

UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT
Filed January 18, 2006, 12:00 a.m. through February 1, 2006, 11:59 p.m.

Number 2006-4
February 15, 2006

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

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

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

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

Division of Administrative Rules, Salt Lake City 84114

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Printed in the United States of America

Library of Congress Cataloging-in-Publication Data

Utah state bulletin.

Semimonthly.

1. Delegated legislation--Utah--Periodicals. 2. Administrative procedure--Utah--Periodicals.

I. Utah. Office of Administrative Rules.

KFU440.A73S7

348.792'025--DDC

85-643197

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EDITOR'S NOTES

NOTICE OF CODIFICATION ERROR FOR RULE R156-47B, MESSAGE THERAPY PRACTICE ACT RULES

In the February 1, 2005, issue of the *Utah State Bulletin*, a change in proposed rule (CPR) was published for Rule R156-47b under DAR No. 27548 (2005-3, page 51). The agency (Division of Occupational and Professional Licensing) had asked to replace the text after it was filed on 01/13/2005 because the word "not" was missing from new language added at Subsection R156-47b-302a(1)(c). The agency submitted the new text on 01/18/2005, however, due to an error at the Division of Administrative Rules (DAR), the corrected text was not codified.

The text of R156-47b-302a(1)(c) as it should appear is as follows:

R156. Commerce, Occupational and Professional Licensing.

R156-47b. Massage Therapy Practice Act Rules.

R156-47b-302a. Qualifications for Licensure as a Massage Therapist - Massage School Curriculum Standards - Equivalent Education and Training.

(1) In accordance with Subsection 58-47b-302(2)(e)(i)(A), an applicant must graduate from a school of massage with a curriculum, which at the time of graduation, meets the following standards:

(a) Curricula must be registered with the Utah Department of Commerce, Division of Consumer Protection or an accrediting agency recognized by the United States Department of Education.

(b) Curricula shall be a minimum of 600 hours and shall include the following:

(i) anatomy, physiology and pathology - 150 hours;

(ii) massage theory including the five basic strokes - 300 hours;

(iii) professional standards, ethics and business practices - 35 hours;

(iv) safety and sanitation - 15 hours;

(v) clinic or practicum - 100 hours; and

(vi) other related massage subjects as approved by the Division in collaboration with the Board.

(c) In addition to the curriculum requirements of Subsection R156-47b-302a(1)(b), new curricula shall include the major content areas, but are not required to meet the percentage weights of the National Certification Board of Therapeutic Massage and Bodywork (NCBTMB), National Certification Examination Content Outline, published July 2003, which is adopted and incorporated by reference.

(2) In accordance with Subsection 58-47b-302(2)(e)(i)(B), an applicant who completes equivalent education and training must document that the education and training was approved by NCBTMB as evidenced by current NCBTMB certification.

KEY: licensing, massage therapy

Date of Enactment or Last Substantive Amendment: March 7, 2005

Notice of Continuation: January 31, 2006

Authorizing, Implemented, or Interpreted Law: 58-1-106(1)(a); 58-1-202(1)(a); 58-47b-101

DAR has corrected the error in the codified rule and regrets any inconvenience this mistake may have caused.

If you have any questions regarding this correction, please contact Mike Broschinsky, Administrative Code Editor, Division of Administrative Rules, 4120 State Office Bldg, Salt Lake City, UT 84114, by phone at 801-538-3003, by FAX at 801-538-1773, or Internet E-mail at mbroschi@utah.gov

LEGISLATION WHICH AFFECTS RULEMAKING

The 56th Legislature's 2006 General Session began January 16, 2006. To this point, four bills affecting rulemaking have been introduced.

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

This bill, an Administrative Rules Review Committee bill, makes changes to rulemaking procedure. It: (1) imposes an affirmative requirement on agencies to "review and evaluate all public comments submitted in writing or presented at public hearings conducted by the agency," (2) requires a five business day consideration period following the public comment period before an agency may make a rule effective, (3) defines the phrase "initiate rulemaking proceedings" to mean filing a rule with the Division of Administrative Rules, (4) increases the number of days to consider a petition for rulemaking from 30 to 60 days for agencies, and from 30 to 80 days for boards with an extra requirement that a board place a petition on its agenda within 45 days, and (5) designates a petition to which an agency fails to respond or initiate rulemaking within the specified period as "denied" providing that "the petitioner may seek a writ of mandamus in state district court."

H.B. 316 has a fiscal impact on the Division of Administrative Rules. To mitigate part of the fiscal note, Rep. Ure has agreed to amend line 92 to change "five business days" to "seven calendar days."

More information about H.B. 316 is available at:
<http://www.le.state.ut.us/~2006/htmdoc/hbillhtm/hb0316.htm>.

H.B. 317 "Administrative Rule Criminal Penalty Amendments" (Rep. D. Ure)

This bill, an Administrative Rules Review Committee bill, addresses the criminal penalties issues. These were discussed at the committee's July 11, November 4, and 22, 2005, and January 13, 2006, meetings. Several agencies submitted alternative language that satisfied the committee's concerns. This bill proposes to make those changes to the respective statutes. The bill affects the following statutory sections: 4-38-7, 9-4-612, 32A-12-104, 40-6-12, 40-8-9, 41-3-210, 41-3-701, 41-3-702, 41-6a-1115, 51-7-22.4, 53-7-226, 59-14-212, 65A-3-1, 76-10-1233 (Effective 05/01/06), and 76-10-1234. More information about H.B. 317 is available at: <http://www.le.state.ut.us/~2006/htmdoc/hbillhtm/hb0317.htm>.

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

The Reauthorization bill is the Administrative Rules Review Committee's annual bill required by Section 63-46a-11.5. S.B. 26, as passed, reauthorizes all rules. The bill now awaits the Governor's signature. More information about S.B. 26 is available at: <http://www.le.state.ut.us/~2006/htmdoc/sbillhtm/sb0026.htm>.

S.B. 157 "Impact of Administrative Rules on Small Businesses" (Sen. H. Stephenson)

S.B. 157, an Administrative Rules Review Committee bill, proposes to amend Title 63, Chapter 46a, Utah Administrative Rulemaking Act, in two ways. It defined "small businesses". It also modifies Section 63-46a-4, requiring an agency to provide anticipated cost or savings to small businesses and business in general. S.B. 157 is identical to the amended H.B. 209 (2005) that failed. This bill will require changes to eRules, the web application agencies use to file rules and therefore carries a fiscal note. The Small Business Administration supports this bill. More information about S.B. 157 is available at: <http://www.le.state.ut.us/~2006/htmdoc/sbillhtm/sb0157.htm>.

Additional Information

Additional information about the 2006 General Session and specific legislation is available from the Legislature's Office of Legislative Research and General Counsel at: <http://www.le.state.ut.us/~2006/2006.htm>. The Legislature's home page can be found at: <http://le.utah.gov/>. Information about rulemaking legislation is also available at: <http://www.rules.utah.gov/law/legis.htm>.

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

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 January 18, 2006, 12:00 a.m., and February 1, 2006, 11:59 p.m. are included in this, the February 15, 2006, issue of the *Utah State Bulletin*.

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

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

The law requires that an agency accept public comment on PROPOSED RULES published in this issue of the *Utah State Bulletin* until at least March 17, 2006. The agency may accept comment beyond this date and will list the last day the agency will accept comment in the RULE ANALYSIS. The agency may also hold public hearings. Additionally, citizens or organizations may request the agency to hold a hearing on a specific PROPOSED RULE. Section 63-46a-5 (1987) requires that a hearing request be received "in writing not more than 15 days after the publication date of the PROPOSED RULE."

From the end of the public comment period through June 15, 2006, the agency may notify the Division of Administrative Rules that it wants to make the PROPOSED RULE effective. The agency sets the effective date. The date may be no fewer than 31 days nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file a CHANGE IN PROPOSED RULE in response to comments received. If the Division of Administrative Rules does not receive a NOTICE OF EFFECTIVE DATE or a CHANGE IN PROPOSED RULE, the PROPOSED RULE filing lapses and the agency must start the process over.

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

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

The Proposed Rules Begin on the Following Page.

**Agriculture and Food, Regulatory
Services
R70-410-1
Authority**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 28485

FILED: 02/01/2006, 09:30

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This proposed amendment adopts the January 1, 2005, edition of 7 CFR part 56, 9 CFR 590, 7 CFR 59, and the January 1, 2003, edition of 21 CFR 1 through 200.

SUMMARY OF THE RULE OR CHANGE: This proposed amendment adopts and incorporates by reference the applicable provisions of the regulations issued by the United States Department of Agriculture (USDA) for grading and inspection of shell eggs. There have been some substantive changes made to the Code of Federal Regulations (CFR) references, therefore, it is necessary to update the citation of CFR references to the current issue.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 4-4-2

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 7 CFR Part 56, January 1, 2003, edition; 21 CFR, 1 through 200, April 1, 2001, edition; 9 CFR 590, January 1, 2003, edition; and 7 CFR 59, January 1, 2003, edition

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** This program is a voluntary program funded completely by egg and poultry plants involved in the program. Based upon the criteria established by the "hill" the rates we charge for the service are in line with these guidelines. The rates are significantly below the rates charged by our federal counterparts.

❖ **LOCAL GOVERNMENTS:** This program is a voluntary program funded completely by egg and poultry plants involved in the program. Based upon the criteria established by the "hill" the rates we charge for the service are in line with these guidelines. The rates are significantly below the rates charged by our federal counterparts.

❖ **OTHER PERSONS:** Standards set by adoption of federal egg and poultry uniform standard, established by these rules enhance marketability of their products. The grade mark concurrent with the service is often required for sale to other countries, acceptance by military contracts, and other large vendors. The rate established are based upon the criteria established by the "hill". The rates charged for the service are in line with these guidelines. The rates are significantly below the rates charged by our federal counterparts. There is a portion paid by the plants to USDA Agricultural Marketing Service (AMS) for oversight of the Federal State Contract, this rate known as the "Administrative Charge" is set by "federal

rule making" open for comment in the Federal Register and published in current CFR. Currently, it is set at .051/30 doz. eggs and .00039 per pound of poultry. The maximum administrative charge is \$2,875, the minimum is \$260.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no additional compliance costs associated to the changes in this rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The changes being made to this rule will generate no additional costs. The department is adopting the applicable provisions in the CFRs editions listed in this rule. Leonard Blackham, Commissioner

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

AGRICULTURE AND FOOD
REGULATORY SERVICES
350 N REDWOOD RD
SALT LAKE CITY UT 84116-3034, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Marolyn Leetham, Doug Pearson, or Kyle Stephens at the above address, by phone at 801-538-7114, 801-538-7144, or 801-538-7102, by FAX at 801-538-7126, 801-538-7169, or 801-538-7126, or by Internet E-mail at mleetham@utah.gov, dpearson@utah.gov, or kylestephens@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 03/17/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 03/18/2006

AUTHORIZED BY: Leonard M. Blackham, Commissioner

R70. Agriculture and Food, Regulatory Services.

R70-410. Grading and Inspection of Shell Eggs with Standard Grade and Weight Classes.

R70-410-1. Authority.

A. Promulgated under authority of Section 4-4-2.

B. Adopt by reference: The Utah Department of Agriculture and Food hereby adopts and incorporates by reference the applicable provisions of the regulations issued by the United States Department of Agriculture for grading and inspection of shell eggs and the Standards, 7 CFR Part 56, [~~January 1, 2003 edition~~] January 1, 2005 edition, 21 CFR, 1 through 200, [~~April 1, 2001~~] April 1, 2003 edition; 9 CFR 590, [~~January 1, 2003~~] January 1, 2005 edition; and 7 CFR 59, [~~January 1, 2003 edition~~] January 1, 2005 edition.

KEY: food inspections

Date of Enactment or Last Substantive Amendment: December 16, 2003

Notice of Continuation: January 24, 2006

Authorizing, and Implemented or Interpreted Law: 4-4-2

◆ ————— ◆

Insurance, Administration
R590-226
Submission of Life Insurance Filings

NOTICE OF PROPOSED RULE
 (Amendment)

DAR FILE No.: 28488
 FILED: 02/01/2006, 15:36

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to set forth the procedures for submitting life insurance filings and report filings required by Rule R590-177, Life Insurance Illustration Rule. The changes to this rule are being made to update publication dates of documents incorporated by reference; to remove references to the Accelerated Benefits Rule, R590-145, which was repealed 09/15/2005; and to clarify definitions in the rule.

SUMMARY OF THE RULE OR CHANGE: The changes to this rule are being made to update publication dates for documents incorporated by reference; to remove references to Rule R590-145; and to clarify definitions in the rule.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 31A-2-201, 31A-2-201.1, and 31A-2-202

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: Utah Life Filing Certification for Individual, dated June 2006; Utah Life Filing Certification for Group, dated June 2006; Utah Life, and Annuity, Credit Life, and Credit Accident and Health Group Questionnaire, dated June 2006; Utah Life, and Annuity, Credit Life, and Credit Accident and Health Request for Discretionary Group Authorization, dated June 2006; and Utah Annual Life Insurance Illustration Certification Filing Checklist, dated June 2006

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** The amendments to this rule will create no change in the work done by department employees, nor will it change fees or revenues to the department and general fund.
- ❖ **LOCAL GOVERNMENTS:** This rule does not affect local governments since it only applies to the relationship between the department and the licensed insurer.
- ❖ **OTHER PERSONS:** The changes to this rule will not change the filing requirements or duties of licensed life insurance companies nor will it create a financial impact on consumers. The rule is for clarification purposes only.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The changes to this rule will not change the filing requirements or duties of licensed life insurance companies nor will it create a financial impact on consumers. The rule is for clarification purposes only.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule will have no financial impact on 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 03/17/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 03/18/2006

AUTHORIZED BY: Jilene Whitby, Information Specialist

R590. Insurance, Administration.
R590-226. Submission of Life Insurance Filings.
R590-226-1. Authority.

This rule is promulgated by the insurance commissioner pursuant to Subsections 31A-2-201(3), 31A-2-201.1, and 31A-2-202(2).

R590-226-3. Documents Incorporated by Reference.

(1) The department requires that the documents described in this rule must be used for all filings. Actual copies may be used or you may adapt them to your word processing system. If adapted, the content, size, font, and format must be similar.

(2) The following documents are hereby incorporated by reference and are available on the department's website, www.insurance.utah.gov.

(a) "NAIC Life, Accident and Health, Annuity, Credit Transmittal Document," dated January 1, 200[5]6.

(b) "NAIC Uniform Life, Accident and Health, Annuity and Credit Coding Matrix," dated January 1, 200[5]6.

(c) "NAIC Instruction Sheet for Life, Accident and Health, Annuity, Credit Transmittal Document," dated January 1, 200[3]6.

(d) "NAIC Instruction Sheet for Life, Accident and Health, Annuity, Credit Transmittal Document Form Filing Attachment," dated January 1, 200[3]6.

(e) "Utah Life Filing Certification for Individual," dated [January 1, 2004]June 2006.

(f) "Utah Life Filing Certification for Group," dated June 2006.

([f]g) "Utah Life[;] and Annuity[;] Credit Life, and Credit Accident and Health] Group Questionnaire," dated [January 1, 2004]June 2006.

([g]h) "Utah Life[~~;~~] and Annuity[~~;~~ Credit Life, and Credit Accident and Health] Request for Discretionary Group Authorization," dated [January 1, 2004] June 2006.

([h]i) "Utah Annual Life Insurance Illustration Certification Filing Checklist," dated [January 1, 2004] June 2006.

R590-226-5. General Filing Information.

(1) Each filing document submitted within the filing must be accurate, consistent, and complete. Each filing must ~~and~~ contain all required documents in order for the filing to be processed in a timely and efficient manner. The commissioner may request any additional information deemed necessary.

(2) Insurers and filers are responsible for assuring compliance with Utah laws and rules. Filings not in compliance with Utah laws and rules are subject to regulatory action under Section 31A-2-308.

(3) Filing[s] that do not comply with this rule will be rejected and returned to the filer. Rejected filings are not considered filed with the department.

(4) Prior filings will not be researched to determine the purpose of the current filing.

(5) The department does not review or proofread every filing.

(a) Filings may be reviewed:

(i) when submitted;

(ii) as a result of a complaint;

(iii) during a regulatory examination or investigation; or

(iv) at any other time the department deems necessary.

(b) If a filing is reviewed and is found to be not in compliance with Utah laws and rules, an ORDER TO PROHIBIT USE will be issued to the filer. The commissioner may require the filer to disclose deficiencies in forms or rating practices to affected policyholders.

(6) Filing correction: ~~[(a)]~~ No filing transmittal is required when making corrections to misspelled words and punctuation in a filing. The filing will be considered an informational filing. ~~[clerical or typographical corrections are made to a filing previously filed if the corrected filing is submitted within 30 days of the date "filed" with the department].~~ The filer will need to reference the original filing. [

~~(b) A new filing is required if the clerical or typographical corrections are made more than 30 days after the filed date of the original filing. The filer will need to reference the original filing.]~~

(7) Revised forms. A form that is revised from a previously filed form is considered a new form and must be filed for use. The filer will need to reference the original filing and explain the changes to the form. ~~[(7) Filing withdrawal. A filer must notify the department when the filer withdraws a previously filed form, rate, or supplementary information.]~~

R590-226-6. Filing Submission Requirements.

Filings must be submitted by market type and type of insurance. A filing may not include more than one type of insurance, or request filing for more than one insurer. A complete filing consists of the following documents submitted in the following order:

(1) Transmittal. Note: Based on the use of the NAIC Transmittal Form, a cover letter is not required. The "NAIC Life, Accident and Health, Annuity, Credit Transmittal Document" must be used. It can be found at www.insurance.utah.gov/LH_Trans.pdf.

(a) COMPLETE THE TRANSMITTAL BY USING THE FOLLOWING:

(i) "NAIC Coding Matrix"

www.insurance.utah.gov/LifeA&H_Matrix.pdf,

(ii) "NAIC" Instruction Sheet"

www.insurance.utah.gov/LH_Trans_Inst.pdf,

(iii) "Life Content Standards"

www.insurance.utah.gov/Life_STM.html.

(iv) Do not submit the documents described in section (a)(i), (ii), and (iii) with a filing.

(b) Filing Description. The following information must be included in the Filing Description on the transmittal and must be presented in the order shown below:

(i) Domicile Approval. Foreign insurers and filers must first submit filings to their domicile state.

(A) If a filing was submitted to the domicile state, provide a stamped copy of the approval letter from the domicile state for the filing

(B) If a filing was not submitted to the domicile state, or the domicile state did not provide specific approval for the filing, then alternate information must be provided.

(ii) Marketing Facts.

(A) List the issue ages.

(B) List the minimum death benefit.

(C) Identify and describe the type of group.

(D) Identify the intended market for the filing, such as senior citizens, nonprofit organization, association members, corporate owned, bank owned, etc.

(E) Describe the marketing and advertising in detail, i.e. through a marketing association, mass solicitation, electronic media, financial institutions, Internet, telemarketing, or individually through licensed producers.

(iii) Description of Filing.

(A) Provide a detailed description of the purpose of the filing.

(B) Describe the benefits and features of each form in the filing including specific features and options, including nonforfeiture options.

(C) Identify any new, unusual or controversial provisions.

(D) Identify any unresolved previously prohibited provisions and explain why the provisions are included in the filing.

(E) Explain any changes in benefits, charges, terms, premiums, or other provisions that may occur while the policy is in force.

(F) If the filing is replacing or modifying a previous submission, provide information that identifies the filing being replaced or modified, the Utah filed date, and a detailed description of the changes and highlight the changed provisions.

(G) If the filing includes forms for informational purposes, provide the dates the forms were filed.

If filing an application, rider or endorsement, and the filing does not contain a policy, identify the affected policy form number, the Utah filed date, and describe the effect of the submitted forms on the base policy.

(iv) Underwriting Methods. Provide a general explanation of the underwriting applicable to this filing.

(2) Certification. In addition to completing the certification on the NAIC transmittal, the filer must complete and submit the "Utah Life Insurance Filing Certification for Individual" or the "Utah Life Insurance Filing Certification for Group." A filing will be rejected if the certification is missing or incomplete. A certification that is inaccurate may subject the filer to administrative action.

(3) Group Questionnaire or Discretionary Group Authorization Letter. All group filings must identify each type of group, and include either, a completed "Utah Life[;] and Annuity[;] ~~Credit Life and Credit Accident and Health Insurance~~ Group Questionnaire," or a copy of the "Utah Life[;] and Annuity[;] ~~Credit Life and Credit Accident and Health~~ Discretionary Group Authorization Letter."

(4) Letter of Authorization. When the filer is not the insurer, a letter of authorization from the insurer must be included. The insurer remains responsible for the filing being in compliance with Utah laws and rules.

(5) Statement of Variability. Any item or provision on the data page or within the form that is variable must be contained within the brackets. List the ranges of variable items or factors within the brackets. Each variable item must be identified and explained in a statement of variability. If the information contained within the brackets changes, the form must be refiled.

(6) Items being submitted for filing. Refer to each applicable subsection of this rule for general procedures and additional procedures on how to submit forms and reports.

(7) Life Insurance Illustration Materials. If the life insurance form is identified as illustrated, the filing must include a sample:

- (a) basic illustration completed with data in John Doe fashion;
- (b) current illustration actuary's certification;
- (c) company officer certification; and
- (d) sample annual report.

