoidance, eradication, and disinfection, etc.

Myxobolus cerebralis (Whirling Disease)	Prohibited	Salmonids	Focus on more susceptible species as per Bluebook
Renibacterium salmoninarum (Bacterial Kidney Disease, BKD)	Prohibited	Salmonids	Required for salmonid species with more frequently reported clinical disease, such as Pacific salmon, brook trout, lake trout, Atlantic salmon, grayling, etc.
Ceratomyxa shasta	Prohibited	Salmonids	Inspect fish only from reported endemic areas
Bothriocephalus acheilognathi (Asian tapeworm)	Prohibited	All cyprinids, one Poecilid	Mosquito fish (Gambusia affinis) is the poecilid regulated under this section
Tetracapsuloides bryosalmonae (proliferative kidney disease, PKD)	Prohibited	Salmonids	Inspect fish only from reported endemic areas

III. Reportable pathogens are pathogens that are generally prevented using good management practices. Reportable pathogens are not prohibited in Utah, but may be prohibited in some other states or countries (see R58-17-20). Inspections are not required for reportable pathogens, but all positive findings must be reported to the Board.

Yersinia ruckeri (enteric redmouth disease)	Reportable		No inspection requirement in Utah
Aeromonas salmonicida (furunculosis)	Reportable		No inspection requirement in Utah
Centrocestus formosanus	Reportable		Not applicable. Usually diagnosed by the presence of metacercarial cysts in gills via light microscopy: no inspection protocols available

KEY: aquaculture
[~~April 17, 2001~~]2005
Notice of Continuation February 3, 2005
4-2-2
4-37

Commerce, Occupational and Professional Licensing
R156-31c-201
Issuing a License

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 28124
FILED: 08/01/2005, 15:52

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division is amending the rule in order to comply with the model Compact Rules established by the Nurse Licensure Compact Administrators in accordance with Title 58, Chapter 31c, Article VIII, Subsection (3).

SUMMARY OF THE RULE OR CHANGE: Subsection R156-31c-201(1) is added to require all applicants for a Compact license with a multi-state privilege to have taken the National Council Licensure Examination of the National Council of State Boards of Nursing (NCLEX) examination or a predecessor exam. The NCLEX exam is the national exam required by the majority of states including Utah. Some states do not require Canadian nurses or nurses from Puerto Rico to take the NCLEX prior to licensure. This rule change will mandate that anyone working in Utah on a multi-state privilege will have met the same testing requirements for licensure as required of any Utah applicant.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-31c-103 and Subsection 58-1-106(1)(a)

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: Utah law already requires the NCLEX exam for any nursing applicants so there would not be a fiscal note to the state/division budget other than approximately $50 to reprint the rule once the proposed amendment is made effective. Any costs incurred will be absorbed in the Division's current budget.
❖ LOCAL GOVERNMENTS: The proposed changes will not affect local governments; therefore no costs or savings are anticipated. The proposed changes only affect foreign educated nurses who may apply for licensure in a Compact state in the future and have not taken the NCLEX examination.

❖ OTHER PERSONS: The proposed changes will only affect foreign educated nurses who may apply for licensure in a Compact state and have not taken the NCLEX examination. The cost of the NCLEX examination is $200. The number of foreign nurses who apply for licensure in Utah is small and Utah already requires the NCLEX examination as a prerequisite for licensure; therefore no aggregate amount is available.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed changes will only affect foreign educated nurses who may apply for licensure in a Compact state and have not taken the NCLEX examination. The cost of the NCLEX examination is $200. This rule change is in anticipation of states coming into the Compact which do not require the NCLEX exam of all applicants. It is believed that the change will have a very little impact on nurse applicants because the majority of states already require the NCLEX examination.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule filing is a clarification of Utah's examination requirement indicating that the NCLEX examination also applies to foreign educated nurses applying for licensure in a Compact state. No fiscal impact to businesses is anticipated as a result of this clarifying amendment. Jason P. Perry, Acting 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:
Laura Poe at the above address, by phone at 801-530-6789, by FAX at 801-530-6511, or by Internet E-mail at lpoe@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 09/14/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 09/15/2005

AUTHORIZED BY: J. Craig Jackson, Director

R156. Commerce, Occupational and Professional Licensing.
R156-31c. Nurse Licensure Compact Rules.
R156-31c-201. Issuing a License.

(1) As of July 1, 2005 no applicant for initial licensure will be issued a compact license granting a multi-state privilege to practice unless the applicant first obtains a passing score on the applicable NCLEX examination or any predecessor examination used for licensure.

([~~1~~]2) A nurse applying for a license in a home party state shall produce evidence of the nurse's primary state of residence. Such evidence shall include a declaration signed by the licensee. Further evidence that may be requested may include:

(a) driver's license with a home address;

(b) voter registration card displaying a home address; or

(c) federal income tax return declaring the primary state of residence.

([~~2~~]3) A nurse changing primary state of residence, from one party state to another party state, may continue to practice under the former home state license and multi-state privilege during the processing of the nurse's licensure application in the new home state for a period not to exceed 30 days.

([~~3~~]4) The licensure application in the new home state of a nurse under pending investigation by the former home state shall be held in abeyance and the 30 day period in Subsection (2) shall be stayed until resolution of the pending investigation.

([~~4~~]5) The former home state license shall be expired and no longer valid upon the issuance of a new home state license.

([~~5~~]6) If a decision is made by the new home state denying licensure the new home state shall notify the former home state within ten business days and the former home state shall take action in accordance with that state's laws and rules.

KEY: nurses, licensing
[~~February 15, 2000~~]2005
Notice of Continuation November 29, 2004
58-31c-103
58-1-106(1)(a)

▼ ▼

Health, Health Care Financing, Coverage and Reimbursement Policy
R414-1
Utah Medicaid Program

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 28106
FILED: 07/27/2005, 09:21

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rulemaking is required to define and explain what prior authorization is and how the department uses prior authorization to determine eligibility to receive services and to determine that services are medically necessary.

SUMMARY OF THE RULE OR CHANGE: A definition of "Prior Authorization" is added to Subsection R414-1-2(20). A new subsection, R414-1-14(3), explains that prior authorization is a utilization control process to verify that the client is eligible to receive the service. It also says that the service is medically necessary and that prior authorization requirements are identified in the Utah Medicaid Provider Manual. Further, it says that reimbursement is contingent upon following proper prior authorization instructions and approval.

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

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: There are no costs or savings to the state budget because this merely codifies what is in the Medicaid provider manuals.
❖ LOCAL GOVERNMENTS: There are no costs or savings to the local governments because this merely codifies what is in the Medicaid provider manuals.
❖ OTHER PERSONS: There are no costs or savings to other persons because this merely codifies what is in the Medicaid provider manuals.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons because this merely codifies what is in the Medicaid provider manuals.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Prior authorization of medical services that may be abused by recipients is a common tool to control inappropriate or unnecessary government spending in this program. This rule will more clearly set forth the standards that are used in rule, rather than just in guidance documents. The standards are not being changed, so there should be no fiscal impact from this rule. David N. Sundwall, MD, Executive Director

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
HEALTH
HEALTH CARE FINANCING,
COVERAGE AND REIMBURSEMENT POLICY
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Ross Martin at the above address, by phone at 801-538-6592, by FAX at 801-538-6099, or by Internet E-mail at rmartin@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 09/14/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 09/15/2005

AUTHORIZED BY: David N. Sundwall, Executive Director

R414. Health, Health Care Financing, Coverage and Reimbursement Policy.
R414-1. Utah Medicaid Program.
R414-1-2. Definitions.

The following definitions are used throughout the rules of the Division:

(1) "Act" means the federal Social Security Act.

(2) "Applicant" means any person who requests assistance under the medical programs available through the Division.

(3) "Categorically needy" means aged, blind or disabled individuals or families and children:

(a) who are otherwise eligible for Medicaid; and

(i) who meet the financial eligibility requirements for AFDC as in effect in the Utah State Plan on July 16, 1996; or

(ii) who meet the financial eligibility requirements for SSI or an optional State supplement, or are considered under section 1619(b) of the federal Social Security Act to be SSI recipients; or

(iii) who is a pregnant woman whose household income does not exceed 133% of the federal poverty guideline; or

(iv) is under age six and whose household income does not exceed 133% of the federal poverty guideline; or

(v) who is a child under age one born to a woman who was receiving Medicaid on the date of the child's birth and the child remains with the mother; or

(vi) who is least age six but not yet age 18, or is at least age six but not yet age 19 and was born after September 30, 1983, and whose household income does not exceed 100% of the federal poverty guideline; or

(vii) who is aged or disabled and whose household income does not exceed 100% of the federal poverty guideline; or

(viii) who is a child for whom an adoption assistance agreement with the state is in effect.

(b) whose categorical eligibility is protected by statute.

(4) "Code of Federal Regulations" (CFR) means the publication by the Office of the Federal Register, specifically Title 42, used to govern the administration of the Medicaid Program.

(5) "Client" means a person the Division or its duly constituted agent has determined to be eligible for assistance under the Medicaid program.

(6) "CMS" means The Centers for Medicare and Medicaid Services, a Federal agency within the U.S. Department of Health and Human Services. Programs for which CMS is responsible include Medicare, Medicaid, and the State Children's Health Insurance Program.

(7) "Department" means the Department of Health.

(8) "Director" means the director of the Division.

(9) "Division" means the Division of Health Care Financing within the Department.

(10) "Emergency medical condition" means a medical condition showing acute symptoms of sufficient severity that the absence of immediate medical attention could reasonably be expected to result in:

(a) placing the patient's health in serious jeopardy;

(b) serious impairment to bodily functions;

(c) serious dysfunction of any bodily organ or part; or

(d) death.

(11) "Emergency service" means immediate medical attention and service performed to treat an emergency medical condition. Immediate medical attention is treatment rendered within 24 hours of the onset of symptoms or within 24 hours of diagnosis.

(12) "Emergency Services Only Program" means a health program designed to cover a specific range of emergency services.

(13) "Executive Director" means the executive director of the Department.

(14) "InterQual" means the McKesson InterQual Criteria, a comprehensive, clinically based, patient focused medical review criteria and system developed by McKesson Corporation.

(15) "Medicaid agency" means the Department of Health.

(16) "Medical assistance program" or "Medicaid program" means the state program for medical assistance for persons who are eligible under the state plan adopted pursuant to Title XIX of the

federal Social Security Act; as implemented by Title 26, Chapter 18, UCA.

(17) "Medical or hospital assistance" means services furnished or payments made to or on behalf of recipients under medical programs available through the Division.

(18) "Medically necessary service" means that:

(a) it is reasonably calculated to prevent, diagnose, or cure conditions in the recipient that endanger life, cause suffering or pain, cause physical deformity or malfunction, or threaten to cause a handicap; and

(b) there is no other equally effective course of treatment available or suitable for the recipient requesting the service that is more conservative or substantially less costly.

(19) "Medically needy" means aged, blind, or disabled individuals or families and children who are otherwise eligible for Medicaid, who are not categorically needy, and whose income and resources are within limits set under the Medicaid State Plan.

(20) "Prior authorization" means the required approval for provision of a service that the provider must obtain from the Department before providing the service. Details for obtaining prior authorization are found in Section I of the Utah Medicaid Provider Manual.

[~~(20)~~](21) "Provider" means any person, individual or corporation, institution or organization, qualified to perform services available under the Medicaid program and who has entered into a written contract with the Medicaid program.

[~~(21)~~](22) "Recipient" means a person who has received medical or hospital assistance under the Medicaid program, or has had a premium paid to a managed care entity.

[~~(22)~~](23) "Undocumented alien" means an alien who is not recognized by Immigration and Naturalization Services as being lawfully present in the United States.

R414-1-14. Utilization Control.

(1) The Medicaid agency has implemented a statewide program of surveillance and utilization control that safeguards against unnecessary or inappropriate use of Medicaid services available under the plan. The plan also safeguards against excess payments, assesses the quality of services, and provides for control and utilization of inpatient services as outlined in the Superior Utilization Waiver state implementation plan. The program meets the requirements of 42 CFR Part 456.

(2) In order to control utilization, and in accordance with 42 CFR 440.230(d), services, equipment, or supplies not specifically identified by the Department as covered services under the Medicaid program, are not a covered benefit.

(3) Prior authorization is a utilization control process to verify that the client is eligible to receive the service and that the service is medically necessary. Prior authorization requirements are identified in Section I sub-section 9 of the Utah Medicaid Provider Manual. Additional prior authorization instructions for specific types of providers is found in Section II of the Medicaid Provider Manual. All necessary medical record documentation for prior approval must be submitted with the request. If the provider has not followed the prior authorization instructions and obtained prior authorization for a service identified in the Medicaid Provider Manual as requiring prior authorization, the Department shall not reimburse for the service.

[~~(3)~~](4) The Medicaid agency may request records that support provider claims for payment under programs funded through the agency. Such requests must be in writing and identify the records to be reviewed. Responses to requests must be returned within 30 days of the date of the request. Responses must include the complete record of all services for which reimbursement is claimed and all supporting services. If there is no response within the 30 day period, the agency will close the record and will evaluate the payment based on the records available.

[~~(4)~~](5) If Medicaid pays for a service which is later determined not to be a benefit of the Utah Medicaid program or is not in compliance with state or federal policies and regulations, Medicaid will make a written request for a refund of the payment. Unless appealed, the refund must be made to Medicaid within 30 days of written notification. An appeal of this determination must be filed within 30 days of written notification as specified in R410-14-6.

[~~(5)~~](6) Reimbursement for services provided through the Medicaid program must be verified by adequate records. If these services cannot be properly verified, or when a provider refuses to provide or grant access to records, either the provider must promptly refund to the state any payments received for the undocumented services, or the state may elect to deduct an equal amount from future reimbursements. If the Department suspects fraud, it may refer cases for which records are not provided to the Medicaid Fraud Control Unit for additional investigation and possible action.

KEY: Medicaid
[~~June 3,~~]2005
Notice of Continuation April 30, 2002
26-1-5
26-18-1

Health, Health Systems Improvement, Emergency Medical Services

R426-5

Hospital Trauma Categorization Standards

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 28121

FILED: 08/01/2005, 13:24

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rulemaking conforms the rule with recent changes to the statute (H.B. 180 (2003)) governing the statewide trauma system. (DAR NOTE: H.B. 180 (2003) is found at UT L 2003 Ch 137, and was effective 05/05/2003.)

SUMMARY OF THE RULE OR CHANGE: The changes correct references to statute; replace "EMS Committee" with "Department"; create a section describing Trauma System Advisory Committee as mandated in statute; and conform the mandatory reporting by all hospitals (as opposed to reporting just by trauma centers) to the statutory requirement. The changes also eliminate definitions that will be placed in the definitions rule, Rule R426-11; and provides more options to the Department and trauma centers for violation of the standards.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-8a-250

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The costs for reporting by non-trauma center hospitals have been covered in appropriations since the statute first required non-trauma center hospitals to report. This rule adds no additional costs beyond what is required by statute.

❖ LOCAL GOVERNMENTS: Costs to local governments that operate hospitals have been covered in appropriations since the statute first required non-trauma center hospitals to report.

❖ OTHER PERSONS: The costs for reporting by non-trauma center hospitals have been covered in appropriations since the statute first required non-trauma center hospitals to report.

COMPLIANCE COSTS FOR AFFECTED PERSONS: All costs to affected persons have been covered by legislative appropriation since the statute first required non-trauma center hospitals to report.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Department personnel have worked closely with the affected businesses to craft a rule that meets the public purpose of the program and is supported by the businesses it regulates. This rule represents that result. Fiscal impact is offset by legislative appropriations. David N. Sundwall, MD, Executive Director

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

HEALTH
HEALTH SYSTEMS IMPROVEMENT,
EMERGENCY MEDICAL SERVICES
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Jolene Whitney at the above address, by phone at 801-538-6290, by FAX at 801-538-6808, or by Internet E-mail at jrwhitney@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 09/14/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 09/15/2005

AUTHORIZED BY: David N. Sundwall, Executive Director

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

R426-5. Statewide [~~Hospital~~]Trauma [~~Categorization~~]System Standards.

R426-5-1. Authority and Purpose.

(1) Authority - This rule is established under [~~Sections 26-8-4 and 26-8-5~~]Title 26, Chapter 8a, Part 2A, Statewide Trauma System, which authorizes the Department to:

(a) establish and actively supervise a statewide trauma system;[~~The Department to develop hospital critical care categorization guidelines and treatment protocols for trauma and~~]

(b) [~~The EMS Committee to approve critical care categorization guidelines and treatment protocols~~]establish, by rule, trauma center designation requirements and model state guidelines for triage, treatment, transport and transfer of trauma patients to the most appropriate health care facility; and

(c) designate trauma care facilities consistent with the [~~approved guidelines~~]the trauma center designation requirements and verification process.

(2) This rule provides standards for the categorization of all hospitals and the voluntary designation of [~~hospital~~]Trauma Centers [~~which will be of assistance~~]to assist physicians in selecting the most appropriate physician and facility based upon the nature of the patient's critical care problem and the capabilities of the facility.

(3) It is intended that the categorization process be dynamic and updated periodically to reflect changes in national standards, medical facility capabilities, and treatment processes. Also, as suggested by the Utah Medical Association, the standards are in no way to be construed as mandating the transfer of any patient contrary to the wishes of his attending physician, rather the standards serve as an expression of the type of facilities and care available in the respective hospitals for the use of physicians requesting transfer of patients requiring skills and facilities not available in their own hospitals.

R426-5-2. [~~Definitions~~]Trauma System Advisory Committee.

[~~As used in R426-5:~~

~~(1) Categorization means the process of identifying and developing a stratified profile of Utah hospital trauma critical care capabilities in relation to the standards defined under R426-5-8.~~

~~(2) Department means the Utah Department of Health.~~

~~(3) Director means the Executive Director of the Utah Department of Health.~~

~~(4) EMS Committee means The State Emergency Medical Services Committee.~~

~~(5) Inclusive Trauma System means the coordinated component of the State emergency medical services (EMS) system composed of all general acute hospitals licensed under Title 26, Chapter 21, trauma centers, and prehospital providers which have established communication linkages and triage protocols to provide for the effective management, transport and care of all injured patients from initial injury to complete rehabilitation.~~

~~(6) Level of care means the capabilities and commitment to the care of the trauma patient available within a specified facility.~~

~~(7) Patient means an individual who, as the result of illness or injury, needs immediate medical attention, whose physical or mental condition presents an imminent danger of loss of life or significant health impairment, or who may be otherwise incapacitated or helpless as a result of a physical or mental condition.~~

~~(8) Trauma Center means a hospital or consortium of hospitals that meets the standards set forth in R426-5 and is designated by the EMS Committee to function at a specified categorization level.~~

~~(9) Verification means determination by the EMS Committee that trauma centers have maintained and are in compliance with standards set forth in R426-5.~~](1) The trauma system advisory committee, created pursuant to 26-8a-251, shall:

(a) be a broad and balanced representation of healthcare providers and health care delivery systems; and

(b) conduct meetings in accordance with committee procedures established by the Department and applicable statutes.

(2) The Department shall appoint committee members to serve terms from one to four years.

(3) The Department may re-appoint committee members for one additional term in the position initially appointed by the Department.

(4) Causes for removal of a committee member include the following:

(a) more than two unexcused absences from meetings within 12 calendar months;

(b) more than three excused absences from meetings within 12 calendar months;

(c) conviction of a felony; or

(d) change in organizational affiliation or employment which may affect the appropriate representation of a position on the committee for which the member was appointed.

R426-5-3. Trauma Center Categorization Guidelines.

(1) To establish a basis for trauma center categorization and designation, the Department shall utilize trauma center criteria established in the 1995 Utah Trauma System Plan[~~ as approved by the EMS committee~~]. The criteria takes into consideration current national standards for trauma center categorization.

R426-5-4. Trauma Review Committee.

(1) The Department shall appoint a Trauma Review Committee. The committee shall annually evaluate trauma centers and applicants for compliance to standards set in R426-5-2 for verification. The committee shall report results to the [~~EMS Committee~~]Department. The committee shall be composed of the following persons:

(a) one surgeon, knowledgeable in trauma;

(b) one emergency physician;

(c) one nurse;

(d) one hospital administrator; and

(e) one Department representative.

(2) With the exception of the Department representative, tenure shall be three years. Initial appointments for the physicians, nurse and hospital administrator shall be for three, two and one year(s), respectively. Committee members may be reappointed. A physician representative shall serve as committee chair.

(3) Trauma Review Committee members shall not review their own hospitals. When this situation arises, the Department shall appoint a temporary alternate member.

R426-5-7. Trauma Center Verification Process.

(1) All designated Trauma Centers desiring to remain designated, shall apply for verification by submitting the following information to the Department at least six months prior to the anniversary date of initial designation:

(a) A completed and signed application and appropriate fees for trauma center verification;

(b) A letter from the hospital administrator of continued commitment to comply with current trauma center designation standards as applicable to the applicant's designation level;

(c) The data specified under R426-5-8;

(d) The minutes of pertinent hospital committee meetings for the previous year as specified by the Trauma Review Subcommittee, for example, trauma conferences, surgical morbidity and mortality meetings, emergency department or trauma death audits.

(e) A brief narrative report of trauma outreach education activities for the previous year;

(f) A brief narrative report of trauma research activities for the previous year including protocols and publications.

(2) All trauma centers desiring to apply for verification shall submit the required application and appropriate fees to the Department no later than January 1.

(3) Upon receipt of a verification application from the Department, accompanied by the information specified under R426-5-7(1)(a) through (f), the Trauma Review Committee shall conduct a review and report the results to the [~~EMS Committee~~]Department.

(4) Every three years, the Level I and II Trauma Centers must submit written documentation detailing the results of an American College of Surgeons site visit.

(5) Every three years from the date of initial designation or from a date specified by the Department, the Trauma Review Subcommittee shall conduct a formal site visit for each designated Level III, IV, or V trauma center and report the results to the [~~EMS Committee~~]Department.

(6) The Department and the Trauma Review Committee may conduct activities with any designated trauma center to verify compliance with designation requirements which may include:

(a) Site visits to observe, unannounced, an actual trauma resuscitation, including the care and treatment of a trauma patient.

(b) Interview or survey prehospital care providers who frequent the trauma center, to ascertain that the pledged level of trauma care commitment is being maintained by the trauma center.

R426-5-8. Data Requirements for an Inclusive Trauma System.

(1) All hospitals[~~Designated trauma centers~~] shall collect, and quarterly submit to the Department, Trauma Registry information necessary to maintain an inclusive trauma system until December 31, 2006. The Department shall provide funds to hospitals, excluding designated trauma centers, for the data collection process. The inclusion criteria for a trauma patient is as follows:

(a) ICD9 Diagnostic Codes between 800 and 959.9 (trauma); or
760.5 (fetus or newborn affected by trauma); or
641.8 (antepartum history due to trauma); or
518.5 (pulmonary embolism due to trauma); and

(b) Any of the following patient conditions:
admitted to the hospital for 48 hours or longer; transferred in or out of your hospital; died; all air ambulance transports (including death in transport and patients flown in but not admitted to the hospital).

The information shall be in a standardized electronic format specified by the Department which includes:

(i) Demographics:
Database Record Number
Institution ID number
Medical Record Number

Social Security Number
Patient Home Zip Code
Sex
Date of Birth
Age Number and Units
(ii) Injury:
Date of Injury
Time of Injury
City of Injury
State of Injury
Zip Code of Injury
Blunt, Penetrating, or Burn Injury
Cause of Injury Description
Cause of Injury Code
Cause of Injury E-code
Site/Location of Injury
Work Related Injury (y/n)
(iii) Prehospital:
Name of EMS Service
Transport Origin Scene or Referring Facility
Trip Form Obtained (y/n)
Arrival Time at (First) Hospital
Arrival Date at Hospital
(iv) Referring Hospital:
Transfer from Another Hospital (y/n)
Name or Code
Arrival Date
Arrival Time
Discharge Date
Discharge time
Transfer Mode
Admitted or ER
Procedures
Pulse
Capillary Refill
Respiratory Rate
Respiratory Effort
Blood Pressure
Eye Movement
Verbal Response
Motor Response
Glascow Coma Score Total
Revised Trauma Score Total
(v) Emergency Department Information:
Mode of Transport
Arrival Date
Arrival Time
Discharge Time
Discharge Date
Pulse
Capillary Refill
Respiratory Rate
Respiratory Effort
Blood Pressure
Eye Movement
Verbal Response
Motor Response
Arrival Glascow Coma Score Total
Revised Trauma Score Total
(vi) Emergency Department Treatment:
Procedures Done (pick list)
Paralytics used prior to GCS (y/n)
Disposition
(vii) Admission Information:
Admit from ER or Direct Admit
Admitted from what Source
Time of Hospital Admission
Date of Hospital Admission
(viii) Hospital Diagnosis:
ICD9 Diagnosis Codes
AIS 90 or 95 Used?
AIS Score for Diagnosis (calculated)
Injury Severity Score
(ix) Operations/Procedures:
ICD9 Codes
(x) Quality Assurance Indicators:
None
(xi) Complications:
None
(xii) Outcome:
Discharge Time
Discharge Date
Total Days Length of Stay
Disposition from Hospital
Destination Facility
GCS Outcome Score
(xiii) Charges:
Payment Sources

R426-5-9. Noncompliance to Standards.

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

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

R426-5-10. Statutory Penalties.

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

KEY: emergency medical services
[~~September 23, 1997~~]2005
Notice of Continuation December 9, 1997
26-8a

Insurance, Administration
R590-85
Individual Accident and Health Insurance and Individual and Group Medicare Supplement Rates

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 28117
FILED: 07/29/2005, 16:04

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being updated as required by new rulemaking authority and at the request of the health insurance industry to clarify points in the rules.

SUMMARY OF THE RULE OR CHANGE: This rule adds additional rulemaking authority to Section R590-85-1 of the rule. This authority comes as a result of the passage of S.B. 190 in 2000. The rule clarifies the need for insurers to file both nationwide and state premium and claim experience. Rate increases may only be filed once every 12 months. An insurer that fails to implement a rate increase within 12 months of its filing will need to refile. (DAR NOTE: S.B. 190 (2000) is found at UT L 2000 Ch 114, and was effective 05/01/2000.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 31A-2-201, 31A-2-201.1, 31A-22-605, and 31A-22-620

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: The changes to this rule will not require anything new of department licensees, therefore, there will be no change in filings required or fees paid to the department or the state budget.
❖ LOCAL GOVERNMENTS: This rule only applies to the relationship between the Insurance Department and their licensees. It does not affect local government laws or procedures.
❖ OTHER PERSONS: Health insurers that fail to implement a rate change within 12 months of filing it will be required to refile the rates increase. This will cost the insurer additional time to refile and a minor amount to mail it in. There should be no additional cost impact on consumers.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Health insurers that fail to implement a rate change within 12 months of filing it will be required to refile the rates increase. This will cost the insurer additional time to refile and a minor amount to mail it in. There should be no additional cost impact on consumers.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The changes to this rule should have minimal fiscal impact on the health insurance industry in Utah. D. Kent Michie, Commissioner

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
INSURANCE
ADMINISTRATION
Room 3110 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY UT 84114-1201, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Jilene Whitby at the above address, by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at jwhitby@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 09/14/2005

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 9/08/2005 at 9:00 AM, State Office Building, Room 3112, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 09/15/2005

AUTHORIZED BY: Jilene Whitby, Information Specialist

R590. Insurance, Administration.
R590-85. Individual Accident and Health Insurance and Individual and Group Medicare Supplement Rates.
R590-85-1. Purpose and Authority.

The purpose of this rule is to implement Subsections 31A-22-605(4)(e) and 31A-22-620(3)(e) by establishing minimum loss ratios and implementing procedures for the filing of all individual accident and health insurance and all Medicare supplement premium rates, including the initial filing of rates, and [~~also~~]any subsequent rate changes. This rule is promulgated pursuant to the authority vested in the commissioner by Subsections 31A-2-201(3)(a) and 31A-2-201.1.

R590-85-2. Applicability and Scope.

(1) This rule shall apply to:

(a) all individual accident and health insurance policies except as excluded under Subsection 2; and

(b) certificates issued under group Medicare supplement policies.

(2) This rule does not apply to:

(a) policies subject to Chapter 30 that comply with Rule R590-167; and

(b) long-term care policies subject to Rule R590-148-[~~21~~]22.

(3) The requirements contained in this rule shall be in addition to any other applicable rules previously adopted.

R590-85-4. General Requirements.

(1) When Rate Filing is Required.

(a) Every filing for a policy, certificate or endorsement affecting benefits shall be accompanied by a rate filing that complies with this rule.

(b) A rate filing is not required for an endorsement that has no rating effect.

(c) Any subsequent addition to or change in rates applicable to the policy or endorsement shall also be filed prior to use.

(2) General Contents of All Rate Filings. Each rate submission shall include:

(a) rate sheets for current and proposed rates, if applicable, that are clearly identified;

(b) actuarial memorandum describing the basis on which rates were determined, [~~that~~]which includes:

(i) description of the [~~type of~~]policy, benefits, renewability, general marketing methods, and issue age limits;

(ii) description of how rates were determined, including a general description and source of each assumption used;

(iii) estimated average annual premium per policy for Utah;

(iv) anticipated loss ratio of the present value of the expected benefits to the present value of the expected premiums over the entire period for which rates are computed to provide coverage. Interest shall be used in the calculation;

(v) minimum anticipated loss ratio presumed reasonable in R590-85-5(1); and

(vi) signed certification by a qualified actuary which states that to the best of the actuary's knowledge and judgment the rate filing is in compliance with the applicable laws and rules of the state of Utah and the benefits are reasonable in relation to the premiums charged; and

(c) a statement that the rates have been filed with and approved by the home state. If approval is not required by the home state, then alternative information which includes a list of the states to which the rates were submitted, the date submitted, and any responses, must be included.

(3) Previously Filed Form. Filing a rate change for a previously filed [~~policy, Medicare certificate or endorsement~~]rate shall include the following:

(a) a statement of the scope and reason for the change;

(b) a description of how revised rates were determined, including the general description and source of each assumption used;

(c) an estimated average annual premium per policy in Utah, before and after the proposed rate increase;

(d) a comparison of Utah and average nationwide premiums, [~~either~~]for representative rating cells [~~or of average premiums~~]based on the [~~same assumed~~]Utah distribution of business;

(e) a comparison of revised premiums with current scale;

(f) a statement as to whether the filing applies to new business, in-force business, or both, and the reasons;

(g) a detailed history of [~~the~~]national experience, which includes[~~including at least~~] the data [~~indicated~~]in Subsection 4(4) [~~which~~]that shows on a yearly and durational basis:

(i) premiums received;

(ii) earned premiums;

(iii) benefits paid;

(iv) incurred benefits;

(v) increase in active life reserves;

(vi) increase in claim reserves;

(vii) incurred loss ratio;

(viii) cumulative loss ratio; and

(ix) any other available data the insurer may wish to provide[~~.~~];

(h) detailed history of Utah experience, which includes the data in Subsection 4(4) that shows on a yearly basis:

(i) earned premiums;

(ii) incurred benefits;

(iii) incurred loss ratio; and

(iv) cumulative loss ratio;[~~if the rate revision applies to in-force business.~~]

(i) anticipated nationwide future loss ratio[~~ and description of how it was calculated; and~~], which includes:

(ii) projected premiums;

(ii) projected claims; and

(iii) projected loss ratio; and

(iv) assumptions and calculations. Interest shall be used in the calculation;

(j) anticipated Utah future loss ratio, which includes:

(i) projected premiums;

(ii) projected claims; and

(iii) projected loss ratio; and

(iv) description of assumptions and calculations. Interest shall be used in the calculation;

([~~ii~~]k) [~~estimated~~]cumulative past and projected future loss ratio and description of the calculation[~~how this was calculated~~];

([~~i~~]l) the number of policyholders residing in the state of Utah[~~, claims incurred or paid for such policyholders, and either premiums in force, premiums earned, or premiums collected for the policyholders~~]; and

([~~j~~]m) the date and magnitude [~~listed separately for~~]of all previous rate changes.

(4) Experience Records

(a) An [~~I~~]insurer shall maintain records of premiums collected, earned premiums, benefits paid, incurred benefits and reserves for each calendar year, for each policy form, and applicable endorsements. The records shall be maintained as required for the Accident and Health Policy Experience Exhibit.

(i) Separate data may be maintained for each endorsement to the extent appropriate.

(ii) Experience under policies that provide substantially similar coverage may be combined. The data shall be for all years of issue combined, for each calendar year of experience since the year the form was first issued.

(b) A rate revision must provide the information required in Subsection (4)(a) on both a national and state basis.[~~In the case where premium rates vary by state, or other geographical area, insurers are required to tabulate pertinent data as required in Subsection (4)(a), which will show their relative experience in Utah or other geographical area containing Utah.~~]

(5) Evaluating Experience Data. In determining the credibility and appropriateness of experience data, due consideration must be given to all relevant factors, such as:

(a) statistical credibility of premiums and benefits, for example low exposure or low loss frequency;

(b) experience and projected trends relative to the kind of coverage, for example: persistency, inflation in medical expenses, or economic cycles affecting disability income experience;

(c) concentration of experience at early policy durations where select morbidity and preliminary term reserves are applicable and where loss ratios are expected to be substantially lower than at later policy durations; and

(d) the mix of business by risk classification.

(6) A rate increases may only be requested once every 12 months.

(7) Implementation of a filed rate increase must be initiated within 12 months from the filed date. A company forfeits the right to implement an increase if they fail to initiate implementation within 12 months of the filed date.

(8) A filing may be rejected or prohibited if the company fails to submit all required information.

R590-85-5. Reasonableness of Benefits in Relation to Premium.

(1) With respect to a new form under which the average annual premium per policy is expected to be at least $200, [~~benefits shall be deemed reasonable in relation to premiums provided~~]the anticipated loss ratio [~~is~~]shall be at least as great as shown below in this subsection:

(a) Medical Expense Coverage. The minimum loss ratio for:

(i) an optionally renewable form is 60%;

(ii) a conditionally renewable form is 55%;

(iii) a guaranteed renewable form is 55%; and

(iv) a non-cancelable form is 50%.

(b) Income Replacement. The minimum loss ratio for:

(i) an optionally renewable form is 60%;
(ii) a conditionally renewable form is 55%;
(iii) a guaranteed renewable form is 50%; and
(iv) a non-cancelable form is 45%.

(c) For a policy form, including endorsements, under which the expected average annual premium per policy is:

(i) $100 or more but less than $200, subtract five percentage points; or

(ii) less than $100 subtract 10 percentage points.

(d) For Medicare supplement policies, benefits shall be deemed reasonable in relation to premiums provided the anticipated loss ratio meets the requirements of Rule R590-146-14.

(2) Rate Changes. With respect to the filing of a rate change for a previously filed form, [~~benefits shall be deemed reasonable in relation to premiums provided~~]the standards of this subsection [~~are~~]shall be met.

(a) Both (i) and (ii) as follows shall be at least as great as the standards in Subsection 5(1) and shall include interest in the calculation of benefits, premiums and present values:

(i) the anticipated loss ratio over the entire period for which the changed rates are computed to provide coverage; and

(ii) the ratio of (A) and (B); where

(A) is the sum of the accumulated benefits, from the original effective date of the form to the effective date of the change, and the present value of future benefits; and

(B) is the sum of the accumulated premiums from the original effective date of the form to the effective date of the change and the present value of future premiums, the present values to be taken over the entire period for which the changed rates are computed to provide coverage, and the accumulated benefits and premiums to include an explicit estimate of the actual benefits and premiums from the last date an accounting was made to the effective date of the change.

(b) If an insurer wishes to charge a premium for policies issued on or after the effective date of the change, which is different from the premium charged for the policies issued prior to the change date, then with respect to policies issued prior to the effective date of the change the requirements of Subsection R590-85-2(a) must be satisfied, and with respect to policies issued on and after the effective date of the change, the standards are the same as in Subsection 5(1), except that the average annual premium shall be determined based on an actual rather than an anticipated distribution of business.

(c) Companies must review their experience periodically and file rate changes, as appropriate, in a timely manner to avoid the necessity of later filing of exceptionally large rate increases. A rate filing requesting an increase may be prohibited if a company has failed to file rate changes in a timely manner.

KEY: insurance law
[~~June 13, 2003~~]2005
Notice of Continuation April 24, 2002
31A-2-201
31A-22-605
31A-22-620

▼ ———————————————— ▼

Insurance, Administration
R590-145
Accelerated Benefits Rule

NOTICE OF PROPOSED RULE
(Repeal)
DAR FILE NO.: 28099
FILED: 07/26/2005, 09:53

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule was necessary to give guidance when accelerated benefits were first sold to the public. Now the life insurance industry has advanced to the point that this rule is no longer needed, and in fact, it is now restricting innovative accelerated benefit products. As a result, it has been decided that this rule should be repealed.

SUMMARY OF THE RULE OR CHANGE: This rule is repealed in its entirety.

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

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: The repeal of this rule will have no immediate impact on the department's workload and no immediate or future fiscal impact on it or the state's budget. The only possible future impact to the department would be an increase in filings of accelerated benefit products. This would not require a change in department personnel or in their budget or revenues.
❖ LOCAL GOVERNMENTS: This rule only applies to the relationship between the Insurance Department and their licensees. Therefore, there are no costs or savings to local government.
❖ OTHER PERSONS: The repeal of this rule could allow for more accelerated benefits to be provided to the public. Accelerated benefits allow for the advancement of cash to terminally ill insureds with life policies. The fiscal impact of this repeal is unknown but the availability of cash to those in need may increase.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The repeal of this rule could allow for more accelerated benefits to be provided to the public. Accelerated benefits allow for the advancement of cash to terminally ill insureds with life policies. The fiscal impact of this repeal is unknown but the availability of cash to those in need may increase.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: With more innovative life accelerated benefit products available, life insurers doing business in Utah should experience increased income. D. Kent Michie, Commissioner

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
INSURANCE
ADMINISTRATION
Room 3110 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY UT 84114-1201, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Jilene Whitby at the above address, by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at jwhitby@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 09/14/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 09/15/2005

AUTHORIZED BY: Jilene Whitby, Information Specialist

R590. Insurance, Administration.
[R590-145. Accelerated Benefits Rule.
R590-145-1. Purpose.

The purpose of this Rule is to regulate accelerated benefit provisions of individual and group life insurance policies and to provide required standards of disclosure. This Rule shall apply to all accelerated benefits provisions of individual and group life insurance policies, except those subject to the Long-Term Care provisions of Title 31A, issued or delivered in this state, on or after the effective date of this Rule.

R590-145-2. Definitions.

A. "Accelerated benefits" covered under this Rule are benefits payable under a life insurance contract:

(1) To a policyowner or certificateholder, during the lifetime of the insured, in anticipation of death or upon the occurrence of specified life threatening or catastrophic conditions as defined by the policy or rider; and

(2) Which reduce the death benefit otherwise payable under the life insurance contract; and

(3) Which are payable upon the occurrence of a qualifying event which results in the payment of a benefit amount fixed at the time of acceleration.

B. "Qualifying event" shall mean one or more of the following:

(1) A medical condition which would result in a drastically limited life span as specified in the contract, for example, 24 months or less; or

(2) A medical condition which has required or requires extraordinary medical intervention, such as, but not limited to, major organ transplant or continuous artificial life support, without which the insured would die; or

(3) Any condition which usually requires continuous confinement in an eligible institution as defined in the contract if the insured is expected to remain there for the rest of his or her life; or

(4) A medical condition which would, in the absence of extensive or extraordinary medical treatment, result in a drastically limited life span. Such conditions may include, BUT ARE NOT LIMITED TO, one or more of the following:

(a) Coronary artery disease resulting in an acute infarction or requiring surgery;

(b) Permanent neurological deficit resulting from cerebral vascular accident;

(c) End stage renal failure;

(d) Acquired Immune Deficiency Syndrome; or

(e) Other medical conditions which the commissioner shall approve for any particular filing; or

(5) Other qualifying events which the commissioner shall approve for any particular filing.

R590-145-3. Type of Product.

Accelerated benefit riders and life insurance policies with accelerated benefit provisions are primarily mortality risks rather than morbidity risks. They are life insurance benefits subject to 31A-22-400 et seq. and 31A-22-501 et seq.

R590-145-4. Assignee/Beneficiary.

Prior to the payment of the accelerated benefit, the insurer is required to obtain from any assignee or irrevocable beneficiary a signed acknowledgment of concurrence for pay out. If the insurer making the accelerated benefit is itself the assignee under the policy, no such acknowledgment is required.

R590-145-5. Criteria for Payment.

A. Lump Sum Settlement Option Required.

Contract payment options shall include the option to take the benefit as a lump sum. The benefit shall not be made available as an annuity contingent upon the life of the insured.

B. Restrictions on Use of Proceeds.

No restrictions are permitted on the use of the proceeds.

C. Accidental Death Benefit Provision

If any death benefit remains after payment of an accelerated benefit, the accidental death benefit provision, if any, in the policy or rider shall not be affected by the payment of the accelerated benefit.

R590-145-6. Disclosures.

A. Descriptive Title.

The terminology "accelerated benefit" shall be included in the descriptive title. Products regulated under this Rule shall not be described or marketed as long-term care insurance or as providing long-term care benefits.

B. Solicitations.

(1) A written disclosure including, but not necessarily limited to, a brief description of the accelerated benefit and definitions of the conditions or occurrences triggering payment of the benefits shall be given to the applicant. The description shall include an explanation of any effect of the payment of a benefit on the policy's cash value, accumulation account, death benefit, premium, policy loans and policy liens.

(a) In the case of agent solicited insurance, the agent shall provide the disclosure form to the applicant when the policy is delivered or prior to delivery of the policy if so requested.

(b) In the case of a solicitation by direct response methods, the insurer shall provide the disclosure form to the applicant at the time the policy is delivered, with a notice that a full premium refund shall be received if the policy is returned to the company within the free examination period.

(c) In the case of group insurance policies, the disclosure form shall be contained as part of the certificate of coverage or any related document furnished by the insurer for the certificateholder.

(2) If there is a premium or cost of insurance charge for the accelerated benefit, the insurer shall give the applicant a generic illustration numerically demonstrating any effect of the payment of a benefit on the policy's cash value, accumulation account, death benefit, premium, policy loans and policy liens.

(a) In the case of agent solicited insurance, the agent shall provide the illustration to the applicant when the policy is delivered or prior to delivery of the policy if so requested.

(b) In the case of a solicitation by direct response methods, the insurer shall provide the illustration to the applicant at the time the policy is delivered.
(c) In the case of group insurance policies, the disclosure form shall be contained as part of the certificate of coverage or any related document furnished by the insurer for the certificateholder.
C. Disclosure of Benefit Costs.
(1) Insurers with cost options as described in Section 10 A(1) of this Rule shall disclose to the policyowner any premium or cost of insurance charge for the accelerated benefit. These insurers shall make a reasonable effort to assure that the certificateholder is aware of any additional premium or cost of insurance charge if the certificateholder is required to pay such charge.
(2) Insurers with cost options as described in Section 10 A(2) of this Rule shall disclose to the policyowner a description of the basis of the calculation to be used in determining the cost of the accelerated benefit. Included in the disclosure shall be the administrative expense charge, if any, and the interest rate, if any, or the interest rate methodology. The insurer shall make a reasonable effort to assure that the certificateholder is aware of any additional charge if the certificateholder is required to pay such charge.
(3) Insurers with cost options as described in Section 10 A(3) of this Rule shall disclose the interest rate, if any, or interest rate methodology and the administrative expense charge, if any, to the policyowner. The insurer shall make a reasonable effort to assure that the certificateholder is aware of any additional charge if the certificateholder is required to pay such charge.
(4) Insurers shall furnish an actuarial memorandum demonstrating to the state insurance department when filing the product disclosing the method of arriving at their cost for the accelerated benefit.
(5) No charges may be made in connection with accelerated benefits other than as authorized in this Rule. An insurer may charge an administrative expense charge for expenses incurred for obtaining medical records and reports to determine eligibility for accelerated benefits and may charge a fee for expenses incurred for evaluating and processing the accelerated benefit claim. The insurer shall disclose the administrative expense charge, if any, and fee, if any, in the policy or rider and in the actuarial memorandum. The insurer shall make a reasonable effort to assure that the certificateholder is aware of any administrative expense charge or fee if the certificateholder is required to pay such charge.
D. Effect of the Benefit Payment.
When a policyowner or certificateholder requests an acceleration, the insurer shall send a statement to the policyowner or certificateholder and irrevocable beneficiary showing any effect that the payment of the accelerated benefit will have on the policy's cash value, accumulation account, death benefit, premium, policy loans and policy liens. The statement shall disclose that receipt of accelerated benefit payments may adversely affect the recipient's eligibility for Medicaid or other government benefits or entitlements. In addition, receipt of an accelerated benefit payment may be taxable and assistance should be sought from a personal tax advisor. When a previous disclosure statement becomes invalid as a result of an acceleration of the death benefit, the insurer shall send a revised disclosure statement to the policyowner or certificateholder and irrevocable beneficiary. When the cost option is as described in Section 10A(3) of this Rule, the insurer shall provide periodic statements at least annually to the policyholder or certificateholder as to the effects on policy values and benefits. When the insurer agrees to accelerate death benefits, the insurer shall issue an amended schedule page to the policyholder or notify the certificateholder under a group policy to reflect any new, reduced in-force face amount of the contract.

R590-145-7. Effective Date of the Accelerated Benefits.
The accelerated benefit provision shall be effective for accidents on the effective date of the policy or rider. The accelerated benefit provision shall be effective for illness no more than 30 days following the effective date of the policy or rider.

R590-145-8. Waiver of Premiums.
The insurer may offer a waiver of premium for the accelerated benefit provision in the absence of a regular waiver of premium provision being in effect. At the time the benefit is claimed, the insurer shall explain any continuing premium requirement to keep the policy in force.

R590-145-9. Discrimination.
Insurers shall not unfairly discriminate among insureds with differing qualifying events covered under the policy or among insureds with similar qualifying events covered under the policy. Insurers shall not apply further conditions on the payment of the accelerated benefits other than those conditions specified in the policy or rider.

R590-145-10. Actuarial Standards.
A. Methods of Determining Accelerated Benefits Costs
An insurer may use one of the following methods in determining accelerated benefits costs.
(1) The insurer may require a premium charge or cost of insurance charge for the accelerated benefit. These charges shall be based on sound actuarial principles. In the case of group insurance, the additional cost may also be reflected in the experience rating.
(2) The insurer may pay a present value of the face amount. The calculation shall be based on any applicable actuarial discount appropriate to the policy design which may include a reasonable administrative expense charge. The interest rate or interest rate methodology used in the calculation shall be based on sound actuarial principles and disclosed in the contract or actuarial memorandum. The maximum interest rate used shall be no greater than the greater of:
(a) The current yield on 90 day treasury bills; or
(b) The current maximum statutory adjustable policy loan interest rate.
(3) The insurer may accrue a lien interest charge on the amount of the accelerated benefits. The interest rate or interest rate methodology used in the calculation shall be disclosed in the accelerated benefit contract or actuarial memorandum. The maximum interest rate used shall be no greater than the greater of:
(a) The current yield on 90 day treasury bills; or
(b) the current maximum statutory adjustable policy loan interest rate. The interest rate accrued on the portion of the lien which is equal in amount to the cash value of the contract at the time of the benefit acceleration shall be no more than the policy loan interest rate stated in the contract.
B. Effect on Cash Value.
(1) Except as provided in Section 10 B(2), when an accelerated benefit is payable, there shall be no more than a pro rata reduction in the cash value based on the percentage of death benefits accelerated to produce the accelerated benefit payment.
(2) Alternatively, the payment of accelerated benefits, any actual expense charges, any future premiums and any accrued interest can be considered a lien against the death benefit of the policy or rider and the access to the cash value may be restricted to any excess of the cash

~~value over the sum of any other outstanding loans and the lien. Future access to additional policy loans must be limited to any excess of the cash value, which includes accrued dividends over the sum of the lien and any other outstanding policy loans.~~

~~C. Effect of Any Outstanding Policy Loans on Accelerated Death Benefit Payment.~~

~~When payment of an accelerated benefit results in a pro rata reduction in the cash value, the payment may not be applied toward repaying an amount greater than a pro rata portion of any outstanding policy loans.~~

~~**R590-145-11. Actuarial Disclosure and Reserves.**~~

~~A. Actuarial Memorandum~~

~~A qualified actuary should describe the accelerated benefits, the risks, the expected costs and the calculation of statutory reserves in an actuarial memorandum accompanying each state filing. The insurer shall maintain in its files descriptions of the bases and procedures used to calculate benefits payable under these provisions. These descriptions shall be made available for examination by the commissioner upon request.~~

~~B. Reserves~~

~~(1) When benefits are provided through the acceleration of benefits under group or individual life policies or riders to such policies, policy reserves shall be determined in accordance with the Standard Valuation Law. All valuation assumptions used in constructing the reserves shall be determined as appropriate for statutory valuation purposes by a Member in good standing of the American Academy of Actuaries. Mortality tables and interest currently recognized for life insurance reserves by the NAIC may be used as well as appropriate assumptions for the other provisions incorporated in the policy form. The actuary must follow both actuarial standards and certification for good and sufficient reserves. Reserves in the aggregate should be sufficient to cover:~~

~~(a) Policies upon which no claim has yet arisen.~~

~~(b) Policies upon which an accelerated claim has arisen.~~

~~(2) For policies and certificates which provide actuarially equivalent benefits, no additional reserves need to be established.~~

~~(3) Policy liens and policy loans, including accrued interest, represent assets of the company for statutory reporting purposes. For any policy on which the policy lien exceeds the policy's statutory reserve liability such excess must be held as a non-admitted asset.~~

~~**KEY: insurance companies**~~
~~**1991**~~
~~**Notice of Continuation October 25, 2001**~~
~~**31A-2-201**~~**]**

Insurance, Administration

R590-148-21

Loss Ratio

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 28098
FILED: 07/21/2005, 07:24

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The change to this rule is being made to replace a change made to Section R590-148-22 that was filed 04/29/2005, and to clarify that long-term care rate filings must not only comply with this rule, R590-148, but they must also comply with the requirements of Rule R590-85, Individual Disability Insurance Forms and Individual and Group Medicare Rates. (DAR NOTE: The filing for Section R590-148-22 was published in the May 15, 2005, issue of the Bulletin under DAR No. 27844. However, the agency realized this was the wrong section to make those changes in so they are going to allow that filing to lapse and proceed with this filing.)

SUMMARY OF THE RULE OR CHANGE: The new wording being added to Section R590-148-21 clarifies that a health insurer's long-term care rate filing must also comply with Rule R590-85. (DAR NOTE: The proposed amendment to Rule R590-85 is under DAR No. 28117 in this issue.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 31A-2-201 and 31A-22-1404

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The changes to this section will not require anything new of department licensees, therefore, there will be no change in filings required or fees paid to the department or state's budget.

❖ LOCAL GOVERNMENTS: This section only applies to the relationship between the Insurance Department and their licensees. It does not affect local government laws or procedures.

❖ OTHER PERSONS: The changes to this section will create no change in what is already required of insurers of long-term care insurance. It simply clarifies that they must also comply with Rule R590-85. As a result, this change will have no fiscal impact on insurers or their insureds.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The changes to this section will create no change in what is already required of insurers of long-term care insurance. It simply clarifies that they must also comply with Rule R590-85. As a result, this change will have no fiscal impact on insurers or their insureds.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The changes to this section will create no fiscal impact on Utah businesses. D. Kent Michie, Commissioner

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
Jilene Whitby at the above address, by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at jwhitby@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 09/14/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 09/15/2005

AUTHORIZED BY: Jilene Whitby, Information Specialist

R590. Insurance, Administration.
R590-148. Long-Term Care Insurance Rule.
R590-148-21. Loss Ratio.

(1) This section shall apply to all individual long-term care insurance except those covered in Sections R590-148-22 and R590-148-24.

(2) Benefits under individual long-term care insurance policies shall be deemed reasonable in relation to premiums provided the expected loss ratio is at least 60%, calculated in a manner which provides for adequate reserving of the long-term care insurance risk.

(3) In evaluating the expected loss ratio, due consideration shall be given to all relevant factors, including:

(a) statistical credibility of incurred claims experience and earned premiums;
(b) the period for which rates are computed to provide coverage;
(c) experienced and projected trends;
(d) concentration of experience within early policy duration;
(e) expected claim fluctuation;
(f) experience refunds, adjustments or dividends;
(g) renewability features;
(h) all appropriate expense factors;
(i) interest;
(j) experimental nature of the coverage;
(k) policy reserves;
(l) mix of business by risk classification; and
(m) product features such as long elimination periods, high deductibles and high maximum limits.

(4) The premiums charged to an insured for long-term care insurance may not increase due to either:

(a) the increasing age of the insured at ages beyond 65; or
(b) the duration the insured has been covered under the policy.

(5) Rate filings documents must contain all information required in R590-85-4.

KEY: insurance
[~~April 28,~~]2005
Notice of Continuation August 14, 2002
31A-2-201
31A-22-1404

Insurance, Administration
R590-152
Medical Discount Programs Rule

NOTICE OF PROPOSED RULE
(Repeal and Reenact)
DAR FILE NO.: 28118
FILED: 07/29/2005, 17:31

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being changed to comply the creation of Chapter 8a of Title 31A, effective September 1, 2005, as a result of the passage of H.B. 70 (2005). (DAR NOTE: H.B. 70 is found at UT L 2005 Ch 58, and will be effective 09/01/2005.)