(8) Statement of Policy Cost and Benefit Information. If the life insurance form is not illustrated, the filing must include a sample of the Statement of Policy Cost and Benefit Information.

(9) Actuarial Memorandum, Demonstration, and Certification of Compliance. An actuarial memorandum, demonstration of compliance, and a certification of compliance are required in individual and group life insurance filings. The memorandum must be currently dated and signed by the actuary. The memorandum must include:

(a) description of the coverage in detail;

(b) demonstration of compliance with applicable nonforfeiture and valuation laws; and

(c) a certification of compliance with Utah law.

(10) Return Notification Materials.

(a) Return notification materials are limited to:

- (i) a copy of the transmittal; and
- (ii) a self-addressed, stamped envelope.

(b) Notice of filing will not be provided unless return notification materials are submitted.

R590-226-7. Procedures for Filings.

(1) Forms in General.

(a) Forms are "File and Use" filings.

(b) Each form must:

(i) be identified by a unique form number; and
(ii) contain a descriptive title on the cover page.
(c) The form number and the policy cover page descriptive title may not be variable.

~~(d)~~ Forms must be in final printed form or printer's proof format. Drafts may not be submitted.

~~(e)~~ The form must be completed in John Doe fashion to accurately represent the intended market, purpose, and use.

(i) If the market intended is for the senior age group, the form must be completed with data representative of senior insureds.

(ii) All John Doe data in the forms including the ~~specification page~~ data page must be accurate and consistent with the actuarial

memorandum, the basic illustration, the Statement of Policy Cost and Benefit information, and the application, as applicable.

(iii) When submitting a rider or endorsement, include a sample policy data page that includes the rider or endorsement information.

(iv) Forms may include variable data within brackets. All variable data must be identified within the specific section, or a statement of variability included with the submission.

(2) Policy Filings.

(a) Each type of insurance must be filed separately. A policy filing consists of one policy form for a single type of insurance including its related forms, such as the application, sample data page, rider, endorsement, and actuarial memorandum.

(b) A policy data page must be included with every policy filing.

(c) Only one policy form for a single type of insurance may be filed, in each filing a life insurance policy with different premium payment periods is considered one form.

(d) A policy data page that changes the basic feature of the policy may not be filed without including the entire policy form in the filing. A filing consisting of only a data page without the policy form will be rejected as incomplete.

(3) Rider or Endorsement Filing.

(a) Related riders or endorsements may be filed as a single filing.

(b) A rider or endorsement that is based on morbidity risks, such as critical illness or long-term care, is considered accident and health insurance and must be filed in accordance with Rule R590-220, "Accident and Health Insurance Filings."

(c) A single rider or endorsement that affects multiple policy forms may be filed separately if the Filing Description references all affected forms.

(d) The filing must include:

(i) a listing of all base policy form numbers, title and dates filed with the Utah Insurance Department;

(ii) a description of how each filed rider or endorsement affects the base policy; and

(iii) a sample data page with data for the submitted form.

(4) Application Filings. Each application or enrollment form may be submitted as a separate filing or may be filed with its related policy or certificate filing. If an application has been previously filed or is filed separately, an informational copy of the application must be included with the policy or certificate filing.

R590-226-8. Additional Procedures for Individual Life Insurance Forms and Group Life Insurance Certificates Marketed Individually.

(1) Insurers filing life insurance forms are advised to review the following code sections and rules prior to submitting a filing:

(a) Section 31A-21 Part III, "Specific Clauses in Contracts;"

(b) Section 31A-22 Part IV, "Life Insurance and Annuities;"

(c) R590-79, "Life Insurance Disclosure ~~Rule~~ for Policy Summary;"

(d) R590-93, "Replacement of Life Insurance and Annuities;"

(e) R590-94, "Smoker/Nonsmoker Mortality Tables";

(f) R590-95, "Minimum Nonforfeiture Standards 1980 CSO and 1980 CET Mortality Tables;"

(g) R590-98, "Unfair Practice in Payment of Life Insurance and Annuity Policy Values;"

(h) R590-108, "Interest Rate During Grace Period or Upon Reinstatement of Policy;"

(i) R590-122, "Permissible Arbitration Provisions;"

~~(j) R590-145, "Accelerated Benefits;"~~
 (i) R590-177, "Life Insurance Illustrations;"
 (k) R590-191, "Unfair Life Insurance Claims Settlement Practice;"

(l) R590-198, "Valuation of Life Insurance Policies;" and
 (m) R590-223, "Rule to Recognize 2001 CSO Mortality Table."

(2) Every individual life insurance policy, rider or endorsement providing benefits, and every group life insurance filing including certificates that are marketed individually, shall include an actuarial memorandum, a demonstration, and a certification of compliance for nonforfeiture and valuation. Refer to the following:

(a) Section 31A-22-408, "Standard Nonforfeiture Law for Life Insurance;"

(b) Section 31A-17 Part V, "Standard Valuation Law." [

~~(3) When submitting accelerated benefits riders or provisions, the filing must include an actuarial memorandum for the accelerated benefit, a solicitation disclosure form, and a benefit payment disclosure form.]~~

R590-226-9. Additional Procedures for Group Market Filings.

(1) Insurers submitting group life insurance filings are advised to review the following code sections and rules prior to submitting a filing:

(a) Section 31A-21 Part III, "Specific Clauses in Contracts;"

(b) Section 31A-22 Part IV, "Life Insurance and Annuities;"

(c) Section 31A-22 Part V, "Group Life Insurance;"

(d) R590-79, "Life Insurance Disclosure Rule;" [

~~(e) R590-145, "Accelerated Benefits;"~~

(f) R590-191, "Unfair Life Insurance Claims Settlement Practice."

(2) A policy must be included with each certificate filing along with a master application and enrollment form.

(3) Statement of Policy Cost and Benefit Information. A statement of policy cost and benefit information must be included in non-term group life insurance and preneed funeral policies or prearrangements. This disclosure requirement shall extend to the issuance or delivery of certificates as well as to the master policy in compliance with R590-79-3.

(4) Actuarial Memorandum. An actuarial memorandum must be included in all group life insurance filings describing the coverage in detail and certifying compliance with applicable laws and rules. For non-term group life filings, the memorandum must also demonstrate nonforfeiture compliance with Section 31A-22-515.

(5) Eligible Group. A filing for an eligible group must include a completed "Utah Life[~~]~~ and Annuity[~~]~~, ~~Credit Life, and Credit Accident and Health~~ Group Questionnaire."

(a) A questionnaire must be completed for each eligible group under Section 31A-22-502 through 508.

(b) When a filing applies to multiple employer-employee groups under Section 31A-22-502, only one questionnaire is required to be completed.

(6) Discretionary Group. If a group is not an eligible group, then specific discretionary group authorization must be obtained prior to submitting the filing. If a form filing is submitted without discretionary group authorization, the filing will be rejected.

(a) To obtain discretionary group authorization a "Utah Life[~~]~~ and Annuity[~~]~~, ~~Credit Life, and Credit Accident and Health~~ Request For Discretionary Group Authorization" must be submitted and include all required information.

(b) Evidence or proof of the following items are some factors considered in determining acceptability of a discretionary group:

(i) existence of a verifiable group;

(ii) that granting permission is not contrary to public policy;

(iii) the proposed group would be actuarially sound;

(iv) the group would result in economies of acquisition and administration which justify a group rate; and

(v) the group would not present hazards of adverse selection.

(c) Discretionary group filings that do not provide authorization documentation will be rejected.

(d) Any changes to an authorized discretionary group must be submitted to the department, such as; change of name, trustee, domicile state, within 30 days of the change.

(e) The commissioner may periodically re-evaluate the group's authorization.

R590-226-16. Enforcement Date.

The commissioner will begin enforcing the provisions of this rule [May]June 1, 200[4]6.

KEY: life insurance filings

Date of Enactment or Last Substantive Amendment: [April 28, 2005]2006

Authorizing, and Implemented or Interpreted Law: 31A-2-201; 31A-2-201.1; 31A-2-202



Insurance, Administration **R590-227** Submission of Annuity Filings

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 28487

FILED: 02/01/2006, 15:34

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to set forth procedures for submitting annuity filings under Section 31A-21-201.

SUMMARY OF THE RULE OR CHANGE: The changes to this rule include: updating publication dates for incorporation by reference documents; making regulatory changes to the standard nonforfeiture law as a result of the passage of H.B. 52, 2004 Legislature, and to be implemented in June 2006. (DAR NOTE: H.B. 52 (2004) is found at UT L 2004 Ch 97, and was effective 05/03/2004.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 31A-2-201, 31A-2-201.1, and 31A-2-202

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: Utah Annuity Filing Certification, dated June 2006; Utah Life, and Annuity, Credit Life, and Credit Accident and Health Group Questionnaire, dated June 2006; and Utah Life, and Annuity, Credit Life, and Credit Accident and Health Request for Discretionary Group Authorization, dated June 2006

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: These changes will create no change in the work done by department employees, nor will it change fees or revenues to the department or state fund.
- ❖ LOCAL GOVERNMENTS: Local governments will not be affected by this rule since it relates only to the relationship between the department and the licensed insurer.
- ❖ OTHER PERSONS: As a result of the new standard nonforfeiture law for annuities, insurers are required to adopt a floating interest rate calculation. Once the law passed, insurers began to implement it immediately. At this time most, if not all, are in compliance. The minimum nonforfeiture interest rate on these policies was 3%; now it may vary from 1% to 3%. The rule gives more flexibility to insurers as to choice of forms to market and so perhaps there could be a slight increase in earnings. There will be a slight cost to insurers to update, print and file new forms. This rule has no direct cost or savings on consumers.

COMPLIANCE COSTS FOR AFFECTED PERSONS: As a result of the new standard nonforfeiture law for annuities, insurers are required to adopt a floating interest rate calculation. Once the law passed, insurers began to implement it immediately. At this time most, if not all, are in compliance. The minimum nonforfeiture interest rate on these policies was 3%; now it may vary from 1% to 3%. The rule gives more flexibility to insurers as to choice of forms to market and so perhaps there could be a slight increase in earnings. There will be a slight cost to insurers to update, print, and file new forms. This rule has no direct cost or savings on consumers.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The changes in this rule will have minimal fiscal impact on 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 03/17/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 03/18/2006

AUTHORIZED BY: Jilene Whitby, Information Specialist

R590. Insurance, Administration.

R590-227. Submission of Annuity Filings.

R590-227-1. Authority.

This rule is promulgated by the insurance commissioner pursuant to Subsections 31A-2-201(3), 31A-2-201.1, and 31A-2-202(2).

R590-227-3. Incorporation by Reference.

(1) The department requires that documents described in this rule must be used for all filings. Actual copies may be used or you may adapt them to your word processing system. If adapted, the content, size, font, and format must be similar.

(2) The following documents are hereby incorporated by reference and are available at www.insurance.utah.gov.

(a) "NAIC Life, Accident and Health, Annuity, Credit Transmittal Document," dated January 1, 200[3]6.

(b) "NAIC Uniform Life, Accident and Health, Annuity and Credit Coding Matrix," dated January 1, 200[3]6.

(c) "NAIC Instruction Sheet for Life, Accident and Health, Annuity, Credit Transmittal Document," dated January 1, 200[3]6.

(d) "NAIC Instruction Sheet for Life, Accident and Health, Annuity, Credit Transmittal Document Form Filing Attachment," dated January 1, 200[3]6.

(e) "Utah Annuity Filing Certification," dated [May 1, 2004]June 2006.

(f) "Utah Life[;] and Annuity[;] Credit Life, and Credit Accident and Health] Group Questionnaire," dated [May 1, 2004]June 2006.

(g) "Utah Life[;] and Annuity[;] Credit Life, and Credit Accident and Health] Request for Discretionary Group Authorization," dated [May 1, 2004]June 2006.

R590-227-5. General Filing Information.

(1) Each filing document submitted within the filing must be accurate, consistent, and complete. Each filing must[and] contain all required documents in order for the filing to be processed in a timely and efficient manner. The commissioner may request any additional information deemed necessary.

(2) Insurers and filers are responsible for assuring compliance with Utah laws and rules. A filing not in compliance with Utah laws and rules is subject to regulatory action under Section 31A-2-308.

(3) A filing[s] that does not comply with this rule may be rejected and returned to the filer. A rejected filing is not considered filed with the department.

(4) A prior filing will not be researched to determine the purpose of the current filing.

(5) The department does not review or proofread every filing.

(a) Filings may be reviewed:

(i) when submitted;

(ii) as a result of a complaint;

(iii) during a regulatory examination or investigation; or

(iv) at any other time the department deems necessary.

(b) If a filing is reviewed and is found to be not in compliance with Utah laws and rules, an ORDER TO PROHIBIT USE will be issued to the filer. The commissioner may require the filer to

disclose deficiencies in forms or rating practices to affected contract holders.

~~[(5)6] Filing Correction. [(a)]No filing transmittal is required when making corrections to misspelled words and punctuation in a filing. The filing will be considered an informational filing. [clerical or typographical corrections are made to a filing previously filed if the corrected filing is submitted within 30 days of the date "filed" with the department.]~~ The filer will need to reference the original filing.

(b) A new filing is required if a clerical or typographical correction is made more than 30-days after the filed date of the original filing. The filer will need to reference the original filing.

~~____(7) Revised forms. A form that is revised from a previously filed form is considered a new form and must be filed for use. The filer will need to reference the original filing and explain the changes to the form. [(7) Filing withdrawal. A filer must notify the department when the filer withdraws a previously filed form, rate, or supplementary information.]~~

R590-227-6. Filing Submission Requirements.

Filings must be submitted by market type and type of insurance. A filing may not include more than one type of insurance, or request filing for more than one insurer. A complete filing consists of the following documents and submitted in the following order:

(1) Transmittal. Note: Based on the use of the NAIC Transmittal Document, a cover letter is not required. The "NAIC Life, Accident and Health, Annuity, Credit Transmittal Document" must be used. It can be found at www.insurance.utah.gov/LH_Trans.pdf.

(a) COMPLETE THE TRANSMITTAL BY USING THE FOLLOWING:

- (i) "NAIC Coding Matrix"
www.insurance.utah.gov/LifeA&H_Matrix.pdf,
 - (ii) "NAIC" Instruction Sheet"
www.insurance.utah.gov/LH_Trans_Inst.pdf,
 - (iii) "Life Content Standards"
www.insurance.utah.gov/Life_STM.html.
- (iv) Do not submit the documents described in section (a)(i), (ii), and (iii) with a filing.

(b) Filing Description Section. The following information must be included in the Filing Description Section of the NAIC transmittal and must be presented in the order shown below:

(i) Domiciliary Approval. Foreign insurers and filers must first submit filings to their domicile state.

(A) If a filing was submitted to the domicile state provide a stamped copy of the approval letter from the domicile state for the filing.

(B) If a filing was not submitted to the domicile state, or the domicile state did not provide specific approval for the filing, then alternate information must be provided.

(ii) Marketing Facts.

(A) List the issue ages.

(B) List the minimum initial premium.

(C) Identify the intended market for the filing, such as senior citizens, nonprofit organizations, association members, including any particular tax qualified market and the federal law under which the contract will be marketed.

(D) Describe the marketing and advertising in detail, i.e. individually solicited through licensed producers, marketed through

a marketing association, financial institutions, Internet, or telemarketing.

(iii) Description of Filing.

(A) Provide a detailed description of the purpose of the filing.

(B) Describe the benefits and features of each form in the filing including specific features and options, including nonforfeiture options.

(C) Identify any new, unusual, or controversial provisions.

(D) Identify any unresolved previously prohibited provisions and explain why the provisions are included in the filing.

(E) Explain any changes in benefits, charges, terms, premiums, or other provisions that may occur while the contract is in force.

(F) If the filing is replacing or modifying a previous submission, provide information that identifies the filing being replaced or modified, the Utah filed date, and a detailed description of the changes and highlight the changed provisions.

(G) If the filing includes forms for informational purposes, provide the dates the forms were filed.

(H) If filing an application, rider, or endorsement, and the filing does not contain a contract, identify the affected contract form number, the Utah filed date, and describe the effect of the submitted forms on the base contract.

(iv) Underwriting Methods. Provide a general explanation of the underwriting applicable to this filing.

(2) Certification. In addition to completing the certification on the NAIC transmittal, the filer must complete and submit the "Utah Annuity Filing Certification". A filing will be rejected if the certification is missing or incomplete. A certification that is inaccurate may subject the filer to administrative action.

(3) Group Questionnaire or Discretionary Group Authorization Letter. All group filings must identify each type of group, and include either a completed "Utah Life[-] and Annuity[-] Credit Life and Credit Accident and Health Insurance] Group Questionnaire", or copy of the "Utah Life[-] and Annuity[-] Credit Life and Credit Accident and Health Insurance] Discretionary Group Authorization letter".

(4) Letter of Authorization. If the filer is not the insurer, a letter of authorization from the insurer must be included. The insurer remains responsible for the filing being in compliance with Utah laws and rules.

(5) Statement of Variability. Any item or provision on the data page or within the form that is variable must be contained within the brackets. List the ranges of variable items or factors within the brackets. Each variable item must be identified and explained in a statement of variability. If the information contained within the brackets changes, the form must be refiled.

(6) Items being submitted for filing. Refer to each applicable subsection of this rule for general procedures and additional procedures on how to submit forms and reports.

(7) Annuity Report. All annuity filings must include a sample annuity annual report.

(8) Actuarial Memorandum, Demonstration, and Certification of Compliance. An actuarial memorandum, demonstration, and a certification of compliance are required in annuity filings. The memorandum must be currently dated and signed by the actuary. The memorandum must include:

(a) description of the coverage in detail;

(b) demonstration of compliance with applicable nonforfeiture and valuation laws; and

(c) a certification of compliance with Utah law.

(9) Return Notification Materials.

(a) Return notification materials are limited to:

- (i) a copy of the transmittal; and
- (ii) a self-addressed, stamped envelope.

(b) Notice of filing will not be provided unless return notification materials are submitted.

R590-227-7. Procedures for Filings.

(1) Forms in General.

(a) Forms are "File and Use" filings.

(b) Each form must:

- (i) be identified by a unique form number; and
- (ii) contain a descriptive title on the cover page.
- (c) The form number and the policy cover page descriptive title may not be variable.

(e)d) Forms must be in final printed form or printer's proof format. Drafts may not be submitted.

(f)e) The form must be completed in John Doe fashion to accurately represent the intended market, purpose, and use.

(i) If the market intended is for the senior age market, the form must be completed with data representative of senior annuitants.

(ii) All John Doe data in the forms including the specification page data page must be accurate and consistent with the actuarial memorandum, the application, and any marketing materials, as applicable.

(iii) When submitting a rider or endorsement, include a sample data page that includes the rider or endorsement information.

(iv) Forms may include variable data. All variable data must be identified within the brackets or a statement of variability must be included with the submission.

(2) Contract Filings.

(a) Each type of annuity must be filed separately. A contract filing consists of one contract form for a single type of insurance including its related forms, an application, data page, rider or endorsement, and an actuarial memorandum.

(b) A data page must be included with every contract filing.

(c) Only one contract form for a single type of insurance may be submitted.

(d) A data page that changes the basic feature of the contract may not be filed without including the entire contract form in the filing. Separate data page filings without the contract form will be rejected as incomplete.

(3) Rider or Endorsement Filings.

(a) Related riders or endorsements may be filed together as a single filing.

(b) A single rider or endorsement that affects multiple related forms must reference all affected contract forms.

(c) A rider or endorsement that is based on morbidity risks such as critical illness or long-term care, is considered accident and health insurance and must be filed in accordance with Rule R590-220, "Accident and Health Insurance Filings".

(d) The filing must include:

(i) a listing of all base contract form numbers, title and dates filed with the Utah Insurance Department.

(ii) a description of how each filed rider or endorsement affects the base contract.

(iii) a sample data page with data for the submitted form.

(4) Application Filings. Each application or enrollment form may be submitted as a separate filing or may be filed with its related contract or certificate filing. If an application has been previously

filed or is filed separately, an informational copy of the application must be included with a contract or certificate filing.

R590-227-8. Additional Procedures for Fixed Annuity Filings.

(1) Insurers filing annuity forms are advised to review the following code sections and rules prior to submitting a filing:

(a) Section 31A-21 Part III, "Specific Clauses in Contracts;" Section 31A-22 Part IV, "Life Insurance and Annuities;"

(c) R590-93, "Replacement of Life Insurance and Annuities;"

(d) R590-96, "Annuity Mortality Tables;" and

(e) R590-191, "Unfair Life Insurance Claims Settlement Practice."

(2) Every filing of an individual annuity contract, rider or endorsement providing benefits, and every group annuity filing including certificates that are marketed individually, shall include an actuarial memorandum, a demonstration, and a certification of compliance with nonforfeiture and valuation laws:

(a) Section 31A-22-409, "Standard Nonforfeiture Law for Deferred Annuities;" and

(b) Section 31A-17 Part V, "Standard Valuation Law."

(3) When submitting annuity filings the filing description of the transmittal must:

(a) identify the specific subsection of the Utah nonforfeiture law, which applies to the submitted annuity;

(b) describe the basic features of the form submitted;

(c) identify and describe the interest earning features; including the guaranteed interest rate, the guaranteed interest terms, and any market value adjustment feature;

(d) describe the guaranteed and nonguaranteed values including any bonuses;

(e) describe all charges, fees and loads;

(f) list and describe all accounts, options and strategies, if any;

(g) identify whether the accounts are fixed interest general accounts, registered separate accounts including modified guaranteed separate accounts; and

(h) describe any restrictions or limitations regarding withdrawals, surrenders, and the maturity date or settlement options.

(4) The contract must be complete with a sample specification page attached.

(5) The actuarial memorandum must:

(a) be currently dated and signed by the actuary;

(b) identify the specific subsections of the Utah nonforfeiture law[?] which applies to the submitted annuity;

(c) describe all contract provisions in detail, including all guaranteed and non-guaranteed elements, that may affect the values;

(d) identify the guaranteed minimum interest crediting rates;

(e) describe in detail the particular methods of crediting interest, including:

(i) guaranteed fixed interest rates; and

(ii) guaranteed interest terms.

(f) specifically identify, ~~and~~ describe and list all charges and fees, including loads, surrender charges, market value adjustments or any other adjustment feature;(g) describe in detail all accounts and factors that are used to calculate guaranteed minimum nonforfeiture values and minimum cash surrender values in ~~under~~ the contract and the elements used in the calculation of the minimum values required by the law; and

(h) include the formulas used to calculate the minimum guaranteed values provided by the contract and the formulas used to calculate the minimum guaranteed values required by the applicable subsections of the nonforfeiture law.

(6) The actuarial demonstration must:

(a) ~~[be submitted on paper and on a diskette on which the formulas are not hard coded.]compare minimum contract values with minimum nonforfeiture values;~~

(b) ~~[demonstrate compliance with the applicable nonforfeiture law for representative ages and the highest possible issue age,]be based on representative premium patterns, for flexible premium products use both a single premium and level premium payment, and for both age 35 and age 60 or the highest issue age if lower;~~

(c) numerically demonstrate that the values based on the guaranteed minimum interest rates, the maximum surrender charges, fees, loads, and any other factors affecting values, provide values that are in compliance with the Standard Nonforfeiture Law using both the retrospective and the prospective tests, each test must be clearly identified, and include the following:

(i) For the retrospective test, describe the net consideration and the interest rates used in the accumulation. Numerically compare the guaranteed contract values with the minimum values required by the nonforfeiture law.

(ii) For the prospective test, identify the maturity value and the interest rate used for each respective year to determine the present value. Numerically compare the guaranteed contract values with the minimum values required by the nonforfeiture law.

(7) The actuarial certification of compliance must be currently dated and signed by the actuary. The certification must state that the formulas used and values provided are in compliance with Utah laws and rules.

R590-227-9. Additional Procedures for Group Annuity Filings.

(1) Insurers submitting group annuity filings are advised to review the following code sections and rules prior to submitting a filing:

- (a) Section 31A-21 Part III, "Specific Clauses in Contracts;"
- (b) Section 31A-22 Part IV, "Life Insurance and Annuities;"
- (c) Section 31A-22 Part V, "Group Life Insurance;" and
- (d) R590-191, "Unfair Life Insurance Claims Settlement Practice."

(2) A group contract must be included with each certificate filing along with the master application and enrollment form.

(3) Every group annuity filing must include an actuarial memorandum describing the features of the contract and certifying compliance with applicable Utah laws. A group filing that includes a group certificate that is marketed to individuals, must include an actuarial memorandum, demonstration and certification of compliance with the applicable Utah nonforfeiture law.

(4) Eligible Groups. A filing for an eligible group must include a completed "Utah Life[~~;~~] and Annuity[~~;~~ ~~Credit Life, Credit Accident and Health~~] Group Questionnaire."

(a) A questionnaire must be completed for each eligible group under Sections 31A-22-502 through 508.

(b) When a filing applies to multiple employer-employee groups under Section 31A-22-502, only one questionnaire is required to be completed.

(5) Discretionary Group. If a group is not an eligible group, then specific discretionary group authorization must be obtained prior to submitting the filing. If a filing is submitted without discretionary group authorization, the filing will be rejected.

(a) To obtain discretionary group authorization a "Utah Life[~~;~~] and Annuity[~~;~~ ~~Credit Life, and Credit Accident and Health~~] Request For Discretionary Group Authorization" must be submitted and include all required information.

(b) Evidence or proof of the following items are some factors considered in determining acceptability of a discretionary group:

- (i) existence of a verifiable group;
- (ii) that granting permission is not contrary to public policy;
- (iii) the proposed group would be actuarially sound;
- (iv) the group would result in economies of acquisition and administration which justify a group rate; and
- (v) the group would not present hazards of adverse selection.

(c) Discretionary group filings that do not provide authorization documentation will be rejected.

(d) Any changes to an authorized discretionary group must be submitted to the department, such as; change of name, trustee, domicile state, within 30 days of the change.

(e) The commissioner may periodically re-evaluate the group's authorization.

R590-227-14. Enforcement Date.

The commissioner will begin enforcing the provisions of this rule ~~[May]June 1, 200[4]6.~~

KEY: annuity insurance filings

Date of Enactment or Last Substantive Amendment: ~~[April 28, 2005]2006~~

Authorizing, and Implemented or Interpreted Law: 31A-2-201; 31A-2-201.1; 31A-2-202



Insurance, Administration **R590-234** Single Risk Limitation

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 28486

FILED: 02/01/2006, 10:39

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this new rule is to set forth procedures necessary to determine compliance with Section 31A-20-108 in cases where unlimited insurance policies are issued.

SUMMARY OF THE RULE OR CHANGE: The purpose of this new rule is to set forth procedures necessary to determine compliance with Section 31A-20-108, "Single risk limitations," to describe the entities the rule is to apply to, to define those terms unique to this rule, to set \$2,000,000 as the maximum potential risk for purposes of determining compliance with the single risk limitation, and to set the enforcement date of this rule at 45 days after its effective date.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 31A-2-201 and 31A-20-108

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: This rule will not add to or reduce the amount of work being done by department personnel, nor does it change department fees or forfeiture amounts. The rule provides guidance to department financial examiners as to the application of the single risk limitation requirement.
- ❖ LOCAL GOVERNMENTS: This rule will have no effect on local governments since it deals solely with the relationship between the insurance department and its licensees.
- ❖ OTHER PERSONS: This rule impacts financial examiners who determine an insurer's compliance with the Single Risk Limitation statute. At this point, there are no guidelines to determine compliance with this law in the case of an unlimited policy. Insurers who sell unlimited policies now have enough information to ensure they are in compliance. With this new information, insurers can determine if they are in compliance with the law or not and if not they can change their reinsurance agreements or take other necessary steps. The law requires insurers to adequately diversify their risk. The purpose of the law is to make sure insurers don't take on risks that would put their solvency in jeopardy.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule impacts financial examiners who determine an insurer's compliance with the Single Risk Limitation statute. At this point, there are no guidelines to determine compliance with this law in the case of an unlimited policy. Insurers who sell unlimited policies now have enough information to ensure they are in compliance. With this new information, insurers can determine if they are in compliance with the law or not and if not they can change their reinsurance agreements or take other necessary steps. The law requires insurers to adequately diversify their risk. The purpose of the law is to make sure insurers don't take on risks that would put their solvency in jeopardy.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule will have no fiscal impact on insurers. 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 03/17/2006

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 3/09/2006 at 9:00 AM, State Office Building (Behind Capitol), Room 3112, Salt Lake City, UT 84114.

THIS RULE MAY BECOME EFFECTIVE ON: 03/18/2006

AUTHORIZED BY: Jilene Whitby, Information Specialist

R590. Insurance, Administration.

R590-234. Single Risk Limitation.

R590-234-1. Authority.

This rule is promulgated by the insurance commissioner pursuant to Subsection 31A-2-201(3) and 31A-20-108(2)(b).

R590-234-2. Purpose and Scope.

(1) The purpose of this rule is to set forth procedures necessary to determine compliance with 31A-20-108, in cases where unlimited insurance policies are issued.

(2) This rule applies to all entities that write unlimited insurance policies, except title, workers' compensation, occupational disease, and employers' liability insurance policies.

R590-234-3. Definitions.

In addition to the definitions of Section 31A-1-301, the following definitions shall apply for the purpose of this rule:

(1) "Unlimited Insurance Policy" means an insurance policy that does not specify a maximum limit for benefits to be paid under the policy.

(2) "Single risk" includes all losses reasonably expected as a result of the same event.

(3) "Single Risk Limitation" is 10% of capital and surplus, as prescribed by 31A-20-108(2).

R590-234-4. Calculation of Single Risk Limitation for Unlimited Insurance Policies.

In cases where unlimited insurance policies are issued, the insurer shall use \$2,000,000 as the maximum potential risk, for purposes of determining compliance with the single risk limitation.

R590-234-5. Enforcement Date.

The commissioner will begin enforcing the provisions of this rule 45 days from the rule's effective date.

R590-234-6. Severability.

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

KEY: single risk limitation

Date of Enactment or Last Substantive Amendment: 2006

Authorizing, and Implemented or Interpreted Law: 31A-2-201; 31A-20-108



School and Institutional Trust Lands,
Administration
R850-21-900
Failure of Agency's Title

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 28482

FILED: 02/01/2006, 08:07

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose for deleting Section R850-21-900 of this rule is to allow the director the flexibility to make a determination, on a case-by-case basis, if a refund of monies paid by an applicant or lessee should be granted upon discovery of title failure.

SUMMARY OF THE RULE OR CHANGE: Section R850-21-900 states precisely when refunds can be given in the event of title failure. The deletion of this section would allow the director to evaluate, on a case-by-case basis, the merits of the individual circumstances and make a determination if a refund should be granted because of title failure. The director is given broad authority by statute to manage the trust assets for the benefit of the beneficiaries, and the deletion of this section would enable the agency to better "act in good faith" when the circumstances warrant a refund.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 53C-1-302(1)(a)(ii) and Title 53C, Chapter 2

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** It is anticipated that there could be a loss of revenues to the agency in refunding certain monies currently prohibited by rule. However, since the refunded money comes from revenues that have been paid to the agency at the time of application or during the term of the lease on land for which title failed, the agency is only forfeiting revenues recently received and not losing anything from the existing budget. At worst, the agency would "break even" with what has been received and what is refunded.

❖ **LOCAL GOVERNMENTS:** It is not anticipated that there would be either a cost or savings to local governments except perhaps in the case where they are the applicant or lessee of lands where the agency's title failed. In that event, they would be entitled to request a refund of monies they had recently paid in good faith for the lease. At worst, they would be entitled to no refund and at best, they would be granted a full refund of monies.

❖ **OTHER PERSONS:** It is anticipated that there could be anywhere from no savings to substantial savings to other persons, depending on the granting of their request for a refund of monies paid and the amount refunded. These savings would be based on the greater flexibility given the director to grant refunds currently prohibited by rule.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The deletion of this section does not bring about any anticipated compliance costs for affected persons beyond what already exists in rule.

The requirement for a written request for refund would still exist, but the director would have the flexibility to consider all surrounding circumstances currently prohibited by rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The current rule absolutely restricts the agency from refunding certain fees in the rare event of failure of the state's title. This can lead to inequitable consequences with applicants or lessees. The proposed amendment would allow for discretion in making refunds to applicants or lessees when appropriate. In general, this is favorable to business partners of the agency. Kevin S. Carter, Director

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

SCHOOL AND INSTITUTIONAL TRUST LANDS
ADMINISTRATION
Room 500
675 E 500 S
SALT LAKE CITY UT 84102-2818, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

LaVonne Garrison at the above address, by phone at 801-538-5100, by FAX at 801-355-0922, or by Internet E-mail at lavonnegarrison@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 03/17/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 03/20/2006

AUTHORIZED BY: Kevin S. Carter, Director

**R850. School and Institutional Trust Lands, Administration.
R850-21. Oil, Gas and Hydrocarbon Resources.
[R850-21-900. Failure of Agency's Title.**

~~Should it be found necessary to reject an application or to terminate an existing lease due to failure of the agency's title, then only the delay rental paid for the year in which title failure is discovered will be refunded. All other delay rentals and fees paid on the application or lease are forfeited to the agency. Should the agency discover its title failed prior to issuance of a lease offered for competitive bid, the bid amount for the rejected portion of the lands offered will be returned to the applicant but the filing fee will be retained by the agency.]~~

KEY: oil gas and hydrocarbons, administrative procedures, lease provisions, operations

Date of Enactment or Last Substantive Amendment: [June 1, 2005] March 20, 2006

Authorizing, and Implemented or Interpreted Law: 53C-1-302(1)(a)(ii); 53C-2 et seq.

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School and Institutional Trust Lands,
Administration
R850-22-900
Failure of Agency's Title

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 28483

FILED: 02/01/2006, 08:07

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose for deleting Section R850-22-900 of this rule is to allow the director the flexibility to make a determination, on a case-by-case basis, if a refund of monies paid by an applicant or lessee should be granted upon discovery of title failure.

SUMMARY OF THE RULE OR CHANGE: Section R850-22-900 states precisely when refunds can be given in the event of title failure. The deletion of this section would allow the director to evaluate, on a case-by-case basis, the merits of the individual circumstances and make a determination if a refund should be granted because of title failure. The director is given broad authority by statute to manage the trust assets for the benefit of the beneficiaries, and the deletion of this section would enable the agency to better "act in good faith" when the circumstances warrant a refund.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 53C-1-302(1)(a)(ii) and Title 53C, Chapter 2

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** It is anticipated that there could be a loss of revenues to the agency by refunding certain monies currently prohibited by rule. However, since the refunded money comes from revenues paid to the agency at the time of application, or during the term of the lease on land for which title failed, the agency is only forfeiting revenues recently received and not losing anything from the existing budget. At worst, the agency would "break even" with what has been received compared to what is refunded.

❖ **LOCAL GOVERNMENTS:** It is not anticipated that there would be either a cost or savings to local governments except in the case where they are the applicant or lessee on lands where the agency's title failed. In that event, they would be entitled to request a refund of monies they had recently paid in good faith for the lease. At worst, they would not be granted any refund and at best, they would be granted a full refund of monies paid.

❖ **OTHER PERSONS:** It is anticipated that there could be anywhere from no savings to substantial savings to other persons, depending on the granting of their request for a refund, and the amount of refund granted. These savings would be as a result of the greater flexibility given the director to grant refunds which are currently prohibited by rule.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The deletion of this section does not bring about any anticipated compliance costs for affected persons beyond what already exists in rule.

The requirement for a written request for refund would remain in place, but the director would have the flexibility to consider all surrounding circumstances, currently prohibited by rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The current rule absolutely restricts the agency from refunding certain fees in the rare event of failure of the state's title. This can lead to inequitable consequences with applicants or lessees. The proposed amendment would allow for discretion in making refunds to applicants or lessees when appropriate. In general, this is favorable to business partners of the agency. Kevin S. Carter, Director

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

SCHOOL AND INSTITUTIONAL TRUST LANDS
ADMINISTRATION
Room 500
675 E 500 S
SALT LAKE CITY UT 84102-2818, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Thomas B. Faddies at the above address, by phone at 801-538-5150, by FAX at 801-355-0922, or by Internet E-mail at tomfaddies@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 03/17/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 03/20/2006

AUTHORIZED BY: Kevin S. Carter, Director

**R850. School and Institutional Trust Lands, Administration.
R850-22. Bituminous-Asphaltic Sands and Oil Shale Resources.
[R850-22-900. Failure of Agency's Title.**

~~Should it be found necessary to reject an application or to terminate an existing lease due to failure of the agency's title, then only the rental paid for the year in which title failure is discovered will be refunded. All other rentals and fees paid on the application or lease are forfeited to the agency. Should the agency discover its title failed prior to issuance of a lease offered for competitive bid, the bid amount for the rejected portion of the lands offered will be returned to the applicant but the filing fee will be retained by the agency.]~~

KEY: bituminous-asphaltic sands, oil shale, administrative procedures, lease provisions

Date of Enactment or Last Substantive Amendment: [April 1, 2005] March 20, 2006

Authorizing, and Implemented or Interpreted Law: 53C-1-302(1)(a)(ii); 53C-2 et seq.

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**School and Institutional Trust Lands,
Administration
R850-24-300
Failure of Agency's Title**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 28484

FILED: 02/01/2006, 08:08

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose for deleting Section R850-24-300 of this rule is to allow the director the flexibility to make a determination, on a case-by-case basis, if a refund of monies paid by an applicant, lessee, or permittee should be granted upon discovery of title failure.

SUMMARY OF THE RULE OR CHANGE: Section R850-24-300 states precisely when refunds can be given in the event of title failure. The deletion of this section would allow the director to evaluate, on a case-by-case basis, the merits of the individual circumstances and make a determination if a refund should be granted because of title failure. The director is given broad authority by statute to manage the trust assets for the benefit of the beneficiaries, and the deletion of this section would enable the agency to better "act in good faith" when the circumstances warrant a refund.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsections 53C-1-302(1)(a)(kk), 53C-2-201(1)(a), and 53C-2-402(1)

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** It is anticipated that there could be a loss of revenues to the agency by refunding certain monies currently prohibited by rule. However, since the refunded money comes from revenues paid to the agency at the time of application, or during the term of the lease or permit on land for which title failed, the agency is only forfeiting revenues recently received and not losing anything from the existing budget. At worst, the agency would "break even" with what has been received compared to what is refunded.

❖ **LOCAL GOVERNMENTS:** It is not anticipated that there would be either a cost or savings to local governments except in the case where they are the applicant, lessee, or permittee of a mineral lease or materials permit on lands where the agency's title failed. In that event, they would be entitled to request a refund of monies they had recently paid in good faith for the lease or permit. At worst, they would not be granted a refund and at best, they would be granted a full refund of monies paid.

❖ **OTHER PERSONS:** It is anticipated that there could be anywhere from no savings to substantial savings to other persons, depending on the granting of their request for a refund and the amount of refund granted. These savings would be due to the greater flexibility given the director to grant refunds which are currently prohibited by rule.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The deletion of this section does not bring about any anticipated compliance costs for affected persons beyond what already exists in rule. The requirement for a written request for refund would still exist, but the director would have the flexibility to consider all surrounding circumstances, currently prohibited by rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The current rule absolutely restricts the agency from refunding certain fees in the rare event of failure of the state's title. This can lead to inequitable consequences with applicants, lessees or permittees. The proposed amendment would allow for discretion in making refunds to applicants, lessees, or permittees when appropriate. In general, this is favorable to business partners of the agency. Kevin S. Carter, Director

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

SCHOOL AND INSTITUTIONAL TRUST LANDS
ADMINISTRATION
Room 500
675 E 500 S
SALT LAKE CITY UT 84102-2818, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Thomas B. Faddies at the above address, by phone at 801-538-5150, by FAX at 801-355-0922, or by Internet E-mail at tomfaddies@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 03/17/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 03/20/2006

AUTHORIZED BY: Kevin S. Carter, Director

**R850. School and Institutional Trust Lands, Administration.
R850-24. General Provisions: Mineral and Material Resources,
Mineral Leases and Material Permits.**

[R850-24-300. Failure of Agency's Title.

~~Should an application be rejected or an existing mineral lease or material permit be terminated due to failure of the agency's title, then only rental paid for the year in which title failure is discovered shall be refunded. All other rentals and fees paid on the application, mineral lease, or material permit shall be forfeited to the agency.]~~

KEY: mineral leases, material permits, mineral resources, lease operations

Date of Enactment or Last Substantive Amendment: ~~June 1, 2005~~ March 20, 2006

Authorizing, and Implemented or Interpreted Law: 53C-1-302(1)(a)(ii); 53C-2-201(1)(a); 53C-2-402(1)

Transportation, Program Development
R926-9
 Establishment and Operation of HOT
 Lanes or Toll Lanes on State Highways

NOTICE OF PROPOSED RULE

(New Rule)
 DAR FILE NO.: 28491
 FILED: 02/01/2006, 19:11

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Section 72-6-118 requires it.

SUMMARY OF THE RULE OR CHANGE: This proposed new rule lists criteria for the designation of High Occupancy Toll (HOT) lanes.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 72-6-118

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: This rule itself will not result in any increases to the state budget, but the actual imposition of HOT or toll lanes established under the rule will save money for the state. There will be minor costs to the state from work done by the Department and the Transportation Commission to establish these lanes.
- ❖ LOCAL GOVERNMENTS: This rule does not affect local government, and therefore, there will be no costs to them.
- ❖ OTHER PERSONS: This rule does not directly impose costs or savings to others. However, those who drive on lanes designated as HOT lanes or toll lanes will incur a toll charge.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule does not directly impose costs or savings to others. However, those who drive on lanes designated as HOT lanes or toll lanes will incur a toll charge.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Any costs to businesses will be minor and is outweighed by the legislatively-directed need to establish the rule. John Njord, Executive Director

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 03/17/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 03/18/2006

AUTHORIZED BY: John R. Njord, Executive Director

R926. Transportation, Program Development.

R926-9. Establishment and Operation of HOT Lanes or Toll Lanes on State Highways.

R926-9-1. Definitions.

- (1) "Commission" means the Transportation Commission, which is created in Utah Code Section 72-1-301.
- (2) "Department" means the Utah Department of Transportation.
- (3) "Executive Director" means the Executive Director of the Utah Department of Transportation.
- (4) "HOT Lane" means a High Occupancy Vehicle lane designated under Utah Code Ann. Section 41-6a-702 that may be used by an operator of a vehicle carrying less than the number of persons specified for the high occupancy vehicle lane if the operator of the vehicle pays a toll or fee;
- (5) "HOV Lane" means a lane that has been designated for the use of high occupancy vehicles pursuant to Section 41-6a-702;
- (6) "Toll" means the fee or charge assessed for the use of a HOT Lane or Toll Lane.
- (7) "Toll Lane" means a designated new highway or additional lane capacity that is constructed, operated, or maintained for which a toll is charged for its use.