SUMMARY OF THE RULE OR CHANGE: Provisions lost as a result of the repeal are: 1) the scope of the rule is being changed to reference health discounts programs. Medical discount programs must now fall under the definition of a health discount program which will be more closely regulated; and 2) medical discount programs are no longer be exempt from Title 31A as a result of 2005 legislation and these changes to this rule. Significant new provisions are: 1) the new wording specifies what type of payment health discount programs may receive from health care provers; 2) adds requirements to provide individuals membership information, such as a list of providers and a toll-free number; 3) allows the commissioner to examine the company at the company's expense; 4) requires proof of actual savings to be provided to the commissioner upon request; 5) requires licensure; 6) restricts a company from changing its name without obtaining a new license; 7) requires advertisements to comply with Rule R590-130; 8) provides for required disclosures; 9) health discount program must have a written agreement with each provider; and 10) provides for a dispute resolution.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 31A-2-201, 31A-8a-201, 31A-8a,203, and 31A-8a-210

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: The department will experience increased filings submissions from Health Discount Programs. This will not require additional employees to handle. Also, the department, and ultimately the General Fund, will receive $1,077 for each Discount program that applies and is granted a new license. How many will apply for a license is not known at this time since they have not been regulated before.
❖ LOCAL GOVERNMENTS: The changes to this rule will have no fiscal impact on local governments since the changes deal with the relationship between the State Insurance Department and their licensees only.
❖ OTHER PERSONS: Discount programs will now be required to file policy and application forms with the department. The cost is an annual global fee that is based on the annual earned premiums written by the program. The discount program is also required to give enrollees a list of their providers, which will cost them money to produce, publish and mail. The discount program will also be required to pay the cost of a department examiner reviewing their books and marketing programs. Examination fees average $35 per hour per examiner. The costs of doing business are often passed on to the consumer. It is anticipated that the result of increased regulation of these programs, their products will be more

reliable and will more clearly disclose that the discount program is not insurance.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Discount programs will now be required to file policy and application forms with the department. The cost is an annual global fee that is based on the annual earned premiums written by the program. The discount program is also required to give enrollees A list of their providers, which will cost them money to produce, publish and mail. The discount program will also be required to pay the cost of a department examiner reviewing their books and marketing programs. Examination fees average $35 per hour per examiner. The cost of doing business are often passed on to the consumer. It is anticipated that the result of increased regulation of these programs, their products will be more reliable and will more clearly disclose that the discount program is not insurance.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This new rule will increase costs to health discount programs in Utah. They will now need to be licensed and their forms reviewed and their books examined to be sure they meet the requirements of this rule. These requirements are much the same as those required of any other insurance company doing business in Utah. D. Kent Michie, Commissioner

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
Jilene Whitby at the above address, by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at jwhitby@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 09/14/2005

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 9/08/2005 at 10:30 PM, State Office Building, Room 3112, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 09/15/2005

AUTHORIZED BY: Jilene Whitby, Information Specialist

R590. Insurance, Administration.
[~~R590-152. Medical Discount Programs Rule.~~
~~R590-152-1. Authority.~~
~~This rule is promulgated and adopted pursuant to Subsection 31A-1-103(3)(d) and Section 31A-2-201.~~

~~R590-152-2. Purpose.~~
~~The purpose of this rule is to exempt providers of certain medical discount programs from regulation under Chapter 8 of Title 31A and to define those so exempted.~~

~~R590-152-3. Definitions.~~
~~For the purposes of this rule, the following definition shall apply:~~
~~Medical Discount Program. A program established or operated by a third person which arranges for participating medical professionals to provide medical goods or services at a discount to a subscriber.~~

~~R590-152-4. Rule.~~
~~A. A medical discount program is a limited health plan as defined under 31A-8-101(6)(a) and must comply with the requirements of limited health plans unless otherwise exempted from regulation by this rule.~~
~~B. The commissioner, pursuant to 31A-1-103(3)(d), finds that medical discount programs that operate in accordance with all of the provisions of this rule, do not require regulation by the department for the protection of the interest of the residents of this state and that it would otherwise be impracticable to require compliance with the provisions of Title 31A.~~
~~C. An exempt medical discount program, pursuant to 31A-4-106 may not make any payments to providers for participation in the program or for the services performed, capitation payments, signing fees, bonuses, or other forms of compensation other than referral of the program subscribers to the provider.~~
~~D. An exempt medical discount program may provide discount or free services through its contracted providers to its subscribers in exchange for a periodic payment to the program or as a benefit in connection with membership in a particular group.~~
~~E. An exempt medical discount program must include the following disclosures in all contracts, booklets, advertising, and any presentations relating to the solicitation of the program:~~
~~(1) prominently state that the program is "Not Insurance" and that the program is a "Discount Program;"~~
~~(2) prominently state the following: "Note to Utah Residents: This contract is not protected by the Utah Life and Health Guaranty Association;" and~~
~~(3) prominently state that the program and the program administrators have no liability for providing or guaranteeing service and should state that they have no liability for the quality of service rendered.~~
~~F. A medical discount plan may not use in its title, name or description words usually associated with insurance, including "insurance," "premium," or "coverage," and may not refer to its sales representative as an "agent," "broker," "producer," or "consultant."~~

~~R590-152-5. Department Opinion.~~
~~Any program may request an opinion from the department as to whether it complies with the provisions of this rule and would, therefore, be exempt from the requirements of Title 31A.~~

~~R590-152-6. Enforcement Date.~~
~~The commissioner will begin enforcing the revised provision of this rule 45 days from the rule's effective date.~~

~~R590-152-7. Severability.~~
~~If any provision of this rule or the application thereof to any person or circumstance is for any reason held to be invalid, the~~

~~remainder of the rule and the application of such provision to other persons or circumstances shall not be affected thereby.~~

~~**KEY: insurance, medical discount plans**~~
~~**July 16, 2003**~~
~~**Notice of Continuation November 27, 2002**~~
~~**31A-1-103**~~
~~**31A-2-201**~~**]**

R590-152. Health Discount Programs Rule.

R590-152-1. Authority.

This rule is promulgated by the commissioner under 31A-2-201 to write rules to implement Title 31A, under 31A-8a-201(2)(ii) to set licensing requirements and filing forms, under 31A-8a-203(3) to set requirements on the type of information required to be filed with the department, and under 31A-8a-210 to enforce Chapter 8a and protect the public interest.

R590-152-2. Purpose.

The purpose of this rule is to describe activities that may or may not be used in the business of a Health Discount Program.

R590-152-3. Definitions.

For the purposes of this rule, the following definitions shall apply:

(1) "Administrative procedures" means the process used by the health discount program to solicit members, enroll members, maintain the membership, handle complaints of the members and process of collecting fees.

(2) "Authority to do business in this state" means to have other applicable licenses as required by statute, and operating within the scope of such licenses. For example, a license with the Division of Professional Licensing authorizing a licensee to telemarket.

(3) "Marketer" means a person or entity, including a private label entity, which places its name on and markets or distributes a health discount program but does not operate the health discount program.

(4) "Medical Discount Program" and "Medical Re-pricing" means Health Discount Program as defined in 31A-8a-102(3).

(5) "Prominently" means not less than 14-point type or no smaller than the largest type on the page if larger than 14-point type.

R590-152-4. Rule.

(1) Marketers of health discount plans are subject to all requirements of this rule.

(2) A health discount program may provide discounts or free services through contracted providers to subscribers in exchange for a periodic payment to the program or as a benefit in connection with membership in a particular group.

(3) A health discount program may charge a reasonable one-time processing fee and a periodic charge. If a discount medical plan charges for a time period in excess of one month, the plan must, in the event of cancellation of the membership by either party, make a pro rata reimbursement of the fees to the member.

(4) A health discount program may not make any payments to providers for:

(i) participation in the program;
(ii) capitation payments;
(iii) signing fees;
(iv) bonuses; or
(v) other forms of compensation.

(5) A health discount program shall, prior to enrollment of any individuals into the program, make available to consumers all membership information, including a list of providers agreeing by written contract to accept the program.

(6) A health discount plan must have an active toll-free number for members to call.

(7) Health discount programs may not offer any value-added benefits unless licensed as a producer and appointed by the carrier.

(8) Any value-added benefit must actually exist and a copy of a contract verifying such existence may be requested by the commissioner.

(9) Prior to any offering a health discount programs shall file with the commissioner a list of the value-added benefits it offers. This list shall include the insurer's name, policy form numbers and description of benefits.

(10) Communications with clients or potential clients must state that the program is not insurance but a discount plan. These communications include, face-to-face, written, telephonic, and electronic.

(11) When a marketer or a health discount programs sells a health discount programs together with any other product, including insured benefits, an itemized list of the fees for each individual product must be provided in writing to the client at solicitation.

(12) A discount is calculated on the average claims of its customers. It may not be a straight discount arrangement where the discount remains the same but the cost can vary.

(13) The commissioner may examine or investigate the business and affairs of any health discount programs. The expenses incurred in conducting any examination or investigation shall be paid by the health discount programs or the applicant.

(14) Upon request of the commissioner the health discount programs shall provide to the commissioner, a statement showing actual savings to the participants with detailed description of how savings are calculated.

R590-152-5. License/Renewals.

(1) Insured benefits offered in conjunction with discounts must comply with producer licensing statutes as required in Section 31A-8a-103(2)(k).

(2) Information listed in licensing material must include:

(a) an actual physical address; and
(b) a toll free customer line and the hours of operation.

(3) A licensed carrier who establishes a health discount program must register that program with the commissioner prior to marketing.

(4) A change in the company's name requires a new license. For example, changing from Family Discount to Family Health Discount.

(5) Administrative procedures shall be submitted to the commissioner at the time of licensing.

(6) Investment management strategies for health discount funds must be submitted.

(7) If licensure occurs between September 1 2005 through December 31 2005, renewal will not be required until January 1, 2007.

R590-152-6. Advertising and Marketing.

(1) The format and content of any advertisement shall be sufficiently complete and clear as to avoid deceiving or misleading the reader, viewer, or listener.

(2) Advertisements of any type of insured product must comply with Rule R590-130 and Subsections 31A-23a-102(12), and (13).

(3) Marketers must have all advertisements, marketing materials, brochures, and discount cards approved in writing for

such use by the health discount program. All approved materials must be made available to the commissioner upon request.

(4) The health discount program shall have an executed written agreement with a marketer prior to the marketer's marketing, promoting, selling, or distributing the health discount program. The health discount program shall be responsible and financially liable for all marketing, including non-affiliated marketers.

R590-152-7. Disclosures.

(1) A health discount program must include the following disclosures in contracts, booklets, advertising, and presentations relating to the solicitation of the program. These disclosures must be on the first page of the paper or electronic document and prominently state the following:

(a) "Note to Utah Residents: This contract is not protected by the Utah Life and Health Guaranty Association."

(b) "A Health Discount Program is not considered a plan for purposes of creditable coverage. A certificate of creditable coverage will NOT be issued upon termination of this discount program."

(2) Above the logo of the provider network membership card it should state in 12-point type: "This is not health insurance."

R590-152-8. Contracts.

(1) A provider agreement between a health discount program and a provider network shall require that the provider network have a written agreement with each provider that authorizes the provider network to contract with the health discount program on behalf of the provider. The health discount program is responsible for assuring that individual providers are knowledgeable about the health discount program.

(2) If membership in an association is required to receive the contracted discounts, the health discount program must meet the requirements of 31A-22-505 and 31A-22-701(2)(h).

R590-152-9. Notices.

A greater than 5% change of ownership in the health discount program must be reported to the commissioner prior to the change.

R590-152-10. Health Discount Program Application for Licensure.

(1) The application for licensure shall include:

(a) the name, address and phone numbers of each principle, operator and marketer with whom the health discount program has a contract; and

(b) the health discount program's web address.

(2) Applications shall clearly indicate the payment plan selected by the applicant.

(3) The following disclosure must appear in the application for enrollment: "Members acknowledge that equal or lower prices may be available through individual negotiation."

(4) The application process shall include the policy form numbers of insured benefits. When the underwriter for an insured benefit is changed or added, the commissioner shall be notified.

R590-152-11. Adverse Benefit Determination Reviews.

A health discount program must comply with its dispute resolution procedures as filed with the commissioner pursuant to 31A-8a-203(2)(c).

R590-152-12. Penalties.

A licensee who violates this rule may have its license revoked, suspended or put on probation or any other penalties or measures as are determined by the commissioner in accordance with insurance laws and rules.

R590-152-13. Enforcement Date.

The commissioner will begin enforcing the revised provision of this rule when they are put into effect.

R590-152-14. Severability.

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

KEY: insurance, medical discount programs
31A-2-201
31A-8a-201
31A-8a-203
31A-8a-210

Insurance, Administration
R590-202
Condition-Specific Exclusion Riders in Individual Health Insurance Policies

NOTICE OF PROPOSED RULE
(Repeal)
DAR FILE NO.: 28110
FILED: 07/27/2005, 15:10

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being repealed because the law requiring it was changed by the Legislature in 2004 by H.B. 218. The Utah Code now contains all the guidelines necessary for the condition specific exclusion rider. (DAR NOTE: H.B. 218 (2004) is found at UT L 2004 Ch 348, and was effective 05/03/2004.)

SUMMARY OF THE RULE OR CHANGE: This rule is repealed in its entirety.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 31A-2-201, 31A-2-202, and 31A-30-107

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The repeal of this rule will not require any changes in department personnel nor will it change department or state revenues or expenditures. Licensees will still have the same right to provide a condition-specific exclusion rider. The authority is now written in the law.

❖ LOCAL GOVERNMENTS: This rule only applies to the relationship between the Insurance Department and their licensees. It does not affect local government laws or procedures.

❖ OTHER PERSONS: The repeal of this rule will create no fiscal impact on consumers or the health insurance industry since specific waiver provisions are now in the code rather than the rule.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The repeal of this rule will create no fiscal impact on consumers or the health insurance industry since specific waiver provisions are now in the code rather than the rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The repeal of this rule will create no fiscal impact on Utah businesses. D. Kent Michie, Commissioner

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
Jilene Whitby at the above address, by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at jwhitby@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 09/14/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 09/15/2005

AUTHORIZED BY: Jilene Whitby, Information Specialist

R590. Insurance, Administration.
[~~R590-202. Condition-Specific Exclusion Riders in Individual Health Insurance Policies.~~
~~R590-202-1. Authority.~~
~~This rule is promulgated pursuant to Subsections 31A-2-202(1) and 31A-2-201(3)(a) in which the commissioner is empowered to administer and enforce this title, and to make administrative rules to implement the provisions of this title. The authority to establish a list of non-life threatening and non-degenerative physical conditions that may be the subject of a condition-specific exclusion rider is provided by Subsection 31A-30-107(5)(a)(iv) and (v).~~

~~R590-202-2. Purpose.~~
~~The purpose of this rule is to establish minimum standards and a list of non-life threatening and non-degenerative physical conditions that may be the subject of a condition-specific exclusion rider.~~

~~R590-202-3. Applicability and Scope.~~
~~This rule shall apply to a health benefit plan marketed on an individual basis even though the health benefit plan may be offered under or provided through a "group" policy or trust arrangement of any size sponsored by an association or a discretionary group.~~

~~R590-202-4. Definitions.~~
~~For the purposes of this rule the Commissioner adopts the definitions as set forth in Sections 31A-1-301, 31A-30-103 and the following:~~

~~(1) "Condition-Specific Exclusion Rider" means an addendum to the contract that specifically excludes coverage for a specified physical condition that is considered to be non-degenerative and non-life-threatening.~~

~~(2) "ICD-9 Code" means a code as listed and described in "The International Classification of Diseases, Ninth Revision, Clinical Modification, ICD-9-CM," which is a publication describing a classification system that groups related disease entities and procedures.~~

~~(3) "Non-degenerative" means a physical condition which typically does not naturally deteriorate or worsen over time.~~

~~(4) "Non-life-threatening" means a physical condition which does not typically result in a shortened life expectancy.~~

~~(5) "Secondary medical condition" means a condition that may or may not be directly related to or caused by the excluded physical condition.~~

~~R590-202-5. Minimum Standards and General Provisions.~~
~~(1) When selling an individual health benefit plan subject to this rule, an insurer shall first offer a plan that is in compliance with the requirements of Subsections 31A-30-107(5)(a)(i) and (ii). The insurer may then also offer an individual health benefit plan that excludes a specific physical condition, subject to the following provisions:~~

~~(a) the condition-specific exclusion rider must be mutually agreed to in writing and signed by both parties before the effective date of the policy;~~

~~(b) multiple physical conditions may be addressed under the provisions of this rule, through the use of separate exclusion riders;~~

~~(c) an insurer and its representatives must explain to the applicant the exact nature of the exclusion rider and how it affects the coverage under the policy; and~~

~~(d) a condition-specific exclusion rider may be reviewed periodically for possible removal subject to mutual agreement of the insurer and the insured.~~

~~(2) Any physical condition that is non-life-threatening and non-degenerative may be a condition-specific exclusion. This list includes, but is not limited to:~~

~~(a) acne,~~
~~(b) benign skin lesions,~~
~~(c) bunions,~~
~~(d) deviated nasal septum,~~
~~(e) dyspepsia,~~
~~(f) fibrocystic breast disorder,~~
~~(g) hammer toe,~~
~~(h) hay fever,~~
~~(i) impotence,~~
~~(j) infertility~~
~~(k) migraine headaches,~~
~~(l) nasal polyps,~~
~~(m) rhinitis,~~
~~(n) tendonitis,~~
~~(o) tenosynovitis,~~
~~(p) topical dermatitis,~~
~~(q) uncorrected fractures,~~
~~(r) warts.~~

~~(3) The specific condition being excluded must be identified in the rider by the appropriate ICD-9-CM code, including category and written description.~~

~~(4) A condition-specific exclusion rider shall be limited to one specific excluded condition and shall not extend to any secondary medical condition that may or may not be directly related to the excluded condition.~~

~~**R590-202-6. Severability.**~~

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

~~**KEY: insurance law**~~
~~**August 10, 2000**~~
~~**31A-2-201**~~
~~**31A-2-202**~~
~~**31A-30-107**~~**]**

▼ ▼

Insurance, Administration

R590-203

Health Grievance Review Process and Disability Claims

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 28116
FILED: 07/29/2005, 15:44

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: As a result of comments received during a comment period in May 2005, additional changes are being made to the rule for clarification purposes.

SUMMARY OF THE RULE OR CHANGE: The changes to this rule clarify which sections of the rule apply to short-term disability and long-term disability coverages. The change in Section R590-203-9 eliminates the requirement for the commissioner to sign the rule before it becomes effective and instead states that compliance is required when the rule changes go into effect.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 31A-2-201, 31A-2-203, 31A-4-116, and 31A-22-629

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The changes to this rule will not require any change in fees from licensees or work load for department employees. As a result, the department's costs and revenues will not be affected by these changes.

❖ LOCAL GOVERNMENTS: This rule only applies to the relationship between the Insurance Department and their licensees. It does not affect local government laws or procedures.

❖ OTHER PERSONS: The changes to this rule will have no fiscal impact on health insurers or health insurance consumers. Insurers will not need to refile policy forms with the department and since these changes should have no cost to the insurer, consumers should experience no increased costs.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The changes to this rule will have no fiscal impact on health insurers or health insurance consumers. Insurers will not need to refile policy forms with the department and since these changes should have no cost to the insurer, consumers should experience no increased costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The changes to this rule will have no fiscal impact on Utah businesses. D. Kent Michie, Commissioner

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
INSURANCE
ADMINISTRATION
Room 3110 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY UT 84114-1201, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Jilene Whitby at the above address, by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at jwhitby@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 09/14/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 09/15/2005

AUTHORIZED BY: Jilene Whitby, Information Specialist

R590. Insurance, Administration.
R590-203. Health Grievance Review Process and Disability Claims.
R590-203-4. Definitions.

For the purposes of this rule:

(1) "Consumer Representative" may be an employee of the insurer who is a consumer of a health insurance or an income replacement policy, as long as the employee is not[~~;~~]:

(a) the individual who made the adverse determination[~~,~~]; or

(b) a subordinate to the individual who made the adverse determination.

(2) "Health Insurance" means a contract of:

(a) health care insurance as defined in 31A-1-301; and

(b) health maintenance organization as defined in 31A-8-101.

(3) "Medical Necessity" means:

(a) health care services or products that a prudent health care professional would provide to a patient for the purpose of preventing, diagnosing or treating an illness, injury, disease or its symptoms in a manner that is:

(i) in accordance with generally accepted standards of medical practice in the United States;

(ii) clinically appropriate in terms of type, frequency, extent, site, and duration;

(iii) not primarily for the convenience of the patient, physician, or other health care provider; and

(iv) covered under the contract; and

(b) that when a medical question-of-fact exists medical necessity shall include the most appropriate available supply or level of service for the individual in question, considering potential benefits and harms to the individual, and known to be effective.

(i) For interventions not yet in widespread use, the effectiveness shall be based on scientific evidence.

(ii) For established interventions, the effectiveness shall be based on:

(A) scientific evidence;

(B) professional standards; and

(C) expert opinion.

(4)(a) "Scientific evidence" means:

(i) scientific studies published in or accepted for publication by medical journals that meet nationally recognized requirements for scientific manuscripts and that submit most of their published articles for review by experts who are not part of the editorial staff; or

(ii) findings, studies or research conducted by or under the auspices of federal government agencies and nationally recognized federal research institutes.

(b) Scientific evidence shall not include published peer-reviewed literature sponsored to a significant extent by a pharmaceutical manufacturing company or medical device manufacturer or a single study without other supportable studies.

R590-203-6. Independent and Expedited Adverse Benefit Determination Reviews for Health Insurance.

(1) An insurer shall provide an independent review procedure as a voluntary option for the resolution of adverse benefit determinations of medical necessity.

(2) An independent review procedure shall be conducted by an independent review organization, person, or entity other than the insurer, the plan, the plan's fiduciary, the employer, or any employee or agent of any of the foregoing, that do not have any material professional, familial, or financial conflict of interest with the health plan, any officer, director, or management employee of the health plan, the enrollee, the enrollee's health care provider, the provider's medical group or independent practice association, the health care facility where service would be provided and the developer or manufacturer of the service being provided.

(3) Independent review organizations shall be designated by the insurer, and the independent review organization chosen shall not own or control, be a subsidiary of, or in any way be owned or controlled by, or exercise control with a health insurance plan, a national, state, or local trade association of health insurance plans, and a national, state, or local trade association of health care providers.

(4) The submission to an independent review procedure is purely voluntary and left to the discretion of the claimant.

(5) An insurer's voluntary independent review procedure shall:

(a) waive any right to assert that a claimant has failed to exhaust administrative remedies because the claimant did not elect to submit a dispute of medical necessity to a voluntary level of appeal provided by the plan;

(b) agree that any statute of limitations or other defense based on timeliness is tolled during the time a voluntary appeal is pending;

(c) allow a claimant to submit a dispute of medical necessity to a voluntary level of appeal only after exhaustion of the appeals permitted under 29 CFR Subsection 2560.503-1(c)(2), of the Department of Labor, Pension and Welfare Benefits Administration Rules and Regulations for the Administration and Enforcement: Claims Procedure;

(d) upon request from any claimant, provide sufficient information relating to the voluntary level of appeal to enable the claimant to make an informed decision about whether to submit a dispute of medical necessity to the voluntary level of appeal. This information shall contain a statement that the decision to use a voluntary level of appeal will not effect the claimant's rights to any other benefits under the plan and information about the applicable rules, the claimant's right to representation, and the process for selecting the decision maker.

(e) An independent review conducted in compliance with Section 31A-22-629, and this rule, can be binding on both parties. A claimant's submission to a binding independent review is purely voluntary and appropriate disclosure and notification must be given as required by the Department of Labor, Pension and Welfare Benefits Administration Rules and Regulations for Administration and Enforcement: Claims Procedure, 29 CFR 2560.503-1.

(6) Standards for voluntary independent review:

(a) The insurer's internal adverse benefit determination process must be exhausted unless the insurer and insured mutually agree to waive the internal process.

(b) Any adverse benefit determination of medical necessity may be the subject of an independent review.

(c) The claimant has 180 calendar days from the date of the final internal review decision to request an independent review.

(d) An insurer shall use the same minimum standards and times of notification requirement for an independent review that are used for internal levels of review, as set forth in 29 CFR Subsection 2560.503-1(h)(3), (i)(2) and (j).

(7) An insurer shall provide an expedited review process for cases involving urgent care claims.

(8) A request for an expedited review of an adverse benefit determination of medical necessity may be submitted either orally or in writing. If the request is made orally an insurer shall, within 24 hours, send written confirmation to the claimant acknowledging the receipt of the request for an expedited review.

(9) An expedited review requires:

(a) all necessary information, including the plan's original benefit determination, be transmitted between the plan and the claimant by telephone, facsimile, or other available similarly expeditious method;

(b) an insurer to notify the claimant of the benefit review determination, as soon as possible, taking into account the medical urgency, but not later than 72 hours after receipt of the claimant's request for review of an adverse benefit determination; and

(c) an insurer to use the same minimum standard for timing and notification as set forth in 29 CFR Subsection 2560.503-1(h), 503-1(i)(2)(i), and 503-1(j).

(10) This section, R590-203-6, does not apply to income replacement policies, short term disability policies or long term disability policies.

R590-203-8. File and Record Documentation.

An insurer selling health insurance or income replacement insurance, including short-term disability and long-term disability, shall make available upon request by the commissioner, or the commissioner's duly appointed designees, all adverse benefit determination review files and related documentation. An insurer shall keep these records for the current calendar year plus five years.

R590-203-9. Compliance.

(1) Insurers are to be compliant with the provisions of this rule and the Department of Labor, Pension and Welfare Benefits Administration Rules and Regulations for Administration and Enforcement: Claims Procedure, 29 CFR 2560.503-1, by July 1, 2002.

(2) The clarification changes made for income replacement and short-term and long-term disability policies are effective on the date these rule changes take effect.

KEY: insurance
2005
31A-2-201
31A-2-203
31A-4-116
31A-22-629

▼ ——— ▼

Insurance, Title and Escrow Commission

R592-1

Title Insurance Licensing

NOTICE OF PROPOSED RULE
(New Rule)
DAR FILE NO.: 28105
FILED: 07/27/2005, 09:16

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to establish rules for the licensing of a title licensee and to concur in the issuance and renewal of a title licensee in accordance with Subsection 31A-2-404(2)(b).

SUMMARY OF THE RULE OR CHANGE: This rule establishes rules for the licensing of a title licensee and concurs in the issuance and renewal of a title licensee in accordance with Subsection 31A-2-404(2)(b).

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 31A-2-404

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: This rule will not require anything new of department licensees or it's staff, therefore, there will be no change in filing requirements or fees paid to the department or state's budget.

❖ LOCAL GOVERNMENTS: This rule only applies to the relationship between the Insurance Department and its licensees. It does not affect local government laws or procedures.

❖ OTHER PERSONS: This rule establishes procedures to be followed by the Commission and the department and does not affect costs to the title industry or their consumers.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule establishes procedures to be followed by the Commission and the department and does not affect costs to the title industry or their consumers.

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

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
INSURANCE
TITLE AND ESCROW COMMISSION
Room 3110 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY UT 84114-1201, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Jilene Whitby at the above address, by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at jwhitby@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 09/14/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 09/15/2005

AUTHORIZED BY: Jilene Whitby, Information Specialist

R592. Insurance, Title and Escrow Commission.
R592-1. Title Insurance Licensing.
R592-1-1. Authority.

This rule is promulgated pursuant to Subsections 31A-2-404(2)(a)(ii) and (b), which direct the Title and Escrow Commission to make rules pertaining to the licensing of a title licensee and require the Title and Escrow Commission's concurrence in the issuance and renewal of title licensee licenses.

R592-1-2. Purpose and Scope.

(1) The purpose of this rule is:

(a) to establish rules for the licensing of a title licensee; and

(b) to concur in the issuance and renewal of a title license in accordance with Section 31A-2-404(2)(b).

(2) This rule applies to all title licensees and applicants for a title insurance license or renewal of a title insurance license.

R592-1-3. Definitions.

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

R592-1-4. Licensing.

The Commission hereby grants its preliminary concurrence to the issuance or renewal of title insurance licenses issued by the commissioner, subject to final concurrence as specified in Section 5, to an applicant that:

(1) complies with Sections 31A-23a-104, 31A-23a-105, 31A-23a-106, 31A-23a-107, 31A-23a-108, and 31A-23a-204; and

(2) complies with Section 31A-23a-202 as an applicant for a renewal of a license; and

(3) meets all other requirements for the issuance of a license.

R592-1-5. Commission Concurrence with License Issuance or Renewal.

(1) The commissioner will report to the Title and Escrow Commission, at an interval and in a format acceptable to the commissioner and the Commission, the names of title licensee applicants or licensees:

(a) who were issued an initial license; and

(b) who were issued a renewal license.

(2) At a meeting of the Commission, the Commission shall give final concurrence or shall not concur with the licensing action of the commissioner.

(3) If the Commission votes to not concur with a licensing action of the commissioner for a licensee, the commissioner shall commence an administrative proceeding under the Utah Administrative Procedures Act to revoke, suspend, limit, or place on probation that license.

R592-1-6. Severability.

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

R592-1-7. Enforcement Date.

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

KEY: title insurance
2005
31A-2-402

Insurance, Title and Escrow Commission

R592-2

Title Insurance Administrative Hearings and Penalty Imposition

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 28107

FILED: 07/27/2005, 09:36

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to establish procedures for the Title and Escrow Commission to delegate authority to the department's administrative law judge to conduct administrative hearings for title license applicants, a title licensee, or a title continuing education program, or to administer the hearing themselves. This rule also establishes procedures for the Commission and the department to concur with penalties imposed on a title licensee.

SUMMARY OF THE RULE OR CHANGE: The purpose of this rule is to establish procedures for the Title and Escrow Commission to delegate authority to the department's administrative law judge to conduct administrative hearings for title license applicants, a title licensee, or a title continuing education program, or to administer the hearing themselves. This rule also establishes procedures for the Commission and the department to concur with penalties imposed on a title licensee.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 31A-2-404

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The changes to this rule will not require anything new of department licensees, therefore, there will be no change in filings required or fees paid to the department that go into the state budget.

❖ LOCAL GOVERNMENTS: This rule only applies to the relationship between the department and their licensees. It does not affect local government laws or procedures.

❖ OTHER PERSONS: This rule establishes procedures to be followed by the Commission and the department and does not affect costs to the title industry or their consumers.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule establishes procedures to be followed by the Commission and the department and does not affect costs to the title industry or their consumers.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This new rule will not have a fiscal impact on Utah businesses. D. Kent Michie, Commissioner

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
Jilene Whitby at the above address, by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at jwhitby@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 09/14/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 09/15/2005

AUTHORIZED BY: Jilene Whitby, Information Specialist

R592. Insurance, Title and Escrow Commission.
R592-2. Title Insurance Administrative Hearings and Penalty Imposition.
R592-2-1. Authority.

This rule is promulgated pursuant to Subsections 31A-2-404(2)(e) and (h), which direct the Title and Escrow Commission to make rules pertaining to the conduct of title administrative hearings, the delegation of title administrative hearings, and the imposition of penalties for violations of statute or rule.

R592-2-2. Purpose and Scope.

(1) The purpose of this rule is
(a) to establish procedures for the Commission:
(i) to delegate authority to the department's administrative law judge to conduct an administrative hearing for a title license applicant, a title licensee, or a title continuing education program; or
(ii) to conduct an administrative hearing for a title license applicant, a title licensee, or a title continuing education program; and
(b) to establish procedures for the Commission and the commissioner to concur with penalties imposed on a title licensee, applicant for a title license, unlicensed person doing business as a title licensee, and continuing education providers submitting title continuing education programs for approval, for violations of statute, rule, Order of the Commissioner, or Order of the Commission.
(2) This rule applies to all title licensees, applicants for a title insurance license, unlicensed persons doing business as a title licensee, and continuing education providers submitting title continuing education programs for approval.

R592-2-3. Definitions.

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

R592-2-4. Administrative Hearings.

The Title and Escrow Commission may delegate the conduct of administrative hearings involving a title license applicant, a title licensee, or a title continuing education program to the department's administrative law judge.
(1) The Commission will receive a periodic report listing each administrative hearing requested by a title license applicant, a title licensee, a title continuing education program or by the commissioner to resolve an investigation of a title licensee's conduct, the denial of a title license application, or the disapproval of a title continuing education program.
(2) The Commission will review the report at each meeting and, either:
(a) delegate the conduct of the requested administrative hearing to the department's administrative law judge; or
(b) determine that the Commission will conduct the requested administrative hearing.
(3) For an administrative hearing conducted by the Commission, the Commission will:
(a) set the date, time, and place of the administrative hearing;
(b) notify the title license applicant, the title licensee, or the continuing education program of the date, time, and place of the administrative hearing;
(c) conduct the hearing:
(i) hear the evidence; and
(ii) make a decision based on the evidence presented;
(d) impose penalties, with the concurrence of the commissioner, in accordance with Sections 31A-2-308, 31A-23a-111, 31A-23a-112, 31A-26-213, and 31A-26-214; and
(e) issue an Order on Hearing.
(4) The department's administrative law judge will assist the Commission in its conduct of an administrative hearing by ruling on admissibility of evidence and motions pertaining to the hearing.

R592-325-5. Imposition of Penalties.

(1) The department will investigate alleged violations of statute or rule by a title licensee, applicants for a title insurance license, unlicensed person doing business as a title licensee, and continuing education providers submitting title continuing education programs for approval.
(2) If the resolution of the investigation is other than an administrative hearing or is an administrative hearing conducted by the department's administrative law judge, and the administrative proceeding imposes a penalty, the Commission must concur with the penalty imposed, prior to the imposition of the penalty.
(3) If the resolution of the investigation is an administrative hearing conducted by the Commission, and the administrative hearing imposes a penalty, the commissioner must concur with the penalty imposed, prior to the imposition of the penalty.

R592-2-6. Severability.

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

R592-2-7. Enforcement Date.

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

KEY: title insurance
2005
31A-2-402

▼ ▼

Public Safety, Fire Marshal
R710-1-8
Amendments and Additions

NOTICE OF PROPOSED RULE
(Amendment)
DAR File No.: 28122
Filed: 08/01/2005, 13:55

RULE ANALYSIS

Purpose of the rule or reason for the change: The Utah Fire Prevention Board met on 07/12/2005, in a regularly scheduled Board meeting and voted by motion to amend Rule R710-1 by adding one amendment to allow extension of the yearly service requirement to be extended to three years for portable fire extinguishers that are electronically monitored.

SUMMARY OF THE RULE OR CHANGE: In Subsection R710-1-8(8.6), the Board proposes to amend NFPA, Standard 10, to extend the yearly service requirement from one year to three years on those portable fire extinguishers that are connected to a supervised listed electronic monitoring system.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53-7-204

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There is no anticipated cost or savings to the state budget because the proposed amendments will not affect state government budget by their enactment.

❖ LOCAL GOVERNMENTS: There is no anticipated cost or savings to local government because the proposed amendments will not affect local government.

❖ OTHER PERSONS: There would be an aggregate anticipated savings to other persons who currently use the supervised listed electronic monitoring system that would allow them to only have to perform the annual service every three years. This would save approximately $15 per extinguisher over the extended period of time. The amount would need to be multiplied by the amount of portable fire extinguishers needing service. The savings could range from $50 to $1,500 per system depending on how many portable fire extinguishers were connected to the supervised listed electronic monitoring system.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no compliance cost for affected persons for the enactment of this proposed rule amendment. There would be a savings seen to those owners who installed the supervised listed electronic monitoring system.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The allowance to extend the annual service of portable fire extinguishers from one year to three years would save businesses money rather than have a fiscal impact on the business. Robert L. Flowers, Commissioner

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

PUBLIC SAFETY
FIRE MARSHAL
Room 302
5272 S COLLEGE DR
MURRAY UT 84123-2611, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Brent Halladay at the above address, by phone at 801-284-6352, by FAX at 801-284-6351, or by Internet E-mail at bhallada@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 09/14/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 09/15/2005

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

R710. Public Safety, Fire Marshal.
R710-1. Concerns Servicing Portable Fire Extinguishers.
R710-1-8. Amendments and Additions.

8.1 Restricted Service.

Any extinguisher requiring a hydrostatic test as required, shall not be serviced until such extinguisher has been subjected to, and passed the required hydrostatic test.

8.2 Service.

At the time of installation, and at each annual inspection, all servicing shall be done in accordance with the manufacturer's instructions, adopted statutes, and these rules. Extinguishers shall be placed in an operable condition, free from defects which may cause malfunctions. Nozzles and hoses shall be free of obstructions or substances which may cause an obstruction.

8.3 Seals or Tamper Indicator.

Seals or tamper indicators shall be constructed of approved plastic or non-ferrous wire which can be easily broken, and so arranged that removal cannot be accomplished without breakage. Such seals or tamper indicators shall be used to retain the locking pin in a locked position. Seals or tamper indicators shall be removed annually to ensure that the pull pin is free.

8.4 New Extinguishers

A new extinguisher that has the date of manufacture printed on the label by the manufacturer, or date of manufacture stamped on the extinguisher by the manufacturer, does not require a service tag attached to the extinguisher until one year after the date of manufacture.

8.5 Class K Portable Fire Extinguishers

NFPA, Standard 10, Section 2-3.2 and Section 2-3.2.1, 1998 edition, is deleted and replaced with the following:

8.5.1 Class K labeled portable fire extinguishers shall be provided for the protection of commercial food heat-processing equipment using vegetable or animal oils and fat cooking media. A placard shall be provided and placed above the Class K portable fire extinguisher that states that if a fire protection system exists, it shall be activated prior to use of the Class K portable fire extinguisher.

8.5.2 Those existing sodium or potassium bicarbonate dry-chemical portable fire extinguishers, having a minimum rating of 40-B, and specifically placed for protection of commercial food heat-processing equipment, may remain in the kitchen to be used for other applications, except the protection of commercial food heat-processing equipment using vegetable or animal oils or fat cooking media.

8.6 NFPA, Standard 10, Section 6.3.1 is amended to add the following: Fire extinguishers that are connected to a supervised listed electronic monitoring system are allowed to have the maintenance intervals extended to three years.

KEY: fire prevention, extinguishers
[~~December 2, 2004~~]September 15, 2005
Notice of Continuation June 10, 2002
53-7-204

Public Safety, Fire Marshal
R710-9-6
Amendments and Additions

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 28115
FILED: 07/29/2005, 13:58

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Utah Fire Prevention Board met on 07/12/2005, in a regularly scheduled Board meeting and voted by motion to amend Section R710-9-6 by adding two amendments to allow extension of the yearly service requirement to be extended to three years for portable fire extinguishers that are electronically monitored.

SUMMARY OF THE RULE OR CHANGE: The proposed amendments to Section R710-9-6 are as follows: 1) in Subsection R710-9-6(6.7.8), the Board proposes to add an exception to the International Fire Code that if certain specific items are met, the yearly service requirement can be extended to three years on portable fire extinguishers that are connected to a supervised listed electronic monitoring system; and 2) in Subsection R710-9-6(6.7.10), the Board proposes to amend NFPA, Standard 10, to extend the yearly service requirement from one year to three years on those portable fire extinguishers that are connected to a supervised listed electronic monitoring system.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53-7-204

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There is no anticipated cost or savings to the state budget because the proposed amendments will not affect state government budget by their enactment.

❖ LOCAL GOVERNMENTS: There is no anticipated cost or savings to local government because the proposed amendments will not affect local government.

❖ OTHER PERSONS: There would be an aggregate anticipated savings to other persons who currently use the supervised listed electronic monitoring system that would allow them to only have to perform the annual service every three years. This would save approximately $15 per extinguisher over the extended period of time. That amount would need to be multiplied by the amount of portable fire extinguishers needing service. The savings could range from $50 to $1500 per system depending on how many portable fire extinguishers were connected to the supervised listed electronic monitoring system.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no compliance cost for affected persons for the enactment of this proposed rule amendment. There would be a savings seen to those owners who installed the supervised listed electronic monitoring system.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The allowance to extend the annual service of portable fire extinguishers from one year to three years would save businesses money rather than have a fiscal impact on the business. Robert L. Flowers, Commissioner

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
PUBLIC SAFETY
FIRE MARSHAL
Room 302
5272 S COLLEGE DR
MURRAY UT 84123-2611, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Brent Halladay at the above address, by phone at 801-284-6352, by FAX at 801-284-6351, or by Internet E-mail at bhallada@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 09/14/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 09/15/2005

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

R710. Public Safety, Fire Marshal.
R710-9. Rules Pursuant to the Utah Fire Prevention Law.
R710-9-6. Amendments and Additions.

The following amendments and additions are hereby adopted by the Board for application statewide:

6.1 Administration

6.1.1 IFC, Chapter 1, Section 102.3 is deleted and rewritten as follows: No change shall be made in the use or occupancy of any structure that would place the structure in a different division of the same group or occupancy or in a different group of occupancies, unless such structure maintains a reasonable level of fire and life safety and the change to use or occupancy does not create a distinct hazard to life or property as determined by the AHJ.

6.1.2 IFC, Chapter 1, Section 102.4 is deleted and rewritten as follows: The design and construction of new structures shall comply with the International Building Code. Repairs, alterations and additions to existing structures are allowed when such structure maintains a reasonable level of fire and life safety and the change does not create a distinct hazard to life or property as determined by the AHJ.

6.1.3 IFC, Chapter 1, Section 102.5 is deleted and rewritten as follows: The construction, alteration, repair, enlargement, restoration, relocation or movement of existing buildings or structures that are designated as historic buildings are allowed when such historic structures maintains a reasonable level of fire and life safety and the change does not create a distinct hazard to life or property as determined by the AHJ.

6.1.4 IFC, Chapter, 1, Section 102.4 is amended as follows: On line three after the words "Building Code." add the following sentence: "The design and construction of detached one- and two-

family dwellings and multiple single-family dwellings (town houses) not more than three stories above grade plane in height with a separate means of egress and their accessory structures shall comply with the International Residential Code."

6.1.5 IFC, Chapter 1, Section 109.2 is amended as follows: On line three after the words "is in violation of this code," add the following "or other pertinent laws or ordinances".

6.2 Definitions

6.2.1 IFC, Chapter 2, Section 202, Educational Group E, Day care is amended as follows: On line three delete the word "five" and replace it with the word "four".

6.2.2 IFC, Chapter 2, Section 202, Institutional Group I, Group I-1 is amended to add the following: Add "Type 1" in front of the words "Assisted living facilities".

6.2.3 IFC, Chapter 2 Section 202, Institutional Group I, Group I-2 is amended as follows: On line three delete the word "five" and replace it with the word "three". After "Detoxification facilities" delete the rest of the paragraph, and add the following: "Ambulatory surgical centers with two or more operating rooms where care is less than 24 hours, Outpatient medical care facilities for ambulatory patients (accommodating more than five such patients in each tenant space) which may render the patient incapable of unassisted self-preservation, and Type 2 assisted living facilities. Type 2 assisted living facilities with five or fewer persons shall be classified as a Group R-4. Type 2 assisted living facilities with at least six and not more than 16 residents shall be classified as a Group I-1 facility.

6.2.4 IFC, Chapter 2, Section 202, Institutional Group I, Group I-4, day care facilities, Child care facility is amended as follows: On line three delete the word "five" and replace it with the word "four". Also on line two of the Exception after Child care facility delete the word "five" and replace it with the word "four".

6.2.5 IFC, Chapter 2, Section 202 General Definitions, Occupancy Classification, Residential Group R-1 is amended to add the following: Exception: Boarding houses accommodating 10 persons or less shall be classified as Residential Group R-3.

6.2.6 IFC, Chapter 2, Section 202 General Definitions, Occupancy Classification, Residential Group R-2 is amended to add the following: Exception: Boarding houses accommodating 10 persons or less shall be classified as Residential Group R-3.

6.3 General Precautions Against Fire

6.3.1 IFC, Chapter 3, Section 304.1.2 is amended to delete the following sentence: "Vegetation clearance requirements in urban-wildland interface areas shall be in accordance with the International Urban/Wildland Interface Code."

6.3.2 IFC, Chapter 3, Section 311.1.1 is amended as follows: On line ten delete the words "International Property Maintenance Code and the" from this section.

6.3.3 IFC, Chapter 3, Section 315.2.1 is amended to add the following: Exception: Where storage is not directly below the sprinkler heads, storage is allowed to be placed to the ceiling on wall mounted shelves that are protected by fire sprinkler heads in occupancies meeting classification as light or ordinary hazard.

6.4 Elevator Recall and Maintenance

6.4.1 IFC, Chapter 6, Section 607.3 is deleted and rewritten as follows: Firefighter service keys shall be kept in a "Supra - Stor-a-key" elevator key box or similar box with corresponding key system that is adjacent to the elevator for immediate use by the fire department. The key box shall contain one key for each elevator and one key for lobby control.

6.5 Building Services and Systems

6.5.1 IFC, Chapter 6, Section 610.1 is amended to add the following: On line three after the word "Code" add the words "and NFPA 96".

6.6 Record Drawings

6.6.1 IFC, Chapter 9, Section 901.2.1 is amended to add the following: The code official has the authority to request record drawings ("as builts") to verify any modifications to the previously approved construction documents.

6.6.2 IFC, Chapter 9, Section 902.1 Definitions, RECORD DRAWINGS is deleted and rewritten as follows: Drawings ("as builts") that document all aspects of a fire protection system as installed.

6.7 Fire Protection Systems

6.7.1 Inspection and Testing of Automatic Fire Sprinkler Systems

The owner or administrator of each building shall insure the inspection and testing of water based fire protection systems as required in IFC, Chapter 9, Section 901.6.

6.7.2 IFC, Chapter 9, Section 903.2.7 Group R, is amended to add the following: Exception: Detached one- and two-family dwellings and multiple single-family dwellings (townhouses) constructed in accordance with the International Residential Code for one- and two-family dwellings.

6.7.3 IFC, Chapter 9, Section 903.2.7 is amended to add the following: Exception: Group R-4 fire areas not more than 4500 gross square feet and not containing more than 16 residents, provided the building is equipped throughout with an approved fire alarm system that is interconnected and receives its primary power from the building wiring and a commercial power system.

6.7.4 IFC, Chapter 9, Section 903.6 is amended to add the following subsection: 903.6.2 Commercial cooking operation suppression. Automatic fire sprinkler systems protecting commercial kitchen exhaust hood and duct systems with appliances that generate appreciable depth of cooking oils shall be replaced with a UL300 listed system by May 1, 2004.

6.7.5 IFC, Chapter 9, Section 903.6 is amended to add the following subsection: 903.6.3 Dry chemical hood system suppression. Existing automatic fire-extinguishing systems using dry chemical that protect commercial kitchen exhaust hood and duct systems shall be removed and replaced with a UL300 listed system by January 1, 2006 or before that date when any of the following occurs: 1) Six year internal maintenance service; 2) Recharge; 3) Hydrostatic test date as indicated on the manufacturers date of the cylinders; or 4) Reconfiguration of the system piping.

6.7.6 IFC, Chapter 9, Section 903.6 is amended to add the following subsection: 903.6.4 Wet chemical hood system suppression. Existing wet chemical fire-extinguishing systems not UL300 listed and protecting commercial kitchen exhaust hood and duct systems shall be removed, replaced or upgraded to a UL300 listed system by January 1, 2006 or before that date when any of the following occurs: 1) Six year internal maintenance service; 2) Recharge; 3) Hydrostatic test date as indicated on the manufacturer date of the cylinder; or 4) Reconfiguration of the system piping.

6.7.7 IFC, Chapter 9, Section 903.6 is amended to add the following subsection: 903.6.5 Group A-2 occupancies. An automatic fire sprinkler system shall be provided throughout Group A-2 occupancies where indoor pyrotechnics are used.

6.7.8 IFC, Chapter 9, 906.2 is amended to add the following exception: 2. 30 day inspections shall not be required and maintenance shall be permitted to be once every three years for dry chemical or halogenated agent portable fire extinguishers that are connected to a supervised listed electronic monitoring system that meet the following: 2.1 Electronic monitoring shall confirm that extinguishers are properly positioned, properly charged, and unobstructed; 2.2 Loss of power or circuit continuity to the electronic monitoring device shall initiate a trouble signal; 2.3 The extinguishers shall be installed inside of a building or cabinet in a non-corrosive environment; 2.4 Electronic monitoring devices and supervisory circuits shall be tested every three years when extinguisher maintenance is performed; and, 2.5 A written log of required hydrostatic test dates for extinguishers shall be maintained by the owner to ensure that hydrostatic tests are conducted at the frequency required by NFPA 10.

6.7.[8]9 NFPA, Standard 10, Section 6.2.1 is amended to add the following sentence: The use of a supervised listed electronic monitoring system shall be permitted to satisfy the 30 day fire extinguisher interval inspection requirement.

6.7.10 NFPA, Standard 10, Section 6.3.1 is amended to add the following: Fire extinguishers that are connected to a supervised listed electronic monitoring system are allowed to have the maintenance intervals extended to 3 years.

6.8 Backflow Protection

6.8.1 The potable water supply to automatic fire sprinkler systems and standpipe systems shall be protected against backflow in accordance with the International Plumbing Code as amended in the Utah Administrative Code, R156-56-707.

6.9 Retroactive Installations of Automatic Fire Alarm Systems in Existing Buildings

6.9.1 IFC, Chapter 9, Sections 907.3.1.1, 907.3.1.2, 907.3.1.3, 907.3.1.4, 907.3.1.5, 907.3.1.6, 907.3.1.7, and 907.3.1.8 are deleted.

6.10 Smoke Alarms

6.10.1 IFC, Chapter 9, Section 907.3.2 is amended to add the following: On line three after the word "occupancies" add "and detached one- and two-family dwellings and multiple single-family dwellings (townhouses)".

6.10.2 IFC, Chapter 9, Section 907.3.2.3 is amended to add the following: On line one after the word "occupancies" add "and detached one- and two-family dwellings and multiple single-family dwellings (townhouses)".

6.10.3 IFC, Chapter 9, Section 907.20.5 is amended to add the following sentences: Increases in nuisance alarms shall require the fire alarm system to be tested for sensitivity. Fire alarm systems that continue after sensitivity testing with unwarranted nuisance alarms shall be replaced as directed by the AHJ.

6.11 Means of Egress

6.11.1 IFC, Chapter 10, Section 1008.1.8.3 is amended to add the following: 5. Doors in Group I-1 and I-2 occupancies, where the clinical needs of the patients require specialized security measures for their safety, approved access controlled egress may be installed when all the following are met: 5.1 The controlled egress doors shall unlock upon activation of the automatic fire sprinkler system or the automatic fire detection system. 5.2 The facility staff can unlock the controlled egress doors by either sensor or keypad. 5.3 The controlled egress doors shall unlock upon loss of power. 6. Doors in Group I-1 and I-2 occupancies, where the clinical needs of the patients require approved, listed delayed egress locks, they shall be installed on doors as allowed in IFC, Section 1008.1.8.6.

6.11.2 IFC, Chapter 10, Section 1009.3 is amended as follows: On line six of Exception 5 delete "7.75" and replace it with "8". On line seven of Exception 5 delete "10" and replace it with "9".

6.11.3 IFC, Chapter 10, Section 1009.11, Exception 4 is deleted and replaced with the following: 4. In occupancies in Group R-3, as applicable in Section 101.2 and in occupancies in Group U, which are accessory to an occupancy in Group R-3, as applicable in Section 101.2, handrails shall be provided on at least one side of stairways consisting of four or more risers.

6.11.4 IFC, Chapter 10, Section 1009.11.3 is amended to add the following: Exception: Non-circular handrails serving an individual unit in a Group R-1, Group R-2 or Group R-3 occupancy shall be permitted to have a maximum cross sectional dimension of 3.25 inches (83 mm) measured 2 inches (51mm) down from the top of the crown. Such handrail is required to have an indention on both sides between 0.625 inch (16mm) and 1.5 inches (38mm) down from the top or crown of the cross section. The indentation shall be a minimum of 0.25 inch (6mm) deep on each side and shall be at least 0.5 (13mm) high. Edges within the handgrip shall have a minimum radius of 0.0625 inch (2mm). The handrail surface shall be smooth with no cusps so as to avoid catching clothing or skin.

6.11.5 IFC, Chapter 10, Section 1012.2 is amended to add the following exception: 3. For occupancies in Group R-3 and within individual dwelling units in occupancies in Grouop R-2, as applicable in Section 101.2, guards shall form a protective barrier not less than 36 inches (914mm).

6.11.6 IFC, Chapter 10, Section 1027.2 is amended to add the following: On line five after the word "fire" add the words "and building".

6.12 Fireworks

6.12.1 IFC, Chapter 33, Section 3301.1.3 is amended to add the following Exception: 10. The use of fireworks for display and retail sales is allowed as set forth in UCA 53-7-220 and UCA 11-3-1.

6.13 Flammable and Combustible Liquids

6.13.1 IFC, Chapter 34, Section 3404.4.3 is amended as follows: Delete 3403.6 on line three and replace it with 3403.4.

6.14 Liquefied Petroleum Gas

6.14.1 IFC, Chapter 38, Section 3809.12, is amended as follows: Delete 20 from line three and replace it with 10.

6.14.2 IFC, Chapter 38, Section 3809.14 is amended as follows: Delete 20 from line three and replace it with 10.

KEY: fire prevention, law
[July 18, 2005]September 15, 2005
Notice of Continuation June 12, 2002
53-7-204

Tax Commission, Auditing

R865-19S-120

Sales and Use Tax Exemption Relating to Film, Television, and Video Pursuant to Utah Code Ann. Section 59-12-104

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 28114
FILED: 07/29/2005, 13:38

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Section 59-12-104 provides a sales tax exemption for the purchase, lease, or rental of machinery or equipment by certain establishments, if used primarily in the production or post production of film, television, video, or similar media for commercial distribution. This proposed section defines machinery and equipment for purposes of the exemption.

SUMMARY OF THE RULE OR CHANGE: This proposed section defines terms for purposes of the sales tax exemption for the purchase, lease, or rental of machinery or equipment primarily used in the production or post production of film, television, and video for commercial distribution; indicates transactions that do not qualify for the exemption.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 59-12-104

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: None--Any impact was taken into account in S.B. 190 (2004). (DAR NOTE: S.B. 190 is found at UT L 2004 Ch 298, and was effective 07/01/2004.)
❖ LOCAL GOVERNMENTS: None--Any impact was taken into account in S.B. 190 (2004).
❖ OTHER PERSONS: None--Any impact was taken into account in S.B. 190 (2004).

COMPLIANCE COSTS FOR AFFECTED PERSONS: Entities that meet the criteria for the sales tax exemption will be able to make certain purchases tax exempt.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule has no fiscal impact since the sales tax exemption was accounted for in the fiscal note for S.B. 190 when it passed in the 2004 Legislative Session. Pam Hendrickson, Tax Commission Chair

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
TAX COMMISSION
AUDITING
210 N 1950 W
SALT LAKE CITY UT 84134, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Cheryl Lee at the above address, by phone at 801-297-3900, by FAX at 801-297-3919, or by Internet E-mail at clee@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 09/14/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 09/15/2005

AUTHORIZED BY: Pam Hendrickson, Commission Chair

R865. Tax Commission, Auditing.
R865-19S. Sales and Use Tax.
R865-19S-120. Sales and Use Tax Exemption Relating to Film, Television, and Video Pursuant to Utah Code Ann. Section 59-12-104.