R926-9-2. Purpose.

This rule carries out the statutory requirement to provide a framework for the approval and implementation of HOT Lane and Toll Lane projects for the purpose of making the highway system more efficient and provide increased funding for other transportation projects.

R926-9-3. Establishment of a HOT Lane.

- (1) The Department may consider designating existing HOV Lanes as HOT Lanes or may widen existing highways to add a Toll Lane. In deciding whether to designate a HOT Lane or add a Toll Lane, the Department may evaluate whether:
- (a) a HOT Lane or Toll Lane would make the specific highway or the highway system more efficient;
- (b) the designation or addition would increase available funds, reduce operational costs, or expedite project delivery;
- (c) the project will be consistent with the overall policies, strategies, and actions of the Department, including those strategies that are developed through the regular transportation planning process.
- (2) The Department shall submit its recommendations to the Commission.
- (3) The Commission will evaluate the recommendations and make final approval.
- (4) The Commission will issue its decision in a public meeting.

(5) HOT Lanes and Toll Lanes shall comply with all design and construction standards and specifications normally applicable to Department projects.

(6) Automatic tolling systems used for the collection of tolls shall meet or exceed the minimum criteria established by the United States Department of Transportation pursuant to United States Public Law 105-59, Section 1604, Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU).

(7) The Commission will set Tolls in administrative rule as allowed by Utah Code Ann. Section 72-6-118.

R926-9-4. Use of Toll Revenue - Enforcement.

(1) Monies collected from tolls shall be deposited in the account established in Utah Code Annotated Section 72-2-120. The Commission may use funds from that account to:

(a) Pay the annual cost of enforcement, operation, maintenance, snow removal, and improvement of the highway where the fund is generated; or

(b) Add capacity or purchase right-of-way within the corridor served by the HOT Lane or Toll Lane where the funds are generated.

(2) The costs of enforcement that are eligible for payment with money from this account include:

(a) costs incurred to enforce compliance on HOT Lanes and Toll Lanes of generally applicable laws and ordinances; and

(b) costs incurred to collect unpaid Tolls from people who drive on a HOT Lane or Toll Lane without having paid.

KEY: transportation, tolls, highways

Date of Enactment or Last Substantive Amendment: 2006

Authorizing, and Implemented or Interpreted Law: 72-6-118



Transportation, Preconstruction
R930-5
Establishment and Regulation of At-Grade Railroad Crossings

NOTICE OF PROPOSED RULE

(Repeal and Reenact)

DAR FILE NO.: 28489

FILED: 02/01/2006, 18:17

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: On the advice of counsel, it was recommended that the rule be repealed and reenacted to allow for a more thorough and detailed set of procedures and instructions.

SUMMARY OF THE RULE OR CHANGE: This rule establishes a design surveillance team, lists the Department's intent in overseeing railroad and highway crossings, and includes certain detailed instructions on spacing. This repeal and reenactment contains new provisions regarding the design surveillance team, listing their individual duties. It also gives detailed instructions on certain spacing requirements which the repealed rule does not do.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 10-8-34, 10-8-82, 41-6-19, 54-4-15, 72-1-102, and 72-2-112

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 23 CFR 646 (2005); 23 CFR 924 (2005); A Policy on Geometric Design of Highway and Streets (2004 American Association of State Highway Transportation Officials); Preemption of Traffic Signals Near Railroad Crossings (2004 Institute of Traffic Engineers); and Guidance for Traffic Control Devices at Highway/Railroad Grade Crossings (2000 Federal Highway Administration)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: This rule does not materially change the department's activities; therefore, there should be no change in costs.

❖ LOCAL GOVERNMENTS: The rule will not require the expenditure of any funds by local government. However, if local governments wish to be involved in the highway crossing deliberations, they will incur a cost, the amount of which is unknown.

❖ OTHER PERSONS: The industry should not suffer an increase in cost as the requirements of the rule reflect industry standards currently in general.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no additional costs for complying with this rule, such as licensing or registration. The industry should not incur additional costs because the standards are similar to what they currently use.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The fiscal impact of this rule will be minimal and is outweighed by the improvement in public safety. John R. Njord, Executive Director

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 03/17/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 03/18/2006

AUTHORIZED BY: John R. Njord, Executive Director

R930. Transportation, Preconstruction.**R930-5. Establishment and Regulation of At-Grade Railroad Crossings.****R930-5-1. Policy.**

(1) The policy of the Utah Department of Transportation shall be to review for safety all existing public at grade highway/railway crossings in the state of Utah in accordance with the Manual on Uniform Traffic Control Devices, evaluate the location of new crossings, prescribe the types of at grade crossing railroad warning devices, and determine maintenance and funding apportionments for all highway/railway projects.

(2) Highway/railway projects utilizing federal railroad safety funds shall be done in accordance with 23 Code of Federal Regulation Part 646 Subpart B and Utah Code Ann. Section 72-1-102.

R930-5-2. Authority.

The provisions of this rule are authorized by the following grants of rulemaking authority: Sections 54-4-15, 10-8-34, 10-8-82, 72-1-102, 72-2-112; 23 CFR 924 and 23 CFR 646 (1995).

R930-5-3. Purpose.

The Utah Department of Transportation shall oversee all at grade public highway/railway crossings in the state of Utah and provide for the safe, efficient operation of vehicles and pedestrians through the highway/railway intersections. UDOT shall also promote elimination of at grade highway/railway crossings, eliminate hazards to improve at grade crossings, and recommend the construction of grade separation structures to replace at grade crossings.

This rule shall describe procedures for the selection of highway/railway crossings for improvement, the selection of passive and active railroad warning devices, design, maintenance operations and the funding sources for the improvement of crossings.

R930-5-4. Incorporation by Reference.

The following federal law, federal agency manuals and association standards, railway manuals and technical requirements are adopted and incorporated by reference:

- (1) 23 CFR Chapter G "Engineering and Traffic Operations" Part 646 "Railroads" Subpart B, (April 1, 1995).
- (2) 23 CFR Chapter 1, Subchapter J "Highway Safety" Part 924 "Highway Safety Improvement Program", (April 1, 1995).
- (3) AASHTO's Policy on Geometric Design of Highway and Streets", 1994 Edition. For incorporated material see R930-6.
- (4) Manual on Uniform Traffic Control Devices, Federal Administration, 1988 edition. (For Incorporated Material See R927-1)
- (5) UDOT Standard Plans

R930-5-5. Definitions.

- (1) "Active warning devices" means those types of traffic control devices activated by the approach or presence of a train, such as flashing light signals, automatic gates and similar devices, as well as manually operated devices and crossing watchmen, all of which display to motorists positive warning of the approach or presence of a train;
- (2) "At Grade Crossing" means the crossing of a highway and railway at the same elevation;
- (3) "CFR" means Code of Federal Regulations;
- (4) "Clear roadside" means UDOT's practice to provide a roadside clear zone for safe use by errant vehicles through design, construction, and maintenance activities, implementing the clear zone as defined in AASHTO's Roadway Design Guide;

(5) "Company" shall mean any railroad or utility company including any wholly owned or controlled subsidiary thereof;

(6) "Construction" shall mean the actual physical construction to improve or eliminate a highway/railway grade crossing or accomplish other involved work;

(7) "Diagnostic team/surveillance team" means an appointed group of knowledgeable representatives of the parties of interest in a highway/railway crossing or group of crossings;

(8) "FHWA" means Federal Highway Administration;

(9) "G Funds" means those Federal Aid highway funds which, pursuant to 23 U.S.C. 120d, may be used for projects for the elimination of hazards of highway/railway crossings not to exceed ten percent of the Federal aid funds apportioned in accordance with 23 U.S.C. 104;

(10) "Local Agency" means a public agency or corporation authorized to do public enterprise;

(11) "Main line railroad track" means a track of a principal line of a railroad, including extensions through yards, upon which trains are operated by timetable or train order or both, or the use of which is governed by block signals or by centralized traffic control;

(12) "MUTCD" means the Federal Highway Administration's Manual of Uniform Traffic Control Devices;

(13) "Passive warning devices" means those types of traffic control device, including signs, markings and other devices located at or in advance of grade crossings to indicate the presence of a crossing but which do not change aspect upon the approach or presence of a train;

(14) "Preliminary engineering" shall mean the work necessary to produce construction plans, specifications, and estimates to the degree of completeness required for undertaking construction, including locating, surveying, designing, and related work;

(15) "PSC" means the Public Service Commission;

(16) "Roadway" means the portion of the highway, including shoulders, for vehicular use;

(17) "Railroad" shall mean all rail carriers, publicly owned, private, and common carriers, including line haul freight and passenger railroads, switching and terminal railroads and passenger carrying railroads such as rapid transit, commuter and street railroads;

(18) "UDOT" means the Utah Department of Transportation;

(19) "Utility facility" shall mean pipe line installations or systems for transmitting or distributing communications, power, electricity, light, heat, gas, oil, petroleum products, cable television, water, sewer, steam, waste, storm water not connected with highway drainage, and other similar commodities.

R930-5-6. Types of Projects.

Projects for the elimination of hazards for both vehicles and pedestrians at highway/railway crossings may include, but not be limited to the following types of projects:

- (1) Elimination of at grade highway/railway crossings or combining of crossings;
- (2) Elimination of an at grade highway/railway crossings by the relocation of a highway;
- (3) Elimination of an at grade crossing by the construction of a new grade separation where full access control is required regardless of the volume of train or highway vehicles;
- (4) Existing at grade highway/railway crossing improvements;
- (5) Reconstruction of an existing highway/railway grade separation structure;

—(6) Other highway/railway projects which use railroad properties or involve adjustments to railroad facilities required by highway construction, but do not involve the elimination of hazards of railway/highway crossings;

—(7) Construction of new highway crossings of a railroad track where a new street or highway is proposed that is not essentially a relocation of an existing street;

—(8) Construction of a new railroad crossing of an existing highway.

~~R930 5 7. Planning of Improvements for Highway/Railway Crossings.~~

—(1) UDOT shall have a program for the identification of highway/railway crossings for improvement.

—(2) Improvements at the selected highway/railway intersection crossings shall be determined by a Diagnostic/Surveillance Review Team. The team shall also review railroad crossings requested by local agencies they consider to be unsafe. They shall also review railroad crossing intersections where accidents have recently occurred. The UDOT Division of Traffic and Safety's Engineering Coordinator Railroad Inspector shall make arrangements for Diagnostic/Surveillance Reviews of selected crossings.

—(a) The Diagnostic/Surveillance Team shall be composed of the following team members:

—(i) Engineering Coordinator Railroad Inspector from the Division of Traffic and Safety;

—(ii) Engineering Coordinator, Contracts Utility and Railroad Officer, and a Design Technician from the Railroad and Utility Unit of the Preconstruction Division;

—(iii) Representatives from the railroad company;

—(iv) Representatives from the local government public works department, and when available the local law enforcement groups where the highway/railway crossing is located.

—(b) Duties of the Diagnostic/Surveillance Team shall include:

—(i) Investigates the elimination of at grade highway/railway crossings;

—(ii) Specifies the passive railroad warning devices to be installed at crossings in accordance with the MUTCD;

—(iii) Prescribes installation of active railroad warning devices at highway/railway crossings;

—(iv) Specifies the type of railroad crossing materials to be installed at highway/railway crossings;

—(v) Prescribes the improvement of the highway approach grades to the tracks to improve sight distance;

—(vi) Specifies removal of trees, brush and foliage from the highway and railroad rights of way and private properties to provide better sight distance for motor vehicles;

—(vii) Specifies compliance with UDOT's Standard Plan STD-715-2A for Disabled Pedestrian Access when pedestrian sidewalks cross tracks;

—(viii) Reviews and approves all requests for new at grade crossings of existing railroads;

—(A) The highway agency making the request for a new crossing shall provide a master street plan showing the agency's plan to eliminate or combine existing railroad crossings before new crossings will be approved.

—(B) The Surveillance Team shall specify the type of railroad crossing materials, and the active and passive railroad warning devices to be installed at crossings.

—(ix) Reviews change of use of highway/railway crossings;

—(A) The local agency shall verify the permitted use, public or private, of any highway/railway crossing in writing from the authorized owner of the track prior to approval of new development or change in land use or ownership.

—(x) Recommends new overpass structures;

—(xi) Where a new railroad crosses an existing highway, UDOT will consider the new crossing in conformance with Section 54-4-15. Public notice will be made in conformance with R930-5-14, Notice of Intended Action. If approved, the required separation or railroad warning devices, and any pavement work at the crossing shall not be considered to be of benefit to the road user and 100 percent railroad participation shall be required. The determination as to separation or type of warning devices shall be according to classification and traffic volume of the highway crossed and the predicted traffic hazard and as recommended by the Surveillance Team.

—(e) Duties of Diagnostic/Surveillance Team members shall include:

—(i) Engineering Coordinator Railroad Inspector, Division of Traffic and Safety, schedules the Diagnostic/Surveillance Team reviews. Notifies team members who are to attend the review by letter twenty working days prior to the review date. Conducts the reviews and issues diagnostic/surveillance team reports within two weeks after the review is held and sends copies of the report to all those attending the review.

—(ii) Engineering Coordinator of the Railroad and Utilities Unit establishes requirements for horizontal and vertical alignments of the roadway, determines passive and active railroad warning device locations on the roadway, and funding apportionments on federal railroad safety projects. Initiates all Notices of Intended Action for all railroad projects.

—(iii) Contracts Utility and Railroad Officer of the Railroad and Utility Unit reviews the plans and contractual agreement requirements on projects requiring matching funds from local agencies.

—(iv) Design Technician from the Railroad and Utility Unit obtains all necessary field data for plan site maps and takes photographs of the existing conditions of all quadrants of the intersection.

—(v) The railroad company representative shall provide all train volumes and accident data and any other pertinent data regarding the railroad crossing.

—(vi) Local agency public works officer shall provide highway traffic volumes, any proposed road construction activities on the highway or an approved master plan for the highway, and any other necessary data regarding the crossing.

—(vii) Local agency law enforcement officer shall supply traffic accident data and other pertinent traffic problems relating to the highway/railway crossing.

~~R930 5 8. Design of At Grade Highway/Railway Crossings.~~

—UDOT shall oversee and approve the design of all highway/railway at grade crossings.

—(1) Facilities that are the responsibility of the railroad for maintenance and operation shall conform to the specifications and design standards used by the railroad in its normal practice.

—(2) At Grade crossings that are the responsibility of the local agency for maintenance and operation shall conform to the specifications and design standards and guides used by the highway agency in its normal practice subject to approval by UDOT.

—(3) Traffic control devices at all grade crossing improvements shall comply with the MUTCD.

—(4) All design plans shall include DOT numbers and street addresses or railroad mile posts for at grade crossings.

— (5) Railroad crossing materials shall be designed as follows:

— (a) When it is determined that the railroad crossing material needs to be extended or replaced, the agency doing the design of the crossing shall determine the minimum length of the crossing material. The length shall be determined based on the proposed width of the new roadway or from the approved master plan roadway width. The crossing material length shall be in accordance with the MUTCD and extend at least two feet from the outer edge of the roadway, beyond the roadway clear zone area, or to the back of the concrete curb and gutter or out past the sidewalks. When sidewalks are required on at grade crossings, the sidewalks shall be in conformance with UDOT's Standard Plan Drawing 715-2A for Disabled Pedestrian Access.

— (b) The approach grades of the roadway to the railroad crossing material shall be designed to match the grade of the railroad crossing material and top elevation of the railroad tracks for a minimum distance of 50 feet, but preferably 100 feet, in both directions to provide a smooth crossing for vehicles. The cross slope of the roadway shall match the cross slope of the railroad tracks at the crossing and shall then be transitioned to match the cross slope of the roadway.

— (c) When the existing railroad crossing material is to be extended but the existing material is too old and cannot be connected to the new material, complete replacement of the railroad crossing material shall be required.

— (d) New railroad crossing materials shall always be concrete material unless another material is approved by the Diagnostic/Surveillance Team.

— (6) Active railroad warning devices shall be designed as follows:

— (a) When it is determined by the Diagnostic/Surveillance Team that active warning devices are required, it shall be the responsibility of the railroad company to design the devices.

— (i) When curb and gutter and/or sidewalks are in place or being installed, the active warning devices shall be placed in accordance with current railroad standards and the MUTCD.

— (ii) When no curb and gutter is being installed, the active warning devices shall be placed beyond the roadway clear zone area or two feet beyond the edge of the paved roadway in accordance with the MUTCD.

— (iii) When the active warning devices are placed within the roadway clear zone, appropriate attenuation devices shall be installed.

— (b) When an existing roadway is to be widened, the new location of the active railroad warning devices shall be determined by the railroad and highway agency and the railroad company shall relocate the devices.

— (c) When active warning devices are within 200 feet of a traffic signal the railroad company shall design the preemption system and extend cable from their controller box so the owner or operator of the traffic signal can connect the cables to the signal controller and program the controller.

— (d) Design plans shall show the location of the devices by both roadway and railroad milepost or station.

— (7) Passive railroad warning devices at railroad crossings shall be designed as follows:

— (a) The following passive warning devices shall be designed and installed by the railroad company in accordance with the MUTCD:

— (i) Railroad crossing sign R15-1 (crossbuck);

— (ii) Railroad crossing sign R15-2 (number of tracks).

— (b) Design and installation of all other passive railroad warning devices, including the following, are the responsibility of the highway agency that crosses the railroad tracks. Design and location of the devices shall be in accordance with the MUTCD and as engineering

studies indicate necessary. Passive railroad warning devices shall be installed by the local highway agency on local roadways.

— (i) Railroad advance warning signs W10-1, W10-2, W10-3 and W10-4;

— (ii) Railroad pavement markings;

— (iii) "Exempt" crossing signs R15-3 (White background), or W10-1a (yellow background). The exempt sign shall only be installed when authorized by the representative from UDOT, Traffic and Safety Division.

— (iv) "No Turn on Red" sign R10-11;

— (v) "Do Not Stop on Tracks" sign R8-8;

— (vi) "Tracks out of Service" sign R8-9 shall be UDOT approved;

— (vii) "Stop" sign R1-1 and W3-1, or "Yield" Sign R1-2 may be installed as if it had been recommended by the Diagnostic/Surveillance Team. The local agency may do an engineering study and install the stop or yield sign if warranted under MUTCD guidelines.

— (c) Street light illumination at grade crossings may be recommended by the Diagnostic/Surveillance Team and shall be designed and installed in accordance with the MUTCD by the agency owning the roadway.

R930-5.9. Responsibility to Arrange for the Installation of Railroad Materials and Devices.

— (1) Responsibility for installation of railroad crossing material is as follows:

— (a) When a roadway is widened by a local agency, the local agency shall be responsible to arrange by agreement with the railroad company to install the railroad crossing extension.

— (b) When local agencies reconstruct a roadway and new railroad crossing material is required, the local agency shall arrange by agreement with the railroad company for the complete replacement of the railroad crossing material when material cannot be extended.

— (c) When a highway/railway crossing is listed on UDOT's Annual High Accident Prediction List and the Diagnostic/Surveillance Team determines railroad crossing materials need to be replaced, UDOT shall arrange by agreement with the railroad company for the replacement of the crossing material. The local agency owning the roadway shall participate in the cost with matching funds. When the local agency does not want to participate in the project with matching funds, the project is terminated.

— (2) Responsibility for installation of active warning devices is as follows:

— (a) When a local agency widens a roadway which changes the existing conditions of the highway/railway crossing and it requires active warning devices, the local agency shall be responsible to arrange by agreement with the railroad company for the installation of the active railroad warning devices after their plans are approved by UDOT.

— (b) When a local agency widens a roadway that has existing active railroad warning devices, the local agency shall have their plans approved by UDOT and arrange by agreement with the railroad company for the relocation of the devices.

— (c) When a roadside community development is approved by a local agency that changes the conditions of a highway/railway at grade crossing by increasing traffic volumes and/or by adding new access openings onto a highway within 250 feet, the agency plans shall be approved by UDOT and the local agency shall arrange by agreement with the railroad company for any required railroad changes.

— (d) When a highway/railway at grade crossing is listed in UDOT's Annual High Accident Prediction List and active warning devices are required, UDOT shall arrange by agreement with the

railroad company for the installation of the active railroad warning devices.

—(e) When a local agency requests a surveillance review of a highway/railway intersection or a corridor of intersections and the Diagnostic/Surveillance Team determines that a crossing or crossings can be eliminated and other crossings are upgraded, UDOT shall determine if Federal Railroad Safety Funds may be used for any or all of the improvements. UDOT shall also arrange by agreement with the railroad company for the installation of the active railroad warning devices.

—(3) Responsibility for installation of passive railroad warning devices is as follows:

—(a) When local agencies widen roadways, they shall be responsible to provide and install the passive railroad warning devices.

—(b) When a local agency requests a surveillance of a highway/railway intersection or a corridor of intersections and the Diagnostic/Surveillance Team determines crossings can be eliminated if other crossings are upgraded, the local agency shall be responsible to install the passive railroad warning devices.

—(c) When a highway/railway crossing is listed in UDOT's Annual High Accident Prediction List and the Diagnostic/Surveillance Team determines that passive railroad warning devices are required, the local agency owning the roadway shall be responsible to provide and install the passive railroad warning devices.