(1) The provisions of this rule apply to the sales and use tax exemption authorized under Section 59-12-104 for the purchase, lease, or rental of machinery or equipment by certain establishments related to film, television, and video if those purchases, leases, or rentals are primarily used in the production or postproduction of film, television, video, or similar media for commercial distribution.

(2) "Machinery or equipment" means tangible personal property eligible for capitalization under accounting standards.

(3)(a) "Tangible personal property eligible for capitalization under accounting standards" means tangible personal property with an economic life greater than one year.

(b) "Tangible personal property eligible for capitalization under accounting standards" does not include tangible personal property with an economic life of one year or less, even if that property is capitalized on the establishment's financial records.

(c) There is a rebuttable presumption that an item of tangible personal property is not eligible for capitalization if that property is not shown as a capitalized asset on the financial records of the establishment.

(4) Transactions that do not qualify for the sales tax exemption referred to in Subsection (1) include purchases, leases, or rentals of:

(a) land;
(b) buildings;
(c) raw materials;
(d) supplies;
(e) film;
(f) services;
(g) transportation;
(h) gas, electricity, and other fuels;
(i) admissions or user fees; and
(j) accommodations.

(5) If a transaction is composed of machinery or equipment and items that are not machinery or equipment, the items that are not machinery or equipment are exempt from sales and use tax if the items are:

(a) an incidental component of a transaction that is a purchase, lease, or rental of machinery or equipment; and
(b) not billed as a separate component of the transaction.

(6)(a) Except as provided in Subsection (6)(b), an item used for administrative purposes does not qualify for the exemption.

(b) Notwithstanding Subsection (6)(a), if an item is used both in the production or postproduction process and for administrative purposes, the item qualifies for the exemption if the primary use of the item is in the production or postproduction process.

KEY: charities, tax exemptions, religious activities, sales tax
[~~December 21, 2004~~]2005
Notice of Continuation April 5, 2002
59-12-104

Workforce Services, Workforce Information and Payment Services
R994-307-101
Relief of Charges to Contributing Employers

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 28101
FILED: 07/26/2005, 15:00

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The reason for the change is to make the rule for part-time concurrent contributing employers the same as reimbursable employers and to remove an old subsection that no longer applies.

SUMMARY OF THE RULE OR CHANGE: After the Department filed a proposed amendment to this rule on 05/16/2005, it was discovered that the language in Subsection R994-307-101(1)(a)(i)(I) is no longer applicable as a result of legislative changes in H.B. 10 passed in the 2005 General Session of the Utah State Legislature. H.B. 10 is found at UT L 2005 Ch 12, and was effective 03/01/2005. The Department will let the amendment to this rule which was filed on 05/16/2005, lapse and replace those changes with these. In October 2004, the Department filed changes to the "part-time concurrent reimbursable" rule (Section R994-401-302) to clarify when a part-time reimbursable employer will be relieved of liability. This current amendment is to make the rule the same for part-time concurrent contributory employers. Basically, if a claimant works for two or more employer and is separated from one of those employers, the other employers who still employ the claimant should not be liable for benefit costs. The employment no longer needs to be concurrent provided it is in the benefit year and the claimant worked for the employer in the week before filing the claim. (DAR NOTE: The proposed amendment that was filed on 05/16/2005 was published in the June 1, 2005, issue of the Bulletin under DAR No. 27919.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 35A-1-104, and Subsections 35A-1-104(4) and 35A-4-502(1)(b)

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: This is a federally-funded program and there will be no cost or savings to the state budget. The state is not a contributory employer and is unaffected by this amendment.
❖ LOCAL GOVERNMENTS: This is a federally-funded state-run program and there will be no cost or savings to any local governmental entity. Even though local governments pay unemployment benefits, they are reimbursable and thus not affected by this rule.
❖ OTHER PERSONS: There will be no cost or savings to other persons. Employers not contributing to unemployment have always been relieved of costs; this amendment just clarifies when the contributory employer can be relieved of benefit costs.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This amendment is not a big change from how relief is currently determined so it is not believed any claimants or employers will be affected by this change. There are no costs for complying with this rule change.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be no fiscal impact on business as a result of this change. Businesses are already relieved of charges for part-time concurrent employees, this proposed amendment will include a few part-time employers in the definition by dropping the "concurrent" requirement. Tani Downing, Executive Director

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
WORKFORCE SERVICES
WORKFORCE INFORMATION
AND PAYMENT SERVICES
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 09/16/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 09/29/2005

AUTHORIZED BY: Tani Downing, Executive Director

R994. Workforce Services, Unemployment Insurance.
R994-307. Social Costs -- Relief of Charges.
R994-307-101. Relief of Charges to Contributing Employers.

(1) Under the following circumstances a written request is required for relief of charges:

(a) Separation Issues.

(i) Relief may be granted based only on the circumstance which caused the claim to be filed or a separation which occurred prior to the initial filing of the claim. If there is more than one [~~reason for~~]separation from the same employer, charges or relief of charges will be based on the reason for the last separation occurring prior to the effective date of the claim. Separations occurring after the initial filing of a claim do not result in relief of charges on that claim, but may be the basis for relief of charges on a subsequent claim.

(A) The claimant voluntarily left work for that employer due to circumstances which would have resulted in a denial of benefits under Subsection 35A-4-405(1) of the Act.

(B) The separation from that employer would have resulted in an allowance of benefits made under the provisions of "equity and good conscience" under circumstances not caused or aggravated by the

employer. For example: If the claimant quit because of a personal circumstance which was not the result of this employment the employer would be relieved of charges. However, if the quit was precipitated by a reduction in the claimant's hours of work, even though the change in working conditions was necessitated by economic conditions, the employer would NOT be relieved of charges.

(C) The claimant quit that employer for health reasons which were beyond reasonable control of the employer. Although the job may have caused or aggravated the health problems, the employer is eligible for relief if it was in compliance with industry safety standards.

(D) The claimant quit work for that employer not because of adverse working conditions, but solely due to a personal decision to accept work with another employer.

(E) The claimant quit work from that employer for personally compelling circumstances not within the employer's power to control or prevent.

(F) The claimant quit new work from that employer after a short trial period, and through no fault of the employer the new work was unsuitable as defined in Subsections 35-4-405(3)(c), (d), and (e).

(G) The claimant was discharged from that employer for circumstances which would have resulted in a denial of benefits under Section 35A-4-405(2) of the Act.

(H) The claimant was discharged for nonperformance due to medical reasons. The employer is eligible for relief:

(I) only if the employer complied with industry health and safety standards, and

(II) the non-performance was due to a chronic medical condition, and

(III) the medical circumstances are expected to continue. The medical problems may be attributed to the worker or to a dependent. A series of unrelated absences attributed to medical problems do not qualify as chronic without medical verification that the conditions will probably continue to cause absences.[

(I) The claimant continued to work for an acquiring employer when a portion of the business assets was sold or transferred to another business entity. For the purpose of this rule, employees are not considered assets and there must be an actual sale or transfer of business assets. Because the selling employer lost control of the employees to the acquiring employer, the selling employer may be eligible for relief of charges. Such relief may be sought by a timely written request following the claimant's subsequent claim for benefits. "Continued to work for the acquiring employer" means the claimant began work as soon as work was available with the acquiring employer.]

(b) Non-Separation Issues.

(i) When the claimant worked for two or more employers during the base period and is separated from one or more of these employers, but continues in regular part-time work for one of those employers, the nonseparating, part-time employer will not be liable for benefit costs provided;

(A) the claimant earned wages from a nonseparating employer within seven days prior to the date when the claim was filed,

(B) the claimant is not working on an "on call" basis,

(C) the number of hours of work has not been reduced, and

(D) the nonseparating employer makes a request that it not be held liable for benefit costs within ten days of the first notification of the employer's potential liability.[The claimant's customary hours of work with the concurrent employer, even though not necessarily constant have not been reduced either during the base period or prior to the filing of the claim below the least number of hours worked during the base period. For this circumstance to exist, the claimant must have worked for two or more employers during the base period of his claim, and when separated from one of the employers, he continues to work less than full-time for the other employer. Only the part-time employer can be relieved of benefit costs under the provisions of this section.]

(ii) The employer was previously charged for the same wages which are being used a second time to establish a new claim. For example, as the result of a change in the method of computing the base period, or overlapping base periods due to the effective date of the claim.

(iii) The claimant did not work for the employer during the base period.

(iv) The Department incorrectly used wages which were or should have been correctly reported by the employer in determining the claimant's weekly benefit amount or maximum benefit amount.

(c) The Department may, on its own motion, grant relief of charges without a written request if in the Department representative's discretion there is sufficient information in the record to justify relief.

(2) Under the following circumstances a written request is NOT required for relief of charges:

(a) All employers shall be relieved of benefit costs:

(i) resulting from the state's share of extended benefit payments;

(ii) which, during the same fiscal year, have been designated by the Department as benefit overpayments;

(iii) resulting from combined wage claims that are charged to Utah employers, which are insufficient when separately considered for a monetary claim under Utah law but have been transferred to a paying state;

(iv) resulting from payments made after December 31, 1985 to claimants who have been given [commission]Department approval to attend school. Relief is granted only for those benefit costs during the period of [commission]Department approval.

(b) An employer shall be relieved of benefit costs if the employer has terminated coverage.

KEY: unemployment compensation, rates
[April 1, 2002]2005
Notice of Continuation June 11, 2003
35A-4-303

Workforce Services, Workforce Information and Payment Services
R994-406
Fraud and Fault

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 28102
FILED: 07/26/2005, 15:11

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The reason for the change is to clarify procedure and make changes to reflect the new computer system.

SUMMARY OF THE RULE OR CHANGE: After filing a proposed amendment to this rule on 05/16/2005, the Department discovered that the reference numbers in Subsection R994-

406-302(5) referenced the wrong rule numbers. The correct references should be to "R994-406-201 or R994-406-301". The Department will let the proposed amendment filed on 05/16/2005 lapse and replace those changes with these. The Department is rewriting all of its rules and instituting a new computer system. These proposed amendments are to reflect changes in procedures for the new computer system, as well as, Department policy. All fraud, fault, and nonfault overpayment provisions have been moved into one rule to make them easier to find. In the case of fault overpayments, 100% of a claimant's benefits will be used to retire any fault obligation owed to the Department instead of 50% as it now stands. The waiver provisions of the nonfault overpayment rules have been "tightened up" so that individuals can be called on to prove need after a waiver has been granted. Discretion in the collection of fault overpayments will only be allowed in shared fault situations. The burden of proof in fraud cases will now be clear and convincing evidence to make unemployment cases the same as public assistance cases administered by the Department. Because several provisions were moved, the strike out and underline approach to this amendment would have been too confusing so the entire text of the current Rule R994-406 was struck through and added back anew; but most of the other changes are minor to conform to current practice and policy. (DAR NOTE: The proposed amendment that was filed on 05/16/2005 was published in the June 1, 2005, issue of the Bulletin under DAR No. 27928.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 35A-1-104, and Subsections 35A-1-104(4) and 35A-4-502(1)(b)

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: There will be no costs or savings to the state budget. With the recovery of 100% in fault cases it may be that the Department recovers more overpayments in cases where the state is a party but it is not anticipated this will be a significant amount of money. This is a federally-funded program and there are no costs to the state.
❖ LOCAL GOVERNMENTS: Local government may see the same changes discussed in the state information above. There will be no costs to local governments.
❖ OTHER PERSONS: The Department has determined there will be no costs associated with this rule change. If more overpayments are recovered under this change, it could represent a savings to employers. The Department has no way of determining whether this will actually lead to recovering more fault overpayments, but it certainly will not result in less recovery. It is anticipated that because this rule change will authorize the Department to deduct 100% of ongoing or future unemployment benefits, these overpayment will be recovered more quickly but it is not known if more overpayments will be recovered.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The Department has determined that there are no costs associated with complying with this provision of the rule. Individuals who correctly file their claims for benefits are not subject to the overpayment provisions of this rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be no fiscal impact on businesses in Utah. The potential savings by changing the rate from 50% to 100% will be minimal but may benefit employers overall. Tani Downing, Executive Director

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
WORKFORCE SERVICES
WORKFORCE INFORMATION
AND PAYMENT SERVICES
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 09/16/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 09/29/2005

AUTHORIZED BY: Tani Downing, Executive Director

R994. Workforce Services, Unemployment Insurance.
R994-406. Fraud, [~~and~~]Fault and Nonfault Overpayments.
[~~R994-406-205. Obligation of Department Employees.~~
~~Employees of the Department are obligated, regardless of when the information is discovered, to bring to the attention of the proper Department representatives any information that may affect an individual's eligibility for unemployment insurance benefits or information affecting the employer's contributions.~~

~~**R994-406-401. Fault Overpayments - General Definition.**~~
~~Subsection 35A-4-406(4) identifies the repayment requirements of individuals who have been overpaid due to fraud, or due to claimant fault not constituting fraud.~~

~~**R994-406-402. Fraud.**~~
~~(1) When the Department has evidence of an overpayment resulting from the claimant's failure to properly report material information, the claimant will be notified of the issue, given an opportunity to provide information concerning the issue, and told that payments are being held pending a decision. In such circumstances, payment of benefits for claims currently in process may be held for up to two weeks pending the issuance of a fraud or overpayment decision. Benefit payments which have not been paid for eligible weeks prior to the disqualification period under Subsection 35A-4-405(5), shall be used to reduce such an overpayment. 100% of the benefit check to which he is entitled will be used to reduce the overpayment.~~
~~(2) The overpayment and penalties for fraud are established only when benefits have been denied under Subsection 35A-4-405(5). The repayment amount is determined by Subsection 35A-4-405(5) and, following a decision, repayment must be made in cash before the claimant will be eligible to establish a waiting week credit or receive~~

~~future benefit payments. Therefore, the overpayment and penalties cannot be offset.~~

~~R994-406-403. Claimant Fault.~~

~~(1) Elements of Fault.~~

~~Fault is established if all three of the following elements are present. If one or more element cannot be established, the overpayment does not fall under the provisions of Subsection 35A-4-405(5).~~

~~(a) Materiality.~~

~~Benefits were paid to which the claimant was not entitled.~~

~~(b) Control.~~

~~Benefits were paid based on incorrect information or an absence of information which the claimant reasonably could have provided.~~

~~(c) Knowledge.~~

~~The claimant had sufficient notice that the information might be reportable.~~

~~(2) Claimant Responsibility.~~

~~The claimant is responsible for providing all of the information requested of him in written documents regarding his Unemployment Insurance claim, as well as any verbal instructions given by a Department representative. Before certifying that he is eligible for benefits, he is under obligation to make proper inquiry if he has any questions to determine definitely what is required. Therefore, when a claimant has knowledge that certain information may affect his claim, but makes his own determination that the information is not material or if he ignores it, he is at fault.~~

~~(3) Receipt of Settlement or Back-Pay.~~

~~(a) A claimant is "at fault" for an overpayment created if he fails to advise the Department that grievance procedures are being pursued which may result in payment of wages for weeks he claims benefits.~~

~~(b) When the claimant advises the Department prior to receiving a settlement that he has filed a grievance with his employer, and he makes an assignment directing the employer to pay to the Department that portion of the settlement equivalent to the amount of unemployment compensation he receives, he will not be "at fault" if an overpayment is created due to payment of wages attributable to weeks for which he receives benefits. If the grievance is resolved in favor of the claimant and the employer was properly notified of the wage assignment, the employer is liable to immediately reimburse the Unemployment Insurance Fund upon settlement of the grievance. If reimbursement is not made to the Department consistent with the provisions of the Assignment, collection procedures will be initiated against the employer.~~

~~(c) If the claimant refuses to make an assignment of the wages he is claiming in a grievance proceeding, benefits will be withheld on the basis that he is not unemployed because he anticipates receipt of wages. In this case, the claimant should file weekly claims and if he does not receive back wages when the grievance is resolved, benefits will be paid for weeks properly claimed provided he is otherwise eligible.~~

~~R994-406-404. Method of Repayment of Fault Overpayments.~~

~~(1) When the claimant has been determined to be "at fault" in the creation of an overpayment, the overpayment must be repaid. If payment is made by personal check, no benefit checks will be released until the personal check has been honored by the bank. If the claimant is otherwise eligible and files for additional benefits during the same or any subsequent benefit year, 50% of the benefit check to which he is entitled will be used to reduce the overpayment.~~

~~(2) Discretion for Repayment.~~

~~(a) Full restitution is required of all overpayments established under Subsection 35A-4-405(5). At the discretion of the Department, however, the claimant may not be required to make payments and legal collection proceedings may be held in abeyance. The overpayment will be deducted from future benefits payable during the current or subsequent benefit years. Discretion may be exercised:~~

~~(i) if the Department or the employer share fault in the creation of the overpayment, or~~

~~(ii) if installment payments would impose unreasonable hardship such as in the case of an individual with an income which does not provide for additional money beyond minimum living requirements.~~

~~(b) The Department cannot exercise repayment discretion for fraud overpayments and these amounts are subject to all collection procedures.~~

~~(3) Installment Payments.~~

~~(a) If repayment in full has not been made within 90 days of the first billing the Department shall enter into an agreement with the claimant whereby repayment of the money owed is collectible by monthly installments. The Department shall notify the claimant in writing of the minimum installment payment which the claimant is required to make. If the claimant is unable to make the minimum installment payments, he may request a review within ten days of the date written notice is mailed or delivered.~~

~~(b) Installment agreements shall be established as follows:~~

~~Overpayments Equaling Minimum Monthly Payment~~

~~$3,000 or less 50% of claimant's weekly benefit entitlement~~

~~3,001 to 5,000 100% of claimant's weekly benefit entitlement~~

~~5,001 to 10,000 125% of claimant's weekly benefit entitlement~~

~~10,001 or more 150% of claimant's weekly benefit entitlement~~

~~(c) Installment agreements will not be approved in amounts less than those established above except in cases of extreme hardship. An ability to make a minimal payment is presumed if the claimant has a household income which is in excess of the poverty level guidelines as established by the federal government and used to grant waivers of overpayments under Subsection 35A-4-406(5). The installment agreement will be reviewed periodically and adjustments made based upon changes in the claimant's income or circumstance. A due date will be established for each installment agreement which is mutually agreed upon by the claimant and the Department.~~

~~(4) Collection Procedures.~~

~~(a) Billings are sent to claimants with overpayments on a monthly basis. After 30 days, if payment is not made, the account is considered delinquent. If no payment has been received in 90 days the individual is notified that a warrant will be filed unless a payment is received within 10 days. However, there may be other circumstances under which a warrant may be filed on any outstanding overpayment. A warrant attaches a lien to any personal or real property and establishes a judgment that is collectible under Utah Rules of Civil Procedure.~~

~~(b) All outstanding overpayments are reported to the State Auditor for collection whereby any refunds due to the individual from State income tax or any such rebates, refunds, or other amounts owed by the state and subject to legal attachment may be applied against the overpayment.~~

~~(5) Offset In Time.~~

~~Offset in time occurs when the claimant files valid weekly claims to replace weeks of benefits which were overpaid. When an overpayment is established after the claimant has exhausted all benefits, the claimant may file claims for additional weeks during the same benefit year provided he is otherwise eligible. Offset in time will be allowed on claims that have expired if a written request is made within 30 days of the notification of the overpayment. No offset in time will be allowed on overpayments established under Subsection 35A-4-405(5). One hundred percent (100%) of the weekly benefit amount for~~

the weeks claimed will be credited against the established overpayment up to the amount of the balance owed to the Department. No penalty for late filing will be assessed when a claimant is otherwise eligible to file claims to offset in time.

R994-406-501. Non-Fault Overpayments - General Definition.

Subsection 35A-4-406(5) identifies the repayment requirements of individuals who have received an overpayment of benefits through no fault of their own. Such overpayments are referred to as "accounts not receivable" (ANR).

R994-406-502. Responsibility.

(1) The claimant is responsible for providing all of the information requested in written documents as well as any verbal request from a Department representative. If the claimant has provided such information, and then receives benefits to which he is not entitled through an error of the Department or an employer, he is not at fault for the overpayment.

(2) "Through no fault of his own" does not mean the claimant can shift responsibility for providing correct information to another person such as a spouse, parent, or friend. The claimant is responsible for all information required on his claim.

R994-406-503. Method of Repayment.

Even though the claimant is without fault in the creation of the overpayment, 50 percent of the claimant's weekly benefit amount will be deducted from any future benefits payable to him until the overpayment is repaid. No billings will be made and no collection procedures will be initiated.

R994-406-504. Waiver of Recovery of Overpayment.

(1) If waiver of recovery of overpayment is granted under Subsection 35A-4-406(5), the amount of the overpayment owing at the time the request is granted is withdrawn, forgiven or forgotten and the claimant has no further repayment obligation. Granting of a waiver will not be retroactive for any of the overpayment which has already been offset except if the offset was made pending a decision on a timely waiver request.

(a) Time Limitation for Requesting Waiver.

A waiver must be requested within 10 days of the notification of opportunity to request a waiver or within 10 days of the first offset of benefits following a reopening or upon a showing of a significant change of the claimant's financial circumstances. Good cause will be considered if the claimant can show the failure to request a waiver within these time limitations was due to circumstances which were reasonable or beyond his control.

(b) Basic Needs of Survival.

The claimant may be granted a waiver of the overpayment if recovery by 50 percent offset would create an inability to pay for the basic needs of survival for the immediate family, dependents and other household members. In making this waiver determination, the Department shall take into consideration all the potential resources of the claimant, the claimant's family, dependents and other household members. The claimant will be required to provide documentation of claimed resources. The claimant must also provide social security numbers of family members, dependents and household members. "Economically disadvantaged" for federal programs is defined as 70 percent of the Lower Living Standard Income Level (LLSIL). "Inability to meet the basic needs of survival" is defined consistent with "economically disadvantaged." Therefore, if the claimant's total family resources in relation to family size are not in excess of 70 percent of the LLSIL, the waiver will be granted provided the economic circumstances are not expected to change within an indefinite period of time. Individual expenses will not be considered.

(c) Indefinite Period.

An indefinite period of time is defined as the current month and at least the next two months. Therefore, the duration of the financial hardship must be expected to last at least three months. If the claimant or household members expect to return to work within the three months the anticipated income will be included in determining if he lacks basic needs of survival for an indefinite period of time. Available resources will be averaged for the three months.

]

R994-406-101. Claimant Responsible for Providing Complete, Correct Information.

(1) The claimant is responsible for providing all of the information requested in written documents as well as any verbal request from a Department representative. The claimant is also responsible for following all Department instructions.

(2) The claimant can not shift responsibility for providing correct information to another person such as a spouse, parent, or friend. The claimant is responsible for all information required on his or her claim.

R994-406-201. Nonfault Overpayments.

(1) If the claimant followed all instructions and provided complete and correct information as required in R994-406-101(1) and then received benefits to which he or she was not entitled due to an error made by the Department or an employer, the claimant is not at fault in the creation of the overpayment.

(2) The claimant is not liable to repay overpayments created through no fault of the claimant except that the sum will be deducted from any future benefits.

R994-406-203. Method of Repayment of Nonfault Overpayments.

Even though the claimant is without fault in the creation of the overpayment, 50% of the claimant's weekly benefit amount will be deducted from any future benefits payable to him or her until the overpayment is repaid. No billings will be made and no collection procedures will be initiated.

R994-406-204. Waiver of Recovery of Nonfault Overpayments.

(1) The Department may waive recovery of a nonfault overpayment if the claimant:

(a) requests a waiver within 10 days of notification of the opportunity to request a waiver, within 10 days of the first offset of benefits following a reopening, or upon a showing of a significant change in the claimant's financial circumstances. Good cause will be considered if the claimant can show the failure to request a waiver within these time limitations was due to circumstances which were beyond the claimant's control or were compelling and reasonable; and

(b) can show that recovery of the 50% offset as provided in R994-406-203 would render the claimant unable to pay for the basic needs of survival for his or her immediate family, dependents and other household members.

(i) The claimant must provide verification of financial resources and the social security numbers of family members, dependents and household members.

(ii) Before granting the waiver, the Department must consider all potential financial resources of the claimant, the claimant's family, dependents and other household members.

(iii) "Unable to pay for the basic needs of survival" means "economically disadvantaged" and is defined as 70% of the Lower Living Standard Income Level (LLSIL). Therefore, if the claimant's total family resources in relation to family size are not in excess of 70% of the LLSIL, the waiver will be granted provided the economic circumstances are not expected to change within the next 90 days. Individual expenses will not be considered. Available financial resources, current income, and anticipated income will be included and averaged for the three months.

(2) Any nonfault overpayment outstanding at the time the request is granted is forgiven and the claimant has no further repayment obligation.

(3) A waiver cannot be granted retroactively for any payments made against an overpayment or any of the overpayment which has already been offset except if the offset was made pending a decision on a timely waiver request which is ultimately granted.

R994-406-301. Claimant Fault.

(1) Elements of Fault.

Fault is established if all three of the following elements are present, or as provided in subsection (4) of this section. If one or more elements cannot be established, the overpayment does not fall under the provisions of Subsection 35A-4-405(5).

(a) Materiality.

Benefits were paid to which the claimant was not entitled.

(b) Control.

Benefits were paid based on incorrect information or an absence of information which the claimant reasonably could have provided.

(c) Knowledge.

The claimant had sufficient notice that the information might be reportable.

(2) Claimant Responsibility.

The claimant is responsible for providing all of the information requested by the Department regarding his or her Unemployment Insurance claim. If the claimant has any questions about his or her eligibility for unemployment benefits, or the Department's instructions, the claimant must ask the Department for clarification before certifying to eligibility. If the claimant fails to obtain clarification, he or she will be at fault in any resulting overpayment.

(3) Receipt of Settlement or Back-Pay.

(a) A claimant is "at fault" for the resulting overpayment if he or she fails to advise the Department that grievance procedures are being pursued which may result in payment of wages for weeks during which he or she claims benefits.

(b) If the claimant advises the Department prior to receiving a settlement that he or she has filed a grievance with the employer and makes an assignment directing the employer to pay to the Department that portion of the settlement equivalent to the amount of unemployment compensation received, the claimant will not be "at fault" if an overpayment is created due to payment of wages attributable to weeks for which the claimant received benefits. If the grievance is resolved in favor of the claimant and the employer was properly notified of the wage assignment, the employer is liable to immediately reimburse the Department upon settlement of the grievance. If reimbursement is not made to the Department consistent with the provisions of the assignment, collection procedures will be initiated against the employer.

(c) If the claimant refuses to make an assignment of the wages claimed in a grievance proceeding, benefits will be withheld on the basis that the claimant is not unemployed because of anticipated receipt of wages. In this case, the claimant should file weekly claims and if back wages are not received when the grievance is resolved, benefits will be paid for weeks properly claimed provided the claimant is otherwise eligible.

(4) Receipt of Retirement Income.

Notwithstanding any other provision of this section, a claimant who could be eligible for retirement income but does not apply until after unemployment benefits have been paid, is "at fault" for any overpayment resulting from a retroactive payment of retirement benefits. See R994-401-203(1)(d) and (2)

R994-406-302. Repayment and Collection of Fault Overpayments.

(1) When the claimant has been determined to be "at fault" in the creation of an overpayment, the overpayment must be repaid. If the claimant is otherwise eligible and files for additional benefits during the same or any subsequent benefit year, 100% of the benefit payment to which the claimant is entitled will be used to reduce the overpayment.