R930-5-10. Maintenance.

—(1) The maintenance of automatic signal devices and the pavement area between rails, including space between multiple tracks if the railroad company owns the easement rights between the multiple tracks, and two feet beyond each outside rails shall be the responsibility of the railroad company.

—(2) Maintenance of signals including the pavement between the rails on temporary highway detours shall in all cases become the responsibility of the railroad company at the expense of the highway agency owning the roadway.

—(3) Maintenance of the crossing approaches up to within two feet of the rails shall be the responsibility of the agency owning the roadway. When the railway is raised due to track and ballast maintenance, the railroad company shall coordinate their work with the agency owning the roadway so the pavement on the approaches can be adjusted to provide a smooth ride for motorists.

—(4) Responsibility for maintenance of a newly constructed grade separation shall be as follows:

—(a) Where a separation facility overpasses a railroad, maintenance responsibility for the entire structure and approaches shall be assumed by the agency owning the structure and roadway.

—(b) When a grade separation structure underpasses a railroad, maintenance of the roadway and the entire structure below and including the deck plate, handrail, and parapets, shall be the responsibility of the owner of the roadway. Maintenance of the waterproofing, ballast, ties, rails and any portion of the supporting structure above the top of the ballast deck plate between parapets shall be the responsibility of the railroad company.

—(c) Cost of repairing damages to a highway or a highway structure, occasioned by collision, equipment failure or derailment of the railroad's equipment, shall be borne by the railroad company.

—(5) Responsibility for maintenance of private industrial trackage not owned by a railroad company that crosses public highways shall be as follows:

—(a) When a facility, plant or property owner receives goods and services from a railroad company train over private industrial trackage

that crosses a public highway, maintenance of the crossing shall be the responsibility of those companies receiving the goods and services.

—(b) When the highway/railway crossing becomes a safety hazard to vehicles and is not maintained, UDOT and the railroad company shipping the goods and services shall notify the facility, plant or property owners in writing to maintain or replace the railroad crossing material.

—(c) If the owner of the private trackage does not maintain or replace the crossing material by a specified date, UDOT shall order the railroad company to cease and desist operations across the highway/railway crossing.

—(d) If the owner still does not respond to the order to maintain or replace the railroad crossing material the following action shall be taken by the highway agency owning the roadway:

—(i) The highway agency shall remove the trackage from across the roadway and bill the facility owner of the trackage for the expenses to remove the trackage.

—(ii) The highway agency shall not issue a permit for a new highway/railway at grade crossing until owner of the trackage agrees to pay for the cost of removing the trackage across the roadway and agrees to pay for and install new crossing material and repair the roadway approaches to the tracks.

—(6) Responsibility for removal of unused railroad tracks shall be in accordance with Sections 10-8-34 and 10-8-82. Railroad tracks may be removed if the governing body of the highway declares the tracks to be a safety hazard, nuisance, and when the railroad has not operated for long periods of time, at least nine months. UDOT's Traffic and Safety Division shall direct the governing body of the highway or the railroad company to remove the tracks.

R930-5-11. Authorizations.

—(1) The costs of preliminary engineering, right of way acquisition, and construction incurred after the date each phase of the work is included in an approved program and authorized by FHWA are eligible for federal participation. Preliminary engineering and right of way acquisition costs which are otherwise eligible, but incurred by the railroad prior to authorization by FHWA, although not reimbursable, may be included as part of the railroad share of the project cost where such share is required.

—(2) Prior to issuance of authorization by FHWA either to advertise the physical construction for bids to proceed with force account construction for railroad work or for other construction affected by railroad work the following must be accomplished:

—(a) Plans and specifications and estimates must be approved by FHWA.

—(b) A proposed agreement between the state and the railroad company must be found satisfactory by FHWA. Before Federal funds may be used to reimburse the state for railroad costs the executed agreement must be approved by FHWA.

R930-5-12. Agreements.

—Where construction of a federal aid project requires use of railroad properties or adjustments to railroad facilities, UDOT shall prepare an agreement between UDOT and the railroad company.

—(1) Master agreements between UDOT and a railroad company on an area wide or statewide basis may be used. These agreements shall contain the specifications, regulations and provisions required in conjunction with work performed on all projects.

—(2) On a project by project basis, the written agreement between UDOT and the railroad company shall, as a minimum, include the following, where applicable:

- (a) Reference to appropriate federal regulations;
 - (b) A detailed statement of the work to be performed by each party;
 - (c) Method of payment shall be actual cost;
 - (d) For projects which are not for elimination of hazards of highway/railway crossings, the extent to which the railroad is obligated to move or adjust facilities at the expense of the agency owning the roadway;
 - (e) The railroad's share of the project cost;
 - (f) An itemized estimate of the cost of the work to be performed by the railroad;
 - (g) Method to be used for performing the work, either by railroad forces or by contract;
 - (h) Maintenance responsibility;
 - (i) Form, duration, and amounts of any needed insurance;
 - (j) Appropriate reference to or identification of plans and specifications.
- (3) On matching fund agreements between UDOT and the local agency, on a project by project basis the written agreement shall include the following:
- (a) Description of work and location, city, county, state;
 - (b) Reference to federal regulations that matching funds will be provided by the agency having jurisdiction over the street or highway right of way where improvements are desired;
 - (c) Detailed statement of work to be performed by each party regarding design engineering, agreements, inspection and maintenance;
 - (d) Statement of finances of project and matching funds to be provided by local agency, deposits, invoices and cost overruns or underruns.
- (4) Agreements prepared for local government and industrial trackage crossing are prepared between the agency owning the street or highway right of way and the industry on forms furnished by the railroad companies.
- (5) In order that a highway/railway project shall not become unduly delayed, UDOT shall consider a six month period of time from issuance of the railroad agreement to be adequate for completion of execution by the railroad company involved. Should more than the specified period of time elapse, UDOT shall require the railroad to proceed with the work covered by the agreement under the authority contained in Section 54-4-15 and approval from the FHWA will be solicited in conformance with 23 CFR 646.

R930-5-13. Apportionment of Costs.

- Apportionment of costs for installation, maintenance, and reconstruction of active and passive railroad warning devices at highway/railway intersections shall be in accordance with 23-646.
- (1) When a roadway is widened by the state or local governmental agency, the agency shall fund all passive and active railroad warning devices determined necessary by the Diagnostic/Surveillance Team.
- (2) When a roadway is widened by a local agency, and the existing railroad crossing material is old and cannot be attached to the new material, the local agency shall fund the replacement of all new existing crossing material.
- (3) When a highway/railway at grade crossing is listed on UDOT's Annual High Accident Prediction List, and it is determined by the Diagnostic/Surveillance Team that the crossing shall be upgraded, it shall be funded by federal railroad safety funds and local highway agency matching funds. The local highway agency shall install the passive warning devices at their own expense.

- (4) When a local agency requests a surveillance review of a highway/railway crossing or a corridor of crossings and the Diagnostic/Surveillance Team determines a crossing or number of crossings can be eliminated, and other crossings are upgraded, federal railroad safety and local agency matching funds shall be used to upgrade the crossing. When a crossing is eliminated and others upgraded, the railroad company shall also participate in the upgrade of the crossing.
- (5) If approved construction of a separation structure or the installation of a signal device at such crossing is not considered a benefit to the railroad, railroad participation shall not be required.
- (6) A project to reconstruct an existing overpass or underpass shall include the entire structure and railway and the highest approaches thereto. Since there is no railway liability for such projects, it is considered that there shall be no benefit to the railroad and railroad participation shall not be required.

R930-5-14. Notice of Intended Action Process.

- (1) When UDOT is considering the execution of an agreement with a railroad involving construction, of a railroad separation structure, new at grade crossings, or in any manner the elimination, substantial modification, construction or improvement of any existing crossing or other facility in connection with existing or proposed contracts for UDOT or any other highway agency, UDOT shall advertise a notice of its intended action in a newspaper of general circulation at least twice with a provision that written protests may be filed with UDOT 15 days from the date of the last publication of the notice. The notice shall identify the project, briefly describe the changes proposed, and contain general information relating to the proposed action.
- (2) Construction of a new highway crossing of a railroad track where a new street or highway is proposed which is not essentially a relocation of an existing street, the UDOT will consider the new crossing in conformance with Section 54-4-15. Public notice will be made in conformance with this rule.
- (3) All requests for a public hearing shall be in writing and shall detail how a proposed action will adversely affect a group of people, firm or corporation, and if it appears that the adverse affect cannot be alleviated by UDOT. Such a hearing will be conducted informally by UDOT. Any party aggravated by any determination made by UDOT shall have their statutory right under Section 54-4-15, as amended, to petition the PSC for a hearing to be governed by the procedures of the PSC.
- (4) In instances where the action proposed by UDOT does not substantially affect the general public, UDOT may waive the requirement to public notice, provided all parties affected concur in writing with the action proposed. For the purposes of this section, parties affected shall mean railroads or other common parties, state, county, city or other environmental agencies, boards or commissions, having jurisdiction over any property rights of facilities, and private persons or directly affected.
- (5) The Executive Director of UDOT shall be authorized to issue all Notices of Intended Action in the name of UDOT. (1) At regular intervals, the Department: (a) reviews for safety all existing public at-grade highway/railway crossings in the state in accordance with the Manual on Uniform Traffic Control Devices; (b) evaluates and approves the location of new crossings; (c) prescribes the types of at-grade crossing railroad warning devices; and (d) determines maintenance and funding apportionments for all highway/railway projects.

(2) Highway/railway projects that use federal railroad safety funds shall be carried out in accordance with 23 CFR Part 646 Subpart B.

R930-5-2. Authority.

This rule is authorized by Utah Code Ann. Section 54-4-15. Additional sections in the Utah Code and Federal rules supporting this rule are found in sections 10-8-34, 10-8-82, 41-6-19, 72-1-102, 72-2-112; 23 CFR 924 and 23 CFR 646.

R930-5-3. Purpose.

(1) Department oversees all at-grade public highway/railway crossings in the state of Utah and provide for the safe, efficient operation of vehicles and pedestrians through highway/railway intersections. Department also promotes elimination of at-grade highway/railway crossings when possible, elimination of hazards to improve at-grade crossings, and recommends the construction of grade separation structures to replace at-grade crossings pursuant to this rule.

(2) This rule describes procedures for the selection of highway/railway crossings for improvement, the selection of passive and active railroad warning devices, design, maintenance operations and the funding sources for the improvement of crossings.

R930-5-4. Incorporation by Reference.

The following federal law, federal agency manuals and association standards, and technical requirements are adopted and incorporated by reference:

- (1) 23 CFR 646 "Railroads" (2005);
- (2) 23 CFR 924 "Highway Safety Improvement Program" (2005);
- (3) "A Policy on Geometric Design of Highway and Streets", American Association of State Highway and Transportation Officials (AASHTO) (2004);
- (4) Preemption of traffic signals near railroad crossings, Institute of Traffic Engineers (ITE) (2004); and
- (5) Guidance for traffic control devices at Highway/Railroad Grade Crossings, FHWA (2000).

R930-5-5. Definitions.

(1) "Active warning devices" means those types of traffic control devices activated by the approach or presence of a train, such as flashing light signals, automatic gates and similar devices, as well as manually operated devices and crossing watchmen, all of which display to motorists positive warning of the approach or presence of a train;

(2) "At-Grade Crossing" means the crossing of a highway and railway at approximately the same elevation;

(3) "Clear zone" means an area along the road that is clear of obstructions and required by the Department in order to make the roadway safer for errant vehicles; Department

(4) "Company" means any railroad, special transit district, or utility company including any wholly owned or controlled subsidiary thereof;

(5) "Diagnostic/Surveillance team" means an appointed group of knowledgeable representatives of the parties of interest in a highway/railway crossing or group of crossings;

(6) "FHWA" means the Federal Highway Administration, an agency within the United States Department of Transportation

(7) "Local Agency" means a local governmental entity that owns a highway;

(8) "Main line railroad track" means a track of a principal line of a railroad, including extensions through yards, upon which trains are operated by timetable, train order or both, or the use of which is governed by block signals or by centralized traffic control;

(9) "MUTCD" means the Manual of Uniform Traffic Control Devices as adopted in Utah Code Ann. Section 41-6a-301;

(10) "Passive warning devices" means those types of traffic control device, including signs, markings and other devices located at or in advance of grade crossings to indicate the presence of a crossing but which do not change aspect upon the approach or presence of a train;

(11) "Preliminary engineering" means the work necessary to produce construction plans, specifications, and estimates to the degree of completeness required for undertaking construction, including locating, surveying, designing, and related work;

(12) "PSC" means the Public Service Commission of the State of Utah;

(13) "Roadway" means that portion of the highway, including shoulders, intended for vehicular use;

(14) "Railroad" means all rail carriers, whether publicly or privately owned, and common carriers, including line haul freight and passenger railroads, switching and terminal railroads and passenger carrying railroads such as rapid transit, commuter and street railroads;

R930-5-6. Types of Projects.

(1) Projects for the elimination of hazards for both vehicles and pedestrians at highway/railway crossings may include the following:

(a) Elimination of at-grade highway/railway crossings by combining multiple crossings;

(b) Elimination of at-grade highway/railway crossings by the relocation of a highway;

(c) Elimination of an at-grade crossing by the construction of a new grade separation where full access control is required regardless of the volume of train or highway vehicles;

(d) Improvements to existing at-grade highway/railway crossings;

(e) Reconstruction of an existing highway/railway grade separation structure;

(f) Construction of raised median curb islands or other channelizing devices;

(g) Installation of lighting to improve visibility of crossings or safety devices;

(2) Other projects that require Department approval prior to construction include, but are not limited to the following projects:

(a) Highway/railway projects that use railroad properties or involve adjustments to railroad facilities required by highway construction, but do not involve the elimination of hazards of railway/highway crossings;

(b) Construction of new highway crossings over a railroad track where a new street or highway is proposed that is not essentially a relocation of an existing street;

(c) Construction of a new railroad crossing of an existing highway or street.

R930-5-7. Diagnostic/Surveillance Review Team.

(1) The Department shall have a program for the identification of highway/railway crossings for improvement. Crossings may be identified for improvement upon recommendation from the diagnostic/surveillance review team, or by formal finding of the

Department. The role of the Diagnostic/Surveillance Review Team is to make recommendations to the Department for changes needed at railroad crossings. The team serves as a venue where different agencies and railroads may come together and discuss options and alternatives for safety improvement. The Department shall consider all recommendations made by the team members, and input received from the public at large (in accordance with section R930-5-14) before issuing final orders for the improvement of grade crossings. Suggested improvements at all highway/railway intersection crossings are evaluated by a Diagnostic/Surveillance Review Team. The team reviews railroad crossings when requested by local agencies, when significant changes in highway traffic patterns are proposed, or when railroad traffic is proposed to significantly increase. The Department may also make formal findings and rulings as part of its routine inspection of railroad crossings, independent of the Diagnostic/Surveillance Review Team.

(2) The Diagnostic/Surveillance Team is composed of the following team members:

- (a) Chief Railroad Engineer for the Department;
- (b) Representatives from the railroad company;
- (c) Representatives from the local government agency (preferably from engineering or public works), and when available the local law enforcement groups where the highway/railway crossing is located and
- (d) Representatives from the local school district, if the crossing is located on an approved school walking route.

(3) The Diagnostic/Surveillance Team shall, when appropriate:

- (a) Recommend the elimination of at-grade highway/railway crossings;
- (b) Recommend that passive railroad warning devices be installed at crossings in accordance with the MUTCD;
- (c) Recommend installation of active railroad warning devices at highway/railway crossings. Active warning devices include flashing lights, flashing lights with gates, flashing lights with gates and overhead cantilever lights, three- or four-quadrant gates with gate management system, or other active warning device as defined in the MUTCD;
- (d) Recommend the type of railroad crossing materials to be installed at highway/railway crossings;
- (e) Recommend the improvement of the highway approach grades to the tracks to improve sight distance;
- (f) Recommend removal of trees, brush and foliage from the highway and railroad rights-of-way and private properties to provide better sight distance for motor vehicles;
- (g) Recommend changes needed to improve pedestrian safety, and to comply to the extent possible with the Americans with Disabilities Act;
- (h) Review all requests for new at-grade crossings of existing railroads. The highway agency making the request for a new crossing shall provide a master street plan showing the agency's plan to eliminate or combine existing railroad crossings before new crossings will be approved;
- (i) Review change of use of highway/railway crossings. The local agency shall verify the permitted use, public or private, of any highway/railway crossing in writing from the authorized owner of the track prior to approval of new development or change in land use or ownership;
- (j) Recommend new overpass or other grade separation structures;
- (k) Recommend the installation of street lighting to improve visibility;
- (l) Recommend any other safety mitigation requirements in order to improve vehicle and pedestrian safety.

(4) Duties of individual Diagnostic/Surveillance Team members include:

- (a) The Chief Railroad Engineer shall:
 - (i) notify team members who are to attend the review;
 - (ii) conduct the reviews and issue team reports within two weeks after the review and send copies to all those attending the review;
 - (iii) establish requirements for horizontal and vertical alignments of the roadway;
 - (iv) determine passive and active railroad warning device locations on the roadway;
 - (v) determine funding apportionments on federal railroad safety projects;
 - (vi) initiate all Notices of Intended Action for railroad projects;
 - (vii) review the plans and contractual agreement requirements on projects demanding federal funds from local agencies;
 - (viii) obtain all necessary field data for plan site maps and take photographs of the existing conditions of all quadrants of the intersection.;
 - (b) The Railroad Company Representative shall provide train volumes, accident data, and any other pertinent data regarding the railroad crossing;
 - (c) The Local Agency Representative shall provide highway traffic volumes, proposed road construction activities on the highway, or an approved master plan for the highway, in addition to any other pertinent data regarding the crossing;
 - (d) The Local School District Representative shall provide school-age pedestrian traffic counts and school routing plan information.
- (5) Where a new railroad crosses an existing highway, the Department will consider the new crossing in conformance with Section 54-4-15. Public notice will be made in conformance with R930-5-14, Notice of Intended Action. If approved, the required separation or railroad warning devices, and any pavement work at the crossing shall not be considered to be of benefit to the road user and 100 percent railroad participation shall be required. The determination as to separation of type of warning devices shall be according to classification and traffic volume of the highway crossed and the predicted traffic hazard and as recommended by the Surveillance Team.

R930-5-8. Design of At-Grade Highway/Railway Crossings.

(1) The Department shall oversee and approve the design of all highway/railway at-grade crossings. Facilities that are the responsibility of the railroad for maintenance and operation shall conform to the specifications and design standards used by the railroad in its normal practice. At-Grade crossings that are the responsibility of the local agency for maintenance and operation shall conform to the specifications and design standards and guides used by the highway agency in its normal practice subject to approval by the Department. Where a local agency does not have an approved standard, Department standard drawings for the design of railroad crossings apply. Traffic control devices at all grade crossing improvements shall comply with the MUTCD. Required clearances for all devices shall conform to the MUTCD, or as approved by the Department. All design plans shall include USDOT identification numbers, street addresses, railroad subdivision and railroad milepost for at-grade crossings.

(2) Railroad crossing surface materials shall be designed as follows:

- (a) When it is determined that the railroad crossing material needs to be extended or replaced, the agency doing the design of the crossing shall determine the minimum length of the crossing material. The length shall be determined based on the proposed width of the new

roadway or from the approved master plan roadway width. The crossing material length shall extend at least two feet from the outer edge of the roadway, beyond the roadway clear zone area, or to the back of the concrete curb and gutter or out past the sidewalks;

(b) The approach grades of the roadway to the railroad crossing material shall conform to standard drawings published by the Department, to the extent practical;

(c) When the existing railroad crossing material is to be extended but the existing material is too old and cannot be connected to the new material, complete replacement of the railroad crossing material is required;

(d) New railroad crossing materials shall use insulated concrete panels. Other materials may be used, if approved by the Department.

(3) Active railroad warning devices shall be designed as follows:

(a) The railroad company is responsible for the design of the railroad activation circuitry, hardware, and software necessary to comply with requirements of the Department. Clearances for active warning devices shall comply with requirements of the MUTCD, unless otherwise specifically authorized by the Department;

(b) Three- and four-quadrant gate systems: Designs for these systems shall be in conformance with the MUTCD. Exit gates for these systems shall be designed to fail in the upright position. Time-delayed exit gates shall not be used in these systems, except for locations with a single track that is nearly perpendicular to the highway.

In these cases, where practical, the exit gate shall be placed at a distance from the track to allow for a single design vehicle to exit the crossing area safely. The Diagnostic/Surveillance Review Team shall recommend delay times to be used in these applications. For all other installations (single track skewed crossings, multi-track crossings, etc.) a dynamic exit gate system shall be used. The exit gate system shall employ a method (as approved by the Department) of detecting vehicles stalled on the tracks and shall raise exit gates to allow for vehicles to exit the crossing area. When the active warning devices are placed within the roadway clear zone, appropriate attenuation devices shall be installed;

(c) When an existing roadway is to be widened, the new location of the active railroad warning devices shall be determined by the railroad and highway agency. The railroad company shall relocate the devices;

(d) When active warning devices are within 200 feet of a traffic signal, the local authority shall provide the type and amount of preemption time needed to the Diagnostic Review Team. The railroad company shall design the crossing per the specification of the local authority. The local authority shall provide an interconnect to the traffic signal controller. The local authority is responsible for programming traffic signal controller;

(e) Design plans shall show the location of active devices by both highway station and railroad milepost.