(2) Discretion for Repayment.

(a) Full restitution is required for all fault overpayments. However, legal collection proceedings may be held in abeyance at the Department's discretion and the overpayment will be deducted from future benefits payable during the current or subsequent benefit years. Discretion will only be exercised if the Department or the employer share fault in the creation of the overpayment but it is determined the claimant was more at fault under the provisions of rule R994-403-119e.

(3) Collection Procedures.

(a) The Department will send an initial overpayment notice on all outstanding fault or fraud overpayments. If, after 15 days, the claimant does not either make payment in full or enter into an installment payment agreement as provided in subsection (4) below the account is considered delinquent and the claimant is notified that a warrant will be filed unless a payment is received or an installment agreement entered into within 15 days. However, there may be other circumstances under which a warrant may be filed on any outstanding overpayment. A warrant attaches a lien to any personal or real property and establishes a judgment that is collectible under Utah Rules of Civil Procedure.

(b) All outstanding overpayments on which a lien has been filed are reported to the State Division of Finance for collection whereby any refunds due to the claimant from State income tax or any such rebates, refunds, or other amounts owed by the state and subject to legal attachment may be applied against the overpayment.

(c) No warrant will be issued on fault overpayments provided the claimant entered into an installment agreement within 30 days of the issuance of the initial overpayment notice and all payments are made in a timely manner in accordance with the installment agreement.

(4) Installment Payments.

(a) If repayment in full has not been made within 30 days of the initial overpayment notice or the claimant has not voluntarily entered into an installment agreement, the Department will allow the claimant to pay in installments by notifying the claimant in writing of the minimum installment payment which the claimant is required to make. If the claimant is unable to make the minimum installment

payments, the claimant may request a review within ten days of the date written notice is mailed.

(b) Whether voluntarily or involuntary, installment payments will be established as follows:

If the entire overpayment is:

(i) $3,000 or less, the monthly installment payment is equal to 50% of claimant's weekly benefit entitlement

(ii) $3,001 to 5,000, the monthly installment payment is equal to 100% of claimant's weekly benefit entitlement

(iii) $5,001 to 10,000 the monthly installment payment is equal to 125% of claimant's weekly benefit entitlement

(iv) $10,001 or more the monthly installment payment is equal to 150% of claimant's weekly benefit entitlement

(c) Installment agreements will not be approved in amounts less than those established above except in cases where the claimant meets the requirements of economically disadvantaged as defined in R994-406-204(1)(b)(iii). On a periodic basis the Department may send notice to the claimant requesting verification of his or her disadvantaged status. If the claimant fails to provide the verification as requested, or no longer qualifies for a lesser installment payment, the Department will send the claimant a new monthly payment amount. The new installment payment amount may be in accordance with the percentages in subparagraph (b) or a lesser amount depending on the information received from the claimant.

(d) Minimum monthly installment agreement payments must be received by the Department by the last day of each month. Payments not made timely are considered delinquent.

(5) Offsetting overpayments with subsequent eligible weeks.

If an overpayment is set up under Section R994-406-201 or R994-406-301 for weeks paid on a claim, the claimant may repay the overpayment by filing for open weeks in the same benefit year after the claim has been exhausted, provided the claimant is otherwise eligible. 100% of the compensation amount for each eligible week claimed will be credited to the established overpayment(s) up to the total amount of the outstanding overpayment balance owed to the Department.

R994-406-401. Claimant Fraud.

(1) All three elements of fraud must be proved to establish an intentional misrepresentation sufficient to constitute fraud. See section 35A-4-405(5). The three elements are:

(a) Materiality.

(i) Materiality is established when a claimant makes false statements or fails to provide accurate information for the purpose of obtaining;

(A) any benefit payment to which the claimant is not entitled, or

(B) waiting week credit which results in a benefit payment to which the claimant is not entitled.

(ii) A benefit payment received by fraud may include an amount as small as one dollar over the amount a claimant was entitled to receive.

(b) Knowledge.

A claimant must have known or should have known the information submitted to the Department was incorrect or that he or she failed to provide information required by the Department. The claimant does NOT have to know that the information will result in a denial of benefits or a reduction of the benefit amount. Knowledge can also be established when a claimant recklessly makes representations knowing he or she has insufficient information upon which to base such representations. A claimant has an obligation to read material provided by the Department or to ask a Department representative when he or she has a question about what information to report.

(c) Willfulness.

Willfulness is established when a claimant files claims or other documents containing false statements, responses or deliberate omissions. If a claimant delegates the responsibility to personally provide information or allows access to his or her Personal Identification Number (PIN) so that someone else may file a claim, the claimant is responsible for the information provided or omitted by the other person, even if the claimant had no advance knowledge that the information provided was false or important information was omitted.

(2) The Department relies primarily on information provided by the claimant when paying unemployment insurance benefits. Fraud penalties do not apply if the overpayment was the result of an inadvertent error. Fraud requires a willful misrepresentation or concealment of information for the purpose of obtaining unemployment benefits.

(3) The absence of an admission or direct proof of intent to defraud does not prevent a finding of fraud.

R994-406-402. Burden and Standard of Proof in Fraud Cases.

(1) The Department has the burden of proving each element of fraud.

(2) The elements of fraud must be established by clear and convincing evidence. There does not have to be an admission or direct proof of intent.

R994-406-403. Fraud Disqualification and Penalty.

(1) Penalty Cannot be Modified.

The Department has no authority to reduce or otherwise modify the period of disqualification or the monetary penalties imposed by statute. The Department cannot exercise repayment discretion for fraud overpayments and these amounts are subject to all collection procedures.

(2) Week of Fraud.

(a) A "week of fraud" shall include each week any benefits were received due to fraud. The only exception to this is if the fraud occurred during the waiting week causing the next eligible week to become the new waiting week. In that case, the new waiting week will not be considered as a week of fraud for disqualification purposes. However, because the new waiting week is a non-payable week, any benefits received during that week will be assessed as an overpayment and because the overpayment was as a result of fraud, a fraud penalty will also be assessed.

(b) If a claimant commits a fraudulent act during one week, and benefits are paid in later weeks which would not have been paid but for the original fraud, each week wherein benefits were paid is a week of fraud subject to an overpayment determination, a penalty and a disqualification period.

(c) If the only week of fraud was the waiting week and no benefit payments were made, there will be no disqualification period.

(3) Disqualification Period.

(a) The claimant is ineligible for benefits for a period of 13 weeks for the first week of fraud. For each additional week of fraud, the claimant will be ineligible for benefits for an additional six weeks. The total number of weeks of disqualification will not exceed 49 weeks for each fraud determination. The Department will

issue a fraud determination on all weeks of fraud the Department knows about at the time of the determination.

(b) The disqualification period begins the Sunday following the date the Department fraud determination is made.

(4) Overpayment and Penalty.

(a) For any fraud decision where the initial fraud determination was issued on or before June 30, 2004, the claimant shall repay to the division an overpayment which is equal to the amount of the benefits actually received. In addition, a claimant shall be required to repay, as a civil penalty, the amount of benefits received as a direct result of fraud. "Benefits actually received" means the benefits paid or constructively paid by the Department. Constructively paid refers to benefits used to reduce or off-set an overpayment, deducted at the request of the claimant to pay income taxes, or used as a payment to the Office of Recovery Services for child support obligations or other payments as required by law. For example: The claimant has a weekly benefit amount of $100 and reports no earnings during a week when he or she actually had $50 in reportable earnings. Because a claimant may earn up to 30% of his or her weekly benefit amount with no deduction, the claimant was entitled to receive $80 for that week and was thus overpaid the amount of $20. If the elements of fraud are established, the claimant is disqualified during that week of fraud and all benefits paid for that week are considered an overpayment. The claimant would also be liable to repay, as a civil penalty, the $20 received by direct reason of fraud. Therefore, in this example, the claimant would be liable for a total overpayment and penalty of $120, an amount that would have to be repaid in its entirety before the claimant would be eligible for any further waiting week credit or unemployment benefits. The claimant would also be subject to a 13-week penalty period.

(b) For all fraud decisions where the initial department determination is issued on or after July 1, 2004, the claimant shall repay to the division the overpayment and, as a civil penalty, an amount equal to the overpayment. The overpayment in this subparagraph is the amount of benefits the claimant received by direct reason of fraud. In the example in subsection (3)(a) of this section, the overpayment would be $20 and the penalty would be $20 for a total due of $40. The overpayment and penalty would have to be repaid in its entirety before the claimant would be eligible for any further waiting week credit or unemployment benefits. The claimant would also be subject to a 13-week penalty period.

(4) Additional Penalties. Criminal prosecution of fraud may be pursued as provided by Subsection 35A-4-104(1) in addition to the administrative penalties.

R994-406-404. Repayment and Collection of Fraud Overpayments and Penalties.

Fraud overpayments and penalties will be collected in accordance with rule R994-406-302 except that a warrant will always issue in fraud overpayments even if the claimant enters into an installment agreement and is current in the monthly payments. Fraud overpayments and penalties may also be collected by civil action or warrant as provided by Subsections 35A-4-305(3) and 35A-4-305(5), respectively. The Department may use unemployment insurance benefits payable for weeks prior to the penalty period to reduce overpayments and penalties.

R994-406-405. Future Eligibility in Fraud Cases.

A claimant is ineligible for unemployment benefits or waiting week credit after a disqualification for fraud until any overpayment and penalty established in conjunction with the disqualification has been satisfied in full. Wage credits earned by the claimant cannot be used to pay benefits or transferred to another state until the overpayment and penalty are satisfied. An outstanding overpayment or penalty may NOT be satisfied by deductions from benefit payments for weeks claimed after the disqualification period ends, as a claimant is precluded from receiving any future benefits or waiting week credit as long as there is an outstanding fraud overpayment. However, a claimant may be permitted to file a new claim to preserve a particular benefit year. An overpayment is considered satisfied as of the beginning of the week during which payment is received by the Department. Benefits will be allowed as of the effective date of the new claim if a claimant repays the overpayment and penalty within seven days of the date the notice of the outstanding overpayment and penalty is mailed.

R994-406-406. Agency Error in Determining Disqualification Periods.

If the division has sufficient evidence to assess a disqualification prior to paying benefits, but fails to take action, a fraud disqualification will not be assessed even if the claimant provided false or information or deliberate omissions. The resulting overpayment will be assessed under the provisions of Subsections 35A-4-406(4)(b) or 35A-4-406(5)(a).

KEY: [~~appellate procedures, jurisdiction,~~]overpayments, unemployment compensation
[~~November 16, 2004~~]2005
Notice of Continuation May 23, 2002
35A-4-406(2)
35A-4-406(3)
35A-4-406(4)
35A-4-406(5)

End of the Notices of Proposed Rules Section

NOTICES OF
CHANGES IN PROPOSED RULES

After an agency has published a Proposed Rule in the *Utah State Bulletin*, it may receive public comment that requires the Proposed Rule to be altered before it goes into effect. A Change in Proposed Rule allows an agency to respond to comments it receives.

As with a Proposed Rule, a Change in Proposed Rule is preceded by a Rule analysis. This analysis provides summary information about the Change in Proposed Rule including the name of a contact person, anticipated cost impact of the rule, and legal cross-references.

Following the Rule Analysis, the text of the Change in Proposed Rule is usually printed. The text shows only those changes made since the Proposed Rule was published in an earlier edition of the *Utah State Bulletin*. Additions made to the rule appear underlined (e.g., example). Deletions made to the rule appear struck out with brackets surrounding them (e.g., [~~example~~]). A row of dots in the text (· · · · · ·) indicates that unaffected text was removed to conserve space. If a Change in Proposed Rule is too long to print, the Division of Administrative Rules will include only the Rule Analysis. A copy of rules that are too long to print is available from the agency or from the Division of Administrative Rules.

While a Change in Proposed Rule does not have a formal comment period, there is a 30-day waiting period during which interested parties may submit comments. The 30-day waiting period for Changes in Proposed Rules published in this issue of the *Utah State Bulletin* ends September 14, 2005. At its option, the agency may hold public hearings.

From the end of the waiting period through December 13, 2005, the agency may notify the Division of Administrative Rules that it wants to make the Change in Proposed Rule effective. When an agency submits a Notice of Effective Date for a Change in Proposed Rule, the Proposed Rule as amended by the Change in Proposed Rule becomes the effective rule. The agency sets the effective date. The date may be no fewer than 30 days nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file another Change in Proposed Rule in response to additional comments received. If the Division of Administrative Rules does not receive a Notice of Effective Date or another Change in Proposed Rule, the Change in Proposed Rule filing, along with its associated Proposed Rule, lapses and the agency must start the process over.

Changes in Proposed Rules are governed by *Utah Code* Section 63-46a-6 (2001); and *Utah Administrative Code* Rule R15-2, and Sections R15-4-3, R15-4-5, R15-4-7, and R15-4-9.

The Changes in Proposed Rules Begin on the Following Page.

Environmental Quality, Environmental Response and Remediation

R311-500

Illegal Drug Operations Site Reporting and Decontamination Act, Decontamination Specialist Certification Program

NOTICE OF CHANGE IN PROPOSED RULE
DAR File No.: 27782
Filed: 07/29/2005, 09:31

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Changes are proposed after comments received from the original proposed new rule. The proposed changes noted in Section R311-500-8 address comments by the Solid and Hazardous Waste Control Board as provided during the 06/09/2005 monthly Board meeting.

SUMMARY OF THE RULE OR CHANGE: The proposed changes in Section R311-500-8 address comments by the Solid and Hazardous Waste Control Board as provided during the 06/09/2005 monthly Board meeting by adding clarification. (DAR NOTE: This change in proposed rule has been filed to make additional changes to a proposed new rule that was published in the April 15, 2005, issue of the Utah State Bulletin, on page 21. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the change in proposed rule and the proposed new rule together to understand all of the changes that will be enforceable should the agency make this rule effective.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-6-901 et seq.

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: No change from the original proposed rule. This change is for clarification only.
❖ LOCAL GOVERNMENTS: No change from the original proposed rule. This change is for clarification only.
❖ OTHER PERSONS: No change from the original proposed rule. This change is for clarification only.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No change from the original proposed rule. This change is for clarification only.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No change from the original proposed rule. This change is for clarification only. Dianne Nielson, Executive Director

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
ENVIRONMENTAL QUALITY
ENVIRONMENTAL RESPONSE AND REMEDIATION
168 N 1950 W
SALT LAKE CITY UT 84116-3085, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Bill Rees or Brent Everett at the above address, by phone at 801-536-4167 or 801-536-4171, by FAX at 801-536-4242 or 801-536-4242, or by Internet E-mail at brees@utah.gov or beverett@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 09/14/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 10/17/2005

AUTHORIZED BY: Dianne R. Nielson, Executive Director

R311. Environmental Quality, Environmental Response and Remediation.
R311-500. Illegal Drug Operations Site Reporting and Decontamination Act, Decontamination Specialist Certification Program.

. . . .

R311-500-8. Performance Standards.

(a) A Certified Decontamination Specialist performing decontamination activities at contaminated property:

(1) shall be certified prior to engaging in any decontamination activities for the purpose of removing the contaminated property from the list referenced in Section 19-6-903(3)(b) and display the certificate upon request;

(2) shall report to the local Health Department the location of any property that is the subject of decontamination work by the Decontamination Specialist;

(3) shall file a workplan with the local Health Department;

(4) shall perform work in accordance with the workplan;

(5) shall perform work meeting applicable local, state and federal laws, including certification and licensing requirements for performing construction work;

(6) shall oversee and supervise all decontamination activities and ensure any person(s) assisting with decontamination work at contaminated property meets Occupational Safety and Health Agency safety training requirements in accordance with 29 CFR 1910.120;

<u>(7) shall disclose to any person(s) assisting with decontamination at contaminated property that work is being performed in a clandestine drug laboratory, inform the person(s) of the potential risks associated with this type of environment and ensure that the person(s) wears the necessary personal protective equipment as established by the Decontamination Specialist;</u>

[~~(7)~~](8) shall make all decisions regarding decontamination and be the only individual conducting confirmation sampling;

[~~(8)~~](9) shall follow scientifically sound and accepted sampling procedures;

[~~(9)~~](10) shall submit a Final Report to the local Health Department, which includes an affidavit stating that the property has been decontaminated to the standards outlined in R392-600;

[~~(10)~~](11) shall maintain a current address and phone number on file with the Division;

[~~(11)~~](12) shall not participate in fraudulent, unethical, deceitful or dishonest activity with respect to performance of work for which certification is granted; and

[~~(12)~~](13) shall not participate in any other activities regulated under R311-500 without meeting all requirements of that certification program.

R311-500-9. Denial of Application and Revocation of Certification.

(a) The Executive Secretary may issue a notice denying an application or an initial order or notice of intent to revoke a certification. The initial order or notice shall become final unless contested as outlined in R311-501.

(b) Grounds for denial of an application or revocation of a certification may include any of the following:

(1) Failure to meet any of the application and eligibility criteria established in R311-500-4 and R311-500-5;

(2) Failure to submit a completed application;

(3) Evidence of past or current criminal activity;

(4) Demonstrated disregard for the public health, safety or the environment;

(5) Misrepresentation or falsification of figures, reports and/or data submitted to the local Health Department or the State;

(6) Cheating on a certification examination;

(7) Falsely obtaining or altering a certificate;

(8) Negligence, incompetence or misconduct in the performance of duties as a Certified Decontamination Specialist;

(9) Failure to furnish information or records required by the Executive Secretary to demonstrate fitness to be a Certified Decontamination Specialist; or

(10) Violation of any certification or performance standard specified in this rule.

R311-500-10. No Preemption.

(a) Certification to work as a Certified Decontamination Specialist does not relieve an individual from any requirement to obtain additional licenses or certificates in different specialties to the extent required by other agencies whose jurisdiction and authority may overlap the decontamination work. The Certified Decontamination Specialist shall obtain the additional licenses or certificates prior to performing the work for which the additional license or certificate is required. The Illegal Drug Operations Site Reporting and Decontamination Act Decontamination Specialist Certification Program rules do not preempt or supercede rules or standards promulgated by other regulatory programs in the State of Utah.

R311-500-11. Certified Decontamination Specialist List.

(a) The Executive Secretary shall maintain a current list of Certified Decontamination Specialists that shall be made available to the public upon request.

KEY: meth lab contractor certification
2005
19-6-901 et seq.

▼ ▼

Environmental Quality, Environmental Response and Remediation

R311-501

Illegal Drug Operations Site Reporting and Decontamination Act, Contesting an Initial Order or Notice

NOTICE OF CHANGE IN PROPOSED RULE

DAR File No.: 27783
Filed: 07/29/2005, 09:32

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Changes are proposed after comments received from the original proposed new rule. The proposed changes noted in Section R311-501-4 address comments by the Solid and Hazardous Waste Control Board as provided during the 06/09/2005 monthly Board meeting.

SUMMARY OF THE RULE OR CHANGE: The proposed changes to Section R311-501-4 address comments by the Solid and Hazardous Waste Control Board as provided during the 06/09/2005 monthly Board meeting by adding clarification. (DAR NOTE: This change in proposed rule has been filed to make additional changes to a proposed new rule that was published in the April 15, 2005, issue of the Utah State Bulletin, on page 25. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the change in proposed rule and the proposed amendment together to understand all of the changes that will be enforceable should the agency make this rule effective.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-6-901 et seq.

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: No change from the original proposed rule. This change is for clarification only.

❖ LOCAL GOVERNMENTS: No change from the original proposed rule. This change is for clarification only.

❖ OTHER PERSONS: No change from the original proposed rule. This change is for clarification only.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No change from the original proposed rule. This change is for clarification only.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No change from the original proposed rule. This change is for clarification only. Dianne Nielson, Executive Director

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
ENVIRONMENTAL QUALITY
ENVIRONMENTAL RESPONSE AND REMEDIATION
168 N 1950 W
SALT LAKE CITY UT 84116-3085, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Bill Rees or Brent Everett at the above address, by phone at 801-536-4167 or 801-536-4171, by FAX at 801-536-4242 or 801-536-4242, or by Internet E-mail at brees@utah.gov or beverett@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 09/14/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 10/17/2005

AUTHORIZED BY: Dianne R. Nielson, Executive Director

R311. Environmental Quality, Environmental Response and Remediation.
R311-501. Illegal Drug Operations Site Reporting and Decontamination Act, Contesting an Initial Order or Notice.

. . . .

[~~**R311-501-4. Intervention.**~~
~~(a) Intervention shall not be allowed.~~]
R311-501-4. Parties and Intervention.
(a) The following persons are Parties to a proceeding governed by this Rule:
(1) The person to whom an initial order or notice of violation is directed, such as a person who submitted a permit application that was approved or disapproved by order of the Executive Secretary;
(2) The Executive Secretary; and
(3) All persons whose legal rights or interests are substantially affected by the proceeding, who have standing to participate in the proceeding, and to whom intervention rights have been granted under R311-501-4(d).
(b) In a proceeding requested by the person to whom an initial order or notice of violation is directed, that person shall be the Petitioner and the Executive Secretary shall be the Respondent.
(c) In a proceeding requested by a person requesting intervention, the Intervenor shall be the Petitioner, provided that Intervention is granted, and the Executive Secretary and the person to whom an initial order or notice of violation is directed shall be the Respondents.
(d) A non-party may request intervention under Section 63-46b-9 of UAPA for the purpose of filing a Request for Agency Action, and may simultaneously file a Request for Agency Action. Requests for Intervention and Agency Action must be received by the Board for filing as provided in R311-501-3.2 within 30 days of the date of the challenged order or notice.
(e) Any Party may, within 20 days or such earlier time as established by the Presiding Officer(s), respond to a Request for Intervention. The Chair of the Board may act as Presiding Officer for purposes of this paragraph.

. . . .

KEY: meth lab certification revocation
2005
19-6-901 et seq.

Insurance, Administration
R590-172-4
Rule

NOTICE OF CHANGE IN PROPOSED RULE
DAR File No.: 27845
Filed: 07/28/2005, 07:40

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Further changes are being made to this rule as a result of comments received during the previous comment period.

SUMMARY OF THE RULE OR CHANGE: The changes clarify that either part or all of the waiting period will be waived based on an insured's prior coverage. (DAR NOTE: This change in proposed rule has been filed to make additional changes to a proposed amendment that was published in the May 15, 2005, issue of the Utah State Bulletin, on page 28. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the change in proposed rule and the proposed amendment together to understand all of the changes that will be enforceable should the agency make this rule effective.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 31A-29-116

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: The changes to this rule will require no changes in filing fees or personnel. No additional work will be required of department personnel.
❖ LOCAL GOVERNMENTS: This rule only applies to the relationship between the Insurance Department and their licensees. It does not affect local government laws or procedures.
❖ OTHER PERSONS: Health insurers licensed to do business in Utah will need to update and reprint their "Notice to Uninsurable Applicants." There should be no fiscal impact on their consumers.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Health insurers licensed to do business in Utah will need to update and reprint their "Notice to Uninsurable Applicants." There should be no fiscal impact on their consumers.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The changes being made to this rule will have minimal fiscal impact on Utah businesses. D. Kent Michie, Commissioner

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
INSURANCE
ADMINISTRATION
Room 3110 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY UT 84114-1201, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Jilene Whitby at the above address, by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at jwhitby@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 09/14/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 09/15/2005

AUTHORIZED BY: Jilene Whitby, Information Specialist

R590. Insurance, Administration.
R590-172. Notice to Uninsurable Applicants for Health Insurance.
R590-172-4. Rule.

Every health insurer writing health insurance in the State of Utah will provide a written notice containing the requirements in R590-176-5(3)(a), Health Benefit Plan Enrollment, and the following language to each applicant for health insurance coverage that is denied coverage by the insurer for reasons relating to health:

"You have been denied health insurance coverage due to a health condition which is uninsurable. The Utah Comprehensive Health Insurance Pool (HIPUtah) was created to provide health insurance to residents of Utah who are denied health insurance and who are considered uninsurable. If you have lived in the State of Utah for 12 consecutive months prior to applying for insurance with this company you may be eligible for health insurance coverage with HIPUtah.

"However, if you have not lived in the state of Utah for 12 consecutive months, but you are a Utah resident and you are coming from another State's high risk pool or have had 18 months of continuous coverage with the most recent coverage being through a group health plan, you may still be eligible for health insurance coverage with the Utah Comprehensive Insurance Pool.

"[~~The~~]Part or all of the preexisting waiting period will be waived if you are an eligible individual according to[~~for~~] the Health Insurance Portability and Accountability Act (HIPAA) or your previous coverage was involuntarily terminated for reasons other than for nonpayment of premium or fraud, and application for HIPUtah is made within 63 days of that termination. The amount of credit given will depend on the length of time an applicant was previously covered under that health insurance.

"If application for coverage with HIPUtah is made within 30 days of this denial letter and you are declined coverage with the pool, HIPUtah will issue a certificate of insurability and you may reapply for coverage with this company within 30 days of the certificate date.

"To find out whether you qualify for pool coverage or to make application for pool coverage, Salt Lake City area residents should call 442-6660. Residents of other areas in Utah should call 1-800-638-5038, ext. 6660, toll free. The HIPUtah's mailing address is P.O. Box 30192, Salt Lake City, Utah 84130-0192."

KEY: health insurance
2005
Notice of Continuation June 15, 2000
31A-29-116

End of the Notices of Changes in Proposed Rules Section

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

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

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

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

Environmental Quality, Solid and Hazardous Waste

R315-16

Standards for Universal Waste Management

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 28095
FILED: 07/19/2005, 10:27

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 19-6-105 allows the board to set minimum standards for protection of human health and the environment, for the storage, collection, transport, recovery, treatment, and disposal of solid waste. The Resource Conservation and Recovery Act (RCRA) section 3006 requires that authorized State programs be "equivalent" to the Federal program.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule is necessary for Utah to maintain its equivalency with EPA regulations for program authorization and to provide standards for the handling of universal wastes (waste batteries, mercury-containing thermostats and lamps, and certain recalled, obsolete, or unused pesticides). Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
ENVIRONMENTAL QUALITY
SOLID AND HAZARDOUS WASTE
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Susan Toronto at the above address, by phone at 801-538-6776, by FAX at 801-538-6715, or by Internet E-mail at storonto@utah.gov

AUTHORIZED BY: Dennis Downs, Director

EFFECTIVE: 07/19/2005

▼ ▼

Environmental Quality, Solid and Hazardous Waste

R315-102

Penalty Policy

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 28094
FILED: 07/19/2005, 10:25

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 19-6-113(2) of the Utah Solid and Hazardous Waste Act provides that any person who violates any order, plan, rule, or other requirement issued or adopted under the Acts is subject in a civil

proceeding to a penalty. Subsection 19-6-104(1)(e) allows the Utah Solid and Hazardous Waste Board to settle or compromise administrative or civil action initiated to compel compliance with the Act or rules adopted under the Act. This rule provides criteria to be used by the Executive Secretary of the Board for determining penalty amounts in settlement of enforcement actions.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The U.S. Environmental Protection Agency has required that the State have in place a policy for assessing penalties for violations of hazardous waste regulations. Sections 63-46a-3 and 63-46a-3.5 requires that this policy be part of the State regulations. This rule provides criteria to be used by the Executive Secretary of the Board for determining penalty amounts in settlement of enforcement actions. Therefore, this rule should be continued.

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

ENVIRONMENTAL QUALITY
SOLID AND HAZARDOUS WASTE
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Susan Toronto at the above address, by phone at 801-538-6776, by FAX at 801-538-6715, or by Internet E-mail at storonto@utah.gov

AUTHORIZED BY: Dennis Downs, Director

EFFECTIVE: 07/19/2005

Insurance, Administration

R590-202

Condition-Specific Exclusion Riders in Individual Health Insurance Policies

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 28120
FILED: 08/01/2005, 11:45

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: Section 31A-2-201 empowers the commissioner to make rules to implement the provisions of Title 31A. Subsections 31A-30-107(5)(a)(iv) and 31A-30-107(5)(a)(v), which provided specific rulemaking authority for this rule, were eliminated by H.B. 218 during the 2004 Legislature. (DAR NOTE: H.B. 218 (2004) is found at UT L 2004 Ch 348, and was effective 05/03/2004.)

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The department has not received written comments in the past five years regarding this rule. Verbal comments have been received from people in the health insurance industry who have been unhappy with the narrow scope of this rule. However, it could not be broadened because of the narrow scope of the law.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule continued long enough to have a comment period for its repeal. As a result of H.B. 218, which was passed in 2004, this rule is no longer needed. The new law eliminated specific rulemaking authority and now covers the issue broadly enough in the code to no longer need a rule. (DAR NOTE: The proposed repeal of Rule R590-202 is under DAR No. 28110 in this issue.)

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: 08/01/2005

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. 28123 (filed 08/01/2005 at 2:52 p.m.): R307-170. Continuous Emission Monitoring Program.
ENACTED OR LAST REVIEWED: 08/07/2000 (No. 23090, 5YR, filed 08/07/2000 at 11:00 a.m., published 09/01/2000).
EXTENDED DUE DATE: 12/05/2005

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

Alcoholic Beverage Control
Administration
No. 27947 (AMD): R81-1-6. Violation Schedule.
Published: June 15, 2005
Effective: August 1, 2005

No. 27948 (AMD): R81-1-7. Disciplinary Hearings.
Published: June 15, 2005
Effective: August 1, 2005

No. 27949 (AMD): R81-1-24. Responsible Alcohol Service Plan.
Published: June 15, 2005
Effective: August 1, 2005

Commerce
Occupational and Professional Licensing
No. 27942 (AMD): R156-55a. Utah Construction Trades Licensing Act Rules.
Published: June 15, 2005
Effective: July 18, 2005

Real Estate
No. 27940 (AMD): R162-6-1. Improper Practices.
Published: June 15, 2005
Effective: July 20, 2005

No. 27950 (AMD): R162-103-5. Appraisal Education Requirements.
Published: June 15, 2005
Effective: July 27, 2005

No. 27946 (AMD): R162-109. Administrative Proceedings.
Published: June 15, 2005
Effective: July 27, 2005

Education
Administration
No. 27932 (AMD): R277-444. Distribution of Funds to Arts and Sciences Organizations.
Published: June 15, 2005
Effective: July 18, 2005

No. 27933 (REP): R277-480. Advanced Readers at Risk.
Published: June 15, 2005
Effective: July 18, 2005

Health
Community and Family Health Services, Immunization
No. 27897 (AMD): R396-100. Immunization Rule for Students.
Published: June 1, 2005
Effective: July 21, 2005

Health Care Financing, Coverage and Reimbursement Policy
No. 27956 (REP): R414-33A. Targeted Case Management for the Chronically Mentally Ill.
Published: June 15, 2005
Effective: July 20, 2005

No. 27958 (NEW): R414-33D. Targeted Case Management by Community Mental Health Centers for Individuals with Serious Mental Illness.
Published: June 15, 2005
Effective: July 20, 2005

No. 27935 (AMD): R414-507. Medicaid Long Term Care Managed Care.
Published: June 15, 2005
Effective: July 20, 2005

Insurance
Administration
No. 27504 (AMD): R590-203. Health Grievance Review Process and Disability Claims.
Published: November 15, 2004
Effective: July 22, 2005

No. 27504 (CPR): R590-203. Health Grievance Review Process and Disability Claims.
Published: January 15, 2005
Effective: July 22, 2005

No. 27504 (CPR): R590-203. Health Grievance Review Process and Disability Claims.
Published: June 1, 2005
Effective: July 22, 2005

No. 27709 (AMD): R590-225-3. Documents Incorporated by Reference.
Published: March 1, 2005
Effective: July 22, 2005

No. 27709 (CPR): R590-225-3. Documents Incorporated by Reference.
Published: May 15, 2005
Effective: July 22, 2005

Public Safety
Fire Marshal
No. 27976 (AMD): R710-4-3. Amendments and Additions.
Published: June 15, 2005
Effective: July 19, 2005

No. 27975 (AMD): R710-9-6. Amendments and Additions.
Published: June 15, 2005
Effective: July 19, 2005

Tax Commission
Auditing
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Published: June 15, 2005
Effective: July 20, 2005

No. 27930 (AMD): R865-9I-51. Withholding Tax License Pursuant to Utah Code Ann. Section 59-10-405.5.
Published: June 15, 2005
Effective: July 20, 2005

No. 27868 (AMD): R865-19S-6. Tax Collection Pursuant to Utah Code Ann. Section 59-12-107.
Published: June 1, 2005
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No. 27931 (AMD): R865-19S-8. Bonds and Securities Pursuant to Utah Code Ann. Section 59-12-107.
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No. 27870 (AMD): R865-19S-78. Charges for Labor to Repair, Renovate and Install Tangible Personal Property Pursuant to Utah Code Ann. Section 59-12-103.
Published: June 1, 2005
Effective: July 20, 2005

No. 27867 (AMD): R865-19S-112. Confirmation of Purchase of Admission or User Fee Relating to the Olympic Winter Games of 2002 Pursuant to Utah Code Ann. Sections 59-12-103 and 59-12-104.
Published: June 1, 2005
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Published: June 15, 2005
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Published: June 15, 2005
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No. 27971 (NEW): R912-10. Requirements for Pilot/Escort Qualified Training and Certification Program.
Published: June 15, 2005
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Published: June 15, 2005
Effective: August 1, 2005

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BY AGENCY (CODE NUMBER)
AND
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The *Rules Index* is a cumulative index that reflects all effective changes to Utah's administrative rules. The current *Index* lists changes made effective from January 2, 2005, including notices of effective date received through August 1, 2005, the effective dates of which are no later than August 15, 2005. The *Rules Index* is published in the *Utah State Bulletin* and in the annual *Index of Changes*. Nonsubstantive changes, while not published in the *Bulletin*, do become part of the *Utah Administrative Code (Code)* and are included in this *Index*, as well as 120-Day (Emergency) rules that do not become part of the *Code*. The rules are indexed by Agency (Code Number) and Keyword (Subject).

DAR NOTE: The index may contain inaccurate page number references. Also the index is incomplete in the sense that index entries for Changes in Proposed Rules (CPRs) are not preceded by entries for their parent Proposed Rules. Bulletin issue information and effective date information presented in the index are, to the best of our knowledge, complete and accurate. If you have any questions regarding the index and the information it contains, please contact Nancy Lancaster (801 538-3218), Mike Broschinsky (801 538-3003), or Kenneth A. Hansen (801 538-3777).

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

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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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RULES INDEX - BY KEYWORD (SUBJECT)

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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	27802	R539-5	REP	05/17/2005	2005-8/31
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	27915	R309-305	5YR	05/16/2005	2005-11/96
	27780	R309-305	NSC	05/16/2005	Not Printed
	27916	R309-405	5YR	05/16/2005	2005-11/97
	27781	R309-405	NSC	05/16/2005	Not Printed
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	27816	R309-600	5YR	04/14/2005	2005-9/76
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	27796	R994-206	5YR	04/01/2005	2005-8/60
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	27909	R309-150	5YR	05/16/2005	2005-11/92
	27906	R309-300	5YR	05/16/2005	2005-11/96
	27781	R309-405	NSC	05/16/2005	Not Printed
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Agriculture and Food, Plant Industry	27645	R68-3	5YR	01/07/2005	2005-3/58
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	27574	R710-8	NSC	01/01/2005	Not Printed
	27975	R710-9-6	AMD	07/19/2005	2005-12/69
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Natural Resources, Wildlife Resources	27865	R657-5	AMD	07/05/2005	2005-11/61
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Human Resource Management, Administration	27888	R477-11-2	AMD	07/02/2005	2005-11/46
	27890	R477-12-3	AMD	07/02/2005	2005-11/47
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	27681	R432-14	5YR	01/28/2005	2005-4/51
	27682	R432-30	5YR	01/28/2005	2005-4/51
	27884	R432-150	AMD	08/05/2005	2005-11/26
	27683	R432-270	5YR	01/31/2005	2005-4/52
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Education, Administration	27662	R277-713	AMD	03/21/2005	2005-4/14
	27663	R765-604	5YR	01/19/2005	2005-4/56
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Human Resource Management, Administration	27886	R477-4-7	AMD	07/02/2005	2005-11/31
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Human Services, Aging and Adult Services	28040	R510-104	5YR	06/22/2005	2005-14/98
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	27836	R501-20	5YR	04/21/2005	2005-10/51
	27837	R501-21	5YR	04/22/2005	2005-10/52
	27838	R501-22	5YR	04/22/2005	2005-10/52
Human Services, Services for People with Disabilities	27568	R539-1	AMD	01/25/2005	2004-24/17
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Health, Community and Family Health Services, Immunization	27897	R396-100	AMD	07/21/2005	2005-11/6
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Tax Commission, Auditing	27804	R865-9I-21	AMD	06/08/2005	2005-9/51
	27930	R865-9I-51	AMD	07/20/2005	2005-12/72
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Workforce Services, Workforce Information and Payment Services	27789	R994-204	5YR	04/01/2005	2005-8/59
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Human Services, Child and Family Services	27982	R512-306	AMD	08/03/2005	2005-13/31
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Environmental Quality, Water Quality	27659	R317-1	AMD	04/20/2005	2005-3/5
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inspection					
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inspections					
Agriculture and Food, Animal Industry	27695	R58-22	5YR	02/03/2005	2005-5/29
Agriculture and Food, Plant Industry	27773	R68-8-2	NSC	05/01/2005	Not Printed
	27697	R68-20	5YR	02/04/2005	2005-5/30
Agriculture and Food, Regulatory Services	27523	R70-960-7	NSC	01/01/2005	Not Printed
Environmental Quality, Radiation Control	27746	R313-12	AMD	05/13/2005	2005-7/29
insurance					
Human Resource Management, Administration	27904	R477-6	AMD	07/02/2005	2005-11/32
	27715	R590-102-13	NSC	04/01/2005	Not Printed
	27785	R590-140	5YR	03/31/2005	2005-8/56
	27556	R590-147	R&R	02/10/2005	2004-24/21
	27719	R590-148-12	AMD	04/28/2005	2005-6/19
	27554	R590-163	REP	02/10/2005	2004-24/23
	28027	R590-171	5YR	06/14/2005	2005-13/53
	27644	R590-196	5YR	01/07/2005	2005-3/60
	27558	R590-196	AMD	02/10/2005	2004-24/25
	27504	R590-203	CPR	07/22/2005	2005-2/95
	27504	R590-203	AMD	07/22/2005	2004-22/47
	27504	R590-203	CPR	07/22/2005	2005-11/87
	27776	R590-212	NSC	05/01/2005	Not Printed
Natural Resources, Parks and Recreation	28061	R651-409	5YR	07/01/2005	2005-14/99
insurance companies					
Insurance, Administration	27685	R590-128	5YR	01/31/2005	2005-4/53
insurance law					
Insurance, Administration	27684	R590-88	5YR	01/31/2005	2005-4/53
	27723	R590-99-4	NSC	04/01/2005	Not Printed
	27686	R590-132	5YR	01/31/2005	2005-4/54
	27784	R590-164	5YR	03/31/2005	2005-8/57
	27555	R590-174	REP	02/10/2005	2004-24/24
	28120	R590-202	5YR	08/01/2005	2005-16/55
intoxilyzer					
Public Safety, Highway Patrol	27882	R714-500	5YR	05/12/2005	2005-11/102
investigators					
Commerce, Administration	27633	R151-1	NEW	02/15/2005	2005-2/29
investment advisers					
Money Management Council, Administration	27743	R628-15	NEW	05/05/2005	2005-7/60
	27742	R628-19	R&R	05/05/2005	2005-7/64
irradiator					
Environmental Quality, Radiation Control	27738	R313-34	5YR	03/08/2005	2005-7/76
	27646	R313-34-1	NSC	02/01/2005	Not Printed

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IT bid committee					
Governor, Planning and Budget, Chief Information Officer	27545	R365-101	NEW	03/09/2005	2004-23/45
IT standards council					
Governor, Planning and Budget, Chief Information Officer	27545	R365-101	NEW	03/09/2005	2004-23/45
judicial conduct commission					
Judicial Conduct Commission, Administration	27580	R595-1	REP	02/01/2005	2005-1/26
	27330	R595-1	NEW	02/01/2005	2004-17/18
	27330	R595-1	CPR	02/01/2005	2004-24/59
	27331	R595-2	NEW	02/01/2005	2004-17/23
	27331	R595-2	CPR	02/01/2005	2004-24/60
	27332	R595-3	NEW	02/01/2005	2004-17/24
	27332	R595-3	CPR	02/01/2005	2004-24/61
	27668	R595-3-10	NSC	02/01/2005	Not Printed
	27333	R595-4	NEW	02/01/2005	2004-17/26
	27333	R595-4	CPR	02/01/2005	2004-24/64
	27807	R595-4-2	AMD	06/02/2005	2005-9/37
laboratories					
Health, Epidemiology and Laboratory Services, Laboratory Improvement	27850	R444-14	AMD	07/01/2005	2005-10/26
land manager					
Environmental Quality, Air Quality	27758	R307-204-3	AMD	07/07/2005	2005-7/11
law					
Public Safety, Fire Marshal	27655	R710-9-6	AMD	03/04/2005	2005-3/47
	27754	R710-9-6	AMD	05/04/2005	2005-7/68
	27975	R710-9-6	AMD	07/19/2005	2005-12/69
lease operations					
School and Institutional Trust Lands, Administration	27607	R850-24	NEW	04/01/2005	2005-2/76
	27814	R850-24-200	AMD	06/01/2005	2005-9/49
lease provisions					
School and Institutional Trust Lands, Administration	27813	R850-21	AMD	06/01/2005	2005-9/46
	27612	R850-21	NEW	04/01/2005	2005-2/58
	27613	R850-22	NEW	04/01/2005	2005-2/65
	27606	R850-25	NEW	04/01/2005	2005-2/81
	27604	R850-26	NEW	04/01/2005	2005-2/84
	27601	R850-27	NEW	04/01/2005	2005-2/86
leave benefits					
Human Resource Management, Administration	27896	R477-7	AMD	07/02/2005	2005-11/36
liability					
Natural Resources, Parks and Recreation	28061	R651-409	5YR	07/01/2005	2005-14/99

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license					
Education, Administration	28077	R277-520	5YR	07/06/2005	2005-15/45
Environmental Quality, Radiation Control	27745	R313-19	AMD	05/13/2005	2005-7/34
Public Safety, Criminal Investigations and Technical Services, Criminal Identification	28052	R722-310	5YR	06/29/2005	2005-14/100
	28053	R722-330	5YR	06/29/2005	2005-14/100
license plates					
Tax Commission, Motor Vehicle	27803	R873-22M-27	AMD	06/08/2005	2005-9/63
licensing					
Commerce, Occupational and Professional Licensing	27499	R156-1	NSC	01/01/2005	Not Printed
	27993	R156-16a-302b	AMD	08/02/2005	2005-13/6
	27786	R156-17a	REP	05/17/2005	2005-8/2
	27529	R156-17b	CPR	05/17/2005	2005-4/31
	27529	R156-17b	CPR	05/17/2005	2005-8/43
	27529	R156-17b	NEW	05/17/2005	2004-23/20
	27835	R156-26a	AMD	06/21/2005	2005-10/12
	27992	R156-31b	AMD	08/02/2005	2005-13/6
	27714	R156-31b	NSC	04/01/2005	Not Printed
	27600	R156-31b	AMD	02/17/2005	2005-2/36
	27752	R156-38	5YR	03/15/2005	2005-7/75
	27987	R156-38	AMD	08/02/2005	2005-13/13
	27548	R156-47b	CPR	03/07/2005	2005-3/51
	27548	R156-47b	AMD	03/07/2005	2004-24/7
	27435	R156-50	CPR	01/18/2005	2004-24/58
	27435	R156-50	AMD	01/18/2005	2004-20/12
	27942	R156-55a	AMD	07/18/2005	2005-12/13
	28048	R156-55d	5YR	06/28/2005	2005-14/97
	27489	R156-56	AMD	01/01/2005	2004-21/6
	27490	R156-56-704	AMD	01/01/2005	2004-21/11
	27749	R156-60c	5YR	03/14/2005	2005-7/75
	27538	R156-61-502	AMD	01/04/2005	2004-23/40
	27533	R156-71-202	AMD	01/04/2005	2004-23/41
Commerce, Real Estate	27797	R162-102-1	AMD	05/25/2005	2005-8/12
Human Services, Administration, Administrative Services, Licensing	27673	R501-18	5YR	01/27/2005	2005-4/52
	27839	R501-19	5YR	04/25/2005	2005-10/51
	27836	R501-20	5YR	04/21/2005	2005-10/51
	27837	R501-21	5YR	04/22/2005	2005-10/52
	27838	R501-22	5YR	04/22/2005	2005-10/52
Natural Resources, Water Rights	27475	R655-4	NSC	02/01/2005	Not Printed
	27691	R655-4	5YR	02/01/2005	2005-4/55
	27392	R655-4	AMD	01/12/2005	2004-18/30
liens					
Commerce, Occupational and Professional Licensing	27987	R156-38	AMD	08/02/2005	2005-13/13
	27752	R156-38	5YR	03/15/2005	2005-7/75

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life insurance					
Insurance, Administration	27829	R590-93	R&R	06/08/2005	2005-9/12
life insurance filing					
Insurance, Administration	27716	R590-226-3	AMD	04/28/2005	2005-6/21
lifeline rates					
Public Service Commission, Administration	27821	R746-341	AMD	06/20/2005	2005-9/42
liquefied petroleum gas					
Public Safety, Fire Marshal	27573	R710-6	AMD	01/19/2005	2004-24/54
livestock					
Agriculture and Food, Animal Industry	27688	R58-7	5YR	02/01/2005	2005-4/47
loans					
Agriculture and Food, Marketing and Conservation	27787	R65-10	5YR	03/31/2005	2005-8/56
local health departments					
Health, Administration	27990	R380-40	5YR	06/06/2005	2005-13/51
	27571	R380-40	AMD	02/02/2005	2004-24/9
maintenance					
Capitol Preservation Board (State), Administration	27631	R131-8	NEW	03/03/2005	2005-2/24
massage therapy					
Commerce, Occupational and Professional Licensing	27548	R156-47b	CPR	03/07/2005	2005-3/51
	27548	R156-47b	AMD	03/07/2005	2004-24/7
material permit					
School and Institutional Trust Lands, Administration	27607	R850-24	NEW	04/01/2005	2005-2/76
material permits					
School and Institutional Trust Lands, Administration	27814	R850-24-200	AMD	06/01/2005	2005-9/49
materials handling					
School and Institutional Trust Lands, Administration	27602	R850-130	REP	04/01/2005	2005-2/89
Medicaid					
Health, Health Care Financing, Coverage and Reimbursement Policy	27805	R414-1	AMD	06/03/2005	2005-9/6
	27582	R414-1B	NSC	02/01/2005	Not Printed
	27806	R414-7A	AMD	06/03/2005	2005-9/10
	27505	R414-7D	NEW	01/03/2005	2004-22/15
	27486	R414-10A-6	NSC	01/01/2005	Not Printed
	27733	R414-14	AMD	04/26/2005	2005-6/12
	27925	R414-14A	R&R	07/02/2005	2005-11/9
	27985	R414-19A	5YR	06/03/2005	2005-13/51
	27854	R414-31	AMD	06/15/2005	2005-10/19
	27986	R414-33	5YR	06/03/2005	2005-13/52
	27956	R414-33A	REP	07/20/2005	2005-12/62

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	27958	R414-33D	NEW	07/20/2005	2005-12/64
	27589	R414-34-6	AMD	02/01/2005	2005-1/21
	27591	R414-36-6	AMD	02/01/2005	2005-1/22
	27840	R414-49	AMD	07/01/2005	2005-10/21
	27849	R414-53	AMD	07/01/2005	2005-10/22
	27741	R414-61	5YR	03/11/2005	2005-7/77
	27586	R414-61-2	AMD	02/01/2005	2005-1/23
	27549	R414-63	AMD	01/26/2005	2004-24/13
	27557	R414-90	AMD	01/19/2005	2004-24/15
	27588	R414-200	AMD	02/01/2005	2005-1/24
	27902	R414-301	AMD	07/02/2005	2005-11/16
	27879	R414-305-2	AMD	07/02/2005	2005-11/23
	27901	R414-309	NEW	07/02/2005	2005-11/25
	27852	R414-401-3	AMD	07/01/2005	2005-10/24
	27851	R414-504	AMD	07/01/2005	2005-10/24
	27629	R414-507	NEW	02/15/2005	2005-2/42
	27935	R414-507	AMD	07/20/2005	2005-12/66
medical examiner					
Health, Medical Examiner	27988	R448-10	5YR	06/06/2005	2005-13/52
	27989	R448-20	5YR	06/06/2005	2005-13/53
medical practitioner					
Labor Commission, Industrial Accidents	27894	R612-2-1	AMD	07/02/2005	2005-11/51
	27895	R612-2-2	AMD	07/02/2005	2005-11/52
	27900	R612-2-3	AMD	07/02/2005	2005-11/53
	27899	R612-2-5	AMD	07/02/2005	2005-11/54
	27893	R612-2-18	AMD	07/02/2005	2005-11/56
	27891	R612-2-22	AMD	07/02/2005	2005-11/57
mental health					
Commerce, Occupational and Professional Licensing	27749	R156-60c	5YR	03/14/2005	2005-7/75
Human Services, Substance Abuse and Mental Health	27638	R523-1	AMD	03/07/2005	2005-3/28
mineral classification					
School and Institutional Trust Lands, Administration	27606	R850-25	NEW	04/01/2005	2005-2/81
mineral lease					
School and Institutional Trust Lands, Administration	27607	R850-24	NEW	04/01/2005	2005-2/76
mineral leases					
School and Institutional Trust Lands, Administration	27814	R850-24-200	AMD	06/01/2005	2005-9/49
mineral resources					
School and Institutional Trust Lands, Administration	27607	R850-24	NEW	04/01/2005	2005-2/76
	27814	R850-24-200	AMD	06/01/2005	2005-9/49
Tax Commission, Auditing	27739	R865-16R	5YR	03/08/2005	2005-7/77

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mining					
Environmental Quality, Air Quality	27764	R307-205	AMD	07/07/2005	2005-7/12
motor carrier					
Transportation, Motor Carrier, Ports of Entry	27790	R912-6	NEW	06/27/2005	2005-8/39
motor vehicle record					
Public Safety, Driver License	27878	R708-36	5YR	05/11/2005	2005-11/100
motor vehicles					
Environmental Quality, Air Quality	27701	R307-320	NSC	07/07/2005	Not Printed
	28079	R307-320	5YR	07/07/2005	2005-15/46
Tax Commission, Motor Vehicle	27803	R873-22M-27	AMD	06/08/2005	2005-9/63
naturopathic physician					
Commerce, Occupational and Professional Licensing	27533	R156-71-202	AMD	01/04/2005	2004-23/41
naturopaths					
Commerce, Occupational and Professional Licensing	27533	R156-71-202	AMD	01/04/2005	2004-23/41
new source review					
Environmental Quality, Air Quality	27665	R307-210	AMD	04/19/2005	2005-4/17
next-of-kin					
Health, Medical Examiner	27989	R448-20	5YR	06/06/2005	2005-13/53
non-traditional					
Health, Health Care Financing, Coverage and Reimbursement Policy	27588	R414-200	AMD	02/01/2005	2005-1/24
nonpublic schools					
Education, Administration	27705	R277-410	AMD	04/01/2005	2005-5/8
notice of commencement					
Commerce, Occupational and Professional Licensing	27734	R156-38b	NEW	04/18/2005	2005-6/6
notice of completion					
Commerce, Occupational and Professional Licensing	27734	R156-38b	NEW	04/18/2005	2005-6/6
nuclear medicine					
Environmental Quality, Radiation Control	27748	R313-32	AMD	05/13/2005	2005-7/38
nurses					
Commerce, Occupational and Professional Licensing	27992	R156-31b	AMD	08/02/2005	2005-13/6
	27714	R156-31b	NSC	04/01/2005	Not Printed
	27600	R156-31b	AMD	02/17/2005	2005-2/36
nursing facility					
Health, Health Care Financing, Coverage and Reimbursement Policy	27852	R414-401-3	AMD	07/01/2005	2005-10/24
nutrition					
Human Services, Aging and Adult Services	28040	R510-104	5YR	06/22/2005	2005-14/98

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oath					
Commerce, Administration	27633	R151-1	NEW	02/15/2005	2005-2/29
occupational licensing					
Commerce, Occupational and Professional Licensing	27499	R156-1	NSC	01/01/2005	Not Printed
	27942	R156-55a	AMD	07/18/2005	2005-12/13
off-highway vehicles					
Natural Resources, Parks and Recreation	27566	R651-401	AMD	01/15/2005	2004-24/37
offset					
Environmental Quality, Air Quality	27767	R307-421	NEW	07/07/2005	2005-7/28
oil gas and hydrocarbons					
School and Institutional Trust Lands, Administration	27612	R850-21	NEW	04/01/2005	2005-2/58
	27813	R850-21	AMD	06/01/2005	2005-9/46
oil shale					
School and Institutional Trust Lands, Administration	27613	R850-22	NEW	04/01/2005	2005-2/65
onsite wastewater systems					
Environmental Quality, Water Quality	27699	R317-4	5YR	02/10/2005	2005-5/30
opening and closing dates					
Community and Economic Development, Community Development, Community Services	27418	R202-202-202	AMD	01/12/2005	2004-19/24
operations					
School and Institutional Trust Lands, Administration	27612	R850-21	NEW	04/01/2005	2005-2/58
	27813	R850-21	AMD	06/01/2005	2005-9/46
operator certification					
Environmental Quality, Water Quality	27656	R317-10-6	AMD	04/20/2005	2005-3/18
Public Safety, Highway Patrol	27882	R714-500	5YR	05/12/2005	2005-11/102
optometrists					
Commerce, Occupational and Professional Licensing	27993	R156-16a-302b	AMD	08/02/2005	2005-13/6
overpayments					
Human Services, Recovery Services	28089	R527-332	5YR	07/14/2005	2005-15/47
overtime					
Human Resource Management, Administration	27889	R477-8	AMD	07/02/2005	2005-11/41
ownership					
Natural Resources, Water Rights	27690	R655-3	5YR	02/01/2005	2005-4/54
ozone					
Environmental Quality, Air Quality	27429	R307-110-11	CPR	03/04/2005	2005-3/52
	27429	R307-110-11	AMD	03/04/2005	2004-19/37
	27343	R307-110-12	AMD	01/04/2005	2004-17/12
	27343	R307-110-12	CPR	01/04/2005	2004-23/53