(4) The following passive warning devices shall be designed, installed, and maintained by the railroad company in accordance with the MUTCD:\

(a) Sign R15-1 (crossbuck);

(b) Sign R15-2 (number of tracks);

(c) Sign R1-1 (STOP);

(d) Sign R1-2 (Yield);

(e) Sign R15-3 (Exempt);

(f) Sign R8-9 (Tracks out of Service)

(5) Design, installation, and maintenance of all other passive railroad warning devices, signs, and pavement markings is the responsibility of the highway agency that crosses the railroad tracks. Design and location of the devices shall be in accordance with the

MUTCD and as engineering studies indicate necessary, or as required by the Diagnostic Review Team.

R930-5-9. Responsibility to Arrange for the Installation of Railroad Materials and Devices.

(1) Responsibility for installation of railroad crossing material is as follows:

(a) When a roadway is widened by a local agency, the local agency shall be responsible to arrange by agreement with the railroad company to install the railroad crossing extension.

(b) When local agencies reconstruct a roadway and new railroad crossing material is required, the local agency shall arrange by agreement with the railroad company for the complete replacement of the railroad crossing material when material cannot be extended.

(2) Responsibility for installation of active warning devices is as follows:

(a) When a local agency widens a roadway which changes the existing conditions of the highway/railway crossing and it requires active warning devices, the local agency shall be responsible to arrange by agreement with the railroad company for the installation of the active railroad warning devices after their plans are approved by the Department.

(b) When a local agency widens a roadway that has existing active railroad warning devices, the local agency shall have their plans approved by the Department and arrange by agreement with the railroad company for the relocation of the devices.

(c) Prior to approving new residential, commercial or industrial development within 1000 feet of a railroad crossing, the local agency shall request a Diagnostic/Surveillance Review of the proposed development to assess the potential traffic impacts at the railroad crossing. When a local agency approves increased development that changes the conditions of a highway/railway at-grade crossing by increasing traffic volumes and/or by adding new access openings onto a highway within 250 feet, the agency plans shall be approved by the Department. The local agency shall arrange by agreement with the railroad company for any required railroad changes.

(d) When a highway/railway at-grade crossing is listed in the Department's Annual High Accident Prediction List and active warning devices are required, the Department shall arrange by agreement with the railroad company for the installation of the active railroad warning devices.

(e) When a local agency requests a surveillance review of a highway/railway intersection or a corridor of intersections and the Diagnostic/Surveillance Team recommends that a crossing or crossings can be eliminated and other crossings can be upgraded, the Department shall determine if Federal Railroad Safety Funds (also known as "Section 130 funds") may be used for any or all of the improvements. If Federal funding is available, the Department shall also arrange by agreement with the railroad company for the installation of the active railroad warning devices.

(3) The Local Agency is responsible for the installation of all passive railroad warning devices.

R930-5-10. Maintenance.

(1) The maintenance of automatic signal devices and the pavement area from end of tie to end of tie, including space between multiple tracks if the railroad company owns the easement rights between the multiple tracks, and two feet beyond each outside rails is the responsibility of the railroad company.

(2) Signals and pavement between end of ties on temporary highway detours shall in all cases become the responsibility of the

railroad company at the expense of the highway agency owning the roadway.

(3) Maintenance of the crossing approaches up to end of tie is the responsibility of the agency owning the roadway. When the railway is raised due to track and ballast maintenance, the railroad company shall coordinate their work with the agency owning the roadway so the pavement on the approaches can be adjusted to provide a smooth ride for motorists. When the agency owning the roadway changes the road profile (through construction or maintenance activities) the approaches to the tracks must be adjusted to provide a smooth and level crossing surface.

(4) Responsibility for maintenance of a grade separation structure is as follows:

(a) Where a separation facility overpasses a railroad, maintenance responsibility for the entire structure and approaches is assumed by the agency owning the structure and roadway.

(b) When a grade separation structure underpasses a railroad, maintenance of the roadway and the entire structure below and including the deck plate, handrail, and parapets, is the responsibility of the owner of the roadway. Maintenance of the waterproofing, ballast, ties, rails and any portion of the supporting structure above the top of the ballast deck plate between parapets is the responsibility of the railroad company.

(c) Cost of repairing damages to a highway or a highway structure, occasioned by collision, equipment failure or derailment of the railroad's equipment shall be borne by the railroad company.

(5) Responsibility for maintenance of private industrial trackage not owned by a railroad company that crosses public highways shall be as follows:

(a) When a facility, plant or property owner receives goods and services from a railroad company train over private industrial trackage that crosses a public highway, maintenance of the crossing shall be the responsibility of those companies receiving the goods and services.

(b) When the highway/railway crossing becomes a safety hazard to vehicles and is not maintained, the Department and the railroad company shipping the goods and services shall notify the facility, plant or property owners in writing to maintain or replace the railroad crossing material.

(c) If the owner of the private trackage does not maintain or replace the crossing material by a specified date, the Department shall order the railroad company to cease and desist operations across the highway/railway crossing.

(d) If the owner still does not respond to the order to maintain or replace the railroad crossing material the following action shall be taken by the highway agency owning the roadway. The highway agency shall arrange to have the crossing replaced, and bill the facility owner of the trackage for the expenses to repair the trackage.

R930-5-11. FHWA Authorizations.

(1) The costs of preliminary engineering, right-of-way acquisition, and construction incurred after the date each phase of the work is included in an approved program and authorized by FHWA are eligible for federal participation. Preliminary engineering and right-of-way acquisition costs which are otherwise eligible, but incurred by the railroad prior to authorization by FHWA, although not reimbursable, may be included as part of the railroad share of the project cost where such share is required.

(2) Prior to issuance of authorization by FHWA either to advertise the physical construction for bids, to proceed with force account construction for railroad work or for other construction affected by railroad work the following must be accomplished:

(a) Plans and specifications and estimates must be approved by FHWA.

(b) A proposed agreement between the state and the railroad company must be found satisfactory by FHWA. Before Federal funds may be used to reimburse the state for railroad costs the executed agreement must be approved by FHWA.

R930-5-12. Railroad Agreements.

(1) Where construction of a federal aid project requires use of railroad properties or adjustments to railroad facilities, the Department shall prepare an agreement between it and the railroad company.

(2) Master agreements between the Department and a railroad company on an area wide or statewide basis may be used. These agreements shall contain the specifications, regulations and provisions required in conjunction with work performed on all projects.

(3) On a project-by-project basis, the written agreement between the Department and the railroad company shall, as a minimum, include the following, where applicable:

(a) Reference to appropriate federal regulations;

(b) detailed statement of the work to be performed by each party;

(c) Method of payment shall be actual cost;

(d) For projects which are not for elimination of hazards of highway/railway crossings, the extent to which the railroad is obligated to move or adjust facilities at the expense of the agency owning the roadway;

(e) The railroad's share of the project cost;

(f) An itemized estimate of the cost of the work to be performed by the railroad;

(g) Method to be used for performing the work, either by railroad forces or by contract;

(h) Maintenance responsibility;

(i) Form, duration, and amounts of any needed insurance;

(j) Appropriate reference to or identification of plans and specifications.

(4) On matching fund agreements between the Department and the Local Agency, on a project-by-project basis the written agreement shall include the following:

(a) Description of work and location, city, county, state;

(b) Reference to federal regulations that matching funds will be provided by the agency having jurisdiction over the street or highway right-of-way where improvements are desired;

(c) Detailed statement of work to be performed by each party regarding design engineering, agreements, inspection and maintenance;

(d) Statement of finances of project and matching funds to be provided by local agency, deposits, invoices and cost overruns or underruns.

(5) Agreements prepared for local government and industrial trackage crossing are prepared between the agency owning the street or highway right-of-way and the industry on forms furnished by the railroad companies.

(6) In order that a highway/railway project shall not become unduly delayed, the Department shall consider a six-month period of time from issuance of the railroad agreement to be adequate for completion of execution by the railroad company involved. Should more than the specified period of time elapse, the Department shall require the railroad to proceed with the work covered by the agreement under the authority contained in Section 54-4-15 and approval from the FHWA will be solicited in conformance with 23 CFR 646.

R930-5-13. Apportionment of Costs.

(1) Apportionment of costs for installation, maintenance, and reconstruction of active and passive railroad warning devices at highway/railway intersections shall be in accordance with 23 CFR 646.

(2) When a roadway is widened by the state or local governmental agency, that agency shall fund all passive and active warning devices as recommended by the Diagnostic/Surveillance Team and as determined necessary by the Department.

(3) When a roadway is widened by a local agency, and the existing railroad crossing material is old and cannot be attached to the new material, the local agency shall fund the replacement of all new existing crossing material.

(4) When a highway/railway at-grade crossing is listed on the Department's Annual High Accident Prediction List, and it is determined by the Department that the crossing shall be upgraded, it shall be funded by federal railroad safety funds and local highway agency matching funds.

(5) If approved construction of a separation structure or the installation of a signal device at such crossing is not considered a benefit to the railroad, railroad participation shall not be required.

(6) A project to reconstruct an existing overpass or underpass shall include the entire structure and railway and the highest approaches thereto. Since there is no railway liability for such projects, it is considered that there shall be no benefit to the railroad and railroad participation shall not be required.

R930-5-14. Notice of Intended Action Process.

(1) Public notification is required when the Department is considering proposals to close public streets at crossings, removal of tracks from crossings, addition of tracks at crossings, or construction of new public at-grade crossings. The Department shall advertise a notice of its intended action in a newspaper of general circulation, and if available, a newspaper of local circulation in the area affected, at least twice with a provision that written protests may be filed with the Department 15 days from the date of the last publication of the notice. The local public authority shall provide written notice to all property owners within one-half mile of the crossing area. The notice shall identify the project, briefly describe the changes proposed, who to contact for information, where to file complaints or comments, and contain general information relating to the proposed action.

(2) Construction of a new highway crossing of a railroad track where a new street or highway is proposed which is not essentially a relocation of an existing street, the the Department will consider the new crossing in conformance with Section 54-4-15. Public notice will be made in conformance with this rule.

(3) All requests for a public meeting shall be in writing and shall detail how a proposed action will adversely affect a group of people, firm or corporation, and if it appears that the adverse affect cannot be alleviated by the Department. Such a hearing will be conducted informally by the Department. Any party aggravated by any determination made by the Department shall have their statutory right under Section 54-4-15, as amended, to petition the PSC for a hearing to be governed by the procedures of the PSC.

(4) In instances where the action proposed by the Department does not substantially affect the general public, The Department may waive the requirement to public notice, provided all parties affected concur in writing with the action proposed. For the purposes of this section, parties affected shall mean railroads or other common parties, state, county, city or other environmental agencies, boards or commissions, having jurisdiction over any property rights of facilities, and private persons or directly affected.

R930-5-15. Clearances.

(1) Unless otherwise noted, all clearances apply to tracks carrying freight or passengers.

(a) Overhead clearances. Overhead clearance is measured as the minimum clearance from the top of rail to the lowest point on a structure.

(i) For tracks carrying freight cars, 23'6";

(ii) For tracks carrying only passenger cars, 14';

(b) Side Clearances. Side clearance is measured from the centerline of tangent standard gauge tracks. Increase clearances on all structures adjacent to curved track by 12 inches.

(i) Posts, pipes, warning signs, other small obstructions, 10';

(ii) Freight platforms, 8 inches or less above top of rail, 4'8";

(iii) Freight platforms, between 8 inches and 21 inches above top of rail, 5'8";

(iv) Freight platforms, between 21 inches and 48 inches above top of rail, 7'3";

(v) Refrigerated freight platforms, between 48 inches and 54 inches above top of rail, 8'0";

(vi) All other structures, near freight tracks, 8'6";

(vii) Poles supporting electrical conductors for use in supplying motive power to tracks, 7'6";

(viii) All other poles supporting cables or wires, 8'6";

(ix) Through bridges and tunnels supporting track affected, 8'0";

(x) Switch boxes, operating mechanisms, and appurtenances necessary for the operation of switches, turnouts, or interlocking devices, less than 4 inches above top of rail, 3'0";

(xi) Block signals and switch stands, three feet or less above top of rail and located between tracks, 6'0";

(xii) Block signals and switch stands, used in operation of Light Rail Transit, 7'6";

(xiii) All other block signals and switch stands, 8'6";

(xiv) Water and oil columns, 8'0";

(xv) Hand rails on bridges or trestles, less than four feet above top of rail, 7'6";

(xvi) Fences of cattle guards, 6'9";

(xvii) Doors and entrances to repair shops or maintenance buildings, 7'6";

(xix) All other objects and articles, 8'6".(c) Overhead and side clearances. Minimum overhead and side clearances may be decreased to the extent defined by the radius of a circle with the appropriate side clearance, with the center-point of the circle set at the appropriate minimum clearance height. Overhead and side clearances do not apply to shops and buildings in which rail equipment is moved for repairs

(d) Clearances for parallel tracks. Clearance is measured from centerline of tracks.

(i) Tracks used for freight transportation, mainline or siding tracks, 15';

(ii) Tracks used for passenger transportation, mainline or siding tracks, 15';

(iii) Tracks used as team or freight house tracks may be reduced to 11'6" provided that all other side clearances are maintained;

(iv) Between adjacent ladder or yard tracks, 20'. Between ladder or yard tracks and other (mainline or siding) tracks, 17.

(e) Minimum clearances for public roads, highways, and streets.

(i) Where railroads cross overhead, 17';

(ii) Where railroads cross overhead, side clearances are based on the width of the road and the number of lanes crossing under the structure. Minimum widths are determined by the Department of Transportation on a case-by-case basis;

(iii) Where roads cross overhead, use the minimum clearances as provided in this rule.

R930-5-16. Accident Reporting.

Railroad companies are required to report all accidents occurring at highway-rail grade crossings to the Department's Chief Railroad Engineer within 2 hours of the incident. Initial notification must include the USDOT crossing number, street address, municipality, time of incident, train identifier, and contact phone number for further information. Written accident reports shall be submitted to the Department within 30 days of the incident. Current Federal Railroad Administration (FRA) form F 6180.57 shall be used to report accidents.

R930-5-17. Exemption of Railroad Crossings.

Under Section 41-6a-1205, Utah Code, certain vehicles are required to stop at all railroad crossings, unless a crossing is signed as exempt from this requirement. Recommendation to exempt a crossing is made by the Diagnostic/Surveillance team to the Department. Certain crossings are not eligible for exemption from Section 41-6a-1205:

- (1) Mainline crossings with passive protective devices only;
- (2) Crossings within approved quiet zones;
- (3) Crossings where insufficient sight distance exists;
- (4) Notification under section R930-5-14 shall be performed prior to authorization of exempting crossings.

KEY: railroads, ~~railroad crossings~~ transportation, safety
Date of Enactment or Last Substantive Amendment: ~~March 11, 1998~~ 2006
Notice of Continuation: January 22, 2002
Authorizing, and Implemented or Interpreted Law: 10-8-34; 10-8-82; 41-6-19; 54-4-15; 72-1-102; 72-2-112



Transportation, Preconstruction, Right-of-Way Acquisition
R933-2-3
Definitions

NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE No.: 28490
 FILED: 02/01/2006, 18:38

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Counsel recommended changes to a definition regarding the point of the gore for purposes of measuring the placement of billboards.

SUMMARY OF THE RULE OR CHANGE: This rule defines the point at which the gore is located.

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

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** This amendment will not materially change the department's activities; therefore, there should be no increase or decrease in costs.
- ❖ **LOCAL GOVERNMENTS:** The rule has no impact on local governments, and therefore, will not cost them anything.
- ❖ **OTHER PERSONS:** There will be no compliance costs for the industry. It is possible that a change in the location will result in the denial of a billboard (or it may allow the placement of a billboard that would previously have been denied), but the cost of that would be impossible to measure.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be no compliance costs for the industry. It is possible that a change in the location will result in the denial of a billboard (or it may allow the placement of a billboard that would previously have been denied), but the cost of that would be impossible to measure.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There should be no fiscal impact on business from this rule. John R. Njord, Executive Director

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

**TRANSPORTATION
 PRECONSTRUCTION, RIGHT-OF-WAY ACQUISITION
 CALVIN L RAMPTON COMPLEX
 4501 S 2700 W
 SALT LAKE CITY UT 84119-5998, or
 at the Division of Administrative Rules.**

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 03/17/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 03/18/2006

AUTHORIZED BY: John R. Njord, Executive Director

R933. Transportation, Preconstruction, Right-of-Way Acquisition.
R933-2. Control of Outdoor Advertising Signs.
R933-2-3. Definitions.

All references in these Rules to Title 72, Chapter 7, Part 5, are to those sections of the Utah Code known as the Utah Outdoor Advertising Act. In addition to the definitions in that part, the following definitions are supplied:

- (1) "Abandoned Sign" means any controlled sign, the sign facing of which has been partially obliterated, has been painted out, has remained blank or has obsolete advertising matter for a continuous period of 12 months or more.

(2) "Acceleration and deceleration lanes" means speed change lanes created for the purpose of enabling a vehicle to increase or decrease its speed to merge into, or out of, traffic on the main-traveled way. As used in the Act, an acceleration or deceleration lane begins and ends at a point no closer than 500 feet from the nearest point of the beginning or ending of pavement widening at the exit from or entrance to the main-traveled way. On-ramps and off-ramps are part of the interchange and shall not be considered an acceleration or deceleration lane under the Act or these rules.

(3) "Act" means the Utah Outdoor Advertising Act.

(4) "Advertising" means any message, whether in words, symbols, pictures or any combination thereof, painted or otherwise applied to the face of an outdoor advertising structure, which message is designed, intended, or used to advertise or inform, and which message is visible from any place on the main travel-way of the interstate or primary highway system.

(5) "Areas zoned for the primary purpose of outdoor advertising" as used in the Act is defined to include areas in which the primary activity is outdoor advertising.

(6) "Commercial or industrial zone" as defined in of the Act is further defined to mean, with regard to those areas outside the boundaries of urbanized counties and outside the boundaries of cities and towns referred to in that subsection, those areas not within 8,420 feet of an interstate highway exit-ramp or entrance-ramp as measured from the nearest point of the beginning or ending of the pavement widening at the exit from or entrance to the main traveled way that are reserved for business, commerce, or trade under enabling state legislation or comprehensive local zoning ordinances or regulations, and are actually used for commercial or industrial purposes, including the land along both sides of a controlled highway for 600 feet immediately abutting the area of use, measurements under this subsection being made from the outer edge of regularly used buildings, parking lots, gate-houses, entrance gates, or storage or processing areas.

(7) "Conforming Sign" means an off-premise sign maintained in a location that conforms to the size, lighting, spacing, zoning and usage requirements as provided by law and these rules.

(8) "Controlled Sign" means any off-premise sign that is designed, intended, or used to advertise or inform any part of the advertising or informative contents of which is visible from any place on the main traveled way of any interstate or federal-aid primary highway in this State.

(9) "Destroyed Sign" means a sign damaged by natural elements wherein the costs of re-erection exceeds 30% of the depreciated value of the sign as established by departmental appraisal methods.

(10) "Feeder systems" are secondary roads that bring traffic to the main-traveled way.

(11) "Freeway" means a divided highway for through traffic with full control access.

(12) "Grandfather Status" refers to any off-premise controlled sign erected in zoned or unzoned commercial or industrial areas, prior to May 9, 1967, even if the sign does not comply with the size, lighting, or spacing of the Act and these Rules. Signs only, and not sign sites, may qualify for Grandfather Status.

(13) "H-1" means highway service zone as defined in the Act.

(14) "Lease or Consent" means any written agreement by which possession of land, or permission to use land for the purpose of erecting or maintaining a sign, or both, is granted by the owner to another person for a specified period of time.

(15) "Legal copy" means the advertising copy on the sign that occupies at least 50% of the sign size.

(16) "Nonconforming Sign" means a sign that was lawfully erected, but that does not conform to State law or rules passed or made at a later date or that later fails to comply with State legislation or rules because of changed conditions. The term "illegally erected" or "illegally maintained" is not synonymous with the term, "nonconforming sign", nor is a sign with "grandfather" status synonymous with the term, "nonconforming sign."

(17) "Off-Premise Sign" means also, in supplement to the definition stated in the Act, an outdoor advertising sign that advertises an activity, service or product and that is located on premises other than the premises at which activity or service occurs or product is sold or manufactured.

(18) "On-Premise Sign", in supplement to the definition stated in the Act, does not include a sign that advertises a product or service that is only incidental to the principal activity or that brings rental income to the property owner or occupant.

(19) "Parkland" means any publicly owned land that is designed or used as a public park, recreation area, wildlife or waterfowl refuge, or historical site.

(20) "Point of the Gore" means the point of the area delineated by two solid white lines that is between a continuing lane of a through-roadway and a lane used to enter or exit the continuing lane, including similar areas between merging or splitting highways.

(2[0]1) "Property" as used in the definition of "On-Premise Sign" includes those areas from which the general public is serviced and which are directly connected with and are involved in assembling, manufacturing, servicing, repairing, or storing of products used in the business activity. This property does not include the site of any auxiliary facilities that are not essential to and customarily used in the conduct of business, nor does it include property not contiguous to the property on which the sign is situated.

(2[+]2) "Sale or Lease Sign" means any sign situated on the subject property that advertises that the property is for "sale" or "lease". This sign may not advertise any product or service unrelated to the business of selling or leasing the land upon which it is located, nor may it advertise a projected use of the land or a financing service available or being utilized in its development.