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Administrative Services, Child Welfare Parental Defense (Office of)	27518	R19-1	CPR	05/13/2005	2005-2/94
	27518	R19-1	NEW	05/13/2005	2004-22/9
parks					
Natural Resources, Parks and Recreation	28061	R651-409	5YR	07/01/2005	2005-14/99
	28060	R651-634	5YR	07/01/2005	2005-14/99
payment determination					
Community and Economic Development, Community Development, Community Services	27421	R202-203-324	AMD	01/12/2005	2004-19/25
	27419	R202-203-328	AMD	01/12/2005	2004-19/26
peace officers					
Public Safety, Peace Officer Standards and Training	28043	R728-205	5YR	06/27/2005	2005-14/101
pedestrians					
Transportation, Operations, Traffic and Safety	27955	R920-5	AMD	07/18/2005	2005-12/83
peer review					
Commerce, Occupational and Professional Licensing	27835	R156-26a	AMD	06/21/2005	2005-10/12
penalties					
Environmental Quality, Drinking Water	27916	R309-405	5YR	05/16/2005	2005-11/97
	27781	R309-405	NSC	05/16/2005	Not Printed
people with disabilities					
Human Services, Services for People with Disabilities	27626	R539-2	NEW	03/12/2005	2005-2/45
	27794	R539-2-5	NSC	05/01/2005	Not Printed
	27792	R539-2-6	AMD	05/17/2005	2005-8/29
	27627	R539-3	NEW	03/12/2005	2005-2/47
	27793	R539-3-10	AMD	05/17/2005	2005-8/30
	27724	R539-4	NEW	05/03/2005	2005-6/16
per diem allowances					
Administrative Services, Finance	27848	R25-7	AMD	07/01/2005	2005-10/7
performance standards					
Health, Administration	27990	R380-40	5YR	06/06/2005	2005-13/51
	27571	R380-40	AMD	02/02/2005	2004-24/9
permit provisions					
School and Institutional Trust Lands, Administration	27609	R850-23	NEW	04/01/2005	2005-2/72
permit terms					
School and Institutional Trust Lands, Administration	27606	R850-25	NEW	04/01/2005	2005-2/81
permits					
Natural Resources, Forestry, Fire and State Lands	27750	R652-70-1900	AMD	05/20/2005	2005-7/66
	27740	R652-70-2300	AMD	05/20/2005	2005-7/67

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Natural Resources, Wildlife Resources	27553	R657-42-4	AMD	01/15/2005	2004-24/53
School and Institutional Trust Lands, Administration	27602	R850-130	REP	04/01/2005	2005-2/89
Transportation, Motor Carrier, Ports of Entry	27953	R912-3	REP	07/18/2005	2005-12/74
	27790	R912-6	NEW	06/27/2005	2005-8/39
	27952	R912-11	NEW	07/18/2005	2005-12/79
	27972	R912-14	AMD	07/18/2005	2005-12/82
permitted vehicles					
Transportation, Motor Carrier, Ports of Entry	27970	R912-9	NEW	07/18/2005	2005-12/74
	27971	R912-10	NEW	07/18/2005	2005-12/77
personnel files					
Labor Commission, Antidiscrimination and Labor, Antidiscrimination	28002	R606-6	5YR	06/08/2005	2005-13/56
personnel management					
Human Resource Management, Administration	27904	R477-6	AMD	07/02/2005	2005-11/32
pharmacies					
Commerce, Occupational and Professional Licensing	27786	R156-17a	REP	05/17/2005	2005-8/2
	27529	R156-17b	CPR	05/17/2005	2005-4/31
	27529	R156-17b	CPR	05/17/2005	2005-8/43
	27529	R156-17b	NEW	05/17/2005	2004-23/20
pharmacists					
Commerce, Occupational and Professional Licensing	27786	R156-17a	REP	05/17/2005	2005-8/2
	27529	R156-17b	CPR	05/17/2005	2005-4/31
	27529	R156-17b	CPR	05/17/2005	2005-8/43
	27529	R156-17b	NEW	05/17/2005	2004-23/20
physicians					
Health, Health Care Financing, Coverage and Reimbursement Policy	27582	R414-1B	NSC	02/01/2005	Not Printed
pilot/escort vehicles					
Transportation, Motor Carrier, Ports of Entry	27970	R912-9	NEW	07/18/2005	2005-12/74
	27971	R912-10	NEW	07/18/2005	2005-12/77
pipeline					
Public Service Commission, Administration	27527	R746-409-1	NSC	01/01/2005	Not Printed
plan of operation					
School and Institutional Trust Lands, Administration	27604	R850-26	NEW	04/01/2005	2005-2/84
	27601	R850-27	NEW	04/01/2005	2005-2/86
planning					
Administrative Services, Facilities Construction and Management	27615	R23-3	AMD	03/15/2005	2005-2/9

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planning-budgeting					
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PM10					
Environmental Quality, Air Quality	27429	R307-110-11	CPR	03/04/2005	2005-3/52
	27429	R307-110-11	AMD	03/04/2005	2004-19/37
	27343	R307-110-12	CPR	01/04/2005	2004-23/53
	27343	R307-110-12	AMD	01/04/2005	2004-17/12
	27759	R307-206	AMD	07/07/2005	2005-7/15
	27766	R307-310-5	AMD	07/07/2005	2005-7/27
	27767	R307-421	NEW	07/07/2005	2005-7/28
PM2.5					
Environmental Quality, Air Quality	27429	R307-110-11	AMD	03/04/2005	2004-19/37
	27429	R307-110-11	CPR	03/04/2005	2005-3/52
	27343	R307-110-12	AMD	01/04/2005	2004-17/12
	27343	R307-110-12	CPR	01/04/2005	2004-23/53
	27767	R307-421	NEW	07/07/2005	2005-7/28
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Human Services, Substance Abuse and Mental Health	27638	R523-1	AMD	03/07/2005	2005-3/28
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Capitol Preservation Board (State), Administration	27632	R131-9	NEW	03/03/2005	2005-2/26
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Transportation, Motor Carrier, Ports of Entry	27790	R912-6	NEW	06/27/2005	2005-8/39
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Commerce, Occupational and Professional Licensing	27734	R156-38b	NEW	04/18/2005	2005-6/6
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Community and Economic Development, Community Development, History	28055	R212-11	5YR	06/30/2005	2005-14/97
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Public Safety, Criminal Investigations and Technical Services, Criminal Identification	28053	R722-330	5YR	06/29/2005	2005-14/100

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	27605	R23-2	AMD	03/15/2005	2005-2/7
	27615	R23-3	AMD	03/15/2005	2005-2/9
Capitol Preservation Board (State), Administration	27711	R131-1	5YR	02/16/2005	2005-6/33
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Commerce, Occupational and Professional Licensing	27749	R156-60c	5YR	03/14/2005	2005-7/75
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Commerce, Occupational and Professional Licensing	27698	R156-22	AMD	04/04/2005	2005-5/2
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Commerce, Occupational and Professional Licensing	27698	R156-22	AMD	04/04/2005	2005-5/2
program					
Capitol Preservation Board (State), Administration	27632	R131-9	NEW	03/03/2005	2005-2/26
property casualty insurance filing					
Insurance, Administration	27709	R590-225-3	AMD	07/22/2005	2005-5/26
	27709	R590-225-3	CPR	07/22/2005	2005-10/49
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Commerce, Occupational and Professional Licensing	27538	R156-61-502	AMD	01/04/2005	2004-23/40
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Administrative Services, Facilities Construction and Management	27603	R23-1	AMD	03/15/2005	2005-2/2
Capitol Preservation Board (State), Administration	27712	R131-2	5YR	02/16/2005	2005-6/33
	27713	R131-7	5YR	02/16/2005	2005-6/34
Public Safety, Fire Marshal	27976	R710-4-3	AMD	07/19/2005	2005-12/67
	27653	R710-4-3	AMD	03/04/2005	2005-3/44
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Education, Administration	27799	R277-437	AMD	05/19/2005	2005-8/17
	27800	R277-438	AMD	05/19/2005	2005-8/19

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	27858	R746-352	REP	08/08/2005	2005-10/36
	27860	R746-360	AMD	08/08/2005	2005-10/42
	27302	R746-360-9	AMD	01/04/2005	2004-15/59
	27302	R746-360-9	CPR	01/04/2005	2004-23/54
	27861	R746-405-1	AMD	08/08/2005	2005-10/44
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Environmental Quality, Drinking Water	27913	R309-200	5YR	05/16/2005	2005-11/93
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Agriculture and Food, Animal Industry	27581	R58-2	AMD	02/01/2005	2005-1/9
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Natural Resources, Wildlife Resources	28082	R657-6	5YR	07/08/2005	2005-15/49
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Environmental Quality, Radiation Control	27738	R313-34	5YR	03/08/2005	2005-7/76
	27646	R313-34-1	NSC	02/01/2005	Not Printed
radiation safety					
Environmental Quality, Radiation Control	27738	R313-34	5YR	03/08/2005	2005-7/76
	27646	R313-34-1	NSC	02/01/2005	Not Printed
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Environmental Quality, Radiation Control	27744	R313-15	AMD	05/13/2005	2005-7/33
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Environmental Quality, Radiation Control	27748	R313-32	AMD	05/13/2005	2005-7/38
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Commerce, Real Estate	27950	R162-103-5	AMD	07/27/2005	2005-12/17
	27788	R162-107	AMD	05/25/2005	2005-8/14
	27946	R162-109	AMD	07/27/2005	2005-12/18
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Commerce, Real Estate	27720	R162-2-2	NSC	04/01/2005	Not Printed
	27940	R162-6-1	AMD	07/20/2005	2005-12/16
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Environmental Quality, Radiation Control	27745	R313-19	AMD	05/13/2005	2005-7/34
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Natural Resources, Oil, Gas and Mining; Coal	27778	R645-105	5YR	03/25/2005	2005-8/58
	27779	R645-400	5YR	03/25/2005	2005-8/58
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Administrative Services, Records Committee	27880	R35-1	AMD	07/14/2005	2005-11/5
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	27621	R35-1a	NEW	03/08/2005	2005-2/17
	27625	R35-2	AMD	03/04/2005	2005-2/18
	27622	R35-3	AMD	03/04/2005	2005-2/19
	27624	R35-4	AMD	03/04/2005	2005-2/20
	27623	R35-5	AMD	03/04/2005	2005-2/21
	27620	R35-6	AMD	03/04/2005	2005-2/22
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Natural Resources, Wildlife Resources	27552	R657-38	AMD	01/15/2005	2004-24/48
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Workforce Services, Workforce Information and Payment Services	27729	R994-403	NSC	04/01/2005	Not Printed
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	27825	R865-19S-52	AMD	07/01/2005	2005-9/56
	27826	R865-19S-60	AMD	07/01/2005	2005-9/56
	27828	R865-19S-68	AMD	07/01/2005	2005-9/57
	27831	R865-19S-71	AMD	07/01/2005	2005-9/58
	27870	R865-19S-78	AMD	07/20/2005	2005-11/65
	27832	R865-19S-85	AMD	07/01/2005	2005-9/59
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	27834	R865-19S-101	AMD	07/01/2005	2005-9/62
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Health, Medical Examiner	27988	R448-10	5YR	06/06/2005	2005-13/52
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Governor, Planning and Budget, Chief Information Officer	27545	R365-101	NEW	03/09/2005	2004-23/45
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Community and Economic Development, Community Development, Community Services	27418	R202-202-202	AMD	01/12/2005	2004-19/24
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Commerce, Real Estate	27943	R162-202	AMD	08/03/2005	2005-12/21
	27945	R162-208	AMD	08/03/2005	2005-12/22
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Administrative Services, Facilities Construction and Management	27614	R23-26	NEW	03/15/2005	2005-2/12
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Human Services, Aging and Adult Services	28039	R510-401	5YR	06/22/2005	2005-14/98
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Human Resource Management, Administration	27890	R477-12-3	AMD	07/02/2005	2005-11/47
Public Safety, Peace Officer Standards and Training	28043	R728-205	5YR	06/27/2005	2005-14/101
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Human Services, Services for People with Disabilities	27627	R539-3	NEW	03/12/2005	2005-2/47
	27793	R539-3-10	AMD	05/17/2005	2005-8/30
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Health, Community and Family Health Services, Immunization	27897	R396-100	AMD	07/21/2005	2005-11/6
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	27861	R746-405-1	AMD	08/08/2005	2005-10/44
	27527	R746-409-1	NSC	01/01/2005	Not Printed
	27812	R850-2	NSC	05/01/2005	Not Printed
safety					
Education, Administration	27539	R277-400	NSC	01/01/2005	Not Printed
Environmental Quality, Radiation Control	27744	R313-15	AMD	05/13/2005	2005-7/33
Labor Commission, Occupational Safety and Health	28013	R614-1-4	AMD	08/02/2005	2005-13/33
	27903	R614-7-4	AMD	07/02/2005	2005-11/60
Labor Commission, Safety	27616	R616-2-3	AMD	03/07/2005	2005-2/49
	27590	R616-3-3	AMD	02/01/2005	2005-1/30
Public Service Commission, Administration	27527	R746-409-1	NSC	01/01/2005	Not Printed
Transportation, Motor Carrier, Ports of Entry	27954	R912-16	5YR	06/01/2005	2005-12/89
safety education					
Education, Administration	27539	R277-400	NSC	01/01/2005	Not Printed
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Transportation, Motor Carrier, Ports of Entry	27953	R912-3	REP	07/18/2005	2005-12/74
	27952	R912-11	NEW	07/18/2005	2005-12/79
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Human Resource Management, Administration	27904	R477-6	AMD	07/02/2005	2005-11/32
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Tax Commission, Auditing	27868	R865-19S-6	AMD	07/20/2005	2005-11/64
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	27822	R865-19S-51	AMD	07/01/2005	2005-9/55
	27825	R865-19S-52	AMD	07/01/2005	2005-9/56
	27826	R865-19S-60	AMD	07/01/2005	2005-9/56
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	27831	R865-19S-71	AMD	07/01/2005	2005-9/58
	27870	R865-19S-78	AMD	07/20/2005	2005-11/65
	27832	R865-19S-85	AMD	07/01/2005	2005-9/59
	27833	R865-19S-90	AMD	07/01/2005	2005-9/61
	27834	R865-19S-101	AMD	07/01/2005	2005-9/62
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scholarships					
Education, Administration	28026	R277-602	EMR	06/14/2005	2005-13/47
	27666	R765-604	AMD	03/22/2005	2005-4/22
science					
Education, Administration	27932	R277-444	AMD	07/18/2005	2005-12/24
secondary education					
Regents (Board Of), Administration	27666	R765-604	AMD	03/22/2005	2005-4/22
	27663	R765-604	5YR	01/19/2005	2005-4/56
securities					
Commerce, Securities	27732	R164-2	5YR	02/28/2005	2005-6/34
	27735	R164-2-1	NSC	04/01/2005	Not Printed
	27777	R164-9-1	EMR	03/25/2005	2005-8/53
Money Management Council, Administration	27742	R628-19	R&R	05/05/2005	2005-7/64
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Commerce, Securities	27732	R164-2	5YR	02/28/2005	2005-6/34
	27735	R164-2-1	NSC	04/01/2005	Not Printed
	27777	R164-9-1	EMR	03/25/2005	2005-8/53
Money Management Council, Administration	27743	R628-15	NEW	05/05/2005	2005-7/60
self administered services					
Human Services, Services for People with Disabilities	27801	R539-5	NEW	05/17/2005	2005-8/33
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Community and Economic Development, Community Development, Community Services	27421	R202-203-324	AMD	01/12/2005	2004-19/25
	27419	R202-203-328	AMD	01/12/2005	2004-19/26
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Environmental Quality, Water Quality	27699	R317-4	5YR	02/10/2005	2005-5/30
services					
Human Services, Services for People with Disabilities	27626	R539-2	NEW	03/12/2005	2005-2/45
	27794	R539-2-5	NSC	05/01/2005	Not Printed
settlement					
Administrative Services, Facilities Construction and Management	27614	R23-26	NEW	03/15/2005	2005-2/12
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Public Safety, Driver License	27898	R708-37	5YR	05/13/2005	2005-11/101

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Natural Resources, Wildlife Resources	27864	R657-21	5YR	05/05/2005	2005-11/99
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Environmental Quality, Air Quality	27758	R307-204-3	AMD	07/07/2005	2005-7/11
social services					
Human Services, Services for People with Disabilities	27651	R539-2	REP	03/12/2005	2005-3/31
	27792	R539-2-6	AMD	05/17/2005	2005-8/29
	27652	R539-3	REP	03/12/2005	2005-3/34
	27753	R539-4	REP	05/03/2005	2005-7/58
	27802	R539-5	REP	05/17/2005	2005-8/31
	28037	R539-7	EMR	06/20/2005	2005-14/94
	27795	R539-8	REP	05/17/2005	2005-8/35
source monitoring					
Environmental Quality, Drinking Water	27917	R309-205	5YR	05/16/2005	2005-11/93
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Natural Resources, Forestry, Fire and State Lands	27750	R652-70-1900	AMD	05/20/2005	2005-7/66
	27740	R652-70-2300	AMD	05/20/2005	2005-7/67
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Education, Administration	28026	R277-602	EMR	06/14/2005	2005-13/47
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Environmental Quality, Radiation Control	27747	R313-22	AMD	05/13/2005	2005-7/36
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Administrative Services, Facilities Construction and Management	27615	R23-3	AMD	03/15/2005	2005-2/9
Capitol Preservation Board (State), Administration	27713	R131-7	5YR	02/16/2005	2005-6/34
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Administrative Services, Finance	27848	R25-7	AMD	07/01/2005	2005-10/7
state HEAT office records					
Community and Economic Development, Community Development, Community Services	27420	R202-207-702	AMD	01/12/2005	2004-19/27
state records committee					
Administrative Services, Records Committee	27880	R35-1	AMD	07/14/2005	2005-11/5
	27621	R35-1a	NEW	03/08/2005	2005-2/17
	27700	R35-1a	NSC	04/01/2005	Not Printed
	27625	R35-2	AMD	03/04/2005	2005-2/18
	27622	R35-3	AMD	03/04/2005	2005-2/19
	27624	R35-4	AMD	03/04/2005	2005-2/20
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Environmental Quality, Air Quality	27665	R307-210	AMD	04/19/2005	2005-4/17
student eligibility					
Workforce Services, Workforce Information and Payment Services	27729	R994-403	NSC	04/01/2005	Not Printed
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Regents (Board Of), Administration	27841	R765-626	5YR	04/26/2005	2005-10/53
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Education, Administration	27933	R277-480	REP	07/18/2005	2005-12/27
	27662	R277-713	AMD	03/21/2005	2005-4/14
students at risk					
Education, Administration	28076	R277-464	5YR	07/06/2005	2005-15/44
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Human Services, Recovery Services	27938	R527-67	REP	08/10/2005	2005-12/67
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Education, Administration	28075	R277-459	5YR	07/06/2005	2005-15/44
surface water treatment plant monitoring					
Environmental Quality, Drinking Water	27910	R309-215	5YR	05/16/2005	2005-11/94
survey					
Environmental Quality, Radiation Control	27738	R313-34	5YR	03/08/2005	2005-7/76
	27646	R313-34-1	NSC	02/01/2005	Not Printed
surveyors					
Commerce, Occupational and Professional Licensing	27698	R156-22	AMD	04/04/2005	2005-5/2
systems					
Public Safety, Fire Marshal	27671	R710-7-1	AMD	06/13/2005	2005-4/21
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Environmental Quality, Air Quality	27764	R307-205	AMD	07/07/2005	2005-7/12
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Community and Economic Development, Community Development, History	28055	R212-11	5YR	06/30/2005	2005-14/97
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Tax Commission, Auditing	27868	R865-19S-6	AMD	07/20/2005	2005-11/64
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	27870	R865-19S-78	AMD	07/20/2005	2005-11/65
	27832	R865-19S-85	AMD	07/01/2005	2005-9/59
	27834	R865-19S-101	AMD	07/01/2005	2005-9/62
	27867	R865-19S-112	AMD	07/20/2005	2005-11/67
tax returns					
Tax Commission, Auditing	27804	R865-9I-21	AMD	06/08/2005	2005-9/51
	27930	R865-9I-51	AMD	07/20/2005	2005-12/72
taxation					
Tax Commission, Auditing	27929	R865-6F-35	AMD	07/20/2005	2005-12/71
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Professional Practices Advisory Commission, Administration	27542	R686-100	NSC	01/01/2005	Not Printed
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Education, Administration	28075	R277-459	5YR	07/06/2005	2005-15/44
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Governor, Planning and Budget, Chief Information Officer	27545	R365-101	NEW	03/09/2005	2004-23/45
telecommunications					
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	27857	R746-349	AMD	08/08/2005	2005-10/34
	27858	R746-352	REP	08/08/2005	2005-10/36
	27859	R746-356	AMD	08/08/2005	2005-10/40
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Public Service Commission, Administration	27856	R746-340	AMD	08/08/2005	2005-10/32
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Labor Commission, Antidiscrimination and Labor, Fair Housing	28126	R608-1-8	EMR	08/02/2005	Not Printed

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Transportation, Operations, Traffic and Safety	27955	R920-5	AMD	07/18/2005	2005-12/83
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Transportation, Operations, Traffic and Safety	27955	R920-5	AMD	07/18/2005	2005-12/83
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transportation safety					
Transportation, Operations, Traffic and Safety	27876	R920-50	AMD	07/12/2005	2005-11/69
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Environmental Quality, Air Quality	28079	R307-320	5YR	07/07/2005	2005-15/46
	27701	R307-320	NSC	07/07/2005	Not Printed
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Tax Commission, Auditing	27929	R865-6F-35	AMD	07/20/2005	2005-12/71
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Transportation, Motor Carrier, Ports of Entry	27953	R912-3	REP	07/18/2005	2005-12/74
	27790	R912-6	NEW	06/27/2005	2005-8/39
	27970	R912-9	NEW	07/18/2005	2005-12/74
	27971	R912-10	NEW	07/18/2005	2005-12/77
	27952	R912-11	NEW	07/18/2005	2005-12/79
	27972	R912-14	AMD	07/18/2005	2005-12/82
	27954	R912-16	5YR	06/01/2005	2005-12/89
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	27789	R994-204	5YR	04/01/2005	2005-8/59
	27791	R994-205	5YR	04/01/2005	2005-8/59
	27796	R994-206	5YR	04/01/2005	2005-8/60
	27728	R994-401	NSC	04/01/2005	Not Printed
	27729	R994-403	NSC	04/01/2005	Not Printed
unemployment experience rating					
Workforce Services, Workforce Information and Payment Services	27823	R994-304	NEW	06/01/2005	2005-9/69
uninsured motorist database					
Public Safety, Driver License	27877	R708-32	5YR	05/10/2005	2005-11/100
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Environmental Quality, Radiation Control	27746	R313-12	AMD	05/13/2005	2005-7/29
universal service					
Public Service Commission, Administration	27860	R746-360	AMD	08/08/2005	2005-10/42
	27302	R746-360-9	CPR	01/04/2005	2004-23/54
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Public Service Commission, Administration	27861	R746-405-1	AMD	08/08/2005	2005-10/44
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Public Service Commission, Administration	27587	R746-200-6	AMD	02/25/2005	2005-1/32
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vehicle replacement					
Administrative Services, Fleet Operations	27543	R27-4	AMD	01/10/2005	2004-23/5
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wastewater					
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wastewater treatment					
Environmental Quality, Water Quality	27656	R317-10-6	AMD	04/20/2005	2005-3/18
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	27658	R317-3-10	AMD	04/20/2005	2005-3/10
	27657	R317-8-3	AMD	04/20/2005	2005-3/12
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Environmental Quality, Drinking Water	27905	R309-225	5YR	05/16/2005	2005-11/95
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	27596	R317-7	NSC	02/01/2005	Not Printed
water quality standards					
Environmental Quality, Water Quality	27593	R317-2	CPR	06/01/2005	2005-9/72
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	27475	R655-4	NSC	02/01/2005	Not Printed
	27691	R655-4	5YR	02/01/2005	2005-4/55
	27392	R655-4	AMD	01/12/2005	2004-18/30
water system rating					
Environmental Quality, Drinking Water	27909	R309-150	5YR	05/16/2005	2005-11/92
watershed management					
Environmental Quality, Drinking Water	27907	R309-105	5YR	05/16/2005	2005-11/91
weed control					
Agriculture and Food, Plant Industry	27774	R68-9-2	NSC	05/01/2005	Not Printed
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Natural Resources, Water Rights	27691	R655-4	5YR	02/01/2005	2005-4/55
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Natural Resources, Water Rights	27475	R655-4	NSC	02/01/2005	Not Printed
	27392	R655-4	AMD	01/12/2005	2004-18/30
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Natural Resources, Wildlife Resources	27865	R657-5	AMD	07/05/2005	2005-11/61
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	28082	R657-6	5YR	07/08/2005	2005-15/49
	27721	R657-12	AMD	04/15/2005	2005-6/24
	27432	R657-13	AMD	01/03/2005	2004-20/33
	27432	R657-13	CPR	01/03/2005	2004-22/66
	27863	R657-15	5YR	05/05/2005	2005-11/99
	27862	R657-15	AMD	07/05/2005	2005-11/63
	27864	R657-21	5YR	05/05/2005	2005-11/99
	27649	R657-33	AMD	03/04/2005	2005-3/36
	27751	R657-33-2	NSC	04/01/2005	Not Printed
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	27553	R657-42-4	AMD	01/15/2005	2004-24/53
	27639	R657-47	REP	03/04/2005	2005-3/39
	27637	R657-47	NSC	03/04/2005	Not Printed
	27827	R657-55	NEW	06/01/2005	2005-9/38
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Natural Resources, Wildlife Resources	27721	R657-12	AMD	04/15/2005	2005-6/24
	27432	R657-13	AMD	01/03/2005	2004-20/33
	27432	R657-13	CPR	01/03/2005	2004-22/66
	27864	R657-21	5YR	05/05/2005	2005-11/99
wildlife management					
Natural Resources, Wildlife Resources	27863	R657-15	5YR	05/05/2005	2005-11/99
	27862	R657-15	AMD	07/05/2005	2005-11/63
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Natural Resources, Wildlife Resources	27637	R657-47	NSC	03/04/2005	Not Printed
	27639	R657-47	REP	03/04/2005	2005-3/39
	27827	R657-55	NEW	06/01/2005	2005-9/38
workers compensation insurance					
Insurance, Administration	27488	R590-231	CPR	05/20/2005	2005-3/55
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Labor Commission, Industrial Accidents	27892	R612-1-3	AMD	07/02/2005	2005-11/49
	27894	R612-2-1	AMD	07/02/2005	2005-11/51
	27895	R612-2-2	AMD	07/02/2005	2005-11/52
	27900	R612-2-3	AMD	07/02/2005	2005-11/53
	27899	R612-2-5	AMD	07/02/2005	2005-11/54
	27893	R612-2-18	AMD	07/02/2005	2005-11/56
workers' compensation insurance					
Insurance, Administration	27488	R590-231	NEW	05/20/2005	2004-21/15
	27488	R590-231	CPR	05/20/2005	2005-8/50
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Labor Commission, Industrial Accidents	27891	R612-2-22	AMD	07/02/2005	2005-11/57
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Environmental Quality, Radiation Control	27991	R313-16	AMD	08/12/2005	2005-13/26