(2[2]3) "Scenic Area" as used in the Act includes a scenic byway.

(2[3]4) "Transient or Temporary Activity" means any industrial or commercial activity, not otherwise herein excluded, that does not have a prior continuous history for a period of six months.

(2[4]5) "Un-zoned Area" in supplement to the definition stated in the Act, means an area in which no zoning is in effect. It does not include areas within comprehensive zoning or master plans adopted by local zoning authorities.

(2[5]6) "V-Type Sign" means any sign, the center pole of which is nearest the traveled portion of the highway and is a common pole to the two sign faces, or when a common pole is not used, a sign with the sign faces no further than 36 inches apart at the angle of the sign closest to the traveled portion of the highway, and the structure poles at the point nearest the traveled portion of the highway no further apart than 48 inches. Existing V-type signs now controlled and permitted are excluded from this definition.

(2[6]7) "Visible" means capable of being seen whether or not readable, without visual aid, by a person of normal visual acuity.

KEY: signs**Date of Enactment or Last Substantive Amendment:** ~~March 23, 2004~~ **2006****Notice of Continuation:** January 22, 2002**Authorizing, and Implemented or Interpreted Law:** Title 72, Chapter 7, Part 5; 72-1-201

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**Workforce Services, Employment
Development
R986-700-709
Employment Support (ES) CC**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 28481

FILED: 01/31/2006, 17:19

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to eliminate the prevailing community standard as a basis for self employment.

SUMMARY OF THE RULE OR CHANGE: Employment Support Child Care (ES CC) is only available for those clients who are working. The Department will support self employment if the client is currently making, or is likely to make, minimum wage.

The current rule will also support self employment if the client cannot make minimum wage but can make the prevailing community standard. The Department has decided to eliminate the "prevailing community standard" provision and make the child care rules for self employment the same as the Family Employment Program rules. This change is made not just for the ease of administration which will occur because all programs will have the same standard, but because the "prevailing community standard" provision has been difficult to administer and does not support our goal of helping our clients move toward self sufficiency. The elimination of the prevailing community standard will help the Department and our clients reach those goals and is not likely to affect many clients currently receiving ES CC.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 35A-1-104 and 35A-3-310; and Subsections 35A-1-104(4) and 35A-3-310(3)

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** This is a federally-funded program so there are no costs or savings to the state budget.
- ❖ **LOCAL GOVERNMENTS:** This rule does not apply to local government, therefore, there are no costs or savings to local governments. Local governments do not contribute to the costs of this program.
- ❖ **OTHER PERSONS:** There are no costs or savings to any other persons as there are no fees associated with this program because it is federally funded. Some individuals receiving assistance through this program may be required to

seek other employment or show that they can make minimum wage from self employment.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no costs or savings to any affected persons as there are no fees associated with this program because it is federally funded.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no compliance costs associated with this change. There are no fees associated with this change. It will not cost anyone any sum to comply with these changes. Tani Downing, Executive Director

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 03/17/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 03/20/2006

AUTHORIZED BY: Tani Downing, Executive Director

R986. Workforce Services, Employment Development.**R986-700. Child Care Assistance.****R986-700-709. Employment Support (ES) CC.**

(1) Parents who are not eligible for FEP CC or Diversion CC may be eligible for Employment Support (ES) CC. To be eligible, a parent must be employed or be employed while participating in educational or training activities. Work Study is not considered employment. A parent who attends school but is not employed at least 15 hours per week, is not eligible for ES CC. ES CC will only be provided to cover the hours a client needs child care for work or work and approved educational or training activities.

(2) If the household has only one parent, the parent must be employed at least an average of 15 hours per week.

(3) If the family has two parents, CC can be provided if:

(a) one parent is employed at least an average of 30 hours per week and the other parent is employed at least an average of 15 hours per week and their work schedules cannot be changed to provide care for the child(ren). CC will only be provided during the time both parents are in approved activities and neither is available to care for the children; or

(b) one parent is employed and the other parent cannot work, or is not capable of earning \$500 per month and cannot provide care for their own children because of a physical, emotional or mental incapacity. Any employment or educational or training activities invalidate a claim of incapacity. The incapacity must be expected to

last 30 days or longer. The individual claiming incapacity must verify that incapacity in one of the following ways:

- (i) receipt of disability benefits from SSA;
- (ii) 100 percent disabled by VA; or
- (iii) by submitting a written statement from:
 - (A) a licensed medical doctor;
 - (B) a doctor of osteopathy;
 - (C) a licensed Mental Health Therapist as defined in UCA 58-60-102;
 - (D) a licensed Advanced Practice Registered Nurse; or
 - (E) a licensed Physician's Assistant.

(4) Employed or self-employed parent client(s) must make, either through wages or profit from self-employment, a rate of pay equal to or greater than minimum wage multiplied by the number of hours the parent is working. ~~[If the prevailing community standard is below minimum wage, the employed parent client must make at least the prevailing community standard.]~~ To be eligible for ES CC, a self employed parent must provide business records for the most recent three month time period to establish that the parent is likely to make at least minimum wage ~~[or, if the prevailing community standard is below minimum wage, the parent must establish that he or she is likely to make at least the prevailing community standard].~~ If a parent has a barrier to other types of employment, exceptions can be made in extraordinary cases with the approval of the state program specialist.

(5) ~~[The stipend received by Americorps*Vista volunteers meets the prevailing community standard test for this section even though the stipend is not counted as income.]~~ Americorps*Vista is

supported even though the program does not meet the minimum wage requirements. The activities of Americorps*Vista volunteers are considered to be work and not training. Job Corps activities are considered to be training and a client in the Job Corps would also have to meet the work requirements to be eligible for ES CC.

(6) If a parent was receiving FEP or FEPTP, and their financial assistance was terminated due to increased income, and the parent is otherwise eligible for ES CC, the subsidy deduction will not be taken for the two months immediately following the termination of FEP or FEPTP, provided the client works a minimum of 15 hours per week. The third month following termination of FEP or FEPTP CC is subject to the subsidy deduction.

(7) Applicants must verify identity but are not required to provide a Social Security Number (SSN) for household members. Benefits will not be denied or withheld if a customer chooses not to provide a Social Security Number if all factors of eligibility are met. SSN's that are supplied will be verified. If an SSN is provided but is not valid, further verification will be requested to confirm identity.

KEY: child care

Date of Enactment or Last Substantive Amendment: July 1, 2005

Notice of Continuation: September 14, 2005

Authorizing, and Implemented or Interpreted Law: 35A-3-310

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End of the Notices of 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).

Administrative Services, Fleet Operations **R27-1** Definitions

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR File No.: 28474
FILED: 01/30/2006, 16:16

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 63A-9-401(1) directs that the division shall: make rules establishing requirements for: maintenance operations for state vehicles; use requirements for state vehicles; fleet safety and loss prevention programs; preventative maintenance programs; procurement of state vehicles, including authorization requirements for fleet expansion and standards for vehicle sizing, alternative fuel vehicles, short-term lease programs, and warranty recovery programs; fuel management programs; cost management programs; business and personal use practices, including commute standards; cost recovery and billing procedures; disposal of state vehicles; reassignment of state vehicles and reallocation of vehicles to other fleets; standard use and rate structures for state vehicles; and insurance and risk management requirements.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule clarifies the terms and explains how words are used in all of Fleet Operations' rules. Therefore, this rule should be continued.

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

ADMINISTRATIVE SERVICES
FLEET OPERATIONS
Room 4120 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY UT 84114-1201, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Margaret Chambers at the above address, by phone at 801-538-9675, by FAX at 801-538-1773, or by Internet E-mail at margareтчambers@utah.gov

AUTHORIZED BY: Margaret Chambers, Deputy Director

EFFECTIVE: 01/30/2006



Administrative Services, Fleet Operations **R27-2** Fleet Operations Adjudicative Proceedings

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR File No.: 28475
FILED: 01/30/2006, 16:39

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 63-46b-4(1) allows agencies " to designate categories of adjudicative proceedings to be conducted informally...."

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: It is in the best interest of fleet customers and Fleet Operations to have adjudicative proceedings that are as efficient as possible. Informal proceedings provide for less time and expense. Therefore, this rule should be continued.

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

ADMINISTRATIVE SERVICES
 FLEET OPERATIONS
 Room 4120 STATE OFFICE BLDG
 450 N MAIN ST
 SALT LAKE CITY UT 84114-1201, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 Margaret Chambers at the above address, by phone at 801-538-9675, by FAX at 801-538-1773, or by Internet E-mail at margareтчambers@utah.gov

AUTHORIZED BY: Margaret Chambers, Deputy Director

EFFECTIVE: 01/30/2006

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule outlines all authorized and unauthorized use of state vehicles. It defines the criteria for authorized driver, personal use, commute and take home use, IRS-imputed income requirements, driver training requirements, and what type of vehicle should be used in different circumstances. The rule makes clear which type of vehicle should be used, in what circumstance they may be used, and outlines the responsibility of the agency and driver of the vehicle. Therefore, this rule should be continued.

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

ADMINISTRATIVE SERVICES
 FLEET OPERATIONS
 Room 4120 STATE OFFICE BLDG
 450 N MAIN ST
 SALT LAKE CITY UT 84114-1201, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 Margaret Chambers at the above address, by phone at 801-538-9675, by FAX at 801-538-1773, or by Internet E-mail at margareтчambers@utah.gov

AUTHORIZED BY: Margaret Chambers, Deputy Director

EFFECTIVE: 01/30/2006

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**Administrative Services, Fleet
 Operations
 R27-3
 Vehicle Use Standards**

**FIVE YEAR NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**

DAR FILE No.: 28477
 FILED: 01/30/2006, 17:26

**NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is established pursuant to Subsections 63A-9-401(1)(c)(ii) and 63A-9-401(1)(c)(viii) which authorize the Division of Fleet Operations to establish the requirements for the use of state vehicles, including business and personal use practices, and commute standards.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

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**Administrative Services, Fleet
 Operations
 R27-7
 Safety and Loss Prevention of State
 Vehicles**

**FIVE YEAR NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**

DAR FILE No.: 28469
 FILED: 01/20/2006, 09:05

**NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is established pursuant to Subsection 63A-9-401(1)(c)(iii) which requires the Division of Fleet Operations to make rules establishing requirements for fleet safety and loss prevention programs.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule defines the process to report vehicle accidents, the possible loss of authority to drive a state vehicle, and the responsibility for each agency to establish an Accident Review Committee. The rule should continue because accidents happen and it is important that all accidents are documented and processed correctly.

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

ADMINISTRATIVE SERVICES
 FLEET OPERATIONS
 Room 4120 STATE OFFICE BLDG
 450 N MAIN ST
 SALT LAKE CITY UT 84114-1201, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 Margaret Chambers at the above address, by phone at 801-538-9675, by FAX at 801-538-1773, or by Internet E-mail at margareтчambers@utah.gov

AUTHORIZED BY: Margaret Chambers, Deputy Director

EFFECTIVE: 01/20/2006



Agriculture and Food, Regulatory
 Services
R70-410
 Grading and Inspection of Shell Eggs
 With Standard Grade and Weight
 Classes

**FIVE YEAR NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**

DAR File No.: 28471
 FILED: 01/24/2006, 14:44

**NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 4-4-2 authorizes the Department to make and enforce rules as in its judgment are necessary to administer and enforce this rule.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule adopts and

incorporates by reference the applicable provisions of the regulations issued by the United States Department of Agriculture for grading and inspection of shell eggs. It also provides the standards for the handling and disposition of restricted eggs. Therefore, this rule should be continued.

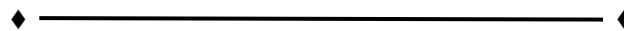
THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

AGRICULTURE AND FOOD
 REGULATORY SERVICES
 350 N REDWOOD RD
 SALT LAKE CITY UT 84116-3034, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 Doug Pearson, Marolyn Leetham, or Kyle Stephens at the above address, by phone at 801-538-7144, 801-538-7114, or 801-538-7102, by FAX at 801-538-7169, 801-538-7126, or 801-538-7126, or by Internet E-mail at dpearson@utah.gov, mleetham@utah.gov, or kylestephens@utah.gov

AUTHORIZED BY: Leonard M. Blackham, Commissioner

EFFECTIVE: 01/24/2006



Commerce, Occupational and
 Professional Licensing
R156-47b
 Massage Therapy Practice Act Rules

**FIVE YEAR NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**

DAR File No.: 28478
 FILED: 01/31/2006, 12:30

**NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 58, Chapter 47b, provides for the licensure of massage therapists and massage apprentices. Subsection 58-1-106(1)(a) provides that the Division may adopt and enforce rules to administer Title 58. Subsection 58-47b-201(3) provides that the Board of Massage Therapy's duties and responsibilities shall be in accordance with Section 58-1-202. Subsection 58-1-202(1)(a) provides that one of the duties of each board is to recommend appropriate rules to the division director. This rule was enacted to clarify the provisions of Title 58, Chapter 47b, with respect to massage therapists and massage apprentices.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Since this rule was last reviewed in February 2001, it has been amended five times. In March 2001, amendments were proposed regarding massage therapy school curriculum standards, examination

requirements, massage apprenticeship standards, and unprofessional conduct definitions. A March 22, 2001, hearing was conducted and the Division received three written comments with respect to the proposed amendments. Randy Nikola submitted a written comment in which he agreed with the amendments being proposed to Subsection R156-47b-302a(1)(c) regarding massage school curriculum standards. The Division also received an April 3, 2001, e-mail from Craig Sauer regarding the proposed amendments and an April 17, 2001, e-mail from Duke Cassel, Myotherapy College of Utah regarding the proposed rule amendments. As a result of comments made during the rule hearing and written comments received by the Division, a change in proposed rule filing was made with respect to massage school curriculum accreditation standards and adding a section dealing with animal massage training. Amendments from this rule filing were eventually made effective on August 16, 2001. In December 2002, amendments were again proposed regarding massage school curriculum standards and changes as a result of 2002 legislative changes made to the statute. No rule hearing was held nor were any written comments received by the Division. These amendments were made effective on January 16, 2003. In April 2003, an amendment was proposed which created the Massage Therapy Education Peer Committee, a peer advisory committee to the Utah Board of Massage Therapy. No rule hearing was held nor were any written comments received by the Division. This amendment was made effective on May 19, 2003. In March 2004, amendments were proposed regarding defining "good moral character" and to define disqualifying convictions that may affect applicants for licensure. The Division received two written comments with respect to these proposed amendments. The Division received a February 23, 2004, letter from Randall J. Nikola/Healing Mountain Massage School in which he agreed with some of the proposed amendments and suggested additional changes to the proposed amendments. The Board and Division reviewed Mr. Nikola's comments and agreed to keep the proposed amendments as written as the proposed amendments represented Division policy that had been in place for the last six to seven years and the proposed rule amendments were simply being made to reduce the existing Division policy to rule form. The Division also received a March 22, 2004, e-mail from Susan Allred regarding the term "controlled dangerous substances". Clyde Ormond replied to Ms. Allred that the term had the same meaning as the phrase "controlled substance" as used in Subsections R156-47b-302d(3) and (4) of the rule. A May 11, 2004, rule hearing was conducted and the proposed amendments in this filing were made effective on June 7, 2004. In December 2004, the Division again proposed amendments to the rule regarding massage school curriculum standards and massage apprenticeship standards. A December 17, 2004, hearing was conducted. The Division received a letter from Teresa Matheson/Utah Career College in which she was inquiring about how the proposed amendments would affect their school. As a result of further Division and Board review and comments made during the rule hearing, additional amendments were filed in a change in proposed rule filing. All amendments in this filing were eventually made effective on March 7, 2005.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued as it provides a mechanism to inform potential licensees of the requirements for licensure as allowed under statutory authority provided in Title 58, Chapter 47b, with respect to massage therapists and massage apprentices. The rule should also be continued as it provides information to ensure applicants for licensure are adequately trained and meet minimum licensure requirements.

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:

Clyde Ormond at the above address, by phone at 801-530-6254, by FAX at 801-530-6511, or by Internet E-mail at cormond@utah.gov

AUTHORIZED BY: J. Craig Jackson, Director

EFFECTIVE: 01/31/2006



Commerce, Real Estate
R162-209
Administrative Proceedings

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 28476
FILED: 01/30/2006, 17:08

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 63-46b-4(1) and Section 63-46b-5 of the Utah Administrative Procedures Act authorizes agencies to enact rules to designate categories of adjudicative proceedings as informal proceedings, and to enact rules to prescribe procedures for those informal adjudicative proceedings.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is necessary to enable the Division of Real Estate to conduct some of its adjudicative proceedings on an informal basis. Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

AUTHORIZED BY: Derek Miller, Director

EFFECTIVE: 01/30/2006



Community and Economic
Development, Indian Affairs

R230-1

Native American Grave Protection and
Repatriation

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 28479
FILED: 01/31/2006, 14:01

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 9-9-403(2) states, "Native American remains not claimed under Subsection (1) shall be disposed of in accordance with rules promulgated by the division consistent with Chapter 8, Part 3, and in consultation with Native American groups, representatives of repositories, and the review committee established under Section 9-9-405."

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 provides a

prescribed process for carrying out the requirements of Section 9-9-401. As the statute gives very little in the way of guidelines for carrying out the requirements of the law, this rule is necessary as it establishes a specific procedure, including deadlines, conflict management, and policies regarding the ethical treatment of Native American human remains not found in the statute. Therefore, this rule should be continued.

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

COMMUNITY AND ECONOMIC DEVELOPMENT
INDIAN AFFAIRS
Room 103
324 S STATE ST
STE 500
SALT LAKE CITY UT 84111-5223, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Rebecca Nelson at the above address, by phone at 801-538-8767, by FAX at 801-538-8888, or by Internet E-mail at rebeccanelson@utah.gov

AUTHORIZED BY: Forrest S Cuch, Director

EFFECTIVE: 01/31/2006



Health, Health Systems Improvement,
Emergency Medical Services

R426-7

Emergency Medical Services
Prehospital Data System Rules

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 28470
FILED: 01/24/2006, 14:35

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is established under Title 26, Chapter 8a. The purpose of this rule is to establish minimum mandatory emergency medical services (EMS) data reporting requirements. The statute directs licensed and designated EMS provider agencies to submit prehospital incident report information relating to the treatment and care of patients who use or have used the EMS system. This information is used for the purpose of evaluation, analysis, and quality assurance.

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 statutory EMS

committee has directed a rule revision that will be accomplished within the next two quarters. The rule revision will specify a new prehospital data set based on the National EMS Information System (NEMSIS) data standard.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Prehospital, emergency department, and air medical data is necessary to maintain an accurate record of emergency care in the state. In addition, there is new interest at the national level in analyzing prehospital data, to evaluate the effectiveness of the EMS system. Without this rule, emergency health care activities within our state could not be analyzed and evaluated and participation in data collection and analysis at the national level would not be possible. The rule provides direction in uniform submission, timelines, and specific data elements of data sets. Therefore, this rule should be continued.

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:
Don Wood at the above address, by phone at 801-538-6287, by FAX at 801-538-6808, or by Internet E-mail at donwood@utah.gov

AUTHORIZED BY: David N. Sundwall, Executive Director

EFFECTIVE: 01/24/2006



Health, Health Systems Improvement,
Emergency Medical Services
R426-8
Emergency Medical Services Per
Capita Grants Program Rules

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 28472
FILED: 01/24/2006, 16:40

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: The EMS Systems Act, Section 26-8a-207, authorizes the department to distribute 42-1/2% of the monies it receives from the Criminal Fines and Forfeitures for use as per capita block grants for use specifically to nonprofit prehospital emergency medical services providers.

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 provides guidelines for the equitable distribution of per capita grant funds specified under the Emergency Medical Services Grants Program. If the rule was not in place, there would not be equitable distribution of the per capita funds and the entire amount of per capita funds would go to each county, which would mean the county would have no guidelines on how to distribute the monies. Therefore, this rule should be continued.

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:
Leslie Johnson at the above address, by phone at 801-538-6292, by FAX at 801-538-6808, or by Internet E-mail at lesliejohnson@utah.gov

AUTHORIZED BY: David N. Sundwall, Executive Director

EFFECTIVE: 01/24/2006



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

Administrative Services

Finance

No. 28384 (AMD): R25-5. Payment of Per Diem to Boards.
Published: December 15, 2005
Effective: January 25, 2006

Commerce

Occupational and Professional Licensing

No. 28365 (AMD): R156-31b. Nurse Practice Act Rules.
Published: December 15, 2005
Effective: January 23, 2006

Health

Health Care Financing, Coverage and Reimbursement Policy

No. 28414 (R&R): R414-3A. Outpatient Hospital Services.
Published: January 1, 2006
Effective: February 1, 2006

Human Services

Child Protection Ombudsman (Office of)

No. 28401 (NEW): R515-1. Processing Complaints Regarding the Utah Division of Child and Family Services.
Published: January 1, 2006
Effective: February 1, 2006

Juvenile Justice Services

No. 28378 (AMD): R547-13. Guidelines for Admission to Secure Youth Detention Facilities Review.
Published: December 15, 2005
Effective: January 18, 2006

Insurance

Administration

No. 28117 (AMD): R590-85. Individual Accident and Health Insurance and Individual and Group Medicare Supplement Rates.
Published: August 15, 2005
Effective: January 31, 2006

No. 28117 (First CPR): R590-85. Individual Accident and Health Insurance and Individual and Group Medicare Supplement Rates.
Published: October 15, 2005
Effective: January 31, 2006

No. 28117 (Second CPR): R590-85. Individual Accident and Health Insurance and Individual and Group Medicare Supplement Rates.
Published: December 15, 2005
Effective: January 31, 2006

No. 28267 (AMD): R590-98. Unfair Practice in Payment of Life Insurance and Annuity Policy Values.
Published: October 15, 2005
Effective: January 31, 2006

No. 28267 (CPR): R590-98. Unfair Practice in Payment of Life Insurance and Annuity Policy Values.
Published: December 15, 2005
Effective: January 31, 2006

No. 28269 (AMD): R590-166-4. Rule.
Published: October 15, 2005
Effective: January 24, 2006

Natural Resources

Wildlife Resources

No. 28379 (AMD): R657-5. Taking Big Game.
Published: December 15, 2005
Effective: January 18, 2006

No. 28303 (AMD): R657-13. Taking Fish and Crayfish.
Published: November 15, 2005
Effective: January 18, 2006

No. 28382 (AMD): R657-17. Lifetime Hunting and Fishing License.
Published: December 15, 2005
Effective: January 18, 2006

No. 28377 (AMD): R657-23. Utah Hunter Education Program.
Published: December 15, 2005
Effective: January 18, 2006

No. 28371 (AMD): R657-38. Dedicated Hunter Program.
Published: December 15, 2005
Effective: January 18, 2006

NOTICES OF RULE EFFECTIVE DATES

No. 28376 (AMD): R657-42. Fees, Exchanges, Surrenders, Refunds and Reallocation of Wildlife Documents.
Published: December 15, 2005
Effective: January 18, 2006

Transportation
Preconstruction
No. 28360 (AMD): R930-6. Manual of Accommodation of Utility Facilities and the Control and Protection of State Highway Rights-of-Way.
Published: December 15, 2005
Effective: January 27, 2006

End of the Notices of Rule Effective Dates Section

RULES INDEX BY AGENCY (CODE NUMBER) AND BY KEYWORD (SUBJECT)

The *Rules Index* is a cumulative index that reflects all effective changes to Utah's administrative rules. The current *Index* lists changes made effective from January 2, 2006, including notices of effective date received through February 1, 2006, the effective dates of which are no later than February 15, 2006. The *Rules Index* is published in the *Utah State Bulletin* and in the annual *Index of Changes*. Nonsubstantive changes, while not published in the *Bulletin*, do become part of the *Utah Administrative Code (Code)* and are included in this *Index*, as well as 120-Day (Emergency) rules that do not become part of the *Code*. The rules are indexed by Agency (Code Number) and Keyword (Subject).

DAR NOTE: The index may contain inaccurate page number references. Also the index is incomplete in the sense that index entries for Changes in Proposed Rules (CPRs) are not preceded by entries for their parent Proposed Rules. These difficulties with the index are related to a new software package used by the Division to create the Bulletin and related publications; we hope to have them resolved as soon as possible. Bulletin issue information and effective date information presented in the index are, to the best of our knowledge, complete and accurate. If you have any questions regarding the index and the information it contains, please contact Nancy Lancaster (801 538-3218), Mike Broschinsky (801 538-3003), or Kenneth A. Hansen (801 538-3777).

A copy of the *Rules Index* is available for public inspection at the Division of Administrative Rules (4120 State Office Building, Salt Lake City, UT), or may be viewed online at the Division's web site (<http://www.rules.utah.gov/>).

RULES INDEX - BY AGENCY (CODE NUMBER)

ABBREVIATIONS

AMD = Amendment	NSC = Nonsubstantive rule change
CPR = Change in proposed rule	REP = Repeal
EMR = Emergency rule (120 day)	R&R = Repeal and reenact
NEW = New rule	5YR = Five-Year Review
EXD = Expired	

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
Administrative Services					
<u>Finance</u>					
R25-5	Payment of Per Diem to Boards	28384	AMD	01/25/2006	2005-24/2
<u>Fleet Operations</u>					
R27-1	Definitions	28474	5YR	01/30/2006	2006-4/33
R27-1	Definitions (5YR EXTENSION)	28279	NSC	01/30/2006	Not Printed
R27-1-2	Definitions	28368	NSC	01/01/2006	Not Printed
R27-2	Fleet Operations Adjudicative Proceedings	28475	5YR	01/30/2006	2006-4/33
R27-3	Vehicle Use Standards	28477	5YR	01/30/2006	2006-4/34
R27-3	Vehicle Use Standards (5YR EXTENSION)	28280	NSC	01/30/2006	Not Printed
R27-7	Safety and Loss Prevention of State Vehicles	28469	5YR	01/20/2006	2006-4/34

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CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<u>Fleet Operations, Surplus Property</u>					
R28-2	Surplus Firearms	28496	5YR	02/07/2006	Not Printed
Agriculture and Food					
<u>Plant Industry</u>					
R68-4	Standardization, Marketing, and Phytosanitary Inspection of Fresh Fruits, Vegetables, and Other Plant and Plant Products.	28504	5YR	02/10/2006	Not Printed
R68-8	Utah Seed Law	28452	5YR	01/09/2006	2006-3/38
R68-18	Quarantine Pertaining to Karnal Bunt.	28505	5YR	02/10/2006	Not Printed
<u>Regulatory Services</u>					
R70-410	Grading and Inspection of Shell Eggs With Standard Grade and Weight Classes	28471	5YR	01/24/2006	2006-4/35
Alcoholic Beverage Control					
<u>Administration</u>					
R81-10A-7	Draft Beer Sales/Minors on Premises	28431	NSC	01/01/2006	Not Printed
Commerce					
<u>Occupational and Professional Licensing</u>					
R156-31b	Nurse Practice Act Rules	28365	AMD	01/23/2006	2005-24/3
R156-44a	Nurse Midwife Practice Act Rules	28352	AMD	01/05/2006	2005-23/4
R156-47b	Massage Therapy Practice Act Rules	28478	5YR	01/31/2006	2006-4/35
R156-56	Utah Uniform Building Standard Act Rules	28286	AMD	01/01/2006	2005-21/6
R156-56-707	Statewide Amendments to the IPC	28285	AMD	01/01/2006	2005-21/25
R156-63-503	Administrative Penalties	28345	AMD	01/10/2006	2005-23/5
<u>Real Estate</u>					
R162-209	Administrative Proceedings	28476	5YR	01/30/2006	2006-4/36
Community and Economic Development					
<u>Administration</u>					
R182-1	Government Records Access and Management Act Rules	28442	NSC	01/01/2006	Not Printed
<u>Community Development</u>					
R199-8	Permanent Community Impact Fund Board Review and Approval of Applications for Funding Assistance	28347	NSC	01/01/2006	Not Printed
R199-9	Policy Concerning Enforceability and Taxability of Bonds Purchased	28348	NSC	01/01/2006	Not Printed
R199-10	Procedures in Case of Inability to Formulate Contract for Alleviation of Impact	28349	NSC	01/01/2006	Not Printed
R199-11	Community Development Block Grants (CDBG)	28350	NSC	01/01/2006	Not Printed
<u>Community Development, Community Services</u>					
R202-100	Community Services Block Grant Rules	28353	NSC	01/01/2006	Not Printed
R202-201	Energy Assistance: General Provisions	28359	NSC	01/01/2006	Not Printed
R202-202	Energy Assistance Programs Standards	28385	NSC	01/01/2006	Not Printed
R202-203	Energy Assistance Income Standards, Income Eligibility, and Payment Determination	28386	NSC	01/01/2006	Not Printed
R202-204	Energy Assistance: Asset Standards	28387	NSC	01/01/2006	Not Printed
R202-205	Energy Assistance: Program Benefits	28388	NSC	01/01/2006	Not Printed
R202-206	Energy Assistance: Eligibility Determination	28389	NSC	01/01/2006	Not Printed
R202-207	Energy Assistance: Records and Benefit Management	28390	NSC	01/01/2006	Not Printed

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R202-208	Energy Assistance: Special State Programs	28391	NSC	01/01/2006	Not Printed
<u>Community Development, Energy Services</u>					
R203-4	Utah Public Building Energy Loan and Grant Programs	28433	NSC	01/01/2006	Not Printed
R203-5	Utah Energy Technology Demonstration Program	28434	NSC	01/01/2006	Not Printed
<u>Community Development, Fine Arts</u>					
R207-1	Utah Arts Council General Program Rules	28361	NSC	01/01/2006	Not Printed
R207-2	Policy for Commissions, Purchases, and Donations to, and Loans from, the Utah State Art Collections	28362	NSC	01/01/2006	Not Printed
<u>Community Development, History</u>					
R212-1	Adjudicative Proceedings	28404	NSC	01/01/2006	Not Printed
R212-3	Memberships, Sales, Gifts, Bequests, Endowments	28406	NSC	01/01/2006	Not Printed
R212-4	Archaeological Permits	28407	NSC	01/01/2006	Not Printed
R212-6	State Register for Historic Resources and Archaeological Sites	28405	NSC	01/01/2006	Not Printed
R212-7	Cultural Resource Management	28403	NSC	01/01/2006	Not Printed
R212-8	Preservation Easements	28408	NSC	01/01/2006	Not Printed
R212-9	Board of State History as the Cultural Sites Review Committee Review Board	28409	NSC	01/01/2006	Not Printed
R212-11	Historic Preservation Tax Credits	28410	NSC	01/01/2006	Not Printed
R212-12	Computerized Record of Cemeteries, Burial Locations and Plots, and Granting Matching Funds	28411	NSC	01/01/2006	Not Printed
<u>Community Development, Library</u>					
R223-1	Adjudicative Procedures	28343	NSC	01/01/2006	Not Printed
R223-2	Public Library Online Access for Eligibility to Receive Public Funds	28344	NSC	01/01/2006	Not Printed
<u>Indian Affairs</u>					
R230-1	Native American Grave Protection Repatriation Act	28441	NSC	01/01/2006	Not Printed
R230-1	Native American Grave Protection and Repatriation	28479	5YR	01/31/2006	2006-4/37
Crime Victim Reparations					
<u>Administration</u>					
R270-1	Award and Reparations Standards	28355	AMD	01/04/2006	2005-23/6
Environmental Quality					
<u>Air Quality</u>					
R307-170	Continuous Emission Monitoring Program	28226	AMD	01/05/2006	2005-19/6
<u>Drinking Water</u>					
R309-600	Drinking Water Source Protection for Ground-Water Sources	28392	NSC	01/01/2006	Not Printed
R309-605	Source Protection: Drinking Water Source Protection for Surface Water Sources	28380	NSC	01/01/2006	Not Printed
<u>Solid and Hazardous Waste</u>					
R315-102	Penalty Policy	28346	AMD	01/20/2006	2005-23/38

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Governor					
<u>Planning and Budget</u>					
R361-1	Rule for Implementation of the Resource Development Coordinating Committee Act, 1981	28295	REP	01/03/2006	2005-22/36
Health					
<u>Health Care Financing, Coverage and Reimbursement Policy</u>					
R414-3A	Outpatient Hospital Services	28414	R&R	02/01/2006	2006-1/22
R414-60	Medicaid Policy for Pharmacy Copayment Procedures	28357	R&R	01/04/2006	2005-23/42
R414-63	Medicaid Policy for Pharmacy Reimbursement	28356	REP	01/04/2006	2005-23/44
<u>Health Systems Improvement, Emergency Medical Services</u>					
R426-7	Emergency Medical Services Prehospital Data System Rules	28470	5YR	01/24/2006	2006-4/38
R426-8	Emergency Medical Services Per Capita Grants Program Rules	28472	5YR	01/24/2006	2006-4/38
<u>Health Systems Improvement, Child Care Licensing</u>					
R430-2	General Licensing Provisions, Child Care Facilities	28245	CPR	02/06/2006	2005-24/33
R430-2	General Licensing Provisions, Child Care Facilities	28245	AMD	02/06/2006	2005-20/14
R430-3	General Child Care Facility Rules Inspection and Enforcement	28246	AMD	02/06/2006	2005-20/18
R430-3	General Child Care Facility Rules Inspection and Enforcement	28246	CPR	02/06/2006	2005-24/35
R430-4	General Certificate Provisions	28248	CPR	02/06/2006	2005-24/37
R430-4	General Certificate Provisions	28248	AMD	02/06/2006	2005-20/23
R430-6	Background Screening	28249	AMD	02/06/2006	2005-20/26
R430-6	Background Screening	28249	CPR	02/06/2006	2005-24/41
<u>Health Systems Improvement, Licensing</u>					
R432-100-24	Pharmacy Services	28312	AMD	01/05/2006	2005-22/34
R432-100-33	Medical Records	28313	AMD	01/05/2006	2005-22/35
R432-100-38	Emergency and Disaster Plan	28311	AMD	01/05/2006	2005-22/38
R432-106	Specialty Hospital - Critical Access	28301	AMD	01/05/2006	2005-22/39
R432-106	Specialty Hospital - Critical Access	28449	5YR	01/06/2006	2006-3/38
<u>Health Systems Improvement, Primary Care and Rural Health</u>					
R434-100-6	Contract Requirements	28331	NSC	01/01/2006	Not Printed
Human Resource Management					
<u>Administration</u>					
R477-7	Leave	28443	EMR	01/01/2006	2006-2/40
Human Services					
<u>Child Protection Ombudsman (Office of)</u>					
R515-1	Processing Complaints Regarding the Utah Division of Child and Family Services	28401	NEW	02/01/2006	2006-1/26
<u>Juvenile Justice Services</u>					
R547-13	Guidelines for Admission to Secure Youth Detention Facilities Review	28378	AMD	01/18/2006	2005-24/8

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
Insurance					
<u>Administration</u>					
R590-85	Individual Accident and Health Insurance and Individual and Group Medicare Supplement Rates	28117	CPR	01/31/2006	2005-24/44
R590-85	Individual Accident and Health Insurance and Individual and Group Medicare Supplement Rates	28117	CPR	01/31/2006	2005-20/61
R590-85	Individual Accident and Health Insurance and Individual and Group Medicare Supplement Rates	28117	AMD	01/31/2006	2005-16/18
R590-98	Unfair Practice in Payment of Life Insurance and Annuity Policy Values	28267	AMD	01/31/2006	2005-20/39
R590-98	Unfair Practice in Payment of Life Insurance and Annuity Policy Values	28267	CPR	01/31/2006	2005-24/46
R590-166-4	Rule	28269	AMD	01/24/2006	2005-20/40
Judicial Conduct Commission					
<u>Administration</u>					
R595-4-1	Dismissals with Warning or upon Stated Conditions	28351	AMD	02/10/2006	2005-23/45
Labor Commission					
<u>Industrial Accidents</u>					
R612-4	Premium Rates	28458	5YR	01/12/2006	2006-3/39
R612-4-2	Premium Rates for the Uninsured Employers' Fund and the Employers' Reinsurance Fund	28298	AMD	01/01/2006	2005-22/41
<u>Safety</u>					
R616-2-3	Safety Codes and Rules for Boilers and Pressure Vessels	28257	AMD	01/01/2006	2005-20/43
R616-3-3	Safety Codes for Elevators	28256	AMD	02/08/2006	2005-20/44
Natural Resources					
<u>Parks and Recreation</u>					
R651-611	Fee Schedule	28169	AMD	01/01/2006	2005-18/46
<u>Wildlife Resources</u>					
R657-5	Taking Big Game	28379	AMD	01/18/2006	2005-24/11
R657-13	Taking Fish and Crayfish	28303	AMD	01/18/2006	2005-22/41
R657-17	Lifetime Hunting and Fishing License	28382	AMD	01/18/2006	2005-24/17
R657-23	Utah Hunter Education Program	28377	AMD	01/18/2006	2005-24/19
R657-38	Dedicated Hunter Program	28371	AMD	01/18/2006	2005-24/22
R657-39	Regional Advisory Councils	28453	5YR	01/09/2006	2006-3/39
R657-40	Wildlife Rehabilitation	28456	5YR	01/10/2006	2006-3/40
R657-42	Fees, Exchanges, Surrenders, Refunds and Reallocation of Wildlife Documents	28376	AMD	01/18/2006	2005-24/27
Public Safety					
<u>Fire Marshal</u>					
R710-9	Rules Pursuant to the Utah Fire Prevention Law	28292	AMD	01/10/2006	2005-21/38
<u>Highway Patrol</u>					
R714-500	Chemical Analysis Standards and Training	28342	AMD	01/05/2006	2005-23/59
<u>Criminal Investigations and Technical Services, Criminal Identification</u>					
R722-300	Concealed Firearm Permit Rule	28250	AMD	01/09/2006	2005-20/48

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<u>Administration</u>					
R746-345	Pole Attachments for Cable Television Companies	28139	CPR	02/08/2006	2005-24/47
Transportation					
<u>Administration</u>					
R907-68	Prioritization of New Transportation Capacity Projects	28358	NEW	01/04/2006	2005-23/61
<u>Motor Carrier, Ports of Entry</u>					
R912-11	Overweight and/or Oversize Permitted Vehicle Restrictions on Certain Highways Throughout the State of Utah	28415	AMD	02/08/2006	2006-1/28
<u>Preconstruction</u>					
R930-6	Manual of Accommodation of Utility Facilities and the Control and Protection of State Highway Rights-of-Way	28360	AMD	01/27/2006	2005-24/31
Workforce Services					
<u>Employment Development</u>					
R986-600-604	Adults, Youth, and Dislocated Workers	28400	NSC	01/01/2006	Not Printed

RULES INDEX - BY KEYWORD (SUBJECT)

ABBREVIATIONS

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 5YR = Five-Year Review

KEYWORD AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<u>accidents</u>					
Administrative Services, Fleet Operations	28469	R27-7	5YR	01/20/2006	2006-4/34
<u>adjudicative procedures</u>					
Community and Economic Development, Community Development, Library	28343	R223-1	NSC	01/01/2006	Not Printed
<u>adjudicative proceedings</u>					
Community and Economic Development, Community Development, History	28404	R212-1	NSC	01/01/2006	Not Printed
<u>administrative procedures</u>					
Administrative Services, Fleet Operations	28475	R27-2	5YR	01/30/2006	2006-4/33
Community and Economic Development, Community Development, History	28404	R212-1	NSC	01/01/2006	Not Printed
	28406	R212-3	NSC	01/01/2006	Not Printed
	28407	R212-4	NSC	01/01/2006	Not Printed

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
Community and Economic Development, Community Development, Library	28343	R223-1	NSC	01/01/2006	Not Printed
<u>admission guidelines</u>					
Human Services, Juvenile Justice Services	28378	R547-13	AMD	01/18/2006	2005-24/8
<u>air pollution</u>					
Environmental Quality, Air Quality	28226	R307-170	AMD	01/05/2006	2005-19/6
<u>alcohol</u>					
Public Safety, Highway Patrol	28342	R714-500	AMD	01/05/2006	2005-23/59
<u>alcoholic beverages</u>					
Alcoholic Beverage Control, Administration	28431	R81-10A-7	NSC	01/01/2006	Not Printed
<u>antipoverty programs</u>					
Community and Economic Development, Community Development, Community Services	28353	R202-100	NSC	01/01/2006	Not Printed
<u>appellate procedures</u>					
Administrative Services, Fleet Operations	28475	R27-2	5YR	01/30/2006	2006-4/33
<u>ARC</u>					
Administrative Services, Fleet Operations	28469	R27-7	5YR	01/20/2006	2006-4/34
<u>archaeology</u>					
Community and Economic Development, Community Development, History	28407	R212-4	NSC	01/01/2006	Not Printed
<u>art donations</u>					
Community and Economic Development, Community Development, Fine Arts	28362	R207-2	NSC	01/01/2006	Not Printed
<u>art financing</u>					
Community and Economic Development, Community Development, Fine Arts	28361	R207-1	NSC	01/01/2006	Not Printed
<u>art in public places</u>					
Community and Economic Development, Community Development, Fine Arts	28361	R207-1	NSC	01/01/2006	Not Printed
	28362	R207-2	NSC	01/01/2006	Not Printed
<u>art loans</u>					
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<u>victims of crime</u> Crime Victim Reparations, Administration	28355	R270-1	AMD	01/04/2006	2005-23/6
<u>waiver</u> Health, Health Systems Improvement, Primary Care and Rural Health	28331	R434-100-6	NSC	01/01/2006	Not Printed
<u>wildlife</u> Natural Resources, Wildlife Resources	28379	R657-5	AMD	01/18/2006	2005-24/11
	28303	R657-13	AMD	01/18/2006	2005-22/41
	28382	R657-17	AMD	01/18/2006	2005-24/17
	28377	R657-23	AMD	01/18/2006	2005-24/19
	28371	R657-38	AMD	01/18/2006	2005-24/22
	28456	R657-40	5YR	01/10/2006	2006-3/40
	28376	R657-42	AMD	01/18/2006	2005-24/27
<u>wildlife conservation</u> Natural Resources, Wildlife Resources	28371	R657-38	AMD	01/18/2006	2005-24/22
<u>wildlife law</u> Natural Resources, Wildlife Resources	28303	R657-13	AMD	01/18/2006	2005-22/41
<u>workers' compensation</u> Labor Commission, Industrial Accidents	28458	R612-4	5YR	01/12/2006	2006-3/39
	28298	R612-4-2	AMD	01/01/2006	2005-22/41
<u>Workforce Investment Act</u> Workforce Services, Employment Development	28400	R986-600-604	NSC	01/01/2006	Not Printed